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TRANSMITTAL: 93 INF-11

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: March 16, 1993

SUBJECT: PA Cost Containment: Implementation of Certain
 Provisions of Chapter 41 of the Laws of 1992 -
 Questions and Answers

SUGGESTED

DISTRIBUTION: Income Maintenance Directors
 Food Stamps Directors
 Medical Assistance Directors
 WMS Coordinators
 Staff Development Coordinators

CONTACT PERSON: 1-800-342-3715
Public Assistance
 Call appropriate person listed for each section

ATTACHMENTS: 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.
92 ADM-26		351	Chapter 41		92 LCM-116
91 ADM-43		352	of the Laws		GIS
91 ADM-38		370	of 1992		IM/DC026
90 ADM-13		385	143-c		(7-25-91)
86 ADM-40					
86 ADM-10					
86 ADM-7					
92 LCM-116					
92 LCM-104					

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The purpose of this letter is to inform SSDs of questions received by the Department on PA cost containment: Implementation of Certain Provisions of Chapter 41 of the Laws of 1992 (92 ADM-26) and their respective answers which are attached.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

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PA Cost Containment Questions and Answers

A. Application Period of 45 Days for HR Cases

Contact Person: Pat O'Shea, extension 4-9349

1. Q. When does the 45 days begin?

A. The date the completed application is received by the social services district is the date on which the 45 day time period would begin to run. Medical Assistance eligibility is not impacted by this change.
2. Q. Will client booklets be changed to include the HR 45 day wait?

A. Yes. The revised booklets will be available in the spring of 1993. Handouts have been developed and transmitted to districts via 92 LCM-116. These handouts must be provided to all applicants. Posters were mailed to districts in mid-August, 1992.
3. Q. A child is aging out of foster care and knows when it will end. Can the child apply for public assistance 45 days in advance of the foster care case being closed?

A. Yes. However, if the child is under age 19, the child would be applying for PG-ADC and would not be subject to the 45 day time period.
4. Q. A prisoner has been given a release date. Can the prisoner apply 45 days in advance of release?

A. Yes, this should become standard with any kind of pre-release and be arranged so that assistance begins on the release date.
5. Q. There are WMS implications that need to be clarified; e.g., can a future case opening/grant authorization be transacted that would assure a grant reaching the client on the 45th day, even if it were data-entered on the 30th day? Is it possible to open a PA case on WMS in order to issue food stamps (FS) and medical assistance (MA) coverage before the 45th day, and not issue a cash grant?

A. There are system edits in place to prevent the opening of a PA case if there is no PA payment. The system will accept the PA case if an authorization payment line is written, even though the payment period is authorized for a future date. A social services district (SSD) may determine HR eligibility before the 30th day from application date and calculate the HR initial grant to begin on the 45th day. (Payments authorized for periods prior to the 45th day are not State reimbursable unless made to meet emergency

circumstances or to prevent eviction). The PA initial grant payment line could be entered on WMS screen six on or before the 30th day, if the authorization period "from date" was set for the 45th day from application date. Since FS and MA eligibility must be determined by the 30th day, SSDs may wish to use this method for the opening of a PA/MA/FS case. The "Action Taken on Your PA, FS, MA Coverage" notice (DSS-4013) could then be issued on or before the 30th day. If this is done, any adverse actions after the effective date of the DSS-4013 would require timely and adequate notice. Such individuals would also be considered recipients for employment sanction purposes.

If the HR eligibility determination is made in the period after the 30th day up to the 45th day, FS would have to send the FS Notice "Action Taken on Your FS Case" (DSS-3152) on the 30th day. (The DSS-3152 specifies that, when PA is pending, increased PA income could result in FS benefits being reduced or terminated without further notice). If the HR case is opened, the NPA/FS case becomes a PA/FS case.

6. Q. The paragraph in 92 ADM-26, page 5 on MA says that SSDs "may" issue MA coverage retroactively, beginning as early as 90 days prior to the application date. May we wait to provide MA coverage until the cash grant is issued on the 45th day if we wish?
 - A. No. MA eligibility must continue to be determined within 30 days. The MA eligibility is retroactive to the first of the month in which application is made. MA is also retroactive 90 days prior to date of application if the applicant was HR-MA only eligible and had incurred medical bills during that period. Applicants with immediate medical needs must be given MA eligibility as soon as MA eligibility has been established.
7. Q. If an applicant applies in one county but moves to another county before eligibility is determined, does the 45 day clock begin again in the second county?
 - A. No. The 45 day count begins with the day of application in the first county.
8. Q. Transportation monies have been given for the required job search under the JOBS Program prior to HR eligibility determination. Has this changed?
 - A. No. The job search monies are not a part of the HR grant and must be distributed as usual.
9. Q. If an SSD waits 45 days until authorizing a payment for HR, but the case is opened prior to this 45 day waiting period, when is the 3 month face to face recertification done?

