

**HUMAN RESOURCES ADMINISTRATION
HIV/AIDS SERVICES ADMINISTRATION**

NOTICE OF INTENTION

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed amendment to the rules of the Human Resources Administration HIV/AIDS Services Administration (formerly the Division of AIDS Services and Income Support ("DASIS")).

Date/Time: July 25, 2013 10:00 a.m.

Location: Human Resources Administration
180 Water Street 12th floor
NY, NY 10038

Contact: **Angela Ferrell**
Executive Assistant to the Deputy Commissioner
HIV/AIDS Services Administration
12 West 14 Street
New York, NY 10011
Phone: (212) 620-4644
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Proposed Rule

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Commissioner of the New York City Human Resources Administration in accordance with Social Services Law §§56 and 61(1) and Administrative Code §21-128(h), notice is hereby given of the proposed amendment to Title 68 of the Rules of the City of New York. This proposed rule was not included in the Human Resources Administration's most recent regulatory agenda, because it was not anticipated at the time.

Instructions

- Prior to the hearing persons interested in pre-registering to speak should notify Ms. Ferrell by mail no later than 5:00 PM on **July 18, 2013**. Please include a telephone number where you may be reached during business hours. Registration will be accepted at the door until 9:30 A.M. however, preference will be given to those who pre-register.

- To request a sign language interpreter or other form of reasonable accommodation for disability at the hearing, or for language interpretation services, please notify Ms. Ferrell by phone or mail by **July 18, 2013**.
- Prior to the hearing you may submit written comments about the proposed amendment to Ms. Ferrell by mail, fax, or email at ferrella@hra.nyc.gov.
- All written comments and a summary of the oral comments from the public hearing will be published on HRA's website within a reasonable time after the hearing.

STATEMENT OF BASIS AND PURPOSE

The Commissioner of the New York City Human Resources Administration (HRA) in accordance with New York State Social Services Law §§56 and 61(1), and Administrative Code of the City of New York §21-128(h) proposes to amend Title 68 of the Rules of the City of New York.

HRA's HIV/AIDS Services Administration (HASA, formerly DASIS) provides access to benefits and services, and otherwise ensures the provision of benefits and services, to New York City residents living with clinical/symptomatic HIV illness or with AIDS. The New York State Department of Health AIDS Institute determines whether a person is living with clinical/symptomatic HIV illness. The federal Centers for Disease Control and Prevention determines, based on established definitions, whether a person is living with AIDS.

Under federal and state law, public assistance recipients are required to participate in work programs unless specifically exempt. Medically eligible clients of the HASA program are generally exempt from participating in the work program because they are "deemed to be disabled" or "work limited" under New York State Social Services Law § 332-b(1)(b). However, under New York State Social Services §§ 331 and 336 et. seq., other non-exempt adult members of the HASA public assistance household are required to comply with the work requirements unless they fall into a statutorily prescribed exemption to the work program.

HRA/HASA proposes to amend Chapter 5 of Title 68 of the Rules of the City of New York to provide employment activities and opportunities to those adults (known as Associated Case Members – ACM). The proposed ACM employment rule creates a process for the provision of employment opportunities for eligible ACMs residing in a HASA household. To foster their long-term self-sufficiency, all ACMs will be assessed for employability and those determined to be eligible will be linked to existing HRA employment services. If the ACM refuses or fails without good cause to cooperate with the process or to comply with the work requirements, the household will, under federal, state, or local law, be subject to a pro-rated reduction of the household's cash assistance benefits.

The proposed rule amendment also makes technical changes to reflect the change in name from DASIS to HASA.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; deleted material is in [brackets].

Section 1. Section 5-01 of Chapter 5 of Title 68 of the Rules of the City of New York is amended to read as follows:

§5-01 Rights of Persons With Clinical/Symptomatic HIV Illness or with AIDS.

(a) Rights of persons with clinical/symptomatic HIV illness or with AIDS. All persons with clinical/symptomatic HIV illness or persons with AIDS shall have the right to apply for benefits and services as defined in §21-128(b) of the Administrative Code of the City of New York, and the right to apply for information, referral and assessment services from the [Division of AIDS Services and Income Support ("DASIS")] HIV/AIDS Services Administration (“HASA”). In addition, such persons shall have the following rights:

(1) With certain exceptions provided pursuant to applicable federal, state or local law, regulation or rule, you have the right to confidentiality. Your medical condition cannot be revealed to anyone without your permission. Information you give to [DASIS] HASA staff will not be released to any individual or organization without your permission except where required by law.

(2) You have the right to receive information about and to apply for a variety of benefits and services including, but not limited to, medically appropriate transitional and permanent housing; Medicaid and other health related services; home care and home health services; personal care services; homemaker services; Food Stamps; transportation and nutrition allowances; housing subsidies, including, but not limited to, enhanced rental assistance; financial benefits; and intensive case management. You shall have the right to receive the benefits and services for which you are found eligible.

(3) If you are homebound (i.e., with physical or mental disabilities, confirmed by medical providers or home care agencies, which prevent you, permanently or temporarily, from visiting the local [DASIS] HASA service center), you have the right to a home or hospital visit from a case manager. These visits may be to determine your eligibility for benefits and services, to assist you in applying for benefits and services, or to maintain eligibility for benefits and services.

