

RULE REVIEW

Office of Children and Family Services

Notice of Review of Existing Regulations Pursuant to State Administrative Procedure Act Section 207 (Calendar Years 2004, 2009 and 2016)

In accordance with section 207 of SAPA, OCFS submits the following rules that were adopted during calendar years 2004, 2009 and 2016, and invites public comment on the continuation or modification of such rules. All section and part references are to Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York (NYCRR) unless otherwise indicated

Comments regarding these rules should be sent to the attention of the following agency contact: Senior Attorney, Leslie Robinson, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144. Email: regcomments@ocfs.ny.gov. Comments must be received within 60 days of the date of publication of this Notice. Please reference Rule Review in the subject line of the email.

2004

1. CFS-21-03-00011-A Subsidized Child Care Services

Action taken: Amendment of Part 415, Sub-parts 358-2, 358-3 and sections 403.1, 404.1, 404.5, 404.6, 404.8, 405.1, 405.2, 405.3 and 628.3

Analysis of need: This rule is necessary to establish standards for the provision of subsidized child care services by social services districts.

Legal basis: Social Services Law, sections 20(3)(d), 410(1) and 410-u through 410-z

2. CFS-30-03-0003-A Administration of Medication to Children in Day Care

Action taken: Amendment of sections 413.2, 414.11, 415.4, 416.11, 417.11, 418-1.11 and 418-2.11

Analysis of need: This rule is necessary to maintain and regulate the ability of the child day care providers licensed or otherwise regulated by OCFS to administer medications to children in child day care settings.

Legal basis: Social Services Law, sections 20(3)(d), 34(3)(f) and 390; L. 2002, ch. 253; L. 2003, ch. 160; and L. 2004, ch. 20

2009

3. CFS-30-09-00007-A Child Support Requirements for Low Income Child Care Recipients

Action taken: Amendment of section 415.3

Analysis of need: This rule is necessary to eliminate the requirement that recipients of low income child care subsidies pursue child support.

Legal basis: Social Services Law, sections 20(3)(d), 410 and Title 5-C

2016

4. CFS-07-16-00014-A Casework Contacts for Foster Children

Action taken: Amendment of sections 428.3, 430.11, 430.12 and 441.21

Analysis of need: This rule is necessary to implement federal standards which require monthly face-to-face casework contact with foster children.

Legal basis: Social Services Law, sections 20(3)(d), 34(3)(f) and 398(6)(a)

5. CFS-07-16-00012-A Eligibility of Successor Guardians for Kinship Guardianship Assistance Payments

Action taken: Amendment of sections 436.1, 436.3, 436.4, 436.5, 436.6, 436.8 and 436.10

Analysis of need: This rule is necessary to enact standards for the appointment and approval of a successor guardian upon the death or incapacity of a relative guardian.

Legal basis: Social Services Law, sections 20(3)(d), 34(3)(f), 458-a, 458-b, 458-d and 458-f

6. CFS-30-16-0001-A Child Day Care Safety Enforcement and Administrative Hearings Regulations

Action taken: Amendment of sections 413.3 and 413.5

Analysis of need: This rule is necessary to amend child day care safety regulations and administrative hearing regulations pertaining to child day care safety enforcement.

Legal basis: Social Services Law, sections 20(3)(d), 34(3)(f), 390(2)(d) and (2-a)

7. CFS-49-15-00005-A Youth Development Program Funding and Implementation

Action taken: Repeal of Subparts 165-1 and 165-2; and addition of new Subpart 165-1 of Title 9 NYCRR

Analysis of need: This rule is necessary to implement statutory changes regarding youth development program funding and implementation.

Legal basis: Social Services Law, sections 20(3)(d) and 34(3)(f); and Executive Law, sections 419 and 501(5); L. 2013, ch. 57, part G

8. CFS-23-16-00004-A Requirements Regarding the Cooperation of School Districts with Investigations of Suspected Child Abuse or Maltreatment

Action taken: Amendment of section 432.3

Analysis of need: This rule is necessary to clarify requirements for cooperation of local school districts with investigations of suspected child abuse and maltreatment.

Legal basis: Social Services Law, sections 20(3)(d), 34(3)(f), 421(3), 423(6) and 425(1)

9. CFS-39-16-00002 Provisions Relating to the Revocation, Suspension, Limitation or Denial of Operating Certificate for an Adult Care Facility

Action taken: Amendment of section 485.5

Analysis of need: This rule is necessary to conform the provisions for actions taken on operating certificates for adult care facilities to State Law.

Legal basis: Social Services Law, sections 20(3)(d), 34(3)(f), 460 and 460-b

Department of Civil Service

Five Year Review of Existing Regulations

Pursuant to section 207 of the State Administrative Procedure Act (SAPA), notice is hereby provided of rules adopted by the New York State Civil Service Commission and the President of the New York State Civil Service Commission for the calendar years 1999, 2004, 2009 and 2014.

Contained below is a brief description of each rule, including the statutory authority therefor; a statement setting forth the justification for the ongoing need for each rule; and the Department's recommendations for continuation without modification.

1999

Amendments to Chapter II of Title 4 of NYCRR (Attendance Rules for Employees in New York State Departments and Institutions)

Statutory Authority: Civil Service Law section 6

Description of the Regulations:

The resolutions added new sections and amended existing sections of the Attendance Rules for non-managerial/confidential (Part 21 of 4 NYCRR) and managerial/confidential (Part 28 of 4 NYCRR) employees in New York State Departments and Institutions.

Sections 21.16 and 28-1.18 of the Attendance Rules were adopted to permit appointing authorities to grant overtime ineligible employees who have exhausted military leave with pay provided pursuant to the New York State Military Law, further leave with pay without charge to accruals for any period[s] of less than a workweek during which such employees are ordered to temporary military duty.

Section 21.9 and 28-1.9 of the Attendance Rules were amended to permit agencies to grant overtime ineligible employees leave with pay without charge to accruals for any absence[s] of less than a workweek during which such employees are required to appear as a witness pursuant to a subpoena or other order of court, regardless of whether an employee is a party to the action.

These rules ensure that the Attendance Rules will be applied to employees serving in overtime ineligible positions consistent with relevant provisions of the federal Fair Labor Standards Act (FLSA).

Action: The rules have functioned consistent with the purposes underlying their adoption and the Department recommends continuation without modification.

Amendments to Chapter V of 4 NYCRR (Regulations of the Department of Civil Service [President's Regulations])

Statutory Authority: Chapter 534 of the Laws of 1998, amending section 167(2) of the Civil Service Law.

Description of the Regulations:

Chapter 534 of the Laws of 1998 amended section 167(2) of the Civil Service Law to provide that unpaid board members of public authorities shall be eligible to participate in the New York State Employee Health Insurance Program (NYSHIP) after six months of service.

The regulation added a new subparagraph (iv) to section 73.1(c)(1) and a new paragraph (5) to section 73.1(e) of the President's Regulations providing that unpaid board members of public authorities may participate in NYSHIP after six months of service and may also continue their NYSHIP enrollment upon leaving public service with 20 years or more of service in such positions.

Action: The regulations have functioned consistent with the purposes underlying their adoption and the Department recommends continuation without modification.

Amendment to Chapter V of 4 NYCRR (Regulations of the Department of Civil Service [President's Regulations])

Statutory Authority: Civil Service Law, Article XI

Description of the Regulation:

Section 73.3(b)(1) of the President's Regulations was amended to enable participating agencies (PAs) and participating employers (PEs) in the New York State Health Insurance Program (NYSHIP) to contribute towards health insurance premiums on behalf of employees on leave without pay, provided such benefit is accorded to all employees

within a class or category. The amendment provides that upon sixty (60) days prior notice to the Department of Civil Service, PAs and PEs may provide such benefit to an eligible employee for a period of two years. This authorization may be extended for one additional two-year period by the State Civil Service Commission for good cause shown and where the interests of government would be served. The amendment further provides that where contributions have been made on behalf of an employee on leave without pay for a two-year period, or a four-year period where authorized by the State Civil Service Commission, no further extensions may be granted unless the employee returns to his or her position and serves continuously therein for the six-month period immediately preceding a subsequent leave of absence.

This regulation extends an additional potential benefit to eligible employees and forms a part of the overall "benefit package" that employers may consider when electing to adopt NYSHIP as a health insurance offering.

Action: The regulation has functioned consistent with the purposes underlying its adoption and the Department recommends continuation without modification.

2004

Amendment to Chapter IV of 4 NYCRR (Regulations of the Regulations of the State Civil Service Commission [Commission's Regulations])

Statutory Authority: Civil Service Law section 6

Description of the Regulation:

The resolution amended Part 55.2 to provide that a committee on appeals of the State Civil Service Commission shall not consider an examination appeal from a candidate whose score at time of establishment of the eligible list is immediately reachable for appointment as provided in section 61 of the Civil Service Law. However, a committee on appeals will consider timely appeals where a candidate's reachability for appointment is affected by the committee's determination of another appeal.

This resolution eliminates the need to consider examination appeals from candidates who are already eligible for immediate appointment pursuant to the Civil Service Law "rule of three."

Action: The regulation has functioned consistent with the purposes underlying its adoption and the Department recommends continuation without modification.

2009

No current amendments to 4 NYCRR were adopted during 2009.

2014

No current amendments to 4 NYCRR were adopted during 2014.

Various amendments to the Appendices to the Rules for the Classified Service (1999, 2004, 2009 and 2014)

Appendix 1 (Exempt Class)

Appendix 2 (Non-Competitive Class)

Statutory Authority:

Appendix 1: Civil Service Law, sections 6 and 41; 4 NYCRR 2.1

Appendix 2: Civil Service Law, sections 6 and 42; 4 NYCRR 2.2

Description of the regulations:

Civil Service Commission rules relating to the jurisdictional classification of positions were specifically exempted from review under Executive Order 20 by the former Governor's Office for Regulatory Reform (GORR), upon a finding by GORR that review of such rules lacked substantial benefit. Based upon this determination, and pursuant to SAPA section 207(5), a recitation of amendments to Appendices 1 and 2 to Title 4 of NYCRR adopted during calendar years 1999, 2004, 2009 and 2014 is hereby omitted.

Public Comments

There will be a forty-five (45) day public comment period following publication of this notice. Requests for information and public comments regarding the foregoing may be directed to:

J. Marc Hannibal, Special Counsel

NYS Department of Civil Service

Empire State Plaza, Albany, NY 12239

Telephone: (518) 473-2624

E-mail address: marc.hannibal@cs.ny.gov

Department of Financial Services

INTRODUCTION

Pursuant to Section 207 of the State Administrative Procedure Act, Review of Existing Rules, the Department of Financial Services (the "Department") must review, after five years and at five-year intervals thereafter, rulemakings adopted on or after January 1, 1998. In addition, effective January 1, 2013, for any rule that requires a regulatory flexibility analysis, rural area flexibility analysis, or job impact statement, the Department must initially review that rule in the third calendar year after the year the rule first was adopted. The purpose of the review is to analyze the need for and legal basis of the adopted rulemakings. Please note that all references to the "Department" and the "Superintendent" prior to October 3, 2011 mean, respectively, the former Insurance Department or Banking Department and the former Superintendent of Insurance or Superintendent of Banking, as appropriate to the context, and that the references to laws cited are as of the date of the amendment to the regulations.

PART 1. INSURANCE REGULATIONS

Notice is hereby given of the following rules relating to insurance that the Department will review this year to determine whether they should be continued or modified. These rules were adopted in 2016, 2014, 2009, 2004, and 1999. These rules as published in the State Register ("Register") contain a regulatory flexibility analysis, a rural area flexibility analysis and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all of those analyses was unnecessary was published in the Register. Public comment on the continuation or modification of the following rules is invited. Comments must be received within 60 days of the date of publication of this notice. Comments should be submitted to:

Camielle Barclay

Associate Attorney

New York State Department of Financial Services

One State Street

New York, NY 10004

Email: camielle.barclay@dfs.ny.gov

Unless otherwise noted, the Department intends to continue the rules discussed herein without modification, while continually monitoring the regulations to ensure that the provisions remain consistent with related statutory and regulatory requirements.

The following rulemakings were adopted in 2016:

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure) of Title 11 NYCRR, effective September 18, 2016.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301 and 3201(c).

This amendment to Insurance Regulation 62 prohibits any insurer from providing coverage in any insurance policy or contract delivered or issued for delivery in New York for conversion therapy for any individual under the age of 18 years. Conversion therapy refers to any practice by a mental health professional that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure) of Title 11 NYCRR, effective November 16, 2016.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 3201, 3217, 3221, and 4237.

