

+-----+
 | INFORMATIONAL LETTER |
 +-----+

TRANSMITTAL: 90 INF-35

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: July 17, 1990

SUBJECT: Responses to Questions Raised at Bureau of Income
 Support Regional Meetings (Fall 1989)

SUGGESTED
 DISTRIBUTION: Income Maintenance Staff
 Food Stamp Staff
 Staff Development Coordinators

CONTACT PERSON: Contact persons are noted by subject matter. The
 extensions may be reached through the Department's
 toll-free number, 1-800-342-3715.

ATTACHMENTS: Attachment - Questions and Answers - available
 on-line.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-21		350.5, 351,	SSL 22	PASB	
89 ADM-24		351.20,	SSL 366-a	VI-all	
89 ADM-37		351.22,	45 CFR	VIII-M-all	
		351.23,	233.20(a)	VIII-R-all	
		352.17,	(2)(vii)		
		352.20,	SSL 62		
		352.31,			
		355, 369.3,			
		372.2, 381,			
		382, 385.3,			
		385.14,			
		385.5			

Date July 17, 1990

Trans. No. 90 LCM-35

Page No. 2

Attached to the release are responses to inquiries raised during the most recent series of Regional Meetings conducted by the Bureau of Income Support Programs.

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

DISTRICT OF FISCAL RESPONSIBILITY

Contact: Abe Anolik
Ext.: 4-7218

1. Q: What constitutes a "break in the need for public assistance and care" for purposes of ending indefinite continuing responsibility (as provided by the medical facility and placement rules)?

A: We consider a break in the need for public assistance and care to have occurred when the former recipient is not in receipt of public assistance and care for a continuous period of 30 days or longer.

2. Q: Does a client have to have a specific home or apartment to return to in order for the temporary absence rule to apply?

A: No. A client can be considered temporarily absent from his or her district of fiscal responsibility even if no apartment/home is being maintained for the client.

3. Q: If a recipient moves from County A to County B on January 15, then enters a hospital in County C on February 10, then moves into an apartment in County C on March 20, which districts are responsible?

A: Since the person was a recipient of public assistance and care prior to moving to County B, the transition rule applies making County A fiscally responsible for January and all of February. This local responsibility includes the medical costs incurred while the client was in the hospital in County C.

Because the client is considered a legal resident of County B as of January 15, the client was a legal resident of County B at the time the client entered a medical facility out-of-district. Therefore, after the transitional period ends at the end of February, County B becomes responsible for the client. This responsibility continues until there is a break in the client's need for public assistance and care.

4. Q: If a district assumes continuing responsibility in error then discovers its mistake and wants to correct it, can this be done and, if so, how far back can the adjustment be made?

A: Yes, the error can be corrected. While there are no specific time limits on such retroactive adjustments, local districts should be guided by reasonableness and the availability of accessible information on BICS (generally going back three years).

5. Q: Must a from-district formally reject a courtesy application in order for the where-found district to be able to file for an IDD? What if no courtesy application was forwarded? Is something in writing necessary or is a statement over the telephone sufficient?

- A: In order to file for an IDD, the alleged from-district must refuse to accept responsibility for a particular client. This refusal does not have to include a written rejection; a telephone conversation with a staff person authorized to act on behalf of the from-district (such as the person listed as the DFR contact person) is sufficient. However, if the refusal to accept responsibility is only handled verbally, care must be taken to document the telephone call (e.g. name of contact, date, time, specifics of the conversation, etc.) so as to be able to prove that the from-district did indeed refuse responsibility.
6. Q: If a local district refers a client to a local private agency which, in turn, refers the client to a Level II program out-of-district, does the placement rule apply?
- A: The answer depends on whether or not the private agency is considered to be acting on behalf of the local district. If the local agency is receiving some county funding, it would be considered to be acting on behalf of the local district. If no county money is involved, the local agency would still be considered to be acting on behalf of the local district, if the district understood that a residential placement was a possible outcome of the initial referral.
7. Q: Are residents of transitional housing for victims of domestic violence considered to be residing in an approved Residential Program for Victims of Domestic Violence?
- A: No, transitional housing is not considered to be part of an approved Residential Program. Therefore, the continuing responsibility of the district of legal residence due to residency in an approved Residential Program would not apply when a client resides in transitional housing (although continuing responsibility could result from the application of one of the other rules).
8. Q: Suppose a person living in County A abandons her residence in County A, stays with her mother in County B for ten days, is beaten by her boyfriend while living in her mother's home, and enters an approved Residential Program for Victims of Domestic Violence in County C. Which district is fiscally responsible for the woman while she resides in the approved Residential Program?
- A: Since the woman abandoned her residence in County A prior to the incident of domestic violence, County A has no responsibility for the client. County B would be responsible only if the client is considered to be a resident of County B at the time of the incident.

