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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 92 LCM-104

Date: July 2, 1992

Division: Family & Children
Services

TO: Local District Commissioners

SUBJECT: Domestic Violence: Questions and Answers

ATTACHMENTS: Attachment A - Domestic Violence: Questions and Answers
(available on-line)
Attachment B - Sample Budget for purposes of calculating
client fees (not available on-line)

The purpose of this memorandum is to provide you with responses to the questions raised during statewide technical assistance sessions on residential and non-residential services for victims of domestic violence. As you are aware, Section 131-u of the Social Services Law requires social services districts to offer and provide necessary and available emergency shelter and services at a domestic violence residential program to victims of domestic violence who are eligible for public assistance. The 1991/92 Aid to Localities Budget, Chapter 53 of the Laws of 1991, included provisions which expanded social services districts' responsibility for offering and providing shelter and services to victims of domestic violence and reimbursing providers for such shelter and services. These provisions, which became effective January 1, 1992, were again included in the 1992/93 Aid To Localities Budget, Chapter 53 of the Laws of 1992.

Chapter 53 of the Laws of 1992 requires social services districts to offer and provide emergency shelter and services to victims of domestic violence who are ineligible for public assistance. In addition it requires social services districts to offer and provide necessary and available non-residential services to victims of domestic violence, whether eligible or ineligible for public assistance. Chapter 53 provides that 50 percent state reimbursement is available for: (1) residential services provided after January 1, 1992 for victims of domestic violence who are ineligible for public assistance; and (2) non-residential services provided for victims of domestic violence whether eligible or ineligible for public assistance.

Such state reimbursement will be provided only to the extent that a social services district has exhausted its Title XX allocation. Chapter 53 also requires the Department, rather than social services districts, to establish rates for residential programs for victims of domestic violence, subject to approval by the Division of Budget. These rates became effective January 1, 1992.

To assist with statewide implementation of the provisions related to residential and non-residential services for victims of domestic violence, the Department held regional technical assistance meetings during March and April for social services districts and domestic violence service providers. The purpose of these technical assistance sessions were to: (1) provide an overview of the rate methodology for the Domestic Violence State Aid Rates for licensed residential programs for victims of domestic violence; (2) provide an overview of reimbursement under public assistance programs and the 50/50 Title XX overclaim; and (3) discuss policy issues related to non-residential services for victims of domestic violence.

Attachment A is an overview of the questions raised during these technical assistance sessions and the Department's responses. The questions cover a broad range of topics relating to rates, reimbursement, income maintenance and program issues. Attachment B is a Sample Budget to illustrate how client fees are calculated when a victim has income. This information will also be distributed to domestic violence service providers.

The Department is in the process of developing an Administrative Directive which will address issues relating to residential services for victims of domestic violence. In the meantime, any questions concerning the 50/50 Title XX overclaim and policy issues should be directed to your Regional Office. Any questions on income maintenance matters should be directed to Maureen Standish at 1-800-342-3715, extension 3-6555. Any specific concerns related to rates should be directed to Santo Vivona at 1-800-342-3715, extension 6-3438. Fiscal concerns should be directed as follows: Upstate Districts: Roland Revie at 1-800-342-3715, extension 4-7549; or Metropolitan Area: Marvin Gold at (212) 804-1108 (OA User ID 0fm270).

Joseph Semidei
Deputy Commissioner
Division of Family and Children
Services

DOMESTIC VIOLENCE

QUESTIONS AND ANSWERS

RATE ISSUES

1. QUESTION: What is the effective date of the Domestic Violence State Aid Rates (DVSAR)?

ANSWER: All the State established per diem rates for domestic violence residential programs are effective as of January 1, 1992. Local districts must pay those promulgated rates for all eligible victims of domestic violence. This will require districts and programs to reconcile billings retroactive to that date.

2. QUESTION: Is the social services district always required to pay the full mandated rate?

ANSWER: The full mandated rate is always the basis for payment. The actual payment made by a social services district could be a lesser amount depending upon the amount of the fee the victim is required to pay.