This amendment to Insurance Regulation 62 allows a blanket accident insurance policy that is issued in accordance with N.Y. General Business Law ("GBL") § 1015.11 to contain a provision that its

benefits are excess or always secondary to any plan. GBL § 1015.11 requires every licensed promoter of authorized combative sports and professional wrestling to provide accident insurance for the protection of licensed professionals and wrestlers appearing in authorized combative sports matches or professional wrestling exhibitions on and after September 1, 2016, and authorizes the State Athletic Commission ("SAC") to promulgate regulations necessary to implement this legislation. In 2016, the SAC repealed and promulgated a new 19 NYCRR 208, which, among other things, provides that the accident insurance policy may be either primary or secondary to any other applicable insurance coverage held by the licensed professional or wrestler participant.

- Addition of new Subpart 151-7 (Insurance Regulation 119) (Workers' Compensation Safe Patient Handling Program) of Title 11 NYCRR, effective November 23, 2016.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301 and 2304(j).

This new Subpart fulfills statutory mandates by requiring an insurer to provide a credit on each workers' compensation insurance policy issued or renewed in New York State to a health care facility that implements and maintains a safe patient handling program pursuant to the requirements prescribed in the Public Health Law. The rule also requires every workers' compensation rate service organization to file certain information with the Superintendent by June 1 of each year so that the Superintendent may collect information for the reports due to the Legislature in 2018 and 2020. The rule was effective as of July 1, 2016.

- Addition of new Part 76 (Insurance Regulation 209) (Commercial Crime Coverage Exclusions) of Title 11 NYCRR, effective July 21, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301 and 2307 and Articles 23, 24, and 34.

This new Part 76 furthers New York State's public policy by prohibiting commercial crime policy exclusions for loss or damage caused by an employee who had been convicted of a criminal offense prior to employment by the employer when the employer hired such employee using the factors set forth in Correction Law Article 23-A. Correction Law Article 23-A establishes New York State's public policy encouraging licensure and employment of persons previously convicted of a criminal offense. The law prohibits discrimination against such persons, unless there is a direct relationship between the previous offense and the employment sought or held, or if the granting or continuation of employment would involve an unreasonable risk to property or personal safety or welfare. However, commercial crime insurance policies often exclude coverage for loss or damage caused by an employee who was previously convicted of a criminal offense, where the employer knew about the conviction prior to the loss or damage. This placed an employer in the position of being unable to obtain insurance or violating the Correction Law by not hiring the individual, even though a review of the Correction Law factors weighs in favor of employment.

The following rulemakings were adopted in 2014:

- Amendment to Part 226 (Insurance Regulation 200) (Unclaimed Life Insurance Benefits and Policy Identification) of Title 11 NYCRR, effective February 12, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 316, 1102, 1104, 2601, 3240 (Unclaimed benefits), 4521, and 4525 and Article 24.

This amendment to Insurance Regulation 200 ensures that policy owners and beneficiaries are provided with all the benefits for which they have paid and to which they are entitled, by requiring insurers to implement reasonable procedures to identify unclaimed death benefits, locate beneficiaries, and make prompt payments. This rulemaking also requires insurers to respond to requests from the Superintendent to search for policies insuring the life of, or owned by, decedents, and to initiate the claims process for any death benefits that are identified because of those requests.

- Addition of new Part 244 (Insurance Regulation 168) (Confidentiality Protocols for Victims of Domestic Violence and Endangered Individuals) of Title 11 NYCRR, effective April 9, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301 and 2612.

This new Part 244 implements the requirement contained in Insurance Law § 2612 that the Superintendent, in consultation with the Commissioner of Health, the Office of Children and Family Services, and the Office for the Prevention of Domestic Violence, promulgate rules to guide and enable insurers to guard against the disclosure of confidential information relating to victims of domestic violence and endangered individuals protected by Insurance Law § 2612.

- Amendment to Part 97 (Insurance Regulation 128) (Market Value Separate Accounts Funding Guaranteed Benefits; Separate Account Operations and Reserve Requirements) of Title 11 NYCRR, effective June 25, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1403, 1405, 1414, 4217, and 4240.

This amendment to Insurance Regulation 128 prescribes minimum and maximum rates for discounting guaranteed benefit cash flows to ensure that life insurers maintain prudent levels of reserves. This amendment also changed the filing due date of the actuarial memorandum that life insurers are required to file with the Department, pursuant to Section 97.6 of this rule, between March 1 and March 15 to allow insurers adequate time to prepare their filings (several other statutory filings are due by March 1).

- Addition of new Part 82 (Insurance Regulation 203) (Enterprise Risk Management and Own Risk and Solvency Assessment) of Title 11 NYCRR, effective June 25, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 110, 301, 309, 316, 1115, 1501, 1503, 1504(c), 1604, 1702, and 1717, and Articles 15, 16, and 17.

In 2010, the National Association of Insurance Commissioners (“NAIC”) amended its model Insurance Holding Company System Regulatory Act (“model Holding Company Act”) and Insurance Holding Company System Model Regulation to require a holding company to adopt a formal enterprise risk management (“ERM”) function and file an enterprise risk report. The NAIC also adopted a new Risk Management and Own Risk and Solvency Assessment Model Act (“model ORSA Act”) and an accompanying ORSA guidance manual, which requires a domestic insurer (or its holding company system) to complete a self-assessment of its risk management, stress tests, and capital adequacy annually. Chapter 238 of the Laws of 2013 incorporated the model Holding Company Act’s requirement that a holding company or domestic insurer with subsidiaries adopt a formal ERM function and file an enterprise risk report. This new Part 82 prescribes specific requirements for an ERM function and enterprise risk report, and requires certain domestic insurers to conduct an assessment of their risk management and file an ORSA summary report to minimize the potential for specific harm to the insurers and their policyholders.

The Department is considering amending Insurance Regulation 203 to permit the Superintendent to act as group-wide supervisor for an internationally active insurance group, as well as to require a holding company and certain domestic insurers to describe their enterprise risk management functions in their enterprise risk reports and to clarify certain language.

- Amendment to Part 99 (Insurance Regulation 151) (Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract, and Other Deposit Reserves) of Title 11 NYCRR, effective August 27, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1304, 4217, and 4517.

This amendment to Insurance Regulation 151 incorporated a new individual annuity mortality table (which was adopted by the NAIC), to be used to calculate reserves on individual annuities and pure endowments issued or purchased on or after January 1, 2015. The table includes projection scales to reflect mortality improvement.

- Amendment to Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR, effective October 8, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 316, 1213, 2101, 2104, 2105, 2110, 2116,

2117, 2118, 2121, 2122, 2130, 3103, 5907, 5909, 5911, and 9102 and Articles 21 and 59; Chapter 225 of the Laws of 1997, Chapter 587 of the Laws of 2002, and Chapter 61 of the Laws of 2011.

This amendment to Insurance Regulation 41 implemented the provisions and purposes of Chapter 61 of the Laws of 2011, which amended the Insurance Law to conform to the Non-admitted and Re-insurance Reform Act (“NRRA”), a portion of the Dodd-Frank Act. The NRRA and Chapter 61 took effect on July 21, 2011.

- Amendment to Part 80-1 (Insurance Regulation 52) (Holding Companies) of Title 11 NYCRR, effective November 12, 2014.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1504, and 1506.

This amendment to Insurance Regulation 52 added new requirements and advised applicants that, in determining whether an acquisition may be harmful to the people of this state, the Superintendent may require additional information or impose certain additional conditions to help ensure that an acquisition does not financially harm a New York domestic insurer and is not likely to be hazardous or prejudicial to the insurer’s policyholders or shareholders. The amendment also clarified that the submission to the Superintendent of a detailed plan of operations, including five-year financial projections, is mandatory because in practice, the Superintendent always has required, and applicants always have submitted, a detailed plan of operations, together with financial projections.

- Consolidated Amendment to Part 98 (Insurance Regulation 147) and Part 100 (Insurance Regulation 179) (Valuation of Life Insurance Reserves and Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities) of Title 11 NYCRR, effective December 10, 2014.

Statutory Authority: Financial Services Law Section 202 and 302 and Insurance Law Sections 301, 1304, 1308, 4217, 4218, 4221, 4240, and 4517.

This amendment to Insurance Regulation 147 replaced the previous one-year full preliminary term (“FPT”) with a two-year FPT for term life insurance. A two-year FPT will result in a lower proportion of the first and second year premiums being held to pay claims that will not arise until well into the future, leading to a buildup in reserves after the second, rather than first, policy year.

This amendment to Insurance Regulation 179 is consistent with mortality improvement. Because insureds are generally living longer, the amendment applied a one percent mortality improvement factor to the current mortality table (2001 CSO) for rates associated with calendar years 2008-2047, and applied a 0.5 percent mortality improvement factor for each year thereafter. These factors apply during the initial level premium period.

Insurance Regulations 147 and 179 subsequently were amended effective April 1, 2015. Insurance Regulation 147 was amended to recognize mortality improvement beyond the valuation date for universal life policies issued on or after January 1, 2015, which guarantees that coverage remains in force if the accumulation of premiums paid satisfies the secondary guarantee requirement. Additionally, a lapse rate of two percent may be used for the first five years, followed by a rate of no more than one percent for the remaining life of the policy. Insurance Regulation 179 was amended to make it consistent with mortality improvement.

The Department is considering amending Insurance Regulation 147 to adopt the 2017 Commissioners Standard Guaranteed Issue Mortality Table (2017 CSGI).

The following rulemakings were adopted in 2009:

- Consolidated Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) and Part 217 (Insurance Regulation 178) (Processing of Health Insurance Claims) of Title 11 NYCRR, effective July 15, 2009.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 2403, 3216, 3221, 3224-a, 3224-b, 4304, and 4305 and Article 43.

These amendments to Insurance Regulation 62 and Insurance

Regulation 178 established guidelines for the timely processing of healthcare claims for persons covered by more than one health insurance policy. Insurance Regulation 178 establishes procedures that an insurer, a health maintenance organization (“HMO”), or a private health services plan must follow when it is determined that other coverage may exist. This rule also established requirements for the provider if the provider wishes to seek payment from the other insurer, and the time in which the provider must act. These procedures include guidelines for those cases when the claim already has been paid before the existence of other coverage is established, as well as when the existence of other coverage is established before any claim payment is made. The guidelines also change the timely filing requirements for those cases where other coverage exists. The time begins to run from the date of notification of other coverage, not from the date of service. Ultimately, these procedures prevent providers from being left with unpaid claims when an insurer recoups payment and the other plan denies the claim for late filing. The amendment to Insurance Regulation 62 cross-references the two regulations.

- Amendment to Part 25 (Insurance Regulation 41) (Excess Lines Placements Governing Standards) of Title 11 NYCRR, effective September 2, 2009.

Statutory Authority: Insurance Law Sections 201, 301, 2101, 2104, 2105, 2110, 2116, 2117, 2118, 2121, 2130, 3103, and 9102 and Article 59.

This amendment to Insurance Regulation 41 added additional coverages to the “export” list and reduces the requisite declinations for several other coverages. Insurance Regulation 41 governs the placement of excess lines insurance. The purpose of the excess line law is to enable consumers who are unable to obtain insurance from authorized insurers to obtain coverage from eligible excess line insurers. An excess line broker is generally required to obtain declinations from authorized insurers before placing the business with an excess line broker. However, the broker does not have to obtain the declinations for certain hard-to-place risks that have been placed on an “export” list. Adding to the “export” list coverages that are hard to place and whose declinations become pro forma (since New York authorized companies are not writing adequate coverage) facilitates placement by excess line brokers of coverage with an eligible excess line insurer.

Insurance Regulation 41 again was amended effective April 10, 2013 to update the “export” list of coverages pursuant to Insurance Law section 2118(b)(4).

- Addition of Part 102 (Insurance Regulation 192) (Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values for Preneed Life Insurance) of Title 11 NYCRR, effective October 28, 2009.

Statutory Authority: Insurance Law Sections 201, 301, 1304, 1308, 4217, 4218, 4221, 4240, and 4517.

This new Part 102 established minimum standards for determining reserve liabilities and nonforfeiture values for preneed life insurance in accordance with statutory reserve formulae.

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective December 9, 2009.

Statutory authority: Insurance Law Sections 201, 301, 1009, and 3234.

Insurance Regulation 62 was amended to conform with the decision by the New York Court of Appeals in *Benesowitz v. Metropolitan Life Insurance Company*, 8 N.Y.3d 661 (2007). In *Benesowitz*, the Court of Appeals unanimously construed Insurance Law Section 3234(a)(2) to establish a waiting period, rather than a total bar, for coverage of disabilities due to a pre-existing condition that manifests itself within the first 12 months after an insured’s effective date of coverage. In so holding, however, the Court noted that neither its decision nor Section 3234(b) of the Insurance Law prevents insurers from excluding or limiting disability coverage based on an individual’s prior medical history other than, or in addition to, a pre-existing condition.

The following rulemakings were adopted in 2004:

- Amendment to Parts 140, 141, 142, 143, and 144 (Insurance Regulation 32-A) (Private Passenger and Commercial Automobile Statistical Plans) of Title 11 NYCRR, effective February 4, 2004.

