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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 90 ADM-43

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: November 20, 1990

SUBJECT: Federal Cost of Living Adjustment in Social Security and
 Supplemental Security Income (SSI) Benefits and Impact on
 Department Programs

SUGGESTED
 DISTRIBUTION:

Income Maintenance (IM) Staff
 Medical Assistance (MA) Staff
 Food Stamp (FS) Staff
 SSI/SDX Coordinators
 Services Staff
 Staff Development Coordinators

CONTACT
 PERSON:

Call 1-800-342-3715 and ask

 for SSI, HR, ADC - Charles Giambalvo, extension 4-3231
 for WMS MRB/A - Jim Lougen, extension 4-9340
 for WMS ABEL - Carl Poole, extension 4-1160
 for FS - FS County Representative,
 extension 4-9225
 for MA, Upstate - MA Eligibility County Representative
 extension 3-7581
 for MA, NYC - MA Representative, (212) 587-4853

ATTACHMENTS:

Attachment A - Listing of all attachments (Available
 on-line).

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
See Attachment B	See Attachment B	See Attachment B	See Attachment B	See Attachment B	See Attachment B

I. PURPOSE

The purpose of this ADM is to advise local districts of:

- A. the January 1991 federal cost-of-living adjustment (COLA) in Social Security (RSDI) benefits, and its impact on PA, MA, SSI and FS;
- B. the pass-through of the January 1, 1991 federal COLA in federal Supplemental Security Income (SSI) benefits;
- C. the impact of the increased SSI Congregate Care benefit levels and increased minimum personal needs allowances (PNAs);
- D. the January 1, 1991 increase in State supplementary payments to residents of Congregate Care Level I - Family Care facilities; and
- E. the January 1, 1991 increase in the personal needs allowance for MA-Only residents of intermediate care facilities operated or licensed by the Office of Mental Retardation and Developmental Disabilities (OMRDD), and residents of hospitals operated by the Office of Mental Health (OMH).

II. BACKGROUND

- A. The January 1991 federal COLA increase has been set at 5.4%.
- B. Effective January 1, 1991, the federal SSI monthly benefit levels will increase by \$21 for individuals and \$31 for couples.
- C. Chapter 685 of the Laws of 1990 authorizes a pass-through of the federal SSI COLA to most SSI recipients in New York State and higher PNAs for residents of congregate care facilities.
- D. Chapter 204 of the Laws of 1990 authorizes an increase in the SSI Congregate Care Level I rates, effective January 1, 1991, of \$17.52 per month for an individual and \$35.04 per month for a couple.
- E. Chapter 855 of the Laws of 1990 authorizes a \$1.50 increase in the MA-Only personal needs allowance for residents of the above mentioned medical facilities.

III. PROGRAM IMPLICATIONS

- A. The full amount of the RSDI COLA is considered income available to reduce or eliminate need for PA, FS or SSI and for MA except

in those MA cases in which the applicant/recipient meets the criteria for eligibility in light of Lynch v. Rank as described in 85 ADM-35.

- B. The pass-through of the federal SSI COLA will result in an increase in income for most SSI recipients in New York State.
- C. Increased SSI benefit levels and PNA amounts will result in higher PA standards of assistance and higher PA PNAs for PA recipients residing in Congregate Care Level I and II facilities.
- D. As a result of the new higher SSI Congregate Care Level I benefit levels, HR standards of assistance will automatically be increased to the same rates (rounded down to the next dollar). Increased HR standards of assistance will result in increased expenditures for a few HR cases and the possibility of a small increase in caseload.

Chapter 204 does not affect the personal needs allowances of SSI and HR recipients residing in Congregate Care Level I facilities.

- E. Effective January 1, 1991, residents of intermediate care facilities operated or licensed by OMRDD and residents of hospitals operated by OMH will have a monthly personal needs allowance of \$35.00 instead of \$33.50.

IV. REQUIRED ACTION

A. RSDI COLA and SSI Benefit Levels Increases

1. RSDI COLA - General

A flat 5.4% increase in RSDI must be used to recompute the budgets for recipients of PA, FS and MA-Only. The exact amount of new Social Security benefits must be verified at the next client contact or the next regularly scheduled recertification interview, whichever occurs first. The difference between the flat 5.4% computation and the actual increase will not be considered a Quality Control error until after the first client contact.

