

Procedure No. 04-416

SUBJECT: Client Responsibility	APPLICABLE TO: All Single Adults Eligible for Temporary Shelter, Shelter Providers, and DHS Staff	ISSUED: November 17, 2003
ADMINISTERED BY: Division of Adult Services		APPROVED BY: <i>Mark Hurwitz</i> Mark Hurwitz, Deputy Commissioner

FORMS USED

416A/aa	Client Acknowledgment of Responsibility Form/Spanish
416B	Client Responsibility Sanction Recommendation Form
416C	Notice to Provider of Sanction Denial
416D	Notice to Client of Continued Shelter Eligibility
416E	Program Administrator Sanction Recommendation Form
416F	DHS Sanction Review Committee Form
416G/gg	Notice to Client Upon Return from Sanction/Spanish
DHS-10A/aa	Notice of First ILP Violation/Spanish
DHS-10B/bb	Notice to Discontinue Temporary Housing Assistance (Shelter)/Spanish
DHS/DSS-4002S	Action Taken On Your Request For Assistance To Meet An Immediate Need Or A Special Allowance

PURPOSE

The DHS principles state, "all homeless individuals and families should receive safe, temporary shelter; planning for permanent housing should begin immediately." This procedure sets forth policy guidelines and detailed instructions to implement standards of responsibility in shelters for single adults. The goal of Client Responsibility is not to sanction clients, but to create a safe environment for clients and to encourage clients to take steps that will lead to independence. To achieve that goal, the Client Responsibility procedures will foster the positive social and service environments that will enable clients to make the transition to independent living while ensuring that clear and fair standards of responsibility promote mutual respect between clients and staff. Providers will work closely with clients to plan and expeditiously obtain appropriate assessment, evaluations, services, and treatment necessary to help clients prepare for and obtain permanent or other appropriate housing.

OVERVIEW

A client residing in temporary shelter has responsibility for his or her personal conduct and has an obligation to stay in temporary shelter only as long as necessary. The client will be required to develop, carry out and complete an Independent Living Plan; actively seek and accept suitable housing; and refrain from acts which endanger the health or safety of oneself or others or that substantially and repeatedly interfere with the orderly operation of the shelters.

If the client unreasonably fails to comply with these standards, the client's shelter will be temporarily discontinued. This procedure includes exemptions that would excuse sanction for noncompliance by distinguishing between clients who are unwilling as opposed to unable to comply with the standards of responsibility. Specifically, DHS will not subject a client to discontinuance of shelter for failure to comply with the Client Responsibility rules when such failure is due to the physical or mental impairment of the individual.

A client has the right to challenge DHS' decision to discontinue shelter by requesting a State Fair Hearing. Further, if the client requests the Hearing within ten (10) days of receipt of the DHS' notice to discontinue shelter temporarily, the client may continue receiving temporary housing assistance (shelter) pending the decision of the State Administrative Law Judge.

A client has the right to present grievances to the shelter operator and/or to DHS without fear of reprisal. The Provider has the responsibility for working closely with the client and using appropriate case management to aid the client in complying with his or her responsibilities and achieving permanent or other appropriate housing. Shelter staff is responsible for providing assistance, if necessary, to a client to meet these requirements.

The word "shelter" will mean "temporary housing assistance" throughout this document.

PART I: CLIENT RESPONSIBILITY REQUIREMENTS

A. INFORMING A CLIENT OF CLIENT RESPONSIBILITY REQUIREMENTS

The Provider must inform the client of his or her rights and responsibilities from the time the client begins receiving shelter until the acquisition of suitable housing. Shelter rules, rights, and responsibilities must be conspicuously posted in public areas of shelters. Each client must be given the Client Acknowledgment of Responsibility Form (CARF), which sets forth the requirements for remaining eligible for shelter, at the following times:

- Immediately upon arrival at the Men's Intake facility or at a Women's Intake-Assessment facility;
- Within three (3) calendar days of assignment or transfer to a shelter;
- Within ten (10) calendar days of the effective date of this procedure;
- Upon return from discontinuance of shelter;
- Immediately upon discovering that the client's case file lacks an original of the CARF, either signed by the client or indicating that the client refused to sign.

