



**NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY  
ASSISTANCE  
40 NORTH PEARL STREET  
ALBANY, NY 12243-0001**

**David A. Paterson**  
*Governor*

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**Informational Letter**

**Section 1**

<b>Transmittal:</b>	09-INF-03
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Employment and Economic Supports (CEES)
<b>Date:</b>	February 9, 2009
<b>Subject:</b>	Temporary Assistance (TA) Case Composition When a Child Attains Age 18
<b>Suggested Distribution:</b>	Temporary Assistance Staff Food Stamps Staff Transitional Opportunities Program (TOP) Coordinators Medical Assistance Staff Staff Development Coordinators Employment Staff
<b>Contact Person(s):</b>	Temporary Assistance Bureau at 1-800-343-8859, extension 4-9344
<b>Attachments:</b>	None
<b>Attachment Available On – Line:</b>	<input type="checkbox"/>

**Filing References**

<b>Previous ADMs/INFs</b>	<b>Releases Cancelled</b>	<b>Dept. Regs.</b>	<b>Soc. Serv. Law &amp; Other Legal Ref.</b>	<b>Manual Ref.</b>	<b>Misc. Ref.</b>
91 ADM-29		18 NYCRR: 349.3(a) 350.4(b) 352.22 (p); 352.29(h) 352.30(a) 369.2(c) 369.3(c)			LDSS - 4529: Agreement to Repay Any SNA Overpayments; LDSS – 4530: Assignment of Wages

## **Section 2**

### **I. Purpose**

The purpose of this Informational Letter (INF) is to clarify Temporary Assistance (TA) policy regarding case composition when a child in a Safety Net Assistance (SNA) or Family Assistance (FA) household attains age 18 and is no longer attending secondary school or the equivalent level of vocational or technical training on a full-time basis.

### **II. Background**

OTDA regulation 18 NYCRR § 352.30 (a) requires that when a child under age 18 applies for TA, the application must also include that minor dependent child's adopted and blood related siblings who are also under age 18 and the parent(s) of any of these children. The following individuals are **not** required to apply:

- parents and siblings who are SSI recipients;
- stepbrothers and stepsisters;
- ineligible sponsored aliens;
- aliens who fail to meet the citizenship and alienage requirements of 18 NYCRR § 349.3 (a);
- individuals ineligible due to the lump sum provisions of 18 NYCRR § 352.29(h); or
- children who are receiving adoption subsidies that are exempt under 18 NYCRR § 352.22 (p).

Together, mandatory applicants comprise a single filing unit and the income and resources of each unit member are applied when determining the eligibility of the entire filing unit.

When a child who is a mandatory member of the filing unit attains age 18, that child is no longer required to be included in the TA filing unit but if otherwise eligible and continuing to want TA, the child must remain on the TA case until such time as the child no longer meets the definition of an eligible child. An eligible child is defined in 18 NYCRR § 369.2 (c) as a child under age 18 or age 18 and attending on a full-time basis a secondary school or the equivalent level of vocational or technical training.

### **III. Program Implications**

The TA case category determines the appropriate case composition action a district must take when a child attains age 18 and is no longer attending secondary school or the equivalent level of vocational or technical training on a full-time basis.

#### **Family Assistance (Case Type 11) or Safety Net Assistance – Federally Participating (Case Type 12)**

When a TA recipient in an Family Assistance (FA) or Safety Net Assistance-Federally Participating (SNA-FP) filing unit attains age 18, the child must continue to remain active if

otherwise eligible on the FA or SNA-FP case as long as the child is under age 19 and attending on a full-time basis a secondary school or the equivalent level of vocational or technical training. This is necessary to obtain appropriate federal funding for the district. Any request from the caretaker or the child to discontinue the child's TA must be honored because the child is no longer a mandatory filing unit member.

When the child no longer meets the definition of an eligible child (i.e., age 19 or age 18 and no longer attending on a full-time basis a secondary school or the equivalent level of vocational or technical training) the district must categorize the child as an essential person (EP) unless there is an exception to doing so. Districts may presume that an individual is an EP except when:

- the grantee does not agree to it;
- the child designated as the EP indicates that he/she does not wish to be designated as an EP; or
- granting the EP status **negatively** affects the FA or SNA-FP case or the EP either initially or subsequent to the initial EP determination.

