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TRANSMITTAL: 98 INF-6

TO: Commissioners of
 Social Services

DIVISION: Temporary
 Assistance

DATE: March 13, 1998

SUBJECT: Child Assistance Program (CAP): Questions and
 Answers on Changes Due to the Welfare Reform Act
 of 1997

SUGGESTED
 DISTRIBUTION: Income Maintenance Directors
 CSEU Coordinators
 CAP Coordinators
 Food Stamp Directors
 Employment Coordinators
 Medicaid Directors
 Staff Development Coordinators

CONTACT PERSON: Regional Representatives: Region I (518-473-0332);
 Region II (518-474-9344); Region III (518-474-9307);
 Region IV (518-474-9300); Region V (518-473-1469);
 Region VI (212-383-1658)

ATTACHMENTS: None.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-24		Part 366	SSL 131(z)	CAP Operational Manual (COM)	97 LCM-61

The purpose of this letter is to share with social services districts (SSDs) questions and answers that have been raised regarding CAP policy changes resulting from the Welfare Reform Act of 1997 (97 ADM-24). The questions and answers are divided into distinct topics. The topic and page location in this letter are:

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Modification of Child Support Order
Eligibility Prerequisite Questions

Question #1: Family Assistance (FA) recipients who have made a "diligent effort" to obtain a child support order can now enroll in CAP. How do we determine when a recipient has made a diligent effort?

Answer: There are three things a district must verify to establish that a "diligent effort" has been made. These are:

- o the name of the non-custodial parent and a verifiable address must be provided to the district; and

- o the custodial parent must cooperate with the Child Support Enforcement Unit (CSEU). This must be confirmed by the CAP case manager prior to enrollment in CAP; and

- o the custodial parent must wait a reasonable period of time (4 months) after the name and a verifiable address have been provided to allow CSEU to attempt to obtain a child support order.

Question #2: What is meant by the phrase "verifiable address"?

Answer: This is an address that is specific enough that CSEU will be able to check it. It must include a city, street, house number and if applicable, apartment number.

Question #3: Can a FA family get into CAP right away if they meet the diligent effort criteria or must the 4 month period begin after the effective date (November 1, 1997) of 97 ADM-24?

Answer: The four month period begins the date the custodial parent provides the FA examiner or the CAP case manager with the name and a verifiable address of the non-custodial parent. Families may enroll in CAP as soon as they meet the diligent effort criteria. This means that a former ADC family which provided the name and a verifiable address of the non-custodial parent to the ADC worker anytime before July 1, 1997 may enroll in CAP right away if they have cooperated with CSEU. The four month period for this family will have expired by November 1, 1997 when the new eligibility criteria went into effect.

An example will help to illustrate this. Ann Smith and her son have been receiving Family Assistance (ADC before 11/1/97) in Albany County since May 22, 1997. At her initial eligibility interview, Ann provides the PA worker with the name (Robert Smith) and address (Green Haven Correctional Facility) of the father of her son. Ann has cooperated with CSEU since her FA case was opened, but a child support order has not been obtained yet. On December 24, 1997 Ann has a CAP certification interview and requests to transfer to CAP as of January 1, 1998. If Ann meets all the other CAP eligibility criteria, the district must transfer her to CAP effective January 1, 1998 since she has made a "diligent effort" to obtain a child support order.

Question #4: When does the four month period start if a custodial parent provides the district with the name of the non-custodial parent and other information (i.e. social security number) which CSEU uses to obtain the address?

Answer: The four month period begins the date that CSEU is able to obtain the address from the information furnished by the custodial parent.

Question #5: Who makes the decision whether a custodial parent has made a diligent effort, CSEU or CAP?

Answer: Since this is an eligibility decision, CAP staff make the final determination. However, CSEU is responsible for determining ongoing cooperation with child support requirements and this is an important part of a diligent effort. The CAP case manager must confirm with CSEU before opening the CAP case that the custodial parent has cooperated. An example will help to illustrate.

A Family Assistance recipient provides the FA examiner with the name and address of the non-custodial parent on December 1, 1997. The four month period for diligent effort runs from December 1, 1997 through March 31, 1998. On March 13, 1998 the custodial parent requests to transfer to CAP. On March 21, the CAP case manager contacts CSEU to determine if the custodial parent has cooperated with child support requirements. At that time CSEU indicates that while the custodial parent had initially cooperated there have been two court dates for which the custodial parent failed to appear without good cause. Because of this noncompliance, the custodial parent cannot enroll in CAP. The FA office will impose a FA sanction against the custodial parent for failure to cooperate with child support requirements.

Question #6: What about orders of filiation, may a custodial parent now enroll in CAP if she possesses an order of filiation?

Answer: An order of filiation is not a child support order. However, a custodial parent who possesses a filiation order is likely to meet the diligent effort criteria. If she meets the diligent effort criteria, then she can enroll in CAP if otherwise eligible.

