Attachment 1

REIMBURSEMENT ISSUES

1. **Q. What steps are necessary for the domestic violence residential program to receive reimbursement from the local services district for sheltering victims of domestic violence?**

   A. In order for the program to receive reimbursement from a local social services district for sheltering a victim of domestic violence, the following conditions have to be met:

   a) the person is seeking emergency shelter and such person is, by definition, a victim of domestic violence. Please see 94 ADM-11, pages 14 and 15 for the definition of victim of domestic violence,
   b) the social services district receives a completed and signed Statewide Common Application form (LDSS-2921) on behalf of the victim, and
   c) the resident complies with the requirements of the Temporary Assistance (TA) application process while in the residential program. TA includes both Family Assistance (FA) and Safety Net Assistance (SNA).

2. **Q. Which local district is financially responsible for paying for shelter in a domestic violence residential program?**

   A. Pursuant to Social Services Law (SSL) 62.5 (f) and 18 NYCRR 408.5, the social services district **in which a victim of domestic violence was residing** at the time of the domestic violence incident is financially responsible for paying a residential program for shelter, services and care provided to the victim and any minor child of the victim **whether or not the victim is financially eligible for Temporary Assistance (TA)**, as long as the conditions set forth above are met. This is true whether the residential program is located within that district or in another district in New York State. For example, a victim who resides in Albany County is battered while visiting family in Schenectady County and enters a domestic violence residential program in Schenectady County. Albany County is the financially responsible district.

   If there is a dispute regarding the victim's residence and the presumed district of residence will not take fiscal responsibility, the where found district must process the application and provide whatever assistance the victim is eligible to receive, including assistance necessary to move out of the residential program and into permanent housing. The where found district may then pursue an inter-district jurisdictional dispute against the presumed fiscally responsible district. Please refer to 00 INF-19 "District of Fiscal Responsibility (DFR) Procedures".

Residents of residential programs for victims of domestic violence that receive TA must have their food stamp case processed by the district that is fiscally responsible for their TA.

3. Q. How recent does an incident of domestic violence have to be for a person to be eligible for admission into a residential program?

A. The criteria for admission depends upon the victim's need for emergency shelter and care due to an act that has resulted in actual physical or emotional injury or creates a substantial risk of physical or emotional harm to the person or the person's child. The criteria for admission focuses upon the immediate need for the victim's safety, not the date of the domestic violence incident. For example, if an initial incident of physical harm occurred six months ago, resulting in the incarceration of the batterer who is now being released, the victim may be at substantial risk of harm at the present time.

4. Q. If a resident is already on TA, what steps are necessary for the residential program to receive a per diem reimbursement?

A. If the resident is already in receipt of TA at the time of entry into the residential program, the program must notify the designated social services agency staff person (see question 25), on or before the first working day following admission, that the victim is in the program and request the additional allowance to pay for the costs of emergency shelter, care and services.

In addition, the victim must also notify her worker of the change in circumstances as soon as possible, but no later than ten (10) days from entering the residential program. This is in accordance with the general TA requirement that recipients must notify their workers of any changes in their circumstances within ten (10) days of the change.

5. Q. If a resident is not currently on TA, what steps are necessary for the residential program to receive a per diem reimbursement?

A. To receive a per diem (or a partial per diem as determined according to the methodology in Attachment 2, "TA Sample Budget") under TA, the resident must complete and sign a Statewide Common Application form (LDSS-2921), meet the financial and non-financial eligibility requirements for TA, and comply with all TA program requirements **while in the residential program**.

These requirements include having a face-to-face interview with the local social services district staff in a safe place (this should occur in the local district where the residential program is located) and providing documentation of eligibility, as well as cooperating with child support requirements, employment requirements and screening/assessment

requirements for drug/alcohol problems. The Family Violence Option (FVO) provides for waiving certain TA requirements if compliance will jeopardize the victim's safety and/or the safety of her children. For more information on the FVO, please see 98 ADM-03.

6. **Q. How does a residential program receive reimbursement for residential shelter and services to a victim of domestic violence and the victim's family if the victim, and /or her family, is ineligible for TA?**

A. When a social services district determines that a victim of domestic violence, and/or her family, is ineligible for TA**,** the district **must determine** the appropriateness of reimbursement of the per diem under Title XX. For Title XX, the Statewide Common Application must contain, at a minimum, the victim's and the children's names, dates of birth, citizenship, income if available to the victim and the victim's signature. The first step is for the district to determine the victim's ability to pay all or part of the costs of the shelter and services and care, using a TA budget if the domestic violence victim has available income. 100% federal reimbursement is available to the district under Title XX to the extent of the district's available Title XX funds. If a social services district has exhausted its Title XX allocation, the expenditures made by a social services district for the provision of services are subject to 50% State reimbursement.

