

# RULE REVIEW

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## Office of Temporary and Disability Assistance

Pursuant to the State Administrative Procedure Act (SAPA) § 207, the Office of Temporary and Disability Assistance (OTDA) must review at five-year intervals those regulations that were adopted on or after January 1, 1997. The purpose of the review is to determine whether the regulations should be retained as written or modified. On January 4, 2012, OTDA published in the New York State Register a list of regulations from Title 18 of the New York Codes, Rules and Regulations (NYCRR) that OTDA adopted in 2007, 2002 and 1997. Those regulations are set forth below:

### Rules Adopted in 2007

#### 1. TDA-41-06-00030 Child Support Standards Chart\*

Amended 18 NYCRR § 347.10(a)(9), (b) and (c) to update the child support calculations formula as reflected in the child support standards chart.

Analysis of the need for the rule: The amendments were developed to update the self-support reserve, the poverty level and the child support standards chart in order to correctly reflect child support obligation amounts. Note: Section 347.10 has been subsequently amended.

Legal basis for the rule: Social Services Law (SSL) sections 20 (3) (d), 34 (3) (f), 111-a and 111-i.

#### 2. TDA-42-06-00015 Home Energy Assistance Program\*

Amended 18 NYCRR § 358-2.2(a)(14) to update the adequate notice requirements for Home Energy Assistance Program (HEAP) determinations.

Analysis of the need for the rule: The amendments were developed to update the adequate notice requirements to reflect the current policy and practice of providing budget information in HEAP notices that are based upon budget computations.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 97 and 131(1).

#### 3. TDA-37-06-00011 Congregate Care Level 3 Enhanced Residential Care\*

Amended 18 NYCRR § 352.8(b)(4)(i), (ii), (5), (c)(1)(ii) and (d); and added 18 NYCRR § 352.8(b)(4)(iii) to authorize the provision of an allowance for temporary assistance recipients residing in congregate care level 3 facilities.

Analysis of the need for the rule: This rule was developed to authorize the provision of an allowance for temporary assistance recipients residing in congregate care level 3 facilities in order to implement the reclassification adult homes and enriched housing programs certified by the Department of Health from congregate care level 2 to level 3.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 131(1), 131-o and 209.

### Rules Adopted in 2002

#### 4. TDA-37-01-00006 Applications for Safety Net Assistance\*

Amended 18 NYCRR § 350.4(a) and (b) to describe the circumstances when a person who is no longer eligible for family assistance because of the durational limits must apply for safety net assistance in order to be eligible for such assistance.

Analysis of the need for the rule: This rule was developed to describe the circumstances when a person who is no longer eligible for family assistance because of the durational limits must apply for safety net assistance in order to be eligible for such assistance. Note: section 350.4 has been subsequently amended.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 131(1) and 355(3).

#### 5. TDA-02-02-00005 Removals

Amended 18 NYCRR § 352.7(o) to revive regulations concerning the circumstances under which a social services district may remove a public assistance recipient to another state or country.

Analysis of the need for the rule: This rule was developed to revive regulations concerning the circumstances under which a social services district may remove a public assistance recipient to another state or country. Note: section 352.7(o) has been subsequently amended.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f) and 121.

#### 6. TDA-01-02-00005 Home Energy Assistance Program (HEAP)

Amended 18 NYCRR §§ 358-3.5(b)(4), 393.2(b), 393.3(a)-(b), 393.4(c)-(d) and 393.5(a), (c) and (e) to conform the regulations concerning HEAP with current policies and procedures of OTDA.

Analysis of the need for the rule: This rule was developed to conform the regulations concerning HEAP with OTDA's policies and procedures.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f) and 97.

#### 7. TDA-29-02-00010 Refugee Cash Assistance and Medical Assistance Programs\*

Amended 18 NYCRR Part 373 to implement federal regulations concerning operation of the refugee cash assistance program and the refugee medical assistance program.