Question #7: A FA recipient has a child and an a voluntary acknowledgment of paternity is completed by both the custodial and the non-custodial parent in the hospital. Does this meet the "diligent effort" criteria?

Answer: A voluntary acknowledgment of paternity has the same force and effect as a court order of filiation. To meet the diligent effort criteria, the custodial parent still must provide the FA examiner or CAP case manager with a verifiable address of the non-custodial parent, cooperate with CSEU and wait the four month period for the diligent effort criteria to be satisfied.

Question #8: May a district begin processing a request to transfer from FA to CAP so that enrollment begins the first month following the expiration of the four month diligent effort period?

Answer: Yes. However, the district must wait for the four month period to actually expire before transferring the family to CAP. An example will help to illustrate. On December 12, 1997 a FA applicant provides the FA examiner with the name and address of the non-custodial parent. On April 3, 1998 the custodial parent requests to transfer to CAP. Even though the four month period does not expire until April 11, 1998, the CAP case manager can interview the FA custodial parent and begin processing the transfer to CAP for May 1, 1998. Before the FA case is actually transferred to CAP, the case manager must verify that the diligent effort criteria were met.

Question #9: What about situations in which the custodial parent is not certain exactly who is the non-custodial father. For example, the child's mother provides the name and address of two possible putative fathers? When does the four month period count required to establish a "diligent effort" start for these cases?

Answer: The four month diligent effort period begins when the district's CSEU is able to narrow the possible fathers to one.

Question #10: The custodial mother in a FA case becomes pregnant. The mother wants to transfer to CAP. She provides FA with the name and a verifiable address of the non-custodial father. Does the four month period required to establish a diligent effort begin the date the FA examiner receives the name and address of the absent father or must the child be born first before the four month period starts?

Answer: The four month period begins the date the FA examiner receives the name and a verifiable address. It is not necessary to wait for the child to be born.

CAP Filing Unit

Question #1: Are step-parents pulled into the CAP filing unit?

Answer: Only if the step-parent is also the natural parent of at least one eligible child in the CAP filing unit. For example, Michele Warner and her two children are receiving CAP. Michele marries John Banner who is not the natural father of her two children. The CAP filing unit is composed of Michele and her two children. John is not a filing unit member. If John has income it must be budgeted against the CAP filing unit following CAP step-parent deeming procedures.

Question #2: When are the CAP filing unit changes effective?

Answer: This change was effective retroactive to November 1, 1997. This means that when the district identifies individuals who are now pulled into the CAP filing unit, the district must add the individuals into the CAP case retroactively and calculate any over/underpayments as appropriate.

Question #3: A household is comprised of a mother and her two children. Also in the household since June 1997 is the father of one of the two children. In the past, only the woman and the one child whose father was absent from the home were eligible for CAP. With the change in CAP filing unit procedures, the common child and father are now pulled into the CAP filing unit and are determined eligible for CAP. If the father has income, when would we first budget it?

Answer: The father and common child would be added to the CAP case and the income applied to determine the CAP benefit as soon as timely and adequate notice is provided to the family. Any over/underpayments would have to be calculated retroactive to November 1, 1997 and eligibility budgets done beginning with November 1997.

Question #4: Is adding people into the CAP case an income-related change that only needs to be made when the next quarterly report is processed?

Answer: No. While Department regulation 366.6(b) does provide that income-related changes are not made to a CAP case during a payment quarter, adding people (and their income) into the CAP filing unit is not considered an income-related change.

For Medicaid, as for CAP, the income of a returning family member is considered a household-related change rather than an income-related change. A CAP family receiving Medicaid under LIF (Low Income for Families) qualifies for Transitional Medical Assistance (TMA) only when the earnings of a LIF recipient increases the family's income above the LIF standard. The addition of income of a returning family member that results in the family's ineligibility for LIF does not qualify the family for TMA.

Question #5: A woman is receiving CAP for herself and her two sons (ages 7 and 11). The woman's boyfriend moves into the household with his daughter from a previous marriage. Who is in the CAP filing unit?

Answer: The custodial parent and two sons. Since the boyfriend is not the father of the two sons he is not pulled into the CAP filing unit. The father's daughter is not pulled into the CAP filing unit since she is not a blood-related or adopted sibling of the two sons.

For Medicaid eligibility, the woman and her children and the boyfriend and his daughter may be included in a single household as long as no one is disadvantaged. If the household including all individuals is ineligible for Medicaid under LIF budgeting, the case should be referred to Medicaid or to a CAP worker trained in Medicaid eligibility.

Question #6: In the same example as question #5, the woman gives birth to another daughter. The boyfriend is the father. Who is in the CAP filing unit now?

Answer: All six household members. The two sons pull their half-sibling (the common child) into the filing unit who in turn pulls the father and second daughter into the filing unit.

As for CAP, Medicaid requires that all 6 individuals be treated as one household in determining eligibility under LIF. If the family of 6 is not eligible under LIF, the case should be referred to the local Medicaid unit or to a CAP worker trained in Medicaid eligibility for a separate determination.