- A. A face-to-face interview is required by the end of the third calendar month following the month of acceptance for all new and reopened cases.
10. Q. An individual was closed for failure to comply. The case can be reactivated for 30 days. The client reapplied within the 30 days. Can the original application be used and the case be reactivated?
- A. This rule has not changed. The old application can be used and the case can be reactivated on WMS. However, the client is considered a new applicant for purposes of the HR 45 day rule. Actual payments, except for emergencies, must wait until the 45th day.
11. Q. We deny an application when an applicant fails to comply with applicant job search rules. What happens when we open a case in 30 days (with HR payment line set at 45 days) and the acceptance notice has been sent to the client, and then we find out that the client has not complied with job search rules?
- A. When the case is opened, the applicant becomes a recipient and should be treated as such for employment related issues. If it is a single person case, the case would be closed after sending a closing notice. If it is a multi-person case, the case remains open and only the non-compliant person is subject to durational sanctions.
12. Q. A determination of eligibility is made on the 30th day and an acceptance notice is sent. Between the 30th day and 45th day the client becomes ineligible. What kind of a notice is sent?
- A. A closing notice (and notice of sanction if appropriate) must be sent. This is because the case is an opened case, even though benefits have not yet begun.
13. Q. An applicant comes in with an emergency during the 45 day waiting period. The agency meets the emergency prior to the determination of eligibility. The application for recurring assistance is subsequently denied. What kind of notice is issued?
- A. When the emergency need is met, the DSS-4002, "Action Taken on Your Request for Assistance to Meet an Immediate Need or A Special Allowance", must be provided. When a determination is made regarding ineligibility for ongoing assistance, a denial notice must be sent.
14. Q. A case is closed for non-compliance (other than sanction). After the case is closed, the employment unit informs the PA unit that, before the case was closed, the client committed a sanctionable act. Employment has sent a notice for conciliation. Should a

sanction notice be sent if conciliation results in a determination of willful failure to comply?

- A. Yes. If no sanction notice is sent, there is no sanction. The employment sanction process can proceed even if a client is being closed for another reason. Some discretion is needed, of course, i.e., in the case of a client whose case is closed for earned income, an employment sanction may not make any sense (since the client is working). Normally, however, other case closures should not affect employment noncompliance issues. This procedure keeps clients from closing their case to avoid a sanction, then reapplying shortly thereafter. A sanction may run concurrently with a closing if a notice is sent. A sanction cannot be postponed and applied when a client reapplies.
15. Q. An HR recipient's recertification date is the 10th of June. In this example, the client fails to recertify on the 10th, the case is closed, timely notice is sent, and 10 days have expired. The client comes in to recertify before the first of the next month, for example, on June 28. Could the case be reactivated and payment made (not for the period of non-compliance, but for the 28th, 29th and 30th of the month)?
- A. Once an HR case has been properly closed for an infraction of the rules without good cause, the client must reapply. Prior to the passage of Chapter 41 of the Laws of 1992, an eligibility determination could be done and payments begun at any time when all documentation was in. Now payments made prior to the 45th day cannot be reimbursed by the State unless there is an emergency circumstance that must be met. However, cases for HR applicants who reapply within 30 days of closing can be reactivated on WMS using the original application, as long as recurring payments are not made for the period prior to the 45th day after reapplication.
16. Q. An HR recipient does not show for recertification or does not return a quarterly mailer. The case is subsequently closed. If the individual comes in to reapply, does the 45 day rule apply?
- A. Yes. If the 10 day notice has been sent and the case has been closed on the system, the individual must wait 45 days after reapplying. The 45 day rule applies to any break in assistance not due to agency error or good cause (e.g. client missed recert and 10 day notice due to hospitalization or family crisis).
17. Q. An HR applicant resides with an ADC family. Is the applicant automatically PG-ADC or EP and not HR, so that the 45 days would not apply?

