

# RULE REVIEW

## OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

Pursuant to Chapter 262 of the Laws of 1996, the Office of Temporary and Disability Assistance (OTDA) must review at five-year intervals those regulations that were filed with the Department of State after 1997. The purpose of the review is to determine whether the regulations should be retained as written or modified. On January 8, 2003, OTDA published in the *State Register* with its regulatory agenda a list of regulations that OTDA adopted in 1999. That list is set forth below. After reviewing the regulations on that list, OTDA has determined that no modifications need to be made to those regulations. No comments were submitted in response to the listing of the regulations in the regulatory agenda.

1. Section 352.30(d) - reduces the amount of public assistance provided to a household by 25 percent if a member of the household refuses to cooperate in establishing paternity. Filed December 22, 1998; effective January 6, 1999. Implements an amendment made to section 131(16) of the Social Services Law by Chapter 214 of the Laws of 1998. Legal basis: Sections 20(3)(d), 34(3)(f) and 131(16) of the Social Services Law. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the reduction in public assistance benefits as a result of the failure of an individual to cooperate in establishing paternity or in establishing, modifying or enforcing a support order with respect to a child of the individual and the individual does not have good cause for such failure or is not otherwise excepted from so cooperating.

2. Sections 347.5, 369.1, 369.2, 369.7, 370.2, 370.7 and 360-3.2 - implement section 333 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193) regarding cooperation in pursuing child support by applicants for and recipients of public assistance. Filed January 25, 1999; effective February 10, 1999. Legal basis: Sections 20(3)(d), 34(3)(f), 111-a and 364 of the Social Services Law and Chapter 474 of the Laws of 1996. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the requirement that child support enforcement workers, instead of public assistance or medical assistance workers, determine whether a person is cooperating in pursuing child support and requiring medical assistance applicants and recipients to cooperate in pursuing not only medical support but also child support.

3. Part 372 - conforms the Office's regulations to the provisions of section 350-j of the Social Services Law concerning eligibility for emergency assistance to needy families with children. Filed January 29, 1999; effective February 17, 1999. Legal basis: Sections 20(3)(d), 34(3)(f) and 350-j and Ch. 436, L. 1997. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning eligibility for emergency assistance to needy families with children.

4. Sections 366.4(c)(2)(ii) and 366.7(o) - clarify the eligibility

requirements that must be met for a family in receipt of Family Assistance to participate in the Child Assistance Program (CAP) and add the repair of heating equipment, cooking stoves and refrigerators to the list of special allowances to which CAP recipients may be entitled. Filed April 29, 1999; effective May 19, 1999. Legal basis: Sections 20(3)(d), 34(3)(f) and 131-z of the Social Services Law. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning eligibility for CAP.

5. Section 351.7 - gives social services districts the option of conducting supervisory reviews on all actions on public assistance cases or of conducting supervisory reviews on selected cases. Filed May 20, 1999; effective June 9, 1999. Legal basis: Sections 20(3)(d) and 34(3)(f) of the Social Services Law. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the administration of public assistance programs in the social services districts.

6. Numerous sections of 18 NYCRR - makes technical corrections to various sections of 18 NYCRR. The amendments correct spelling and word omission errors. Filed June 22, 1999; effective July 7, 1999. Legal basis: Sections 20(3)(d) and 34(3)(f) of the Social Services Law. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the administration of public assistance programs in the social services districts.

7. Part 396 - implements section 131-r of the Social Services Law concerning the interception of lottery awards to repay public assistance benefits. Filed June 28, 1999; effective July 14, 1999. Legal basis: Sections 20(3)(d), 34(3)(f) and 131-r of the Social Services Law. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the interception of lottery prizes to repay public assistance provided within the previous 10 years.

8. Part 651 - implements provisions of Chapter 436 of the Laws of 1997 (welfare reform) concerning reporting requirements for social services districts. Filed June 29, 1999; effective July 14, 1999. Legal basis: Sections 20(3)(d) and 34(3)(f) of the Social Services Law and section 149 of Part B of Chapter 436 of the Laws of 1997. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the collection of data related to the operation of public assistance programs.

9. Part 900 - conforms Part 900 of 18 NYCRR which governs the operation of shelters for homeless families to 18 NYCRR 352.35 which governs the provision of temporary housing assistance to persons who are homeless, and to require homeless families to launder and change their own linens. Filed November 16, 1999; effective December 1, 1999. Legal basis: sections 20(3)(d) and 34(3)(f) of the Social Services Law and Chapter 562 of the Laws of 1953. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the operation of shelters for homeless families.

10. Sections 352.22(c), (f), (w), (x), (y), and (z) and 352.22(bb) - implement provisions of P.L. 104-204 which provides that allowances paid on behalf of the natural children of Vietnam veterans who suffer

from spina bifida cannot be considered when determining eligibility for any federally-finances program. Filed December 13, 1999; effective December 29, 1999. Legal basis: sections 20(3)(d), 34(3)(f), 131(1) and 131-n of the Social Services Law. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning eligibility for public assistance and defining income and resources.

The following list represents those regulations that were adopted by OTDA in 2000 and subject to the provisions of section 207 of the State Administrative Procedure Act. The regulations must be reviewed to determine whether the regulations should be retained as written or modified. The OTDA invites written comments on the continuation or modification of these regulations in order to assist this Office in the required review. We will consider only those comments that are received by March 10, 2004.

