

JIGGETTS

Preliminary Relief Handbook

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JIGGETTS PRELIMINARY RELIEF HANDBOOK

TABLE OF CONTENTS

INTRODUCTION	A1
I. BACKGROUND	A2
A. What is Jiggetts?	A2
B. What is the Shelter Allowance?	A3
C. What is "Jiggetts relief"?	A5
D. What is the history of the Jiggetts relief system?	A5
II. IS YOUR CLIENT ELIGIBLE FOR HELP THROUGH JIGGETTS?	A7
A. The Family Receives ADC Benefits, Not Home Relief Benefits	A7
1. What is ADC?	A8
2. Who is eligible for ADC?	A8
3. What is HR and Who is Eligible?	A9
4. What is HR-PG?	A10
B. The Family's Rent Exceeds the Shelter Allowance	A10
C. The Family Has a Reasonable Rent	A11
1. What is a Reasonable Rent?	A11
D. The Family Owes Back Rent, at Least a Portion of Which is Attributable to Excess Rent	A15
E. The Family has been Sued for Nonpayment of Rent and Owes a Sum Certain	A17
1. Stay in Apartment and Pay Arrears	A17
2. Move Rather Than Pay the Arrears	A18
3. Post-Eviction and Move	A19
F. The Family Has No Other Way of Obtaining the Arrears	A19
III. ANALYZING THE CASE	B1
A. Breaking Down the Rent Arrears	B1
1. Rent owed for a period during which your client was not on public assistance.	B3
2. Rent owed because landlord did not cash a public assistance two-party or direct vendor rent check. .	B5
3. Rent owed because your client did not receive a public assistance shelter allowance for that month, even though he or she was receiving public assistance.	B6
4. Rent owed because your client spent all or part of his or her public assistance shelter allowance on something other than rent during a month.	B7
5. Rent owed over the amount of your client's public assistance shelter allowance.	B8
6. Miscellaneous rent owed from the client's non-ADC family members or roommates.	B8

Jiggetts Handbook - Table of Contents

B. Analyzing Household Composition and Income Issues	B10
1. Persons Receiving ADC	B10
a. The Mandatory Filing Unit	B10
b. Changing Case Composition	B11
2. Persons in the household have income other than ADC income	B11
a. A person on the ADC case has income other than Public Assistance or SSI:	B12
b. A non-recipient residing in the household receives Social Security income.	B13
c. A person who is receives SSI lives with the ADC household.	B14
d. A roommate receives HR.	B16
e. A non-recipient residing with the household works or has other income.	B17
f. Contributions from foster care maintenance payments or adoption subsidies.	B17
3. A member of the household is not on the budget because of his or her immigration Status.	B18
4. A member of the household is being sanctioned currently, or was sanctioned during some period during which the rent arrears accrued.	B19
5. The household's classification changed from Home Relief to ADC during the period the arrears were accruing	B20
IV. PREPARING THE JIGGETTS REQUEST AND OBTAINING APPROVAL	C1
A. General Procedures	C1
B. The Application Form	C4
1. Preliminary Information	C4
2. Housing Court Status (Item II)	C5
3. Current Apartment Residents (Item IIIA)	C6
4. Income of Current Residents (Item IIIB)	C7
5. Monthly Rental Information (Item V)	C7
A. Actual Rent and Shelter Allowance	C7
B. Contributions (if any)	C8
C. Housing Court Papers	C8
D. Lease	C9
6. Monthly Accounting of Arrears (Item VI)	C10
7. Arrears (Item VII)	C11
8. Preparer Information (Item VIII)	C12
9. Allegation of Eligibility (Item IX)	C12
10. Certification	C13
C. Common Questions	C13
V. WAITING FOR APPROVAL OF THE RELIEF	D1
A. Checking the Status of a Jiggetts Application	D1
B. Housing Court Proceedings	D2

Jiggetts Handbook - Table of Contents

VI. WHAT TO DO AFTER GETTING THE JIGGETTS APPROVAL LETTER.	D3
VII. THE ONGOING JIGGETTS RELIEF	D5
A. Modifications to the Ongoing Relief	D6
1. Changes in Household Size or Income	D6
2. Rent Increase or Decrease	D7
3. Emergency Circumstances Requiring a Move	D7
B. Restoration of Jiggetts Relief	D8
VIII. IMPORTANT ADVICE FOR YOUR CLIENT	E1
A. Jiggetts Relief is Temporary	E1
B. Jiggetts Relief Affects Food Stamps	E1
C. Be on the Lookout for Problems with Ongoing Jiggetts Payments	E2
IX. OTHER IMPORTANT ITEMS	E2
A. Change in the P.A. Case	E2
B. Closed Files	E2
X. CONCLUSION	E3
Index	E4 and F104

SECTION F: LIST OF APPENDICES

A. FORMS

Appendix 1: Jiggetts Relief Application Form	F1
Appendix 2: Modification of Request Form	F14
Appendix 3: State-Approved Third-Party Contributor Letter	F19
Appendix 4: Conditional Approval Response Form	F22
Appendix 5: Sample Informational Letter to Clients in English and Spanish	F24
Appendix 6: Sample Closing Letters in English and Spanish	F31
Appendix 7: Sample Stipulation in Housing Court	F39
Appendix 8: Sample Order to Show Cause and Supporting Affidavit	F42
Appendix 9: Sample Approval Letter	F48
Appendix 10: Sample SDSS Return Form	F50
Appendix 11: Sample SDSS Denial Form	F52
Appendix 12: ADC-U Screening Check List Form	F54
Appendix 13: Sample WMS Fiscal History and Budget Screen with Definition of Codes	F56
Appendix 14: Sample Fact Pattern and Completed Application	F63
Appendix 15: Sample Letter to HRA Requesting Payment on Approved Case	F65
Appendix 16: Sample Letter to Tony Imbo re: Applicant Arrears	F68
Appendix 17: Sample Intake Forms for Jiggetts Applications	F70
Appendix 18: Jiggetts Reconsideration Form	F78
Appendix 19: Registration Form for New Organizations	F80
Appendix 20: Jiggetts Eligibility Pamphlet	F82

Jiggetts Relief Handbook (JUNE 1996 revision)

List of Appendices Continued

B. CHARTS

Appendix 21: Current Schedule of Public Assistance Grant Levels With and Without Recoupment (Where Heat is Included in the Rental Amount)	F84
Appendix 22: What Happens to Food Stamps in ADC Households Receiving Jiggetts Relief	F86
Appendix 23: Fair Market Rents and Utility Allowances (Effective 10/1/95)	F88
Appendix 24: DHCR Rent Guidelines and DHCR Information	F90
Appendix 25: SSI Income and Resource Levels	F94

C. DIRECTORIES

Appendix 26: Directory of HRA's Rental Assistance Case Consultation	F96
Appendix 27: Directory of HRA's Field Managers	F98
Appendix 28: Directory of Income Support Centers	F100
Appendix 29: Directory of Civil Legal Services	F102

INTRODUCTION

This handbook has been prepared by counsel for the plaintiffs in the lawsuit, Jiggetts v. Dowling. Be sure to consult this manual about Jiggetts policy and procedures prior to calling a member of the Jiggetts litigation team. Its purpose is to provide advocates with the information required to make requests for preliminary relief pursuant to the lawsuit. This relief provides for payment of all or most rental arrears owed by eligible families. In addition, it results in the prospective payment of all or most of the monthly rent, including amounts owed over the public assistance shelter allowance.

Jiggetts relief is temporary. It is in effect only while the case is being litigated, and it is not a substitute for other means of aiding your clients if those are available. Another advocacy guide, Rent Arrears Grants (Outside Jiggetts) (May 1996) by Maxwell Gould of The Legal Aid Society, describes rent arrears grants that are available apart from Jiggetts relief. To obtain a copy of the Gould handbook, please call Marie Richardson or Billy Del Toro, at the Training Unit for The Legal Aid Society, Civil Division, (212) 477-3502.

You should call a member of the Jiggetts team if questions arise in one of your Jiggetts cases that can not be answered by using the handbook or consulting with a welfare specialist. There may not be a clear answer to each question. If this is the case, we will help you work through the issue. Also, we welcome your input to help make the process of obtaining Jiggetts relief for your clients as efficient as possible. Please feel free to provide suggestions on issues that need clarification.

Under the Court's orders in Jiggetts, legal services offices such as those of The Legal Aid Society and Legal Services of New York may prepare and submit applications for Jiggetts relief on behalf of eligible clients. In addition, certain non-legal advocacy organizations can prepare and submit applications. See Appendix 29 for a directory of some of these organizations. The only staff in these non-legal advocacy organizations who may submit Jiggetts relief applications are those who have been trained by plaintiffs' counsel. We strongly urge that all case handlers employed by The Legal Aid Society and other Legal Services office be trained by Jiggetts counsel as well.

Non-attorneys should also consider referring cases with complicated housing

issues or an imminent eviction to the Legal Aid or Legal Services offices in the client's area. See Appendix 29 for a directory of some of these organizations.

This handbook is an informal guide for advocates. It is intended to lay out general procedures for obtaining Jiggetts relief imposed by the State Department of Social Services. This handbook is not an official statement of rules, nor has State DSS promulgated such rules. This handbook does not constitute plaintiffs' counsel's approval of or agreement with any procedure or policy imposed by SDSS. Plaintiffs' counsel does not agree with many positions taken by the State DSS Department of Social Services and may challenge them if presented in a proper case. Do not cite to this handbook in correspondence with City HRA or State DSS.

I. BACKGROUND

A. What is Jiggetts?

Jiggetts v. Dowling¹ is a lawsuit that was brought in 1987 by The Legal Aid Society against the New York State Department of Social Services ("SDSS"). SDSS supervises the New York City Human Resources Administration's ("HRA") administration of the welfare system in New York City. SDSS is responsible for setting the maximum shelter allowance level paid to families who receive public assistance in New York City.

The lawsuit was brought because SDSS has set the shelter allowance at levels that are so low that families who receive public assistance cannot pay for housing in New York City. The lawsuit is based on a section of the State Social Services Law which requires SDSS to set shelter allowances high enough to enable children to be brought up properly and to enable families to maintain homes. At the end of June 1991, the parties finished a lengthy trial in New York County Supreme Court. Post-trial submissions were completed in January 1992. We are now waiting for the judge to issue her decision.

¹ The lawsuit is called Jiggetts v. Dowling because Michael Dowling was the last full-time commissioner of the New York State Department of Social Services. The name will be changed again when a new commissioner is appointed. Previously, it was called Jiggetts v. Grinker, Jiggetts v. Perales and Jiggetts v. Bane.

