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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 93 ADM-33

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: October 19, 1993

SUBJECT: Filing Unit: Adding Persons Reported or Found to Be in the
 Household

SUGGESTED
 DISTRIBUTION:

Public Assistance Staff
 Staff Development Staff
 Investigations Unit Staff
 Fair Hearing Staff
 Medical Assistance Staff

CONTACT
 PERSON:

Call 1-800-342-3715
 Dottie O'Brien, Bureau of Income Support Programs at
 extension 4-6853
 Food Stamps County Representative at
 extension 4-9925
 Medical Assistance Eligibility County Representative
 at 3-7581 (Upstate) or (212) 417-4853 in New York City

ATTACHMENTS:

None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
93 ADM-8		352.30(a)	131.c	PASB	Federal
92 ADM-31		352.31(f)		XII-E-all	Register
87 ADM-24					Vol. 57,
85 ADM-51				FSSB	No. 131
				V-A-1,	
				V-A-2 and	
				VI-B-all	

I. PURPOSE

The purpose of this release is to inform districts about changes to Department Regulations 352.30(a) and 352.31(f). These changes are intended to address cases where there is a minor dependent child applying in the public assistance case (ADC or PG-ADC filing unit cases). This transmittal is not intended to address Home Relief individuals.

1. Section 352.30(a) was amended to provide that a person required to be added to a public assistance household is deemed to be included in the application on file as of the date the person joins the household.
2. Section 352.31(f) was amended to provide that persons added to an existing public assistance filing unit whose presence causes an underpayment to the case shall have an underpayment adjustment made only for those months in which all eligibility requirements are met. The amendment further provides that when the change in household composition is reported timely, and eligibility requirements are met timely, the underpayment adjustment shall be made retroactive to the date that the persons joined the existing filing unit.
3. These regulatory amendments were based on a statement of federal policy set forth in Federal Register (Vol. 57, No. 131).

II. BACKGROUND

Federal filing unit policy has always distinguished between those failures to cooperate that would result in a sanction and those that prevent the social services agency from making a proper determination of eligibility.

That distinction was the basis for Department policy that individuals whose presence in the household was not reported by the public assistance unit, and who were mandatory filing unit members, were considered to have failed to apply. Thus, the filing unit was considered to be ineligible for the period that the non-applying person resided with the assistance unit until the person met eligibility requirements.

When the presence of a new household member was reported on a timely basis, that new member (except in the case of a newborn child) was added to the assistance unit only after all eligibility requirements were met. This was true even when the new member had income and the income was counted against the needs of the assistance unit from the date that the person entered the household.

In response to questions asked by states, the Department of Health and Human Services (HHS) stated the procedures to be followed when adding an individual to an assistance unit when his/her inclusion is retroactive (Federal Register, Vol. 57, No. 131). The procedures are:

- The social services agency will use the individual's needs, income, and resources to redetermine eligibility for the assistance unit retroactive to the date that the individual should have been included in the unit;
- If the payment calculation results in an overpayment, the social services agency must recover or collect the overpayment; and
- If the payment calculation results in an underpayment, the social services agency will provide assistance only for those months in which all eligibility requirements were met.

III. PROGRAM IMPLICATIONS

Eligibility workers have always had to assess the effect on the filing unit of new household members or unreported household members later discovered to be in the household and they must continue to do so.

This change will affect the way some cases are handled when the presence of a person who is required to be included in the filing unit is not reported on a timely basis. Also, some persons whose presence is reported on a timely basis, and whose inclusion in the unit creates an underpayment, will receive benefits retroactive to the date of entry into the household once all eligibility factors have been met.

Although the impact of this change is expected to be minimal, some worker re-training will be required.

IV. REQUIRED ACTION

A. Public Assistance

A person who is required to be a member of a public assistance filing unit is considered to be included in the application already on file as of the date the person joins the household either by birth, adoption, or by moving into the dwelling unit of the existing public assistance household.

The social services agency will use the person's needs, income and resources to redetermine eligibility for the unit retroactive to the date that the person should have been included in the unit.