- A. To become an essential person (EP) for an ADC case, a person who would normally be categorized as HR must first meet all eligibility criteria for Home Relief. Therefore, they do have to wait 45 days. The exception would be a person with a relationship akin to a parent, i.e. a stepparent.
18. Q. If an EP comes off an ADC case and is recategorized to HR, does the 45 day rule apply?
- A. Since there is no break in assistance, the 45 day rule would not apply. This is merely a change in category.
19. Q. Does the 45 day rule apply to pregnant women and disabled individuals?
- A. The rule does not apply to pregnant women with a verified pregnancy because they are eligible for PG-ADC. The 45 day rule does apply to disabled individuals.
20. Q. Does the 45 day period apply to persons receiving presumptive eligibility SSI checks who are determined ineligible for SSI and apply for HR?
- A. Yes.
21. Q. Does the 45 day rule apply to refugees who are categorically HR but who are federally funded?
- A. Yes. The 45 day rule applies, but the 80% rule does not. (See Section B. Limitations on HR for New Residents.)
22. Q. Does the 45 day rule apply to migrants?
- A. Yes, it does. However, assistance to meet emergency needs must be given before the 45th day.
23. Q. Does the 45 day application period apply to individuals discharged from state mental institutions into the community and/or from hospitals into congregate care facilities?
- A. The 45 day period applies to individuals discharged from state mental institutions or hospitals into the community unless payment is necessary to meet an emergency need, such as homelessness. It also applies to those persons entering a congregate care facility; however, the payment to the facility would be considered necessary to meet an emergency. In these cases, whether all or part of the personal needs allowance is needed to meet emergency circumstances would be determined on a case by case basis. Proper discharge planning with pre-release application filings could alleviate the 45 day wait in these situations.
24. Q. How is rent handled under the 45 day rule?

- A. Generally, the full month's shelter allowance is paid on the 45th day if necessary to retain shelter. However, rent may have to be paid prior to the 45th day to prevent eviction or to secure permanent housing for a homeless applicant as the following examples illustrate:

Example 1

An HR single applies for PA on August 13. Due to the 45 day rule, the client will not be eligible for recurring HR until September 26.

On the date of application, the applicant claims to be homeless. This is verified by the SSD. To meet the emergency, the SSD places the individual in a hotel. Two days later, the applicant comes in and has located permanent housing but requires assistance to secure it. The actual rent is \$250 a month, while the SSD's maximum is only \$179. In order to move in, the landlord is requiring a month's rent for August (the total PA needs for a recipient in this county = \$316 month).

- (a) Can the SSD issue the actual rent to secure housing?

Yes. As long as the applicant would be able to afford future rent there, \$250 can be paid to remedy the emergency circumstances. If the applicant had not been determined eligible for recurring HR, the payment would be a pre-investigation grant to meet the emergency need of homelessness. If the HR determination has already been made, the payment would be an HR grant to meet emergency circumstances. Since the maximum amount of assistance that could be paid for a recipient in a similar circumstance is \$316, the payment, whether a pre-investigation grant or HR payment made prior to the 45th day to meet an emergency, cannot exceed \$316 for a particular month. \$250 is less than \$316.

- (b) Is the difference between the maximum shelter allowance and the actual rent recouped?

No. There is no authority to recoup in this example. Only rent arrears paid above the shelter maximums for applicants are subject to recoupment.

However, if the applicant was already residing in an apartment and was in shelter arrears for July and August with the August 13 application date, any shelter arrears paid which exceeded the shelter maximum are recouped as applicant arrears. In other words, excess shelter arrears can only be recouped for arrears owed for the month of application and prior months.

Example 2

- (a) The client in example 1 returns with a threat of eviction for non-payment of September's rent on September 15. According to the 45 day procedures, the client will only be entitled to prorated needs from September 26 - September 30. Can the SSD issue the actual rent to prevent eviction?

Yes. The SSD can pay the actual rent - as long as the housing is affordable to the client in the future and does not exceed the total monthly grant amount. This is an HR payment made for a period prior to the 45th day to prevent eviction (as Chapter 41 and our amended Department regulations allow).

- (b) If so, does that affect the amount of the applicant's initial month's recurring grant?

It could. However, in this example the prorated non-shelter grant the client is entitled to on the 45th day is \$22.85 for the period September 26 - September 30. The total amount an HR recipient could receive for the month in this particular SSD is \$316. This client has already received \$250 and is entitled by law to the \$22.85 for a total of \$272.