2. Budgeting Procedures - PA

Retrospective budgeting is only required for cases currently governed by retrospective budgeting procedures. For cases not subject to retrospective budgeting, the RSDI increase must be budgeted prospectively, that is, in the month it is actually received and prospectively for all future months that the RSDI is anticipated to be received.

3. Budgeting Procedures - PA Supplementation of SSI Recipients

Local districts are required to provide HR or PG-ADC to the small number of SSI recipients whose available income is less than the applicable PA standard of need and who are otherwise eligible for HR or PG-ADC. Local districts must identify all such individuals and rebudget such cases in accordance with the instructions contained in Section IX-H of the PA Source Book. The SSI income must be budgeted as described in IV.A.2 above.

In rebudgeting supplementation cases, local districts must use the SSI standards of need listed in Attachment C. These updated standards of need must also be used in determining eligibility of any new applicants for supplementation.

4. Budgeting Procedures - Medical Assistance Only

All MA-Only cases in receipt of RSDI must be rebudgeted to determine continuing eligibility for MA.

Individuals who had been receiving RSDI and SSI at any time since April 1977 and who lost SSI eligibility for any reason must be evaluated in light of Lynch v. Rank. Budgeting procedures outlined in 85 ADM-35 should be followed. Persons who are part of this class of recipients ("Pickle" individuals) under Section 503 of Public Law 94-566 should be reviewed annually to ensure that SSI income and resource levels are not exceeded.

Individuals who qualify under the provisions of 249E of Public Law 92-603 as amended by Public Law 94-48 must have their income recomputed using the new conversion figures of .288 to determine what RSDI income would have been in August 1972 and using .942 to determine the amount of the 20 percent disregard of October 1972. The method as described in 85 ADM-3 must be followed to compute the income which is considered available in determining eligibility for Medical Assistance.

In accordance with the requirements set forth in 82 ADM-5, any individual related to a federal assistance category for Medicaid purposes (including children in intact households) and whose cash public assistance case is closed as a result of an increase in RSDI benefits is entitled to a separate determination of eligibility for Medical Assistance.

NOTE: Districts are also reminded to apply the new MA Income and Resource exemption levels. Further details on these January 1, 1991 changes will be provided in a separate administrative directive.

5. Budgeting Procedures - Food Stamps

a. Applicant Households

All new food stamp applicant households with RSDI or SSI income as of January 1, 1991 must be budgeted prospectively using the January 1, 1991 RSDI or SSI amounts.

b. Recipient Households

1. Retrospectively Budgeted

All households currently in receipt of food stamps with RSDI or SSI income that are retrospectively budgeted (PA - FS and FS - Mixed households subject to monthly reporting) must have their food stamp allotments recomputed to reflect the RSDI or SSI benefit increase for their March 1991 allotments.

2. Prospectively Budgeted - Upstate

RSDI or SSI households currently in receipt of food stamps who are budgeted prospectively must have their allotments recomputed to reflect the RSDI or SSI benefit increase for their January 1991 allotments. Most of these households will be mass rebudgeted as part of the WMS (JAN) MRB/A. Households prospectively budgeted that are part of the WMS (JAN-2) MRB/A must have their allotments recomputed to reflect the RSDI or SSI increase for their February 1991 allotments.

3. Prospectively Budgeted - New York City

RSDI or SSI households currently in receipt of food stamps who are budgeted prospectively, must have their allotments recomputed to reflect the RSDI or SSI benefit increases for their January 1991 allotments.

c. Food Stamp Categorically Eligible Households

Because of food stamp categorical eligibility of all SSI/ADC recipients, no food stamp households comprised entirely of SSI, or a combination of only SSI and ADC recipients will become food stamp ineligible due to this income increase. In addition, each eligible household of one or two persons is entitled to a \$10 minimum benefit; however, categorically eligible cases of three or more persons may be entitled to \$0 benefits.

