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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 97 ADM-17

TO: Commissioners of
 Social Services

DIVISION: Temporary
 Assistance

DATE: August 27, 1997

SUBJECT: Elimination of the Child Care Earned Income Disregard and
 the Implementation of Child Care Payments for Public
 Assistance Cases with Earned Income

SUGGESTED
 DISTRIBUTION: Public Assistance Staff
 Medical Assistance Staff
 Food Stamp Staff
 CAP Coordinators
 Directors of Services
 Staff Development Coordinators

CONTACT
 PERSON: Call 1-800-373-8859 and ask for the following:
 Temporary Assistance: Team 1, 3-0332; Team 2,
 4-9344, Team 3, 4-9307; Team 4, 4-9300; Team 5,
 3-1469; Team 6, 212-383-1658

ATTACHMENTS: Attachment A: Important Notice (available on line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-7	93 INF-51	Part 415	131-	PASB	GIS Message
96 ADM-3		352.19	a.(5)(f)	XV-J-2.1	97TA/WMS015
93 ADM-11		352.21		XVI-E;F	
91 ADM-34		352.22(h)		FSSB	95 LCM-44
90 ADM-31		387.11(h)		v.3.1	
93 INF-5		387.12		X-A-2	
		387.14(g)		X-D-1;2	
		387.15(a)		XII-G-5;6	

I. Purpose

This Directive advises social service districts (SSDs) of a change in Social Service Law Section 131-a (5)(f) and procedures in regard to the provision of the child care earned income disregard given to employed caretaker relatives (Chapter 717 of the Laws of 1996). This change in law mandates that SSDs provide child care payments to eligible caretaker relatives in a form other than as an earnings disregard. This change does not apply to care provided for incapacitated individuals living in the same home as the dependent child in receipt of aid.

II. Background

The lack of affordable child care is a barrier which affects the ability of the applicant/recipient (A/R) of public assistance (PA) to seek and retain steady employment. It is even more critical than ever that SSDs remove the roadblocks to self-sufficiency since Aid to Families with Dependent Children (ADC) recipients are now subject to a five year lifetime limit on federal cash benefits.

Prior to the implementation of this legislative change, SSDs provided a child care earnings disregard of \$175 per child, or \$200 per child under two years of age, to employed or potentially employed caretaker relatives of qualified children in receipt of public assistance. SSDs were required to review the child care needs as case factors required, but at least every 12 months.

Where the actual cost of legal child care exceeded the child care disregard, a supplemental payment was issued up to the lesser of the actual cost of care or the local market rate for the type of legal care provided. Districts were allowed to provide supplements on a prospective basis through cash advances, reimbursement or vouchers. Employment related child care supplements were dependent on the income disregard application process and thus were tied to the quarterly reporting system.

III. Program Implications

SSDs will no longer be allowed to provide benefits to child care eligible families as a disregard/supplementation effective October 1, 1997. Active PA recipients will need to receive an adequate and timely notice informing them of any PA and/or FS benefit changes caused by this modification.

SSDs will need to develop procedures to authorize child care. SSDs may choose to have Temporary Assistance (TA) workers determine child care eligibility and authorize the child care benefit directly. Or, SSDs may choose to refer the A/R to the local Services or Child Care Units. Benefits may be authorized through the PA case.

To issue benefits through the PA case, the worker must first determine the type and frequency of the child care and compare the amount charged by the provider to the market rate as established by the Department.

Changes to WMS/Services to allow authorization and appropriate claiming of child care payments for PA recipients are anticipated in the future. SSDs may choose to authorize child care payments through this system once the system enhancements are completed.

IV. Required Actions

A. SSD Responsibility

Prior to October 1, 1997, SSDs must:

1. Assess the child care needs of all A/R's in order to determine if a child care payment should be authorized. This should include a review of the type of child care requested by the caretaker relative, and the assurance that the case record contains the appropriate documentation. For example, all informal child care providers must enroll with the SSD by completing the "Enrollment of Caregiver of Informal Child Care or Legally-Exempt Group Child Care" form, or an approved local equivalent, before any informal child care payments can be authorized. Instructions on the use of the enrollment form are detailed in the 95 LCM-44 dated April 24, 1995. The form attached to 95 LCM-44 reflects labor standards which are no longer accurate. Any person working must be paid at least minimum wage. This is not limited to those working more than four hours and more than four days a week. Local districts should be aware of this change and make any necessary corrections to local forms.