7. **Q. When would Title XX be accessed to pay a victim's per diem cost in a residential program for victims of domestic violence?**

A. Title XX is used:

- When a victim has completed and signed the Statewide Common Application form and complied with all of the TA requirements while the victim was in the residential program, but was determined ineligible for TA (see question 19 regarding timeframes for making determinations for TA and Title XX)**.** The TA standard of need for determining eligibility for a victim and the victim's children in a residential program for victims of domestic violence includes the per diem rate. So, a victim whose income may exceed the TA standard of need while residing in the community may now be eligible for TA while residing in the residential program, because the cost of the residential program is higher.

  However, if a resident is ineligible for **any** TA because of **excess income** (using the standard of need that includes the higher per diem rate), reimbursement for the residential stay will not be available under Title XX either. This is because the determination of the amount of the fee (the amount that the victim would pay) under TA and Title XX is the same and is determined by the TA budgeting process. In the rare situation where the victim has available income that is sufficient to pay the entire

per diem rate, according to this budgeting process, the fee will equal the entire per diem amount. This would be true under Title XX also.

In these situations, the residential program must make arrangements with the resident to pay the fee. Because of the circumstances surrounding domestic violence, it may not always be safe or reasonable to collect these fees. In such situations, other sources of funding, such as the Crime Victim's Board or fund raising efforts, can be used (see question 15).

- When a resident has completed and signed the Statewide Common Application form and complied with all of the TA requirements while in the residential program, but eligibility for TA could not be determined while the victim was in the residential program (nor afterwards, because the victim is not seeking continuing TA beyond the shelter stay). For example, the victim leaves the program before the face-to-face interview is conducted.

- When a victim is on a TA sanction that cannot be cured at the time of entry into the program, as long as the Statewide Common Application form is signed and completed. If the victim has children, they may already be receiving public assistance or be eligible for public assistance. The victim must cooperate in determining the children's eligibility or continuing eligibility for TA.

Local districts must establish procedures so that an application that has been denied for TA, regardless of the reason, is transmitted in a timely manner to the person or persons in the local district who must make the Title XX determination.

8. Q. What if the victim was advised of all of the TA requirements, but did not comply with all TA requirements while in the residential program and did not have good cause for failure to comply or have a reason for obtaining a domestic violence waiver of a particular requirement?

A. The residential stay would not be reimbursable under either TA or Title XX.

9. Q. What if a victim has left the residential program and it is later discovered that the victim did not submit all of the necessary documentation for a TA determination?

A. The first step is to process the application for TA eligibility. If eligibility can be determined with the documentation on hand, then the person is TA eligible. If not, as long as the victim complied with the requirements of TA **while the victim was in the program**, (and this may mean only completing and signing the application if the stay in

the program was for a very short time), reimbursement under Title XX **must** be determined.

Example 1: A victim enters a residential program on January 3, completes a Statewide Common Application and submits it to the agency on January 4. The victim has the face-to-face interview and supplies the documentation that the victim was advised to submit. On January 10, the local district notifies the victim that additional documentation **is necessary to determine eligibility for TA** and that this documentation must be submitted by January 20. However, the victim leaves the program on January 12 prior to submitting documentation necessary to determine eligibility for TA. In this circumstance, the entire shelter stay is reimbursable under Title XX (less any appropriate fees) because, while in the shelter, the victim complied with TA requirements. However, sufficient information was not available to determine eligibility for TA.

Example 2: A victim enters a residential program on January 3, completes a Statewide Common Application and submits it on January 4. The victim has the face-to-face interview and submits the documentation the victim was advised to submit. On January 10, the victim is notified that additional documentation **is necessary to determine eligibility for TA** and that it must be submitted by January 20. The victim remains in the program until January 27. The victim does not submit the required documentation, nor inform the agency of good cause for not submitting it or that an extension was needed. The district denies the application for TA, effective January 20 for failure to comply with TA requirements. The stay in the program is not reimbursable under Title XX because the victim did not cooperate in determining eligibility for TA and did not contact the agency with a good cause reason for being unable to comply.

