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 Acting Commissioner

INFORMATIONAL LETTER

TRANSMITTAL: 97 INF-6

TO: Commissioners of
 Social Services

DIVISION: Temporary
 Assistance

DATE: March 31, 1997

SUBJECT: District of Fiscal Responsibility

SUGGESTED DISTRIBUTION: Public Assistance Staff
 Employment Staff
 Accounting Staff
 Staff Development Coordinators

CONTACT PERSON: PA: Your regional team representative at:
 1-800-343-8859 - extension: Team 1 3-0332; Team 2 4-9344; Team 3 4-9307; Team 4 4-3231; Team 5 3-1469; Team 6 (212) 383-1658

ATTACHMENTS: Attachment A: DFR Worksheet - available on-line
 Attachment B: Residence Statement - available on-line
 Attachment C: Questions and Answers - available on-line
 Attachment D: Listing of County DFR Contacts - available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
86 ADM-40 94 ADM-11		Part 311	SSL 62.1 62.5	PASB XIII-D-10 XXII-all XXIII-B	89 LCM-199

DSS-329EL (Rev. 9/89)

I. PURPOSE

The purpose of this Informational Letter is to: 1) clarify policy regarding District of Fiscal Responsibility (DFR) for local districts and 2) to provide each local district with some tools to use in the determination of which district in the State is fiscally responsible for an applicant/recipient of Public Assistance physically located in the district. The information provided in this INF will be contained in a single section on DFR in a forthcoming PASB update.

This will restate the long standing Public Assistance DFR policies first presented throughout the State in regional meetings in 1989. A worksheet (Attachment A) was developed to assist in the determination of the district of fiscal responsibility. The worksheet was modeled after forms in use in several local social services districts.

Attachment B is a Legal Residence Statement. This is intended as a tool to help districts identify the correct DFR when the individual has moved frequently.

Attachment C is a compilation of frequently asked Public Assistance DFR questions and the answers.

Based on the responses to the requests for local district DFR contact persons made in 96 LCM-64, an updated listing was compiled and is attached (Attachment D). This listing provides contacts for both Public Assistance and Medical Assistance.

MEDICAL ASSISTANCE: The instructions included in this Informational Letter do not apply to the determination of district of fiscal responsibility (DFR) for Medical Assistance (MA) -only applicants/recipients (A/Rs). An Administrative Directive will be forthcoming to address the proper determination of DFR for MA-only A/Rs. If questions arise regarding DFR for MA-only A/Rs, please contact Sandy Harn or Dennis Boucher in the Office of Medicaid Management, New York State Department of Health, at (518) 474-9130.

II. HOW TO DETERMINE THE DISTRICT OF FISCAL RESPONSIBILITY

There are several basic principles that will be employed to make the DFR determination:

A. DFR - Where-found Principle

A local district must provide assistance:

- . to all eligible persons legally residing and found in such district; and
- . to all eligible persons without a legal residence and found in such district;

except as provided in B. below.

B. DFR - Exceptions to Where-found Principle

A local district must provide assistance to eligible persons found outside of such district in the following situations: (These rules should be applied in the order presented)

1. The Medical Rule: (SSL 62.5(d)) The district of legal residence (at the time that an individual enters a medical facility) continues to be, or becomes, responsible for providing assistance and care to an eligible person who has entered a medical facility located in another district. (When an individual goes into a Title XIX OMH/OMRDD facility that is located in his or her county of residence, that individual is considered to have gone into a medical facility outside the county of residence.)

Responsibility under the medical rule continues until there is a break in public assistance for a continuous period of at least 30 days.

It is important to make the distinction between a medical facility and a residential facility that is not a medical facility. See Section II, C. below.

2. The Placement Rule: (SSL 62.5(b)) The district in which an eligible person legally resides (at the time of placement) continues to be, or becomes, responsible for providing public assistance and care to an eligible person if:

- a) a social services district (either the district of legal residence or any other district) was directly or indirectly involved in placing the eligible person, and;
- b) the placement is into a formal residential care setting in the where-found district.

A formal residential care setting is a residential program providing room and/or board and other non-medical specialized services or care which has been licensed, certified or approved by an authorized New York State agency.

Both of these conditions must be met in order for the placement rule to apply. Consistent with the intent of SSL 62.5 (b), we have interpreted local district involvement by any county agency or official governmental entity of the county including courts, mental health departments, probation departments, etc.

Like the medical rule, this responsibility continues indefinitely until there is a break of at least 30 continuous days in the individual's eligibility for public assistance.