3. Question: Will domestic violence residential programs operated directly by a social services district be subject to the rate methodology and the flat rate structure?

ANSWER: No. The Department's rate methodology only applies to residential programs that are not directly operated by a social services district.

4. QUESTION: Is the rate paid for each adult and child receiving emergency shelter, services and care at a domestic violence residential program or is it paid for each family unit served?

ANSWER: The DVSAR is established based upon individualized occupancy. There is no distinction made between adults and children in shelter. The same per diem is paid regardless of age of person in shelter. If a family based rate methodology had been selected, the rates would have been much higher. Such a methodology could not have reflected differences in family sizes.

5. QUESTION: If a district has a contract with a residential program which is currently in effect, should the program be reimbursed the contracted rate until the contract expires?

ANSWER: The promulgated DVSAR is the mandated rate and takes precedence over any lower contracted rate. The local district must pay the DVSAR established by the Department. If the contract is for a higher rate than the DVSAR and was in effect prior to January 1, 1992,, the department is allowing local districts to request permission to grandfather in higher residential per diem rates if they can provide justification for the higher rate.

6. QUESTION: What is the fiscal year of the rate forms?

ANSWER: The fiscal year for all programs located in New York City is July 1 to June 30. The fiscal year for programs located in the rest of the State is January 1 to December 31.

7. QUESTION: Can programs fund a capital reserve from a surplus?

ANSWER: Programs can fund a depreciation fund and use those monies to purchase capital goods or make capital improvements. In addition, programs may use private funds to establish a cash reserve fund. However, programs cannot move surplus government money into a capital reserve fund to keep in case of a future emergency. All surplus government funds will be recouped in future rate years.

8. QUESTION: When a residential program provides 3 meals per day, is the food per diem add-on mandated or is it a negotiated item? How will districts be notified that a program's rate has been amended to include the food add-on?

ANSWER: If a program has historically provided 3 meals per day, and that fact is verified by either the local district or the Department's regional office staff, a rate revision will be made. All rate revision letters will be sent directly to the agency providers with a copy to local districts. The letter may be used as a formal notice to inform all local districts and clients of the revised rate. Local districts who were not copied on the original rate letter can confirm all rate revisions through the Bureau of Resource Management.

9. QUESTION: How is it determined that a residential program has a surplus? What is the process for recouping a surplus?

ANSWER: The Department will compare the reported program expenditures and reported income from all government sources (both per diem and grants). Any surplus of government income over program expenditures is considered a program surplus. The program surplus divided by the higher of either the actual program utilization or the minimum program utilization allowed under

the rate methodology will be used to reduce the flat rate per diem for the affected domestic violence program. Because the fiscal reports on which these determinations are made must lag two years, any surpluses experienced in a given fiscal year will be used to discount the DVSAR two years later. If a program experiences a surplus it should identify the amount at the end of the year it occurs and earmark the surplus funds for future use when the rate is reduced to "retain" the surplus amount.

10. QUESTION: Will the Domestic Violence State Aid Rate for mixed population programs apply to any persons who receives shelter at the program regardless of whether the person is a victim of domestic violence?

ANSWER: The Domestic Violence State Aid Rate is intended to be the per diem rate necessary to meet compliance with Departmental regulations governing domestic violence residential programs. The non-domestic violence population of a mixed population program may require less services, and therefore, be charged a lower rate based upon this Department's promulgated administrative and maintenance costs. However, programs must notify this Department (through the fiscal reports) if they are charging a reduced rate and document the difference in cost for non-domestic violence residents.

11. QUESTION: How does the rate address an unforeseen catastrophic situation?

ANSWER: The per diem rate is intended to fund normal operational expenditures. It is not intended to accommodate catastrophic situations. However, interest expense on bank loans and use charges to fund a depreciation fund are reimburseable. Depreciation funds may be used to make needed emergency expenditures.