It should be noted that in both examples if the agency had sufficient information to determine eligibility for TA without the additional requested information, the shelter stay would have been reimbursable under TA.

10. Q. What if the victim leaves the program prior to the scheduled face-to-face interview or prior to an interview being scheduled?

A. Again, as long as the victim complied with requirements of TA while in the residential program, reimbursement under the Title XX must be determined. To facilitate the application and interview process, we encourage local districts to provide application forms to residential programs, give priority scheduling for interviews to residents of domestic violence residential programs and explore other ways to facilitate this process, such as having the interview conducted at a safe neutral location other than the local district. If eligibility for TA cannot be established because the face-to-face interview is not conducted before the victim leaves the residential program, the local district will

have to determine reimbursement under Title XX. Often it is to the district's financial advantage to use TA over Title XX.

11. Q. If a victim has income, must it be used in calculation of a fee when Title XX is used to pay the per diem?

A. Yes. Although resources are not used in determining reimbursement for Title XX, if income is available to the victim, the same methodology used to determine a fee under TA must be used to determine a fee under Title XX (see question 7). If the income of the resident results in a fee under TA, then the same level of income results in the same fee under Title XX. Please note that the income **must be available** to the resident in order to include this in the Budget calculation. See question 22 regarding the definition of availability.

12. Q. Can a district use Title XX to pay the resident's fee as determined under TA?

A. No. It cannot be used to cover the victim's fee. As explained above, Title XX also requires a fee when income is available. TA and Title XX are mutually exclusive. The residential program must discuss the eligibility process and review the possibility of fees with the victim during the discussion of the resident's rights and responsibilities at the time of admission to the program. An estimate based upon the victim's available income to pay fees should be determined while the victim remains in the program. The attached budget examples (Attachment 2) can be used for this purpose.

13. Q. What if a victim's whereabouts are unknown or it is determined that contacting the former resident for the fee would jeopardize the victim's safety?

A. Regardless of the circumstances, neither TA nor Title XX can be used to cover a victim's fee for the residential program.

14. Q. Under what circumstances can shelter be denied to victims of domestic violence? Can shelter be denied by domestic violence residential programs to domestic violence victims who have income or who must pay a fee towards the cost of the residential stay?

A. If a person, by definition, is a victim of domestic violence and is seeking emergency shelter and services, 18 NYCRR 452.9 states that residential programs must provide services to any victim of domestic violence and their minor children, to the extent that space is available and that they:

a) are not likely to cause danger to herself/himself or others;
b) are not in need of a level of medical, mental health, nursing care or other assistance that cannot be rendered safely or effectively by the program or cannot be

reasonably provided by the program through the assistance of other community resources;

c) do not have a generalized systemic communicable disease or communicable infection that could be easily transmitted; and

d) agree to sign a written agreement as required by the program and to abide by the residential program rules.

Based on these criteria, programs must serve all victims who meet the definition of a victim of domestic violence and are seeking shelter. Programs should not have blanket policies for excluding certain populations, but instead should assess each situation on a case-by-case basis to determine whether they meet the criteria above. For example, if a person is likely to cause danger to him/herself or other residents, or the residential program can not otherwise accommodate any special health or service needs, then the victim should be referred to another appropriate program. Additionally, if a victim is not willing to abide by the residential program rules, the victim may be denied shelter. If a victim has income sufficient to cover all or a portion of the full cost of shelter, arrangements for payment of the shelter cost must be discussed upon admission. These victims may not be excluded from necessary services based upon income.

15. Q. If a residential program chooses not to pursue a resident for the fee for safety reasons, are there any other resources that are available for the payment of fees?

A. If a victim has applied to the Crime Victims Board (CVB), as an innocent victim of a violent crime, the victim may be eligible for an award which includes compensation for out-of-pocket losses incurred as a result of the victimization. Eligibility requirements include a determination that the victim was an innocent victim of a violent crime (did not contribute to the victim's injuries) and that the victim filed a criminal justice agency report. The criminal justice agency report requirement is fulfilled by a report to the police, the district attorney, child or adult protective services, or by a petition to family court.

Domestic violence victims who have sustained a physical injury, child victims of or witnesses to a crime (visually or audibly), and the parent or sibling of a child victim may be eligible for compensation.