Statutory Authority: Insurance Law Sections 201, 301, 2304, 2315, 2331, 2332, 2333, and 2334.

This amendment to Insurance Regulation 32-A removed obsolete references and provided a simplified framework for approval and implementation of revisions to statistical plans as market conditions warrant. By eliminating the specific statistical codes from the regulation and by clarifying that the Department must approve all statistical plans, the amendment benefits industry by giving it the flexibility to appropriately modify the plans as market conditions warrant while being in conformity with the revised wording of the regulation.

- Amendment to Part 362 (Insurance Regulation 171) (The Healthy New York Program and The Direct Payment Stop Loss Relief Program) of Title 11 NYCRR, effective February 11, 2004.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305, 4318, 4326, and 4327.

The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy New York Program, an initiative designed to encourage small employers that do not currently provide health insurance coverage to their employees to offer such coverage, as well as to make coverage available to uninsured employees whose employers do not provide group health insurance coverage. In 2001 the Department adopted Regulation 171 to establish certain procedures and requirements necessary for effective implementation of the legislation.

This amendment to Insurance Regulation 171 clarified eligibility for the Healthy New York Program and simplified the application and administrative process for both enrollees and providers. Clarifying which persons are to be considered household members eliminates the uncertainty involved in determining household income levels. The correct calculation of household income is crucial because it is a major component in determining eligibility for the Healthy NY Program. Additionally, a simplified standardized application form streamlines the eligibility and administrative process, thereby facilitating enrollment.

The amendment enhanced the implementation and operation of the Healthy NY Program while improving the efficiency that individuals and small employers enjoy in accessing comprehensive health insurance, since the standard application form is made available from many sources.

Insurance Regulation 171 also was amended, effective April 25, 2007, to establish a second Healthy New York benefit package at a reduced premium rate. The second benefit package provided for a lower-cost alternative and permits individuals and small businesses to choose a benefit package that meets their needs. The amendment also eliminated the well-child copayment applicable to the Healthy New York Program to enhance access to preventive and primary care for children, and permitted the Healthy New York Program to be considered qualifying health insurance under the Federal Trade Act of 2002 to allow those qualifying for a federal tax credit to benefit from that credit. This amendment also revised the eligibility requirements relating to employment to lessen complexity and enhance access.

Insurance Regulation 171 again was amended, effective November 7, 2007, to require HMOs and participating insurers to offer high deductible health plans using the Healthy New York small employer and individual programs. This new option provided New Yorkers with access to a tax-advantaged method of purchasing health insurance. The amendment also provided for prostate cancer screening and a limited home health care and physical therapy benefit.

In response to an increase in enrollment and claims in the Healthy New York Program, which resulted in health plans applying for significant rate increases to the detriment of the Program’s low income enrollees and applicants, the Department promulgated another amendment to Insurance Regulation 171, effective November 28, 2012, to limit new applicants for coverage effective January 1, 2012 or later, to Healthy New York’s high deductible health plans only. The Department believed this approach would strike a balance between protecting existing enrollees from unaffordable rate increases and maintaining an affordable option for those purchasing coverage.

- Adoption of new Part 100 (Insurance Regulation 179) (Recognition of the 2001 CSO Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits) of Title 11 NYCRR, effective June 23, 2004.

Statutory Authority: Insurance Law Sections 201, 301, 1304, 4217, 4218, 4221, 4224, 4240 and 4517 and Articles 24 and 26.

Insurance Regulation 179 was adopted to recognize, permit, and prescribe the use of the 2001 commissioners standard ordinary (“CSO”) mortality table for life insurance in accordance with Sections 4217, 4221, and 4517 of the Insurance Law. The 2001 CSO table is based on mortality experience from the 1990s supplied by insurers that participated in a Society of Actuaries study on mortality. This table replaces the existing 1980 CSO table for valuing the minimum standards for ordinary life insurance. According to the American Academy of Actuaries Task Force Report, it was expected that the 2001 CSO table would produce overall reserves (excluding deficiency reserves) that would be approximately 20 percent lower than those produced by the 1980 CSO table. Since the use of this table lowers the reserves on ordinary life business, insurers may use the 2001 CSO table only if they provide an Actuarial Opinion based on asset adequacy analysis that complies with 11 NYCRR 95. This adoption of Insurance Regulation 179 gave domestic insurance companies and foreign insurance companies authorized to do business in New York State the ability to compete effectively with companies doing business in other states.

Insurance Regulation 179 was amended, effective December 26, 2007, to recognize and permit the use of the 2001 CSO Preferred Class Structure Mortality Table for preferred lives for individual life insurance and group life insurance products sold to individuals by certificate with premium rates guaranteed from issue for at least two years in accordance with sections 4217 and 4517 of the Insurance Law.

Insurance Regulation 179 again was amended, effective March 16, 2011, to extend the use of the 2001 CSO Preferred Structure Mortality Table to policies issued on or after January 1, 2004. Use of this table allows for the reserves to better match the risks associated with different underwriting classifications. The regulation also was amended, effective December 10, 2014, and April 1, 2015, as discussed earlier.

Insurance Regulation 179 also was amended as part of a consolidated amendment with Insurance Regulation 147 as discussed earlier.

- Amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR, effective October 6, 2004.

Statutory Authority: Insurance Law Sections 201, 301, 2601, and 5221 and Article 51.

This amendment to Insurance Regulation 83 adopted the fee schedule set forth in the New York State Medicaid Management Information System Provider Manual for durable medical equipment, medical/surgical supplies, orthopedic footwear, and orthotic and prosthetic appliances as the schedule that would be used for fees payable for the purchase and rental of durable medical equipment, medical/surgical supplies, orthotic footwear, and orthotic and prosthetic appliances in no-fault.

The regulation also provided that the Workers’ Compensation fee schedule ground rules shall control when determining the proper reimbursement amount when a licensed non-physician is providing care under the supervision of a licensed health provider. This would apply in any instance where a ground rule permits a licensed non-physician to bill at the supervising licensed health provider’s rate, such as in the case of a Physical or Occupation Therapist (PT/OT) working under the supervision of a physician. In all other instances, if not specifically controlled by the Workers’ Compensation fee schedule, the fee payable is based on the fee schedule of the treating provider. The regulation does not apply reimbursement rates for a physician when the physician personally performs the service.

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure) of Title 11 NYCRR, effective October 27, 2004.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 3201, 3217, 3221, and 4303; and Chapter 82 of the Laws of 2002.

Chapter 82 of the Laws of 2002 enhanced Insurance Law Sections 3221(k)(6) and 4303(s) by adding coverage for procedures used to diagnose and treat infertility when certain conditions are met, and by adding a prescription drug benefit for coverage of prescription drugs approved by the Food and Drug Administration for use in the diagnosis and treatment of infertility. The law directed the Superintendent, in consultation with the Commissioner of Health, to promulgate regulations that would stipulate the guidelines and standards to be used in carrying out the mandates of the legislation.

This amendment to Insurance Regulation 62 directs insurers to use standards and guidelines no less favorable than those established and adopted by the American Society for Reproductive Medicine in relation to the determination of infertility, the identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility, the identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility, and the determination of appropriate medical candidates by the treating physician. This amendment also provides insurers with guidance in interpreting the mandates of Chapter 82 of the Laws of 2002.

The following rulemakings were adopted in 1999:

- Amendment to Part 70 (Insurance Regulation 101) (Medical Malpractice Insurance: Required Notices and Rate Modification) of Title 11 NYCRR, effective April 7, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 1113(a)(13) and (14), 3426, 3436, 5504, 5907, 6302, and 6303 and Article 23; and Chapter 639 of the Laws of 1996.

Chapter 639 of the Laws of 1996 authorized the Superintendent to establish rates and surcharges for policies of primary and excess medical malpractice insurance to maintain stability and availability of this insurance in the voluntary market. Part 70 established the framework for the rates and forms of policies of physicians’ medical malpractice insurance. This amendment to Insurance Regulation 101 permits insurers to use rates established by the Superintendent for Medical Liability Mutual Insurance Company (“MLMIC”) modified by any differences in expenses incurred by the insurer, as opposed to those incurred by MLMIC. Prior to the amendment, insurers were required to use the rates established for MLMIC without any such modification.

Insurance Regulation 101 was amended after it was determined that the marketplace for medical malpractice insurance had been stable for some time, and as such, that competitive forces should be allowed a greater role in determining rates.

Insurance Regulation 101 also was amended, effective July 12, 2000, to establish physicians and surgeons’ medical malpractice insurance rates and appropriate surcharges for the policy year July 1, 1999 through June 30, 2000, and to establish rules to collect and allocate surcharges to recover deficits based on past experience.

Insurance Regulation 101 again was amended, effective June 20, 2001, to establish rates and surcharges for primary policies for physicians and surgeons’ medical malpractice insurance effective July 1, 2000.

- Amendment of Subpart 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorists Insurance) of Title 11 NYCRR, effective January 27, 1999.

Statutory Authority: Insurance Law Sections 201, 301, and 3420; and Chapter 568 of the Laws of 1997.

This amendment to Insurance Regulation 35-D, which implemented Chapter 568 of the Laws of 1997, increased the amounts of supplementary uninsured/underinsured motorists (“SUM”) coverage that must be offered to an insured. The amendment also revised the specific information that must be included in the mandatory availability notices and retitled the mandatory SUM coverage endorsement.

Insurance Regulation 35-D also was amended, effective September 25, 2013, to implement Chapter 11 of the Laws of 2013, which requires SUM coverage for employees of fire departments and ambulance services.

Insurance Regulation 35-D again was amended, effective August 1, 2017, to clarify an inadvertent misinterpretation to ensure that the

SUM coverage would not provide less benefits than the mandatory uninsured/underinsured motorist coverage. In addition, this amendment amended the rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry, in accordance with the recommendation and authorization of the Supplementary Uninsured Motorist Optional Arbitration Advisory Committee, and amends all references in Sections 60-2.3 and 60-2.4 to “AAA/American Arbitration Association” to read “designated organization.” Furthermore, this amendment incorporated various editorial revisions to the prescribed endorsement and other portions of the regulation to clarify the intent and application of the coverage.

Insurance Regulation 35-D again was amended, effective November 28, 2018, in order for Subpart 60-2 to comply with Chapter 490 of the Laws of 2017 and Chapter 15 of the Laws of 2018. Chapter 490 added a new Insurance Law Section 3420(f)(2-a) and Chapter 15 made amendments thereto. Insurance Law Section 3420(f)(2-a) requires an insurer that issues a motor vehicle liability insurance policy originally entered into on or after June 16, 2018, other than a commercial risk insurance policy, to provide SUM insurance coverage for bodily injury, in an amount equal to the bodily injury liability insurance limits of coverage provided under the motor vehicle liability insurance policy, unless the first-named insured declines the SUM insurance or selects a lower amount of coverage through a written, signed waiver. The rule also clarifies which policies are commercial risk policies and which are not, as well as how the law applies to transportation network company policies.

- Repeal of Part 53 of, and addition of a new Part 53 (Insurance Regulation 74) (Life and Annuity Cost Disclosure and Sales Illustrations) to, Title 11 NYCRR, effective February 2, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 308, 1313, 2123, 2208, 2405, 3201, 3203, 3209, 3219, 3222, 4221, 4223, 4226, 4231, 4232, 4240, 4510, 4511, 4513, and 4518; and Banking Law Section 263.

Insurance Regulation 74, as promulgated in 1999, established new rules for the form and content of the preliminary information documents, policy summaries, and sales illustrations for life insurance policies and annuity contracts as required by Chapter 616 of the Laws of 1997.

The Department is considering amending Insurance Regulation 74 to revise and clarify the delivery, signature, and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with an illustration, to modify the basis used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add additional requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies.

- Addition of Part 74 (Insurance Regulation 159) (Homeowner’s Insurance Disclosure Information) to Title 11 NYCRR, effective March 31, 1999.

Statutory Authority: Insurance Law Sections 201, 301, and 3445.

Chapter 44 of the Laws of 1998 added a new Section 3445 to the Insurance Law requiring the Superintendent to establish – by regulation – disclosure requirements with respect to the operation of any deductible in a homeowner’s insurance policy or a dwelling fire personal lines policy that applies as the result of a windstorm.

Insurance Regulation 159 prescribes standards for the uniform display of windstorm deductibles, which consists of hurricane and non-hurricane deductibles, in policy declarations. It also set forth the minimum provisions to be contained in the policyholder disclosure notice, which explains the purpose and operation of a hurricane deductible, and which must accompany new and renewal policies containing such deductibles.

Insurance Regulation 159 was amended, effective August 8, 2007, to implement Chapter 162 of the Laws of 2006, which required that when a policyholder received a notice of cancellation, nonrenewal, or conditional renewal for a homeowner’s insurance policy with respect to property located in an area served by a market assistance program established by the Superintendent for the purpose of facilitating placement of homeowners insurance, the policyholder must also receive

notice from the insurer of possible eligibility for coverage through a market assistance program or through the New York Property Insurance Underwriting Association (“NYPIUA”). This amendment established certain minimum notification requirements to ensure that policyholders that may be eligible for a market assistance program or NYPIUA receive proper notice of their options, including information necessary to apply for coverage.

