

I. PURPOSE

The purpose of this Administrative Directive (ADM) is to advise social services districts of the requirements for authorizing, reporting and claiming foster care cases under the Temporary Assistance to Needy Families (TANF) Program. The federal Administration for Children and Families (ACF) issued final rules requiring extensive data reporting on cases in receipt of TANF funded assistance. The rules were effective October 1, 1999.

The instructions in this ADM apply to all foster care cases for which room and board, clothing and other forms of assistance are funded through TANF. New York State has elected to use a sample-based data reporting process to meet the federal requirements. The reporting requirements do not apply to foster care-related services funded under TANF. For purposes of this ADM, the program combining TANF and EAF requirements is referred to as TANF-EAF.

II. BACKGROUND

ACF has advised New York State that foster care can not be funded by TANF, except in limited and specific situations, because foster care does not meet one of the basic principles of the TANF program. One exception where foster care meets the basic principles of TANF is relative (kinship) placements.

However, TANF funding is available to pay foster care costs including room, board and related costs under a separate TANF provision. Under this provision, known as "prior law", foster care may be funded under TANF to the same extent as New York State was authorized to fund foster care under the Title IV-A Emergency Assistance to Families (EAF) program. The eligibility and coverage standards of the EAF program in effect in a state on September 30, 1995 must be followed. While the prior law provisions allow for the use of TANF to fund foster care, it does not provide for the use of foster care payments to meet the federal TANF Maintenance of Effort (MOE) obligations.

In New York State, this means that foster care cases that would have been reimbursed under the prior Title IV-A EAF program can be funded as TANF assistance, and are thus subject to TANF data reporting. The Office of Temporary and Disability Assistance (OTDA), in 00 ADM-1, has advised social services districts of this and of the federal prohibition against using foster care assistance costs towards the TANF MOE obligation. That ADM discusses the State Fiscal Year 1999-2000 Budget provision for the revenue transfer, or "swap", of public assistance expenditures eligible for TANF reimbursement to social services districts to fund foster care assistance expenditures that are TANF eligible. This allows for State and local public assistance costs to be used towards TANF MOE. This provision is effective for assistance provided on or after October 1, 1999. Juvenile justice cases, which are provided TANF funding in a separate allocation, are not included in the State's TANF "swap" provisions, but the room and board and other assistance costs for these cases are subject to TANF data reporting.

Payments for tuition and other social services costs, such as counseling and therapy, provided to avoid or reduce the need for foster care, are not considered as forms of assistance. These services are, however, eligible for funding under TANF-EAF as they meet one of the four purposes of the program: they are provided primarily to allow children to remain in their own homes or to facilitate the return of children to their own homes. Payments made on behalf of TANF-EAF eligible individuals for such services can be funded under TANF and the State and local share of the costs can be applied to meet the TANF MOE requirements. Cases receiving only TANF-reimbursed services are not subject to TANF case specific data reporting requirements. Such cases and payments are included in other federally mandated TANF financial reporting. OTDA has issued releases on the TANF-related financial reporting requirements. It is the case-specific reports for foster care assistance that are of primary concern in this ADM.

Previous releases issued by the former Department of Social Services addressed the use of Title IV-A EAF for foster care placements specifically, 93 ADM-34, 93 ADM-39, and 94 LCM-52. These releases remain in effect and correspond to certain instructions of this ADM. In addition, the provisions of 99 OCFS LCM-9 addressing "Emergency Assistance to Needy Families (EAF) for Article 3 (Juvenile Delinquent) and Article 7 (Persons In Need of Supervision) Foster Care Placements", also remain in effect.

III. POLICY IMPLICATIONS

In order to claim TANF-EAF funding for foster care cases, the requirements for eligibility, claiming and reporting requirements discussed in this ADM must be met. Included are the prior law eligibility and claiming standards and additional requirements and clarifications necessary to meet TANF rules and/or data reporting requirements.

Eligibility Criteria

A. Prior Law Criteria

TANF-EAF eligibility is based primarily on the standards for the Title IV-A EAF Program of Title 18 NYCRR Part 372 that were in effect on September 30, 1995. The EAF authorization document (attachment 1) is the OCFS 638-QA as modified to meet additional TANF requirements discussed below. The RES-1 is the appropriate authorization document for New York City's Administration for Children Services (ACS). The applicable EAF eligibility criteria which are part of the TANF-EAF standard are as follows.