Upon notification/billing to the victim of the fee, the victim may submit the bill for their fee for shelter to the CVB for reimbursement. If the victim has paid the fee, reimbursement will be made directly to the victim. If the victim did not pay the fee, CVB may reimburse the residential program directly, on behalf of the victim. However, the victim cannot be required to apply for CVB as a condition of eligibility for TA.

The residential program can also use Federal Family Violence Prevention and Services Act funds (if available) or other funds available, e.g., from fundraising efforts.

16. Q. What is the "battered alien" provision?

A. Under the Violence Against Women Act (VAWA), a battered spouse or child of a U.S. citizen may self-petition the U. S. Immigration and Naturalization Service (INS) for lawful permanent residency, using an I-360 form. Under PRWORA, if an I-360 petition is approved or if the INS determines that a "prima facie case" has been made for approval, an alien who is a battered spouse, battered child or the child of a battered spouse can become a qualified alien. The basic requirements for the self-petitioning spouse are:

(a) Must be legally married to a U.S. citizen or lawful permanent resident batterer. A self-petition may be filed if the marriage was terminated by the abusive spouse's death within two years prior to filing. A self-petition may also be filed if the marriage to the abusive spouse was terminated within two years prior to filing for divorce related to the abuse.
(b) Must have been battered in the United States unless the abusive spouse is an employee of the United States government or a member of the uniformed services of the United States.
(c) Must have been battered or subjected to extreme cruelty during the marriage, or must be the parent of a child who was battered or subjected to extreme cruelty by the U. S. citizen or lawful permanent resident spouse during the marriage.
(d) Must have entered into the marriage in good faith, not solely for the purpose of obtaining immigration benefits.

The basic requirements for a self-petitioning child are:

(a) Must qualify as the child of the abuser as "child" is defined in the Immigration and Naturalization Act (INA) for immigration purposes.
(b) Any relative credible evidence that can prove the relationship with the parent will be considered.

A person who entered the U.S. before August 22, 1996 and receives a prima facie determination or is granted a self-petition is eligible for TANF-funded assistance and Medicaid. If the person came on or after August 22, 1996, he or she is eligible for Safety Net Assistance (SNA) and possibly State-funded Medicaid.

If a victim is in the process of becoming a documented alien and can obtain an affidavit form from INS, this would make him/her eligible for TA, if otherwise eligible.

A person who entered the U.S. before August 22, 1996 and receives a prima facie determination or is granted a self-petition is eligible for federal food stamps if the individual is disabled, 65 or older or under 18. A person who entered the U.S. before August 22, 1996 and receives a prima facie determination is granted a self-petition or is defined as a victim of domestic violence in accordance with Family Violence Option procedures is eligible for Food Assistance Program (FAP) benefits in districts participating in FAP, if all other FAP requirements are met.

17. Q. How can a stay in a residential program be covered for an undocumented alien?

A. TA and Title XX funds are not available to cover the residential program costs for an undocumented alien. If available, domestic violence residential service providers can use Federal Family Violence Prevention and Services funds or other monies received through private fund raising to cover the cost of a shelter stay for undocumented aliens. An undocumented alien parent may have children who are eligible for TA or Title XX.

GENERAL ISSUES

18. Q. What happens when a victim withdraws the application after leaving the residential program?

A. If the victim withdraws the application after leaving the residential program, 18 NYCRR 351.8 (a) (3) does not require the district to make a determination on eligibility for TA and care. However, if the social services district has already made a determination of eligibility for FA while the victim was still in the residential program, then the district must pay the per diem under FA. If the district has already made a determination of eligibility for SNA, and notified the woman of her eligibility, then the local social services district must pay the per diem under SNA. The local social services district would then close the resident's FA or SNA case after payment was made.

If the victim withdraws the application prior to the eligibility determination for TA or before the district notifies the victim of SNA eligibility, the local district must determine whether the per diem is reimbursable under Title XX.

19. Q. How soon must a determination of eligibility for TA and Title XX be made?

A. A local social services district generally must make a determination of eligibility for FA within 30 calendar days of receiving the application. For SNA the district must generally determine eligibility within 45 calendar days of receiving the application. If reimbursement for the residential stay is not available under TA (FA or SNA), Title XX determinations must be made immediately thereafter.

NOTE: When the residential program is located outside the district of fiscal responsibility, the application date is the date that the victim files a signed, completed application with the district in which the residential program is located.

