Rules & Reg
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File

~~Thompson~~

December 23, 1959

Honorable Edward J. Patten
Secretary of State
State House
Trenton, New Jersey

Dear Secretary Patten:

Enclosed herewith for filing are sections of a new Manual of Administration issued by the Bureau of Assistance, Division of Welfare of this Department.

We direct your special attention to the enclosed copy of Transmittal Letter #8, which gives a detailed listing of the new material, the effect of this material on previous regulations, and includes specific instructions for cancellations, corrections and insertions.

Very truly yours

John W. Tramburg

John W. Tramburg, Commissioner

JWT:4

CC: H. Curtis Meanor, Acting Secretary to the Governor
Elmer V. Andrews, Director, Division of Welfare
Mrs. Elizabeth Feehan, Secretary, State Board of Control

State of New Jersey
Department of Institutions and Agencies
Division of Welfare

BUREAU OF ASSISTANCE

REGULATION # Manual of Administration

ISSUED: 1/60
(Date)

REV.: ____________
(Date)

TITLE: None - (Related to policy and procedure OAA, DA, and ADC)

SUBJECT: Various (Identified in Transmittal Letter #8)

STATUTORY REFERENCE: R.S. 44:7-6, 42, and 44:10-3

[signature], Chief
Bureau of Assistance

Approved:
By: John H. Tramburg

State of New Jersey
Department of Institutions and Agencies
Division of Welfare-Bureau of Assistance

TRANSMITTAL LETTER #8
MANUAL OF ADMINISTRATION

December 24, 1959

TO: COUNTY WELFARE BOARDS

Additional material for the Manual of Administration is transmitted herewith. This release includes some basic policy statements (white) as well as ADC inserts (buff). There are 10 ADC inserts for chapters or sub-chapters for which no previous basic material (white) has been issued. Where this occurs, "(ADC Only)" appears under the page identification number.

In order to avoid confusion, you will find it desirable that the basic (white) portions listed below should be filed first:

Title

Disposal of Assets; Reimbursement Requirement (2270-2272)
2200 Appendix VIII, Sample Form ADC-10

Determination of Financial Need (2300-2320.8)
2300 Appendix I, Uniform Reciprocal Enforcement of Support Act

Methods of Payment for Incompetent Recipients (2560-2563.3)

The ADC (buff) portions listed below are to be filed in the same manner as instructed in Transmittal Letter #7:

Title

2260 Relatives - Legally Responsible and Others
2270 Disposal of Assets; Reimbursement Requirement (ADC insert for 2271 and 2272)
2273 Written Promise of Repayment in ADC
2274 Claims Against Estate of Deceased Minor in ADC
2300 Determination of Financial Need
2400 Medical Care Services
2540 Termination of Payments
2560 Methods of Payment for Incompetent Recipient
2570 Payments for Patient Care in Medical Institutions
2580 Payment of Funeral and Burial Expenses
2590 Payment of Terminal Bills
2600 Determination of Continuing Eligibility (ADC insert for 2601 thru 2628)
2630 Factors Subject to Change in ADC Only
2870 Cooperative Agreement with Rehabilitation Commission
2920 Complaints, Appeals and Fair Hearings
2930 Safeguarding Information

Instructions on Superseded Regulations

Remove from Ruling Series and destroy:

Ruling No. 3, Determination of Need and Budgeting Procedure, Revised 11/24/58

Supplement No. 1, Grant Adjustments for Non-recurring Medical Care Allowances, dated 11/2/56
Extension of Supplement No. 1, dated 7/1/57
Supplement No. 2, Revisions in Allowances for Old Age Assistance and Disability Assistance, dated 12/1/58

[Retain Supplement No. 3 to Ruling No. 3, Revisions in Allowances for Old Age and Disability Assistance (Patient Care)]

Delete from County Series No. 3 by striking out:

Section	11	D	Financial Need
"		E	Responsible Relatives
"		G	Transfer of Property
"	26	E	Guardianship for Eligible Mentally Incompetent Child
"		F	Notification of Decision
"	27		Methods of Paying Assistance to Incompetent Persons

In respect to County Series No. 3, the only remaining portions which have not yet been incorporated in the Manual are as follows:

Section 18	C	On page 49, concerning suspension of payments to a recipient in a private general (voluntary) hospital; and
Attachment	No. 1	Appointment Letter: Sample No. 1 and No. 2.
"	No. 6	Certified Specialists, etc.
"	No. 7	Procedures and Maximum Allowances for Certain Medical Care Needs
"	No.10	Rates and Method of Payment for Patient Care, etc.

This material will shortly be incorporated in the Manual, or otherwise issued to county welfare boards. In the interim there should be sufficient copies in each county office for reference by new staff members.

Corrections for Previously Issued Manual Material

The following corrections are to be made in page numbers, cross-references, temporary footnotes, etc.:

Change page number 2114.3-2115.2 to 2114.3-2115.1.
Change page number 2115.2-2116.1 to 2115.1-2116.1.

2114.5: Strike out footnote symbol $\frac{2}{}$ and corresponding footnote.

2115.1c Strike out footnote symbol $\frac{2}{}$ and corresponding footnote.

2116.1c (ADC insert) Enter "Form ODA-7, Registration Card."