Analysis of the need for the rule: This rule was developed to implement federal regulations concerning operation of the refugee cash assistance program and the refugee medical assistance program.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 358(3) and 358(4).

#### 8. TDA-01-02-00006 Domestic Violence Waivers\*

Amended 18 NYCRR § 351.2 to implement federal requirements concerning the establishment of domestic violence service plans and review of domestic violence waivers.

Analysis of the need for the rule: This rule was developed to implement federal requirements concerning the establishment of domestic violence service plans and review of domestic violence waivers. Note: Section 351.2 has been subsequently amended.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 131-u and 349-a.

#### 9. TDA-50-01-00004 Desk Reviews of Child Support Payments\*

Added 18 NYCRR § 347.25 to publish regulations on the conduct of desk reviews. The desk reviews involve an examination of public assistance and child support enforcement case records that will result in a written determination to the requestor of how the collections were distributed.

Analysis of the need for the rule: This rule was developed to formalize the procedures for the conduct of desk reviews upon the request of current and former recipients of public assistance who wish to obtain an accounting of the distribution of child support collected for months during which they received assistance payments and who believe that such distribution was incorrect.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f) and 111-a.  
Rules Adopted in 1997

10. SCS-07-96-00005 Shelters for Adults

Amended 18 NYCRR Part 491 to ease the burden on social services districts and other operators of shelters for adults in relation to the operation of such shelters.

Analysis of the need for the rule: The regulatory amendments, among other things, expanded the options for granting waivers of non-statutory requirements of 18 NYCRR Parts 485, 486 and 491 relating to shelters for adults; increased the time period during which a shelter for adults could be operated above the certified capacity; and repealed environmental standards that were duplicative of local codes or other State requirements.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 460 and 461.

11. SCS-13-96-00003 Personal Interviews for Applicants

Amended 18 NYCRR § 350.3(c) to require that an interview with an applicant for public assistance be scheduled within seven rather than five working days after an application is submitted.

Analysis of the need for the rule: The regulatory amendment assisted social services districts in the effective and efficient administration of public assistance programs by providing additional time for districts to schedule interviews with public assistance applicants.

Legal basis for the rule: SSL §§ 17, 20(3)(d), 34(3)(f), 158(a) and 355(3).

12. SCS-25-96-00016 Temporary Housing Assistance for Homeless Families

Amended 18 NYCRR Parts 900 and 1000 to consolidate and modify existing requirements for family shelters and shelters for pregnant women.

Analysis of the need for the rule: The regulatory amendment provided administrative flexibility to, and reduced the administrative burden on, social services districts and homeless shelter providers by consolidating and modifying existing requirements for family shelters and shelters for pregnant women. Note: Sections of Part 900 have been subsequently amended.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f) and 153, Chapter 562 of the Laws of 1953, and Chapter 53 of the Laws of 1992.

13. SCS-31-96-00001 Copies of Documents for Fair Hearings

Amended 18 NYCRR §§ 358-3.7 and 358-4.2 to set forth standards for making documents available to appellants in fair hearings.

Analysis of the need for the rule: The regulatory amendments relieved social services districts from costly mandates by conforming Office regulations to federal requirements regarding the provision of copies of documents from the case file by social services districts to appellants at fair hearings. Note: Section 358-4.2 has been subsequently amended.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f) and 22(8).

14. SCS-41-96-00017 Food Stamp Program

Amended 18 NYCRR §§ 359.9, 387.1, 387.2, 387.9, 387.10, 387.11, 387.12, 387.14 and 387.19 to implement the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193) relating to the food stamp program.

Analysis of the need for the rule: The regulatory amendments were developed to implement the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) relating to the food stamp program. Note: Sections 359.9, 387.1, 387.9, 387.10, 387.12 and 387.14 were subsequently amended. The Food Stamp Program was renamed to be the Supplemental Nutrition Assistance Program (SNAP) on August 29, 2012.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f) and 95.