12. QUESTION: Can the local district require a provider to pay the local match of the per diem rate?

ANSWER: No. The per diem bills must include the local district portion. Providers are not expected to provide private funds to supplement a reduced per diem rate.

13. QUESTION: Will programs be allowed to use their rate income for cash reserves, and if so, how will the allowable amount be determined?

ANSWER: Programs will be allowed to use their rate income only for allowable cost accounts included in Part 408. Cash reserves is not an allowable program cost. A program may want to use private funds to develop an endowment or cash reserve fund. Government income is provided solely to fund allowable operational program expenditures.

14. QUESTION: Will there be cost of living adjustments?

ANSWER: There will be no cost of living adjustments through calendar year 1993. Any future cost of living adjustments will be determined by State budget appropriations by the legislature.

15. QUESTION: Will local districts be required to pay for licensed beds vs. contracted beds?

ANSWER: Local districts are required to pay for all eligible victims of domestic violence. Funding for these payments will be either through a public assistance program, or Title XX, or through the 50/50 Title XX overclaim. Local districts cannot restrict payments based upon a cap of any sort if the victim is eligible for government support.

16. QUESTION: Do programs need local district approval for program expansion?

ANSWER: Program expansion will be based upon a combination of factors such as: historic program utilization; local district support and need; and licensing factors.

17. QUESTION: My program is much different than the domestic violence model the Department used to develop the flat rate. Will a program be considered to be out of compliance if it does not match the rate model?

ANSWER: No. Program compliance with SDSS regulations can be achieved in a variety of different ways. The need to create a basis for rate setting resulted in the Department defining certain specific staffing/spending patterns as meeting SDSS regulations. The staffing, salary and other costs in the flat rate models were developed solely to determine a reasonable level of revenue to allow domestic violence residential programs to be in compliance with departmental regulations at reasonable program utilizations. In practice, the rate models are intended to be flexible so as to allow for the combination of unique patterns of operation consistent with Department regulations and discretion on the part of program directors. For example, programs may decide to have less staff than the model allows and pay them higher salaries. Program directors may be expected to conduct counseling sessions and be paid more. Programs may use volunteers to do advocacy work, transportation, or counseling and pay increased compensation to paid staff or higher rent.

18. QUESTION: My program's salaries and fringe benefits are different from the rate model. Will this be a problem for my program?

ANSWER: The rate methodology does not control your spending through a line-item budget. You are allowed to fully interchange your budget lines for allowable program expenditures, based on the revenue you receive from

the per diem rate. This approach permits you to make agency-specific budgeting choices not only within personnel lines, but also between personnel and non-personnel lines as appropriate. Your agency-specific salaries and fringes may result in compensation figures which are sometimes higher or lower than the figures we used in the rate models, which is fine. The historical spending by domestic violence agencies reflects a wide middle range of compensation amounts for salaries and fringe benefits applied to various titles. Thus, the compensation standards we published with the rate models should be viewed only as guidelines or middle range figures.

19. QUESTION: Will the standards used as the basis for the domestic violence state aid rates remain constant or will there be regular changes in the standards?

ANSWER: In future years, subject to the sufficiency of funds, the standards will be revised by cost of living adjustments (COLA's). In addition, the Department will continue to analyze the fiscal reports to review the appropriateness of the various standards based upon more current and more accurate information.

20. QUESTION: How does my program access the start-up funds to begin a new program or expand my existing program?

ANSWER: The Department does not have available funds to pay for start-up costs up front. However, the Department will develop a supplemental start-up rate add-on to pay back the approved start-up budget over a five year period. The program needs to obtain programmatic approval from both the local district and the regional office prior to submission of the start-up budget to the Bureau of Resource Management. The program will need to raise the upfront money by fund raising, obtaining non-government grants, borrowing, or through negotiation with local districts. However, the approved budgeted expenses will be paid back in five years through a special start-up rate add-on.

REIMBURSEMENT ISSUES

21. QUESTION: What procedures must be followed for a residential program to receive reimbursement for victims who are ineligible for public assistance?

