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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 94 ADM-13

TO: Commissioners of
 Social Services

DIVISION: Health & Long
 Term Care

DATE: August 8, 1994

SUBJECT: Deeming of Parental Income to SSI-Related Children

 SUGGESTED
 DISTRIBUTION:

Medical Assistance Staff
 Fair Hearing Staff
 Legal Staff
 QA&A Staff
 Staff Development Coordinators

CONTACT
 PERSON:

Upstate: Wendy Butz, Bureau of Eligibility &
 Resources, 1-800-343-8859, extension 3-5501;
 NYC: 212-383-2512
 User ID: AW7420

ATTACHMENTS:

Attachment I: Budget Example (not available on-line)
 Attachment II: Budget Worksheet (not available on-
 line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
83 ADM-17		360-4.3(f)	20 CFR 416.1165	MARG pp. 149-151, 173 and 174	GIS 92MA033 MBL Trans- mittal 93-1

I. PURPOSE

This Administrative Directive (ADM) advises social services districts of a change in the formula used to determine the amount of income deemed to a Supplemental Security Income (SSI) -related child from his or her parent when the parent's only income is earned income or when only earned income remains after allocations to any non-SSI-related children.

II. BACKGROUND

Previously, three different formulas were used to calculate the amount of income deemed to an SSI-related child from a parent living in the child's household. The applicable formula depended on whether the parent had earned income only, unearned income only, or a combination of earned and unearned income remaining after allocations to any non-SSI-related child in the household.

The use of two of the three different formulas sometimes resulted in inequities in the amount of income deemed to an SSI-related child: i.e., the formula applicable to a parent having only earned income and the formula applicable to a parent having both earned and unearned income. For example, using the earned income only formula, after the deduction of a \$65 work expense disregard, an amount equal to twice the Federal Benefit Rate was deducted from parental income before determining the amount to be deemed to the SSI-related child. Using the earned and unearned income formula, after the deduction of the \$65 work expense disregard, an amount equal to one-half of the remaining parental earned income plus the Federal Benefit Rate was deducted before determining the amount to be deemed to the SSI-related child; this amount was often significantly more than twice the Federal Benefit Rate, resulting in less income being deemed to the child when the earned and unearned income formula was used.

To eliminate the inequities that sometimes resulted from the differences in the earned income exclusions in these two formulas, the Social Security Administration implemented a new rule, 20 CFR 416.1165. The regulatory amendment eliminates the formula used to determine the amount of parental income deemed available to an SSI-related child when the parent's only income is earned income or when only earned income remains after allocations to any non-SSI-related child.

III. PROGRAM IMPLICATIONS

Effective July 1, 1994, retroactive to November 1, 1992, in determining the amount of income deemed to an SSI-related child from a parent living in the child's household: \$65 of the parent's earned

income, plus one-half of the remainder, is excluded. Additionally, a parental allocation of the appropriate FBR is deducted from the total countable income of the parent to determine the amount of income to deem to the SSI-related child, regardless of the type of parental income. Effective January 1, 1994 the FBR for an individual is \$446 and \$669 for a couple.

Note: This change does not affect cases where the SSI-related child resides with a non-SSI-related child, a non-SSI-related parent and an SSI-related parent. In such cases, after determining the total countable income of both parents under spouse-to-spouse deeming rules, the FBR for a couple (\$669) and the State supplement for an individual living with others (\$23, effective January 1, 1994) are deducted, the remaining income is deemed available to the SSI-related child.

IV. REQUIRED ACTION

A. New Cases

Social services districts were instructed in GIS 92 MA033 (issued December 22, 1992) to implement this change immediately for all applications received on or after November 1, 1992. Social services districts must no longer use the earned income only formula to determine the amount of parental income deemed available to an SSI-related child when the parent's only income is earned income or when only earned income remains after allocation to a non-SSI-related sibling of the child.

To determine the amount of parental income to deem available to an SSI-related child, whenever a parent has earned income remaining after allocations to any non-SSI-related children:

1. Deduct \$65, plus one-half the remainder, from earned income;
2. Add the remainder to any countable unearned income; and
3. Subtract the FBR for the parent(s).

See Attachment I for an example of completing the revised DSS-3457, in accordance with the change in the budgeting methodology.

B. Undercare Cases

Any potentially affected excess income case must be reviewed at the next client contact and rebudgeted following the guidelines in Section IV.A. of this ADM. If rebudgeting results in a reduction or discontinuance of benefits, social services districts are reminded that timely and adequate notice must be provided before the effective date of the reduction or discontinuance. If rebudgeting results in full eligibility or in

a reduced client spenddown liability for any prior month, social services districts must follow the reimbursement instructions for paid medical expenses contained in the New York State Fiscal Reference Manual for Local Departments of Social Services (Volume I, Chapter 7, pages 29-33; and Volume II, Chapter 5, pages 16-21), as modified by the provisions of the May 19, 1994 electronic mailing to local district commissioners concerning the court order in Greenstein et al. v. Dowling et al. Refer to Section IV.E. for information on identifying potentially affected undercare cases.

C. Denied Cases

If a social services district becomes aware of MA-only cases denied on or after November 1, 1992, then it must rebudget in accordance with Section IV.A. if: 1) earned income only was used to determine the amount of deemed income available to the SSI-related child; or 2) earned income only was left after allocating to a non-SSI-related sibling of the child. For all cases which are determined or redetermined to be MA eligible for the retroactive period, social services districts must provide reimbursement for paid medical costs in accordance with the reimbursement instructions specified in Section IV.B.