If the calculation determines that an overpayment was made to the public assistance filing unit, the agency must recover the overpayment using established procedures.

If the calculation determines that an underpayment was made to the public assistance filing unit, the change in the household composition is reported timely, and the eligibility requirements are met timely, the underpayment adjustment must be made retroactive to the date that the person joined the household. However, if the household change is not reported timely and/or eligibility requirements are not met timely, the underpayment adjustment must be made only for those months in which eligibility requirements were met.

A new application is required for the new household member because the information about the person's income and resources must be declared. Additionally, if the new member is an adult, his or her signature will be required. That application need not be registered and Social Services districts may decide if the eligibility or the undercare unit will handle the additions to existing cases.

A change report is considered timely if made within ten days of the change.

In any case where refusal to cooperate prevents the agency from making a determination of eligibility of the unit, the unit is ineligible.

The procedures stated in 87 ADM-24; "Assistance for Newborns, Vega v. Perales" remain in effect.

EXAMPLES

1. TIMELY REPORT OF CHANGE

Mrs. Ives and her children are public assistance recipients. On December 14, Mrs. Ives reported that her husband returned to her and their children on December 5. Mr. Ives responded to the worker's request that he come into the agency to sign the application, present the required documentation, discuss and verify his income and resources, etc. Although there was still some documentation missing after Mr. Ives' interview, he presented all documentation by the due date that the worker had set.

Mr. Ives has no income. His addition to the unit increased the full month needs by \$108.00. Because the report of his presence was timely and he met all required eligibility

factors timely, the Ives family is entitled to an underpayment adjustment for December of \$93.60 (\$108 divided by 30 days = \$3.60 per day x 26 days (12/5-12/31) = \$93.60.

2. TIMELY REPORT OF CHANGE (NON-COOPERATION WITH ELIGIBILITY REQUIREMENTS)

Ms. Rockne has been on public assistance since her son was born one year ago. Mr. Knute, the father of the child, has moved into the household and Ms. Rockne reported that immediately. Mr. Knute responded to the worker's request that he come into the agency to apply for public assistance. The worker explained that since his child is a recipient of public assistance, he must also apply. Mr. Knute signed the application, and was asked to provide information needed to establish that the filing unit remained eligible for assistance. The worker did not receive the necessary information by the due date, and she had no indication from the client that he could not provide the information. A timely and adequate notice was sent to discontinue the case for failure to provide the required documentation. Six days later, Mr. Knute provided the documentation. The closing was cancelled. Based on the information provided, the family would have been eligible for an underpayment adjustment. However, since Mr. Knute did not provide the necessary documentation on a timely basis, the unit is not entitled to the adjustment from the date he entered the household. The unit is entitled to the underpayment adjustment from the date that the necessary information was provided.

3. TIMELY REPORT (NEW MEMBER HAS INCOME-TIMELY COOPERATION)

Mr. and Mrs. Quick and their three children receive public assistance. On October 17th, they reported to the worker that their 17 year old son returned home that day. He is not a student and he is employed part-time. All documentation and other eligibility requirements were met right away. His needs were added to the budget effective October 17, and his income counted against the unit from the same day. A small underpayment resulted, and the family was entitled to that underpayment retroactive to October 17, the date he entered the household.

4. TIMELY REPORT (NEW MEMBER HAS INCOME-UNTIMELY COOPERATION)

Mr. Tardy and his two young children receive public assistance. Mrs. Tardy, the mother of the children, returned to the household on July 4th. The worker was informed of the change on July 13th. Mrs. Tardy failed to come into the agency on the appointed date to apply and to

provide necessary documentation and to otherwise comply with eligibility requirements. After the family received a timely and adequate notice telling them that the case was to close, Mrs. Tardy came into the agency. Mrs. Tardy could offer no good reason why she did not keep the earlier appointment.