ANSWER: To receive reimbursement for persons eligible or ineligible for public assistance (i.e. either through a public assistance program or the 50/50 Title XX overclaim), a residential program must ensure that at the time of admission the victim fills out a common application form (DSS-2921). The application must indicate the person's birthdate and if the person has income/resources, and it must be signed by the client. The public assistance application should be forwarded, as soon as possible, to the social services district the victim was residing in at the time of the

domestic violence incident. The social services district must then determine whether or not the person is eligible for public assistance. Provided these procedures are followed, when a person is determined ineligible for public assistance, the person's shelter stay would be eligible for reimbursement under Title XX or the 50/50 Title XX overclaim. NOTE: To the extent the person remains in the shelter, the person must comply with the face to face interview and any other public assistance requirements.

22. QUESTION: Will reimbursement under the 50/50 Title XX overclaim be retroactive to January 1, 1992? If yes, what procedures must be followed for a program to receive retroactive payments for persons ineligible for Public assistance?

ANSWER: A residential program will be eligible for retroactive reimbursement to January 1, 1992 under the 50/50 Title XX overclaim provided the victim completed and signed the common application form (DSS-2921). The residential program should immediately forward the application form to the social services district the victim was residing in at the time of the domestic violence incident.

23. QUESTION: How is funding under the 50/50 Title overclaim authorized on the WMS services system?

23. ANSWER: Open a WMS services case in the usual manner. Service type 23G is to be authorized for residential and non-residential domestic violence services in both the DIR and POS fields, regardless of the eligibility category. Since this service is no longer an optional one, the use of the suffix G bypasses the Title XX service type/eligibility category edits with no matrix change required. It is not necessary to open a non-residential services case on WMS. Refer to 92 LCM-6 for the procedures for claiming expenditures for non-residential services.

For those districts with a local BICS file, the Domestic Violence service providers should be added to the vendor file before attempting to make any payments.

24. QUESTION: Will a residential program receive reimbursement for a client who refuses to fill out a public assistance application?

ANSWER: No. When a victim refuses to fill out a public assistance application, the social services district will not be financially responsible for the cost of emergency shelter, services and care at a residential program for victims of domestic violence.

25. QUESTION: If a person refuses to cooperate with public assistance requirements while in the shelter (e.g. cooperate with child support), and is therefore deemed ineligible for public assistance, will that person then be eligible for reimbursement under the 50/50 Title XX overclaim?

ANSWER: No. To receive reimbursement, the residential program must ensure that to the extent a person remains in the shelter, the person complies with the face-to-face interview, and any other public assistance requirements pursuant to Department regulations.

26. QUESTION: Will a residential program be reimbursed when persons are in the shelter program for only a short period of time (e.g. over a weekend), and therefore, are not in shelter long enough to have a face to face interview as required for public assistance?

ANSWER: Yes. The intent of the 50/50 Title XX overclaim is to cover persons who are in a domestic violence residential program for only a short period time and leave the program before having a face to face interview. Therefore, a social services district will be responsible for the cost of emergency shelter, services and care provided to a victim who leaves the residential program prior to having a face to face interview provided the victim completed and signed the common application form (DSS-2921).

27. QUESTION: Is the residential program or social services district responsible for collecting client fees?

ANSWER: Residential programs are responsible for collecting client fees.

28. QUESTION: Is a foreign student who is here on a student visa eligible for reimbursement under the 50/50 Title XX overclaim? (Such students are ineligible for public assistance)

ANSWER: A foreign student who is here legally on a student visa would be eligible for reimbursement under the 50/50 Title XX overclaim, provided the student completed the common application form (DSS-2921).

29. QUESTION: What recourse does a social services district have if it discovers that an overpayment was made to a residential program because the victim provided fraudulent information on their common application form?

ANSWER: When a social services district has reason to believe that a person has provided fraudulent information, the district must comply with the requirements applicable to fraud cases pursuant to Section 145 of the Social Services Law and 18 NYCRR Part 348. However, a social services district will not be able to recoup such overpayment from the residential program.