d. SSI "Living In the Household of Another" Recipients

There is a small number of SSI recipients whose SSI cash grants have been reduced due to the federal determination that they are in receipt of in-kind income due to the receipt of free or subsidized food and shelter. Starting in January 1991, the total monthly income of such recipients will rise to \$301.34 if SSI-only or \$321.34 if in receipt of SSI plus other unearned income. However, the total monthly income of such recipients will decrease in March 1991 to \$294.34 if SSI-only or \$314.34 if in receipt of SSI plus other unearned income. Households with such recipients that are part of the WMS upstate JAN MRB/A will be rebudgeted for January 1, 1991 at the new higher SSI benefit amount. These cases will be identified on eligible lists provided from the JAN MRB/A process. Local districts should retain these eligible lists in order to manually rebudget these cases based on the reduced SSI benefit amount effective for March 1, 1991.

B. Increased PA Standards of Assistance for Residents of Congregate Care Facilities

1. Effective January 1, 1991, all PA recipients residing in certified Congregate Care Level I and II facilities must be identified and rebudgeted in accordance with the new standards of assistance set forth in Attachment C.

Standards of assistance for residents of congregate care facilities are the comparable SSI benefit levels rounded down to the next whole dollar.

2. Notification of New Benefit Levels

- a. Operators

Local districts must inform all operators of DSS certified family-type homes supervised by the local district of the increases in the Congregate Care Level I benefit levels and PNA amounts. The Division of Adult Services will provide additional information and instruction to districts regarding this notification requirement for operators of family-type homes for adults. The increased SSI benefits for individuals and couples residing in Level I facilities are set forth in Attachment C.

The Division of Adult Services will notify operators of DSS certified Level II facilities of the new SSI/PA benefit levels and PNA amounts.

b. Residents

Residents of Congregate Care Level I and Level II facilities who are in receipt of public assistance, will not receive a system generated Notice of Intent to Change Benefits. Therefore, local districts must send the appropriate notice to public assistance recipients of these facilities. The appropriate notice must contain an explanation of any change in the residents public assistance, food stamps, medical assistance or PNA. The notice must also state the date that any change is due to become effective.

3. FS Budgeting in Group Living Facilities

a. Public Assistance Recipients (without RSDI/SSI)

For public assistance recipients residing in supervised/supported apartments, drug/alcohol treatment/rehabilitation programs (Level II), and enriched housing, there will be an increase in public assistance based on the Level II SSI-rate (see Attachment C). For new cases, and cases already in receipt of food stamps, the increase in public assistance is effective January 1, 1991. The PA grants are to be budgeted prospectively which requires that these cases reflect this increase in the January 1, 1991 food stamp allotment amount. In budgeting these cases, the revised Personal Care Costs (Income Exclusions) and shelter costs must be used.

b. SSI and PA Recipients

Such persons may reside in supervised/supportive apartments, drug/alcohol treatment/rehabilitation programs, or Congregate Care Level I or other Level II facilities. Since the revised Group Living standards of assistance (IV.B.1. above) are effective January 1, 1991 and since PA grants are budgeted prospectively for FS, rebudgeting for FS to reflect the new income amounts must be effective for the January 1991 FS issuance of benefits for cases currently in receipt of food stamps except for JAN-2 MRB/A cases which must be rebudgeted effective February 1, 1991. The Personal Care Costs (Income Exclusions) and the amounts of shelter costs have been revised due to the federal COLA and SSI State supplementation increases. These changes must be budgeted concurrently with the increased income amounts. (see NOTE below)

c. NPA SSI/RSDI Recipients

Food stamp recipients in Group Living facilities will have their cases budgeted prospectively with the January 1991 benefit level reflecting the increased amounts of SSI/RSDI and State supplements except for JAN-2 MRB/A cases which must be rebudgeted effective February 1, 1991. Cases which are not categorically eligible for FS and are made financially ineligible for FS due to the increased income must be closed for January 1991.

Cases that remain eligible for food stamps after the January 1991 increase must be rebudgeted. This rebudgeting must be done for the January 1991 food stamp issuances and must include the changes in the Personal Care Costs (Income Exclusions), shelter amounts and incomes.