B. What is the Shelter Allowance?

The public assistance grant is composed of several different components. One of these components, "the shelter allowance," is provided to pay for rent. Shelter allowances are paid in the actual amount of a family's rent each month, up to a maximum. If a family's rent exceeds the maximum, the family receives only the maximum allowance amount. In practice, the shelter allowances are so low that most families in private housing receive the maximum allowance. The amount of their rent over the maximum allowance is commonly referred to as "excess rent."

The maximum monthly shelter allowances for households in New York City, based upon their size, where heat is included in the rent are as follows:²

Household size							
1	2	3	4	5	6	7	8+
Shelter allowance							
\$215	\$250	\$286	\$312	\$337	\$349	\$403	\$421

The maximum monthly shelter allowances for households in New York City, based upon their size, where heat is not included in the rent are as follows:

Household size							
1	2	3	4	5	6	7	8+
Shelter allowance							
\$207	\$240	\$276	\$301	\$326	\$ 337	\$356	\$384

² There are different schedules for NYCHA housing or Section 8 rents, which can be found in the New York State Codes Rules and Regulations.

The shelter allowance can be issued in one of three forms:

- (I) cash to the recipient; or
- (ii) "two-party" checks which are mailed to the recipient and which can only be cashed if both the landlord and the recipient tenant endorse it. These checks state that they are payable to "Jane Tenant and John Landlord"; or
- (iii) "direct vendor" checks which are sent directly to the landlord (vendor) and can be cashed without the tenant's signature. These checks state that they are payable to "Jane Tenant for John Landlord."

Two party and direct vendor checks are called "restricted payments."

Appendix 21 is a chart of the various components of the public assistance grant for each family size with heat included in the rent. The chart also includes grant levels with and without a recoupment. The grants are issued semi-monthly. For example a family of three (3) receiving cash for shelter with rent equal to or more than \$286 per month will receive \$288.50 in the first half of the month and \$288.50 in the second half of the month. If the rent is issued as two party checks, the family will receive shelter checks of \$143 and cash of \$145.50 in the first half of the month and the same amount in the second half of the month.

C. What is "Jiggetts relief"?

As stated above, the judge in the Jiggetts v. Dowling case has not made a decision since the trial. To prevent families from being evicted because of the low shelter allowance before she issued her decision, the judge ordered SDSS to authorize increased rental payments to families on a temporary or "interim" basis. These payments are called "preliminary relief" or "Jiggetts relief."

D. What is the history of the Jiggetts relief system?

The Jiggetts case was originally filed on behalf of a single family threatened with eviction. A few other families also threatened with eviction joined the case soon afterwards. The facts of each family's situation were brought before the judge. In each case, she ordered SDSS to require HRA to pay the family's rent arrears and their full ongoing rent until the case is decided.

In April 1990, the New York State Court of Appeals, the highest court in the state, ruled that the lower court Judge had been correct in refusing SDSS's request to dismiss the case, and sent the case back to the Judge for a trial. Afterwards, the number of families joining the case and asking for preliminary relief increased greatly. In each instance, when a family's situation was brought to the attention of the judge, SDSS did not object to providing them with preliminary relief.

Eventually, to promote efficiency, SDSS agreed to provide relief to particular families without the necessity of going before the judge and obtaining a formal order. Instead, a system evolved in which attorneys representing families on public assistance who met the criteria for Jiggetts relief wrote to SDSS's lawyer, the State Attorney General, providing facts about and documentation of their clients' situations and asking if SDSS would agree to provide relief to their clients without going before the judge. SDSS evaluated each case and consented to make payments if it considered the criteria to be met.

In December 1991, the Judge ordered SDSS to begin accepting requests for relief submitted on behalf of public assistance recipients by non-lawyers at advocacy and community based organizations ("CBOs") designated and trained by plaintiffs' counsel. Each staff member at advocacy and community based organizations must be trained by Jiggetts counsel. If you are affiliated with an organization that has not been designated to submit requests for Jiggetts relief, but would like to be added to the list of approved groups, please complete the Registration Form, Appendix 19, or contact one of the Jiggetts counsel.

In June 1992, the system of applying for Jiggetts relief by writing a letter to the Attorney General's office was changed. Since June 22, 1992, requests for Jiggetts relief are submitted on application forms to an office of SDSS. The current application form is dated May, 1996. This handbook is periodically updated to include new issues that develop as the interim relief system expands. Make sure you have the latest copy. This handbook explains how to determine whether a family is eligible for Jiggetts relief, how to fill in the application, how to get the checks issued and therefore stop the family from being evicted.

II. IS YOUR CLIENT ELIGIBLE FOR HELP THROUGH JIGGETTS?

A client must meet the following six basic criteria to be eligible for Jiggetts relief:

- A. The family receives Aid to Families with Dependent Children ("AFDC" or "ADC") benefits, not Home Relief or some other kind of cash assistance; and
- B. The family's rent exceeds their shelter allowance ("excess rent"); and
- C. The family's rent is reasonable; and
- D. The family has rent arrears, which, at least in part, consist of excess rent; and
- E. The family has been sued for nonpayment of rent, and has a judgment against it or a sum certain is owed and there is no possibility of vacating or reducing the amount owed in housing court; and
- F. The family has no other way to pay the arrears other than by receiving Jiggetts relief.

Each of these factors is discussed in detail below. We have attached a sample intake form at Appendix 17 which you might want to use when you are interviewing new clients.

A. The Family Receives ADC Benefits, Not Home Relief Benefits

The Jiggetts case was only brought on behalf of public assistance recipients who receive ADC. Therefore, only ADC recipients are eligible for Jiggetts relief. In some cases, families are incorrectly classified by HRA as recipients of home relief ("HR"), when, in fact, they are eligible for ADC. See (A)(2), below.

1. What is ADC?

Aid to Dependent Children ("ADC") is a federally funded program which provides cash assistance to certain poor families with children in New York State (the program is also known as Aid to Families with Dependent Children ("AFDC") outside of New York). The federal government pays approximately half of the cost of the program; the state and counties split the difference.

2. Who is eligible for ADC?

Not all indigent families with children are eligible for ADC. To receive ADC a family must meet the following criteria:

- a. There must be at least one child in the household. A child is defined as (i) under 18; or (ii) 18 and a full-time student in a secondary school, or in vocational or technical training and expected to graduate before age 19. 18 N.Y.C.R.R. §369.2(c).
- b. The child must be living with a parent or other relative. The list of relatives is set forth at 18 N.Y.C.R.R. §369.1(b). Under certain circumstances the relative or child may be temporarily absent if the relative remains responsible for the care and control of the child.
- c. The child must be deprived of parental support. The deprivation factors that make a child ineligible for public assistance are (i) continued absence of one or both parents from the household. (ii) death of one or both parents; or (iii) in certain circumstances, where both parents live in the household, the family qualifies for ADC only where:
 1. One of the parents is incapacitated. This is called ADC-I. Incapacity for these purposes need not rise to the level of the SSI program definition of disability. Physical or mental incapacity of a parent is deemed to exist when one parent has a physical or mental defect, illness, or disability, which is expected to last at least 30 days and prevents the parent from engaging in normal functions relating to employment and/or the ability to care for children and the household. 18 N.Y.C.R.R. § 369.2(g)(5),(6); or

2. One of the parents was recently employed and is no longer. This is called ADC-U. 18 N.Y.C.R.R. § 369.2(g)(7). The requirements for this basis of eligibility are rather technical and only a rough summary is provided here. For the ousehold to be eligible for ADC-U, one parent must (i) be out of work for at least 30 days (this includes working less than 100 hours a month); and (ii) have been the “principal earner,” meaning that he or she earned more than the other parent over the most recent two years; and (iii) have worked for 6 or more quarters in any 13-quarter period ending within one year of the date of application for public assistance, or must have received or been qualified for unemployment benefits within one year prior to application for public assistance. A person need only have earned \$50 to be considered to have worked for a quarter.
The form that HRA uses to determine ADC-U eligibility, the ADC-U Screening Checklist, is attached as **Appendix 12**.

NOTE: An exception to the requirement that there be a child in the household to qualify for ADC is that a pregnant woman is eligible for ADC beginning in the sixth month of a medically verified pregnancy. Therefore, she can receive ADC prior to her due date. (She will only be considered to have one person in her household until the birth of her child.)

NOTE: If a child receives SSI, the caretaker relative is eligible for ADC. Likewise if the caretaker relative receives SSI the child is eligible for ADC. As discussed below the SSI recipient must contribute 20% of the SSI benefits or pay a pro rata share of the rent. In some other situations the caretaker relative or the child can be eligible when the other receives income from another source, i.e. social security benefits, foster care, adoptive subsidies.

3. What is HR and Who is Eligible?

Home Relief (“HR”) is a state and county financed program designed to provide cash assistance to indigent individuals and household who do not qualify for ADC or any other program, such as SSI. Common examples of people who receive HR are a child who turns 18 or 19 and a family with two parents who not qualify for ADC-U or ADC-I.

Families classified as HR are not eligible for Jiggetts relief. In order to received Jiggetts relief there must be an open ADC case in the household.

If the ADC household who is applying for Jiggetts relief has an HR recipient living in the home the HR recipient must pay his/her pro rata share of the arrears and future rent. You must get the HR arrears approved by Tony Imbo prior to submitting the Jiggetts application. In addition, if the household switched from HR to ADC, HRA must approve the arrears for the period of time that the case was HR. See Appendix 15 for a sample letter to HRA requesting approval of such arrears.

4. What is HR-PG?

Sometimes a family that appears to be eligible for ADC is categorized by HRA as "HR-PC," meaning "Home Relief - Pending." This category is used to denote a case in which HRA has not made a final determination of ADC eligibility. The State will not process applications in which the computer shows the status to be HR-PG. Accordingly, if the family is in fact eligible for ADC, the advocate must contact HRA and convince the agency to change the classification before submitting an application.

You can try to do this by first calling the Administrative Assistant to the Director at your client's Income Support Center and then if unsuccessful contact the Field Manager. A list of field managers is located in Appendix 27. If after advocating with HRA directly you are still unable to get the family reclassified, but you believe that they are wrongly classified, you should call a welfare specialist³ or one of the Jiggetts counsel for assistance.