3. The Transition Rule:SSL 62.5(a) When a recipient of public assistance and care moves to another district and continues to be eligible, the from-district continues to be responsible for providing non-emergency assistance and care during the month of move and the calendar month following the month of move. Thereafter, the new district is fiscally responsible.

The purpose of this rule is to provide uninterrupted assistance to an eligible case when moving between districts. In no case should the new district refuse to take an application or deny an application because the former district is, or should be providing assistance during the transition period. (Naturally, duplicate benefits will not be provided during the transition period.)

4. Temporary Absence: In law, the concept of legal residence (also known as domicile) is based upon a person's expressed intent. Simply put: a person's declaration of his or her county of legal residence determines county of legal residence as long as the facts (the person's actions and circumstances) are not inconsistent with this expressed intent.

When an eligible person (legally capable of establishing intent) temporarily leaves his or her district of legal residence and enters another district for a specific purpose (such as rehabilitation for alcohol or substance abuse, training, or schooling) and intends to return when the purpose is accomplished and the facts are not inconsistent with this expressed intent, the person continues to be a legal resident of the from-district. As such, the applicant or recipient is considered to be temporarily absent from his or her district of legal residence and this from-district continues to be fiscally responsible for providing assistance and care to this recipient as long as the recipient continues to engage in the activity for which the recipient left his or her permanent home.

Note that the temporary absence rule is explored only if the placement rule (or the medical rule) has not established the continuing responsibility of a district.

Unlike the medical and placement rules noted above, this responsibility continues only until the temporary purpose ends. At that point, the recipient either:

- a) returns to his or her district of legal residence;
- b) is considered to have established a new legal residence elsewhere and is transitioned from the from-district to the where-found district; or
- c) becomes a transient (a homeless person without a legal residence) and immediately becomes the responsibility of the where-found district.

5. **Special Situations:**

- a. **Domestic Violence Rule:SSL 62.5(f)** When a person enters a Residential Program for Victims of Domestic Violence located in another district following an incident of domestic violence, the district in which the person legally resided at the time of the incident is fiscally responsible for that person while he or she resides in the approved shelter. This rule applies to persons who had been receiving PA prior to the incident, as well as to persons who become eligible for either PA or Title XX overclaim while residing in the approved residential program.

This responsibility continues until the person leaves the approved residential program. At that time, if the client chooses to not return to the from-district, the transition rule is applied. The from-district is responsible for the month the client leaves the approved shelter and the following month. The where-found district is responsible thereafter.

- b. **Emergency Temporary Housing:** When a homeless person is placed by one district into temporary housing in another district, the placing district continues to be fiscally responsible for providing public assistance and care to the recipient as long as the recipient continues in emergency housing.

This fiscal responsibility continues until the recipient leaves temporary housing. At that point, if the recipient remains out-of-district, the recipient is considered to have moved, and the transition rule applies.

C. Identifying What is and What is Not a Medical Facility

Medical facilities are defined as hospitals, nursing homes, intermediate care facilities for the developmentally disabled, psychiatric centers, developmental centers, inpatient alcohol/substance abuse treatment facilities, and VA hospitals. In addition, some residential treatment facilities are medical facilities.

NOTE: How can you distinguish between a residential treatment facility that IS a medical facility and one that is not? Look at who pays the bill. If Medicaid pays for some treatment while the individual is in the facility, but not the room and board, then that is NOT a medical facility. For example, a Congregate Care Level II substance abuse residential treatment facility is NOT a medical facility.

D. Case Documentation and Documentation of the DFR Decision

In order to insure case integrity and to avoid interdistrict disputes, it is important that a thorough interview and verification process is in place. Districts that have good documentation of why an individual is the fiscal responsibility of another district stand the best chance of avoiding interdistrict disputes. They also stand the best chance of winning those that may occur. Attachment A, the DFR Worksheet is intended to assist the worker in making the decision about which DFR rule will apply to the applicant.

In addition to a good interview and case documentation, careful examination of the individual's movements prior to coming to the where-found district will make identification of the correct district of fiscal responsibility easier to identify. The Legal Residence Statement form (Attachment B) was developed to help workers to focus on this aspect of the interview.

For example, the individual may have listed a homeless shelter in County A as his residence prior to coming to the where-found district. However, if the individual was placed into the homeless shelter by County B, then County B would be the DFR. By getting as much information as possible about the individual's movements, districts can avoid the extra work and frustration of dealing with the wrong county.

If temporary absence is the reason why an individual is the fiscal responsibility of another district, having the person state their intention and sign a written statement will help to document intent for the DFR. It will also help the DFR to determine if its responsibility continues or ends. The person who is in County A temporarily for a stated purpose and who remains after that purpose has been completed is no longer the responsibility of the former district.