NOTE: Attachment D provides the revised data for food stamp budgeting for residents of Group Living facilities who are recipients of SSI or RSDI. The same figures are applicable for RSDI or SSI recipients who receive HR supplementation grants.

d. Participants in the Enriched Housing Program

All eligible participants in the Enriched Housing Program receive SSI benefits at the Level II rate (see Attachment C). For January 1, 1991, the Personal Care Cost (Income Exclusion) for such persons becomes \$412 in New York City, Nassau, Suffolk and Westchester Counties, and \$382 in the rest of the State. Rebudgeting to reflect these changes must be done to determine benefit amounts effective January 1991.

C. Use of SSI/RSDI by PA Recipients

Under Department regulations 351.1(b)(iii) and 352.12(c)(2), as a condition of eligibility for public assistance, all applicants/recipients of public assistance who may qualify for Social Security or Supplemental Security Income (RSDI/SSI) benefits must make application for such benefits. ADC recipients, however, are not required to accept SSI benefits.

This is of particular concern to the HR population between the ages of 62 and 65 who may be eligible for Social Security retirement benefits and, as a result, would have their public assistance grants reduced/discontinued upon receipt of these benefits. Even if the Social Security benefits would be a reduced amount because the applicant/recipient applies for them at age 62, an applicant/recipient is required to pursue them. That person does not have the choice of waiting until age 65.

To assist upstate local districts in identifying those recipients who may be eligible for RSDI/SSI benefits based upon their age, WMS automatically produces a report twice each month for upstate local districts that identifies recipients who will soon reach an age that may qualify them for receipt of RSDI/SSI benefits. The WINR 4137 "Undercare Notice of Anticipated Future Action" report is run on the first and third weekends of each month. This report contains the following Anticipated Future Action (AFA) codes that "flag" recipients who have attained possible RSDI/SSI eligibility ages:

108 - Widow turning 60 - Social Security Survivor's benefits can be made to a deceased worker's widow or widower 60 years of age or older.

109 - Individual turning 62 - a worker and his/her spouse can start receiving Social Security Retirement Benefits as early as age 62.

110 - Individual turning 65 - an individual can start receiving Supplemental Security Income benefits as early as age 65.

It should be noted that this report is currently unavailable in New York City. For a complete discussion of RSDI/SSI eligibility, refer to Public Assistance Source Book Sections XXI-M-1 through M-3 and XXIV-A-2.1 through A-2.2.

Upstate local districts are urged to examine their procedures to ensure the routine review of this report and that recipients who attain RSDI/SSI eligible ages make application for these benefits so that maximum savings of State and local funds can be realized. While application for RSDI/SSI benefits is encouraged, it is not an eligibility requirement in the Food Stamp Program. Households whose public assistance benefits are denied or terminated due to their failure to apply for RSDI/SSI must have their eligibility for food stamp benefits determined separately.

D. Notices

1. Public Assistance

a. General Notice

WMS will system-generate general notices of grant reduction to cases receiving a cost of living adjustment (COLA) increase to their federal benefits for cases successfully mass-rebudgeted. For those cases, the general notice will eliminate the need for local districts to send client specific notices. Attachment H of this Directive is a copy of this notice.

As noted above in Section IV.B.2.b, no system-generated notice will be sent to residents of Congregate Care Level I and II facilities who are in receipt of PA benefits. Therefore, manual notices must be sent to residents of these facilities.

b. Individual Notice Requirement

The appropriate Notice of Intent to Change Benefits: Public Assistance, Food Stamps, Medical Assistance Coverage and Services must be sent when public assistance households that receive federal benefits have other changes that require notification.

Individual notices must also be sent to any case that appears as an exception to mass-rebudgeting or is discontinued as a result of the COLA increase, since these cases will not receive the general notice.

Unless other specific language is approved by the Department, the following must be used in these notices as the reason for an adverse action:

For a Reduction

"According to our records, you are receiving both a federal benefit (Social Security, SSI and/or veterans non-service - connected disability benefits) and a public assistance grant from this Department. As a result of a 5.4% increase in the federal benefits which will take effect in December 1990 and be received in January 1991, your public assistance grant must be reduced."