B. The Family's Rent Exceeds the Shelter Allowance

Because the Jiggetts case is focused on the inadequacy of the shelter allowance, Jiggetts relief is only available to assist families in paying that portion of their rent or part of their rent that is above the shelter allowance. For example, if a family had a shelter allowance of \$250.00 (family of two) and a rental obligation of \$250.00 any arrears that accrued are not the result of the inadequacy of the shelter allowance. In these situations you must obtain assistance by applying for a rent arrears grants outside

³ Richard Blum is one of The Legal Aid Society's welfare specialists who provides assistance city-wide to advocates. He can be reached at (212) 477-5010 x 248 to answer complicated welfare questions that involve Jiggetts relief.

of Jiggetts or through a private source. See Max Gould's Rent Arrears Grants Handbook (outside Jiggetts).

In some cases, families may owe back rent because their rent exceeded the shelter allowance in the past, but no longer exceeds the shelter allowance. Most typically this happens if the family obtains a Section 8 rent subsidy or some other subsidy. Jiggetts relief is available in these situations for payment of the arrears.

C. The Family Has a Reasonable Rent

1. What is a Reasonable Rent?

Relief is only available to families whose monthly rents are considered "reasonable" within the context of the case.

The State Department of Social Services has taken the position that rents in excess of the following schedule are unreasonably high and they will deny any application with rents above these levels. While the Jiggetts litigation team has never conceded that these levels are "reasonable", it is important that advocates understand when informal relief will be automatically denied. If you have extenuating circumstances in a case and wish to request the State to pay on-going rent in excess of these levels, please contact one of the Jiggetts team members to discuss your case before submitting the application to SDSS.

In extremely compelling cases, the State has approved higher rents than those listed. Most exceptions have been with families with large household compositions. Factors SDSS has considered when evaluating the maximum approved are disabilities or illness, length of residence, ties to community, lack of other affordable housing in current neighborhood and a comparison of fair market rents. A chart on the FMR effective October 1, 1995 is included in Appendix 23 and can be used in a reconsideration request to SDSS. You should contact us before attempting such an application.

The following is a chart of the maximum rents for each household size as determined by the State Department of Social Services:

PUBLIC ASSISTANCE Household of:	Shelter Allowance	SDSS Maximum
1	\$215.00	\$450.00
2	\$250.00	\$550.00
3	\$286.00	\$650.00
4	\$312.00	\$700.00
Every household increase after 4	\$337.00+	+ \$25.00

REMEMBER: These numbers do not apply to modification Moves or Move-Rather-Than-Pay Cases. In such cases, the amount the State is willing to approve is based primarily on the rent in the old apartment.

The maximum rent paid by HRA and approved net rent by SDSS is based on the number of household members on public assistance, not the number of people living in the apartment. However, if there are non-public assistance recipients in the household, the total rent the State will approve may be higher. The above numbers reflect the maximum that the State will agree to pay for on-going rent based on the number of people on public assistance.

Example: If there are three people in the household and two receive ADC and one receives SSI, and the rent is \$650, the SSI recipient must pay \$100 (slightly more than 20% of the SSI monthly income of \$493) SDSS will approve and pay an ongoing rent of \$550.

Example: Given the same household composition and a rent of \$500, the SSI recipient must pay 20% of her income, \$98.60 if client is receiving an SSI grant of \$493. The ADC recipients in the household will get \$401.40 through Jiggetts.

2. Use of a Third-Party Contributor

In many instances, the State has approved Jiggetts applications that it would have otherwise denied on the ground that the rent is too high, based on the promise of a contribution to the rent from a non-legally responsible individual (i.e. parent, sister, brother) not living in the household, known as a third-party contributor. For example, if the rent of a family of two is \$600, SDSS would normally deny the application as the State's maximum for a family of 2 is \$550. However, if a non-legally responsible individual, not in the household, agrees to contribute \$50 per month to the rent, SDSS would approve the application if certain rules are followed. (Remember: absent parents are legally responsible and cannot be contributors.) **Do not volunteer a contribution if it is not necessary. Once you submit a third-party letter guaranteeing to pay a portion of the rent, the State insists that the third-party be bound to pay that amount indefinitely even if the family increases in size or other families are receiving higher supplements.** Also, keep in mind that a contributor who is not credible may put your client in arrears very quickly! If a third-party does not make the contributions, your client may be faced with eviction despite the Jiggetts supplement.

You should never offer to contribute money from your clients "F & O" budget. However, if your client regularly receives \$50.00 child support pass-through payments from HRA in addition to her regular grant some or all of this money can be used to pay the excess rent. However, if the pass-through payments are not issued regularly than this is not a viable third party alternative.

SDSS has described to us the process that it uses to evaluate third-party contributor's and their credibility.

a. Use of State Form:

When submitting an application with a third-party contribution, be sure to only use the SDSS approved form on page 11 of the application, (Appendix 1 or Appendix 3). You may also use the SDSS approved Spanish version of the Third-Party Contribution Statement for Spanish-speaking donors located at Appendix 3. Be sure that all relevant sections of the form are completed and that copies of two of the third-party's recent pay stubs, preferably consecutive ones, showing the third-party's income are attached. The SDSS may return the application for the third-party contributor's failure to complete all sections of the donor form. The SDSS will accept a W-2 form or income tax statement if the third-party does not receive paystubs. The SDSS will not accept a letter from an employer. The SDSS refuses to accept third-party contributors

from persons who “work off the books” or do not pay taxes.

b. Close Review of Paystubs

The paystubs should be carefully examined. The State will check the year to date (“YTD”) entry on the paystubs to verify that the income is regular. You need to check the paystubs to avoid the application being returned.

c. Amount of Contribution: 10% or less of net income:

In evaluating applications to see if the third-party is credible, SDSS determines what percent the monthly contribution is of the donor's take-home (net) pay. To calculate the monthly net pay of a donor who is paid bi-weekly and the amount he/she can contribute, take their bi-weekly salary and divide it in half for their weekly salary. Multiply their weekly salary by 4.33 to reach their monthly net income. If the contribution is less than 10% of the contributor's take home pay, it will tend to be considered credible. If the contribution is more than 10% of net income, the State will closely scrutinize it and will consider factors such as whether the client and the donor are related, whether there are other particular reasons to believe that the donor will actually pay, whether the third-party has any dependents and what the third-party's expenses are. The State will often check its child support computer to see if the third-party has child support obligations, and whether they are being met. If a donor is not meeting their child support obligations, the State will reject the third-party donor. Thus, make sure the third party is asked about child support obligations before submitting the application.

SDSS will also reject third-party contributions that they consider to be too high. We do not recommend using third-parties over \$100 except in very compelling circumstances such as the third party has set aside several months of the contribution. SDSS has denied applications with two third-party contributors, although, they have agreed to review these applications on a case-by-case basis. **We recommend that all third-parties pay or save their share as soon as they sign the third-party commitment letter.**

Many organization have instituted policies in which third parties over \$50.00 are reviewed by a supervisor before submitting the application to the State. We recommend a system with such prudent measures to guarantee the viability of the third-party donor. Once a client's donor does not pay, it is very difficult to assist the client in obtaining any assistance from the State or HRA.

This system of evaluating donors is not formal or official. We describe it only to assist advocates in assessing the likelihood that applications with third-party contributions will be easily approved.

D. The Family Owes Back Rent, at Least a Portion of Which is Attributable to Excess Rent

1. The family is threatened with eviction due, in whole or in part, to non-payment of excess rent.

In order to be eligible for Jiggetts relief a family must owe rent arrears that consists of at least in part of excess rent. If none of the rent arrears are due to excess rent, the rent arrears may be available through other HRA channels, but not through the Jiggetts case.

An application cannot include a request to pay charges other than rent such as late charges, attorney's fees or parking fees.

2. Rent arrears do not exceed \$7,000.00

NOTE: When calculating the \$7000.00 maximum, do not include amounts which represent non-receipt of full shelter or stale checks. You should include all excess, duplication and applicant arrears. The \$7000 is measured by the date the application is submitted with proof of mailing such as the receipt.

The State has taken the position that a denial is appropriate if the arrears are over \$7,000, unless there are "special" circumstances. In such cases the State often offers to provide ongoing Jiggetts relief in a new apartment.

In some high arrears cases the trial judge has agreed with the State's position. However, the Appellate Division has ruled in an individual case that the SDSS does not have the authority to impose a flat \$7,000 cap. This means that, if necessary, the issue can be litigated in individual cases. These cases are very fact specific and often turn on whether or not the applicant was paying her share of her shelter allowance or not. However, all attempts should be made to avoid applying for relief before arrears reach \$7,000. Call us before the arrears reach \$7,000 to discuss strategy. Call us before accepting a case with arrears over \$7,000 unless you are sure you can settle the case for

under \$7000.

To avoid the application being denied due to excessive arrears, we recommend the following, especially when rent arrears approach \$5000:

1. Have your client pay the shelter allowance to the landlord as each payment is received from HRA;
2. If your client does not pay her landlord, make sure your client is not spending her shelter allowance, and that she gets a money order payable to the landlord or deposits the money with you;
3. If the shelter allowance is issued to your client in cash have it changed to two-party or direct vendor checks, with your clients permission;
4. Have the shelter allowance removed from the client's budget⁴;
5. If you wish to litigate an issue, such as a rent overcharge or warranty of habitability, you might consider putting in the application before the hearing or trial. Call to discuss this with us. Note in the application that you are litigating the legal rent.

Other tips to keep in mind as to the position of the State with respect to arrears over \$7000:

1. If a large portion of the arrears are from applicant rent arrears or rent duplication the State will consider your client to be at fault; and therefore may scrutinize the applicant more.
2. The \$7000 limit is tolled once you prove an application was received by SDSS (i.e., you have a receipt). However, do not permit a situation to continue where your client will need rent duplication;
3. A third-party contributor must pay or give his contribution from the date of signing the third-party letter;

⁴ This may be the most preferable option particularly if you expect the housing court case to take a long time. Once the shelter allowance is removed your client's food stamp allowance will go up.

4. If rent arrears over \$7000 are severed rather than waived, the State will deny the application (severed means the client cannot be evicted for not paying the monies, but the landlord can collect the money outside of housing court). If this is the situation in your case, you should contact one of the Jiggetts counsel to discuss your case.
5. As noted above, the State does not include non-receipt of full shelter or stale checks when calculating the \$7000 cap on arrears.

E. The Family has been Sued for Nonpayment of Rent and Owes a Sum Certain

It is the position of SDSS that a family must be sued for nonpayment of rent in order to qualify for Jiggetts relief. A demand for rent is not sufficient.

1. Stay in Apartment and Pay Arrears

In order to obtain Jiggetts relief, the amount owed must be established. The amount owed is usually shown by a housing court stipulation. However, it is not necessary to have a stipulation or court order to apply for Jiggetts relief. An application can be filed based on a non-payment petition, before a stipulation is signed, if the amount of rent sought in the petition is correct. As discussed more fully below, if an application is submitted with only a nonpayment petition, rather than a stipulation, judgment or order, you must complete the certification on page 10 of the application, at Appendix 1.