Staff must explain the Client Responsibility rules to a client before asking him or her to sign the CARF to acknowledge receipt. This ensures that every client knows his or her responsibilities, understands how he or she must work toward the goal of independent living, and is aware of the possibility of sanction for failure to comply with the requirements. Staff must countersign the CARF, give a copy to the client, place the original in the case file, and make the appropriate entry in the case file.

If a client refuses to sign the CARF, the Provider will indicate a failure to sign by placing a check in the box in the lower right-hand corner of the form and indicate the date of refusal on the form. However, the client will still be expected to meet the requirements of the CARF.

After the client has signed the CARF, he or she must fulfill his or her obligation to cooperate with an assessment, develop, carry out and complete a personalized ILP, seek and accept suitable housing, and refrain from Gross Misconduct [as defined in Part I, Section B (3)].

B. COMPONENTS OF CLIENT RESPONSIBILITY

1. Independent Living Plan (ILP)

The ILP is a document developed and completed by the Provider together with the client, which establishes how the client will work towards the goal of living independently as expeditiously as possible. The ILP must be tailored to the specific circumstances of the client, based on the assessment of the client's housing and housing-related needs. The Provider must guide and reinforce compliance with the ILP in a manner that takes into account the unique characteristics and service needs of each client. The Provider should be aware of and assist the client in addressing issues, such as a physical or mental impairment or domestic violence safety needs, and develop, with the client, an ILP consistent with his or her circumstances.

The Provider may develop or use its own ILP format, service plan or other case management document, such as a treatment summary, social contract or Applicant Interview Document (AID), consistent with the requirements set forth in this procedure. The Provider's specific ILP document must reflect a client's current situation and give an ongoing picture of the nature of the Provider's services to the client. It must include a specific plan to obtain suitable housing and address tasks and responsibilities in light of the client's abilities.

Revisions to an ILP should be made when a client's circumstances have changed, such as a newly diagnosed illness or recently discovered safety concerns due to domestic violence, which the Provider needs to help the client address before obtaining suitable housing. The Provider must approve any revisions to an ILP. (See Appendix 1 "Independent Living Plan Sample").

A client must cooperate in the development of an ILP, such as an AID at an Assessment Facility, commensurate with the client's ability to complete it. The Provider of the Official Shelter may conduct a more in-depth assessment of the client's needs, as required by the specific program, including, but not limited to MICA, mental health, substance abuse, or employment.

The client has the right to present grievances pertaining to ILP requirements to the Director of Social Services without fear of reprisal.

a. Client Responsibility

The client works with the Provider to create the ILP and any subsequent revisions to it. Completing the ILP consists of carrying out the steps the client and Provider have drawn up to achieve the goal of independent living. The client must adhere to the ILP's tasks and activities, including time frames with any necessary assistance from the Provider. The client's responsibilities to ensure ILP compliance must be relevant and appropriate to his or her personal circumstances. Examples include the following:

- Signing the ILP/Updates, as an indication that he or she has participated in its development, understands it, and agrees to carry it out;
- Submitting all required documentation within thirty (30) days of request. A client who cannot submit required documentation must cooperate in securing it or must demonstrate a valid reason for not doing so, in order to be considered in compliance with the ILP;
- Obtaining eligibility for any available housing assistance;
- Pursuing employment options, particularly for the client ineligible for supportive housing;
- Participating in a savings plan consistent with applicable laws and regulations, when in receipt of income;
- Participating in drug and alcohol treatment programs, when substance abuse interferes with the client's ability to seek, secure, or retain suitable housing;
- Participating in evaluations and treatment for physical or mental illness when physical or mental illness interferes with a client's ability to seek, secure, and retain suitable housing;
- Making every reasonable effort to resolve legal and other matters, including court issues and outstanding warrants, which interfere with the client's ability to move into suitable housing; and
- Complying with all housing eligibility and search requirements (as described in Section 2).