However, if the client had already received \$300 to meet emergency needs prior to the 45th day, the client could only receive \$16 on the 45th day, not \$22.85 (i.e. \$316 total amount that could be received minus the \$300 amount already received).

- (c) What would happen if there was a third month involved? For example, the applicant applied on August 24 and the 45th day was October 7. What could be paid in September if the applicant came in on September 15 with an eviction letter?

Again, the actual rent of \$250 could be paid to prevent eviction. If the applicant had any additional non-shelter immediate needs, the SSD could pay up to \$66 to meet them (i.e. \$316 total possible grant minus the \$250 paid for the rent).

25. Q. Does threat of eviction require a court order to be considered emergency assistance which is eligible for reimbursement or could an SSD confirm the threat with the landlord and document the case record without losing reimbursement?

- A. A court order is not required. A confirmation with the landlord that eviction will proceed if the rent is not paid by a certain date and case documentation of this is sufficient for emergency shelter payments made for periods prior to the 45th day to be reimbursed. If non-prorated initial month shelter is paid with the recurring grant on or after the 45th day, no special documentation is needed.

26. Q. An HR applicant applies on July 10 with a note from the landlord that the July 1 rent is overdue and if not paid the landlord will pursue eviction. Furthermore the landlord states that rent is expected each month on the first, and if not paid on the first of each month, eviction will be pursued. Is this sufficient to also issue August rent for August 1?

- A. Yes. However, the emergency circumstances must be noted in the case folder, since the payment is issued prior to the 45th day.
27. Q. Prior to the 45th day an applicant receives expedited and/or recurring food stamp benefits. Later, prior to the 45th day, the applicant claims no food. Should we send the applicant to a food pantry?
- A. Yes. Community resources should be used if available. If this is not possible, the need must be met by an HR pre-investigation grant or an HR grant to meet emergency circumstances.
- A "pre-investigation grant" is a grant given before eligibility for recurring assistance has been determined. An "HR grant to meet emergency circumstances" is a grant given after HR eligibility has been determined, but for a period prior to the 45th day.
28. Q. If a person is admitted to a facility on an emergency basis prior to the 45th day (i.e. congregate care, domestic violence, drug and alcohol facility), would they get a personal needs allowance (PNA)?
- A. This would be determined on a case by case basis, depending on the existence of an emergency need for all or part of the PNA.
29. Q. Can you provide further guidance in the area of "items necessary for health and safety"? An example which stresses the sense that this must be an issue of immediate and serious risk to an applicant would be useful.
- A. 92 ADM-26 states that "Lack of items necessary for health and safety includes ... items to remove barriers to self-sufficiency". The addition of "to remove barriers to self-sufficiency" broadens what always existed under "immediate needs" rules, because of the required applicant job search. A grant (or prorated grant) can be given to anyone with a need which must be met to assure a successful job search. It could be for things such as transportation, soap, or a clean shirt. Health and safety items could also mean a property repair or money for items needed for personal hygiene. This must be determined on a case-by-case basis.
30. Q. Are we required to use the emergency indicator on screen one to obtain reimbursement?
- A. The emergency indicator is not used by the WMS system to process a claim. The claiming is paid on the basis of the BICS HR payment line. The case record must be documented for auditing purposes. The emergency indicator is a record for the county that the payment was an emergency payment. The emergency indicator also eliminates the MA edits, so that the emergency payment can be made without opening an MA case. When the PA/MA/FS case is opened later, the emergency indicator must be removed and MA information can be added.