15. SCS-11-97-00019 1996 Self-Support Reserve and Child Support Standards Chart

Amended 18 NYCRR § 347.10 to reflect the 1996 self-support reserve and child support standard chart.

Analysis of the need for the rule: The regulatory amendment advised the social services districts and the family courts of the correct amount of the 1996 self-support reserve when calculating the basic child support obligation for parties in child support proceedings. This was consistent with federal requirements that States implement child support standards that were used in the calculation of child support obligations and that the standards took into account the non-custodial parent's income. Note: Section 347.10 has been subsequently amended.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 111-a and 111-i.

As of March 1, 2012, OTDA had not received substantive comments regarding its Rule Review published in the New York State Register on January 4, 2012.

OTDA is considering amendments that may impact the regulatory changes that were adopted in 2007, 2002 and 1997. OTDA is considering the following regulatory amendments: update regulation pertaining to the calculation of basic child support obligations and repeal the child support standards chart; revise desk review procedures addressing the accounting and disbursement of child support for certain current and former recipients of public assistance; update HEAP regulations to reflect current practices and the provisions of the federally accepted HEAP State plan; and update the SNAP regulations to conform to changes in federal regulations and law. At this time, OTDA has determined that no additional modifications need to be made to its regulations adopted in 2007, 2002 and 1997, as amended.

OTDA has determined that in the ensuing calendar year, it should review its regulations from Title 18 NYCRR adopted in 2008, 2003 and 1998. These regulations from 2008, 2003 and 1998, listed below, are subject to the provisions of SAPA § 207. The regulations must be reviewed to determine whether they should be retained as written or modified. OTDA invites written comments on the continuation or modification of these regulations in order to assist in the required review. We will consider only those comments that are received by March 22, 2013.

Rules Adopted in 2008

A. TDA-02-08-00002 Recertification of Public Assistance Recipients\*

Amended 18 NYCRR § 351.21(b), (c) and (f)(5) and 351.22(a), (b), (c)(1) and (f) and added 18 NYCRR § 351.22(b)(3) to provide for a social services district waiver of face-to-face recertification requirements subject to OTDA approval.

Analysis of the need for the rule: The amendments were developed to provide social services districts the opportunity to request waivers from the OTDA of certain face-to-face recertification interviews for public assistance recipients.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1), 134-a (3) and 355 (3).

B. TDA-28-08-00002 Home Energy Assistance Program\*

Amended 18 NYCRR § 393.4(c)(3), (5); renumbered 18 NYCRR § 393.4(c)(4) to be § 393.4(c)(5) and added 18 NYCRR § 393.4(c)(4) to establish a new HEAP benefit level for low-income households in certain living arrangements.

Analysis of the need for the rule: The amendments were developed to establish a new HEAP benefit level for low-income households in certain living arrangements in order to enhance participation and benefits for certain Food Stamp (FS) applicants and recipients. By Federal regulation, receipt of a HEAP benefit, regardless of the amount of the HEAP benefit, enables FS applicants or recipients to maximize the FS Standard Utility Allowance. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis for the rule: Chapter 94 of Title 42 of the United States Code; 42 U.S.C. § 8624(c), (b)(12); SSL § 97(1), (2).

C. TDA-28-08-00003 Food Stamp Program\*

Amended 18 NYCRR § 387.16(e) and (f) and added 18 NYCRR § 387.16(e)(1)-(2) and (f)(1)-(2) to establish a new food stamp budgeting methodology for certain residents in group living arrangements.

Analysis of the need for the rule: The amendments were developed to establish a new, equitable method of calculating the food stamp benefits for residents of group living facilities and drug or alcoholic treatment facilities. It eliminated the differences between the food stamp benefit calculations done for residents who receive public assistance (PA) and those who receive Supplemental Security Income (SSI) by basing the calculations on the pertinent SSI rates. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis for the rule: Chapter 51 of Title 7 of the United States Code; 7 U.S.C. §§ 2011 and 2013; SSL §§ 95 and 95-a.