INCOME MAINTENANCE ISSUES

30. QUESTION: If a client receives food stamps during their shelter stay, will that have an impact on the food per diem add-on?

ANSWER: No. A victim in a residential program for victims of domestic is eligible to receive food stamps, regardless of whether there is a food add-on or not. However, the amount of the food stamps may be affected by the food add-on. The food stamps are to be used as the victim determines. The victim should not be required to turn them over to a residential program.

31. QUESTION: If a program's negotiated rate was lower than the rate set by the Department, what procedures should the program follow to receive retroactive payments for public assistance eligible victims who were sheltered after January 1, 1992?

ANSWER: The program should submit an adjusted bill to the social services district for persons they were fiscally responsible for during the retroactive period. Since any income a victim may have had during the retroactive period was already budgeted against the victim's PA needs, the additional retroactive amount increases the standard of need and thus the PA deficit retroactively. The retroactive amount should be paid by the social services district as an underpayment adjustment to a case.

32. QUESTION: When a person has income how is their fee calculated?

ANSWER: To receive reimbursement, either through a public assistance program or the 50/50 Title XX overclaim, a victim must complete, sign and submit a common application form (DSS-2921). The social services district must then determine whether the person is eligible for some form of public assistance (PA).

In determining eligibility for PA, any available unearned income, such as SSI or Social Security benefits, must be budgeted against the person's cost of care in the residential program, provided such income is considered available to the victim (refer to question #38). If the person is income eligible for PA, the social services district will make a partial payment toward the per diem. The remainder of the per diem, not paid by the district is the victim's fee.

Available earned income (wages) also must be budgeted against the person's cost of care in the program. With earned income, some of the income is not counted in the PA budgeting process. Again, any amount of the per diem not paid by the social services district is the victim's fee. It should be noted that if the wages are small, the district may be able to pay the entire per diem under public assistance, because of the disregarded income.

The budgeting is done on a monthly basis, using the person's monthly income and the program's actual monthly cost, even if the person is in the program less than a month. When the person is in the program less than a month, the daily PA deficit is computed by dividing the monthly deficit by the actual number of days in the month. This amount is then

multiplied by the actual number of days the person was in the shelter to determine the social services district's payment. Attachment B is a sample budget using a residential program that provides less than three meals a day and an eleven day stay. If three meals were provided, the personal needs allowance would be used rather than the basic and two energy allowances.

For public assistance purposes, any resources, such as a bank account, certificates of deposit, etc. that a person actually has access to, must be used to pay toward the cost of care in a domestic violence residential program. If the resources do not cover the full cost of care, the social services district will make a partial payment to cover the difference if the person is PA eligible. For example, the cost of care in

the program is \$1,200 and the person has no income but does have access to \$900 in the bank. The social services district would pay \$300 toward the cost of care and the victim's fee would be \$900 under PA.

If the person is determined ineligible for public assistance (e.g., the person has left the program after a short stay and did not go to the face-to-face interview; sanctioned for employment reasons), the social services district must evaluate, using the information on the person's DSS-2921, eligibility for reimbursement under the 50/50 Title XX overclaim. For this funding source, resources are not counted in determining eligibility, but income is. When income is present, the same budgeting methodology is used to determine the district's payment under the Title XX overclaim as is used to determine that payment under PA. The amount not paid by the social services district toward the per diem is the victim's fee under the 50/50 Title XX overclaim also. However, if there is no income but there are resources, the entire per diem will be paid under the 50/50 Title XX overclaim.

The fees related to Title XX cannot be used to offset the local share. State reimbursement will be calculated on costs net of any fees collected.

33. QUESTION: When is a person's income or resources considered available?

ANSWER: When the person has access to the income. For example, the person is receiving paychecks, has a bank account which can be accessed, or CD's which can be accessed (regardless of penalty). The income or resources of a victim's spouse is not considered accessible.