If there is a court stipulation we recommend that there only be an agreement to pay arrears. It is not necessary to have a final judgement.

Because Jiggetts relief is a last resort, it is inappropriate to ask the SDSS to pay money that may not be owed. Jiggetts relief should not be requested when there is a reasonable chance of reducing the amount owed through an abatement due to substandard conditions or by other means. Clients with possible defenses in housing court should be referred to a Legal Aid or Legal Services office for assistance. (See Application, Appendix 1, page 9, "Allegation of Eligibility for Interim Relief and Notice to Client.")

In addition, in order to avoid unjustly enriching the landlord, it is essential to

check the legality of the rent claimed due with the District Rent Office of the Division of Housing and Community Renewal ("DHCR"), if the apartment is subject to Rent Stabilization. (See Appendix 24) If there is an overcharge, this issue must be addressed in the nonpayment case by court order or settlement prior to seeking Jiggetts relief.⁵ Such cases should be referred to a lawyer. Contact us if you have questions about this. It is also important that rent abatement issues be aggressively litigated.

2. Move Rather Than Pay the Arrears

In certain cases it may be better for your client to move to a new apartment rather than pay the arrears in the old apartment. You should discuss this option with your client when analyzing the case and discussing that Jiggetts payments can not be transferred to new apartment once the arrears are paid except where there is a fire or other similar emergency.

Your client's reasons for moving might be that there is overcrowding in the current apartment (i.e. more than two people of the opposite sex in a studio or four people in a one bedroom), no amount of litigation would make the landlord do repairs, the apartment is not covered by rent regulations or a lease and the landlord is threatening to raise the rent, etc.

In evaluating the move to another apartment rather than paying the arrears, SDSS will evaluate the move using three main criteria:

1. Avoiding payment of large sums for back rent; and
2. Paying approximately the same rent for the new apartment; and
3. The cost to HRA of moving the household to a new apartment (such as broker's fees, security deposit and moving fees).

You should complete the application and indicate on pages 6 and 7 that you are not requesting any arrears. Please call a Jiggetts team member if you have a specific case you would like to discuss before you submit the application.

⁵ The legal percentage increases and locations of DHCR offices are attached as **Appendix 24**.

Your client should not move before the application is approved. Please note that it is unethical to seek additional time in housing court to avoid eviction from the current apartment on the grounds that you are seeking Jiggetts relief to save the apartment when you are actually applying to move to a new apartment.

If you apply for a Move Rather than Pay and your client is not able to move to the new apartment it may then be difficult to get SDSS to pay the arrears for the original apartment if you have provided a reason to move that still exists such as conditions. In a Move Rather than Pay situation the reason for the move is not as significant as in a Modification to Move situation.

In some cases you should not seek Jiggetts relief at this time. If your client wished to move to a more expensive apartment you might want to seek relief in the future, if and when they are sued in the new apartment. It is the position of SDSS to relate back to the lowest rent ever mentioned in an application even if the original application is denied or returned.

3. Post-Eviction and Move

It is also possible to aid families who were legally evicted because they were unable to obtain Jiggetts relief and were eligible prior to the eviction. If you have a client or a walk-in who was legally evicted and cannot be restored to their original apartment, SDSS will consider and usually approve an application to move the family into a new apartment at the same or lower rent as the old apartment. If you have a case fitting this description, you should complete an application like a Move Rather than Pay. If you have a case with this fact pattern and need assistance, contact a member of the Jiggetts team.

F. The Family Has No Other Way of Obtaining the Arrears

Jiggetts relief is only available to those who have no other way of preventing their eviction. Therefore, you should explore the following with your client before undertaking a request for this relief:

1. Do they have any funds saved that can be used toward their arrears?
2. Are they eligible to have their arrears paid through regular arrears grants available from HRA? Consult the booklet Rent Arrears Grants

(Outside Jiggetts) by Maxwell Gould of the Harlem Neighborhood Office of The Legal Aid Society for a description of rent arrears grants.

3. Persons in the household not receiving ADC generally must contribute a pro rata share of the arrears and future rent.⁶ Such persons may be eligible for an Emergency HR grant if they have not saved their portion of the arrears. A commitment to pay this money must be obtained from HRA before submitting a Jiggetts application. See Rent Arrears Grants handbook.

⁶ There are exceptions to this rule for individuals receiving HR, SSI, foster care, adoptive subsidies, Social Security benefits and other low-income fixed benefits.

III. ANALYZING THE CASE

Once you have determined that your client fits the broad profile outlined in Section A of someone who is eligible for Jiggetts relief, your next step should be to analyze their rent arrears and to take into account changes or unusual aspects of their household composition. You cannot make a request for Jiggetts relief until you have determined: 1) how much rent your client owes; 2) exactly how she came to owe that amount; 3) who currently resides in the household; 4) who lived in the household during the period that the arrears accrued and the source and amount of income for all individuals living in the household presently.

A. Breaking Down the Rent Arrears

The rent arrears must be carefully analyzed because Jiggetts relief is available only for excess rent arrears for those months that your client was a recipient of ADC benefits. If your client or your client's roommates owe other rent in addition to the excess, it may be available through HRA but you will have to explain in your request for relief how much of your client's arrears is excess rent and how much falls into other categories. Current roommates, with work income, must pay a pro rata share of the arrears and ongoing rent. Primary tenants with fixed income must pay 30% of the arrears and ongoing rent or their pro rata share whichever is less. This money must be paid or you must have an approval for payment of this part of the arrears from HRA before submitting the Jiggetts application.

If your client does not owe any excess rent, then she should not be applying for Jiggetts relief (and she may be able to get the money another way through regular public assistance rent arrears policies).

In order to determine the amount and breakdown of your client's arrears, you should first review the housing court papers. The nonpayment petition (the "dispossess") may clearly state how much is owed for each month, but it is more likely that it will not accurately reflect your client's rent payment history because the landlord may have applied all the money he or she received to the earliest arrears (This is known as "rent jamming"). You should therefore also consult your client's memory, personal and welfare records to determine what he or she paid each month and how much he or she fell behind each month. You should also request a breakdown of rent actually charged and paid each month from the landlord, since there was a zero balance and be

sure to review the landlord's records with your client to see if they are accurate.

In addition, you should always call the client's Income Support Center and ask the Administrative Assistant to the Director to provide a complete computer print-out listing the following information called "screens":

1. **Case Composition**
2. **History of PA Benefits Issued ⁷ (available for the last ten months)**
 - a. **Archival printout (where arrears exceed ten months)**
3. **Budget Entry Supervisor Summary**
4. **Address History**
5. **Budget History (Does not indicate if amounts were collected or cashed)**
6. **SSI Summary (Where relevant)**

In the vast majority of cases the State will review these screens to verify the information in the application. Additional screens are reviewed in a small percentage of cases. If your application does not match the information listed in the computer, **SDSS will return the application.** A copy of these screens and the codes necessary to understand the computer records are attached as Appendix 13.

Some offices have made arrangements with HRA's Housing Court Liaison Office to obtain printouts on a regular basis. If you are having a problem getting printouts from a particular center, let us know.

If the amount your client has agreed to pay in housing court appears to be more than he or she really owes and the landlord refuses to acknowledge the correct amount paid, your client should be referred to Legal Aid or Legal Services for housing court representation. A list of some of the legal services organizations and their intake

⁷ This is especially important when the client's shelter allowance is issued as two-party or direct vendor checks because it is common to find that there are uncashed shelter allowance checks listed on the printout.

procedures is attached at Appendix 29. If you have difficulty in making these referrals, please contact a member of the Jiggetts team to assist your organization in setting up a referral system to legal services offices.

In general, your client's rent arrears may be broken down into five basic categories discussed below. The Jiggetts relief application contains a worksheet (on page 6 of the application) to be used to show the breakdown of arrears. You must break down what your client owes for each month and determine which of the categories, discussed below, account for part or all of the arrears. A copy of the Jiggetts Interim Relief application is attached as **Appendix 1**.

1. Rent owed for a period during which your client was not on public assistance.

In Jiggetts cases, State DSS will approve and HRA will pay the full rent arrears of an ADC family for any period in which the family was not on public assistance, provided that the family now has a "future ability" to pay their rent. These grants are known as "applicant arrears" grants because they are typically provided at the time a family first applies for public assistance. However, even a long time recipient can get an "applicant arrears" grant for months prior to the case opening or for months in which the case was temporarily closed so long as the closing was not due to a sanction.

The portion of the applicant arrears for amounts in excess of the shelter allowance are recoupable from clients' ongoing grants⁸.

Example: John M. and his minor son apply for public assistance. At the time they owe \$2,250. Their monthly rent is \$450. When they are accepted for public assistance, the Center does not pay their arrears because it does not believe that Mr. M. can pay his rent in the future but they issue an ongoing shelter allowance of \$250/month, which is paid to the landlord.

Six months later, Mr. M. owes an additional

⁸ Your client should be recouped at only 10% of the regular public assistance grant, not the grant as increased by the Jiggetts payment. See **Appendix 21**, 10% recoupment with restricted rent.

\$1,200 (composed of excess rent at \$200/month x 6 months).

Mr. M. is then sued for nonpayment of rent. The full arrears may be paid because the \$2,250 is available as applicant rent arrears and \$1,200 is available as payment of "excess" rent arrears under Jiggetts. In addition, Jiggetts will provide the \$200 excess rent plus the regular shelter allowance each month necessary to enable the family to pay its rent in the future.

You should explain to Mr. M. that the excess portion of the applicant arrears (i.e., the difference between \$450/month and \$250/month) will be recouped. Thus Mr. M. will be recouped for 5 months of excess, or \$1000. The "excess" amount paid for the months Mr. M. receives public assistance will not be recouped unless we eventually lose the lawsuit.

Applicant arrears are referred to as the "Amount Payable as Applicant", Column "E", on page 6 of the Jiggetts application form. **Please Note: you do not need to apply to HRA for applicant rent arrears for the ADC family. You can request the arrears in the Jiggetts application. However, if an HR person or a roommate needs applicant arrears for his portion of the rent, HRA must pre-approve those arrears. Such arrears would be listed in "Other", column "F", on page 6. The approval letter will include the amount.**

Example: Ms. S. and her child age 5, live with a roommate, Jane H. They have all lived together since January 1996 when they fell behind in their rent because their unemployment insurance ran out in December. (Ms. S. and Jane H. were both laid off from their factory jobs.) Ms. S. and her child began receiving ADC benefits in mid-April. Jane H. began receiving HR benefits in May.