1. Previous TANF-EAF Funding

A case can only be authorized to receive TANF-EAF funding during one consecutive 30-day period in a given 12-month period. Once completed, the authorization supports TANF-EAF funding for as long as the needs arising from the emergency continue.

A review of WMS inquiry screens to determine if there are existing or prior EAF authorizations must be completed. This may include the Services Benefits Issuance Control System (BICS) EAF history or the individual's case involvement screen. For cases already authorized and/or active as EAF,

staff must determine if the child's needs (e.g. foster care) arise from the same emergency. If yes, there is no need to complete a new authorization for TANF-EAF. If there is no prior authorization of EAF within the past 12 months, the answer is "NO" and the eligibility process may continue.

Under New York's "prior law" policy, as detailed in 93 ADM-39, EAF could be authorized for as long as the needs arising from the emergency lasted. The ADM defines the emergency to end when the child is:

- finally discharged from foster care, or
- placed in a pre-adoptive home and the child was freed for adoption, or
- placed in adult residential care, or
- on trial discharge with a goal of Independent Living.

Social services districts are reminded that ACF maintains that an EAF payment authorization can provide benefits for no more than one year. Pursuant to 94-LCM-52, the emergency must be assessed continuously and districts must authorize payments at least every twelve months to comply with the Welfare Management System (WMS) protocols for maintaining purchase of service (POS) lines. Therefore, districts must review the case every twelve months, at a minimum, and otherwise as necessary, for any change of circumstances that would end the need for services that arose from the emergency and, thereby, end TANF-EAF eligibility.

2. Living With a Specified Relative

The child must have been living with any of the relatives specified in 18 NYCRR 369.1(b) within the six months prior to submitting an application for foster care placement under Article 3, 7 or 10 of the Family Court Act (FCA) or a voluntary placement agreement. Please note that the six-month time-frame is pursuant to the prior law standards. The 12-month standard for living with a specified relative that currently exists for EAF under Title 18 NYCRR Part 372 does not apply to cases authorized as TANF-EAF under "prior law" provisions. Case record documentation, e.g., WMS printouts, Uniform Case Record (UCR) documents or birth certificates, noting the relationship of the child to the caretaker, are acceptable. The type of documentation used in the determination should be noted on the authorization form (OCFS 638 QA). For cases meeting this criteria, the answer to Q 2 on the form is "YES".

3. Insufficient Income and Resources

Financial eligibility for TANF-EAF is presumed to exist for all foster care cases unless the child is in receipt of sufficient income or resources to meet all costs of care, i.e. room and board, clothing, social services, tuition and administrative expenses. Only that income immediately available to the child to meet the costs should be considered in the eligibility determination review. Unless there are sufficient income and resources readily available to the child to offset all costs of care, the TANF-EAF criteria has been met and Q. 3 should be checked "YES".

4. Destitution Not Due to Refusal of Employment/Training

If the emergency (i.e. the need for foster care) was solely caused by the caretaker relative's (that is, the relative with whom the child lived with prior to placement into foster care) refusal to accept employment or training for employment, the case is not TANF-EAF eligible. For voluntary and Article 10 Family Court Act placements, good practice would result in alternatives to placement and the answer to Q 4 should be "NO". For placements arising from Article 3 or 7 Family Court Act adjudications, the answer is always "NO" and should be so indicated on the authorization form.

5. Destitution Not Due to Mismanagement of Public Assistance (PA) Grant

The district must determine for each TANF-EAF applicant that such destitution did not arise from the mismanagement of a public assistance grant. If the case record does not document that the parents' or caretaker's mismanagement of PA funds gave rise to the emergency, the answer is "NO".

B. Additional TANF Eligibility Requirements and Issues

1. TANF-EAF Can Not Supplant Title IV-E Funding

ACF has required that TANF-EAF funding not supplant Title IV-E funding for Title IV-E eligible foster care cases and services. It is the Office of Children and Family Services' (OCFS) policy that Title IV-E is the program of choice for foster care funding. The Office has amended the OCFS 638-QA authorization document to include a question regarding Title IV-E eligibility. The OCFS 638-QA requires at least one reason for Title IV-E ineligibility to be identified on the form or that the case is to be authorized as both Title IV-E (for assistance-related payments) and, if eligible, for TANF-EAF (for payments for tuition and services not eligible for Title IV-E reimbursement).