CAP/MA Delinkage

Question #1: Can a new AFA code be created to identify when a CAP family is losing Transitional Medical Assistance (TMA) eligibility?

Answer: Yes. Such an AFA code is being created. Districts will be advised as soon as it is available. Until then districts may use AFA code 999, "Other".

Question #2: A CAP case has an increase in earnings that results in a loss of Medicaid eligibility under the LIF program. The district determines that the family is ineligible for the TMA extension. During the TMA extension the family's income decreases so that they are again eligible for LIF Medicaid. What must the district do?

Answer: TMA should continue because, in most situations (especially those with fluctuating earnings), TMA will allow for longer periods of Medicaid coverage. At the end of the TMA extension, the case must be referred to Medicaid for a separate determination. See question 6 in this section.

Question #3: During the TMA extension period, must a CAP case meet LIF resource limits?

Answer: No. There are no resource limits under TMA.

Question #4: When determining LIF Medicaid eligibility how is child support assigned to the agency treated?

Answer: The child support must be budgeted according to FA regulations in determining eligibility. Under FA rules, the last four weeks of child support must be averaged and multiplied by 4 1/3 weeks to project the amount which is to be budgeted. This methodology is used unless there has been a recent change in the amount of child support. When there has been such a change, the child support budgeted must be projected (4 1/3 week month) using the best information available.

This policy applies to Medicaid as well.

Question #5: The father of a CAP eligible child returns to the CAP household. The father has significant earnings (\$40,000 annually). The father must be added to the CAP case and it cannot be closed until the family has four months of CAP surplus budgets. However, with the father's income the CAP family has a surplus LIF budget. What happens to Medicaid?

Answer: The family is ineligible for TMA since the loss of LIF eligibility is not due to increased earnings. The mother and children must be provided Medicaid up until March 31, 1998 on the CAP case because of the guaranteed Medicaid provision of SSL 131(z). Since the father must be added to the CAP case, the father is also eligible for Medicaid until March 31, 1998. The case should be referred to Medicaid as soon as possible for a separate Medicaid eligibility determination and to discontinue Medicaid as of April 1, 1998 if the family is not otherwise eligible.

When similar situations happen after the Medicaid guarantee period, the family's Medicaid eligibility must be determined by a Medicaid eligibility worker or a CAP worker trained in Medicaid eligibility.

Question #6: What happens when a CAP family loses LIF Medicaid eligibility and then the TMA extension runs out?

Answer: Medicaid eligibility must be redetermined before TMA runs out. There is no authority to provide a 30 day Medicaid extension when TMA expires.

Recertification packages are sent to non-CAP TMA cases in the 10th month of TMA. CAP cases must be referred to Medicaid in sufficient time to allow Medicaid to send a recertification package to the family during the 10th month of TMA.

Question #7: Must CAP staff know Medicaid eligibility rules?

Answer: CAP staff must know LIF and TMA rules. Medicaid eligibility under any other guidelines must either be determined by local district Medicaid staff or a CAP case manager trained in MA eligibility rules.

Question #8: How are lump sums treated for the LIF program?

Answer: They are budgeted as income in the month received and treated as a resource thereafter.

Question #9: When determining whose income and resources are used to establish eligibility for LIF, does a district follow FA filing unit procedures?

Answer: Yes. Generally, LIF households parallel FA households. Any differences will be specified in additional communications to districts.

Miscellaneous

Question #1: Is it still appropriate for districts to cite the CAP Operational Manual on legal notices to clients?

Answer: No. Now that regulations have been filed (Part 366) districts should cite the appropriate CAP regulation that provides authority for the action taken.

Question #2: How does the FA 42% disregard compare to the CAP disregard (90% of earnings up to poverty and 33% of earnings above poverty)?

Answer: Generally, the FA 42% disregard provides a FA family with more disposable income up to about \$500 to \$600 in earnings. After that the CAP disregard is more financially advantageous to the family.

Question #3: IF a CAP custodial parent is assessed and determined to have a drug/alcohol problem that prevents him/her from working, what action must the CAP case manager take?

Answer: The CAP case must be closed after timely notice is provided to the family and the custodial parent and children transferred to non-cash SNA (case type 12) if otherwise eligible for that program.

Question #4: For CAP cases to which \$0 grants are being issued for a four month period due to a budget surplus and the case remains open, do the four months count against the 60 month limit?

Answer: No.

Question #5: How does a district determine how much income to budget in instances in which the custodial parent is self-employed?

Answer: Districts must follow the guidelines for budgeting self-employment income outlined in 95 INF-33.

Question #6: In two parent households in which the second parent is an ineligible alien or in receipt of SSI, can the remaining household members still receive CAP?

Answer: Yes. At least one of the parents in a two parent household must be eligible for CAP. Note, however, if the second parent is sanctioned the entire household is ineligible for CAP.

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