A client shall not be required to produce documentation of domestic violence when production of such documentation would put the client at risk of violence perpetrated against him or her or make it harder for the client to stay safe from the abuser.

b. Provider Responsibility

The Provider is responsible for working closely with the client to develop, carry out, and complete an individualized ILP, as well as using appropriate case management to obtain evaluations and services designed to help the client live independently. The Provider must be aware of a client's needs related to housing, including physical and mental conditions that may impact on the client's ability to carry out an ILP and the choice of suitable housing options. In selecting ILP tasks, referrals, and time frames, the Provider must consider the individual's abilities and factors outside the client's control that affect or prevent ILP compliance as well as the availability of services. The Provider is responsible for the following:

- Advising a client of his or her responsibility to cooperate in ILP development, implementation, and completion;
- Assisting a client in securing all appropriate documentation;
- Completing a client's initial ILP, or revising a client's ILP, within two (2) weeks of his or her arrival at the Official Shelter;
- Providing the client with a copy of the ILP, including any subsequent revisions to it;
- Conducting meetings with the client at least once every two (2) weeks to discuss ILP implementation and updating the ILP, if appropriate;
- Updating an ILP at least once a month or whenever new case information necessitates a revision of an ILP. The case file must include the reasons why the caseworker revised the ILP;
- Exploring employment options with a client, when appropriate;
- Assisting the client in addressing issues such as mental illness, substance abuse and domestic violence safety needs, and by initiating referrals for evaluations and programs, when appropriate;
- Assisting the client in obtaining an evaluation of his or her health or mental health needs by a certified, licensed, or accredited health or mental health care provider. This evaluation should identify any physical or mental impairment the client may have;
- Documenting an impairment or any refusal by a client to be evaluated, and making appropriate modifications to the ILP, based on the evaluation(s);
- Updating an ILP at any point when additional information demonstrates a safety risk in connection with domestic violence; and
- Implementing and documenting progressive supervisory case review, approval of ILP/Updates, and administrative intervention to achieve compliance with the ILP.

The first time a client unreasonably fails to comply with the development, implementation or completion of his or her ILP, DHS or the Provider must inform the client of this determination. DHS or Provider staff will serve the Notice to First ILP Violation (DHS-10A) to the client. A client, who has violated his or her ILP for the first time, may remain in the shelter. The client also has the right to a Fair Hearing to contest the finding of the first ILP violation. The Director of Social Services/Supervisor and Caseworker will conference the client regarding the consequences of further noncompliance, that is, a second violation may result in the discontinuance of shelter for 30 days or longer, and will seek the client's cooperation. ILP infractions and notes from the conference(s) must be fully documented in the case file.

After the first ILP violation, if the Shelter Director believes that the failure of the client to comply with an ILP two or more times warrants the discontinuance of shelter eligibility, he or she may recommend a durational sanction as described in Part II, Section A "Sanction Initiation Process."

A client's unreasonable failure to comply with individualized ILP requirements two or more times may result in a sanction from shelter for 30 days, or until the failure ceases, whichever period of time is longer.

The noncompliance will be excused, and discontinuance action will not be taken, when the noncompliance is due to a mental or physical impairment. This will be evaluated on a case-by-case basis. The Provider must document the impairment and make any appropriate modifications to the ILP.

Noncompliance with an ILP may also be excused if the Provider determines that the ILP goals, tasks, and/or time frames do not accurately reflect the needs of the client or are not commensurate with his or her ability to complete them. The client may also demonstrate that a situation beyond his or her control prevented compliance, including, but not limited to, a medical emergency, a death in the family, or a lack of notification of an appointment time and place.