You need to get applicant rent arrears approved for

Jane H. by writing a letter to Tony Imbo and attaching a copy of the Jiggetts application that you propose to submit to SDSS when the HR applicant arrears are approved by HRA. Once the applicant arrears are approved for Jane H. you can submit the Jiggetts application, attaching a copy of Jane H's approval and noting in the "other" column on page 6 of the application that applicant arrears for Jane H. have been approved for January through April.

For those limited cases where a pre-approval is needed from HRA, fax a completed Jiggetts application form to Anthony Imbo, Rental Assistance/Case Consultation Unit, Human Resources Administration, (along with a cover letter requesting expedited approval of applicant arrears so that the household may apply for Jiggetts relief). A sample letter to Mr. Imbo is attached as Appendix 16 and his phone and fax numbers are attached as Appendix 26. This letter should be sent before the Jiggetts application is submitted to the SDSS. A directory of the case consultation unit is annexed as Appendix 26.

Once HRA approves payment of applicant arrears, the application for Jiggetts relief should be submitted to the SDSS in the normal manner. Attach a copy of HRA's letter agreeing to pay the applicant rent arrears. HRA has agreed to process these requests quickly. If you encounter serious delays in obtaining a response from HRA, contact one of the Jiggetts counsel.

2. Rent owed because landlord did not cash a public assistance two-party or direct vendor rent check.

Shelter allowances paid in the form of two-party and direct vendor checks are negotiable only for 30 days after issuance. After that time, they become "stale," and can only be negotiated if they are reissued by HRA. If any two-party or direct vendor checks have become stale for any reason, your client has a right to have them reissued. The amounts of any stale checks should be indicated in column A of page 6 of the Jiggetts application.

It is common for recipients to accumulate stale two-party checks, either because their landlords reject them as only partial payments, or because they are withholding them because they are in housing court with their landlords. The Income Support Center must reissue all stale two-party checks.

In some instances, a landlord may hold on to two-party checks or direct vendor checks that he receives. These checks may also go stale if not cashed, or may be lost or misdirected. Again, HRA should replace all direct vendor and two-party checks that have not been cashed, even if your client does not have them in hand.

When your client collects her cash twice each month she receives a receipt call an Electronic Payment Funds Transfer ("EPFT") voucher.

EPFT vouchers indicate the name of the landlord to whom direct vendor payments have been made, and the amount of the payments. A good way to tell whether two-party or direct vendor checks have been cashed is to get a History of Benefits Issued computer printout from HRA for the relevant months and check the codes which indicate when checks are cashed or stale. Sample computer printouts and codes are attached in Appendix 13. The printout is only an indication of cashing but does not show who actually cashed a check. Sometimes the checks are sent to the wrong landlord, or stolen, or cashed ("mismanaged") by your client. To legally prove that the checks were cashed by the proper party you need to subpoena them.

Example: The printout you obtained from HRA indicates your client's two-party checks for January and March was issued but not cashed. Column "A" on page six of the application should indicate stale checks for those months.

If there is a dispute over whether rent checks from HRA have been cashed, a subpoena should be prepared so that proof is brought into housing court by HRA to demonstrate who cashed the checks. If the housing case can't be resolved, it should be referred to an attorney. See Appendix 29 for a list of some legal services providers. The Jiggetts application will be returned to you for correction and possibly rejected if your breakdown does not correspond with HRA's computer records.

3. Rent owed because your client did not receive a public assistance shelter allowance for that month, even though he or she was receiving public assistance.

For every month in which your client is a public assistance recipient and has a rental obligation, he or she is entitled to a shelter allowance. If the I.S. Center has not included rent on your client's budget, your client has a right to have that money

retroactively provided to him or her.

Rent owed because your client did not receive a full public assistance shelter allowance to which he or she was entitled is referred to as "Failure to Receive Full Shelter", column "B", on page 6 of the Jiggetts application. You should also use that column in the application if your client has been paid a lower shelter allowance than he or she was entitled to receive.

Example: Mrs. Green and her two children receive their "f & o" grant as cash but no shelter has been issued for the period rent is owed. Column B should indicate \$286/m is owed for the back rent.

Example: Ms. Green and her two children inexplicably received \$270/m instead of \$286/m for shelter. Column B of page six should indicate \$16/m is owed.

4. Rent owed because your client spent all or part of his or her public assistance shelter allowance on something other than rent during a month.

In Jiggetts cases, HRA's policy is to provide "rent advances", also known as "rent duplications", in situations where a public assistance recipient received a shelter allowance, but spent all or part of her shelter allowance on other things than rent. All money that is duplicated is "recouped" back from the client through a reduction in future grants.

Example: Jane M. and her minor son live in an apartment that rents for \$450 a month -- an amount that is \$200 above their shelter allowance. Ms. M. cannot pay the \$200 a month of "excess" rent. In fact, she does not even pay her shelter allowance to her landlord because she needs the money to buy clothing and other necessary items. When she applies for Jiggetts relief, she owes 10 months of rent, both excess and shelter allowance. Since Ms. M is eligible for Jiggetts relief she is eligible for a recoupable "duplication" of \$2,500 (\$250 x 10).

Ms. M will receive a \$200 a month supplement to pay the full rent. However, in the future HRA will reduce the cash portion of Ms. M's grant in order to recoup the \$2,500 that she received as a "duplication" grant. Ten percent will be recouped from her pre-Jiggetts benefits for her family size (\$468.50). The rent will be paid in full, but \$46.85 will be taken from her "food and other" grant each month to pay back the advance.⁹ Thus her "food and other" grant will be reduced from \$218.50 to \$171.65.

Rent owed because a client received a cash shelter allowance but spent it on items other than rent, is referred to as "Amount Subject to Advance and Recoupment", column "D" on page 6 of the Jiggetts application form.

5. Rent owed over the amount of your client's public assistance shelter allowance.

This "excess rent" can be obtained through the Jiggetts preliminary relief system. This is referred to as "Amount in Excess of Shelter Allowance", column "C", on page 6 of the Jiggetts application. "Excess" arrears may also be obtained under state regulation for recipients who can show future ability to pay the rent, even without Jiggetts assistance. Recently, HRA changed their policies on these and other rent arrears and only issue them as an "exception to policy". Such arrears are also recoupable and subject to other conditions which make it preferable to get the arrears through Jiggetts, if possible.

6. Miscellaneous rent owed from the client's non-ADC family members or roommates.

All non-ADC family members or roommates with work or other non-fixed income must contribute their pro rata share of the ongoing rent or 30% of their documented income, whichever is less. Everyone, except SSI, Social Security, foster care and adoption subsidy recipients must pay a pro rata share of the arrears and the future rent. (SSI, and foster care grant recipients, must pay 20% of their income and Social Security recipients and others on fixed, low incomes must pay 30% of their

⁹ The amount of recoupment for each family size is listed in **Appendix 21**.

benefits or each must pay their pro rata share of the future rent, whichever is less.¹⁰

Household members who have no income must apply for public assistance if they are eligible. Apartment residents who do not have their pro rata share of the arrears must obtain a rent arrears grant, obtain a rent abatement to cover their share, find a charity to help, etc. or the application will be denied. Approval for rent arrears grants for non-ADC household members must be obtained from HRA before submitting the Jiggetts application to the State. This amount is referred to us as "Other", column F, on page 6 of the Jiggetts application.

SSI Example: Ms. Smith lives with her son Justin and her mother, Mrs. B. Ms. Smith and Justin receive a shelter allowance of \$250 a month which they have paid every month. Mrs. B gets SSI of \$493 a month. The rent is \$550. Mrs. B will have to chip in her pro rata share, 33.3% (\$183) or 20% of her SSI (\$98.60) whichever is less. Thus, Mrs. B will pay \$98.60 and Ms. Smith and Justin will seek ongoing Jiggetts relief of \$451.40 a month. In filling out the application Mrs. B's arrears should be placed in column F. There is no need to get advance approval for the SSI arrears from HRA.

SSD Example: Ms. Crum lives with her two sons, and her roommate, Mrs. Diaz. Ms. Crum and her sons receive ADC. Mrs. Diaz received Social Security Disability benefits of \$700 a month. The lease is at \$600/m in Mrs. Diaz's name. Mrs. Diaz must pay \$200 a month in arrears and \$200 a month in the future. Since Mrs. Diaz has not paid or saved her share of the arrears, you must seek an EHR grant on her behalf from Tony Imbo at HRA before submitting the Jiggetts application to SDSS.

¹⁰ However, if the Social Security recipient or person receiving fixed, low-income is the tenant of record, the State may insist that this individual pay their pro rata share of the arrears, not only 30% of the on-going.

B. Analyzing Household Composition and Income Issues**1. Persons Receiving ADC**

In addition to analyzing the make-up of the rent arrears, it is necessary to examine the composition of the ADC household, and then to look at the income, if any, of all ADC household members and of anyone else living in the home. The main questions to ask are:

1. Who in the home is currently on the ADC case and who was on the ADC case during the period of arrears;
2. Who must be on the ADC case;
3. What, if anything, is the income of anyone who is or must be on the ADC case;
4. What, if anything, is the income of anyone dwelling with the household who is not on the ADC case; and
5. If there are options, what household configuration is the best.

a. The Mandatory Filing Unit

The basic rule governing these issues is known as the "mandatory filing unit rule." The mandatory filing unit rule is a Reagan era budget conservation measure that provides:

- When a minor dependent child applies for public assistance, his natural or adoptive parents and blood-related or adoptive brothers and sisters including half-siblings (who are also minor dependent children) must also apply for public assistance and have their income and resources applied toward the public assistance household if they reside in the same dwelling unit as the minor dependent child. 18 N.Y.C.R.R. § 352.30(a).
- If one or more children in a household receives high enough income (e.g., from Social Security), it may make sense to **remove all the children** from the ADC case and leave the parent alone on the case. As long as none of the children are on the budget, the parent may have an ADC case by herself or himself. In this way, the parent can receive ADC, the family can qualify for Jiggetts relief, and the children will just have to make a contribution to the rent. The contribution is 30% of the income or pro rata share of the rent,

whichever is less. If one of the children who has been removed from the ADC case and has no income, that child is still expected to pay her pro rata share of the rent.

Example: Mr. W lives with his two children, Jane, age 3, and Joey, age 6. Jane and Joey are half-siblings (they had different mothers). Joey's mother died and he receives survivor's benefits of \$200 a month. Mr. W does not receive survivor's benefits because he was not legally married to Joey's mother. If Mr. W and Jane apply for benefits, Joey's income will be counted. The family will be counted as a family of 3 but instead of receiving \$577 a month, they will receive \$577 - \$200 or \$377.