31. Q. Can immediate needs exceed a normal PA grant?
- A. No. An immediate need grant cannot exceed the amount of assistance a recipient in a similar situation would receive during the month. (It can include special need items such as a restaurant allowance, security deposit, property repair, etc.) The only exception is a month of application where the SSD pays a shelter arrears payment and recoups the amount above the shelter standard. In this case, the applicant could potentially receive a total of a full PA grant plus the recoupable shelter excess, if all were required to meet immediate needs.
32. Q. If a person is sanctioned does the 45 day rule apply?
- A. Yes. Such individuals must be advised on the DSS-4004 "Notice of Intent to Change Public Assistance Grant and/or Food Stamp Benefits and/or Medical Assistance coverage for non-compliance with Employment Related Requirements (timely and adequate)" to reapply at least 45 days before the sanction ends to insure benefits at end of sanction.
33. Q. When an individual's HR case is closed due to willful failure to comply with outpatient alcohol/drug rehabilitation requirements with a 45/120/180 day durational sanction, how does the 45 day rule apply?
- A. The individual would have to apply 45 days prior to the end of the sanction period to receive benefits when the sanction ended. The individual has the right to apply anytime during the sanction period.
34. Q. When an individual's HR case is closed due to refusal without cause to enter a residential alcohol/drug treatment facility and the individual subsequently wishes to comply, is (s)he subject to the 45 day application period?
- A. Once such individuals are in compliance with treatment requirements they are treated as congregate care cases subject to the 45 day rule as explained in the answer to question number 23 above.
35. Q. When an HR individual in a case consisting of a married couple without children is sanctioned for 60, 120 or 180 days for willful failure to comply with employment program requirements (other than job search), how should we apply the 45 day application rule? In these cases the individual is not currently required to complete an application, but can simply be added to the existing case, when willing to comply after the end of the sanction.

- A. Such an individual in a couple case would be considered a new applicant (whether or not you require them to complete an application). These spouses (as with individuals in single cases) should be advised to reapply at least 45 days prior to the end of the sanction in order to comply with 86 ADM-10, "Revision of Public Assistance-Employment Related Sanctioning Procedures."
36. Q. When we impose a durational sanction, must we take the reapplication at any time after the closing or just 45 days prior to the sanction ending date? If we take the application at the earlier time frame, will we have a problem with the WMS overdue application report?
- A. 86 ADM-10, "Revision of Public Assistance-Employment Related Sanctioning Procedures" allows an individual to apply any time during the sanction period. The overdue application reports track cases by category of assistance. We expect that the 45 day rule will result in longer processing time for the HR category and that this will be reflected in the reports.
37. Q. An HR recipient moves from District A to District B on July 15. District A continues assistance through August 31. Client does not apply in District B until September 4. Is this client subject to the 45 day rule?
- A. Yes. However, if the client had applied in district B prior to August 31, the 45 day wait would not apply. It would be considered a transfer from one district to another under the transition rule. 86 ADM-40 requires SSD's to send the notice attached to the ADM which notifies the recipient to apply in the new SSD before their case closes in order to prevent disruption of benefits. Clients should be advised that failure to do so will result in a 45 day wait.
38. Q. A person applies for HR. During the 45 day period, before eligibility can be determined, the recipient obtains an apartment in a second county. Does the second county have to pay the rent and security?
- A. Since the first county did not determine eligibility before the applicant moved and the applicant did not apply for emergency assistance in the first county, the first county is not responsible for paying the rent and security. If the applicant has applied for assistance in the second county, that district would make the decision of whether or not to pay either security or rent.
39. Q. A homeless person applies for HR in County A on September 4; the 45th day is October 18. Before eligibility for recurring HR has been determined, this person locates permanent housing in County B

and requests from County A a security deposit and rent to move in on September 16. If County A provides the security and rent as emergency assistance, is it responsible for providing recurring assistance through October 31?

- A. No. County A would only be fiscally responsible under the transition rule if it had opened the case.
40. Q. A child is living with the custodial parent and receiving ADC. When the child visits the non-custodial parent who is applying for HR, at what point would that parent be eligible for a visitor's allowance?
- A. The non-custodial parent cannot receive a visitor's allowance during the 45 day period. However, the \$4 per day allowance can be provided for each day the child visits, beginning with the 45th day if the non-custodial parent is eligible for recurring benefits.