Rules Adopted in 2003

D. TDA-32-02-00004 Shelter Allowance\*

Amended 18 NYCRR Part 352 and section 381.3(c) to establish new provisions concerning the shelter allowance.

Analysis of the need for the rule: The amendments were developed to provide a shelter allowance that reflected the cost of acceptable quality housing; provide for a supplement to ensure that family units facing special circumstances may be kept together in a home-type setting; maintain strong incentives to work; increase fairness and equity in the provision of public benefits; affect household composition; and simplify grant administration.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 131(1), 131-a(2), 158, 349 and 355(3).

E. TDA-49-02-00006 Adjustment of Public Assistance Grants\*

Amended 18 NYCRR § 352.17(e) to establish a reasonable administrative processing period in which a social services official was required to adjust a public assistance grant or calculate the amount of any overpayment of a public assistance grant as a result of new or increased earnings.

Analysis of the need for the rule: The amendments were developed to encourage public assistance recipients to obtain employment and become self-sufficient; permit public assistance recipients to pay for employment-related expenses before their benefit level is reduced; and allow social services districts to adjust benefit levels without also having to calculate an overpayment of assistance.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-a and 355(3).

F. TDA-49-02-00007 Public Assistance and Food Stamps\*

Amended 18 NYCRR §§ 350.3(a), 387.1(e)(1), and 387.5(j) and (k) to limit the use of an authorized representative to persons who were unable to file an application for public assistance or food stamps.

Analysis of the need for the rule: The amendments were developed to help ensure that the information given to a case worker by an authorized representative concerning a person's eligibility for public assistance or food stamps is accurate and reflects existing household circumstances. The amendments affecting the Food Stamp Program implement federal regulations. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 95, 131(1) and 355(3). Title 7, part 273, section 2, subdivision (n) of the Code of Federal Regulations.

G. TDA-49-02-00008 Vehicle Resource Level\*

Amended 18 NYCRR § 352.23(b) to establish resource exemption levels for vehicles owned by public assistance recipients and authorize social services districts to exempt as a resource any funds deposited in a bank account by such recipients if the account did not exceed a certain level and if the funds were used to purchase a first or used vehicle to enable the recipients to seek, obtain or maintain employment.

Analysis of the need for the rule: The amendments were developed to implement legislative changes to the Social Services Law.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 131(1), 131-n and 355(3).

H. TDA-49-02-00009 Eligibility for Emergency Assistance to Families\*

Amended 18 NYCRR §§ 369.1, 372.2 and 372.4 to conform the emergency assistance to families (EAF) regulations to federal laws

and regulations, eliminate the potential for federal penalties for incorrect use of funds in the EAF program, and remove unnecessary and restrictive limits on the amount of EAF that can be provided to repair an EAF recipient's home. Filed February 25, 2003; effective March 12, 2003.

Analysis of the need for the rule: The amendments were developed to eliminate the potential for federal penalties, conform the regulations to federal law and regulations, and remove an unnecessary limit on the amount of EAF that can be used to repair a recipient's home.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 350-j, 355(3) and 410-u; Social Security Act sections 404(a)(2), 408(a)(1)(A) and 409(a)(1)(A) and (B). The SSL sections required OTDA to promulgate regulations necessary for the carrying out of the provisions of the EAF program.

I. TDA-49-02-00010 Food Stamp Certification Periods\*

Amended 18 NYCRR § 387.17(a) to extend from twelve months to twenty-four months the food stamp certification period for households in which all adult members are elderly or disabled.

Analysis of the need for the rule: The amendments were developed to implement federal requirements concerning food stamp certification periods; significantly ease and streamline the processing procedures for social services districts; and enhance access to food stamps for elderly or disabled persons. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 95. Title 7, part 273, section 10, subdivision (f) of the Code of Federal Regulations.