2123.2 In bracketed cross-reference at bottom of page strike out the words "when issued" at end of reference.

2124.	On page 2124-2126, retain footnote symbol $\frac{2}{}$, but in the corresponding footnote, strike out the phrase "County Series No. 3, Section 8."
2201.3	In the bracketed cross-reference, strike out the phrase "when issued."
2225.10	(ADC insert) Add "For temporary instructions refer to 2770."
2234.3c, 1), c)	Strike out footnote symbol $\frac{1}{}$ and corresponding footnote.
2235.5b, 1), d)	In bracketed cross-reference, change "2720" to "2628.2c". Strike out footnote symbol $\frac{1}{}$ and corresponding footnote. (This correction was erroneously omitted from Transmittal Letter #6.)
2243.1e	Strike out footnote symbol $\frac{2}{}$ and corresponding footnote.
2243.1f	Strike out footnote symbol $\frac{1}{}$ and corresponding footnote.
2292.	Strike out footnote symbol $\frac{1}{}$ and corresponding footnote.
2293.	Strike out footnote symbol $\frac{1}{}$.
2294.	Strike out footnote symbol $\frac{1}{}$.
2294.2	In second paragraph, strike out footnote symbol $\frac{1}{}$ and corresponding footnote..
2501.1	In the "Note" under b, strike out footnote symbol $\frac{1}{}$ and corresponding footnote.
2624.2	Strike out footnote symbol $\frac{1}{}$ and corresponding footnote.
2628.2c, 2)	Strike out footnote symbol $\frac{1}{}$ and corresponding footnote.
2628.2d	In the bracketed cross-reference at end of second paragraph, complete by inserting "2631.3."
2912.4	Strike out footnote symbol $\frac{1}{}$ and corresponding footnote.

Very truly yours,

Irving Engelman

Irving Engelman, Chief
Bureau of Assistance

IE/MCRd

Approved
Elmer V. Andrews, Director
Division of Welfare

2270. DISPOSAL OF ASSETS; REIMBURSEMENT REQUIREMENT

.1 Legal Requirement

R.S. 44:7-5 provides that an applicant must not have made a voluntary assignment or transfer of property for the purpose of qualifying for assistance, or for the purpose of evading responsibility for reimbursement for assistance received.

R.S. 44:7-14 requires that as a condition of eligibility, all or any part of the property, either real or personal, be pledged to the county welfare board as a guaranty for the reimbursement of the assistance granted. This is to be accomplished by execution of an agreement to reimburse, and assignment of all or any part of his personal property as the board shall specify.

2271. Disposal of Assets to Qualify for Assistance

.1 General Statement

Whenever investigation indicates that a person applying for OAA or DA has transferred or assigned any property, whether real or personal, prior to application, the motive for and circumstances surrounding such transfer and assignment shall be evaluated, and a determination made as to whether such transfer or assignment was made for the purpose of qualifying for assistance or to avoid repayment of assistance from such assets.

.2 Effect on Eligibility

a. If it is determined that there was no intent to defraud CWB and that the transfer or assignment of the property was a normal transaction for adequate consideration, such transfer or assignment shall not make the applicant ineligible.

b. If the transfer or assignment is found to have been made without receipt of adequate consideration by the applicant, but with no evidence of intent to qualify for assistance or to avoid repayment, it shall be recognized that the applicant may have legal rights to secure the return of the property or the payment of adequate consideration. In such event, this shall be considered a potential resource, and the applicant shall be expected to comply with State requirements governing the liquidation of potential resources. [See Categorical Assistance Budget Manual 504.]

2271. Disposal of Assets to Qualify for Assistance (Contd.)

.2 c. If it is determined that such transfer or assignment was made for the purpose of qualifying for assistance or to avoid repayment of assistance, then the applicant shall be ineligible unless and until the property itself or its equivalent value is returned to him.

.3 Case Record

In any application where such question arises the full facts shall be made a matter of record including a clear statement of the basis for the final decision regarding eligibility or ineligibility.

2272. Reimbursement Requirement; Assignment of Assets

[Until developed refer to Ruling No. 10.]

ADC-10
1/60
(Sample Form)

_______________ County Welfare Board

Registration No. ___________

AGREEMENT TO PAY

I,
We, ____, of
(Names)

________________________________ for the purpose of receiving as-
(Address)

sistance for ourselves / myself and our / my children, in accordance with New Jersey Revised Statutes, Title 44, Chapter 10, Assistance for Dependent Children, do hereby promise, in consideration of the granting of such assistance, to repay the county welfare board to the extent of any assistance so granted. The purpose of this promise and agreement is to assure repayment to the county welfare board of the amount of such financial assistance as may be granted during the period pending our / my receipt of certain funds which are anticipated by virtue of a claim against

____ arising out of
(Name)

____

____
(Describe circumstances)

Witness____________________ Signature______________________(L.S.)

Witness____________________ Signature______________________(L.S.)

Date_______________

New Jersey Department of Institutions & Agencies, Division of Welfare, Bur. of Assistance

2300. DETERMINATION OF FINANCIAL NEED

.1 General Statement

The basic policy and procedure for determination of "need" is issued as the Categorical Assistance Budget Manual by the Division of Welfare. It applies in all four categorical assistance programs. (OAA, DA, ADC and AB)

The purpose of this Chapter 2300 is to provide policy and procedure in supplementation of the Budget Manual where authorized or where policy is not provided in the Budget Manual.

2310. GRANT ADJUSTMENTS FOR NON-RECURRING MEDICAL CARE ALLOWANCES

.1 Normally Required Procedure

The Budget Manual stipulates that the amount of the grant shall be the amount of the budgetary deficit adjusted to the nearest dollar [705.2].