2. Seeking and Accepting Housing

The client must cooperate in the search for permanent or other appropriate housing consistent with the ILP. Specifically, a client is required to look for housing, on his or her own when appropriate, and to accept suitable housing referrals from the Provider and DHS, including permanent housing, reunification with family members or other appropriate housing. Other appropriate housing includes, but is not limited to, supportive housing, residential drug treatment programs, and Job Corps placements.

a. Client Responsibility

A client must cooperate in the search for suitable housing, consistent with the ILP, as follows:

- Informing the Provider of any affordable permanent housing options with relatives or friends;
- Actively looking for permanent or other appropriate housing;
- Obtaining and completing appropriate housing applications, including submitting in a timely manner all information, which is required by a landlord or housing agency, provided that the request is legally permissible and appropriate;
- Documenting, for the Provider, his or her efforts to find housing;
- Appearing on time for all housing appointments and interviews;
- Viewing and accepting suitable housing options consistent with the individualized goals, tasks and needs in the client's ILP;
- Signing and executing a lease for housing on the scheduled date; and
- Moving into secured housing on the designated date and time.

b. Provider Responsibility

The Provider is responsible for assisting the client in his or her transition into permanent or other appropriate housing. This assistance includes, but is not limited to:

- Advising the client of the responsibility to seek and accept housing;
- Assisting the client in obtaining and completing all relevant housing applications in an appropriate and timely manner;
- Documenting and following-up on all housing appointments and applications;
- Preparing the client for housing interviews;
- Escorting the client on housing appointments, when appropriate;
- Documenting all housing rejections, including the reason for such rejections;
- Asking the client about any domestic violence safety needs that must be considered in locating suitable housing; and
- Securing a medical or psychiatric evaluation for the client, when appropriate, to determine whether there is a physical or mental condition that may affect the suitability of particular housing.

A client may not unreasonably refuse any housing that is suitable to the client, as long as the housing is suitable to the client's recognized needs consistent with any domestic violence status as defined by local law, and are compliant with applicable local codes and regulations. At any point where additional information demonstrates a safety risk in connection with domestic violence, the ILP must be modified to address the circumstances, which may include revising suitable housing options.

If the client fails to cooperate in seeking and accepting suitable housing, a Provider shall document the client's noncompliance.

If the Shelter Director believes that failure of the client to seek or accept suitable housing warrants the discontinuance of shelter eligibility, he or she may recommend a sanction as described in Part II, Section A "Sanction Initiation Process."

The client's unreasonable failure to comply with "seeking and accepting housing" requirements may result in the discontinuance of shelter for 30 days, or until the failure ceases, whichever period of time is longer.

Any noncompliance will be excused, and sanction will not be taken, when the noncompliance is due to a mental or physical impairment. This will be evaluated on a case-by-case basis. The Provider must document the impairment and make any appropriate modifications to the ILP.

3. Gross Misconduct

Shelter residents and staff are entitled to a safe environment that protects their personal safety and is conducive to the provision of services, which will help the client achieve independence.

a. Client Responsibility

A client must refrain from engaging in acts that endanger the health or safety of him or herself or others in the shelter, or repeatedly and substantially interfere with the orderly operation of the shelter. Prohibited acts of dangerous conduct within a shelter include, but are not limited to:

- Violence or other conduct significantly impacting the safety of clients, staff or others;
- Possession or sales of illegal drugs, firearms, or deadly weapons;
- Destruction or theft of property;
- Reckless behavior that creates a safety hazard in the shelter or that may result in evacuation and/or injury, including, but not limited to, fire-setting and smoking in the shelter; and
- Rape or sexual assault of clients or staff.

b. Provider Responsibility

The Provider must advise the client that incidents of Gross Misconduct may result in the temporary discontinuance of the client's eligibility for shelter, and may result in notification to the NYPD. The Provider is also responsible for the following:

- Documenting in a client's case file all incidents which endangered the health or safety of the client or others in the shelter, or which repeatedly and substantially interfered with the orderly operation of the shelter;
- Completing a NYC Department of Homeless Services Incident Report; and
- Notifying the NYPD, if appropriate.

If the Shelter Director believes that the misconduct of the client warrants the discontinuance of shelter eligibility, he or she may recommend a sanction as described in Part II, Section A "Sanction Initiation Process."

In seeking a sanction, the Shelter Director may take into account previous incidents, even those that occurred at another shelter, as long as the client's current case file contains documentation of the previous infractions.

Except in extraordinary circumstances, the Provider should not consider a single instance of disruption of shelter operations that is not dangerous as Gross Misconduct. When a client repeatedly and substantially disrupts shelter operations, the Provider must at some point determine when the infractions, taken together, become grounds for discontinuance of shelter.