- Repeal of Part 185 of, and addition of a new Part 185 (Insurance Regulation 27A) (Policy Provision and Rating Standards for Credit Life and Credit Disability Insurance) to, Title 11 NYCRR, effective May 12, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 3201, 4205, 4216, 4224, and 4235.

Insurance Law Sections 4216 and 4235 authorized credit life insurance and credit accident and health insurance as permitted coverages in this state. Insurance Regulation 27A, as promulgated in 1999, streamlined some of the requirements applicable to insurers authorized to offer credit life insurance and credit accident and health insurance, and generally provided for modest increases in rates with a resultant increase in the expense margins. The regulation also balanced the dual legislative objectives of having the product available while ensuring that insured parties receive fair value for their premium dollar.

Insurance Regulation 27A was amended, effective May 30, 2001, to permit rates for blocks of vendor business to be based on actual experience. The amendment also balanced the legislative objective of having the product available with the legislative objective that insureds receive fair value for their premium dollar.

- Amendment of Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR, effective May 19, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 2101, 2104, 2105, 2110, 2116, 2117, 2118, 2121, 2122, 2130, 3103, 5907, 5911, and 9102; Chapter 225 of the Laws of 1997, and Chapter 282 of the Laws of 1998.

Chapter 225 of the Laws of 1997 amended Insurance Law Sections 2117 and 2118 to provide that a licensed excess line broker may exercise binding authority and execute an authority to bind coverage on behalf of an insurer not licensed or authorized to do business in this State. The law required brokers to file binding agreements with the Excess Line Association of New York (“ELANY”).

This amendment to Insurance Regulation 41 clarified the information that must be included in a broker’s filing with ELANY, and required ELANY to file with the Superintendent monthly reports that contain information on excess line brokers’ binding authority agreements. The amendment also permitted the Superintendent to lower a syndicate’s trustee account requirements, subject to certain factors.

Insurance Regulation 41 also was amended, effective June 2, 1999, to implement Chapter 498 of the Laws of 1996, which eliminated the requirement that both the excess line broker and the insured must complete an affidavit affirming that the broker had advised the insured that coverage had been placed with an unauthorized insurer. The amendment prescribed specific requirements concerning information that the broker must disclose to the insured prior to making a placement with an unauthorized insurer. It also adopted trust deposit requirements for alien insurers that were adopted by the National Association of Insurance Commissioners (“NAIC”) in 1998.

Regulation 41 again was amended, effective December 19, 2007, to change the amount of funds required to be held in trust by alien excess line insurers and associations of insurance underwriters (“associations”), and resolved the existing inequity in the trust fund obligations imposed upon alien excess line insurers, as compared to the obligations imposed upon associations. Specifically, the amount of funds to be held in trust by alien excess line insurers increased, and the amount of funds to be held in trust by associations decreased.

The Department adopted another amendment to Insurance Regulation 41 in 2011, effective May 4, 2011, which increased the minimum surplus to policyholders required to be maintained by new and current

excess line insurers. The regulation also was amended, effective October 4, 2014, as discussed earlier.

- Addition of Part 220 (Insurance Regulation 160) (Holocaust Victims Insurance Claims and Reports) to Title 11 NYCRR, effective June 2, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 2701(d), 2703(a)(2), 2710, and Article 27; and Chapter 259 of the Laws of 1998.

Insurance Regulation 160 implements the provisions of Chapter 259 of the Laws of 1998, which added a new Article 27 to the Insurance Law to provide a framework for the expeditious and equitable resolution of insurance claims by Holocaust victims as defined in Insurance Law section 2701(a).

- Amendment of Part 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures) of Title 11 NYCRR, effective September 15, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 2601, 3411, and 3412.

Chapter 360 of the Laws of 1997 amended Vehicle and Traffic Law Section 429 to require full disclosure of the applicable status of a motor vehicle to a potential purchaser of that vehicle – specifically, it must be disclosed when a vehicle being transferred is rebuilt salvage – and imposed a civil penalty on any person who knowingly and intentionally defrauded a purchaser by failing to make such disclosure. This amendment to Insurance Regulation 64 required that in certain instances, the insurer, when authorizing repair of a vehicle after a covered loss, must obtain the vehicle title from the owner and forward it to the Department of Motor Vehicles so that it may be branded as “rebuilt salvage” and then returned to the vehicle’s owner.

The Department is considering amending Insurance Regulation 64 to update Section 216.7 to clarify certain provisions in the regulation regarding motor vehicle physical damage claims.

- Amendment of Subpart 62-4 (Insurance Regulation 96) (Anti-Arson Application) of Title 11 NYCRR, effective September 15, 1999.

Statutory Authority: Insurance Law Sections 201, 301, and 3403.

Insurance Regulation 96 implemented a new two-tier anti-arson application that included questions to be answered by applicants for new or renewal policies or binders covering the perils of fire or explosion. Since the regulation was first adopted in 1981, other sections of law applicable to such coverage had been amended, and certain requirements in Insurance Regulation 96 became inconsistent with the related provisions. This amendment brought the regulation into conformity with other applicable statutes and regulations.

Insurance Regulation 96 was amended, effective September 27, 2000, to implement Chapter 456 of the Laws of 1999, which enacted a new subsection (h) to Insurance Law section 3403 that required the Superintendent to establish procedures by which an insurer may suspend or waive the requirement that the insurer use the anti-arson application upon renewal of policies, provided that the insurer can demonstrate that substantially equivalent information may be obtained through other means.

- Amendment to Part 52 (Insurance Regulation 62) (Medicare Supplement Insurance) of Title 11 NYCRR, effective December 8, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, 4237, and Article 43.

This amendment to Insurance Regulation 62 revises the minimum standards for the form, content, and sale of Medicare supplement insurance to conform with, *inter alia*, the enactment of the Balanced Budget Act of 1997 (Public Law 105-33), which changed the federal minimum standards for Medicare supplement insurance.

The Department amended Insurance Regulation 62, effective March 21, 2001, to revise the minimum standards for the form, content, and sale of Medicare supplement insurance to conform with the enactment of the Balanced Budget Act of 1997, the Balanced Budget Refinement Act of 1999 (Public Law 106-170), and the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-113), which changed the federal minimum standards for Medicare supplement insurance.

Insurance Regulation 62 also was amended, effective June 19, 2002,

to revise the minimum standards for the form, content, and sale of Medicare supplement insurance to conform with changes to the federal minimum standards for Medicare supplement insurance.

In 2010, Insurance Regulation 62 again was amended, effective May 5, 2010, to comply with federal requirements as prescribed in the revised NAIC Medicare Supplement Insurance Minimum Standards Model Act.

- Amendment of Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance; Dental Care Exclusion) to Title 11 NYCRR, effective December 8, 1999.

Statutory Authority: Insurance Law Sections 201, 301, 3201, 3216, 3217, 3221, 4235, and 4237 and Article 43.

This amendment to Insurance Regulation 62 clarified that the dental exclusion permitted in health insurance policies did not extend to dental care or treatment necessary due to congenital disease or anomaly.

The Department is considering amending Insurance Regulation 62 to establish minimum standards for the form, content, and sale of policies and contracts of dental insurance.

PART 2. BANKING REGULATIONS

Notice is hereby given of the following rules relating to banking that the Department will review this year to determine whether they should be continued or modified. These rules were adopted in 2016, 2014, 2009, 2004, and 1999. These rules as published in the Register contain a regulatory flexibility analysis, a rural area flexibility analysis, and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all of those analyses was unnecessary was published in the Register. Public comment on the continuation or modification of the above rules is invited. Comments must be received within 60 days of the date of publication of this notice. Comments should be submitted to:

Christine M. Tomczak

Assistant Counsel

New York State Department of Financial Services

One State Street

New York, NY 10004

Telephone: (212) 709-1642

Email: christine.tomczak@dfs.ny.gov

The following rulemakings were adopted in 2016:

- New Part 421 (Financial Aid Award Information Sheet)

- a. Description of rule: The rule pertains to the standard financial aid award letter required by Banking Law Section 9-w.

- b. Legal basis for the rule: Banking Law Section 9-w.

- c. Need for the rule: The rule is necessary to set forth the content and delivery requirements of the Financial Aid Award Information Sheet.

- New Part 422 (Inspecting, Securing and Maintaining Vacant and Abandoned Residential Real Property)

- a. Description of rule: This rule establishes rules necessary to implement Real Property Actions and Proceedings Law Section 1308.

- b. Legal basis for the rule: Real Property Actions and Proceedings Law Sections 1306, 1308, 1310.

- c. Need for the rule: The rule is necessary to outline the informational and timing requirements for vacant and abandoned property reports required by Real Property Actions and Proceedings Law Section 1308.

- New Part 504 (Banking Division Transaction Monitoring and Filtering Program Requirements and Certifications)

- a. Description of rule: The rule describes the transaction monitoring and filtering program requirements.

- b. Legal basis for the rule: Banking Law Sections 37.3, 37.4, and 17; Financial Services Law Section 302.

- c. Need for the rule: The rule is necessary to outline the Transaction monitoring and filtering program requirements.

The following rulemakings were adopted in 2014:

- Amendments to Part 420 (Mortgage Loan Originators; Licensing; Education Requirements)

a. Description of rule: The rule pertains to the licensing and education requirements for mortgage loan originators.

b. Legal basis for the rule: Banking Law Sections: 39, 44; Articles: 12-D and 12-E.

c. Need for the rule: This rule is necessary to implement the Superintendent's authority to license mortgage loan originators and sets forth the educational requirements to obtain a mortgage loan originator license.

The following rulemakings were adopted in 2009:

- Amendments to Part 38.1 of the General Regulations of the Banking Board (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Definitions)

a. Description of rule: The rule pertains to various mortgage loan requirements regarding advertising, application and commitment disclosures and procedures and improper conduct under Banking Law Article 12-D.

b. Legal basis for the rule: Banking Law Sections 6-1, 14, 590(3), 595-a.

c. Need for the rule: The rule is necessary to clarify and define certain mortgage loan terms.

- Amendments to Part 38.3 of the General Regulations of the Banking Board (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Applications Disclosures and Procedures)

a. Description of rule: The rule pertains to various mortgage loan requirements regarding application and commitment disclosures and procedures.

b. Legal basis for the rule: Banking Law Sections 6-1, 14, 590(3), 595-a.

c. Need for the rule: The rule is necessary to clarify and define the application disclosures and procedures with respect to mortgage loan applications.

- Amendments to Part 38.11 of the General Regulations of the Banking Board (now Superintendent) (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Requirements for Branches)

a. Description of rule: The rule pertains to the various requirements for the establishment and operation of branch offices by mortgage bankers or mortgage brokers.

b. Legal basis for the rule: Banking Law Sections 6-1, 14, 590(3), 595-a.

c. Need for the rule: The rule is necessary to describe and clarify the requirements of the establishment and operation of branch offices of mortgage bankers and mortgage brokers.

- Amendments to Part 410.5 of the Superintendent's Regulations (Mortgage Bankers: Licensing Requirements; Mortgage Brokers: Registration Requirements; Branch Applications: Notifications: Books and Records; Annual Reports: Surety Bonds; and Consultants of Licensed Mortgage Bankers and Registered Mortgage Brokers: Branch Application; investigation fees)

a. Description of rule: The rule outlines the specific branch application and investigation fees.

b. Legal basis for the rule: Banking Law Section 12.

c. Need for the rule: This rule is necessary because it clarifies where one may locate a mortgage banker or mortgage broker branch application and the fees for each application.

- Amendments to Part 413.3 of the Superintendent's Regulations (Procedures and Requirements for Mortgage Brokers to Act as FHA Mortgage Loan Correspondents: Minimum Standards required for Approval)

a. Description of rule: The rule outlines the minimum standards required to be approved to make FHA insured mortgage loans.

b. Legal basis for the rule: Banking Law Section 590.

c. Need for the rule: The rule is necessary because it explains how a mortgage broker may obtain the approval of the Superintendent to make FHA insured mortgage loans.

- Amendments to Supervisory Procedure MB 106 (Application to Act as an FHA Mortgage Loan Correspondent: Information and Documents required to be Submitted)

a. Description of rule: The rule pertains to the informational requirements for an application to act as an FHA Mortgage Loan Correspondent.

b. Legal basis for the rule: Banking Law Sections: 10, 37(3), 39, 44, 371, 646, 649.

c. Need for the rule: The rule is necessary because it outlines the informational requirements for an FHA Mortgage Loan Correspondent application.