If either the grantee or child indicates that the essential person status is not desired for the child or when a sanction is imposed against the EP, the district must establish a separate cooperatively budgeted (multi-suffixes in NYC) SNA case (Case Type 16 or 17 as appropriate) for the child. An application form must not be required from the child when a separate SNA case must be opened though the district must require the child to complete a recertification form and recertify eligibility prior to opening the SNA case. In addition, the SNA 45-day application waiting period does not apply to the child when a separate SNA case must be opened. However, the child must sign the “Agreement to Repay Any SNA Overpayments” (DSS-4529) and the “Assignment of Wages” (DSS-4530) forms.

### **Safety Net Assistance (Case Types 16 and 17)**

When a TA recipient in a SNA filing unit attains age 18, the child must continue to remain active if otherwise eligible on the SNA case as long as the child is under age 19 and attending on a full-time basis a secondary school or the equivalent level of vocational or technical training. This is necessary to obtain appropriate maintenance of effort (MOE) claiming. The child, however, must be removed from the SNA case at the grantee’s request to no longer receive assistance for the child if the grantee makes that request when the child is no longer a mandatory filing unit member.

When the child no longer meets the definition of an FA-eligible child (i.e., age 19 or age 18 and no longer attending on a full-time basis a secondary school or the equivalent level of vocational or technical training) the district must remove the child from the grantee’s case and establish a separate cooperatively budgeted (multi-suffixes in NYC) SNA case as appropriate for the child. This is necessary since maintenance of effort (MOE) claiming may no longer be appropriate for the child and EP status does not apply to federally non-participating SNA cases (Case Types 16 and 17).

An application form must not be required from the child when a separate SNA case must be opened, though the district must require the child to complete a recertification form and recertify eligibility prior to opening the SNA case. In addition, the SNA 45-day application waiting period does not apply to the child when a separate SNA case must be opened. However, the child

must sign the “Agreement to Repay Any SNA Overpayments” (LDSS-4529) and the “Assignment of Wages” (LDSS-4530) forms.

## **Examples**

### **Presumption of EP Status**

A family comprised of a mother and 3 children is receiving FA benefits for four. The oldest child in the case attains age 18 in February of 2009 and at that time is no longer attending secondary school or the equivalent vocational or technical training. Since the oldest child no longer meets the definition of an eligible child, the district must change the relationship coding to essential person to properly designate the child. If the grantee or the child objected to being designated as an EP, or this change adversely impacted the FA filing unit or EP, the district would not add the child as an EP but would open a separate cooperatively budgeted (multi-suffixes in NYC) SNA case for the child.

### **Sanction**

In the same example, the EP fails to comply with work requirements either initially or subsequent to the initial EP determination. Since the district must impose an employment sanction (presuming the noncompliance is willful and without good cause) against the EP, the district must delete the EP from the FA case rather than imposing a prorata grant reduction sanction against the FA unit. The reason for this is that the determination of EP status must not adversely impact the FA unit. Accordingly, rather than imposing a prorata sanction against the FA unit, the sanction must be applied solely against the EP and that individual deleted from the FA case.

### **Grantee Objects to EP Status**

A family comprised of an aunt and two nephews is receiving FA benefits for three. The oldest nephew, who is age 18, graduates from high school in June of 2009. At that time, the aunt indicates that she would like a separate case established for this child. Since the grantee has indicated that she does not want the oldest child designated as an EP, the district calls the child in to recertify and opens a separate cooperatively budgeted (multi-suffix in NYC) SNA case for the child as of July 2009. An application form is not required and no 45-day application waiting period applies.

### **SNA MOE**

A family comprised of a mother and father and two children is receiving SNA benefits for four. The oldest child in the case attains age 18 in February of 2009 and is attending high school. Since the oldest child still meets the definition of an eligible child, the district maintains that child on the SNA case so that maintenance of effort claiming is made for the child. When the child graduates from high school in June, the district must call the child in to recertify and open a separate cooperatively budgeted (multi-suffix in NYC) SNA case for the child as of July 2009. This is necessary since MOE claiming is no longer available for the child and EP status is not available.

Please share the information in this INF with staff involved with TA case processing.

**Issued By**

**Name:** Russell Sykes  
**Title:** Deputy Commissioner  
**Division/Office:** Center for Employment and Economic Supports