B. Limitations on HR for New Residents

Contact Person: Bob Sharkey, extension 4-9327

1. Q. On the chart listing state maximum standards of payment there are some states that only have maximums for 1 and 2 person households. What if 3 or more persons are applying? Is the 3 person case compared to the maximum for 2?
 - A. No. Since 18 NYCRR 352.29(i) states that an SSD may use the other state's maximum standard, if any, for each household size, and there is no standard of payment for a household of three, the 3 person household would be eligible for 80% of the NYS 3 person payment. If the state or household size is not on the chart, use 80%.
2. Q. Do the limits apply to people from other countries?
 - A. Yes. The limits apply to immigrants and to new residents moving from other U.S. territories and possessions such as Puerto Rico or the Virgin Islands. The limit for such persons is always 80% of the normal HR payment. The only exception is for refugee cash assistance (RCA) recipients. The limits do not apply to them.
3. Q. Do the limits apply to HR special needs?
 - A. Yes, the limits apply to the recurring HR deficit and special allowances, including hotel and congregate care payments. The limits do not apply to JOBS related payments, payments under the rent arrears repayment agreement, payments to remove people back to other states or countries, or burial payments.
4. Q. Should the acceptance notice explain the 80% rule?
 - A. Yes, the notice should explain why the person is getting less than the normal grant and how long this will affect the particular client.
5. Q. What about migrants?
 - A. Migrants can receive assistance during the growing season even though they are not NYS residents. The limits would not apply unless and until a migrant decides to establish residency in NYS (usually after the current crop season).
6. Q. What is an example of an exception in 18 NYCRR 310.1 regarding "state residence"?
 - A. One example is that a person does not lose state residence while serving in the Armed Forces or Merchant Marine. The same rule

applies to a family member of such person who lives with the person. Therefore, the limits do not apply to such persons regardless of how long they were away from the State while in service.

7. Q. If an applicant to whom this limit applies enters a residential treatment facility whose rates exceed the limits, will we pay the usual rate or a reduced amount? If such a reduction jeopardizes the placement, would this make a difference?
 - A. The limits apply to HR payments for residential treatment. You can try to negotiate a lower payment.
8. Q. Do the limitations for new residents also apply to PG-ADC cases?
 - A. No. The limitations do not apply to PG-ADC.
9. Q. An individual lives in Florida for 3 years and travels to New York, stopping in South Carolina and Virginia on the way and then applies for HR in New York. What would be the previous State of residency?
 - A. Florida. Always use the last State in which the individual had a permanent address.
10. Q. How do you determine residency? Do you simply take the client's word?
 - A. The client's claim regarding length of New York State residence and/or residence in other states or countries must be documented. The client must provide information such as statements (or addresses for the SSD to contact) from non-relative landlords, rent receipt or mortgage records, statements from other persons, school records, employment records, or records of other social service agencies. As with any documentation, the SSD should assist the client in getting this documentation.
11. Q. For an individual determined to be subject to the 80% rule, does countable income apply to the full standard of need or is countable income applied to 80% of the standard of need?
 - A. Countable income applies to the full New York standard of need. The deficit or other payment is then compared to the other State's standard of need. Depending on the comparison, give the higher of 80% of the deficit or other payment or 100% of the other State's standard. Never give more than 100% of the New York payment. Never apply income to or otherwise adjust the other State's standard.

12. Q. If a person moves to New York State during the middle of the month, on the 15th for example, does the month of arrival count as a whole month in the six month count?
- A. Yes. The month of arrival into New York State is considered month one for the 80% rule.

C. Security Deposits and HR Restricted Payments for Persons in Public Housing

Contact Person: Pat O'Shea, extension 4-9349

1. Q. Does the public housing cash security deposit limitation apply to all PA categories or just HR?

A. It applies to all PA categories.
2. Q. Would HUD be considered Public Housing?

A. No. Public housing for purposes of security deposits is project based housing units.
3. Q. Must a security agreement become null and void when the PA case is closed?

A. The security agreement should not be good for an indefinite period of time after the PA case is closed. However, the agreement can remain in effect for a specified period after the case closes (i.e. six months), if the SSD so chooses. This could give the public housing authority time to obtain a cash security deposit from the tenant, in installments if necessary.

D. Limitations on the Payment of Shelter Arrears

Contact Person: Maureen Standish, extension 3-6555

1. Q. Can an SSD charge interest on the shelter arrears payment and/or an administration fee for processing?
A. No. Chapter 41 does not provide for this. This is also true for utility arrears.
2. Q. Client repays shelter arrears as per repayment agreement. The payments are current for 3 months. Then the client becomes eligible for ongoing assistance. What happens to the unpaid balance?
A. At the point that the individual becomes a recipient, collection of balance on shelter arrears repayments is suspended until the public assistance case is closed. This is also true for utility arrears repayments.
3. Q. Does the client have to be current on a rent arrears repayment in order to be eligible for a utility arrears payment?
A. No. There is no requirement in law or regulation that a recipient be current on shelter arrears payments in order to receive a utility arrears payment.
4. Q. A person or family signs a repayment agreement and receives a shelter arrears payment under EHR. The agency does not send the first "bill" to the person. Is the person still liable for the payment?
A. There is no requirement that a SSD send a bill. However, if the SSD chooses to send bills and does not send the first bill, the person is still liable for the payment. The repayment agreement itself sets forth the amount of the arrears received, the payment schedule and the dates the payment must be received by the agency. The applicant has agreed to these terms and signed the form and is therefore liable. This is also true for the utility arrears payment.
5. Q. An individual, who has received EAF within the past 12 months requires a shelter arrears payment. It is provided under EHR and a repayment agreement is signed. However, the individual is not current on the EHR repayments. Twelve months have elapsed since the previous EAF and the family is once again eligible for EAF. Can EAF be issued again to pay shelter arrears when the EHR repayment agreement is not current?