J. TDA-49-02-00011 Eligibility for Food Stamps\*

Amended 18 NYCRR §§ 358-2.28, 358-2.29, 358-3.1(f), 387.7(a) and (g), 387.14(g)(1)(ii) and 387.17 to implement federal requirements concerning the food stamp application and certification processing requirements.

Analysis of the need for the rule: The amendments were developed to implement federal requirements concerning the food stamp application and certification processing requirements; significantly ease and streamline the processing procedures for social services districts; and enhance access to food stamps for eligible households. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 95. Title 7, part 273, sections 2, 10 and 12 of the Code of Federal Regulations.

K. TDA-19-03-00008 Eligibility for Food Stamps\*

Amended 18 NYCRR § 387.14(a)(5)(i) and (ii) to extend categorical eligibility for food stamps to recipients of safety net assistance.

Analysis of the need for the rule: The amendments were developed to extend categorical eligibility for food stamps to recipients of safety net assistance. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 95.

L. TDA-19-03-00009 Eligibility For Safety Net Assistance\*

Amended 18 NYCRR § 352.20(c) to allow for the percentage earned income disregard to be provided to all safety net assistance cases that would be eligible for family assistance except for the imposition of the 60-month State limit on the receipt of family assistance.

Analysis of the need for the rule: The amendments were developed to allow for the percentage earned income disregard to be provided to all safety net assistance cases that would be eligible for family assistance except for the imposition of the 60-month State limit on the receipt of family assistance.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 131-a(1), 131-a(8)(a)(iii), 158, 349 and 355(3).

M. TDA-19-03-00010 Fair Hearings\*

Amended 18 NYCRR Part 358 to make technical changes that were primarily needed to conform the regulations concerning fair hearings to the Welfare Reform Act of 1997.

Analysis of the need for the rule: The changes, in part, reflected the following: the creation of OTDA and the Office of Children and Family Services (OCFS); the responsibility of the Department of Health

for the medical assistance program; the responsibility of the Department of Labor for the public assistance employment programs (subsequently repealed); the responsibility of OCFS for certain services programs; and the responsibility of the Office of Administrative Hearings within OTDA for conducting hearings on behalf of such agencies. The addition of section 358-5.9(e) concerned the issuance of subpoenas in fair hearings.

Legal basis: Chapter 436 of the Laws of 1997, constituting the Welfare Reform Act of 1997. SSL sections 20(3)(d), 22(8) and 34(3)(f).

N. TDA-20-03-00001 Trust Assets\*

Amended 18 NYCRR §§ 352.22(e)(1) and 352.22(e)(2) to clarify the regulations concerning the treatment of trust funds and the eligibility for public assistance.

Analysis of the need for the rule: The amendments revised the regulations concerning the treatment of trust assets for purposes of determining whether such assets can be used to provide for the basic maintenance needs of the trust beneficiary when such beneficiary was in receipt of or applied for public assistance.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 131(1), 131-n and 355(3).

O. TDA-23-03-00002 Food Stamp Reporting\*

Amended 18 NYCRR §§ 358-3.3(e)(3), 387.14(a)(5)(ii)(b) and 387.17 to establish new requirements for reporting information to social services districts concerning eligibility for food stamps.

Analysis of the need for the rule: The amendments were developed to implement federal regulations concerning the food stamp application and certification processing requirements, simplify the reporting requirements for food stamp recipients with earnings, and reduce the amount of errors committed by social services districts when computing the amount of food stamps to which a household is entitled. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 95. Title 7, part 273, sections 10 and 12 of the Code of Federal Regulations.

Rules Adopted in 1998

P. TDA-49-97-00006 Learnfare Program\*

Added 18 NYCRR § 351.12 to implement the learnfare program.

Analysis of the need for the rule: The amendments were developed to implement the learnfare program, which was intended to prevent children from dropping out of school and improve the attendance of children in school.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131-y.