(4) You have the right to refuse any service.

(5) You have the right to be referred to a community based organization for any service not provided by [DASIS] HASA.

(6) You have the right to contact a [DASIS] HASA staff member whenever you need services.

(7) You have the right to receive services from [DASIS] HASA staff without the payment of gratuities in any form.

(8) You have the right to initiate complaints against [DASIS] HASA staff.

(9) If you feel that you are being unlawfully discriminated against in any way, you have the right to file a complaint of discrimination with the New York State Division of Human Rights Bias Hotline at (212) 662-2427 or the New York City Commission on Human Rights AIDS Hotline at 1-800-523-AIDS.

(10) You have the right to be treated fairly and with respect and courtesy.

(b) Additional rights and responsibilities of [DASIS] HASA clients. All persons who are deemed eligible pursuant to §21-128, subsection (a)(3) of the Administrative Code of the City of New York, have, in addition to all of the rights of persons with clinical/symptomatic HIV illness or with AIDS, the following additional rights and responsibilities:

(c) [DASIS] HASA client rights. (1) You have the right to have benefits and services provided in a timely manner after your applications for specific benefits and services have been approved. Once applications for benefits and services are complete, the time frames for the delivery of benefits and services are determined by:

(i) Federal law or regulations;

(ii) New York State Social Services Law or regulations; or

(iii) Local Law and the Rules of the City of New York.

If none of the above apply, provision of the benefit or service will be no later than twenty (20) business days following submission of all information or documentation required to determine eligibility.

(2) If accepted for Public Assistance or Food Stamps, you have the right to review your budget. If accepted or rejected for Public Assistance, Food Stamps, Medicaid, home care, or homemaking service, you have a right to an agency conference and to a New York State Fair Hearing with respect to actions taken to deny, reduce, discontinue, or restrict your benefits. Please consult the back of the notice which advises you of the determination of the agency with respect to your request for benefits and please follow the guidelines on the back of the notice with respect to requesting an agency conference or New York State Fair Hearing.

(3) If you are a [DASIS] HASA client with one or more children in your care or custody, you have the right to receive information and program referrals on child care options, custody

planning, and transitional supports, including the availability of standby guardianship, and referral to legal assistance programs.

(4) You have the right to participate with [DASIS] HASA staff in the development of a service plan.

(5) You have the right to be notified in writing of any change in your case status or in benefits or services provided to you.

(6) You have the right to review your [DASIS] HASA case record and to dispute any information contained therein.

(7) You have the right to be treated fairly and with respect and courtesy.

(d) [DASIS] HASA client responsibilities. (1) You have the responsibility to apply for all benefits for which you may qualify, including, but not limited to, Public Assistance, Medicaid, Food Stamps, Supplemental Security Income ("SSI"), and Social Security Disability ("SSD"), to provide documentation and information necessary to establish eligibility for such benefits, and to comply with application requirements.

(2) You have the responsibility to maintain your benefits by providing information for recertification, and by reporting changes in your income, address, household composition, or any other aspect of your status that may be a factor in determining your eligibility. You have the responsibility to provide information concerning any members of your household, including, but not limited to, any Associated Case Member (ACM) in your household.

(3) ACM Employability Assessment and Employment Plan. (i) The ACM will receive an appointment notice to report for an Employability Assessment to determine whether the ACM is required to engage in work or other activities.

(ii) The ACM is responsible for appearing at the scheduled appointment and providing proof of employment income, school attendance or verification of another work activity, if applicable. The ACM is responsible for cooperating with the Employability Assessment process.

(iii) HASA will determine whether the ACM is required to engage in work or other related activities under federal, state, or local law, regulations, or rules. If HASA determines that the ACM is required to engage in work or other related activities, HASA will provide the ACM with an Employment Plan and refer the ACM to the appropriate work activities, employment opportunities, training, or other necessary services for the ACM to achieve self sufficiency. The ACM is responsible for complying with all the work or other related activities required in the Employment Plan.

(iv) If an ACM refuses or fails without good cause to cooperate or to comply with the Employability Assessment process or with any activities required in the Employment Plan, the household will be subject to a pro-rated reduction of the household's cash assistance benefit(s) as provided in applicable federal, state, or local law, regulations, or rules.

NEW YORK CITY LAW DEPARTMENT

DIVISION OF LEGAL COUNSEL

100 CHURCH STREET

NEW YORK, NY 10007

212-356-4028

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of HIV/AIDS Services Rules

REFERENCE NUMBER: 2013 RG 44

RULEMAKING AGENCY: Human Resources Administration

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

Date: June 7, 2013

Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS

253 BROADWAY, 10th FLOOR

NEW YORK, NY 10007

212-788-1400

CERTIFICATION / ANALYSIS

PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of HIV/AIDS Services Rules

REFERENCE NUMBER: HRA-1

RULEMAKING AGENCY: HRA

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) If it establishes or modifies a violation or penalty, provides a cure period.

/s/ Andrea M. Bender

Mayor's Office of Operations

June 7, 2013

Date