

REGULATORY AGENDA

Office of Temporary and Disability Assistance

Pursuant to State Administrative Procedure Act (SAPA) § 202-d, the Office of Temporary and Disability Assistance (OTDA) is required to publish a regulatory agenda for those regulations that it is considering for publication in the New York State Register. Set forth below is an agenda for 2019. SAPA § 202-d does not preclude OTDA from proposing for adoption a regulation that is not described in the agenda, nor does it require OTDA to propose for adoption a regulation that is described in the agenda.

All references are to Title 18 of the New York Codes, Rules and Regulations (NYCRR) unless otherwise noted. The agenda items are organized pursuant to the Part of Title 18 NYCRR that most likely would be amended. However, the agenda items eventually could require amendments to different Parts than those listed below and/or to more than one Part of Title 18 NYCRR.

Part 301 – Veteran Assistance

Amend regulations to replace gender-specific terms with gender-neutral terms.

Part 311 – Change of Residence

Amend regulations to repeal certain residency requirements to reflect current policies and practices.

Part 340 – Public Access to Department Records under the Freedom of Information Law

Update regulations concerning public access to records under the Freedom of Information Law to reflect the current organization of the Department of Family Assistance.

Part 346 – Support Collection

Establish guidelines for the local child support enforcement units to follow in determining whether and under what circumstances a passport, which has been denied, revoked, or restricted by the United States (U.S.) Department of State due to non-payment of child support, may be released.*

Update regulations to allow for reporting increases in the amount subject to administrative enforcement in certified cases.

Part 347 – Establishment of Paternity and Enforcement of Child Support

Revise regulations concerning the provision of child support services in intergovernmental cases.

Amend regulations to clarify the requirements for income withholding for persons served by the Title IV-D child support program (IV-D) to conform with changes to the federal IV-D Income Withholding Order/Notice for Support form.

Update regulations to comply with the mandatory provision of the federal Bipartisan Budget Act of 2018 to increase the annual service fee imposed on persons who receive child support services who have never received assistance pursuant to Title IV-A of the Social Security Act, from \$25 to \$35, and to increase the minimum collection requirement for assessing this fee from \$500 to \$550 per federal fiscal year.

Part 351 – Investigation and Eligibility

Clarify provisions concerning the submission of a social security number as a condition of eligibility for public assistance.*

Part 352 – Standards of Assistance

Amend regulations to make technical updates to Part 352, including updating references to “aid to dependent children” and “home relief” with “family assistance” and “safety net assistance” respectively.

Amend regulations to implement changes to public assistance lien policy consistent with Social Services Law (SSL) § 106 to require local social services districts to: obtain a signed acknowledgment form from an applicant/recipient real property owner prior to taking a real property lien; and provide the real property owner with a biennial accounting of assistance and recoveries used in determining the amount of an outstanding real property lien.*

Amend regulations to update and clarify standards pertaining to hotels and motels used as placements for recipients of temporary housing assistance.*

Part 358 – Fair Hearings

Update regulations to clarify that the term “hearing officer” may be used interchangeably with the term “administrative law judge.”

Amend regulations by adding a reference to a written notice to Medicaid appellants, who failed to appear at a scheduled fair hearing, advising how to request the rescheduling of such fair hearing and which states that the right to aid-continuing, if previously authorized, extends to the deadline to respond to the notice.*

Part 359 – Disqualification for Intentional Program Violation

Revise regulation to clarify that disqualification consent agreements are reviewable at a fair hearing to ensure compliance with procedural requirements.*

Part 369 – Family Assistance

Amend regulation to address applications for or receipt of public assistance as an assignment to the State and the social services district of rights to support.

Part 385 – Public Assistance and Supplemental Nutrition Assistance Program (SNAP) Employment Program Requirements

Amend the title and the regulations of Part 385 to make technical updates, including updating references from “food stamp” to “SNAP.”