Q. TDA-49-97-00007 Food Assistance Program\*

Amended the Title of 18 NYCRR Part 358 and 18 NYCRR § 358-1.1, and added 18 NYCRR Part 388 and § 358-2.27 to implement the food assistance program.

Analysis of the need for the rule: The amendments were developed to implement the food assistance program.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 95(10).

R. TDA-02-98-00003 Child Assistance Program

Added 18 NYCRR Part 366 to implement provisions of Chapter 436 of the Laws of 1997 concerning the child assistance program.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning the child assistance program, which was a district optional component of the family assistance program designed to motivate family assistance recipients to take steps towards financial self-sufficiency.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131-z.

S. TDA-02-98-00004 Law Enforcement Cooperation\*

Amended 18 NYCRR § 357.3 to implement provisions of Chapter 436 of the Laws of 1997 concerning law enforcement cooperation.

Analysis of the need for the rule: The amendments, permitting social services officials to contact law enforcement officials under certain circumstances, were developed to implement SSL section 136,

as amended by Chapter 436 of the Laws of 1997, and to implement mandatory provisions of section 408 (a)(9)(B) of Public Law 104-193 (The Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 136.

T. TDA-02-98-00005 Earned Income Disregards for Recipients of Public Assistance

Repealed 18 NYCRR § 352.17(b)(1)(iii) and amended 18 NYCRR §§ 352.18, 352.19 and 352.20 to implement provisions of Chapter 436 of the Laws of 1997 concerning the calculation of earned income disregards for recipients of public assistance.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which revised certain income disregards used in calculating eligibility for public assistance.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131-a and Chapter 436 of the Laws of 1997.

U. TDA-02-98-00006 Sanctions for Non-Compliance

Amended 18 NYCRR § 352.30 to provide sanctions for non-compliance with work rules and drug or alcohol screening.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which changed the sanction from an incremental reduction of benefits to a pro rata reduction of benefits for a failure to comply with the work requirements of 18 NYCRR Part 385. A similar sanction was imposed by Chapter 436 of the Laws of 1997 on persons who failed to participate in a drug or alcohol screening program.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 132(4)(f) and 342 and Chapter 436 of the Laws of 1997.

V. TDA-02-98-00007 Local Flexibility Incentive Pilot Programs

Added 18 NYCRR § 300.9 to implement provisions of Chapter 436 of the Laws of 1997 concerning local flexibility incentive pilot programs.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning local flexibility incentive pilot programs to enable social services districts to develop and implement innovative, flexible and efficient human service programs.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 36-b and Chapter 436 of the Laws of 1997.

W. TDA-02-98-00008 Intentional Program Violations

Amended 18 NYCRR § 352.30 and Part 359 to impose sanctions for intentional program violations in the family assistance and safety net assistance programs.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning the imposition of sanctions for intentional program violations in the family assistance and safety net assistance programs.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 145-c and Chapter 436 of the Laws of 1997.

X. TDA-02-98-00009 Safety Net Assistance Program\*

Amended 18 NYCRR Part 370 to provide the standards for the safety net assistance program.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which included the replacement of the term "home relief" with "safety net assistance" throughout the Part. Many of the requirements for home relief remained under the safety net assistance program; however, the amendments added several new provisions for eligibility for, and the provision of, safety net assistance.

Legal basis: SSL sections 20(3)(d), 34(3)(f), 157, 158 and 159 and Chapter 436 of the Laws of 1997.

Y. TDA-02-98-00010 Replacement of Identification Cards\*

Amended 18 NYCRR §§ 383.1 and 383.3 to implement provisions concerning when the identification card of a public assistance recipient should be replaced.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which

required social services districts to provide a recipient of public assistance with a replacement identification card within a certain time period.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131(19) and Chapter 436 of the Laws of 1997.

Z. TDA-02-98-00011 Electronic Benefit Transfer System

Amended 18 NYCRR §§ 381.1 and 381.2 to implement the Statewide electronic benefit transfer system.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning the establishment of a Statewide electronic benefit transfer system, which provides recipients increased security and convenience in accessing their benefits and also helps reduce benefit fraud.