- Amendments to Supervisory Policy G 8 (Registration of Domestic Representative Offices)

a. Description of rule: This rule pertains to the informational requirements for a banking institution seeking to establish or maintain a representative office in New York.

b. Legal basis for the rule: Banking Law Sections 39, 44.

c. Need for the rule: The rule is necessary because it outlines the informational requirements for an out-of-state banking institution seeking approval from the Department to establish or maintain a representative office in New York.

The following rulemakings were adopted in 2004:

- Amendments to Part 400.12 of the Superintendent's Regulations (Agents of Money Transmitters)

a. Description of rule: This rule pertains to the licensing and the conduct of agents of money transmitters.

b. Legal Basis for the rule: Banking Law Sections 12, 37(3), 367, 369, 371, 372.

c. Need for rule: This rule is necessary because it describes the application process to obtain approval to engage in money transmission activities as an agent of a licensed money transmitter and the rules of conduct thereof.

- Amendments to Part 402 of the Superintendent's Regulations (Budget Planners)

a. Description of rule: This rule implemented new statutory requirements relating to budget planners operating in New York.

b. Legal Basis for the rule: Banking Law Sections 12, 587.

c. Need for rule: This rule is necessary as it sets forth and clarifies the requirements for a budget planner to be licensed and operate in New York.

- Amendments to Part 410 of the Superintendent's Regulations of the Banking Board (Mortgage Bankers: Licensing Requirements; Mortgage Brokers: Registration Requirements; Branch Applications: Notifications: Books and Records; Annual Reports; Surety Bonds; and Consultants of Licensed Mortgage Bankers and Registered Mortgage Brokers)

a. Description of rule: This rule outlines the various requirements proscribed for mortgage bankers and mortgage brokers in New York.

b. Legal Basis for the rule: Banking Law Section 12, Article 12-D.

c. Need for rule: The rule is necessary to implement legislation regarding surety bond requirements for mortgage bankers, mortgage brokers and consultants by establishing a schedule of bond amounts and imposes more stringent recordkeeping requirements on mortgage bankers.

- Amendments to Supervisory Policy G 8 (Registration of Domestic Representative Offices)

a. Description of rule: This rule describes the registration process for a banking institution to register a domestic representative office.

b. Legal Basis for the rule: Banking Law Sections 14(1), 132, 258.

c. Need for rule: The Department has adopted further amendments to this rule.

- Amendments to Supervisory Policy G 106 (Public Access to Banking Department Records)

a. Description of rule: This rule explains the Department's Freedom of Information Law procedures.

b. Legal Basis for the rule: Banking Law Sections 1, 36.10; Public Officers Law Sections 87, 89.

c. Need for rule: This rule is necessary because it outlines the Department's Freedom of Information Law procedures and clarifies the times and places when records are available, persons from whom records are available, payment of fees, denial of access to records, right of appeal and confidential communications.

The following rulemakings were adopted in 1999:

- Amendments to Part 6.5 of the General Regulations of the Superintendent (Investments in Community Development Entities or Projects)

a. Description of rule: This rule pertains to equity investments made by banks or trust companies in community development entities or projects.

b. Legal Basis for the rule: Banking Law Sections 13.4, 14, 14-g, 14-h.

c. Need for rule: This rule is necessary because it provides New York state-chartered banks parity with national banks to self-certify equity investments that are designed primarily to promote the public welfare, including the welfare of low- and moderate- income areas or individuals.

- Amendments to Part 14.3 of the General Regulations of the Superintendent (Investment Procedures for Operating Subsidiaries and Edge Act Subsidiaries)

a. Description of rule: This rule pertains to the specific capital, examination rating, and supervisory characteristics of a bank or trust company in order for it to acquire, establish or invest in an operating subsidiary using after-the-fact notice.

b. Legal Basis for the rule: Banking Law Sections 14, 97(4-a).

c. Need for rule: This rule is necessary because it provides New York state-chartered bank parity with national banks in that it streamlines New York's application and review process with respect to investments in operating subsidiaries.

- Amendments to Part 14.4 of the General Regulations of the Superintendent (Investment Procedures for Other Stock Investments)

a. Description of rule: This rule pertains to additional investments by a bank or trust company in corporations where the initial investments were already approved by the Superintendent.

b. Legal Basis for the rule: Banking Law Sections 14, 97(4-a).

c. Need for rule: This rule is necessary because it permits a bank or trust company to make additional investments in a corporation for which it already has received Superintendent approval using the 30-day advance notice provisions of section 14.3(a).

- Amendments to Part 32.4 of the General Regulations of the Superintendent (Required Disclosures)

a. Description of rule: This rule pertains to the required disclosures for maximum charges for payments made against insufficient funds, uncollected balances and return items.

b. Legal Basis for the rule: Banking Law Sections 14.1, 108.8, 202, 235-c, 383.13.

c. Need for rule: This rule is necessary because it requires banks to disclose in writing to its depositors the order in which it pays items drawn against a depositor's account.

PART 3. FINANCIAL SERVICES REGULATIONS

Notice is hereby given of the following rules relating to financial services that the Department will review this year to determine whether they should be continued or modified. These rules as published in the Register contain a regulatory flexibility analysis, a rural area flexibility analysis, and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all of those analyses was unnecessary was published in the Register. Public comment on the continuation or modification of these rules is invited. Comments must be received within 60 days of the date of publication of this notice. Comments should be submitted as indicated in the summaries below.

No rulemakings were adopted in 2016.

The following rulemaking was adopted in 2014:

Adoption of new Part 1 (Debt Collection by Third-Party Debt Collectors and Debt Buyers) of Title 23, NYCRR, effective December 3, 2014.

Part 1 was adopted to establish the Department's oversight of debt collectors and sets basic rules for debt collection in New York, including disclosures that must be provided to consumers and information that must be provided when a debt is disputed. The statutory authority allows for regulation of debt collection, but provides little guidance for debt collectors. Part 1 clarifies for debt collectors and consumers what are required practices for debt collection in New York. Without these regulations, the statutory authority would have little impact on the marketplace and would not allow for sufficient oversight of debt collection practices in New York. This rule also is intended to provide a safe and sound financial market in New York, ensuring that debt collectors pursue the correct debtor for the correct debt and that consumers are aware of their rights when being solicited for payments.

Comments should be submitted to:

Nancy Ruskin

Executive Deputy Superintendent

New York State Department of Financial Services

One State Street

New York, NY 10004

Telephone: (212) 480-2299

Email: nancy.ruskin@dfs.ny.gov

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 regular 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 31, 2018, 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 2015, 2013, 2008, 2003 and 1998. Those regulations are set forth below:

Rules adopted in 2015

1. TDA-49-14-00003 Public Assistance (PA) Schedules*

Amended 18 NYCRR §§ 352.1 and 352.2 to update certain PA schedules to comply with the schedules in Social Services Law (SSL) § 131-a.

Analysis of the need for the rule: The amendments were required in order to conform certain PA schedules set forth in 18 NYCRR §§ 352.1(a) and 352.2(d) to the non-discretionary provisions set forth in amended SSL § 131-a.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-a(2)(a-1)-(a-4), and 131-a(3)(a-1)-(a-4)

2. TDA-23-15-00004 Emergency Shelter Allowances (ESA)*

Amended 18 NYCRR § 352.3(k) to update provisions for ESA for persons with AIDS or HIV-related illness to reflect statutory authority.

Analysis of the need for the rule: The amendments were needed to conform to State laws requiring social services districts (districts) to disregard the Supplemental Security Income and needs of any household member who is not the sole household member medically diagnosed with AIDS or HIV-related illness and to help ensure that districts, including New York City, are able to continue to provide the same level of housing for these individuals in need as they have in the past.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1); L. 2008, ch. 53; L. 2009, ch. 53; L. 2010, chs. 58, 110; L. 2011, ch. 53; L. 2012, ch. 53; L. 2013, ch. 53; L. 2014, ch. 53; L. 2015, ch. 53

3. TDA-38-15-00005 Standard Utility Allowances for Supplemental Nutrition Assistance Program (SNAP)*

Amended 18 NYCRR § 387.12 to set forth the federally approved standard utility allowances as of October 1, 2015.

Analysis of the need for the rule: It was of great importance that the federally approved standard utility allowances for SNAP were applied to SNAP benefit calculations effective October 1, 2015. If the standard utility allowances were not updated on October 1, 2015, it could have resulted in thousands of SNAP dependent households receiving

overpayments each month. Households receiving such overpayments could be subject to an extended period of SNAP recoupsments at the rate of 10% of their monthly SNAP benefits to recover the resulting overpayments of SNAP benefits. Thus, the rule was necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis for the rule: SSL §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); 7 CFR § 273.9(d)(6)(iii)

4. TDA-15-15-00003 Video Hearings*

Added 18 NYCRR § 358-5.13 to specifically allow OTDA's Office of Administrative Hearings (OAH) to conduct fair hearings by means of video equipment.

Analysis of the need for the rule: Video hearings allow the Office of Administrative Hearings (OAH) to hold more hearings by assigning individual hearing officers to hold fair hearings for multiple locations throughout the State on the same day.

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

Rules adopted in 2013

5. TDA-36-12-00001 Fair Hearings Process for Home Energy Assistance Program (HEAP)*

Amended 18 NYCRR §§ 358-3.5(b)(4) and 393.5(e) to eliminate the requirement that a fair hearing request concerning HEAP must be made within 105 days of the social services district's termination of the receipt of HEAP applications for the program year.

Analysis of the need for the rule: These amendments were needed due to the court order and stipulation of settlement in *Pedersen v. Hansell* which ordered OTDA to commence rule making proceedings to eliminate the 105 day statute of limitations imposed on individuals requesting a HEAP fair hearing and clarify that federal HEAP funds are available for a finite period of time.

Legal basis: SSL §§ 20(3)(d), 22(8) and 97; 42 USC § 8621, et seq.

6. TDA-49-12-00014 Child Support*

Amended 18 NYCRR §§ 346.2 and 347.17 to address child support services applications and notification requirements and the imposition of an annual service fee; and to set forth requirements concerning the provision of legal services and the recovery of associated costs.

Analysis of the need for the rule: The amendment of § 346.2 was made to help ensure the state's compliance with federal child support application and notification requirements pursuant to 45 CFR § 302.33, which requires that states must make available all services to any individual who files an application with the child support agency, and must provide information describing available services, the individual's rights and responsibilities, the state's fees, cost recovery, and distribution policies that must accompany all applications for services, and be provided to all applicants/recipients of Medicaid and assistance programs. In addition, the amendment to § 347.17 was made as a result of federal changes requiring the imposition of an annual service fee of \$25 for families who have never received assistance.

Legal basis: 42 USC § 654(6)(B)(ii); 45 CFR §§ 302.33 and 303.2; SSL §§ 20(3)(d), 111-a, 111-c(4)(a), 111-g(3)(a) and (b); and Family Court Act § 453(a)

7. TDA-22-12-00021 Limits on Administrative Expenses and Executive Compensation

Added 18 NYCRR Part 315 to establish limits on the use of State funds or State-authorized payments for administrative costs and executive compensation by covered providers.

Analysis of the need for the rule: The regulations, which were required by Executive Order No. 38, were needed to prevent certain providers from using State funds or State-authorized payments to support excessive compensation or unnecessary administrative costs.

Legal basis: SSL § 20(3)(d); and Not-For-Profit Corporation Law § 508

8. TDA-38-13-00008 Standard Utility Allowances for the SNAP*

Amended 18 NYCRR § 387.12 to update the standard utility allowances for SNAP to the federally approved levels as of October 1, 2013.

Analysis of the need for the rule: It was of great importance that the

federally approved standard utility allowances for SNAP were applied to SNAP benefit calculations effective October 1, 2013. If the standard utility allowances were not updated on October 1, 2013, it could have resulted in thousands of SNAP dependent households receiving underpayments each month. Thus, the rule was necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis: SSL §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); and 7 CFR § 273.9(d)(6)(iii)

Rules adopted in 2008

9. 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 waiver, by the social services districts (Districts), of face-to-face recertification requirements, subject to OTDA approval.

Analysis of the need for the rule: The amendments were developed to provide 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: Social Services Law (SSL) §§ 20(3)(d), 34(3)(f), 131(1), 134-a

(3), and 355 (3).

10. TDA-28-08-00002 HEAP*

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 Program applicants and recipients. By federal regulation, receipt of a HEAP benefit enables food stamp applicants or recipients to maximize the Food Stamp Standard Utility Allowance. (Note: the Food Stamp Program was renamed the "Supplemental Nutrition Assistance Program" [SNAP] on August 29, 2012.

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

11. 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 and those who receive Supplemental Security Income (SSI) by basing the calculations on the pertinent SSI rates.

Legal basis for the rule: Chapter 51 of Title 7 of the USC; 7 USC §§ 2011 and 2013; SSL §§ 95 and 95-a.

Rules Adopted in 2003

12. TDA-32-02-00004 Shelter Allowance*

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

Analysis of the need for the rule: The amendments were developed in order 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 §§ 20(3)(d), 34(3)(f), 131(1), 131-a(2), 158, 349, and 355(3).