.2 Authorized Methods in Respect to Medical Allowances

In respect to monthly grant adjustments for non-recurring allowances for medical care, CWB is authorized to use any one of the following methods:

a. Determine the budget deficit for all items other than non-recurring medical care; add to such deficit figure the exact amount of the medical care items; round the result to the nearest dollar.

b. Determine the budget deficit for all items other than non-recurring medical care; round this deficit figure to the nearest dollar; add the amount of the non-recurring medical care items which have been rounded to the nearest quarter dollar.

c. Determine the budget deficit for all items other than non-recurring medical care; round this deficit figure to the nearest dollar; add the exact amount of the medical care items.

2320. SUPPORT ORDERS AS A RESOURCE

.1 Legal Provisions

a. By law, (R.S. 44:7-19) the county director of welfare is authorized, after due investigation, to order a legally responsible relative to pay toward the support of an applicant for or recipient of assistance.

2320. SUPPORT ORDERS AS A RESOURCE (CONTD.)

.1 b. The law directs that upon failure of such relative to comply with the order, the director shall so certify in writing to the county court or to the Court of Juvenile and Domestic Relations of the county wherein the applicant or recipient resides; whereupon such court may, after hearing, "order and adjudge the able relatives o or other persons responsible for the support of such applicant to pay such sum or to deliver to the court or to the director of welfare such other pledge or guaranty as the circumstances may require in the discretion of the court for each such applicant."

c. There are additional statutes under which orders of support may be imposed by a municipal director of welfare, or by a court. See R.S. 44:1-140 and 141; 44:1-143 and 144; R.S. 9:16 and 9:17.

d. "Revision of the Rules Governing the Courts of the State of New Jersey," promulgated under the authority of the Chief Justice as of August 17, 1953, provides in Rule 6:5-4, subsection (a), as follows:

> "In an action for support brought by an assistance agency any support that may be directed to be paid shall, as near as practicable, conform to the standards of assistance established by or for the plaintiff agency."

.2 General Policy

The amount of an "order to support" whether placed on a legally responsible relative by the county director of welfare or by a court, shall be considered income available to the client unless it can be demonstrated that such income is not in fact available.

.3 Non-payment of Orders

a. When there is substantial evidence that a relative is failing to comply with the order of the director of welfare, the director shall follow the legal procedure as provided in .1b, above. Where there is failure to comply with the order of a court, the circumstances shall be promptly reported to the probation department if the relative was placed on probation, or to the court which placed the order.

b. In such situations the amount of the order shall not be considered income available to the client.

2320. SUPPORT ORDERS AS A RESOURCE (CONTD.)

.4 Irregular or Insufficient Payment

a. Where there is substantial evidence that a relative under order of the director or of a court, is making irregular payments, or payments in an amount less than ordered, the same procedures shall apply as in .3a, above.

b. In such situations CWB shall determine on an individual case basis what method should be used to assure that the client's budgeted requirements are provided until the matter of support orders is satisfactorily adjusted.

.5 Inability of Relative to Comply with Order

a. Where there is evidence that a relative is not able or no longer able to comply with the order of the director, there shall be prompt reevaluation of capacity to support, and the order shall be voided or the amount adjusted as appropriate.

b. Where such situation is found to exist in respect to a relative under court order to support, the terms of the order cannot be altered except by the court itself after review. If in the judgment of CWB the situation calls for a revision of the terms of the order, then review by the court is initiated as follows:

1) If the original complaint was made by the client, or by some third party other than the county director of welfare, then either the client or the defendant relative must initiate the request.

2) If the original complaint was made by the county director of welfare, he shall initiate the request.

.6 Relatives Out of State

Where the relative from whom support is sought is a resident of another state and CWB is unsuccessful in securing information and/or voluntary contributions, commensurate with the evaluated capacity to support, either by direct correspondence or through an appropriate public assistance agency, the procedures provided in the Uniform Reciprocal Enforcement of Support Act, Revised Statutes 2A:4-30.1 to 30.23 shall be followed. See 2300 Appendix I for text of this Act.

2320. SUPPORT ORDERS AS A RESOURCE (CONT'D.)

.7 Persons or Agency to Receive Payment of Order

a. As a matter of general policy it is desirable that support orders be paid directly to the dependent person. However, there may be circumstances in the case situation which make it advisable to arrange for payment either to or through CWB. The decision shall be made on an individual case basis.

b. Normally, a court will order payment made to the dependent person named in the order, or to a designated representative of the court who in turn forwards payment to the person so named. The designated representative may be the probation department, if the relative is placed on probation, or may be a public assistance agency.

The court is usually willing to consider recommendations of the interested public assistance agency, whether or not the agency is the plaintiff, as to whom the order shall be paid.

.8 Services of Counsel

a. The advice of welfare board counsel should be sought in respect to legal procedures.

b. Legal representation of the welfare board in court procedures is a function of welfare board counsel.

2320.6

ARTICLE 4. SUPPORT PROCEEDINGS AGAINST OR ON BEHALF OF NON-RESIDENTS.

2A:4-30.1. Purposes. The purposes of this act are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

2A:4-30.2. Definitions. As used in this act unless the context requires otherwise,

(a) "State" includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted.

(b) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(c) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(d) "Court" means the juvenile and domestic relations court of any county of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(e) "Law" includes both common and statute law.

(f) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise.

(g) "Obligor" means any person owing a duty of support.

(h) "Obligee" means any person to whom a duty of support is owed.

2A:4-30.3. Remedies additional to those now existing. The remedies herein provided are in addition to and not in substitution for any other remedies.