SSDs must also review the status of the child care provider in informal settings to determine if the provider is in receipt of assistance. SSDs must remember to take appropriate action if the provider is a recipient; to budget the income received from the caretaker relative after giving the recipient the appropriate earned income disregards. For example, PA recipients providing informal care in their own homes would be eligible for the \$5 per day per child (excluding their own child) disregard from their gross earnings, the \$90 income disregard, and if appropriate the \$30 plus 1/3 exemption or \$30 exemption.

2. Determine if the caretaker relative needs child care to begin, regain or retain employment. And, in the absence of the disregard, determine if the family remains eligible for assistance.
3. Determine if the ADC, HR or VA child is eligible to receive employment related child care. To be eligible, the child must be:
 - a. under 13 years of age, or
 - b. under 18 years of age and a child with special needs or under court supervision, or
 - c. under 19 years of age, a full-time student in a secondary school, or in an equivalent level of vocational or technical training, and a child with special needs or under court supervision.
4. Advise the caretaker relative of his or her option to choose from among any eligible child care provider as set forth in 18 NYCRR 415.1 and provide information to assist the caretaker relative to make an informed choice regarding the provider. Information on child care choices is generally available through the Services or child care unit in each SSD.
5. Provide or arrange to provide for a child care payment to be issued in a manner determined by the SSD. For example, the SSD may choose to make child care payments through purchase of service contracts, cash, vouchers, or other arrangements which the SSD may choose, excluding an earned income disregard.

The child care payment will be equal to the actual cost of the child care up to the market rate, as determined by the Department, for the type of care provided, i. e. Day Care Center, Family Day Care, Informal Care, etc. For example, if the caretaker relative uses, for her four year old, an informal child care provider who charges \$150 per month, and the market rate for the SSD is \$225 per month, the SSD will only pay \$150, not \$225. Conversely, if the provider charges \$250, the SSD will only pay \$225, the market rate for this type of care. Refer to 18 NYCRR 415.9 or 96 ADM-3 for the market rates for your district. SSDs should be aware that market rates are updated by the Department periodically.

6. Advise the caretaker relative of the necessity to immediately report changes in child care arrangements, the number of hours of child care needed, and/or cost of child care.

7. Exclude the child care payment when calculating, issuing and budgeting excess support payments for PA recipients. Also, the SSD must not consider the amount of the child care payment in calculating an overpayment on a public assistance grant. Child care overpayments will be recovered out of future child care payments and calculated by the unit responsible for authorizing the child care benefits, or by a process as determined by the SSD.
8. Provide recipients receiving the child care earned income disregard with an informational notice (Attachment A) advising them of the change in policy regarding the disbursement of child care payments. This notice will be mailed to all recipients by August 25, 1997 based on a list which was generated and provided to SSDs. (See GIS 97 TA/WMS015.) A/Rs not on this list will need to be provided with this important notice locally. Adequate and timely notice must also be provided to active PA cases advising the head of household of the change in benefits.

B. Caretaker Relative Responsibilities

The caretaker relative must:

1. Cooperate with the SSD by providing information on the actual cost of the care provided in any given month.
2. Use the child care money provided only for the payment of child care services from an eligible provider of child care for eligible children.
3. Report changes in child care arrangements and costs timely.

C. Notices

Recipients who are affected by this change and whose benefits will be reduced or whose eligibility will end when the earned income disregards are no longer allowed must receive timely and adequate notice of the change. Districts must use the DSS-4015: "Notice of Intent to Change Benefits: PA, FS, MA and Services (Timely and Adequate)" or the approved local equivalent form and the following suggested language:

Case reduction or closing - child care determination and method of payment pending or notification will be sent by the unit authorizing the child care payment using the appropriate forms or local equivalents issued in 93 INF-5:

"This is because we must count more of your earned income. Social Services Law has changed and social services can no longer disregard the amount from your earnings that you pay for child care.