34. QUESTION: If a person does not pay their fee will this affect their eligibility for public assistance?

ANSWER: No. Payment of the fee is not a condition of eligibility for public assistance.

35. QUESTION: If a residential program holds a bed for a resident who requires hospitalization, will the program be reimbursed for those days the victim is in the hospital?

ANSWER: No. Public assistance programs will only pay for the days the victim is actually in the residential program.

36. QUESTION: Will a residential program be reimbursed for the provision of emergency shelter, services and care to illegal aliens/ undocumented victims?

ANSWER: Undocumented or illegal aliens are ineligible for ADC and Home Relief. Clarification is forthcoming addressing the provision of EAF for illegal or undocumented aliens. They are ineligible for reimbursement under the 50/50 Title XX overclaim, pursuant to Department's regulations 18 NYCRR Section 403.7.

37. QUESTION: When a victim was residing in another state at the time of the domestic violence incident, who is financially responsible for reimbursing the residential program?

ANSWER: For public assistance purposes, the district where the victim is found is financially responsible, if the victim is otherwise eligible for public assistance. Since there is no residency requirement for domestic violence residential services, this district also would be responsible for payment under the 50/50 Title XX overclaim for those persons who were not eligible for public assistance.

38. QUESTION: Does a residential program have authority to give a person a public assistance application, or is this solely a local district function?

ANSWER: A person has the right to submit a completed and signed application to a local social services district at any time. Where the application is obtained from does not matter. However it is strongly recommended that each program and social services district work out procedures for obtaining/submitting applications for victims of domestic violence.

39. QUESTION: When the representative payee of an SSI recipient/victim is the batterer, should SSI income automatically be considered available when in fact the SSI recipient/victim does not have access to this income?

ANSWER: No. If the representative payee is the batterer and retains control of the money, the SSI recipient does not have access to the income and it should not be counted as available income to meet the cost of the residential program. However, either residential program staff or the social services district should assist the victim in pursuing a change in representative payee. However, until the person actually has access to the SSI check, it is not considered available.

40. QUESTION: Under what circumstances can a residential program become the designated representative for a resident of the program?

ANSWER: The residential program could become a designated representative, for PA purposes, of a resident only if the person was physically or mentally unable to make application herself or come to the face-to-face interview. If there are safety concerns about the person coming into the social services agency, the social services agency should make arrangements for an interview at an alternative site. To become a designated representative the resident would have to designate a shelter staff member as an authorized representative in writing. However, this should be a rare occurrence and should only be used in extreme circumstances, since the victim is the primary source of the information/documentation necessary to determine eligibility.

41. QUESTION: Is a victim of domestic violence who is eligible for public assistance entitled to a Personal Needs Allowance (PNA) when they enter a residential program? Is a local district required to issue Personal Needs Allowances within a certain time frame?

ANSWER: If three meals a day are provided in the residential program, the personal needs allowance (PNA) must be included in the standard of need in addition to the per diem rate, pursuant to Department Regulations 18 NYCRR Section 352.8(c). The personal needs allowance should be paid as soon as possible. It should be noted, however, that a woman with income may not actually be provided with a PNA in cash. The PNA is taken into account in the budgeting process and may come out of person's income. If less than three meals a day are provided, the basic allowance, home energy allowance and supplemental home energy allowance must be included in the standard of need rather than a PNA.

42. QUESTION: Under the public assistance program, does a district have discretion whether or not to place a lien against a victim's home?

ANSWER: A social services district may establish local policies to take a lien against real property as a condition of eligibility for public assistance, both recurring and emergency.