2. TANF Work Rule Requirements and Lifetime Limit

Under the Personal Responsibility and Opportunity Welfare Reform Act (PROWRA), a child is considered to become an adult when he or she turns 18 or 19 if he or she is in a secondary, or an equivalent level of, education program. Adult recipients of TANF are subject to the five-year lifetime limit on receipt of benefits. Further, TANF recipients over the age of 16 who are not in a secondary school or equivalent educational program, are subject to work rules and determinations of exemption status.

As a matter of policy, all foster care children are considered to be in a secondary school program or equivalent vocational training program (e.g. studies provided under the Independent Living program) unless the child has graduated high school and attends college. This latter group of children would be subject to work rules that include, among other requirements, employability evaluations by Income Maintenance staff using Department of Labor criteria for assessing employability.

Because of the concerns raised by these requirements, social services districts are not to use TANF funds to pay for foster care assistance for:

- a. any foster child over the age of 19, or
- b. any foster child over the age of 16 who has graduated high school and is attending college.

3. Social Security Enumeration

Social Security enumeration is a condition for TANF eligibility and funding, and a required data element for federal reporting. Social services staff must record each foster care child's SSN on WMS to claim TANF-EAF reimbursement for that case. The Title XIX Medicaid program already requires the entry of the SSN as a condition of eligibility and this requirement should not prove burdensome to district staff. However, there may be instances in which a newly placed foster care child does not have an SSN or the caretaker relative refuses to provide it. In such cases, districts must make immediate inquiry to the Social Security Administration to establish or verify the number. Failure to have available a TANF recipient's SSN in a case selected for data collection can result in substantial fiscal penalties against the State and social services districts.

4. Minor Parent/Infant Foster Care

As with the Title IV-E program, cases involving minor parent/infant care (i.e. the foster child lives with her infant who is not in foster care), the needs of the infant are provided as a supplement to the minor parent foster child's room and board payments. Payments made to cover the infant's needs are encoded on WMS as payment type "8D" as part of the foster child's (minor-parent) case. For TANF data reporting purposes, the infant is not considered a recipient of TANF assistance. The case is thus considered as a "child only case" and, when claimed under TANF, is not subject to the five-year lifetime limit on assistance or the work requirements as long as the minor-parent is not considered an adult as defined in section B 2 of this ADM.

C. TANF-EAF Data Reporting

Federal TANF data reporting standards require that expenditures be identified on WMS on a contemporaneous basis. In addition, ACF mandates that TANF-EAF authorizations be completed prior to issuing any payments for assistance or services that are to be claimed through TANF. The federal Adoption and Foster Care Reporting System (AFCARS) standard for foster care data collection requires that 90% of all new placements be fully registered on the system within 60 days of placement. Title 18 NYCRR Part 351 requires an eligibility decision within 30 days of an application. Therefore, foster care placements and related TANF eligibility, payment and claiming information must be entered onto WMS in a timely manner.

In order to meet the federal TANF data reporting requirements, social services districts must enter data for each case on to WMS and the Child Care Review Service (CCRS) including dates, the facility's identification and other required elements for the following events or determinations:

- initial placement,
- placement transfer,
- discharge,
- eligibility determination, and
- purchase of service payment lines that reflect the above movement and eligibility information.

Districts must take all necessary steps to enter these data elements within 60 days of the event. For service periods on or after October 1, 2000, districts are not to claim TANF-EAF for foster care assistance for periods of service for which the data has not been entered on WMS and/or CCRS within 90 days of the event.

TANF data reporting also requires appropriate coding of citizenship status of the foster care child. Citizenship/alien status is not considered in determining the need for foster care but is a factor of eligibility for TANF-EAF (and Title IV-E) funding. Attachment 2 indicates the various citizenship and alien status codes and the impact on TANF-EAF eligibility. As a condition of TANF-EAF funding, districts must data enter on WMS the appropriate code to indicate if the child meets the citizenship/alien status requirement. Cases not meeting this standard can not be claimed as TANF-EAF for any foster care assistance or service.

For TANF cases sampled for data collection, districts must, among other items, record data on the racial/ethnic affiliation of recipients. In 00 INF-7, OTDA has advised social services districts of the revised "Certification Recertification Application" that provides for appropriate recording of racial/ethnic affiliation as required under the TANF program. District staff must use the new "Certification Recertification Application" for all new foster care cases and those undergoing recertification in order to comply with TANF rules. The OTDA INF provides instructions for coding and advises of the WMS migration that will support data entry of this data planned for July 24, 2000.