If Jane is removed from the ADC case along with Joey, Jane and Joey will have to pay 60% of the rent (30% each).

However, under ADC regulations, there is an **exception** to this mandatory filing unit rule for recipients of Supplemental Security Income ("SSI"): "[C]hildren or adults residing with an SSI beneficiary must be considered as a separate household from the SSI beneficiary." 18 N.Y.C.R.R. § 352.2(b). Please note that this exception applies to anyone receiving **any SSI income** regardless of whatever other income s/he receives, including other income from Social Security (e.g., survivors' or OASDI disability benefits). At the same time, remember that there is **no exception** for recipients of Social Security who do not receive any SSI.

b. Changing Case Composition

When ADC recipients move into and out of the household, it will change the composition of the arrears and should be taken into account in that way. For example, if the rent arrears accrued over the course of a year, and your client's 16-year-old son moved out of the house six months ago, the family's shelter allowance should have decreased, increasing the portion of the arrears attributable to excess rent.

2. Persons in the household have income other than ADC income

More complicated questions, however, may be raised when persons in the

household do not receive ADC. The presence of such persons must be discussed and explained in the Jiggetts application.

In determining whether a family's rent falls within the reasonableness guidelines of the Jiggetts case, SDSS will look at the rent which will be paid by HRA for the number of people on the ADC budget. If there are other people in the household with income or who are eligible to receive income, they must contribute towards the rent. **The general rule is that each person in the household is responsible for their pro rata share of the rent arrears and the ongoing rent.** These contributions may bring the rent within the range of reasonableness.

Some commonly encountered special circumstances are discussed below:

a. A person on the ADC case has income other than Public Assistance or SSI:

If this is the case, the household may still be eligible for Jiggetts relief and a request should be prepared. After the arrears are paid, the client is eligible for ongoing Jiggetts payments of the excess rent, like any other ADC recipient. **If the client's budget deficit is less than the approved rent amount the entire deficit will be issues as a shelter check to the landlord. The client must make up the difference between the vendor payment and their rent from their other income.**

Example: Maritza O. and her minor daughter live in an apartment that rents for \$510 a month. Ms. O. receives income from a part-time job. The Income Support Center must determine the amount of her ADC grant or "budget deficit" by subtracting her income -- reduced by any applicable disregards -- from the household's standard of need. If Jiggetts relief is approved, all her arrears should be paid, and she should receive ongoing excess rent payments under Jiggetts. In addition, her ADC grant should be increased by the entire difference between \$250 (shelter allowance for a family of 2) and her rent of \$510 on an ongoing basis. Thus she should get \$260 more a month.

Suppose that after subtracting applicable work disregards, Ms. O.'s countable earned income comes to

\$368.50. The standard of need for a household of two is \$468.50. Ms. O. is therefore entitled to an ADC grant of \$100 per month, which is her budget deficit prior to Jiggetts relief. HRA should pay her arrears and, on an ongoing basis, should pay her budget deficit of \$100 (\$468.50 - \$368.50) plus the excess rent of \$260 (\$510 - \$250, the shelter allowance for a household of two) to the landlord. **Note: HRA is paying the landlord \$360 a month and her rent is \$510, so she must pay the remaining \$150 to her landlord out of her earned income.**

NOTE: It is very important to advise clients of the amount of the rent that they must pay which is not covered by the ADC grant (including the Jiggetts payments). It is also important to double check the budgeting of any client with earned income. The budgeting rules are complex, and the applicable disregards can change from one month to the next. Also, please advise your clients that timely reporting of earned income is necessary to ensure that they will be eligible for all possible disregards.¹¹

b. A non-recipient residing in the household receives Social Security income.

Social Security beneficiaries who are not part of the "mandatory filing unit" are not required to apply for public assistance,¹² **but are required to contribute their pro**

¹¹ The following work disregards apply to ADC families if work income is reported: (a) the first \$90.00 and (b) \$30 plus one third of the remainder of the earned income for 4 months and (c) \$30 for eight additional months. 18 N.Y.C.R.R. 352.19(a) and 352.20. Some families are also eligible for child care disregards.

¹² When a non-recipient who receives Social Security income (as opposed to SSI income) resides in the household, that person must apply for public assistance and be added to the public assistance case, if he or she is part of what is known as the "mandatory filing unit." When a Social Security beneficiary is part of the public assistance case, the Social Security benefits will be treated as income and budgeted against the public assistance grant. In all such cases, the public assistance grant will be reduced by the amount of the Social Security benefit. Note that some households may be rendered completely ineligible for public assistance, and thus may be ineligible for Jiggetts relief. Be careful to check whether this is the case, before telling the Social Security recipient to apply for public assistance.

rata share or 30% of their Social Security income to the ongoing rent, whichever is lower. If the person living in the household is the primary tenant, the Social Security recipient must pay a pro rata share of the arrears. If the person living in the household who receives Social Security is not the primary tenant, they do not have to pay a pro rata share of the arrears. If there are compelling circumstances SDSS may approve less than a pro rata share or 30% of their income. You can try to submit an application with a contribution of 20% with an explanation of the extenuating circumstances (such as high medical expenses not covered by Medicaid or Medicare, education and training expenses not covered by public assistance). If arrears are owed by the Social Security recipient, an approval for this portion must be obtained from HRA prior to submitting the Jiggetts application.

c. A person who receives SSI lives with the ADC household.

The State will approve cases if the SSI recipient offers to contribute his or her pro rata share of the rent, or 20% of the SSI grant, whichever is less, on a prospective basis. **Be sure not to commit more than is necessary.** Moreover, if the SSI recipient has special needs and expenses that would render such a contribution a particular hardship, the State may accept the application with a reduced or no contribution. Be sure to include an explanation with the application. SSI household members, foster-care recipients, and Social Security recipients and others with similar fixed low income who are not the primary tenant, are the only non-PA members who have not been required to get a pre-approval from HRA for their pro rata share of the arrears.

Please discuss with us any offer of a larger contribution before it is made.

(i) The difference between SSI and Social Security

It is very important to determine whether it is SSI or Social Security benefits that a household member is receiving. They are budgeted very differently both for public assistance purposes and for Jiggetts purposes. There are several ways to distinguish them:

- SSI checks are received on the first day of every month, while Social Security benefits are received on the third day of every month;

Please note: All the income of anyone who receives any SSI income is treated under the SSI rules.

- If a household member receives two checks a month, then that person is receiving both SSI and Social Security; for Jiggetts and public assistance purposes, this is budgeted as if it were all SSI;
- If a person is not disabled or blind, and is under 65, she can only be receiving Social Security benefits, not SSI.

Example: Edgar P. and two of his children receive ADC. A third child lives in the household who receives \$493 a month in SSI benefits. The rent is \$575. The SSI recipient's pro rata share would be \$143.75 (\$575 divided by four in the household.) Twenty percent of the SSI grant, however, is only \$98.60. Accordingly, the State would accept the application if the SSI recipient offers to contribute \$98.60. The monthly Jiggetts supplement would therefore be only \$190.40, because the rest of the rent would be paid by the shelter allowance (\$286) and the contribution from the child's SSI (\$98.60). ($\$575 - \$286 = 289 - \$98.60 = \190.40).

(ii) Underbudgeted SSI

Since this procedure began to be used, we have learned that SSI recipients appear to be under-budgeted fairly often. Advocates should follow up with the Social Security Administration to correct any SSI budgeting errors. The State requires under-budgeting to be corrected.

Be aware that if it is a member of the family who is the SSI recipient, they will be budgeted at the "living with others rate" -- currently \$493 -- (not the "living in the household of another" rate), and will be expected to contribute the lesser of 20% of their income or the pro rata share. This amount generally increases by a small amount every January so the 20% contribution will increase as well. However, it is not necessary to file a Jiggetts modification each January to increase the SSI portion. If a modification is sought at another time for a different reason the SSI contribution will increase at that time. See Chart of 1996 SSI levels in Appendix 25. **NOTE: By contrast, recipients of Social Security Benefits (disability, survivors, etc.) must pay a pro rata share of the rent or 30% of their income, whichever is less.**

(iii) SSI contributions greater than 20% of their income

In cases in which the rent would be too high for Jiggetts relief even after a 20% SSI contribution, you may consider offering a greater contribution from the SSI recipient to bring the amount of "excess" rent requested prospectively down to an acceptable level.

Example: Jane D. and one child receive ADC. Their shelter allowance is \$250/month. A second child receives SSI of \$493/month. The rent is \$700. The SSI recipient's pro rata share of the arrears would be \$233.33 per month (\$700 divided by three in the household). Twenty per cent of SSI is \$98.60. Accordingly, the SSI recipient would normally only have to contribute \$98.60. However, the contribution can be \$150.00 so the rent will be "reasonable." Jane and her ADC child can request that their rent be supplemented up to \$550 and the difference of \$150 can be paid out of the SSI monthly benefits.

d. A roommate receives HR.

If a non-legally responsible person resides in the household and receives HR, it is best to see if that person's shelter allowance can be non-cooperatively budgeted with the ADC family. This maximizes the amount of non-Jiggetts rent being paid. HRA may re-budget such families on request. The re-budgeting should be done prior to submitting the Jiggetts application. The State regulations set forth the circumstances when non-cooperative budgeting is required. 18 N.Y.C.R.R. §352.2(b).

Example: José V., an HR recipient, resides with his girlfriend/roommate Martha T. and her two children. He is not the father of the children. Currently he receives an incremental share of a shelter allowance for four, \$78. He has paid \$78 each month to the landlord. Write to the center and request that José V. receive his own shelter allowance of \$215 and then request a pre-approval from Tony Imbo of his share of the arrears (\$215 - \$78 = \$137/m).

e. A non-recipient residing with the household works or has other income.

All persons living in the household must be disclosed on the application form. If a person lives in the household and has non-public assistance income, other than fixed income, the individual will be expected to contribute a pro rata share of the arrears and a pro rata share of the future rent or 30% of her income, whichever is less.¹³ For example, if there are four persons in the household, the non-recipient must contribute a quarter of the rent arrears and the future rent or 30% of her income, whichever is less. Roommates do not need to submit proof of income if they will pay a pro rata share, but do have to show their income if they are contributing 30% of their income. Roommates are not considered third party contributors and therefore do not need to complete page 11 of the application. They are viewed as having an obligation to pay rent and you should indicate on the application that the roommate will contribute his or her pro rata share of the rent or 30% of their income, whichever is less on page 2 of the application.