For a Discontinuance

"According to our records, you are receiving both a federal benefit (Social Security, SSI and/or veterans non-service - connected disability benefits) and a public assistance grant from this Department. As a result of a 5.4% increase in the federal benefits which will take effect in December 1990 and be received in January 1991, your public assistance grant must be discontinued."

2. Food Stamps

Upstate

As part of the WMS (JAN) MRB/A process in upstate districts, this Department is planning to send a "Notice of Intent to Reduce Food Stamp Benefits - COLA" to NPA food stamp households, which due to the January 1, 1991

cost of living increase to RSDI, SSI and/or Veterans Non-Service Connected Disability benefits will have food stamp benefits reduced but will remain eligible for benefits (see attachment I). This notice will be sent by December 30, 1990.

The Department also plans to send to NPA/FS households that are part of the WMS (JAN-2) MRB/A whose benefits will be reduced but will remain eligible as a result of the January 1, 1991 SSI increase, a "Notice of Intent to Reduce Food Stamp Benefits - COLA (SDX)" (see Attachment J). This notice will be sent by December 31, 1990.

Households in receipt of RSDI or SSI whose food stamp benefits are unchanged due to their January 1, 1991 increase will not receive a notice.

Local districts continue to be responsible for sending individual notices (DSS-3620's) accompanied by budgets and budget narratives within the timely and adequate notice (10-day) time frame to households in the following circumstances:

- a. households which become ineligible for food stamps due to the COLA increase; and,
- b. households which are not mass budgeted and appear on the MRB/A exception list.

Categorically eligible households whose benefits are reduced to zero due to the COLA increase will receive the general notice of change. Districts should send an additional specific notice to such households. This will decrease the number of inquiries from households which do not receive benefits after the COLA rebudgeting. The adequate-only (not timely) food stamp notice of change must be used in these circumstances because of the fair hearing language.

New York City

Previous NYC local procedures for COLA mass rebudgeting notices continue to apply.

3. MA - Only Cases

In accordance with federal and State policies and regulations, recipients must be notified in writing of any change or discontinuance of MA. The notices of change or discontinuance, as contained in this directive as Attachments F and G, must be provided to all affected MA-Only recipients.

These notices must be reproduced locally without modification. The appropriate notice must be mailed no later than 10 days prior to the date of the proposed action. In accordance with Department policy, two copies of the appropriate notices must be sent to the client. In addition another copy must be maintained in the case record. A copy of the budget or MBL printout must be sent with each notice.

Districts are also reminded that in instances in which there is a decrease in the monthly surplus amount (resulting from the net effect of the concurrent COLA increases and the MA Income Exemption level increase), recipients must be notified in writing of such increase in coverage.

V. SYSTEMS IMPLICATIONS

A. WMS and ABEL Support-Upstate Only

WMS supported action on the January 1, 1991 COLA-related mass changes with a mass rebudgeting/reauthorization (MRB/A) run on Production on November 19, 1990. A supplementary MRB/A (JAN-2) will be run on December 24, 1990.

Beginning November 12, 1990 for budgets with effective dates of January 1, 1991 or later, ABEL uses increased federal benefit levels to generate PA Personal Needs Allowance amounts, PA Shelter amounts and FS Personal Care Cost (Income Exclusion) amounts for residents of Congregate Care facilities whose rates are related to federal benefit levels. (The FS shelter cost must be manually recalculated and adjusted on ABEL if it is changed).

Complete details of ABEL-related changes and the JAN and JAN-2 MRB/A's are contained in ABEL Transmittal 90-6.

B. WMS and ABEL Support-NYC

WMS supported action on the January 1, 1991 COLA-related mass rebudgeting for all NPA-FS and WMS PA cases is scheduled for mid-December, 1990. Notices will be generated to client households as a result of the mass rebudgeting process. Complete details of ABEL-related changes will be shared with HRA once the mass rebudgeting schedule is finalized.

