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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 95 LCM-126

Date: November 22, 1995

Division: Economic Security

TO: Local District Commissioners

SUBJECT: ADC Minors - Living Arrangement

ATTACHMENTS: ADC PROGRAM RULES FOR MINORS - Available on-line

ADC MINOR PARENTS/PREGNANT MINORS
IMPLEMENTATION OF NEW RULES

GIS 95/ES DC035 transmitted November 21, 1995 informed districts that the regulations supporting the addition of subsection 6 to section 131 of Social Services Law have been filed and referred to these policy directions. Districts must implement this rule following the policy stated in this LCM.

An ADC minor parent or pregnant minor, (under age 18) must live with a parent, legal guardian, other responsible adult relative, or in an adult-supervised supportive living situation as a condition of receiving ADC for himself, herself and his or her dependent child.

Please note that there is no change to the existing rules for HR/PG-ADC applicants/recipients under age 21. The parental home must be evaluated to determine if it is a resource available to the minor.

The new rule applies to the ADC minor parent or pregnant minor unless one of the following conditions exist:

1. The minor is now married, or has ever been married, or

2. the minor parent or pregnant woman has lived apart from the parent or legal guardian for at least one year before the birth of the dependent child, or before applying for public assistance, or
3. the minor has no living parent or guardian whose whereabouts is known, or
4. the parent or legal guardian refuses to allow the minor (and child) to live in his/her home, or
5. the physical or emotional health of the minor (or child) would be jeopardized by living in a household with the minor's parent or legal guardian.

When the minor makes a claim under this provision, the LDSS must investigate the claim. LDSS may develop a process that may be followed to rule out the home as suitable. That process may use agency staff who have the necessary background and experience to evaluate the claim and available evidence. A decision by Child Protective staff is not required to rule out a home as suitable.

However, when a case will be denied or closed because the minor's claim has been determined to be unfounded, that determination must have been the result of a Child Protective Service's investigation. No closing or denial action may be taken on the basis that the home is available until the claim is determined to be unfounded.

6. Good cause exists: Good cause would exist when the parents will allow the minor to live at home but not the infant.

ALTERNATIVES: If one of the six exceptions listed above do not exist, and the minor will not return to the home of the parent or legal guardian, the minor (and child) may still be eligible for assistance if the individual resides with an adult relative or in another adult-supervised supportive living situation.

DOCUMENTATION: An ADC minor who claims that he or she is exempt from this requirement must provide verification when possible. For example, a minor who states that she has been married should be asked to provide a marriage certificate or other acceptable verification. A minor who states that she has lived apart from her parents for one year should be able to show where she has been living or her parents may verify her statement.

When the minor claims to be exempt because of health or safety concerns, the minor can be asked for documentation to aid in a decision to rule out the home. However, a minor cannot be denied for failure to provide documentation to support a health or safety claim.

DEFINITIONS:

Adult relative means a relative as defined in Department Regulation 369.1(b) who is at least 18 years of age.

Adult supervised supportive living situation means a family setting or other arrangement where responsibility is taken for the care and control of the minor (and child) or where supportive services such as counseling, guidance or supervision are provided. A family setting can be a private family setting.

A private family setting is defined as one where an adult assumes responsibility in a parental capacity for the care and control of the minor parent (and child).

An example of another arrangement is a maternity home. Institutions, homeless shelters and run-away youth program residences are not considered eligible adult supervised supportive living situations.

Payment of the grant: When the ADC minor who is affected by this requirement, is living in an approved living situation, and is eligible for ADC, the ADC grant is to be paid (where possible) in the form of a protective payment to the parent, legal guardian or other relative. There is no provision in the Law to restrict a payment to a non-relative adult.

If the adult relative is willing to serve as the payee, the payment should be restricted to the adult relative. The agreement of the minor is not required. However, the minor who is required to be in a suitable living arrangement, and who is, cannot be denied because the adult relative will not be the payee.

Nafziger V Blum: Previously, a pregnant HR woman would not be required to accept the offer of a home since she would soon be ADC eligible. Now, the ADC rules will apply to the pregnant HR woman if she is under age 18.

Child support: Individuals under the age of 21 who live apart from their parents must still cooperate with child support enforcement. This is true even if a home is available but the minor decides to live with another adult relative or in a supportive living situation.

Implementation for undercare cases: A review of whether or not the ADC minor is subject to this requirement must be done at next contact or recertification.

Medicaid: This is not an MA requirement. A separate MA determination must be made for any A/R under age 21 that is denied or discontinued from PA as a result of this provision.

Additional information: Districts should refer to 95 INF-36 "Questions and Answers from the Regional Forums on Article VII" (pages 11 - 18) for additional information on this policy.