The discontinuance of shelter for Gross Misconduct is for 30 days, or until the failure ceases, whichever period of time is longer. The noncompliance will be excused, and discontinuance action will not be taken, when the noncompliance is due to a mental or physical impairment. This will be evaluated on a case-by-case basis. The Provider must document the impairment and make any appropriate modifications to the ILP.

C. PHYSICAL AND MENTAL IMPAIRMENT EXCEPTION TO CLIENT RESPONSIBILITY

A client will not be sanctioned when noncompliance with Client Responsibility Requirements is due to a physical or mental impairment that prevents compliance.

A physical or mental impairment is defined as a physical or mental illness or condition that interferes with a person's ability to function, including, but not limited to dementia, mental illness, mental retardation, and substance abuse disorders.

The presence of a physical or mental impairment does not automatically exempt a client from sanction, unless the client's noncompliance is due to the physical or mental impairment. If a client, despite his or her impairment, is able, but unwilling, to comply with Client Responsibility rules, the noncompliance is not due to the impairment. In addition, an exemption from sanction, due to a physical or mental impairment in one instance, does not imply future exemptions from Client Responsibility requirements.

1. Client Responsibility

If a client has a physical or mental impairment that may impede his or her ability to comply with Client Responsibility rules, he or she should take the following actions to the extent feasible:

- Cooperating with the Provider in completing the assessment process, within 21 days, and notifying his or her caseworker of any relevant medical or psychiatric condition;
- Allowing a History and Physical as well as a Brief Psychiatric Assessment to be performed by on-site medical providers or submitting the equivalent (e.g., materials sent, via PRU, from a recent hospitalization or medical examination and psychiatric screening done at an Assessment facility). A letter from a qualified health or mental health care provider, confirming the medical or psychiatric diagnosis and explaining how the condition may affect the client's ability to comply with Client Responsibility rules and/or influence criteria for suitable housing will be considered sufficient for these purposes;
- Alerting his or her caseworker to any change in his or her physical or mental condition, if that change will interfere with the client's ability to comply with Client Responsibility rules or interfere with the ability to search for housing or the determination of what constitutes a suitable housing; and
- Submitting documentation, as expeditiously as possible, after refusal of an identified permanent housing option, confirming the physical or mental illness or condition and the specific reasons why the identified housing option was not suitable.

2. Provider Responsibility

A Provider must help a client to secure documentation regarding whether and how his or her impairment may affect the client's ability to comply with the ILP, seek and accept suitable housing, and adhere to the rules regarding Gross Misconduct. A Provider's responsibilities in this regard are the following:

- Requesting that a client sign appropriate releases of information, if necessary;
- Requesting, during the assessment process, information about prior medical and mental health treatments;
- Facilitating, upon the client's transfer to a program shelter, an on-site History and Physical as well as a Brief Psychiatric Assessment or its equivalent (e.g., materials sent, via PRU, from a recent hospitalization or medical examination and psychiatric screening done at an Assessment facility), or securing, within a reasonable time frame, a letter from the client's certified, licensed, or accredited health or mental health care provider with the medical or psychiatric diagnosis and explanation as to how the condition may affect the client's ability to comply with Client Responsibility rules and/or influence criteria for suitable housing;

- Updating the ILP by integrating a client's physical and/or mental illness or condition into it;
- Continuing to counsel the client to accept services and participate in an updated ILP; and
- Proceeding to obtain the necessary services and treatment, which may include transferring the client to another shelter program or seeking more appropriate housing or placement.

The Provider must alert a DHS Program Analyst if the client's cited condition impairs his or her ability to comply with Client Responsibility rules, and if all efforts to arrange for the client to undergo an evaluation or obtain documentation have been exhausted or if there is a question as to whether the documentation obtained accurately reflects the condition. The Program Analyst will alert the Program Administrator, who will contact the DHS Agency Medical Director or designee for appropriate assistance and may ask the Provider to consult directly with the DHS Agency Medical Director or designee. This information must be documented in the client's case file.