D. Budget Worksheet - Medical Assistance-SSI-Related Budgeting and Monthly Deeming Worksheet (DSS-3457)

The "Budget Worksheet - Medical Assistance - SSI-Related Budgeting and Monthly Deeming Worksheet", (DSS-3457) has been revised to reflect the changes in the federal regulation. Other changes were also made to this worksheet for purposes of clarification. The following changes have been made:

1. Parent to Child

- a. The revision date has been changed to "5/93".
- b. The title of the form has been changed from "Budget Worksheet - Medical Assistance - Monthly Deeming Worksheet (Parent to Child)", to "Budget Worksheet - Medical Assistance - SSI-Related Budgeting and Monthly Deeming Worksheet (Parent to Child)". This change was made to clarify that this worksheet is to be used for SSI-related budgeting, even when no deeming is used.
- c. Lines 1 and 3 have been revised to enter the gross unearned and earned income of the parent(s). Lines 1(a) and (b) have been added, and 3(a) and (b) have been revised to allow court-ordered support to be deducted from the gross earned or unearned income of the parent. Lines 3(c) and (d) have been added to include the information in the formerly designated 3(a) and (b).

- d. Line 2(b) has been revised to read, "If 1(b) is more than 2(a), enter remaining unearned income (1(b) minus 2(a))". Line 2(c) has been revised to read, "If 1(b) is less than 2(a), enter remaining allocation (2(a) minus 1(b))". These revisions have been made for purposes of clarification.
- e. Under line 3(d), the following instructions have been added: "If no income is remaining, deemed income is \$0 and proceed to DETERMINATIONS. IF REMAINING INCOME IS:".
- f. The calculations for income remaining after allocations to any non-SSI-related children have been divided into three columns: the first for unearned income; the second for earned income; and the third for the totals from the two other columns to allow the worker to subtract the FBR from the total countable income.
- g. A note has been added to read, "Health insurance and court ordered support are taken from type of income (earned or unearned) paid from. If unable to determine, deduct from income type most beneficial to the child."
- h. In the Determinations box, two "remainder" lines have been added for ease of calculation.
- i. Also, in the Determinations box, a line has been added to subtract health insurance paid out of the child's unearned income (e.g., Medicare, Part B).

2. Spouse To Spouse

- a. The revision date has been changed to "5/93".
- b. The title of this side has been changed to, "Budget Worksheet - Medical Assistance - SSI-Related Budgeting and Monthly Deeming Worksheet (Spouse To Spouse)".
- c. Lines 1 and 3 have been revised to enter the non-SSI spouse's gross unearned and earned income. Lines 1(a) and (b) have been added, and 3(a) and (b) have been revised to allow court-ordered support to be deducted from the gross earned or unearned income of the non-SSI spouse. Previously designated 3(a) and (b) have been renumbered 3(c) and (d). Line 3(e) has been added.

- d. Line 2(b) has been revised to read, "If 1(b) is more than 2(a), enter remaining unearned income (1(b) minus 2(a))". Line 2(c) has been revised to read "If 1(b) is less than 2(a), enter remaining allocation (2(a) minus 1(b))". These revisions have been made for purposes of clarification.
 - e. Lines 5(a)(1-4) and 5(b)(1-13) have been numbered so that the lines could be more clearly identified.
 - f. Line 5(b)(1) has been revised to read, "Subtract balance of income disregard not offset by unearned income (if 5(a) is less than 20.00)". This change has been made for purposes of clarification.
 - g. Line 5(b)(7) has been revised to read, "Subtract 1/2 of remaining earned income".
 - h. Line (5)(b)(11) has been revised to reference line "(5)(a)(4)".
 - i. A note has been added similar to the one on the reverse side of the worksheet, as stated in 1.g. above.
3. The revised DSS-3457 will not automatically be sent to social services districts. Requests for forms should be submitted on the DSS-876: "Request for Forms and Publications" and sent to:

New York State Department of Social Services
Forms and Publications Section
40 North Pearl Street
Albany, NY 12243

Attachment II is the revised DSS-3457, which can be copied for district use until forms are ordered and received by the social services district.

E. MBL - Corrective Action

On June 7, 1993, social services districts were sent a report based on MBL data, of potentially affected cases. Undercare cases must be reviewed by the next client contact and appropriate action taken.

V. SYSTEMS IMPLICATIONS

Effective March 29, 1993, MBL generates the correct calculations for all SSI-related budgets with a Deem Code of 2 (Deem Parent to Child) and an effective from date of November 1, 1992 or greater. MBL Transmittal 93-1, issued March 15, 1993, describes the MBL changes.

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VI. EFFECTIVE DATE

This ADM is effective September 1, 1994, retroactive to November 1, 1992.

Sue Kelly
Deputy Commissioner
Division of Health & Long Term Care

ATTACHMENT I

For purposes of the example, we have used the Smith family which consists of a parent, one SSI-related child and one non-SSI-related child. Mrs. Smith's gross unearned income is \$400 a month, plus gross monthly earned income of \$305. A monthly health insurance premium of \$25 is deducted from earned income, since Mrs. Smith receives health insurance through her employer.