2A:4-30.4. Extent of duties of support. Duties of support arising under the laws of this state, when applicable under section seven (2A:4-30.7), bind the obligor, present in this state, regardless of the presence or residence of the obligee.

2A:4-30.5. Interstate rendition. The governor of this state (a) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and (b) may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state.

2A4-30.6. Relief from the above provisions. Any obligor contemplated by section 5 (2A:4-30.5), who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or non-support entered in the courts of this state during the period of such compliance.

2A:4-30.7. Choice of law. Duties of support applicable under this act are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

2A:4-30.8. Remedies of a state or political subdivision thereof furnishing support. Whenever the state or a political subdivision thereof furnishes support to an obligee it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditure so made and of obtaining continuing support.

2A:4-30.9. How duties of support are enforced. All duties of support are enforceable by complaint irrespective of relationship between the obligor and obligee. Jurisdiction of all proceedings hereunder shall be vested in the juvenile and comestic relations court of any county of this state.

2A:4-30.10. Contents of complaint for support. The complaint shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information. The plaintiff may include in or attach to the complaint any information which may help in locating or identifying the defendant including, but without limitation by enumeration, a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his finger print, or social security number.

2A:4-30.11. Duty of court of this state as initiating state. If the court of this state acting as an initiating state finds that the complaint sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of (a) the complaint (b) its certificate and (c) this act to be transmitted to the court of the responding state.

2A:4-30.12. Duty of the court of this state as responding state. When the court of this state, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall (a) docket the cause, (b) notify the county adjuster, who is hereby charged with the duty of carrying on the proceedings, (c) set a time and place for a hearing, and (d) take such action as is necessary in accordance with the laws of this state to obtain jurisdiction.

2A:4-30.12a. Jurisdiction by arrest. When the court of this state, acting either as an initiating or responding state, has reason to believe that the defendant may flee the jurisdiction it may (a) as an initiating state, request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process if that be permissible under the law of the responding state; or (b) as a responding state, obtain the body of the defendant by appropriate process.

2A:4-30.12b. Further duty of responding court. If a court of this state, acting as a responding state, is unable to obtain jurisdiction of the defendant or his property due to inaccuracies or inadequacies in the complaint or otherwise, the court shall communicate this fact to the court in the initiating state, and shall hold the case pending the receipt of more accurate information or an amended complaint from the court in the initiating state.

2A:4-30.13. Order of support. If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant to such order.

2A:4-30.14. Responding state to transmit copies to initiating state. The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or orders for reimbursement therefor.

2A:4-30.15. Additional powers of court. In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the probation department of the court or the obligee and to report personally to such probation department at such times as may be deemed necessary.

(c) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

2A:4-30.16. Additional duties of the court of this state when acting as a responding state. The court of this state when acting as a responding state shall have the following duties which may be carried out through the probation department of the court:

(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

2A:4-30.17. Additional duty of the court of this state when acting as an initiating state. The court of this state when acting as an initiating state shall have the duty which may be carried out through the probation department of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

2A:4-30.18. Evidence of husband and wife. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

2A:4-30.19. Interrogatories and depositions. In any proceeding under this act the court may order interrogatories or depositions to be taken within or without the state, pursuant to the provisions of law applicable to a court of record.

2A:4-30.20. Severability. If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

2A:4-30.21. Repealer. Article four of chapter four of Title 2A of the New Jersey Statutes (sections 2A:4 - 22 through 2A:4 - 30) is hereby repealed, but any action taken or order issued under the provisions thereof shall not abate and shall continue in full force and effect as if originally taken or issued under the provisions of this act.

2A:4-30.22. Effective date. This act shall take effect July first, one thousand nine hundred and fifty-two.

2A:4-30.23. State information agency. The administrative director of the courts is hereby designated as the state information agency under this act, and it shall be his duty:

(a) To compile a list of the courts and their addresses in this state having jurisdiction under this act and transmit the same to the state information agency of every other state which has adopted this or a substantially similar act.

(b) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this act.

2560. METHODS OF PAYMENT FOR INCOMPETENT RECIPIENTS

The principle of money payments presumes that the person is physically and mentally able to manage his personal affairs. It is recognozed, however, that some persons otherwise eligible, cannot be effectively provided for through the issuance of cash payments, either because they are legally barred from endorsing checks or because otherwise inadequate to manage their own affairs.

The Bureau authorizes assistance to be provided for persons determined to be incompetent (as defined in .1, below) by whichever method (as provided in .2, below) is required or appropriate.

.1 Incompetent Person Defined

The term "incompetent person" includes any person who has been:

a. Adjudicated incompetent and for whom a legal guardian has been appointed by the Court;

b. Adjudicated incompetent but for whom a legal guardian has not been appointed;

c. Classified as incompetent as the result of professional diagnostic procedures;

d. Evaluated by CWB as inadequate to manage his own affairs, even though not officially identified as mentally incompetent in any of the above classes. [See 2294, Other Incompetents.]

.2 Choice of Methods

a. The Bureau authorizes assistance to be provided for incompetent persons by whichever of the following methods is determined to be appropriate:

1) Payment to a legal guardian;

2) Payment to a parent, or other person acting in loco parentis in the case of an incompetent minor (18-21 years);

3) Payment to an authorized custodian.

b. Under no circumstances shall a person be selected as legal guardian or custodian who has been himself determined by professional diagnostic procedures to be mentally incompetent or "marginally competent."