Legal basis: SSL sections 20(3)(d), 21-a and 34(3)(f).

AA. TDA-02-98-00012 Eligibility for Family Assistance\*

Amended 18 NYCRR Part 369 to implement provisions of Chapter 436 of the Laws of 1997 concerning eligibility for family assistance.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which included the replacement of the term “aid to dependent children” with “family assistance” throughout the Part. Many of the requirements for aid to dependent children remained under the family assistance program; however, the amendments added several new provisions for eligibility for, and the provision of, family assistance.

Legal basis: SSL sections 2(18), 20(3)(d), 34(3)(f), 131(6), 344, 349 and 350(c)(2) and Chapter 436 of the Laws of 1997.

BB. TDA-02-98-00013 Screening for Alcohol and/or Drug Abuse\*

Added 18 NYCRR § 351.2(i) to require that applicants for or recipients of public assistance be screened for alcohol and/or drug abuse and attend appropriate treatment programs when necessary.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which required screening for alcohol and/or substance abuse of all heads of households and adult applicants for public assistance.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 132 and Chapter 436 of the Laws of 1997.

CC. TDA-02-98-00014 Exemption of Income and Resources for Public Assistance

Amended 18 NYCRR § 352.23(a), (b) and (d) to provide for the exemption of certain income and resources for public assistance eligibility.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which amended the provisions for the exemption of certain income and resources when determining public assistance eligibility in order to more closely align the public assistance resource policy with that of the food stamp program. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131-n and Chapter 436 of the Laws of 1997.

DD. TDA-02-98-00015 Recovery of Assistance for Basic Needs

Amended 18 NYCRR § 353.2(a) and (b) to clarify that interim assistance subject to recovery may include family assistance if paid exclusively from State and local funds.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which renamed the programs for which interim assistance may be recovered and clarified that interim assistance could be recovered from non-federally funded family assistance provided to persons, or households containing such persons, who are permanently disabled and awaiting determinations of eligibility for federal supplemental security income benefits.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 349(B)(2) and Chapter 436 of the Laws of 1997.

EE. TDA-02-98-00016 Individual Development Accounts

Added 18 NYCRR § 352.21 to implement the establishment of individual development accounts.

Analysis of the need for the rule: The amendments were developed

to implement Chapter 436 of the Laws of 1997, which permitted individuals who are receiving family assistance to accumulate funds in certain individual development accounts.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 358(5).

FF. TDA-02-98-00017 Standards for Ineligibility for Public Assistance

Amended 18 NYCRR §§ 351.1(b)(2)(iv), 352.30(d)(2)-(4), 387.1(w) and added 18 NYCRR § 351.2(k) concerning standards for ineligibility for public assistance.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which prohibited the following persons from receiving assistance: unmarried persons under 18 years old who are with a child and who have not completed or are not attending high school; fugitive felons and probation and parole violators; persons convicted of illegally receiving duplicate benefits; and minors absent from their homes.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131 and Chapter 436 of the Laws of 1997.

GG. TDA-02-98-00018 Family Assistance and Safety Net Assistance

Added 18 NYCRR § 350.1(d) to provide technical consistency and language clarity for the public assistance program.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which established the family assistance program and the safety net assistance program. The amendments stated that references to “aid to dependent children” refer to “family assistance” and references to “home relief” refer to “safety net assistance.” The amendment defined “public assistance” as referring to family assistance, safety net assistance and veteran assistance.

Legal basis: SSL sections 2, 20(3)(d) and 34(3)(f) and Chapter 436 of the Laws of 1997.