C. MBL Support-Upstate

On the weekend of November 24 and 25, 1990, MBL supported action on the following changes: January 1, 1991 RSDI COLA increase, new SSI benefit levels, and new MA Income/Resource Exemption levels, and the personal needs allowance increase in Article 31 facilities with an automated Mass Rebudgeting and Principal Provider Update Process. MBL Transmittal 90-5 and 90-6 may be referenced for details of all related system support.

D. MBL Support-NYC

On January 1, 1991 the Social Security Cost of Living Increases, new Medical Assistance Income/Resources Exemption Levels and new SSI Benefit levels will go into effect.

Mass rebudgeting for these increases is scheduled for the weekend of December 8-9, 1990. In order to be rebudgeted, cases must be active, have a "TO DATE" greater than December 31, 1990 and meet the MBL edit checks.

The MA level changes will be available on MBL December 10, 1990. At that time, it will also be possible to calculate a budget with a budget "FROM DATE" of January 1, 1991 or greater. Budgets with a "FROM DATE" in December will still be calculated with the 1990 levels.

VI. EFFECTIVE DATE

This administrative directive is effective January 1, 1991.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance

Listing of all Attachments

- Attachment A - Listing of all Attachments to this Directive (Available on-line).
- Attachment B - Filing References for this Directive (Available on-line).
- Attachment C - The "SSI Benefit Levels: Effective January 1, 1991" chart, describes the new SSI benefit levels, the new PNA amounts and 1991 resource limits (Not Available on-line).
- Attachment D - The "Food Stamps, Group Living Budget Data: Effective January 1, 1991" chart, summarizes the appropriate budget figures for calculating food stamp budgets for residents of Group Homes (Not available on-line).
- Attachment E - PNA charts entitled "Personal Needs Allowances (PNA's) In Non-Medical Facilities Effective January 1, 1991" and "Personal Needs Allowances (PNA's) In Medical Facilities Effective January 1, 1991, provides a comprehensive summary of 1991 PNA amounts (Available on-line).
- Attachment F - A copy of the "Notice of Intent to Change Medical Assistance" (New Excess COLA Case) (Not available on-line).
- Attachment G - A copy of the "Notice of Intent to Change Medical Assistance" (Undercare Excess COLA Case) (Not available on-line).
- Attachment H - A copy of the Notice of the "Intent to Change Benefits: Public Assistance, Food Stamps, and Medical Assistance" that will be sent to recipients by WMS (Not available on-line).
- Attachment I - A copy of the "Notice of Intent to Reduce Food Stamps Benefits - COLA" that will be sent to Food Stamp recipients upstate by WMS (Not available on-line).
- Attachment J - A copy of the "Notice of Intent to Reduce Food Stamp Benefits - COLA (SDX)" that will be sent to Food Stamp recipients upstate by WMS as a result of a computer match against the January 1991 SDX (Not available on-line).

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-46	88 ADM-51	351.1(b)(iii)	SSL 131-o	<u>PASB</u>	<u>MBL</u>
89 ADM-21	87 ADM-50	352.12(c)(2)	SSL 209	IX-H-All	<u>Transmittals</u>
88 ADM-51		352.2, 352.3	SSL 366.2	XIII-D-10-	90-5, 90-6
87 ADM-50		352.8, 352.30	(a)(10)	13 all	<u>WMS ABEL</u>
87 ADM-27		358-3.3	PL 92-603	XXI-M-1	<u>Transmittal</u>
86 ADM-28		360-4.3	PL 94-48	thru M-3	90-6
85 ADM-35		360-4.4	PL 94-566	XXIV-A-2.1	
85 ADM-6		360-4.9	Ch. 204 of	thru A-2.2	89 LCM-212
85 ADM-3		360-2.6	L. 1990	XXIV-A-7.1	
83 ADM-27		360-2.7	Ch. 685 of	<u>FSSB</u>	GIS
82 ADM-5		387.10,	L. 1990	V-B-D-All,	90 MA046
		387.14(a)	Ch. 855 of	VII-	
		(4)(i)	L 1990	A, B, C, D	
		387.16(e), (f)	Soc. Sec.	X-B	
		387.20(a), (b)	Act 215(i)	XII-C,	
		485.12		XIII-C	
				<u>MARG</u>	
				pp 83-86	
				450-454	