The pro rata arrears may be obtained as an emergency rent arrears grant from HRA, or from a charity, a loan, an abatement, through negotiation with the landlord, etc. If the arrears cannot be obtained in this manner, be sure to call us.

f. Contributions from foster care maintenance payments or adoption subsidies.

In situations where the household seeking Jiggetts relief contains a child receiving foster care maintenance payments or an adopted child with a subsidy, SDSS has sought a 20% contribution from their payments before they will approve the application.¹⁴ We have compromised as follows:

The State has agreed to accept a pro rata share of the rent out of the care payment OR 20% of the care payment, whichever is less. Foster care recipients do not need to pay a pro rata share of the arrears. You should only offer more than 20% of the subsidy if the rent is exceedingly high, you believe SDSS will automatically deny the application and there are extenuating circumstances.

¹³ Reminder: Fixed income recipients who are the tenant of record do have to pay their pro rata share of the arrears.

¹⁴ Note that a foster parent who fails to pay the rent is at risk of losing the children.

You may offer a contribution which is greater than 20% or pro rata share of the rent to cover excess above SDSS's maximum.

Please contact us if SDSS rejects or denies any applications involving care payments.

3. A member of the household is not on the budget because of his or her immigration Status.

If a member of your client's household is ineligible for public assistance benefits because he or she is an undocumented immigrant or due to some other prohibition based on immigration status, in requesting Jiggetts relief you should state that the household member is not on the budget because of his or her "immigration status." Do not go into any greater detail than this. If the ineligible person has some income, a pro rata share must be contributed toward the rent. Since the person resides in the household you should not fill out a third party letter. If he or she has no income, the application should indicate this fact and that the individual cannot therefore contribute toward the rent.

In considering the application, SDSS will assess the reasonableness of the rent based on the number of people on the public assistance budget, as if the ineligible household member does not exist.

Example: Franklin H. and his son live in an apartment that rents for \$430. Mr. H. does not receive public assistance because he is an undocumented immigrant. He also has no other income. Mr. H's son receives a public assistance budget of one. The family is sued for nonpayment of rent. It is likely that Mr. H's Jiggetts application would be approved because a rent of \$430 would be considered reasonable for a household of one.

If there is an undocumented immigrant in the household, prior to applying for Jiggetts relief, you should inform the client that there is some risk involved. While we know of no instance in which the State has reported anyone to the Immigration and Naturalization Service, we have no promise that they will not do so.

4. A member of the household is being sanctioned currently, or was sanctioned during some period during which the rent arrears accrued.

Recipients of public assistance are frequently sanctioned, meaning that they are removed from their family's ADC budget, for such actions as failing to attend a required employment program.¹⁵ Some sanctions are for set period of time. For example, ADC recipients may be sanctioned for three months or six months based on alleged failures to comply with employment requirements. For fraud ("intentional program violations") clients may be sanctioned from ADC for six months, twelve months, or forever. Other sanctions last until the recipient does a specific act, e.g., cooperates with the Child Support Enforcement Unit.

During the time a household member is sanctioned, the household's budget is supposed to be reduced by the difference between the amount a household receives with and without that member. Often the entire case is improperly closed.

For an applicant for Jiggetts relief, during the period that a member of the household was sanctioned, Jiggetts relief is not available for the arrears attributable to the difference between the shelter allowance they would have received if the member was not sanctioned, and the shelter allowance they actually did receive. This amount must be obtained elsewhere, e.g., through a charity; a loan from friends or family; an abatement obtained for conditions in housing court; or through negotiation with the landlord. The Jiggetts application should state that payment of this money is not being requested and that the client has other means of paying it.

Example: Alicia P. lives with her three children in an apartment renting for \$500 per month. She owes ten months of rent in full, for a total of \$5,000. (She did not pay the landlord her shelter allowance during this period, and also was unable to pay her excess at any time.)

¹⁵ Clients eligible for ADC benefits should be counseled to reapply to have their cases reopened 30 days before the end of their sanction period, so they don't lose more benefits than they are supposed to. (HR eligible clients should apply at least 45 days before the sanction ends). Also, many sanctions can be successfully challenged and the back benefits can be restored retroactively. Be sure to advise your client to request a fair hearing to challenge the sanction, if appropriate.

She is currently receiving an ADC grant for a family of four, which includes a shelter allowance of \$312 a month. However, Ms. P was sanctioned for three months during the ten months her arrears were building up. Ms. P is eligible for duplication of the \$312 shelter allowance for seven months (\$2,184); for duplication of the shelter allowance for a family of three only - \$286 - for the three month period that she was being sanctioned (\$858); and to excess rent for all ten months, i.e., the difference between \$312 and the rent amount, or \$188 per month (\$1,880). The total amount available as Jiggetts relief and duplication is \$4,922, which leaves \$78 (3 x (\$312 - \$286)) which must be found from other sources.

SDSS takes the position that it will not approve a request for Jiggetts relief if a member of the household is currently being sanctioned for failing to perform a specific act. Accordingly, the sanction must be removed before the Jiggetts application is submitted.

If you are cannot wait until the sanction is lifted due to the housing court status, call a member of the Jiggetts team.

5. The household's classification changed from Home Relief to ADC during the period the arrears were accruing.

If, during the period that your client's arrears were accruing, they were properly classified as an HR family or single for some of that time, you will not be able to get Jiggetts relief for the period the case was classified as HR. You must obtain approval from HRA before submitting the Jiggetts application.

Example: Morris F. owes five months' worth of rent. For the past three months, his son has been living with him, and the household is classified as ADC. However, for the year prior to that, Mr. F's son lived elsewhere with his mother, and Mr. F was classified as an HR single. Therefore, there are two months during which arrears accrued but

Jiggetts relief will not be available.

Mr. F may be able to get duplication of a shelter allowance for a household of one (\$215) for the two months he was on HR and didn't pay rent, but he won't be able to get the excess for those months through the Jiggetts case. The excess rent for two months must be obtained in one of the ways suggested earlier or by applying to HRA for the arrears as recoupable excess rent under 18 N.Y.C.R.R. §352.7 (g)(4).

If you have a problem getting HRA to approve the arrears, contact a member of the Jiggetts litigation team.

HR Example: Ms. Cruz lives with her daughter, age 8 and her sister Maria age 22. Ms. Cruz and her daughter receive ADC benefits. Maria currently has no income. The rent is \$600 a month. Maria must apply for public assistance before the Jiggetts application is submitted or get a job. Her welfare case will not open for 45 days. Once her case is open, applicant rent arrears must be sought for her share of the rent, \$200 a month from HRA. Only after the approval from Tony Imbo is received can the Jiggetts application be submitted. Maria's share of the arrears go in column F. Note that the approval from HRA is attached.

IV. PREPARING THE JIGGETTS REQUEST AND OBTAINING APPROVAL

A. GENERAL PROCEDURES

Once you have determined that your client fits the profile of someone eligible for Jiggetts relief, and you have analyzed their arrears and their household composition, it is time to prepare an application requesting Jiggetts relief. A copy of the application form is attached as **Appendix 1**. The general procedure is as follows:

1. Give your client a copy of the informational letter filling in the appropriate information, (See Appendix 5) and discuss it with him or her.

Be sure to discuss the serious implications of third-party and roommate contributions, the inability to move, restriction of the shelter grant, and recoupments of and reduction of cash and food stamp assistance.

Note: While awaiting approval of the Jiggetts application you may want to place cash for received rent in escrow. Duplication makes the application less approvable and may soon not be available. The third-party's share also should be saved.

2. In order to complete an application you need the following:

a) a blank application;

b) a copy of the HRA computer printout including the following screens:

1. Case Composition
2. History of PA Benefits issued (available for the last ten months)
3. Budget Entry Supervisor Summary
4. Address History
5. Budget History (Lists public assistance allotment and food stamp allotment)
6. SSI Summary;

c) a copy of the court papers;

d) a copy of the lease, if available; and

e) third party contribution letter completed by donor, if relevant, and two

consecutive pay stubs.

You can type or handwrite entries. If you are typing the application on the computer, make sure all your typed entries are in **bold** type to distinguish them from the type of the rest of the application. You can also handwrite entries. The State actually prefers this using a blue pen, if your handwriting is legible, because handwritten entries are more distinguishable on the form .

3. Send an original and one copy of the application, each with copies of attachments.

(If your office bundles applications, place moves on top, modifications next and applications on the bottom.)

4. Include one copy of the Receipt (page 12 of application) on top of the two applications.

5. Then attach one self-addressed stamped envelope that will be used by the State to return the Receipt and send to:

Jiggetts Processing Unit
New York State Department of Social Services
40 North Pearl Street, #7C
Albany, NY 12243

6. Casehandler should keep original attachments and a copy of the Jiggetts application (including a copy of the Receipt until the original is returned).

7. If no receipt is received within two weeks, or you do not get an answer in six weeks, ask the Jiggetts contact in person your office to do an inquiry to the State at 80 Maiden Lane office to check on the status of the application. The Jiggetts contact person should make such inquiries by fax, listing the names of each client, the client's ADC number, and the date the application was submitted. See further explanation on Section D under checking the status of a Jiggetts application. If you have no contact person, speak to Amy Crawford.

8. Each office that submits Jiggetts requests should mail all its Jiggetts correspondence in one envelope each day to Jiggetts Processing Unit, New York State Department of Social Services, 40 North Pearl Street, #7C, Albany, NY 12243. When you send out a packet of applications and modifications, always put all moves on the top of the pile. You should also write **MOVE** in big red letters or highlight the application to inform SDSS that you need this application processed quickly.

9. SDSS will compare the application to information recorded^d in its computer. After reviewing the application and the computer screens, SDSS may believe that necessary information or documentation is missing, that the information provided is incorrect or that the household is currently ineligible for Jiggetts relief. SDSS will then return both copies of the application along with its explanation of why they consider the application incomplete or inadequate. The application may then be corrected and resubmitted. Complete and carefully prepared initial applications speed the approval process by avoiding these requests for more information. See Sample "SDSS Return" form in Appendix 10. The form lists the most common reasons for returning the application to the advocate. You should use this form as a check list to improve the likelihood that your application and documentation is complete.

10. If SDSS approves your request it will send you a letter. Approval letters are currently signed most often by Donna Plante or Rick McElroy. You should double check that the amounts requested were approved by SDSS. You must then write to your client's Income Support ("I.S.") Center to ask them to issue the payments. In writing to your client's Center, you should attach a copy of the State's approval letter and a copy of the application form. More details on obtaining payment from HRA are provided below in Section D (What to Do After You Get the Jiggetts Approval Letter). Be sure to never pay checks over without satisfying the judgment and preferably all arrears due through date of payment. It is good practice to sign a stipulation stating that the judgment is satisfied and all arrears are paid to date.