HH. TDA-02-98-00019 Eligibility of Non-Citizens for Family Assistance

Repealed 18 NYCRR §§ 349.3 and 352.33 and added new 18 NYCRR §§ 349.3 and 352.33 to conform the State’s eligibility requirements for federally funded assistance to federal law, exercise federal options for the eligibility of certain persons, and set forth the requirements for eligibility for State funded programs.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which addressed the eligibility of non-citizens for family assistance, safety net assistance, food stamps, Title XX benefits and additional State payments in the supplemental security income program. The amendments established requirements for deeming the income of an alien’s sponsor to the alien for purposes of eligibility for various programs. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 122 and Chapter 436 of the Laws of 1997.

II. TDA-02-98-00036 Finger Imaging

Amended 18 NYCRR §§ 351.2, 384.1, 384.2(b) and (c), 384.3(a)(3)(i), and added 18 NYCRR §§ 387.9(c) and 388.8 to extend the scope of the automated finger imaging system.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which required social services districts to finger image applicants for and recipients of safety net assistance, emergency safety net assistance, emergency assistance to needy families with children, public institutional care adults, family assistance, food stamps or food assistance benefits. Note: The Food Stamp Program was renamed to be SNAP on August 29, 2012; and effective November 1, 2012, finger imaging was eliminated for purposes of SNAP.

Legal basis: SSL sections 17, 20(3)(d), 34(3)(f), 131(1), 134-a, 139-a, 158(a) and 355(3) and Chapter 436 of the Laws of 1997.

JJ. TDA-12-98-00018 Repayment of Grants for Energy Arrears

Amended 18 NYCRR § 352.5(e) to revise the regulations concerning who must sign an agreement to repay emergency assistance provided to pay utility arrears.

Analysis of the need for the rule: The amendments were developed to clarify the regulations concerning who must sign an agreement to repay emergency assistance provided to pay utility arrears.

Legal basis: SSL sections 17, 20(3)(d), 34(3)(f), 131(1), 131-s, 158 and 355(3).

KK. TDA-15-98-00002 Nazi Persecution Payments

Added 18 NYCRR § 352.22(aa) to exempt payments to victims of Nazi persecution in determining eligibility for public assistance.

Analysis of the need for the rule: The amendments were developed to exclude reparation payments made to victims of Nazi persecution from consideration in determining eligibility for and the amount of benefits to be paid under certain public assistance programs.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131-n(2) of the SSL.

LL. TDA-15-98-00003 Immunizations\*

Added 18 NYCRR § 355.1(c) to require social services districts to provide information and a schedule regarding age-appropriate immunizations to certain applicants for and recipients of public assistance.

Analysis of the need for the rule: The amendments were developed to require that social services districts provide all applicants for and recipients of public assistance whose households include a child five years of age or younger with information and a schedule regarding age-appropriate immunizations. The amendments also required that social services districts must provide such applicants and recipients with information about eligibility for free vaccinations for children.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 131(13).

MM. TDA-19-98-00016 Recoveries of Public Assistance

Amended 18 NYCRR § 352.31(d)(5) to raise the threshold amount of public assistance to be recovered from \$35 to \$125.

Analysis of the need for the rule: The amendments were developed to relieve social services districts from the administrative burden of collecting overpayment amounts which are so small that collection is not cost effective.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 106-b.

NN. TDA-25-98-00006 Domestic Violence Protection\*

Amended sections 351.2(l), 347.5(g) and (h), 369.2(b)(1)(iv), 357.3(i), 358-3.1(b) and 358-3.3 to implement procedures for the domestic violence screening, assessment and referral program for applicants for and recipients of public assistance.

Analysis of the need for the rule: The amendments were developed to establish the procedures for the State's domestic violence screening, assessment, and referral program in order to provide care, support and protection to victims of domestic violence who were applying for or receiving public assistance.

Legal basis: SSL sections 20(3)(d), 34(3)(f) and 349-a.

\* The asterisks identify rules for which a regulatory flexibility analysis, rural area flexibility analysis or job impact statement was prepared.

The rule review may be accessed on OTDA's website at <http://otda.ny.gov/legal/>.

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