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George E. Pataki  
Governor

NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE  
40 NORTH PEARL STREET  
ALBANY, NEW YORK 12243-0001

Brian J. Wing  
Commissioner

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: INFORMATIONAL LETTER :  
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TRANSMITTAL: 01 INF-03

DIVISION: Temporary Assistance

TO: Commissioners of  
Social Services

DATE: January 22, 2001

SUBJECT: Clarification of Policy Relating to the Provision of  
the Emergency Shelter Allowance for Persons with  
AIDS or HIV-related illness

SUGGESTED

DISTRIBUTION: Temporary Assistance Directors  
Food Stamp Directors  
Medical Assistance Directors  
Staff Development Coordinators

CONTACT PERSON: Central Team at 1-800-343-8859, Ext. 4-9344

ATTACHMENTS: None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-8		352.3(k)		PASB	
		352.7(g)		XIII-D-	
		352.11		5.12 thru	
		397.5		XIII-D-	
				5.24	

OTDA-329EL (Rev. 11/98)

*"providing temporary assistance for permanent change"*

## I. Purpose

The purpose of this Informational Letter is to clarify to districts the impact of a recent change to Part 397 of Office regulations that affects the authorization of Emergency Assistance to Adults (EAA) for persons with acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV)-related illness who request an ongoing emergency shelter allowance. With the deletion of 18 NYCRR 397.11, EAA must no longer be utilized to authorize payments to meet this need. The sections of 90 ADM-8, "Emergency Shelter Allowances for Persons with AIDS or HIV-related Illness Faced with Homelessness" that instruct districts to make and claim these payments as EAA no longer apply. Persons seeking one-time only assistance to prevent an eviction or foreclosure for services previously received may continue to receive relief under EAA as specified by 18 NYCRR 397.5 if otherwise eligible.

## II. Background

EAA is intended to meet the emergency needs of persons receiving Federal Supplemental Security Income (SSI) benefits or additional State payments, which cannot be met by their regular monthly SSI or State additional payments. An emergency situation is a set of circumstances that often require some action before the determination of eligibility for ongoing Temporary Assistance (TA) is complete.

EAA is intended to meet such items of need as defined in 18 NYCRR 397.5. This no longer includes ongoing shelter needs for persons with AIDS or HIV-related illness. Districts must first determine if the request is for an ongoing additional shelter allowance to prevent eviction or foreclosure, or if the request is for a one-time only emergency payment to prevent eviction or foreclosure.

### Payments to Prevent Eviction/Foreclosure

#### AIDS Emergency Shelter Allowance (ongoing)

The need for an ongoing emergency shelter allowance to prevent eviction or foreclosure for persons with AIDS or HIV-related illness continues to be met under the provisions of 18 NYCRR 352.3(k). Persons applying for or receiving this enhanced shelter payment are considered to be applicants/recipients for TA (Family Assistance or Safety Net Assistance) and are subject to all the rules governing TA eligibility and receipt of benefits (unless otherwise exempted on the basis of having AIDS or an HIV-related illness). Persons requesting this enhanced allowance are not required to apply for or be in receipt of SSI, unless so directed by the eligibility requirements for FA or SNA. The emergency shelter allowance for persons with AIDS or HIV-related illness is made in lieu of less costly alternatives, recognizing the importance of keeping these individuals in their own homes whenever possible.

Payment for Services Previously Received-(one-time only)

One-time only emergency payments to prevent eviction or foreclosure for eligible applicants for or recipients of ongoing assistance are made under FA or SNA as appropriate. For eligible applicants of ongoing assistance, these payments are limited to the maximum of the monthly shelter allowance schedule, unless the district chooses to make the payment in excess of the shelter schedule as allowed by 18 NYCRR 352.7(g)(4). This amount in excess of the monthly shelter allowance becomes an overpayment subject to recoupment. Recipients of ongoing FA or SNA are subject to the provisions of 18 NYCRR 352.11.

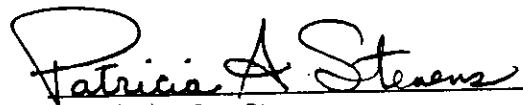
Persons not applying for ongoing assistance, but rather for a one-time only payment to prevent an eviction or foreclosure, must have their eligibility for emergency assistance determined following the rules of the category of emergency assistance indicated by that household's situation. EAA, Emergency Assistance to Needy Families with Children (EAF) or Emergency Safety Net Assistance (ESNA) must be used in these cases. Payment on behalf of applicants for emergency assistance only may exceed the shelter maximums under the conditions specified in 18 NYCRR 352.7(g)(3)(v). Any amount paid toward arrears which exceed the maximum shelter allowance is subject to recovery or recoupment.

Food Stamp Implications

There are no food stamp implications related to the deletion of this regulation.

Effective Date

The policy clarification described in this Informational Letter is based on the deletion of 18 NYCRR 397.11 which was effective September 24, 2000.

  
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Patricia A. Stevens  
Deputy Commissioner  
Division of Temporary Assistance