- A. Yes, as long as all other EAF eligibility criteria and all other criteria for paying shelter arrears are met. Whether or not an individual is current on an EHR repayment agreement is not a condition of eligibility for EAF for the payment of shelter arrears. For utility arrears, the client must be current no matter what category is used.
6. Q. A person applies for recurring HR and needs a pre-investigation grant for rent arrears to prevent eviction. Eligibility for recurring HR has not been determined. Do you have the person sign a repayment agreement? When accepted for recurring assistance, does the agreement become null/void and is only the amount above shelter maximum recouped or does it all become an overpayment?
- A. When someone is applying for recurring Home Relief and a rent arrears payment is made as an immediate need grant but a determination of eligibility for recurring Home Relief has not yet been made, the applicant should sign a repayment agreement with the understanding that if the application for recurring assistance is accepted and the case is opened, the repayment agreement is null and void. The rent arrears amount above the shelter allowance would then be recouped from the recurring monthly PA grants as with other applicants. The repayment agreement will be revised to clarify this. This is true for utility arrears except that there would be no recoupment of the amount of the grant that exceeds the fuel for heating allowance. However, the SSD must determine for utility arrears if the household is financially eligible for PA and therefore could be exempt from repayment of a utility arrears payment.
7. Q. Can late fees and attorney's fees be included in the rental arrears repayment agreement?
- A. No. The repayment agreement can only include shelter arrears. Late fees and attorney's fees cannot be included in the utility repayment agreements either.
8. Q. Since rent arrears payments under EHR are no longer limited to once in a twelve month period, what happens when a person requests an additional rent arrears payment? Are they eligible for a second one?
- A. As long as they are current in their repayments and meet all other eligibility requirements for a shelter arrears payment (i.e., can afford future shelter expenses), they can receive an additional EHR arrears payment. Another repayment agreement would have to be signed. This is also true for utility arrears.
9. Q. When a person receives a second arrears payment and still has an outstanding balance on the first arrears payment, will they have two separate payments to make?

- A. Yes. Each rent arrears payment received must be paid within twelve months. This means they will be making one payment based upon the initial timetable until the 12 months are up and will be starting a new payment schedule based upon 12 months from receiving the second arrears payment. This is also true for utility arrears.
10. Q. Do the other limitations, previously communicated via GIS Message IM/DCO26 of 7/25/91, continue to apply in these situations? This would include, among others, the requirement that the applicant demonstrate an ability to pay the total shelter expenses in the future.
- A. Yes. Except for the once a year limit, the other limitations on emergency Home Relief previously communicated to SSD's continue to apply. The repayment agreement is in addition to these. In other words, if the applicant meets all the other criteria contained in 18 NYCRR 352.7(g)(4), he or she must then sign the repayment agreement to receive the arrears payment. This includes ability to pay future shelter expenses. In determining this, the amount that must be paid as per the agreement(s) must be taken into consideration. This is also true for utility arrears; the client must continue to meet all eligibility criteria for the category of assistance and for arrearage assistance.
11. Q. Will there be system support for repayment agreements? In other words, will there be any automatic tickler or clearance reports, or will the information be available only in the case record?
- A. Currently, there is no systemic tracking of these agreements and tracking of these agreements will have to be done manually. This is also true for utility repayment agreements. However, a few SSDs who are on CAMS have adopted the CAMS system to track repayments by identifying them through referral source codes which they do not ordinarily use. For example, one SSD uses referral source code 99 for shelter arrears and referral source code 26 for utility arrears. We have requested enhancements to CAMS so that SSDs can, in the future, track these repayments in a uniform way, using codes intended for this purpose.
12. Q. If the agreement will make an individual or family unable to maintain the apartment, what do you do?
- A. If an individual or family can not afford future shelter payments, they are ineligible for a rent arrears payment. An SSD can only pay rent arrears if the individual or family can maintain the housing. The individual or family should be assisted in locating alternate permanent housing, or temporary housing if permanent housing is not available. This criteria is not applicable for utility arrears.