2561. Legal Guardian

.1 Appointment of Legal Guardian

a. In instances where it is determined that a legal guardian must or should be appointed,

1) CWB shall advise those acting on the client's behalf that the appointment of a guardian is required, and determine the ability of such persons to finance guardianship proceedings;

2) If there is no one to take the responsibility, or if those acting for the client are unable to finance the proceedings, CWB shall itself initiate the necessary steps, referring the matter to counsel.

b. The costs of guardianship proceedings shall when necessary be assumed by CWB as a matchable administrative expense. If the client should be found ineligible for other cause prior to completion of the guardianship appointment, the proceedings shall be terminated immediately.

.2 Payment to Legal Guardian

a. When a legal guardian has been appointed by a court of competent jurisdiction, prior to application, assistance payments must be made to such guardian.

b. When an assistance client has been adjudicated incompetent, payment is authorized to a legal guardian only, unless

1) The client is a minor. [See 2563.], or

2) The appointment of a guardian is pending. [See 2562.1b and c.]

c. Payments shall be drawn to the order of "____________________,
(Name of guardian)
guardian for ____________________,"
(Name of recipient)

d. Payments to a legal guardian are subject to Federal participation.

.3 Change of Guardian

a. When a legal guardian wishes to be released from his responsibilities there must be application to the Court for such release.

2561. Legal Guardian (Contd.)

.3 b. Upon such notice from a guardian, CWB shall take prompt action to locate another person willing to be appointed guardian. If the present guardian is unable to continue in that capacity until released by the Court, CWB shall authorize a custodian to receive assistance for the client until a new guardian is appointed.

2562. Authorized Custodian

.1 When Used

The method of payment through an authorized custodian shall be used when

a. The client has been classified as incompetent by professional diagnostic procedures, and the welfare board in its discretion has decided not to seek appointment of a legal guardian, or

b. During the period when the appointment of a legal guardian is pending, or

c. During a period when a legal guardian is no longer assuming the responsibility of guardianship and appointment of another guardian is pending; and MAY be used.

d. When a client has been evaluated by CWB as inadequate to manage his own affairs, even though not officially identified as mentally incompetent. [See 2294.]

.2 Payments Non-matchable

Payments made by this method are not subject to Federal participation.

.3 Selection of Authorized Custodian

a. The director of welfare, acting with the approval of the welfare board, shall select and authorize an appropriate person to serve as custodian to receive assistance payments and to supervise their use for incompetent client.

b. Whenever able, the client shall be given an opportunity to participate in the selection of an authorized custodian.

2562. Authorized Custodian (Contd.)

.3 c. Such authorized custodian shall be selected from the following classes of persons in the order of preference indicated:

1) A relative with whom the client lives;

2) Any other interested and responsible individual with whom the client lives, or who lives in close proximity to and has frequent association with the client;

3) A relative by blood or marriage who has demonstrated an interest in client's welfare and from whom it is practical to expect supervision of the client's affairs even though such relative lives apart from the client;

4) A staff member of an institution or facility in which the client is receiving care;

5) A member of the staff of a private or public welfare agency (other than the welfare board), or

6) In instances when no one in any of the above classes is available, the welfare board caseworker serving the area in which the recipient lives at any given time, provided the welfare board is willing to have a caseworker serve in this capacity, and the caseworker is willing to accept such responsibility.

.4 Appointment of Authorized Custodian

a. The director of welfare shall prepare a letter formally designating the person selected as "authorized custodian for ______________" to receive assistance payments to be expended
(Name of recipient)
on behalf of the recipient. A copy of such letter shall be retained in the case record.

b. The designated person shall sign a statement, prepared in duplicate, wherein he accepts responsibility as "authorized custodian" and agrees to render an accounting with respect to disbursements made on the recipient's behalf if and when requested by the director or the recipient. One copy of statement of acceptance of responsibility shall be filed in the case record, the other given to the custodian for his records.

If the authorized custodian is a CWB caseworker, the accounting shall be accomplished by chronological entries in the case record on a monthly basis.

2562. Authorized Custodian (Contd.)

.4 c. The welfare board shall approve the appointment of the authorized custodian by special resolution, recorded in the minutes.

d. Whenever it becomes necessary to select and appoint a new authorized custodian to replace one previously appointed, the procedures provided in .3 and .4, above, shall be observed.

.5 Payment Procedure

Payment under this method shall be made by check drawn to the order of "____________________, authorized custodian for ____________________ (Name of recipient)" except in the situation described in 2562.1d, above, in which case the check shall be drawn to the joint order of "____________________, authorized custodian and ____________________ (Name of recipient)."
The custodian shall endorse the check, and obtain the recipient's endorsement where the joint order method is used, and expend the funds thus made available on the recipient's behalf.

.6 Duties of Authorized Custodian

a. An authorized custodian serves without compensation at the pleasure of the director of welfare.

b. An authorized custodian shall see that the assistance payment is used to provide shelter, food and other specified requirements for the recipient, and that the recipient's obligations to vendors of goods or services are paid by whatever method seems advisable to the custodian and acceptable to the vendor.

c. The authorized custodian shall report promptly to the welfare board any change in the recipient's circumstances, or special needs which arise, particularly in respect to medical care or the plan for living arrangements. However, such reports from the custodian shall not be in substitution for determination of continuing eligibility and general supervision of the recipient's requirements by the welfare board.

.7 Change of Authorized Custodian

An authorized custodian who wishes to be released from his responsibilities shall give the director of welfare at least ten days notice in writing. In the event of an emergency which makes it impossible for him to fulfill his responsibilities for a period of time, he shall confer with the director of welfare immediately so that other arrangements can be made to assure continued assistance to and supervision of the recipient.