The Provider must assist a client whose mental or physical impairment interferes with the ability to comply with the individualized ILP by providing appropriate assistance and referrals and developing a specialized plan that will assist the client in overcoming homelessness. Exemption from a sanction must not prevent the client from obtaining permanent or other appropriate housing. Provider assistance is critical to a client's securing suitable housing.

If, at any time, the client raises any health or mental health related issues that interfere with his or her ability to comply with the Client Responsibility rules or if shelter staff has reason to believe there are health or mental health related issues, the Provider must request documentation and assist the client in submitting the documentation within ten (10) days. The Provider must work with the client to address any problems obtaining the necessary documentation to ensure that an impaired client is not erroneously deemed to be non-compliant.

The Provider will provide pamphlets and/or display informative posters which detail clients' rights and protections under the American with Disabilities Act (ADA). Providers will also inform clients of the name, address, and telephone number of the individual within the Department of Homeless Services (to be designated by the Commissioner) to whom a client may file a grievance if they feel their rights have been violated due to a mental or physical impairment. This individual will coordinate the agency's efforts to comply with the ADA.

PART II: DISCONTINUANCE OF TEMPORARY SHELTER

A. SANCTION INITIATION PROCESS

Proper evaluation and documentation is critical to a sanction process. A client's case file must include, but not be limited to: Client Acknowledgment of Responsibility Form (CARE), ILP and subsequent biweekly reviews, documentation of any intervening case management provided by the shelter's staff, documentation of incidents, housing assistance applications and correspondence, domestic violence information, if any, and medical or psychiatric records, from on-site and/or outside health care providers.

1. Provider Responsibility

The Provider has the primary responsibility for initiating a recommendation, at its discretion, to sanction a client it identifies as non-compliant with the Client Responsibility rules, taking into consideration the distinguishing characteristics of each client's case. The sanction process should only be initiated after the Provider has interviewed the client about the reasons for the alleged noncompliance, using the checklist contained in the Client Responsibility Sanction Recommendation Form (416B), and informed the client that a recommendation for a sanction is being made and about the consequences if a sanction is approved.

The Director of Social Services recommends a sanction to the Shelter Director, based on the facts and circumstances of the case. If, after reviewing the merits of the case, the Shelter Director decides to pursue a sanction recommendation, he or she completes the appropriate sections of the Client Responsibility Sanction Recommendation Form (416B) and submits with all appropriate documentation to the DHS Program Administrator. The Shelter Director must give a copy of the form to the client. A decision not to proceed with a sanction recommendation requires no further action on the part of the Shelter Director, other than to document the decision in the client's case file.

2. DHS Staff Responsibility

As part of DHS' oversight of Providers, DHS Program Analysts may review whether Providers are requesting sanctions for appropriate cases. During a review of a case file, and after consulting with the Shelter Director and client, if necessary, a Program Analyst can recommend sanction if the Provider has not taken appropriate action. The Analyst must notify the Shelter Director immediately of a sanction initiation, using the Client Responsibility Sanction Recommendation Form (416B), and forward copies of the appropriate documentation to the DHS Program Administrator. The Provider must give the client a copy of the form. Conversely, DHS Program Analysts can request corrective actions when a Provider is seeking sanctions for inappropriate cases.

B. REVIEW OF SANCTION RECOMMENDATION

At all levels of review to discontinue shelter, DHS staff will review the client's case file in order to determine whether the client's noncompliance is the result of a physical or mental impairment, whether any relevant factors were beyond the client's control, or if the Provider's conduct or failure to act renders the noncompliance not subject to the sanction.

If the client alleges that a physical or mental impairment interferes with his or her ability to comply with Client Responsibility rules, and DHS believes that the allegation is credible, the client's eligibility for shelter will continue until DHS receives the results of an evaluation from a qualified health or mental health care provider, which provides a professional opinion whether a mental or physical impairment is the cause for the client's noncompliance.

1. DHS Program Administrator

A DHS Program Administrator must review the case within one (1) business day of receipt of the sanction recommendation and case file. At any point, the Program Administrator may request additional documentation from the Shelter Director, and extend the time for review up to three (3) business days from the date the requested documents were received. The Program Administrator will approve or disapprove a sanction recommendation based on the merits of the individual case.