13. Q. An individual enters into a shelter or utility arrearage repayment agreement. Subsequently the individual files for bankruptcy. How is the repayment agreement treated?
- A. It would be treated the same as any other legally binding agreement. It would not receive priority over any other bills that the individual had incurred. This is also true for utility arrears.
14. Q. Should an SSD provide receipts and statements for payments made under this repayment agreement?
- A. General business practice dictates that a receipt should always be given when cash is received. A receipt is only provided on request when someone pays by check.
15. Q. When someone who has signed a repayment agreement misses one or more payments, can the SSD pursue collection of the entire amount?
- A. Chapter 41 requires that the repayment be made within 12 months. The entire amount cannot be considered overdue until the 12 months is over. An SSD can pursue collection of the amounts overdue at any time prior to the end of the 12 months.

E. Repayment of Utility Arrearage Assistance

Contact: Bureau of Energy Programs' Liaison, extension 4-9321

1. Q. If an SSI child is in the household, do we count the child's income for utility arrearage when determining if income is above the standard of need?
A. Yes. This is also true for shelter arrears payments under EHR.
2. Q. A client applies for emergency utility assistance and the stepparent is in the household. Do we count the stepparent's income?
A. For purposes of calculating the household's income and PA standard of need for the same size household, the stepparent's income is counted. If the household has excess income by that method, then the eligibility of the filing unit must be determined using PA rules. If the stepparent is drawn into the filing unit by his or her natural or adopted child, then the stepparent's income is counted in full after the appropriate disregards are applied. If the stepparent is not drawn into the filing unit, then stepparent deeming is done to determine how much income is available to apply to the filing unit that contains the customer and tenant of record.
3. Q. A person in a room and board situation is applying for a Deferred Payment Agreement. Do we count this person's income?
A. No. We do not count the income. Count just the amount the person pays to the household with whom he is living.
4. Q. For PA standard of need - do we count everyone's income, (including room and boarders)?
A. Yes. This is also true for shelter arrears.
5. Q. Should an agency get a repayment agreement for EAF for utilities?
A. Yes, unless the household is exempt from the repayment requirement. (See 92 ADM-26, Section IV-E. Repayment of Utility Arrearage Assistance.) For shelter arrears, only persons receiving EHR must sign a repayment agreement.
6. Q. Can the utility repayment agreement be considered a legal document?
A. Yes. A repayment agreement for a grant for utility arrears or shelter arrears is a legally binding contract.
7. Q. Can a second utility arrearage payment be made while the person is still paying off the first payment?

- A. Yes, if on the date they apply for the second payment, they have fully repaid the first one or are current on the first or any other previous repayment agreements. This is also true for shelter arrears.
8. Q. Can CAMS be used to track utility arrearage payments?
- A. Currently, there is no systemic tracking of these agreements and tracking of these agreements will have to be done manually. This is also true for shelter repayment agreements. However, a few SSDs who are on CAMS have adopted the CAMS system to track repayments by identifying them through referral source codes which they do not ordinarily use. For example, one SSD uses referral source code 99 for shelter arrears and referral source code 26 for utility arrears. We have requested enhancements to CAMS so that social services districts can, in the future, track these repayments in a uniform way, using codes intended for this purpose.
9. Q. If CAMS cannot be used, what is the recommended procedure for tracking payments?
- A. An SSD can set up its own procedures. The Energy Bureau will, however, require counties to report on this. For shelter arrears, SSD's can set up their own procedures; SSD's will not have to report to the State on this.
10. Q. If an individual defaults on a utility arrearage repayment agreement, does the individual become ineligible for HEAP?
- A. HEAP eligibility is not tied to the repayment agreement.
11. Q. Can an individual get a fair hearing on a utility arrearage repayment agreement? If the individual comes in during this time with another emergency, could the individual enter into another agreement?
- A. Yes. However, in order to be eligible to enter into another agreement, the individual would have to be current with payments on the previous agreement regardless of fair hearing status. This is also true for shelter arrears.
12. Q. If utility payment is made under EAF, EAA or EHR is a utility agreement required?
- A. Only EAF and EHR are looked at for repayment. For shelter arrears, only EHR requires a repayment agreement.