2562. Authorized Custodian (Contd.)

.7 (Contd.)

Official release of an authorized custodian shall be recorded in the welfare board minutes and written notice shall be sent to the individual concerned. The recipient shall also receive written notice of a change in authorized custodian, or of any termination of such arrangement.

2563. Payments on Behalf of Incompetent Minor

.1 To Parent or Person in Loco Parentis

a. When persons in the age group 18-21 are found eligible for DA, and have been adjudicated incompetent, or have been so classified by professional diagnostic procedures, payment may be made to a parent, or other person acting in loco parentis with whom the minor lives, or who exercises responsibility for and supervision of the minor. Such payments may be continued only until the minor's twenty-first (21st) birthday.

b. Payments shall be by check drawn to the order of the parent or other authorized person "for ______________, a minor."
(Name of recipient)

c. Such payments on behalf of minors are subject to Federal participation.

Note: If the minor will shortly attain age twenty-one, and there are no persons in the stipulated relationship, the CWB should consider the advisability of initiating guardianship proceedings at once, and shall make payment to an authorized custodian in the interim.

.2 To Legal Guardian

In instances where there is no parent or other person acting in loco parentis and the minor has been adjudicated incompetent, the payments must be made to a legal guardian. [See 2561. for procedures.]

.3 To Authorized Custodian

a. When there is no parent or person acting in loco parentis and the minor has been classified as incompetent by professional diagnostic procedures, payments may be made either to a legal guardian or to an authorized custodian. [See 2562. for procedure.]

b. Payments to an authorized custodian who is not a parent or other person acting in loco parentis are not subject to Federal participation.

2260. RELATIVES - LEGALLY RESPONSIBLE AND OTHERS

Until such time that policy can be revised and developed for this sub-chapter see:

Chapter 600 Categorical Assistance Budget Manual

2320. Support Orders as a Resource (in this Manual)
and
Ruling No. 13 Contacts with Relatives

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2270. DISPOSAL OF ASSETS: REIMBURSEMENT REQUIREMENT

.1 Not applicable in ADC.

2271. Disposal of Assets to Qualify for Assistance

Not applicable in ADC.

2272. Reimbursement Requirement; Assignment of Assets

Not applicable in ADC.

[See ADC insert 2273.]

2273. Written Promise of Repayment in ADC

.1 Legal Authority

R.S. 44:10-4 authorizes the county welfare board to secure a written promise to repay from the parent(s) in any instance where there is pending payment to the child or parent(s) of funds arising from a claim or interest legally or equitably owned by such child or parent(s). Such authority shall be exercised in accord with the following policy and procedure.

.2 Statement of Policy

a. When at the time of application there is pending a claim for statutory benefits, such as OASDI, veterans benefits, workmen's compensation, temporary disability benefits, or a suit or claim arising from an accident, etc., CWB shall require the parent, or both parents when available, to sign a written promise to repay for assistance granted from any funds subsequently received. [Form ADC-10.]

b. Where no claim has been filed but there appears to be eligibility for benefits or compensation, the applicant parent(s) shall be expected to make such claim. An applicant who refuses to make such claim shall be considered ineligible for assistance.

.3 Evaluation after Claim Settled

If and when a lump sum payment is received as a result of an approved claim or pending suit, etc., CWB shall evaluate the situation and, in accordance with the provisions of 502. of the Budget Manual decide

a. Whether to require repayment, and continue assistance with any necessary budget adjustment for recurring income, or

b. Whether the case is to be suspended or closed and the available funds used for current support.

2274. Claims Against Estate of Deceased Minor in ADC

.1 Legal Authority

R.S. 44:10-4 provides that whenever a child dies prior to age 21 leaving an estate, that the total amount of assistance paid for such child is a valid claim against his estate. The law directs county welfare board to take the necessary legal steps to enforce such claim.

2274. Claims Against Estate of Deceased Minor (Contd.)

.2 Statement of Policy

Whenever a situation as described above occurs, CWB shall evaluate the facts of the situation in the same manner as in OAA and DA where there are surviving members of the family.

If in the opinion of the welfare board, upon recommendation of the director, a compromise settlement is in order, the facts of the matter shall be presented in writing to the State Bureau for approval.

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2300. DETERMINATION OF FINANCIAL NEED

.1 General Statement

Applies in ADC.

2310. GRANT ADJUSTMENTS FOR NON-RECURRING MEDICAL CARE ALLOWANCES

Applies in ADC.

2320. SUPPORT ORDERS AS A RESOURCE

Applies in ADC.

The following additional instructions applicable to the ADC program only shall be observed:

An order to support may not be placed upon a putative father of a child born out-of-wedlock.

In a situation where a county director of welfare has placed an order to support on a deserting parent, such information shall be forwarded to the county prosecutor at the time of filing Form ADC-32, Notice to County Prosecutor of Alleged Desertion, or concurrently with issuance of the order if placed subsequent to filing Form ADC-32.

2400. MEDICAL CARE SERVICES

Until such time as this Chapter is developed the same general principles, authorized services, maximum fees and costs will apply in ADC as in OAA and DA.

Refer to Attachment No. 7 to County Series No. 3

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2540. TERMINATION OF PAYMENTS

[Detailed policy for this sub-chapter has not been developed, but the following statement is temporarily provided here for purposes of ADC.]

2541. Termination of Absence or Incapacity: Effect on Eligibility for Payment

.1 General Statement

When eligibility has been based on "continued absence" of a parent from the home, or on the "incapacity" of a parent whether in or out of the home, the return to the home or recovery of the parent terminates eligibility of the family for ADC .

