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TRANSMITTAL: 92 INF-48

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: November 19, 1992

SUBJECT: Home Relief Drug/Alcohol Abuse Sanctions - Questions
 and Answers

SUGGESTED

DISTRIBUTION: Income Maintenance Directors
 Food Stamps Directors
 WMS Coordinators
 Employment Coordinators
 Staff Development Coordinators

CONTACT PERSON: 1-800-342-3715, ask for
 Public Assistance - Charles Giambalvo, ext. 4-3231

ATTACHMENTS: Questions and Answers - available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
91 ADM-44		Part 352.8 (c)	Chapter 165 of the Laws of 1991	PASB XIII-D-11 all	
		Part 370.2	SSL 131	XIII-D-12 all	
		Part 387.13	SSL 158-a		

91 ADM-44, published in October 1991, provided social services districts (SSDs) with instructions for the implementation of durational sanctions for certain Home Relief (HR) applicants/recipients (A/Rs). Specifically, 91 ADM-44 informed SSDs that HR A/Rs who are required to participate in appropriate drug/alcohol abuse treatment in a non-residential program and fail to do so are subject to durational sanctions.

As SSDs have implemented the provisions of 91 ADM-44, a number of questions have arisen. This INF is intended to clarify policy in this area by providing the attached answers to some questions we have received.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

Questions and Answers

1. Q: Do durational sanctions apply to clients who leave residential programs without good cause prior to completion?

A: Durational sanctions only apply to A/Rs who leave outpatient (non-residential) programs.

When an A/R fails to participate in a residential program, no durational sanction is applied. However, since participation in appropriate rehabilitation is a condition of eligibility, failure to participate in the required residential program would mean the client is not meeting a condition of eligibility and is therefore ineligible for home relief.

2. Q: What does an A/R who has dropped out of a residential program have to do to regain eligibility for Home Relief?

A: An A/R who has dropped out of a residential program must actually reenter that residential program (or, an equivalent residential program) in order to regain HR eligibility. The A/R must actually be residing in the program before eligibility can be restored. Applying for entry into the program, being on the waiting list, or having been interviewed by the program is not sufficient to restore HR eligibility.

3. Q: When an A/R drops out of an outpatient or residential program, must that person return to that same program to regain eligibility?

A: This is a matter of discretion between the SSD and the treatment program. When an A/R is required to participate in appropriate rehabilitation and has been accepted into a treatment program, that program has taken a history of the client and has done an assessment of that client's treatment needs. For clients who typically drop out of treatment after a certain amount of time, the program may recommend that the client be required to participate in that specific program to end the pattern of treatment avoidance. Absent good cause for changing programs, and with documentation from an appropriate clinical source, the SSD can require the A/R to participate in a specific program.

4. Q: Can an HR applicant be subjected to a durational sanction? If so, how does this work?

A: An applicant with a known and documented history of drug/alcohol abuse can be required, as a condition of eligibility, to participate in outpatient treatment. (In fact, the applicant may already be in treatment in an outpatient program). Should that applicant fail to pursue referrals to outpatient treatment or drop out of an outpatient treatment program the applicant is already participating in, that applicant would be subject to a durational sanction. The sanction would begin on the date of non-compliance. Generally, the treatment program would inform the SSD

of the date of noncompliance. Usually, the treatment program will give the client opportunities to explain why the client failed to show up and give the client a few chances before considering the client to be in noncompliance.

5. Q: What is a residential rehabilitation program?

A: For purposes of 91 ADM-44, we consider any residential treatment program certified or licensed by the Division of Alcoholism and Alcohol Abuse (DAAA) or the Division of Substance Abuse Services (DSAS) to be a residential rehabilitation program. (Please note that DAAA and DSAS have been combined into the new Office of Alcoholism and Substance Abuse Services (OASAS). Included in this definition would be medical programs such as detoxification programs and private 28 day inpatient programs, and non-medical programs such as Congregate Care Level II facilities.

6. Q: Who decides that drug/alcohol abuse is a primary cause of the A/R needing HR and that the A/R is therefore required to participate in appropriate rehabilitation?

A: This decision is made by the SSD. The more clinical documentation gathered, the more soundly based the SSD decision will be. Clinical documentation is especially helpful should the SSD decision be challenged in a fair hearing. Clinical documentation refers to the written opinions of credentialed treatment professionals such as: doctors, psychologists, social workers and certified alcoholism counselors.

7. Q: What notice should be used to inform A/Rs that they are subject to a durational sanction?

A: SSDs should use the DSS-4015 (Notice of Intent to Change Benefits PA, FS, MA and Services, timely and adequate) to notify HR A/Rs that they will be subject to a durational sanction for failure to participate in appropriate rehabilitation in an outpatient program. The effective date of the durational sanction should be noted on the DSS-4015. This date would be the day after the recipient's HR case is closed.

Since the requirement to participate in appropriate rehabilitation is a condition of eligibility not an employment sanction, the conciliation process is not required in such cases.