Legal residence rests on two factors: an avowed intent and the facts. First, the local district must ask the client what she intended when she moved into her mother's home. Was this living arrangement intended to be permanent? Was it a first step in establishing herself permanently in County B? Or was it simply a place to stay temporarily until she could make more permanent plans?

If the client states that her stay in her mother's home was temporary and she had no intent to permanently establish herself in County B, the client is not considered to be a legal resident of County B at the time of the incident of domestic violence. Consequently, in this situation the domestic violence rule would not apply leaving the where-found district, County C, responsible for the costs in the approved Residential Program.

If the client states that her move to County B was permanent, the local district must review her actions and circumstances to ascertain that the facts are consistent with the client's avowed intent. The local district must confirm that the client abandoned her previous permanent home (legal residence) and can look to the following facts to indicate the establishment of a new legal residence:

- calling the new dwelling home
- new mailing address
- voter registration
- driver's license
- auto registration
- whereabouts of possessions
- new telephone number
- location of work, friends and family
- seeking an apartment or other residence in County B
- any other overt act demonstrating an intent to stay in County B.

Unless these facts contradict the client's avowed intent, the client is a legal resident of County B. As such, County B would be responsible for the client while she resided in the approved Residential Program in County C.

NOTE: Additional information on the DFR issue will be presented in a forthcoming ADM.

NOTICES AND RELATED EMPLOYMENT SANCTIONS

Contact: Dottie O'Brien

Ext.: 4-6853 or Local District Technical Advisor, Bureau of Employment Programs, ext. 3-8377

1. Q. If someone gets fired or provokes the firing, is he subject to a Milne sanction?

The disqualification applies only if the person provoked his own discharge from employment with the intent to get public assistance.

2. Q. What if someone has immediate needs if he is going to be sanctioned, but the sanction hasn't started yet?

A. If the person is not yet sanctioned, he is eligible to have the immediate need met if he is otherwise eligible for such assistance.

3. Q. Is there a durational Milne disqualification for applicants or simple denials?

A. Yes, there is a durational Milne disqualification period depending on category. It is 75 days from the last day on the job for HR/PG-ADC and 30 days from last day on the job for ADC.

4. Q. An HR individual quits his job on Tuesday, files for PA on Wednesday, and breaks his leg on the following Sunday. Is he subject to a Milne sanction?

A. If he quits his job in order to qualify for assistance, the fact that he later breaks his leg would not prevent or end the disqualification.

If we change the above question and say he quit his job on Tuesday, broke his leg on Wednesday and applied for assistance on Friday, the applicant could easily contend that he had to apply for PA because he was prevented from seeking other employment by his broken leg. It would be very difficult for the agency to hold that he quit his job in order to collect public assistance in such a case.

NOTICES

Contact: Dottie O'Brien

Ext.: 4-6853

1. Q. Do workers need to send another notice for recoupment when there is another action being taken in addition to the start of a recoupment?

A. No. One notice is sufficient because the undue hardship statement is now on the combined notices. However, when more than one case action is being taken, each action must be clearly explained and the regulatory citation in support of each action must appear.

2. Q. If a client completes the monthly report on the last day of the month, how is adequate notice used for the next month's grant?
 - A. An adequate notice has to be dated on or before the date of action. Therefore, if the notice is completed that day, the action can be taken to change the grant amount for the next month effective on the first of the month.