We encourage social services districts to expedite these determinations whenever possible for the following reasons:

- Timely determinations allow the residential program to provide the victim with timely notification/collection of any possible fees the victim may be required to pay.
- Since the determination of payment under Title XX would not be made until after a determination of TA ineligibility has been made, using the full 30 or 45 days to make a TA determination delays the Title XX determination.
- Expedited determinations increase the likelihood that a TA eligibility determination can be made before the victim leaves the residential program. For additional expenditures on domestic violence services, it is more advantageous for districts to receive reimbursement under TA as they would receive 50 percent federal funding and 25 percent State share. In comparison, Title XX federal funding is capped and may be fully expended in your district; therefore, additional spending would only receive 50 percent State share.

20. Q. Are there exceptions to the above timeframes when the where found district is having trouble getting the fiscally responsible district to accept the application?

A. No. Please refer to the answer to question 2 and 00 INF-19 "District of Fiscal Responsibility (DFR) Procedures". An application should not be held in pending status past the regulatory timeframes while a dispute between two (or more) districts exists.

21.Q. What if the presumed district of residence is disputing responsibility and the victim finds safe, permanent housing and needs assistance to move from the residential program into this housing?

A. The where found district must process the application and provide whatever assistance the victim is eligible to receive. See the answer to question 2 and the procedures outlined in 00 INF-19.

22. Q. What does "availability of income/resources" mean when determining eligibility for TA or for determining reimbursement under Title XX for a victim of domestic violence?

A. Availability means that the victim can actually access the income (and resources for TA). For example, the victim is still receiving a paycheck or has a bank account in the

victim's name and can access this resource (i.e., has the bankbook or could otherwise access the funds) without injury or risk of injury. The income (and resources for TA) of the batterer should never be taken into consideration in determining the victim's eligibility for TA or in determining reimbursement under Title XX. For TA, if the victim has resources that are jointly held with the batterer and the victim has the means of safely accessing these resources, the resources would be considered available.

23. Q. The fear that a local social services district will take a lien on real property owned either solely by the victim or jointly with the batterer often deters a victim from seeking shelter and/or applying for TA to reimburse the residential program stay. Is there any process for waiving this procedure?

A. Social Services Law and regulations allow local districts to establish local policies that require the signing of liens on real property, as a condition of eligibility for both recurring and emergency TA. If a district establishes a lien requirement for recurring assistance, it must apply the requirement to all applicants/recipients of recurring assistance in the same manner. Likewise, if the district establishes the policy for emergency assistance, it must apply the requirement universally to all applicants/recipients of emergency assistance**.** The district cannot apply it in one case and not another. Most social services districts have established such policies. This means that when property is owned by the victim or jointly by the victim and the batterer, the district may require the victim to sign a lien on the victim's share of the property. A lien means that when the property is eventually sold, the lien must be paid off with the proceeds of the sale. Anyone who signs a lien can later enter into an agreement with the local district to make payments to reduce the lien at any time prior to the sale of the property.

The lien requirement can be waived under the Family Violence Option (FVO) if the district's domestic violence liaison determines that signing the lien on real property that is owned jointly with the batterer will put the victim at further risk or make it more difficult for the victim to escape from domestic violence. The waiver of the lien requirement would be treated the same as any other domestic violence waiver under FVO.

There are no lien requirements under Title XX. However, if a victim refused to sign a lien while in the residential program and did not receive a domestic violence waiver from this requirement, then the victim would not be in compliance with TA requirements and thus Title XX would not pay.

24. Q. Can local districts pursue recovery from a legally responsible batterer for the cost of the TA per diem paid to a residential program for victims of domestic violence?

A. We strongly discourage such action. Seeking reimbursement is likely to jeopardize the safety of the victim as the batterer may retaliate and cause further harm to the victim.

Furthermore, to the extent that seeking reimbursement would require disclosure of the fact that the victim has sought residential services, a breach of confidentiality by the local social services agency would result.

25. Q. Who should a residential program contact to resolve billing issues within a district or in a cross-county situation?

A. Each local district is required to designate an individual(s) within its agency to be available during regular business hours to address any program or payment issues relating to domestic violence victims in residential programs. If this person cannot be reached, the Director of Temporary Assistance in the agency should be contacted for TA issues and the Director of Services for Title XX issues.