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

Amended 18 NYCRR § 352.17(e), which established that when a report of a new or increased earned income is made timely by the re-

recipient, the district must adjust the grant or calculate the amount of any overpayment only after a reasonable administrative processing period has passed.

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 levels are reduced; and allow 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).

14. 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) limit the use of an authorized representative to persons who establish a good cause reason that prevents them from applying 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.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 95, 131(1), and 355(3); Title 7, Part 273, § 2, subdivision (n) of the CFR.

15. 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 Districts to exempt, as a resource, 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 SSL at that time.

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

16. TDA-49-02-00009 Eligibility for Emergency Assistance to Needy Families with Children (EAF)*

Amended 18 NYCRR §§ 369.1, 372.2 and 372.4 to conform the 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 benefits that can be provided to repair an EAF recipient's home.

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 benefits that can be used to repair an EAF recipient's home.

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

17. TDA-49-02-00010 Food Stamp Certification Periods*

Amended 18 NYCRR § 387.17(a) to extend, from 12 months to 24 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 Districts; and enhance access to food stamps for elderly or disabled persons.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 95; Title 7, Part 273, § 10, subdivision (f) of the CFR.

18. 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 Districts; and enhance access to food stamps for eligible households.

Legal basis: SSL §§ 20(3)(d), 34(3)(f) and 95; Title 7, Part 273, §§ 2, 10, and 12 of the CFR.

19. 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 (SNA).

Analysis of the need for the rule: The amendments were developed to extend categorical eligibility for food stamps to recipients of SNA.

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

20. TDA-19-03-00009 Eligibility for SNA*

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

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

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

21. 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 § 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 §§ 20(3)(d), 22(8), and 34(3)(f).

22. TDA-20-03-00001 Trust Assets*

Amended 18 NYCRR § 352.22(e)(1) and repealed 18 NYCRR § 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 §§ 20(3)(d), 34(3)(f), 131(1), 131-n, and 355(3).

23. 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 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; and simplify the reporting requirements for food stamp recipients with earnings.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 95; Title 7, Part 273, §§ 10 and 12 of the CFR.

Rules Adopted in 1998

24. 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, consistent with State law at that time.

Analysis of the need for the rule: The amendments were developed to implement the Food Assistance Program.

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

25. TDA-02-98-00003 Child Assistance Program (CAP)

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

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

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

26. 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 § 136, as amended by Chapter 436 of the Laws of 1997, and to implement mandatory provisions of § 408 (a)(9)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).

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

27. 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 §§ 20(3)(d), 34(3)(f), and 131-a; Chapter 436 of the Laws of 1997.

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

Amended 18 NYCRR § 352.30 to provide sanctions for noncompliance 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 §§ 20(3)(d), 34(3)(f), 132(4)(f), and 342; Chapter 436 of the Laws of 1997.

29. 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 Districts to develop and implement innovative, flexible and efficient human service programs.

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

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

Amended 18 NYCRR § 352.30 and Part 359 to impose sanctions for intentional program violations in the FA and SNA 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 FA and SNA Programs.

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

31. TDA-02-98-00009 SNA Program*

Amended 18 NYCRR Part 370 to provide the standards for the SNA 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 SNA Program; however, the amendments added several new provisions for eligibility for, and the provision of, SNA.

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

32. 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 PA 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 Districts to provide a recipient of PA with a replacement identification card within a certain time period.

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

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

Amended 18 NYCRR §§ 381.1 and 381.2 to implement the State-wide 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, while also reducing benefit fraud.

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

34. TDA-02-98-00012 Eligibility for FA*

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

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

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

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

Added 18 NYCRR § 351.2(i), requiring that applicants for or recipients of public assistance be screened for alcohol and/or drug abuse and attend appropriate treatment programs as 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 §§ 20(3)(d), 34(3)(f), and 132; Chapter 436 of the Laws of 1997.

36. 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.

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

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

Amended 18 NYCRR § 353.2(a) and (b) to clarify that interim assistance that is subject to recovery may include FA, 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 FA provided to persons, or households containing such persons, who are permanently disabled and awaiting determinations of eligibility for federal SSI benefits.

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

38. 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 FA to accumulate funds in certain individual development accounts.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 358(5); Chapter 436 of the Laws of 1997.

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

Amended 18 NYCRR §§ 351.1(b)(2)(iv), 352.30(d)(2)-(4), and 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 §§ 20(3)(d), 34(3)(f), and 131; Chapter 436 of the Laws of 1997.

40. TDA-02-98-00018 FA and SNA

Added 18 NYCRR § 350.1(d) to provide technical consistency and clarify the regulatory language relative to the PA 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 FA Program and the SNA Program. The amendments stated that references to “aid to dependent children” refer to “family assistance” and that references to “home relief” refer to “safety net assistance.” The amendment defined “public assistance” as referring to FA, SNA, and veteran assistance.

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

41. TDA-02-98-00019 Eligibility of Non-Citizens for FA

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 FA, SNA, food stamps, Title XX benefits, and additional State payments in the SSI Program. The amendments established requirements for deeming the income of an alien’s sponsor available to the alien for purposes of eligibility for various programs.

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

42. TDA-02-98-00036 Finger Imaging

Amended 18 NYCRR §§ 351.2, 384.1, 384.2(b) and (c), and 384.3(a)(3), 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 Districts to obtain finger images of applicants for and recipients of SNA, emergency SNA, EAF, public institutional care

adults, FA, food stamps, or food assistance benefits. (Note: effective November 1, 2012, finger imaging was eliminated for purposes of administering SNAP).

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

43. 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 §§ 17, 20(3)(d), 34(3)(f), 131(1), 131-s, 158, and 355(3).

44. 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 §§ 20(3)(d), 34(3)(f), and 131-n(2).

45. TDA-15-98-00003 Immunizations*

Added 18 NYCRR § 355.1(c) to require 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 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 Districts must provide such applicants and recipients with information about eligibility for free vaccinations for children.

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

46. 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 an individual no longer receiving assistance, from \$35 to \$125.

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

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

47. TDA-25-98-00006 Domestic Violence Protection*

Amended §§ 347.5 (g) and (h), 351.2(l), 357.3(i), 358-3.1(b), 358-3.3, and 369.2(b)(1)(iv) to implement procedures for domestic violence screening, assessment, and referral programs 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 those applicants for and recipients of public assistance who are victims of domestic violence.

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

OTDA received one set of public comments regarding its Rule Review published in the New York State Register on January 31, 2018. The comments addressed several entries.

Two comments related to amendments to 18 NYCRR § 387.12 (Standard Utility Allowances for the SNAP), and suggested that OTDA “reconsider the historic basis for computing” SNAP standard utility allowances, particularly regarding the amounts factored in for water, sewer and trash collection components of the SNAP standard utility allowances. OTDA disagrees with these comments. The baseline OTDA uses to configure the Statewide standard utility allowance allotments are tied to the Consumer Price Index (CPI) and includes water, sewer and trash components. The allotments are adjusted yearly and approved by the United States Department of Agriculture (USDA).

One comment related to amendments to 18 NYCRR § 358-5.13 (Video Hearings), and suggested that OTDA address its ongoing “monitoring and evaluation of video hearings” and the results thereof in this Rule Review. OTDA has monitored the video hearings process and continues to do so, thereby safeguarding the parties’ due process rights.

One comment related to amendments to 18 NYCRR Part 352 and § 381(c) (Shelter Allowance), and suggested that OTDA “undertake a comprehensive evaluation of the cost of housing in each of the 58 social services districts across the state and ... propose and adopt significant increases in the shelter allowances.” OTDA considered this comment. Shelter allowance rates are set at a level to advance the policy that publicly-provided cash benefits should be adequate to meet basic needs, and that recipients should be encouraged through work incentives to purchase higher quality housing if desired. It is important to note that increases in the shelter allowance cause a decrease in SNAP benefits due to the increase in the public assistance (PA) standard of need. This results in a reduction in essential benefits for the clients while allowing landlords to profit. OTDA acknowledges that some social services districts (districts) have extraordinary housing situations, including high rates of homelessness, evictions and rental costs. In 2003, when the current shelter allowance was enacted, it was recognized that not all PA recipients would have rents at or below the shelter allowance. Therefore, districts were provided with the ability to request State approval for a shelter allowance supplement, which would allow districts to provide additional rental assistance to PA recipients without affecting their SNAP benefits. The rent supplement provides a flexible, cost-effective means for districts to supplement the shelter allowance and to respond to the housing problems of particular individuals and families as needed, rather than implementing a costly across-the-board increase in the shelter allowance for all recipients. The rent supplement also provides the means for a district to respond to district-specific housing issues that may affect housing access. For these reasons, it is imperative that each district have the option to implement its own rent supplement program in order to design a program that meets the particular needs of the locality, which often vary widely between rural and urban districts. Generally, rent supplements are disbursed only to homeless households, so they can transition into permanent housing, and to those households having difficulty meeting their rent payments and, consequently, are at high risk of becoming homeless. As with any PA benefit, rent supplements are designed to provide temporary assistance to recipients until they can obtain a level of self-sufficiency which allows them to transition off PA and to afford to make their rent payments on their own. Currently, 17 districts offer approved shelter supplement plans for single adults and childless couples, and 6 districts offer approved shelter supplement plans for families.

One comment related to amendments to 18 NYCRR § 352.17(e) (Adjustment of PA Grants), and suggested that OTDA increase the minimum threshold for recoveries of PA payments to \$1,000, consistent with the Social Security Administration’s (SSA’s) policy relative to Supplemental Security Income (SSI) overpayments. OTDA disagrees with this comment. 18 NYCRR § 352.31(d)(5) provides a district the ability to determine if recovery of an overpayment on a closed PA case is cost effective, regardless of the \$125 threshold:

When the overpayment is \$125 or more and does not involve fraud, social services districts may elect to discontinue collection procedures when it is determined that the cost of recovery is greater than the cost of collection and reasonable efforts to recover the overpayment have been made. Reasonable efforts must include notification of the amount of and reason for the overpayment and that repayment is required (emphasis original).

Increasing the threshold for recovery would impair the ability of districts to recover significant amounts of benefits that were improperly received – including those received under Safety-Net Assistance (SNA), for which districts pay 71 percent of the costs.

One comment related to amendments to 18 NYCRR §§ 369.1, 372.2, and 372.4 (Eligibility for Emergency Assistance to Needy Families with Children [EAF]), and suggested that OTDA amend 18 NYCRR § 372.4(a) to include language permitting the use of EAF funds for medical services. OTDA disagrees with this comment.

Federal law prohibits Temporary Assistance for Needy Families (TANF) funds from being used for medical services (42 United States Code Annotated [USCA] § 608[a][6]), and, consistent therewith, OTDA amended State regulations in 1999 to also preclude the use of EAF funds for medical services. OTDA also notes that, per Social Services Law (SSL) § 350-j(1), “Any inconsistent provisions of this chapter or any other law notwithstanding, so long as federal aid is available therefor, a social services district shall provide emergency assistance” Insofar as federal law prohibits the use of federal monies for medical services, the use of EAF funds for medical services would be inconsistent with federal law.

One comment related to amendments to 18 NYCRR § 387.17(a) (Food Stamp Certification Periods), and suggested that OTDA “amend 18 NYCRR § 387.17(a)(2) ... to reflect the 48 month certification period authorized under the federally-approved New York State Nutrition Improvement Project (NYSNIP).” OTDA is presently considering this suggestion.

One comment related to amendments to 18 NYCRR § 387.14(a)(5)(i)–(ii) (Eligibility for Food Stamps), and suggested that OTDA “amend 18 NYCRR § 387.14(a)(5) to incorporate SNAP’s expanded categorical eligibility provisions.” OTDA notes that amendments to 18 NYCRR § 387.14(a)(5), incorporating expanded categorical eligibility provisions for the SNAP, were previously adopted in September 2017.

One comment related to amendments to 18 NYCRR § 352.30 (Sanctions for Non-Compliance), and suggested that OTDA amend 18 NYCRR §§ 385.11 and 385.12 to reflect statutory changes to SSL §§ 341-a and 342-a, respectively, regarding Temporary Assistance (TA) conciliation and sanctions. OTDA has published a Notice of Proposed Rule Making that addresses this comment, and OTDA is assessing the public comments received.

One comment related to amendments to 18 NYCRR § 300.9 (Local Flexibility Incentive Pilot Program [Program]), and suggested that OTDA amend 18 NYCRR § 300.9 to remove references to the New York State Department of Labor (DOL), and to establish preconditions for OTDA approval of districts’ pilot programs, including: (1) district solicitation of public comment on the proposed pilot program; (2) posting the proposed pilot program’s rules on district websites and providing copies of such rules to all program participants; and (3), relative to proposed pilot programs in New York City, mandated compliance with the New York City Administrative Procedure Act (CAPA). OTDA disagrees with this comment. OTDA counters that removal of regulatory references to the DOL is unnecessary, given that the current regulatory language of 18 NYCRR § 300.9(a) references OTDA establishment of the Program in cooperation with the DOL (emphasis supplied). OTDA also asserts that the suggested preconditions for OTDA approval of such programs are recommendations devoid of statutory support. Moreover, such strictures would impair the abilities of the districts and OTDA to effectively oversee discretionary spending and implement meritorious programs.

