

GENERAL INFORMATION SYSTEM**DIVISION: Temporary Assistance****September 8, 2004**

Page: 1

TO: Commissioners; TA Directors; FS Directors; Medicaid Directors, WMS Coordinators; CAP/TOP Coordinators, HEAP Coordinators

FROM: Richard McElroy, Acting Deputy Commissioner, Division of Temporary Assistance

SUBJECT: September 11th Victim Compensation Fund of 2001

EFFECTIVE DATE: Immediately

CONTACT PERSON: Central Team (TA) at 1-800-343-8859; extension 4-9344; Eastern Team (FS) at extension 3-1469; Western Team (HEAP) at extension 3-0332. Medicaid Contact: Bureau of Local District Support, Upstate (518) 474-8216; NYC (212) 268-6855.

The United States government established the September 11th Victim Compensation Fund of 2001 through the Department of Justice, for the compensation of the victims of the tragedy of September 11, 2001. Anyone who was injured in the attacks at the Pentagon, the World Trade Center or in Shanksville, Pennsylvania was eligible to file a claim. Anyone filing with this Fund waived all future action against insurance companies, airport security firms, and the airlines. The deadline for filing claims was December 22, 2003. Payments have begun or, in some cases, will begin shortly.

The awards from this September 11th Victim Compensation Fund of 2001 are not paid under the Disaster Relief Act of 1974, or as Disaster Unemployment Assistance (See GIS 01 TA/DC040, issued 9/21/01) and are not considered as comparable assistance paid by a state or local government. The September 11th Victim Compensation Fund is not part of the September 11th Fund which is a charitable fund established by The New York Community Trust and United Way of New York City to meet the immediate and long-term needs of victims, families and communities in recovering from the terrorist attacks. Benefits from the September 11th Fund are generally awarded with special terms and conditions, or for specific items of need, and are not addressed in this message.

Temporary Assistance (TA)

Payment of awards made under the September 11th Victim Compensation Fund of 2001 are not exempt from consideration as income for TA if paid out on a regular basis (weekly, bi-weekly, monthly, etc.), and are not excluded for consideration as a lump sum if paid out all at once. A victim may choose a variety of payment options, and the district must determine whether income or lump sum rules, or a combination of both, apply in each particular case.

GENERAL INFORMATION SYSTEM**DIVISION: Temporary Assistance****September 8, 2004**

Page: 2

Although recovery of assistance granted is discretionary, assistance properly granted generally ought not to be recovered from the September 11th Victim Compensation Fund of 2001 under Social Services Law (SSL) 104, particularly where the TA granted was given to carry victims through the initial emergency. Care should be exercised not to cause a hardship or undermine the purposes for which the September 11th Victim Compensation Fund of 2001 was established. Additionally, districts may not seek to place a lien against the awards from this fund under SSL 104-b. Liens of this type are normally taken against awards paid for personal injury, but SSL 104-b does not apply in this case. Discretion should be employed in recoveries of overpayments from the September 11th Victim Compensation Fund of 2001, but 18 NYCRR 352.31(d) must be followed. Of course, districts should vigorously pursue recovery of Intentional Program Violations.

Since a personal representative of any of those who died as a result of the terrorist related aircraft crashes may apply for relief under the September 11th Victim Compensation Fund of 2001, recipients of these payments may reside in many social services districts outside of New York City and the surrounding area.

Food Stamps (FS)

Recurring payments from the September 11th Victim Compensation Fund of 2001 are counted as unearned income for purposes of determining FS eligibility and benefit amount. Lump sum payments are excluded as FS income but considered as resources.

Medicaid (MA)

Payments made under the September 11 Victim Compensation Fund of 2001 are not exempt from income or resources for Medicaid purposes. Payment is income in the month received and a resource thereafter. As usual, recovery of Medicaid correctly paid before the funds were received is not appropriate.

Home Energy Assistance Program (HEAP)

Recurring payments from the September 11th Victim Compensation Fund of 2001 are counted as unearned income for purposes of determining HEAP eligibility and benefit amount. Lump sum payments are excluded as HEAP income but considered as resources.