43. QUESTION: Are student loans, scholarships and grants exempt income for public assistance purposes?

ANSWER: UNDERGRADUATE STUDENTS: Effective from August 1, 1980 all educational grants, loans and scholarships to undergraduate students, regardless of their source, are exempt from consideration in determining eligibility (including the gross income test) and degree of need for PA or MA. Educational grants, loans, scholarships and other income that are totally exempt include, but are not limited to:

1. Pell Grants
2. National Direct Student Loans
3. Supplemental Educational Opportunity Grants
4. College Work-Study Programs
5. Tuition Assistance program Awards (TAP)
6. Educational Opportunity Program (EOP)
7. SEEK
8. College Discovery Program
9. Higher Educational Opportunity Program (HEOP)
10. Regents College Scholarships
11. New York State Higher Educational Services Corporation Loans (HESC)

NOTE: The total exemption of educational grants and loans in determining need and amount of assistance does not apply to V.A. Educational Grants which are part of the G.I. Bill and

provide a monthly allowance for support while veterans are enrolled in school. Only specific education related expenses such as tuition, books, school fees, transportation, etc. are exempt, and the remainder is to be considered available income.

GRADUATE STUDENTS: EDUCATIONAL GRANTS, LOANS AND SCHOLARSHIPS
As a result of the Pasternak v. Blum court decision, a special exemption of educational grants, loans, scholarships in determining eligibility or degree of need has been provided to graduate students.

NOTE: This exemption applies only if the graduate student's grant, loan or scholarship is obtained and used under conditions which preclude its use for meeting current living expenses. Consequently, any monies received by a graduate student through an educational grant, loan or scholarship which are not used for education or for education related expenses are considered income.

Whenever an applicant or recipient of ADC, HR, or MA alleges that he has received a loan or grant, such as a graduate school loan, grant or scholarship, and that he obtained and will use such grant or loan under conditions that preclude its use for meeting current living expenses, the local district must give such applicant or recipient the opportunity to attest in writing to such facts.

Upon receipt of such attestation the local district must not consider the relevant amounts as either income or a resource for purposes of determining eligibility (including the gross income test) or degree of need for PA or MA unless there exists reasonable grounds that the applicant/recipient has willfully attested to false information.

A copy of the signed attestation must be given to the applicant/recipient, and a second copy must be retained in the case records.

If the school which grants the assistantship to the graduate student designates the assistantship as an educational grant the monies are treated in accordance with the rules of educational grants.

If the school which grants the assistantship to the graduate student designates it as bona fide employment the monies received are to be considered employment income (after application of appropriate earned income disregards) against the graduate student's need for PA.

NOTE: The school which issues the assistantship should be contacted to determine the designation.

44. QUESTION: What are the time frames required for a program to bring a client into the social services agency to apply for public assistance.

ANSWER: To ensure reimbursement, a program should make sure that the client applies for public assistance as soon as possible after the person enters the residential program.

45. QUESTION: If a person enters a residential program from another state and that other state has sanctioned the person from public assistance, does the New York State district which is fiscally responsible automatically treat the person as being under a sanction in New York State?

ANSWER: The criteria used to sanction a person in another state is not necessarily the same as that used in New York State. Therefore, the social services district would have to determine whether the victim met the criteria for being sanctioned in New York State.

PROGRAM ISSUES

46. QUESTION: If a local district wants the ability to fiscally audit a residential program does the district need to have a contract with the residential program?

ANSWER: Without a contract, a social services district has no have authority to fiscally audit a residential program. Otherwise a local district may have access only to that information set forth in Department regulations, 18 NYCRR 452.10 (a) (4).

47. QUESTION: If a local district directly operates a domestic violence residential program, is the district also required to have a contract with another domestic violence residential program?

ANSWER: Social services district are required to have a contract with a residential program for victims of domestic violence for purposes of referring victims who come directly to the social services district seeking

emergency shelter and services. Therefore, a social services district which operates its own domestic violence residential program will not be required to contract with another such residential program, provided the district's program has a length of stay policy of 30 days or more. Department regulations, 18 NYCRR 408.8 (a) requires that a district have a contract with a domestic violence residential program with a length of stay of 30 days or more, to the extent there is such a residential program located within the district or within a contiguous district.

48. QUESTION: Is the local district responsible for determining that a person is programmatically eligible for admission to a residential program?