A decision to disapprove a sanction recommendation by the Program Administrator must be documented with the reasons for the decision, on the Notice to Provider of Sanction Denial (416C), which is given to the Shelter Director. The client will be notified of his or her continued shelter eligibility with the Notice to Client of Continued Shelter Eligibility (416D), given to the Provider by the Program Administrator. A copy of each form is kept for DHS files. The client will remain in a shelter and no further action is required.

A decision to approve a sanction recommendation, based on the circumstances of the case, must be documented on the Program Administrator Sanction Recommendation Form (416E), which the Program Administrator submits with the case file to the DHS Sanction Review Committee. The Program Administrator will also notify the Shelter Director of the decision to forward the recommendation to the Committee for its review.

2. Sanction Review Committee

The Sanction Review Committee, which includes DHS managers and agency counsel, will make a determination to approve or disapprove the recommended sanction within three (3) business days of receiving both the Program Administrator's sanction recommendation and case file, and will notify, in writing, the DHS Program Administrator and the Shelter Director of its decision. At any point, the Committee may request additional documentation from the Shelter Director, and extend the time for review up to three (3) business days from the date the requested documents are received.

A decision to disapprove a sanction recommendation must be documented on the DHS Sanction Review Committee Form (416F). This document will be provided to the Shelter Director, who is responsible for notifying the client, using the DHS Notice to Client of Continued Shelter Eligibility (416D) signed by DHS staff, as soon as possible, but no later than two (2) business days of receipt of the decision. The client will remain in a shelter and no further action is required.

A decision to approve a sanction recommendation must be documented on DHS Sanction Review Committee Form (416F). This document will be provided to the Program Administrator and the Shelter Director who will follow the steps in Section C "Implementing the Sanction Recommendation."

All final determination forms must be placed in a client's case file.

C. IMPLEMENTING THE SANCTION RECOMMENDATION

Upon the decision to discontinue shelter eligibility, DHS or Provider staff will personally serve the Notice to Discontinue Temporary Housing Assistance (Shelter)(DHS-10B) on the client and request the client's signature. If the client is currently residing in the shelter, he or she must be served as soon as possible, but no later than two (2) business days after receiving the decision. If the client has left the shelter, this Notice must be served as soon as possible, but no later than two (2) business days after the client returns to the shelter.

DHS or Provider staff will inform the client that he or she has the right to a pre-discharge State Fair Hearing to appeal the DHS decision to discontinue shelter. In order to remain in the shelter pending the hearing decision, the client must request the Hearing within ten (10) days of receiving the Notice. The Notice will specify that the Provider will make a fax machine at the shelter available during regular business hours for the client to make a Fair Hearing request.

If the client does not request a Fair Hearing within ten (10) days, the Provider will advise the client that he or she must leave the premises no later than 10:00 p.m. on the effective date stated on the Notice or sooner.

If the client requests a Fair Hearing within ten (10) days of receiving the Notice, he or she may remain in the shelter until a Fair Hearing decision is issued. As soon as the client informs the Provider that he or she is requesting a Fair Hearing, the Shelter Director must notify the DHS Legal Unit.

If the State overturns a sanction, the client's shelter eligibility will continue; if the State upholds a sanction, the Provider will direct the client to leave the facility by 10:00 p.m. on the day notification of the Fair Hearing decision is received.

The Provider will give the client the opportunity to collect his or her belongings before leaving the premises. If the client leaves without emptying his or her locker, staff will open it to remove and store the belongings for seven (7) days, in accordance with the Locker Assignment and Client Belongings Procedure (00-412).

The Provider accesses the Shelter Care Information Management System (SCIMS) to enter the appropriate codes, as detailed in Appendix 2 "Guidelines for Coding Discontinuance of Shelter into SCIMS."

D. SANCTION ENFORCEMENT/READMISSION

When a sanctioned client reapplies for shelter, the Provider will check SCIMS to confirm the sanction, identify the client's Official Shelter, and determine whether the discontinuance period has elapsed.