This change does not mean that you cannot get help with your child care expenses. This just means that child care costs will be met in a different way. Your eligibility for payment of child care expenses will be determined by the Department. You will be notified about your child care needs in a separate notice.

This decision is based on Social Services Law 131.a(5)(f)."

Case reduction or closing - child care determination and method of payment decided:

"This is because we must count more of your earned income. Social Services Law has changed and social services can no longer disregard the amount from your earnings that you pay for child care.

This change does not mean that you cannot get help with your child care expenses. We will pay your child care expenses in the following way: (agency fill in amount to be paid and the method of payment for each child).

This decision is based on Social Services Law 131.a(5)(f)."

CNS language will be modified to support this change in social services law.

D. Food Stamps

Dependent child care costs which are paid by the SSD either directly or as reimbursement cannot be allowed as a FS dependent care deduction. Actual dependent care costs which exceed the amount paid/reimbursed by the SSD are allowed as a FS dependent care deduction, up to \$200 per month per dependent under 2 and up to \$175 per month per dependent age 2 and up.

Dependent child care payments authorized by the SSD either as a direct payment or reimbursement, are excluded as income for FS purposes. When rebudgeting the PA case to remove the dependent child care disregard, the SSD must also rebudget the FS case. If the child care costs will be met by the SSD, either directly or through reimbursement, the dependent care deduction must be removed from the FS budget. Only costs exceeding the SSD's payment may be allowed as a deduction not to exceed \$200 per dependent for a child under 2 and up to \$175 per month per dependent age 2 and up. Timely and adequate notices must be provided when this rebudgeting results in an adverse action for FS (reduction or closing).

E. Medical Assistance

The instructions provided in this ADM do not apply to Medicaid-only applicants/recipients. The actual child care costs paid by the applicant/recipient up to \$175 per child, or \$200 per child under two years of age are still allowed as an earned income disregard when determining Medicaid eligibility. If an applicant/recipient receives child care payments from the SSD, the value of the payments received should not be treated as income, nor as a deduction in determining MA eligibility.

F. Child Assistance Program (CAP)

Even though CAP child care payments are provided as a special payment, the elimination of the child care disregard has important implications for CAP. Up until now, SSDs had provided employed CAP participants with an allowance for child care funded solely with IV-A monies. These payments were authorized on WMS using special payment type code "K-2" and special claiming code "C".

Now that child care is funded through the child care block grant, SSDs must no longer use IV-A funds to pay the cost of child care. Accordingly, the "K-2" payment type is being eliminated. For payments authorized after October 1, 1997, SSDs must use the appropriate payment type code from those listed under section IX "Systems Implications" of this ADM. Use of these payment types will insure that child care is properly claimed with services funds. These new payment lines must continue to include the special claiming code "C".

CAP coordinators were previously advised of procedures to follow in transitioning CAP cases from IV-A child care to services child care in a letter issued on July 7, 1997. This letter informed district's to stop using the K-2 payment type effective October 1, 1997 and to begin using the sixteen payment types noted above. The letter also required districts to adhere to 95 LCM-44 when authorizing child care payments for informal child care. The form attached to 95 LCM-44 reflects labor standards which are no longer accurate. Any person working must be paid at least minimum wage. This is not limited to those working more than four hours and more than four days a week. Local districts should be aware of this change and make any necessary corrections to local forms.

There are two other implications of this change to CAP districts. First, child care payments were previously taken into consideration in the CAP child support reconciliation process. Now that child care cannot be provided with CAP funding, districts must not use child care payments in determining whether a CAP participant is entitled to any support reconciliation payment. Second, child care costs in excess of the participant's earned income level were previously authorized in temporary extraordinary circumstances. Now that child care block

grant funding is used for child care, a participant's earned income level must not be a factor in determining the amount of child care authorized.

V. Systems Implications

Effective October 1, 1997, entry of the type of child care and actual costs will no longer be entered on the PA ABEL input screen. ABEL will, however, continue to calculate the disregard for the care of an incapacitated dependent adult.