26. Q. How can upstate residential programs be paid for residents from NYC?

A. Courtesy applications and residential reimbursement inquiries should be sent to:

Human Resources Administration
Family Independence Administration (FIA)
Office of Project Support
180 Water Street
20th floor
New York, New York 10038
Telephone numbers (212) 331-5806, 331-5793 or 331-5794

The social services district in which the residential program is located should take the courtesy application and do the face-to-face interview, as well as collect as much documentation as possible. If the victim is already in receipt of TA at the time of entry into the residential program, an application is not necessary. All information or inquiries regarding NYC residents should be forwarded to the above address.

27. Q. When a victim was residing in another state at the time of the domestic violence incident and enters a residential program in NYS, who is financially responsible for payment to the shelter?

A. For TA purposes, under the "where found rule", the district in which the residential program is located is responsible for the cost of the residential program if the victim is otherwise eligible. It would also be responsible for Title XX if the victim is not eligible for TA.

28. Q. When seeking reimbursement for time in a residential program is the program reimbursed for the first and last day that the victim is in residence?

A. Per diem reimbursement is based upon the concept of a bednight. Residential programs are reimbursed for the day of arrival, but not for the day of departure. If a victim arrives at a residential program, but leaves the same day and does not stay overnight, the program is not eligible for a per diem reimbursement.

DOMESTIC VIOLENCE PROGRAMMATIC ISSUES

29. Q. Who determines initial program eligibility for shelter?

A. If a person goes directly to a residential program, the program is responsible for determining program eligibility; if a person goes to the local social services district, the district is responsible to either make the determination or for making a referral to the program for a determination. A person should be deemed eligible as long as they provide sufficient verbal or written documentation that they meet the definition of a victim of domestic violence and are seeking shelter.

No further information should be required. Keep in mind that a person may meet the definition of domestic violence without physical injuries. A person who has been emotionally abused and/or threatened may also meet the definition of a victim of domestic violence. Former residents are eligible if there has been another incident since they previously left the residential program.

30. Q. Who is responsible for locating alternate shelter if the domestic violence residential program is full?

A. When a person goes to the district seeking shelter, the district must offer the victim a domestic violence residential program bed in the county or a contiguous county. If a bed is not available in the county or contiguous county, the next closest county must be considered. If there is still no bed available, the local social services district must make arrangements for another form of shelter until a bed becomes available. Only as a last resort, should motels/hotels or another form of emergency shelter be used as these alternatives may not always be the safest. When a domestic violence bed becomes available, the district must arrange for admission if the victim wants to enter the residential program.

31. Q. What is the maximum length of time that a victim can remain in a residential program for victims of domestic violence?

A. If necessary, the victim can remain in the program for up to 90 consecutive days, depending on the program's length of stay policy. There is the possibility for an extension of an additional 45 days if no safe, alternative housing is available (see

question 32). State reimbursement is not available beyond the 135-day total maximum permissible length of stay.

32. Q. Can the local district limit the length of stay to less than 90 consecutive days?

A. The contract between the local district and program must specify which method is used for determining length of stay, with a process for re-determining or assessing the continued need for shelter. The specified time periods for such re-assessments should be pre-determined and clearly identified in the contract developed by the local district and the residential program. Language may also be included in the contract that would address the issue of conflict resolution in situations of opposing determination for residents' need for continuing residential stays. However, the local district is responsible to provide domestic violence residential services when the victim is eligible and the residential program is available. Programs can limit their length of stay policy if there is no contract in place that states otherwise.

33. Q. Who actually makes the determination of whether a victim is in need of continued stay in the residential program?

A. If the residential program has a contract with the district, the contract must specify which method will be used to determine the length of stay of residents, either an automatic authorization of 90 days (depending upon the program's policy), or authorization for a specific time period with re-determination at periodic intervals. If the contract authorizes an automatic stay of up to 90 days, then the program is responsible for assessing continued eligibility. If the contract authorizes a predetermined period to be reassessed, then the social services district, **in consultation with** the residential program, will be responsible for redetermining the victim's continued eligibility to remain in the program.

Consultation **must** occur, and include a minimum of a telephone contact and review of the most recent assessment of service needs of the client.