ANSWER: 18 NYCRR Section 408.4 provides that when a person goes directly to a residential program, the residential program will be responsible for determining the person's initial eligibility. When a person goes directly to a social services district, the district will be responsible for determining a person's initial eligibility or for referring the person to a residential program for an eligibility determination.

49. QUESTION: Can a social services district, through a contract, limit the length of stay policy of a residential program for victims of domestic violence?

ANSWER: Pursuant to Department regulations 18 NYCRR Section 408.6, the maximum length of stay of a resident in a residential program may not exceed 90 consecutive days in one or more domestic violence residential programs. The regulations permit that a resident's length of stay may be extended for up to 45 days beyond the maximum 90 day period if neither the resident, the social services district nor the residential program is able to secure alternative housing for the resident. Based on these standards, the length of stay at a residential program is determined by specific individual circumstances as well as the residential program's length of stay policy. The local district cannot restrict length of stay through contract language. Each individual victim's length of stay must be based on the specific safety and service needs of the victim.

If the district has a contract with the residential program, the contract can: (1) automatically authorize a length of stay of up to 90 days depending upon the length of stay policy of the program. Subsequently, the residential program will be responsible for assessing the victim's continuing eligibility; or (2) authorize a length of stay for a predetermined period of time which is redetermined at regular intervals. The social services district, in consultation with the program, will then be responsible for determining the victim's continuing eligibility.

Social services districts and residential programs must assess a victim's continuing eligibility based upon the following criteria, pursuant to Department regulations 18 NYCRR Section 408.6 (b) (2):

(1) The victim continues to be in need of a residential program because alternative housing (i.e a domestic violence transitional services program or permanent housing that reasonably assures the victim's safety) is not available. When a victim lacks alternative housing, it is assumed that the victim is also in need of emergency service.

(2) The victim continues to meet any additional admission criteria established by the residential program; and

(3) The victim continues to abide by the residential program rules.

50. QUESTION: If a district does not have a contract with a residential program , is the district required to reimburse the residential program?

ANSWER: The social services district in which a victim of domestic violence was residing at the time of the domestic violence incident must reimburse the residential program the Domestic Violence State Aid Rate established by the Department and approved by the Division of Budget, regardless of whether the social services district has a contract with the residential program.

Additionally, if a district does not have a contract with a residential program, at the time of admission, a person will be authorized to remain in the residential program for up to 90 days depending upon the length of stay policy of the residential program. The residential program rather than the social services district will be responsible for determining the victim's continuing eligibility.

51. QUESTION: Is a social services district required to contract for non-residential services for victims of domestic violence?

ANSWER: The 1991/92 State Aid To Localities Budget, Chapter 53 of the Laws of 1991, requires social services districts to provide non-residential services for victims of domestic violence. Districts may directly provide non-residential domestic violence services or they may choose to purchase such non-residential services.

52. QUESTION: What are the time frames for programs/clients to notify the social services district of an admission?

ANSWER: 18 NYCRR 408.4 (c) requires that when a residential program admits a person into the program, it must provide notice by telephone to the district where the person resided at the time of the domestic violence incident if the person is in receipt of public assistance or is planning to apply for public assistance. Telephone notice must be given on or before the first working day following the admission. Additionally, if the person is from another county and plans to apply for public assistance in

the district where the residential program is located, such notice must also be given to the district where the program is located.

53. QUESTION: What are the requirements for a non-residential services program?

ANSWER: Non-residential services for victims of domestic violence must be provided by a not-for-profit organization and victims of domestic violence must constitute at least seventy percent of the clientele of such

programs. (Social services districts meet the definition of a not-for-profit organization, pursuant to 459-a of the Social Services Law.)

Each non-residential services program must provide all of the following core services: information and referral; advocacy; counselling; and community education/outreach. In addition, non-residential programs must provide or arrange for hotline services.

The Department is in the process of preparing for public comment regulations for non-residential services for victims of domestic violence.