Notice requirements:

CNS districts that produce public assistance closing and denial notices will, by using the appropriate reason code, produce the required reason language.

NYC and Districts outside NYC that use manual notices for denials and closings must use the appropriate State mandated (or approved local equivalent) notice:

- DSS-4013: "Action Taken on Your Application: Public Assistance, Food Stamps and Medical Assistance Coverage."
- DSS-4015: "Notice of Intent to Change Benefits: Public Assistance, Food Stamps, Medical Assistance and Services (Timely and Adequate)."

Because the full explanation will not fit on the notice, an attachment will be needed. Include enough information on the notice to identify the reason for the action and refer the A/R to the attachment for a full explanation. The Regulatory citation must appear on the notice.

a. ADC Denial/Closing (Health/Safety Claim Unfounded)

Districts outside NYC-Individual Reason Code N50.

NYC-Case level (HH=1) Reason Code Y99, or Individual level Reason Code Y99 (HH<1).

When the ADC minor is denied assistance, after a health/safety claim has been determined to be unfounded, the individual is entitled to a fair hearing within 30 days of a timely fair hearing request. To allow the Office of Administrative Hearings to identify these cases and insure that the hearings are held within the statutory timeframes, the following language must be used:

An individual, under the age of 18, cannot get public assistance for himself or herself or for his or her dependent child unless the individual (and child) reside in one of the following living situations:

the individual's parent's home, or
the individual's legal guardian's home, or
the home of an adult relative, or another adult supportive living situation (when a suitable home of a parent or guardian is available, but the individual will not go there).

This is true except when the individual has been married or has lived apart from the parent or guardian for at least one year before the birth of a child in his or her care, or before the application for public assistance.

This agency has investigated the claim that the home offered by (SPECIFY PARENT OR GUARDIAN) is not suitable. The agency found that living in that home will not jeopardize the health or safety of (NAME). (NAME) does not reside in an eligible living situation and cannot receive public assistance.

This decision is based on Social Services Law 131.6 and Department Regulations 369.2 and 370.2.

b. ADC Denial/Closing Reason - (No Health/Safety Claim)

Districts outside NYC-Individual Reason Code N49.

NYC-Case level (HH=1) Reason Code Y99, or Individual level Reason Code Y99 (HH<1).

An individual, under the age of 18, cannot get assistance for himself or herself or for his or her dependent child unless the individual (and child) reside in one of the following living situations:

the individual's parent's home, or
the individual's legal guardian's home, or
the home of an adult relative, or another adult supportive living situation (when a suitable home of a parent or guardian is available, but the individual will not go there).

These requirements must be met unless:

the individual has been married, or
the individual's parent(s) or legal guardian cannot be located, or refuse to allow the individual (and child) to live in their home, or
the individual has lived outside the home of the parent or guardian for at least one year before the birth of his or her child, or before applying for public assistance.

A suitable living arrangement is available with (SPECIFY THE NAME OF THE PARENT/GUARDIAN). (NAME) does not reside in an eligible living situation and cannot get public assistance.

This decision is based on Social Services Law 131.6 and Department Regulations 369.2 and 370.2.

Informational Notice: The informational notice (Attachment) must be reproduced locally and given to any minor who will be affected by this rule.

Patricia A. Stevens
Deputy Commissioner
Division of Economic Security

ADC PROGRAM RULE FOR MINORS

If you are applying for or receiving your own ADC grant and if you are under age 18 you may not be eligible to receive public assistance unless you are living with a parent, guardian, adult relative or in an adult-supervised supportive living arrangement.

This rule will apply to you unless you have an exemption.

Exemptions: This rule will not apply to you if:

- . you have ever been married, or
- . you have lived apart from your parents or legal guardian for at least one year, or
- . you do not have parents or a guardian who will allow you to live in their home, or
- . living in the home of your parent or guardian will be harmful to you (or your child). If you make that claim, Social Services will conduct an investigation into that claim, or
- . you have other good cause. This means that your parents will allow you to live at home but will not allow your child.

If you are required to live with your parents or guardian but you do not want to live there, you may still be eligible for public assistance if you live with an adult (over age 18) relative or in an adult-supervised supportive living situation. An example of an adult supportive living situation is a family setting where an adult assumes responsibility for your care and supervision the way that a parent would. Another example is a maternity home where counseling, guidance or supervision is provided.

If Social Services thinks that this rule applies to you but you do not agree, tell your worker the reason. Your worker may ask you for proof. If you need help to get the proof, Social Services will try to help.

If this rule applies to you and you do not live in an eligible living arrangement, you (and your child, if you have one) cannot get cash assistance in any category of assistance.