IV. PROCEDURES

District staff must evaluate each new foster care case to determine TANF-EAF eligibility by using the standards of 18 NYCRR Part 372 in effect on September 30, 1995 and the additional TANF eligibility requirements discussed above and documented in the foster care case record. All requirements must be met including the issues raised in this ADM in order to claim TANF-EAF for foster care assistance costs.

Staff must complete each section of the authorization document, including:

- entering case and child identification, including the child's SSN, on the top of the form;
- indicating at least one reason for Title IV-E ineligibility unless the case has been determined Title IV-E eligible and the case is to be authorized as dually eligible for Title IV-E and TANF-EAF. Such cases must be authorized as dually eligible (i.e. eligible as Title IV-E for assistance related payments and TANF-EAF for services not reimbursable under Title IV-E);

- answering the remaining questions pursuant to the standards for TANF-EAF as discussed in section III A of this ADM;
- indicating the TANF-EAF determination of eligibility; and
- signing and dating the authorization for TANF-EAF by the eligibility worker and the supervisor.

The OCFS 638-QA (or RES-1 in NYC) should be completed for each case within 30 days of entry into foster care to comply with Title 18 NYCRR Part 351. The authorization document is to be completed pursuant to the guidance provided in the criteria section of this ADM. In addition, movement data on admissions, transfers, absences, trial discharges and final discharges must be maintained on CCRS in a time frame that allows social services districts to also enter corresponding POS lines within the 60-day posting requirements discussed above.

These requirements apply to all foster care cases maintained by social services districts on WMS including juvenile justice cases under the care and custody of OCFS who are placed in voluntary agencies. OCFS is reviewing its procedures and practices to facilitate the appropriate and timely transmission of information from this Office, family court or other relevant agencies to your staff.

OTDA is responsible for completing the TANF data reports required by the Federal government. Part of the reporting process involves reviewing a sample of the TANF cases, including foster care cases claimed as TANF-EAF, and completing the data elements indicated on Attachment 3 of this ADM. For foster care cases, it is anticipated that the required data will be largely available on WMS and CCRS. Until all required data is available from WMS or other systems, for each sampled case, including both active and closed cases, OTDA staff will review foster care case records. OCFS will establish a protocol with OTDA to facilitate notification and review procedures for sampled cases involving social services districts. We will advise social services districts shortly of the procedures to be employed, including the responsibilities of OTDA, OCFS and social services districts in the review. In addition, social services districts will be asked to secure case record documentation from voluntary agencies, as necessary, when a foster care case in their care is subject to review. We do not expect that foster children or foster parents will need to be contacted.

V. SYSTEM INSTRUCTIONS FOR CLAIMING TANF-EAF IN CHILD WELFARE SERVICES

Instructions for WMS coding of cases eligible for TANF-EAF and cases eligible for both Title IV-E and TANF-EAF are found in 94 LCM-52 and remain in effect. The requirements include the following instructions:

- If all care, maintenance and services for the foster care case are to be authorized and claimed as TANF-EAF, the district enters the eligibility code "04" (EAF). The "04" (EAF) eligibility will result in the claiming of all services as EAF.

- For foster care cases where care and maintenance is authorized and to be claimed as Title IV-E, the local district must continue the child's Title IV-E foster care eligibility using code "02". To claim TANF-EAF for

specific services not reimbursable as Title IV-E, the local district must authorize the direct service component both as "08" (foster care) and "08-E" (foster care EAF). Local districts must enter the "08" code into WMS prior to the "08E" authorization. The foster care assistance purchase of service line is entered as "61" or "62" and, for non-IV-E reimbursable services, the related POS lines must carry an "E" suffix. For example, tuition POS lines are entered as "64E" or "65E" to claim TANF-EAF. Please refer to the Services Benefits Issuance Control Manual for appropriate coding of other related foster care POS lines. Cases where TANF funding is used only for tuition and other services, but not for care and maintenance are not subject to individual TANF reporting and do not trigger life-time limits or work participation rules for beneficiaries.

Attachment 2 of this ADM is a list of all applicable TANF data reporting elements required by ACF. It indicates whether the data should be found in the WMS or related systems (CCRS, BICS, CCRS fiscal bill, or Erie County payment files) or in the case record. The attachment also notes whether the data element is applicable to foster care cases or not applicable to New York State at this time.

VI. EFFECTIVE DATE

This Administrative Directive is effective October 1, 1999.

Melvin I. Rosenblat
Acting Executive Deputy Commissioner