Clarify that support services may be provided to individuals assigned to work activities by the social services district.*

Revise assessment regulations to clarify that the requirements for exempt individuals in households without dependent children to comply with an assessment are consistent with those for exempt individuals in households with dependent children.*

Amend employment program provisions for notices of conciliation and notices of discontinuance or reduction as a result of an employment sanction to incorporate plain language requirements.*

Amend regulations to implement changes to the work activities that may be made available to individuals to include financial literacy consistent with Chapter 275 of the Laws of 2017.*

Establish additional guidelines regarding work activity definitions and work documentation and verification procedures to make them consistent with standards required by federal regulations.*

Implement changes to participation rate regulations to conform to amendments to the SSL which require social services districts to

expand the countable work activities available to safety net assistance participants without children to include community service programs, the provision of child care services to an individual participating in community service and time limited vocational education training, job search and job readiness assistance.*

Revise SNAP employment and training regulations to conform to federal regulations.*

Modify provisions that permit foster care parents and individuals who are caring for a disabled household member to be deemed as community service participants to only apply to public assistance households without dependent children. Federal regulations do not permit an individual who is caring for a disabled family member or a foster parent to be reported as participating in community service or any other work activity reported toward the federal work participation rate.

Part 387 – Supplemental Nutrition Assistance Program

Amend regulations to make technical updates to Part 387.

Revise regulations to raise the level of the minimum annual Home Energy Assistance Program (HEAP) or other energy assistance benefit required to confer eligibility for the SNAP Heating and Cooling Standard Utility Allowance (HCSUA) from \$1.00 to \$21.00.*

Update regulations to reflect the current policy that standard allowances for heating/air conditioning, utility and telephone costs are used in calculating shelter expenses for SNAP.*

Update regulations to reflect the current policy that households in shared living arrangements are entitled to the full applicable level of the standard utility allowance.*

Revise SNAP regulations concerning the special definition of the “head of the household.”*

Delete SNAP monthly reporting/retrospective budgeting references and add provisions for change reporting.*

Conform regulations concerning in-office interviews for SNAP applicants to federal requirements.*

Amend SNAP certification period to reflect the 48-month certification period authorized under the New York State Nutrition Improvement Project.*

Generally update SNAP regulations to conform to changes in federal regulations and law.*

Part 393 – Home Energy Assistance Program (HEAP)

Amend HEAP regulations to reflect current practices and the provisions of the federally accepted HEAP State Plan, including the confidentiality requirements contained therein.*

Amend regulations to articulate rules for protection of HEAP data and data sharing.

Part 398 – Supplemental Security Income (SSI) Additional State Payments

Amend regulations to clarify certain aspects of the State Supplement Program, among them: who is eligible to participate in the State Supplement Program (SSP) based on the initial eligibility determination transmitted from the Social Security Administration to New York State via the state data exchange process; that neither SSP nor State Supplemental Personal Needs Allowance benefits will be issued once a participant’s death has been verified; and that New York State has the right to operate the SSP under State rules.

Part 491 – Shelters for Adults

Amend regulations to expand scope to include shelters for adults that currently are not certified by OTDA; to consolidate provisions governing shelters for adults in this Part; to clarify hearing procedures; to streamline reporting requirements; and to update and clarify applicable standards.*

Part 800 - Homeless Housing and Assistance Program (HHAP)

Amend regulations regarding the conflict of interest rules for HHAP to address all ownership entities involved in HHAP projects. Revise and update certain definitions and terminology, clarify funding processes, and provide for the role of the Homeless Housing and Assistance Corporation Board as established in Private Housing Finance Law § 45-c.

Part 900 – Shelters for Families

Amend regulations to expand scope to include shelters for families that currently are not certified by OTDA; to consolidate provisions governing shelters for families in this Part; to clarify hearing procedures; to streamline reporting requirements; and to update and clarify applicable standards.*

It is not anticipated that small business regulation guides will need to be developed for the proposals set forth in this agenda.

* The asterisks identify rules for which a regulatory flexibility analysis or a rural area flexibility analysis may be required.

At this time, OTDA cannot specify the dates for publication in the New York State Register of the items listed above. OTDA would welcome comments related to this regulatory agenda at the address listed below, and each published Notice of Proposed Rule Making will provide a public comment period and a contact person to whom comments may be sent.

Any questions, comments, or requests for information concerning the items listed in this agenda may be referred to: Richard P. Rhodes, Jr., Associate Attorney, Office of Temporary and Disability Assistance, 40 N. Pearl St., 16C, Albany, NY 12243, (518) 486-7503, e-mail: richard.rhodesjr@otda.ny.gov. The regulatory agenda may be accessed on OTDA’s website at <http://otda.ny.gov/legal/>