OTDA is considering amendments that may impact the regulatory changes that were adopted in 2015, 2013, 2008, 2003, and 1998. OTDA is considering the following regulatory amendments: 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 (IWO) form; amend regulation to update and clarify standards pertaining to hotels and motels used as placements for recipients of temporary housing assistance; revise regulation to clarify that disqualification consent agreements are reviewable at a fair hearing to ensure compliance with procedural requirements; revise regulations to raise the level of the minimum annual 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; delete SNAP monthly reporting/retrospective budgeting references and add provisions for change reporting; amend SNAP certification period to reflect the 48-month certification period authorized under NYSNIP; and 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. At this time, OTDA has determined that no additional modifications,

other than those set forth above, need to be made to its regulations adopted in 2015, 2013, 2008, 2003, and 1998, as amended or otherwise modified.

OTDA has determined that in the ensuing calendar year, it should review certain regulations from Title 18 NYCRR adopted in 2016, 2014, 2009, 2004 and 1999. These regulations, 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 April 30, 2019.

Rules adopted in 2016

A. TDA-03-16-00001 Referrals of Human Trafficking Victims from Established Providers of Social or Legal Services*

Amended 18 NYCRR 765.1 and 765.2 to clearly define the participant agencies that are statutorily authorized to participate in the referral process.

Analysis for the need for the rule: These amendments were needed to conform State regulations with Chapter 368 of the Laws of 2015.

Legal basis for the rule: SSL § 20(3)(d); L. 2015, ch. 368; L. 2011, ch.24; L. 2007, ch. 74; SSL Article 10-D

B. TDA-45-15-00012 Public Assistance (PA) Resources Exemption for Four-Year Accredited Post-Secondary Educational Institutions

Amended 18 NYCRR 352.23(b)(4) to exempt up to \$1,400 for funds in a separate bank account for the sole purpose of paying tuition at two-year or four-year accredited post-secondary educational institutions, so long as the funds are not used for any other purpose.

Analysis for the need for the rule: By allowing PA recipients to utilize the exempt resources amount for either a two-year or four-year accredited educational institution, the regulatory amendment offers PA recipients enhanced educational options to advance their workforce readiness and financial earning capabilities through the pursuit of higher education.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1) and 131-n; L. 2014, ch. 58, part J, § 5

C. TDA-45-15-00011 Burden of Proof at Fair Hearings Challenging Interim Assistance Reimbursement (IAR) Amounts

Amended 18 NYCRR 358-5.9(a) to clarify the burden of proof for fair hearings concerning Interim Assistance reimbursement (IAR). The amendments provided that a social services district must establish that its actions were correct at a fair hearing concerning the amount deducted from the initial payment of supplemental security income as reimbursement of PA.

Analysis for the need for the rule: The amendments rendered State regulations consistent with case precedents set by the New York State courts.

Legal basis for the rule: SSL §§ 20(3)(d), 22(8) and 95; L. 2012, ch. 41

D. TDA-47-15-00004 Child Support Program*

Amended 18 NYCRR §§ 346.2, 347.12, 341.17, 347.25, 352.15, 352.22, 352.31, and 369.1; repealed and added new 347.2 and 347.13, and added § 300.13 to amend regulatory requirements concerning the distribution and disbursement of child support collections.

Analysis of the need for the rule: These amendments were required to comply with federal statutes and requirements.

Legal basis for the rule: SSL §§ 17(a)-(b), (i), 20(2)-(3), 34, 111-a, 111-c(2)(a), (d), 131-a(8)(a)(v), 158(5)-(6)(i), 348(2)-(3); Federal Social Security Act, §§ 408(a)(3), 457; 45 CFR §§ 302.32, 302.50-302.52, 303.72 Federal Deficit Reduction Act of 2005 (P.L. 109-171)

E. TDA-20-15-00001 Information Appropriate for Victims of Sexual Assault*

Added 18 NYCRR § 351.2(m) to require districts to make all applicants for and recipients of public assistance aware of their option to receive information appropriate for victims of sexual assault

Analysis of the need for the rule: The amendment increased outreach to victims of sexual assault and promoted access to essential

services necessary for victims of sexual assault to overcome the physical, mental and emotional trauma associated from such abuse.

Legal basis for the rule: SSL §§ 17(a)-(b), (i), 20(2)-(3)(d), 34(3)(f) and 131(20); L. 2009, ch. 427

F. TDA-27-15-00002 Child Support Federal Incentive Payments*

Amended 18 NYCRR Part 347.16 in order to establish the procedures by which the State distributes child support incentives received from the U.S. Department of Health and Human Services and allocate portions of those incentives to districts.

Analysis of the need for the rule: The amendment complied with changes to the federal incentive payment process under the Child Support Performance and Incentive Act (CSPIA).

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 111-a; 42 USC § 658a; 45 CFR, §§ 302.55, 303.52, 305.2, 305.31, 305.33

G. TDA-37-15-00005 Monthly Shelter Supplements*

Amended 18 NYCRR § 352.3(a)(3)(i) in order to update State regulations to reflect current State law by extending the authority to provide additional monthly shelter supplements to eligible public assistance applicants and recipients, including single adults and childless couples.

Analysis of the need for the rule: For homeless households that are moving from temporary housing to permanent housing, public assistance can be a stabilizing factor allowing households to begin working or increase earnings as they receive assistance to help pay bills, purchase food and meet their monthly rent. When necessary, rent supplements are also a stabilizing factor to help pay for some of the rent until the households become self-sufficient.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1); L. 2009, 2011-2015, Ch. 53; L. 2010, chs. 58, 110

H. TDA-39-15-00016 Temporary Housing Placements*

Amended 18 NYCRR §§ 352.8(b)(1) and 352.3(h) and added § 352.3(m) to adjust the rate approval process for temporary housing placements and expand the scope of inspections for such placements.

Analysis of the need for the rule: OTDA's review and approval of the room and board rates help ensure that rates for temporary housing negotiated between districts and temporary housing providers are fair and affordable, and that they include services necessary to assist vulnerable families and individuals in their transitions out of homelessness. The expansion of inspections promotes greater accountability by districts for the quality of the temporary housing that is utilized.

Legal basis for the rule: SSL §§ 20(2), (3)(d), 34 and, 131-v(4)

I. TDA-06-16-00016 Emergency Shelters for the Homeless*

Added 18 NYCRR § 352.37 to allow OTDA full authority to take immediate emergency action against facilities and districts that are not providing emergency shelter that comports with prescribed standards.

Analysis of the need for the rule: The regulation helps ensure that emergency shelters are maintained in safer, more sanitary conditions, and that the welfare of residents is better protected.

Legal basis for the rule: SSL §§ 17(a)-(b), (i), 20(2)-(3), 34, 460-c and 460-d; Executive Law § 43(1); General Municipal Law § 34; State Finance Law § 109(4); New York City Charter § 93; Buffalo City Charter, ch. C, art. 7, § 7-4

J. TDA-19-16-00007 SNAP

Amended 18 NYCRR § 387.9(a)(7)(ii)(a)-(b)(2)-(3); and added 18 NYCRR § 387.9(a)(7)(ii)(c) to provide that in the event one or more household members no longer reside with a household terminated for refusal to cooperate, the penalty for refusal to cooperate will attach to the household of the person(s) refusing to cooperate.

Analysis of the need for the rule: The amendments are necessary to bring the State regulations concerning household cooperation with quality control reviews into compliance with federal statutes and regulations.

Legal basis for the rule: 7 USC, ch. 51 (generally) and §§ 2011 and 2013; 7 CFR § 273.2(d); SSL §§ 17(a)-(b) and (j), 20(3)(d), 34(3)(f) and 95; L. 2012, ch. 41

K. TDA-21-16-00005 Income Withholding of Child or Combined Child and Spousal Support

Amended Part 344 of 18 NYCRR and § 347.9 in order to update State regulations related to income withholding of child support or combined child and spousal support for persons who are not served by Part D of Title IV of the federal Social Security Act and for persons who are in receipt of Title IV-D services, respectively.

Analysis of the need for the rule: The regulatory amendments were necessary to render the State regulations consistent with Civil Practice Law and Rules (CPLR) §§ 5241 and 5242, SSL § 111-b(14), and federal law.

Legal basis for the rule: 42 USC §§ 651, 654b, 666(a)(8)(B)(iii) and (b)(6); CPLR §§ 5241 and 5242; SSL §§ 17(a)-(b), (j), 20(3)(d), 34(3)(f), 111-a and 111-b(14)

L. TDA-25-16-00002 Emergency Shelters*

Added 18 NYCRR 352.38 to address security measures and incident reporting in shelters for the homeless. The regulatory amendments required the operator of each emergency shelter to submit to OTDA and the district in which the emergency shelter is located an annual security plan for the emergency shelter. In addition, each district shall submit an annual plan to OTDA to help ensure that emergency shelters operating within the district are providing security and taking appropriate measures to protect the physical safety of emergency shelter residents and staff. Additionally, the regulatory amendments would clarify not only that reports of all serious incidents impacting upon the safety and well-being of shelter residents or staff must be documented and timely submitted to OTDA, but also OTDA's authority to direct a district or emergency shelter operator to take additional security measures where an incident is reported.

Analysis of the need for the rule: The regulations help ensure that reasonable security measures are implemented at emergency shelters and that the safety of emergency shelter residents and staff is protected.

Legal basis for the rule: Social Services Law, §§ 17(a)-(b), (j), 20(2)-(3), 34, 460-c and 460-d

M. TDA-22-15-00005 SNAP*

Amended 18 NYCRR § 387.1, and added § 387.25 to update regulations for the Transitional Benefits Alternative (TBA) program, which provides additional federally funded SNAP benefits to certain households with children that are leaving cash assistance programs. These additional benefits help families meet their nutritional needs while making the transition from cash assistance to employment.

Analysis of the need for the rule: Both social services districts and recipients benefitted from having the requirements of the TBA program set forth in State regulations.

Legal basis for the rule: 7 USC § 2020(s); Social Services Law § 20(3)(d) and 95

N. TDA-39-16-00010 Standard Utility Allowances for SNAP*

Amended 18 NYCRR § 387.12 to set forth the federally approved standard utility allowances as of October 1, 2016.

Analysis of the need for the rule: It is of great importance that the federally approved standard utility allowances for SNAP were applied to SNAP benefit calculations effective October 1, 2016. If post standard utility allowances were not updated on October 1, 2016, it could have resulted in thousands of SNAP dependent households receiving SNAP overpayments each month. Households receiving such overpayments could be subject to an extended period of SNAP recoupments at the rate of 10% of their monthly SNAP benefits to recover the resulting overpayments of SNAP benefits. Thus, the rule was necessary for the preservation of the public health and the general welfare of SNAP dependent households.

Legal basis for the rule: SSL §§ 17(a)-(b), (j), 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); 7 CFR § 273.9(d)(6)(iii)

O. TDA-37-16-00004 PA Use of Resources - General Policy

Amended 18 NYCRR 352.23(b)(2) to update PA resource exemptions related to automobiles. Prior to this amendment, PA applicants and recipients were allowed to exempt one automobile, up to \$4,650 fair market value. The amendment raised the fair market value of the exempt automobile on the following time line: one automobile, up to \$10,000 fair market value, through March 31, 2017; one automobile, up to \$11,000 fair market value, from April 1, 2017 through March 31,

2018; and one automobile, up to \$12,000 fair market value, beginning April 1, 2018 and thereafter, or such other higher dollar value as the district may elect to adopt. However, if the automobile is especially equipped with apparatus for individuals with a disability, the apparatus must not increase the value of the automobile.

Analysis of the need for the rule: This amendment was needed to make State regulations consistent with § 1 of Part X of Chapter 54 of the Laws of 2016.

Legal basis for the rule: SSL §§ 17(a)-(b), (j), 20(3)(d), 34(3)(f), 131(1) and 131-n; L. 2016, ch. 54, part X, section 1

P. TDA-36-16-00006 SNAP*

Amended 18 NYCRR § 387.1 to update State regulations by adding the definitions of "eligible food" and "trafficking of SNAP benefits" to reflect federal requirements regarding the trafficking of SNAP benefits.

Analysis of the need for the rule: The regulatory amendments were necessary to bring the State regulations into compliance with federal requirements and State practices.

Legal basis for the rule: 7 USC Ch. 51 and §§ 2011, 2013 and 2024; 7 CFR §§ 271.2 and 273.16; SSL §§ 17(a)-(b), (j), 20(3)(d) and 95; L. 2012, ch. 41

Rules adopted in 2014

Q. TDA-14-14-00014 State Supplement Program (SSP)*

Repeal of 18 NYCRR Part 398; addition of a new Part 398 and § 358-5.12 to set forth the process for OTDA's administration of the SSP and allow for telephone hearings to challenge SSP determinations.