It shall be recognized, however, that in these situations such parent may be unemployed and therefore unable to assume immediate responsibility for the support of the family.

Sudden withdrawal of assistance while the family is still in need may jeopardize the security of the children and undermine the positive affects already achieved by the granting of assistance during the parent's absence or incapacity.

Therefore, it is consistent with the objectives of the program to continue the grant for a limited period to permit the parent to make practical adjustments to the resumption of parental responsibility.

.2 Limitations

a. Return of "Absent" Parent

1) An ADC family shall be entitled to assistance for the month in which the absent parent returns to the home whether or not such parent is employed.

2) When the parent is unemployed, or has just recently secured employment, the family may continue to receive assistance for the month subsequent to the month of return, but not after the date that the parent receives his first full pay-check.

3) In any event the case shall be closed at the end of the month following the month of return of the parent whether or not the parent is employed.

2541. Termination of Absence or Incapacity: Effect on Eligibility for Payment (Contd.)

.2 b. Recovery of "Incapacitated Parent"

1) Final determination that "incapacity" no longer exists is the responsibility of the Medical Service Section. Such determination will be based on the criteria established in 2281.3.

2) When CWB is advised by the Medical Service Section that an ADC parent is no longer "incapacitated" (Disapproved) and is therefore capable of full-time gainful employment,[see 2281.3d, 2), c)] the family may continue to receive assistance during the immediately subsequent month under the same policy as set forth in a, 1), 2) and 3), above.

3) In any situation where CWB learns that an "incapacitated" parent has obtained employment subsequent to a finding of "Approved," but eligibility with respect to need still exists, assistance shall be continued and the record with a full report on the employment shall be promptly submitted to the Medical Service Section for evaluation under the full-time gainful employment criteria.

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2560. METHODS OF PAYMENT FOR INCOMPETENT RECIPIENTS

This sub-chapter does not apply in ADC

2570. PAYMENTS FOR PATIENT CARE IN MEDICAL INSTITUTIONS

Until this sub-chapter is developed the same procedures will apply in ADC as in OAA and DA.

Refer Attachment No. 10 to County Series No. 3

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2580. PAYMENTS OF FUNERAL AND BURIAL EXPENSES

Until this sub-chapter is developed the same regulations apply in ADC as in OAA and DA. Refer to Ruling No. 2

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2590. PAYMENT OF TERMINAL BILLS

Until this sub-chapter is developed the same regulations apply in ADC as in OAA and DA. Refer to Supplement No. 1 to Ruling No. 2

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2600 DETERMINATION OF CONTINUING ELIGIBILITY

2601. Federal Requirements

Applies in ADC.

2602. State Requirements

Opening paragraph applicable.

.1 Annual Redetermination of Eligibility

a. At least once every 12 months CWB shall require the parent to execute a formal written application for continuing assistance, (ODA-1). Same policy as in ADC insert 2101.2 shall apply.

All other provisions of a, b, c, and d are applicable.

2602. State Requirements (Contd.)

.2 Special Redetermination

Applicable in ADC.

.3 Death of Assistance for Dependent Children Recipient

a. Death of Parent

When CWB learns of the death of a parent, there should be an immediate contact with the family in order to:

1) assure that there will be temporary supervision and care of the child,

2) determine whether a change in payee is necessary until a new plan for the child is effected, (see 2285.) and

3) make any necessary budget adjustments if the deceased had been included in the grant.

b. Death of Child

When CWB learns of the death of a child, the situation should be checked before the end of the current month in respect to budget adjustment, or to continuing eligibility in a single child case.

[In respect to funeral and burial expenses see 2580] [1]

1 Until issued, see Ruling No. 2

2610 PROCESS OF REDETERMINATION OF ELIGIBILITY

Sub-chapter 2610 through 2617 applies in ADC.

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2620. FACTORS SUBJECT TO CHANGE

2621. Need

Applies in ADC.

2622. Residence

Applicable (see ADC inserts for 2225., 2228.2 and 2228.3)

2623. Age

a. In ADC, eligibility in respect to age must be evaluated for any recipient who is nearing his 18th birthday (see 2215 ADC insert).

b. In ADC, eligibility in respect to age must be evaluated for a recipient who is nearing his 65th birthday (see 2216 ADC insert).

c. In ADC, the eligibility of the family must be evaluated when the youngest child is nearing his 18th birthday (see ADC insert for 2215.)

2624. Competency Status

.1 Mental Competency

Applicable in ADC. Refer to 2288 for policy in respect to competency of parent in ADC.

2624. Competency Status (Contd.)

.2 Minority (DA)

Inapplicable in ADC.

.3 Other Incompetency

Inapplicable in ADC.

2625. Need for Care in Institution for Tuberculous or Mental Condition

Official review of this factor on a routine basis is not required, but when medical or social evidence indicates that special determination should be made, the provisions of 2281.3d, 2), a) and b) shall be observed.

2626. Institutional Status

Applies in ADC.

2627. Patient Status

Applies in ADC.

2628. Permanent and Total Disability (DA)

Inapplicable.

2630. FACTORS SUBJECT TO CHANGE IN ASSISTANCE FOR DEPENDENT CHILDREN ONLY

2631. Deprivation of Parental Support or Care

Since eligibility in ADC is based on the fact that the needy child has been deprived of parental support or care by reason of the death, continued absence from home, or mental or physical incapacity of a natural or adoptive parent, it is necessary to re-evaluate these factors in determining continued eligibility.