34. Q. What criteria are used to determine continued eligibility for shelter stay?

A. Continued eligibility is based on a resident's safety and service needs. To remain in a program, a resident must continue to be in need of emergency shelter because no alternate housing is available, must continue to meet the admission criteria of the program and must continue to abide by program rules. If "**alternative housing**" is available, then the resident is no longer eligible to remain in the residential program. **"Alternative housing"** is defined solely as a **domestic violence transitional housing program or permanent housing that reasonably assures the victim's safety.**

35. Q. Who is responsible for conducting a Service Needs Assessment?

A. A Service Needs Assessment must also be conducted at regular intervals to arrange for the services necessary for the victim and the victim's children while in the residential program. The residential program must provide information to the financially responsible district relevant to the resident's safety and service needs for this purpose, but is not required to provide other than the necessary information. The residential program and/or the resident must only provide a list of services needed to ensure that the appropriate assistance is provided. Service Needs Assessments do not impact eligibility for continued stay.

36. Q. How frequently can these assessments occur?

A. The contract between the district and the residential program should clearly define the frequency and roles and responsibilities of districts and providers in terms of conducting Safety and Service Needs Assessments. If there is no contract, the district is responsible for determining the frequency of the needs assessment and the roles and responsibility for conducting the assessment. However, it is recommended that the district be sensitive to the work that the staff of the residential program must complete in the initial stages of admission to meet the emergency needs, crisis intervention and trauma associated with the abuse of victims and their families. Districts are also discouraged from imposing any undue hardship on the victim to "prove" that she/he is still in need of services. Such issues or questions should be addressed to the residential program directly.

37. Q. Does a local social services district have to pay for continuing residential stay if the program/victim decides that there is a safety issue?

A. A victim must be permitted to stay, and a district must continue to pay for a resident, if neither the resident, district nor program is able to secure alternate housing which reasonably assures a victim's safety.

Any applicant or recipient of TA, including a victim in a domestic violence residential program, who is dissatisfied with a social services district's decision regarding the victim's initial or continuing eligibility for assistance may request a Fair Hearing to review the local district's decision. An individual who is determined not to be a victim of domestic violence, and denied residential services on the basis of that determination, may also request a Fair Hearing.

38. Q. What if the resident is from a different county and the residential program does not have a contract with that social services district?

A. The district in which the victim **was residing** at the time of the incident is financially responsible. When there is not a contract, the resident is automatically authorized for up to 90 days depending on the residential program's policy. In this case, the residential program is responsible for determining continued eligibility for stay; the district is responsible for determining the frequency of the Service Needs Assessment and the roles and responsibility for conducting the assessment. If the resident has exceeded the program's length of stay policy, and is still in need of shelter, the district must refer the victim to another program if a bed is available.

The residential program is responsible for contacting the local social services district where the victim resided at the time of the domestic violence incident to notify the district of the need for emergency residential services and for any extensions. If the victim is eligible for an extension, the district must reimburse the residential program. The program must also notify the social services district where the domestic violence residential program is located if a courtesy application is needed. The victim, if already a recipient of TA, is also required to notify, within ten (10) days of leaving, the social services agency in the county the victim resided in at the time of the domestic violence incident if the victim has left the district.

If a resident is not currently a recipient of TA, then an application for TA must be made. The district where the residential program is located usually completes courtesy applications and face-to-face interviews

39. Q. Is a victim able to remain in the residential program for more than 135 days if there is a new incident of domestic violence? If so, is the local district responsible to pay the per diem?

A. A victim (and his or her minor children) can not remain in a residential program for more than 135 consecutive days. However, they may re-enter a residential program if there is another distinct incident of domestic violence as defined in 18 NYCRR 452.2 (g) that occurred subsequent to leaving the residential program. For each new incident, a victim may remain in the program for a continuous period of up to 90 days, with the possibility of a 45-day extension if no alternative housing is available. Again, alternative housing is defined as domestic violence transitional housing or permanent housing that reasonably assures the victim's and the victim's children's safety.

40. Q. Who is responsible for finding safe housing for the victim? Is it the district, the residential program or the client?

A. The responsibility for finding safe housing for the victim is a shared responsibility. The roles and responsibilities and timeframes should be defined in the contract. The victim, the residential program and the local social services agency should be working together to identify appropriate safe, permanent and/or transitional housing for the victim and the

victim's family. Housing advocacy is also a required core service for residential programs.

41. Q. What if there is no permanent safe housing available in the community after the victim has been in the shelter for 135 days? Is it possible to request an additional 45-day extension that is fully reimbursable?

A. No. If all possibilities for accessing safe, permanent housing have been exhausted, and the 135 days has been exceeded, the fiscally responsible local social services district is responsible for locating safe temporary housing for the victim and the victim's family.