SSDs will be required to determine the appropriate market rate for the type of care being provided. This is accomplished by reviewing the rates determined by this Department in 96 ADM-3. Rates are periodically re-determined by the Department. Once the appropriate rate is established, the worker will then make the payment in a manner as determined by the SSD via WMS. Now that child care is funded through the child care block grant, and no longer through IV-A, The payment line will be written using one of the following payment type codes:

- 30 - Day Care In-Home Non-Relative (Full-time)
- 31 - Day Care In-Home Non-Relative (Part-time)
- 32 - Day Care Family Home (Full-time)
- 33 - Day Care Family Home (Part-time)
- 34 - Day Care Group Family (Full-time)
- 36 - Day Care Group Family (Part-time)
- 37 - Day Care Center (Full-time)
- 38 - Day Care Center (Part-time)
- R0 - Day Care In-Home Relative (Full-time)
- R1 - Day Care In-Home Relative (Part-time)
- R2 - Informal Child Care Relative (Full-time)
- R3 - Informal Child Care Relative (Part-time)
- R4 - Informal Child Care Non-Relative (Full-time)
- R5 - Informal Child Care Non-Relative (Part-time)
- R6 - School Age Child Care Program (Part-time)
- R8 - School Age Child Care Program (Full-time)

Downstate ABEL will be modified to no longer budget child care as an earned income disregard for budgets with effective dates of 10/A/97 or later. The input child care type and amount will now be compared to the applicable market rate amount for generation of a recurring child care supplemental payment. Food Stamp budgeting will also be modified to only count those costs to the client in excess of the public assistance supplemental payment as a FS deduction. Workers will be notified via ABEL transmittal on the details of the system changes.

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VI. Effective Date

October 1, 1997.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary
Assistance

Important Notice Regarding Child Care Benefits

Effective October 1, 1997, a change in State Law requires your local social service district to provide child care benefits to employed recipients of public assistance in a form other than one which you may have received in the past. Child care costs will no longer be subtracted from your earnings as your worker determines your public assistance budget. Instead, child care benefits may be paid directly to your child care provider or directly to you based on decisions made at your local social services district.

If your local district chooses to provide the child care benefit directly to you, you will be responsible for paying your child care provider(s). The child care money issued by your local social services district is to be used only for actual child care expenses that you incur in a given month.

You will be required to provide information to your local social services district if your child care costs change, or if you change providers. This information will be verified by your child care provider. Failure to provide this information will result in a loss of child care benefits.

You must report any changes in your child care arrangements or costs to your worker immediately.

If you have questions regarding this notice, please contact your worker.

Notificación Importante Respecto a Beneficios de Cuidado Infantil

A partir del 1ero de octubre de 1997, un cambio en la Ley del Estado requerirá que su distrito de servicios sociales local provea beneficios de cuidado infantil a beneficiarios empleados de la asistencia pública en una forma distinta a la recibida en el pasado. Se dejará de deducir de sus ganancias gastos de cuidado infantil durante el proceso en el que su trabajador(a) determina su presupuesto de asistencia pública. En vez de esto, puede ser que los beneficios de cuidado de niños se paguen directamente a su proveedor(a) de cuidado de niños o directamente a usted basándose en decisiones hechas en la oficina de servicios sociales de su localidad.

Si su distrito local elige proveer el beneficio de cuidado infantil directamente a usted, usted será responsable de pagar a sus proveedores de cuidado de niños. El dinero emitido para cuidado de niños por su distrito de servicios sociales local deberá utilizarse solamente para gastos actuales de cuidado infantil incurridos en un mes específico.

Usted tendrá que proveer información a su distrito local si sus gastos de cuidado infantil cambian, o si cambian sus proveedores. Esta información será verificada por su proveedor(a) de cuidado infantil. La falta de proveer esta información resultará en la pérdida de sus beneficios de cuidado infantil.

Usted debe reportar cualquier cambio relacionado a sus arreglos o costos de cuidado infantil a su trabajador(a) inmediatamente.

Si tiene preguntas respecto a esta notificación, por favor póngase en contacto con su trabajador(a).