A family may continue to be eligible for ADC although the original reason for "deprivation" no longer exists. This may occur when an absent parent dies or, although returned to the home, is incapacitated; or, a situation may arise where the incapacitated parent is now depriving the needy child by reason of "continued absence."

.1 Death

When eligibility is based on "deprivation of parental support or care by reason of death of a parent," there is the possibility that the surviving parent will re-marry.

Since marriage is ordinarily contracted with the intention of establishing a normal family relationship, it is reasonable to assume that the step-parent is entering into the new marriage relationship with the intention of assuming financial as well as social responsibility for all or part of the needs of the child, to the extent of his ability. However, when there is evidence that the step-parent is unable or unwilling to assume such financial responsibility, see Budget Manual policy Appendix 3.5a, b.

.2 Continued Absence of the Parent from the Home

When eligibility is based on "deprivation of parental support or care by reason of the continued absence of a parent," the evaluation of continued eligibility includes determination that the "absence" still exists, and if not, whether there is another basis for eligibility; e.g., "incapacity." [See 2281.2.]

a. Divorce, pending divorce, or legal separation. [See 2281.2]

b. Desertion [See 2281.2.]

1) During the period that need and eligibility for ADC continues, the deserting parent must be considered as a resource for support of the family.

2631. Deprivation of Parental Support or Care (Contd.)

.2 b. 2) Therefore, during each interview with the recipient, inquiry shall be made regarding newly available information on the whereabouts of the deserting parent.

3) Whenever additional information is acquired the county prosecutor shall be advised.

c. Informal Separation

[See 2281.2]

d. Imprisonment

1) When ADC has been granted because a parent is incarcerated in a penal institution, a recheck shall be made on the probable date of release as obtained during initial investigation.

2) If CWB has not been notified by the institution within a month of the parent's anticipated release, the worker shall check with the institution.

3) When date of release is imminent, the family should be prepared for eventual case closing unless some other factor of parental deprivation is present.

e. Deportation

[See 2281.2].

Two possibilities shall be considered:

1) Re-entry of the parent.

2) Support being sent by absent parent.

f. Unmarried Parents

[See 2631.1 - possibility of parent marrying, etc.]

[See 2540 for policy on continued payment for temporary period following return of absent parent to home.]

2631. Deprivation of Parental Support or Care (Contd.)

.3 Incapacity

a. When eligibility has been established on the basis of "deprivation of parental support or care by reason of mental or physical incapacity", such incapacity shall be considered as continuing until it is determined, according to the policy and procedure in 2281.3, that incapacity no longer exists.

b. It is the responsibility of CWB to submit the record to the Medical Service Section for special review if available evidence raises question of continuing incapacity during the interval between redetermination review dates as designated on the Record of Action. (Form DA-2a)

[See 2530 for policy on continued payment for temporary period following recovery or rehabilitation of an incapacitated parent.]

2632. Family Life

.1 General Policy on Eligibility

The law, in addition to stating that the purpose of ADC is to provide care for children "under standards and conditions compatible with decency and health to help maintain and strengthen family life", also directs that "payments of financial assistance, with respect to a dependent child or children, to a parent or relative with whom such child is living, will be terminated promptly, and other arrangements for the care and maintenance of such child or children instituted, in any case where it is determined that the payments to such parent or relative under the provisions of this act are failing to secure for the child or children a standard of maintenance, care and family life consistent with the purpose stated above."

It shall be a continuing concern of CWB to assure that the purpose of the program as stated above is being accomplished in each active case, and prompt action shall follow upon any considered decision that such purpose of the program is being violated.

.2 Criteria for Evaluation

In active cases the same criteria shall be applied as in pending applications (2282.2).

In addition, there shall be special analysis and evaluation of any situation in which it is learned that any member of an ADC family gives birth to, or becomes pregnant with, an out-of-wedlock child.

2632. Family Life (Contd.)

.3 Procedures

a. Evaluation

In general the same procedures shall apply in active as in pending cases (2282.3). However, situations will arise in which it will be necessary to make emergency arrangements for the protection of the child. Such action may be initiated with executive approval, but no action to discontinue assistance shall be taken until the welfare board has opportunity to fully consider the facts.

b. Welfare Board Decision

The welfare board upon consideration of the special analysis of the situation shall determine:

1) Whether any new plan already effected by staff appears to be adequate for the care and maintenance of the child,

2) What further action, if any, should be initiated, and

3) Whether or not ADC payments are to be discontinued.

In no event shall assistance be discontinued until there is a plan whereby uninterrupted economic maintenance for the child is assured.

2633. Employment Policy

In determining continuing eligibility, the earning capacity of the recipients shall be re-evaluated.

.1 Employment of Parents

Changes in the home situation may make it possible for the parent to take employment if available. Conversely, changes in the home situation or health factors may create a need for an employed parent to terminate employment in order to remain in the home on a full-time basis. [See 2286.1 and .2 for policy.]

.2 Employment of Children

[See 2286.3]

2870. COOPERATIVE AGREEMENT WITH REHABILITATION COMMISSION

Until such time as this policy is developed for this Manual refer to Ruling No. 26. Those portions of the Ruling which relate to referral of members of Home Life Assistance families by the State Board of Child Welfare will now relate to referrals by CWB of members of ADC families.

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2920. COMPLAINTS, APPEALS AND FAIR HEARINGS

Until this sub-chapter is developed refer to Ruling No. 7

Intentionally Deleted

2930. SAFEGUARDING INFORMATION

Until this sub-chapter is developed refer to Ruling No. 20

Intentionally Deleted