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 | ADMINISTRATIVE DIRECTIVE |  
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TRANSMITTAL: 91 ADM-45

TO: Commissioners of  
 Social Services

DIVISION: Income  
 Maintenance

DATE: November 12, 1991

SUBJECT: Recovery/Recoupment of Security Deposits or Security  
 Agreements, Finders'/Brokers' Fees and Moving Expenses  
 Due to Non-Payment of Rent

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 SUGGESTED

DISTRIBUTION: Public Assistance Staff  
 Medical Assistance Staff  
 Food Stamp Staff  
 Staff Development Coordinators

CONTACT

PERSON: Call 1-800-342-3715 and ask for the following:  
  
 Income Support: Maureen Standish, extension 3-6555  
 Food Stamps: County Food Stamp Representative,  
 extension 4-9225

ATTACHMENTS: None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-7		Part 352.6	143-c	PASB	
90 INF-2				Sections XIII-D-2 all XV-F-all FSSB XII-G-1	

I. PURPOSE

To advise social services districts of amendments to Department regulations 352.6(c) and (d) which define as overpayments any money paid as security, finders' or brokers' fees or moving expenses because a recipient did not apply his/her shelter allowance to the rent in situations where there was a legal obligation to pay the rent.

II. BACKGROUND

Prior to these amendments, in situations involving non-payment of rent, security deposits retained by a landlord or money paid as a result of a security agreement were considered overpayments and subject to recoupment and recovery only if the recipient was evicted for non-payment of rent. This was also true for finders' or brokers' fees and household moving expenses. However, in many cases recipients are not evicted, but simply leave without paying rent. The landlord retains the security deposit or money is paid by the social services districts to the landlord as a result of a security agreement. Local districts also authorize finders' or brokers' fees and/or moving expenses to secure new housing in these situations.

III. PROGRAM IMPLICATIONS

This amendment will result in State and local savings as more security money, finders' or brokers' fees and moving expenses will be recovered and recouped.

IV. REQUIRED ACTION

Social Services districts must recover or recoup any security money, finders' or brokers' fees and moving expenses which are held by landlords or paid out because of recipients' non-payment of rent to landlords whose premises recipients have vacated or are in the process of vacating. If recipients applied shelter allowances to the rent, these items are not overpayments.

Applicants/recipients may not pay their rents because of legitimate landlord/tenant disputes or because they are participating in rent strikes. A social services district may also be withholding rent as a result of Section 143-b of the Social Services Law (Spiegel Act). If a recipient can document that expenses which are incurred for security money, finders' or brokers' fees or moving expenses are a result of a legitimate landlord/tenant dispute, rent strike or Section 143-b of Social Services Law action, they are not overpayments and must not be recouped or recovered.

In order to receive finders'/brokers' fees or moving expenses, the eligibility criteria found in Department regulation 352.6(a)(1)(i) and (ii) must be met.

Security deposits lost due to damages may also be recovered under the specific situations outlined in 90 ADM-7.

V. SYSTEMS IMPLICATIONS

Upstate

Payments described above should be coded on ABEL using Recoupment Type "6 - Shelter Expenses - Other Than Rent (PA Only)".

Downstate

When recouping security money, finders' or brokers' fees or moving expenses, use recoupment Offense Type C (concealment) and Offense Sub Type 17. The definition of Offense Sub Type 17 will be changed to include brokers' and finders' fees and moving expenses in its definition.

VI. ADDITIONAL INFORMATION

Food Stamp Implications

Security money, finders' or brokers' fees and moving expenses that are held by landlords or are paid because of recipients non-payment of rents are excluded as Food Stamp income. Further, the amount of public assistance recoupments taken to recover such payments are excluded as Food Stamp income.

Medical Assistance Implications

Medical assistance (MA) does not include Public Assistance payments of any type including security deposits, finders' or brokers' fees and moving expenses as income and does not acknowledge recoupments of any public assistance payment in determining MA eligibility.

VII. EFFECTIVE DATE

This directive is effective November 1, 1991, retroactive to October 16, 1991.

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Oscar R. Best, Jr.  
Deputy Commissioner  
Division of Income Maintenance