1. READMISSION FOLLOWING 30-DAY SANCTION PERIOD

If a client who has been sanctioned for noncompliance returns to his or her Official Shelter after the 30-day sanction period has elapsed, the Shelter must agree to readmit the client if the client demonstrates that the behavior that caused the sanction has ceased, or if the continued noncompliance is due to a physical or mental impairment, provided the applicant is otherwise eligible.

The Shelter Director or designee will explain the Client Responsibility requirements to the client before asking him or her to sign the Notice to Client Upon Return From Sanction (Form 416G). This reasonably ensures that the client knows his or her responsibilities and is aware of the possibility of further sanction for failure to comply with the requirement that he or she violated. If a client refuses to sign the form, staff will indicate the date of refusal on the form and explain to the client that the sanction period may then continue.

If the client signs the form, the Shelter Director or designee must inform the client that he or she will be conditionally provided shelter until the Shelter Director determines whether the behavior that resulted in the sanction has ceased. This determination must be made as soon as possible, but no later than two (2) business days after the client's return to the facility.

If the Shelter Director determines that the behavior that led to the sanction has ceased, the Shelter Director records the decision to accept the individual into the shelter on the Action Taken On Your Request For Assistance To Meet An Immediate Need Or A Special Allowance (DHS/DSS-4002S) and serves the form to the client.

If the Shelter Director determines that the behavior that resulted in the sanction has not ceased, the Shelter Director must seek approval from the DHS Program Administrator to continue the individual's sanction beyond 30 days. If the Program Administrator concurs, the Shelter Director records the decision to deny the individual's request for shelter on Action Taken On Your Request For Assistance To Meet An Immediate Need Or A Special Allowance (DHS/DSS-4002S) and serves the form to the individual. The Shelter Director informs the individual that he or she has the right to a Fair Hearing to appeal DHS' action, but that such a request does not entitle the individual to the continued receipt of shelter. The Shelter Director directs the individual to leave the premises and advises that he or she may apply for shelter when the behavior that caused the sanction has ceased or a Fair Hearing finds in favor of the client.

2. READMISSION PRIOR TO 30-DAY SANCTION PERIOD

If a client who has been sanctioned for noncompliance returns to his or her Official Shelter before the 30-day sanction period has elapsed, the Shelter may on rare exception and pursuant to the paragraph below agree to readmit the client. The client must demonstrate that the behavior that resulted in the sanction has ceased, or that continued noncompliance is due to a physical or mental impairment. A client, who has been sanctioned for acts of violence, will not be eligible for readmittance to the shelter before the 30 day sanction period has elapsed.

The Director of Social Services or Designee will explain the Client Responsibility rules to the client before asking him or her to sign the Notice to Client Upon Return From Sanction (Form 416G). This reasonably ensures that the client knows his or her responsibilities and is aware of the possibility of further sanction for failure to comply with the requirement that he or she violated. If a client refuses to sign the form, staff will indicate the date of refusal on the form and explain to the client that the sanction period will then continue. If the client signs the form, the Shelter Director must determine whether the behavior that caused the sanction has ceased. The Shelter Director must confer with the DHS Program Administrator and secure approval of the Deputy Commissioner of Adult Services on all decisions to readmit a client before the end of the 30-day sanction period. The client may not be readmitted to the shelter without Deputy Commissioner of Adult Services approval. Once a decision has been made to readmit a client before the end of the 30-day sanction, this decision cannot be reversed.

If the client's Official Shelter does not have a bed available, the client may be transferred to a temporary shelter until a bed becomes available at the Official Shelter.

E. WINTER ALERT

The Provider will not carry out a sanction on winter alert days declared by the Department of Health or when temperature within New York City falls below 32° F. When the Winter Alert is lifted, the client must leave the shelter to begin the sanction.

The Provider will not turn away a client whose sanction period has not expired and who returns on a Winter Alert day. The Provider informs the client that he or she must leave the shelter when the Winter Alert ends. The time spent in the shelter during the winter alert does not reduce the sanction period.

If, during Winter Alert, the client's Official Shelter does not have a bed available, the client may be transferred to a temporary shelter until a bed becomes available at the Official Shelter.