1. Sections 352.31(a) and 352.31(d) - give guidance to social services districts with respect to counting the number of months a person has been in receipt of public assistance in circumstances when persons received such assistance during a period when those persons were ineligible therefor and the monies were recovered. Filed April 4, 2000; effective April 19, 2000. The regulations clarify how social services districts are to calculate the two year period of eligibility for persons in receipt of Family Assistance and the five year period of eligibility for persons in receipt of Safety Net Assistance when a month of assistance for which a person is ineligible is paid back to the social services district. Legal basis: Social Services Law sections 20(3)(d) and 34(3)(f). Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations for the operation of the State's public assistance programs.

2. Section 348.7 - clarifies when an applicant for public assistance must be referred to a front-end detection system unit. Filed May 2, 2000; effective May 17, 2000. The regulation requires a referral to a front-end detection system unit when an applicant's expenses are current with no explanation. Legal basis: Social Services Law sections 20(3)(d), 34(3)(f) and 134-b. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations for the operation of the State's public assistance programs and the front-end detection system.

3. Part 310 and sections 313.1, 313.2, 603.1, 620.1 and 620.3 - eliminates the concept of State charges except in certain circumstances. Filed May 2, 2000; effective May 17, 2000. The amendments conform to the Office's regulations with the requirements of the Social Services Law. Legal basis: Social Services Law sections 20(3)(d) and 34(3)(f) and Chapter 81 of the Laws of 1995 (sections 155-159 and 195-199). Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations for the operation of the State's public assistance programs; the Chapter Law eliminates the category of State charges but retains the 100 percent reimbursement by the State for the non-federal share of public assistance provided to Native Americans and their families while residing on reservations within the State.

4. Sections 393.4(c)(4) and 393.4(d)(1)(I) - conforms State regulations to federal requirements concerning the households that are eligible for regular benefits under the Home Energy Assistance Program. The eligibility requirements are related to alien and refugee status. Filed July 25, 2000; effective August 9, 2000. Legal basis: Social Services Law sections 20(3)(d), 34(3)(f) and 97. Those sections authorize the Office of Temporary and Disability Assistance to administer the Low Income Home Energy Assistance Program in the State.

5. Section 352.23(b)(2) - specifies the value of an automobile that is exempted and disregarded when determining eligibility for public assistance. Filed August 8, 2000; effective August 23, 2000. Legal basis: Social Services Law sections 20(3)(d), 34(3)(f) and 131-n. Those sections authorize the Office of Temporary and Disability Assistance

to promulgate regulations concerning eligibility for public assistance and provide that if an automobile is needed for a public assistance applicant or recipient to seek or retain employment or travel to and from work activities, the automobile exemption will be increased to an amount equal to two times the amount required to be exempted from consideration in determining eligibility for food stamps, or such other higher dollar value as the local social services district may elect to adopt.

6. Part 358 - conforms regulations of the Office of Temporary and Disability Assistance concerning fair hearings for employment related cases to regulations of the Department of Labor. Filed August 31, 2000; effective September 20, 2000. Legal basis: Social services Law sections 20(3)(d), 22, 34(3)(f), and 337. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the conduct of fair hearings.

7. Section 397.11 - repeals a section of regulations concerning emergency shelter allowances in order to eliminate an unnecessary provision; language similar to that repealed is contained in 18 NYCRR 352.3(k). Filed September 12, 2000; effective September 27, 2000. Legal basis: Social Services Law sections 20(3)(d) and 34(3)(f) and Chapter 53 of the Laws of 1988 and subsequent budget bills. Those sections and budget bills, authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning emergency shelter allowances.

8. Section 393.4 - requires applicants for emergency benefits under the Home Energy Assistance Program (HEAP) to use available liquid resources to meet an emergency and removes a detailed list of criteria for the HEAP payment matrix. Filed September 28, 2000; effective October 18, 2000. Legal basis: Social Services Law sections 20(3)(d), 34(3)(f) and 97. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning HEAP.

9. Section 351.1 - requires information concerning the non-legally responsible caretaker relatives of children who receive public assistance and information concerning the siblings of children who are receiving public assistance to be provided to social services officials. Filed December 26, 2000; effective January 10, 2001. Legal basis: Social Services Law sections 20(3)(d), 34(3)(f) and 132. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations that set forth methods for determining eligibility for public assistance.

10. Section 370.4 - exempts from the two year limit on receipt of Safety Net Assistance work subsidies paid to an employer or a third party for the cost of wages or benefits for a recipient when the payment equals the full amount of the recipient's Safety Net Assistance budget deficit. Filed December 26, 2000; effective January 10, 2001. Legal basis: Social Services Law sections 20(3)(d), 34(3)(f), 158(a) and Article 5, Title 3. Those sections authorize the Office of Temporary and Disability Assistance to promulgate regulations concerning the Safety Net Assistance Program.

Any comments should be submitted to: Ronald Speier, Assistant Counsel, Office of Temporary and Disability Assistance, 40 N. Pearl St., 16th Fl., Albany, NY 12243, (518) 474-6573