Mrs. Tardy receives UIB. Mrs. Tardy's needs and income are added to the public assistance budget effective the date that she entered the household, July 4th. The resulting recalculation of the family's public assistance benefit for the month of July yields an overpayment. The overpayment for the period July 4th through July 31st must be recouped.

If the recalculation had yielded an underpayment, the underpayment adjustment would not be made from the date that Mrs. Tardy entered the household even though her needs and income are considered from that date. Rather, the underpayment adjustment would be from the date that Mrs. Tardy complied with all eligibility requirements, since she did not comply on a timely basis.

5. UNREPORTED CHANGE IN HOUSEHOLD COMPOSITION

a. Retroactive Period

Mrs. Stone and her two children have been on public assistance since June, 1990. Mr. Moss, the father of one of the children, was not shown on any recertification form as a member of the household, even though the agency now has verification that he lived in the household since September, 1990. Mrs. Stone has been and continues to be an incapacitated person, so both of the children, including Mr. Moss' child, have an ADC deprivation. For that reason, Mr. Moss is a mandatory member of the filing unit and has been since he entered the household in September, 1990.

The Investigations Unit called Mrs. Stone into the agency to discuss Mr. Moss' presence in the household, and Mrs. Stone agreed that he was in the household. The worker explained that Mr. Moss must apply and establish his eligibility and that the filing unit continues to be eligible.

Mr. Moss came into the agency, applied and provided all required documentation and verification of income and resources. When recalculating the level of assistance for the period September, 1990 to present, the agency included Mr. Moss' needs and his income. That is because he is considered to be a member of the

application on file from the date that he entered the household and he provided all information necessary for the agency to make a proper determination of the unit's eligibility during the retroactive period. Because Mr. Moss was employed during that entire period, a large overpayment resulted. The overpayment is subject to recovery.

(If Mr. Moss's earned income was so little that, by including him and his income, an underpayment resulted, no underpayment adjustment would be made for any period before all the necessary documentation was received by the agency.)

If Mr. Moss had refused to provide the information needed to establish the eligibility of the filing unit for the retroactive period, the unit must be considered ineligible for that period.

b. Current Period

Mrs. Stone and Mr. Moss want to remove the Moss child from the case. The worker explained that the Moss child has an ADC deprivation and is pulled into the filing unit by the Stone half-sibling. Mrs. Stone then chose to remove both of the children and continue the case for herself only.

Mr. Moss then asked the worker to remove both of the children retroactive to September, 1990 so that his income would not be counted and the overpayment would be reduced. That is not an option. Mrs. Stone applied for and received public assistance for the children for those retroactive months. Filing unit provisions apply for each of those months, and Mr. Moss's needs and income must be counted.

B. Food Stamps

There is no change to food stamp household composition rules as defined in FSSB V-A-1 and V-A-2 all, as a result of this PA policy. Household composition is based primarily on food units.

There is no change to the food stamp household change reporting rules and the effective dates of increases/decreases in benefits as defined in FSSB-B-all. The application of the general ten-ten-ten rule; ten (days for client to report change, except Quarterly Reporting cases) - ten (days for district to act on reported change) - ten (days for timely notice of change) applies when adding household member. No under/over payments for FS result when adding a household member when the ten-ten-ten rule is followed.

C. Medical Assistance

For PA cases determined to be ineligible after adding a new person to the filing unit, a separate determination must be done for MA.

In determining MA eligibility, if the new person is a legally responsible relative or an applying child, the income and resources of the person must be budgeted. If the change is reported in a timely manner (prior to the month or during the month the person moves into the household), the new person should be added to the MA budget effective the first of the month following the month in which the person moves into the household. If the change is not reported timely, districts must rebudget the case immediately and a recovery of MA incorrectly paid may be pursued. Current MA procedures for recoveries should be followed. Recoveries for MA incorrectly paid can only be instituted by court action or asking the client to voluntarily reimburse the agency.

D. Systems Implication

None

V. EFFECTIVE DATE

The effective date of this Administrative Directive is October 15, retroactive to August 25, 1993, the effective date of the supporting regulation.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security