Analysis of the need for the rule: These regulations provide the framework for OTDA's administration of the SSP. The regulations provide the initial and continuing eligibility requirements for additional State payments. They set forth the reporting responsibilities of applicants and recipients of the SSP benefits and the ramifications if they fail to comply with the requirements. The regulations address the issuance of notices of action and provide for administrative fair hearings. They also address when OTDA will replace additional State payments for recipients and when underpayments of such benefits will be corrected. Conversely, the regulations also provide when OTDA will recover overpayments and equivalent benefits from recipients. The regulations address OTDA's administrative responsibilities including confidentiality and document retention requirements. Lastly, the regulations allow telephone hearings for applicants and recipients of additional State payments.

Legal basis for the rule: SSL §§ 20(3)(d), 22(3)(f), (4), (8), 207, 211 and 212

R. TDA-36-14-00014 Noncompliance with SNAP Work Requirements; SNAP Conciliation Process*

Amended 18 NYCRR §§ 385.11 and 385.12 to render State regulations governing noncompliance and the conciliation process consistent with federal requirements.

Analysis of the need for the rule: These regulations were developed to make OTDA regulations pertaining to noncompliance and notice requirements consistent with federal regulations and policy. The regulations, in part, provide that SNAP applicants who fail to comply with work requirements without good cause are no longer subject to a durational sanction, and SNAP recipients will have the opportunity to avoid the imposition of a SNAP sanction by timely demonstrating compliance with the work requirements of the employment and training program as assigned by the District.

Legal basis for the rule: SSL § 95(1)(b); 7 USC §§ 2011, 2013 and 2029

S. TDA-38-14-00023 Standard Utility Allowances for SNAP*

Amended 18 NYCRR § 387.12 to update the standard utility allowances for SNAP to the federally approved levels as of October 1, 2014.

Analysis of the need for the rule: It was of great importance that the federally approved standard utility allowances for the SNAP were applied to SNAP benefit calculations effective October 1, 2014. If the standard utility allowances were not updated on October 1, 2014, it could have resulted in thousands of SNAP dependent households receiving underpayments each month. Thus, the rule was necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis for the rule: SSL §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); 7 CFR § 273.9(d)(6)(iii).

Rules adopted in 2009

T. TDA-17-08-00032 State-Confirmed Human Trafficking Victims*

Added Part 765 of Subchapter K to Title 18 NYCRR to govern the process and protocols for confirming an individual as a human trafficking victim in New York State.

Analysis of the need for the rule: The amendments provide more detailed instruction on protocols and procedures relating to the confirmation of human trafficking victims and the OTDA responsibilities. The need for the amendments is derived from the necessity to clearly define the participant agencies, the victim, and the terms describing the process of referral; to clearly describe the nature of OTDA's consultative role in the confirmation process; and to clearly describe the process for required notifications to the prescribed parties.

Legal basis: SSL Art. 10-D.

U. TDA-04-09-00011 Educational Activities*

Amended §§ 385.6(a) and (b), 385.7(a) and (b), and 385.9(c) of Title 18 NYCRR to provide additional opportunities to participate in education and other skill development activities.

Analysis of the need for the rule: The amendments were developed to increase the skills of individuals receiving public assistance through the provision of additional opportunities to participate in education and other skill development activities.

Legal basis: 42 United States Code (U.S.C.) §§ 601(a) and 607; SSL Art. 5, Title 9-B.

V. TDA-07-09-00014 Utility Service*

Amended § 352.5(e) of Title 18 NYCRR to suspend the enforcement of utility repayment agreements during periods of cold weather.

Analysis of the need for the rule: The amendment was developed to better enable districts to help protect the health and safety of households if they suffer utility shutoffs during a cold weather period as a result of high energy costs.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131(1), and 131-s.

W. TDA-09-09-00007 Recovery of Overpayments*

Amended § 352.31(d)(1) of Title 18 NYCRR to delete the regulatory requirement to recoup/recover overpayments from all members of an assistance unit regardless of their ages at the time of overpayment.

Analysis of the need for the rule: This amendment was developed to benefit children by relieving them of the financial responsibility of an overpayment incurred when they were children in the assistance unit.

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

Rules adopted in 2004

X. TDA-03-04-00003 Supplemental Security Income (SSI) Benefits*

Repealed § 352.2(b) and added new § 352.2(b); amended §§ 352.3(k)(3), (i), 352.30(a) and (f), and 352.31(a)(2); and added § 352.3(l) to Title 18 NYCRR, to require districts to consider the presence in the household of an adult or child receiving SSI who would, except for the receipt of SSI, be required to be included in the public assistance household when determining the household's standard of need.

Analysis of the need for the rule: The amendments were developed to eliminate different budgeting methods required to be used for various family circumstances, and, with the exception of budgeting for households requesting and eligible to receive an emergency shelter allowance under § 352.3(k), to establish one budgeting method for determining the needs standard for a household that is applying for benefits.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 158, 349, and 355(3).

Y. TDA-28-03-00008 Eligibility of Refugees, Asylees, and Aliens for Public Assistance*

Amended §§ 349.3(a)(1)(iv), (vii), (2), (b), and 352.33; and added § 349.3(c) to Title 18 NYCRR to implement changes to the public assistance eligibility requirements for refugees, asylees, and aliens as set forth in Chapter 214 of the Laws of 1998.

Analysis of the need for the rule: The amendments were developed to implement provisions in Chapter 214 of the Laws of 1998, and to incorporate federal clarification of certain definitions related to citizenship and alien status.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 122, 131(1), and 355(3).

Z. TDA-13-04-00002 Cash Management Subsystem*

Amended § 600.6 of Title 18 NYCRR requiring districts to use the cash management subsystem of the welfare management system.

Analysis of the need for the rule: The amendment was developed to standardize local cash processing systems by requiring districts to use the cash management subsystem of the welfare management system for receipt of cash and for refunds and recoveries of past expenditures and the collection and tracking of overpayments; to reduce the number of systems used by districts to establish and collect recoveries and overpayments on a timely basis; to identify claims on collection cases; and to encourage more orderly claims processing.

Legal basis: SSL §§ 20(3)(d), 21, 21(2), 34(3)(f), and 82.

AA. TDA-17-04-00016 Exemption of Earned Income*

Amended § 352.20(a) and (b) of Title 18 NYCRR concerning the exemption of the earned income of full-time and part-time students when determining eligibility for public assistance.

Analysis of the need for the rule: The amendment was developed to implement Chapter 246 of the Laws of 2002, which amended the regulations to provide that all income earned by a dependent child receiving public assistance or for whom an application for such assistance has been made, who is a full-time or part-time student attending a school, college, or university or a course of vocational or technical training designed to fit him or her for gainful employment, is exempt when determining eligibility for public assistance.

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

Rules adopted in 1999

BB. TDA-30-98-00005 Child Support Cooperation Requirements*

Amended §§ 347.5, 360-3.2, 369.1, 369.2, 369.7, 370.2, and 370.9 of Title 18 NYCRR to require the local child support enforcement unit, instead of local public assistance or medical assistance unit, to determine whether an applicant/recipient has cooperated in establishing paternity and in establishing, modifying, and enforcing a support order for the child (for medical assistance, a medical support order only).

Analysis of the need for the rule: These amendments implemented Public Law 104-193, regarding cooperation in establishing paternity and establishing, modifying, or enforcing a support order for the child by applicants for and recipients of public assistance and medical assistance, and Chapter 398 of the Laws of 1997, requiring applicants for and recipients of medical assistance to cooperate in establishing paternity or establishing, modifying, or enforcing a medical support order for the child.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 111-a, and 364; Chapter 474 of the Laws of 1996.

CC. TDA-39-98-00067 Child Support Cooperation and Reduction of Benefits

Amended § 352.30 (d) of Title 18 NYCRR to implement provisions of Public Law 104-193 and Chapter 214 of the Laws of 1998.

Analysis of the need for the rule: This amendment conformed the regulations to changes in federal and State law, so that instead of an individual being ineligible for public assistance when the individual failed to cooperate in establishing paternity or in establishing, modifying, or enforcing a support order for the child (absent good cause for such failure or other exception from so cooperating), the public assistance otherwise available to the individual's household will be reduced by 25 percent.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131 (16).

DD. TDA-46-98-00015 Emergency Assistance to Families (EAF)

Amended §§ 372.1, 372.2, 372.4, and 372.6 of Title 18 NYCRR, in part, to implement provisions of § 38 of Part B of Chapter 436 of the Laws of 1997.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the laws of 1997, which amended § 350-j of the SSL concerning the types of care that EAF can pay for, eliminating the maximum time period for EAF eligibility, and setting forth other EAF eligibility requirements.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 350-j; § 38 of Part B of Chapter 436 of the Laws of 1997.

EE. TDA-47-98-00002 Tier II Family Shelters

Amended Part 900 of Title 18 NYCRR to conform the regulations governing the operation of shelters for homeless families to § 352.35 of Title 18 NYCRR.

Analysis of the need for the rule: The amendments were developed to update Part 900 of Title 18 of the NYCRR to conform to the regulations governing the provision of temporary housing assistance to persons that are homeless as set forth in 18 NYCRR § 352.35.

Legal basis: SSL §§ 20(3)(d) and 34(3)(f); Chapter 562 of the Laws of 1953.

FF. TDA-52-98-00007 Lottery Intercept

Added Part 396 to Title 18 NYCRR concerning the interception of lottery awards to repay public assistance received.

Analysis of the need for the rule: The amendment was developed to implement provisions of § 131-r of the SSL which authorized OTDA to recoup any public assistance paid over the prior 10 years from recipients of such assistance who won lottery prizes of \$600 or more. The amount of assistance to be recovered could not exceed 50% of the lottery prize.

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

GG. TDA-07-99-00002 Child Assistance Program (CAP) Participants

Amended § 366.4(c)(2)(ii) and added § 366.7(o) to clarify the eligibility requirements for a family in receipt of Family Assistance (FA) to participate in the CAP and to add the repair of heating equipment, cooking stoves, and refrigerators to the list of special allowances to which CAP recipients could be entitled.

Analysis of the need for the rule: The amendments were developed to conform the State regulation to current practices by districts relative to the eligibility prerequisites that must be met by a family receiving FA to enroll in the CAP, and to remedy an administrative oversight in the original Part 366 of Title 18 NYCRR which did not include the repair of heating equipment, cooking stoves, and refrigerators on the list of special allowances.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131-z, and 355(3).

HH. TDA-10-99-00001 Supervisory Review*

Amended § 351.7 of Title 18 NYCRR to provide districts the option of conducting supervisory reviews on all actions on public assistance cases or of conducting supervisory reviews on selected cases.

Analysis of the need for the rule: The amendment was developed to give districts the option to forego supervisory review of applications for public assistance. There are cases in which strict guidelines can be applied to such applications and no discretion is involved, thereby reducing the need for a supervisor's review. If districts wished to review only a certain proportion of the cases, they could submit a plan to OTDA for approval setting forth requirements for supervisory review.

Legal basis: SSL §§ 20(3)(d) and 34(3)(f).

II. TDA-14-99-00014 Reporting Requirements*

Amended Part 651 of Title 18 NYCRR to implement § 149 of Part B of Chapter 436 of the Laws of 1997, which required that OTDA and the Department of Labor (DOL) collect data related to the operation of public assistance programs, including, but not limited to, information that must be submitted to the federal Department of Health and Human Services pursuant to Public Law 104-193.

Analysis of the need for the rule: The rule sets forth the districts' requirements for monthly reporting to OTDA and DOL.

Legal basis: SSL §§ 20(3)(d) and 34(3)(f); § 149 of Part B of Chapter 436 of the Laws of 1997.

JJ. TDA-40-99-00001 Allowances to Children Suffering from Spina Bifida*

Amended §§ 352.22(c), (f), (w), (x), and (y), and added § 352.22(bb) to Title 18 NYCRR to implement the provisions of Public Law 104-204, which provided that allowances paid on behalf of the natural children of Vietnam veterans who suffered from spina bifida could not be considered when determining eligibility for any federally-financed program.

Analysis of the need for the rule: These amendments implemented provisions of Chapter 18 of Part II of Title 38 of the U.S.C., as added by Public Law 104-204, and made technical corrections to several provisions of 18 NYCRR § 352.22 consistent with Public Law 104-193 and Chapter 436 of the Laws of 1997.

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

CONCLUSION

* 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/rule-review-2019.pdf>.

Any comments should be submitted to: Joseph C. Mazza, Office of Temporary and Disability Assistance, 40 N. Pearl St., 16th Fl., Albany, NY 12243, (518) 474-0574, e-mail: Joseph.Mazza@otda.ny.gov.