PG-ADC

Contact: Dottie O'Brien
Ext.: 4-6853

1. Q. When you have a mixed ADC and PG-ADC household, can there be one grantee?
 - A. There must be two separate cases and most of the time this will mean two grantees (that is, the adult case heads). However, if one person is eligible to be the grantee for both cases, the district may choose to do so. Of course, the grantee's needs can only be included on one case.
2. Q. Should local districts have a medical statement on file for a pregnant PG-ADC woman?
 - A. Yes. Not only is this necessary for the pregnancy allowance, but if the woman is incapacitated this can be used for ADC eligibility in two parent households beginning with the sixth month of pregnancy.

Essential Persons

Contact: Dottie O'Brien
Ext: 4-6853

1. Q. What if the mother isn't working and the father is incapacitated, can an older child (over 18 and not in school) be an EP?
 - A. Yes. If there are services that the mother can't do or needs help with, the older child can certainly be an essential person. The specific services the child performs should be documented in the case record.
2. Q. Does the EP have to be performing full time child care in order to qualify?
 - A. No, the EP does not. For example, an EP may be providing child care after school in order for the parent to work full time.
3. Q. What kind of care can EPs provide for incapacitated family members?
 - A. The type of services that would qualify a person to be an EP depends on the incapacity of the family member and what services are needed by the family member. The services must be documented in the record.

4. Q. Is a medical statement of need for an EP necessary?
A. No, such a statement is not essential. However, if such a statement is available, it would be very helpful.
5. Q. What about using the EP status for someone in a four year college?
A. This would generally not be acceptable because four year college programs are so demanding it would be difficult for the person to perform services as an EP. However, it is possible, and careful documentation would be needed in such instances.
6. Q. Does an EP have to come in for face-to-face recertification?
A. No, the EP does not. However, the EP still must provide verification and sign the application/recertification if over age 18.
7. Q. Question 9 on the Essential Person handout included in the Fall 1989 regional meeting material deals with a boyfriend and common child of an ADC mother. They had been ADC essential persons prior to 10/01/89. The question was whether the failure of the boyfriend to come to the face-to-face interview would result in the closing of the ADC unit and the PG-ADC unit or only the PG-ADC unit. The response was that only the PG-ADC unit would be closed.

Why does the boyfriend not coming in to the face-to-face recertification close the PG-ADC case?

A. The reason that the parent (boyfriend) and common child would be closed is that they constitute a PG-ADC filing unit. If the parent of the minor dependent child fails to comply with procedural requirements, that unit is ineligible unless the failure to comply is one that would result in the sanction of the parent (i.e., employment issue, IV-D sanction, etc.).

MISCELLANEOUS

Contact Person: John McCarthy
Ext.: 4-9346

1. Q. Is reporting to Job Service an employment requirement or an eligibility requirement?
A. Both. Applicants who fail to report to Job Service are denied (or not included in the case). Recipients are sanctioned.

This is an employment requirement and only the adult who is not complying is sanctioned. The other household members are still eligible if other eligibility criteria are met.
2. Q. Please clarify when to use Department regulation 352.17 (rental income) and when to use the room and board rule in Department regulation 352.31(a) (room rent).

- A. For budgeting room rent paid to public assistance recipients, the exemptions contained in Department regulation 352.31(a) would normally apply. However, the exemptions contained in Department regulation 352.17 would apply in situations where the rent is being paid by someone living in quarters separate from the public assistance recipient (i.e. a two-family house with separate apartments).
3. Q. A family received an overpayment in April 19, 1989 due to an EITC and then they go off assistance. They reapply for assistance after October 1989. Does the overpayment still have to be recouped?
- A. Yes, it must be recouped. The new Legislation on EITC is not retroactive to previous tax years.
4. Q. How do you budget the 30 1/3 disregard in the first month when the client only receives partial income from his job (e.g. part-time; he starts the job in mid-month)?
- A. Whole-month budgeting would apply.
5. Q. What authority is there for an under 21 year old being EAF eligible.
- A. Department regulation 372.2(a) has always provided that a child under 21 who is living, or has lived within the past six months, in the household of eligible relatives specified in ADC regulations is eligible for EAF.