If you get a letter from the SDSS denying a request for Jiggetts relief and you cannot rectify the reason for the denial, you should call us immediately, so that we may discuss whether it may be possible to get that denial reversed either by a resubmission to SDSS or by seeking formal intervention via a motion to the judge presiding over the Jiggetts case.

Denial letters are sent from Albany. See Sample "SDSS Denial" from in Appendix 11. The vast majority of applications can be amended or further explanation provided in order to get SDSS to reconsider its decision. All such resubmissions should be sent to Jiggetts Reconsideration Unit, ATTN: Donna Plante, 40 North Pearl Street, #7C, Albany, NY 12243. The sample reconsideration form at Appendix 18 can be used for reconsideration but does not have to be used. If you want help with a denial call us. If you do not get a response in less than four (4) weeks and the case becomes an emergency, call us.

12. Be sure to send a copy of all Jiggetts approval letters to Amy Crawford

at The Legal Aid Society, Civil Appeals and Law Reform Unit, 841 Broadway, 3rd Floor, New York, NY 10003 after a determination has been made by the State. The only way we can monitor how the system is working is if all approvals are sent to us. The more we know about how the State has responded to particular issues, the better we can assist you in future cases.

13. Be sure to give your client a copy of the closing letter, (see Appendix 6) and discuss it with him or her. You should discuss the:

- serious implications of third- party contributions
- necessity of everyone paying his or her share of the rent if there is income other than ADC in the home
- inability to move
- restriction of the shelter grant and
- recoupment of cash and food stamp assistance.

B. THE APPLICATION FORM

The application form is twelve pages. Once you have analyzed the case it should not be difficult to complete the form. The following is a more detailed description of the application. A copy is attached as **Appendix 1**.

Please be sure to obtain a print-out from HRA of your client's budget and payment history of their shelter allowance for the period of the arrears as well as the case composition, address history and SSI summary to use in completing the application. The State has access to HRA's computer and checks all documents against the computer information and will return the application if it does not conform exactly. Make sure the case is properly categorized as ADC, who is in the house and on the budget currently and during any arrears period, and what shelter grants have been issued and cashed.

1. Preliminary Information

At the top of the first page of the application, note whether the application is for the apartment in which the client currently resides (**NEW APPLICATION**) or whether the client seeks a new apartment rather than pay rent arrears in the current apartment (**MOVE**) or seeks to revive an application that had previously been approved but the Jiggetts relief had stopped because the ADC case had been closed for over 30 days or for some other change in circumstances (**RESTORATION**). Note the prior approval

date and attach a copy of the prior approval letter, if available.

If your client is a former Jiggetts relief recipient whose case was closed for more than 30 days or someone who applied for relief but never received ongoing Jiggetts relief, you must use a new application rather than a modification. However, you must state on the application or in a cover letter that the case was previously approved and any changes that have occurred since the approval and denial. If the circumstances are the same as the original approval, the casehandler can first try to advocate with the center to restore the Jiggetts relief.

If the application is being resubmitted after being returned because necessary information or documentation was missing, the information provided was incorrect or the household was temporarily ineligible for Jiggetts relief, you should indicate this by checking the line near the top of the first page of the application labeled "Resubmission." On the same line, write the date the resubmitted application was mailed to Albany.

Do not (re)submit an application until the application and the welfare computer match, as the State checks this information in every case. Be aware that SDSS also runs a number of other computer checks (e.g. SSI, SSD, etc.). The application will be returned if "matches" reveal information about the household not included or inaccurate in the application.

Under item IA, Client Identification Information, list all information requested (e.g. payee name, address, ADC No., and income Support Center).

Under item IB, if this application is a move, check off the provided box and list the address of the proposed new apartment. Be sure to include documentation of the offer of the new apartment from the new landlord or agent (e.g. unsigned lease or form "place-holder" letter) as well as all the same documentation of arrears from the old apartment that would accompany a new application (e.g. housing court papers, rent history, etc.).

Under item IC, provide the information requested. Be careful that the information provided here matches all HRA budget information given later in the application.

2. Housing Court Status (Item II)

This section is provided so that the casehandler can inform SDSS of the

procedural posture of the housing court proceeding. In this section, the casehandler can also inform SDSS of any exigent circumstances which necessitate a speedy response to the application by SDSS (e.g. pregnancy, domestic violence, etc.).

One of the lines in this section asks if the client is out of possession. Even if the client is out of possession, so long as the potential to return to the original apartment exists, the client's possessory status does not bar the client from receiving Jiggetts relief.

If the client has been legally evicted and cannot be restored to the original apartment, SDSS will consider an application to move the family into a new apartment at the same or lower rent as the old apartment. If you have a case fitting this description, please contact one of the Jiggetts litigation team members to discuss how to complete an application to move the client to a new apartment.

3. Current Apartment Residents (Item IIIA)

List all current apartment residents and the other information requested. Indicate the income source of each individual (e.g., ADC, HR, SSI, employment, foster care, none).

After filling out the chart, there is a space to check if your client has applied to HRA to have a newborn child added to the budget. Your application will be processed more quickly if you make sure HRA has added a newborn. If your case is an emergency and you cannot wait for HRA, attach any proof you have that your client made the request. Please contact us if an application is returned despite proof your client provided HRA with information about the newborn.

SDSS has processed and conditionally approved some such cases the condition being that Jiggetts is approved if the newborn child is added to the case. These conditional approvals require a response from the casehandler within sixty days, certifying the condition has been met. Once you write to the State and explain that the condition of the approval is met, the State will send a final approval.

The State will rescind conditional approvals if it does not receive a letter stating the conditions have been met. If you receive notice that your client's conditional approval has been rescinded, contact a member of the Jiggetts litigation team.

With a conditional approval you should be able to get the center to issue the rent arrears checks. If the conditions of the approval have been met, the checks may be delivered to the landlord. If the center will not issue the checks and your client is in

immediate danger of eviction, contact a member of the Jiggetts litigation team.

4. Income of Current Residents (Item IIIB)

All household members who work or have non-fixed low income pay their pro rata share of the arrears and the ongoing rent, absent exigent circumstances. Remember the general rules described here previously in section IIIB.

Item IVA requires you to list apartment resident during the period of the arrears along with the information required in Section IIIA. If the apartment residents during the period of the arrears are the same as the current residents, you should simply write "SAME" in section IVA.

5. Monthly Rental Information (Item V)

A. Actual Rent and Shelter Allowance

List the shelter allowance received by the household. It should correspond to the maximum monthly amount for the number of people in the household receiving public assistance. If it does not, you should explain the reason for the discrepancy. If your client receives two-party checks, you must remember to double the amount of each semi-monthly check to determine the monthly total.

Include any subsidy. List the type and amount. If your client receives an ongoing HRA foster care or adoption subsidy, she may still be eligible for Jiggetts relief if an excess rent problem still exists. Please consult with a litigation team member. Clients who receive Section 8 subsidies through a Section 8 certificate or voucher are not eligible for Jiggetts relief. However, clients receiving housing subsidies through the building (often referred to as Section 236 subsidies Mitchell-Lama, Section 8 building-wide) may be eligible for Jiggetts relief. Please consult with a housing specialist and a member of the litigation team if you have a question about this issue.

If the family's shelter allowance is provided as part of a cash grant for all needs, you can determine what portion of their grant is considered their shelter allowance by consulting the chart at the end of this handbook (Appendix 21). If there is a recoupment on the case and the shelter grant is provided in cash, you should not apply the recoupment to the shelter allowance. Example: Therefore, if a family receives a public assistance allowance for three, and has a 10% recoupment, the shelter allowance would still be listed as \$286. To be absolutely certain as to the amount of your client's shelter allowance, check a current printout of his/her public assistance budget.

B. Contributions (if any)

List the contribution that a third-party from outside the household proposes to contribute. That amount should be no more than 10% of the contributor's net income, absent exigent circumstances. Third party contribution should not be over \$100.00 per month. Think twice about submitting contributions over \$50.00. The third-party must fill out the Third-Party Statement that is page 11 of the application or the third party letter in Spanish located in Appendix 3. Two or more recent paystubs, consecutive if possible, within the last two months should be submitted with the application.

The third-party is committed to pay the full contribution **indefinitely**. This applies even if the rent is reduced or the household size increases. However, if you expect an **imminent** increase in income or reduction in rent (e.g. childbirth, foster care or adoption funds, new roommate, new household member, etc.) you may try submitting a third-party letter stating that the contribution will be made until the anticipated change in rent or income occurs.

It is important to advise your clients to begin to collect third party contribution from the date of the application. Your client can hold on to the donor's check or money order (made out to the landlord) or deposit it with you each month, until the application is approved. This is especially important if SDSS questions the viability and/or strength of the donor. Please remember to have the donor fill out the contribution form completely. SDSS may return applications for failing to do so.

For more information on Third-Party Contributors see Section A.

C. Housing Court Papers

This question must be completed. If the question is not completed, the application will be returned.

Frequently, housing court papers list individuals as tenants who have moved out of the apartment long ago. If the housing court papers list someone as a tenant in addition to your client, explain who the person is. If the person is still in the household, or was in the household while the arrears accrued, then information about him or her should be contained in parts III or IV of the application. If the individual moved out before the arrears began to accrue explain that here.

If your client is not listed on the housing court papers, the State will want an

assurance that if the rent arrears are paid, your client will be able to remain in the apartment.

Example 1: You represent Martha S. who is a recipient of ADC. She and her two children live with Martha's mother, Josephine, who receives SSI. Josephine is the tenant and is sued by her landlord. You can apply for Jiggetts relief on behalf of Martha, but must submit a letter or other statement from Josephine stating that if the rent is paid, Martha and her family can continue to live with her.

Example 2: Your client lived with her sister in a rent stabilized apartment for at least two years prior to the sister's permanent departure from the apartment. Although the sister is gone, the landlord sued using only the sister's name. You should explain on the application that your client can remain in the apartment if the arrears are paid because she has a right under the rent stabilization code to succeed to her sister's tenancy. (In cases like this, it is always best to get the landlord to agree in the housing court stipulation that your client has succession rights. If such an agreement is not forthcoming, it is a good idea to refer the client to Legal Aid or Legal Services for representation.)

Example 3: The landlord agrees in a stipulation to give your client a lease once the arrears are paid.

Example 4: The landlord agrees to let a sub-tenant stay for a specified term if the arrears are paid. All on-going rent must be paid to the landlord or managing agent not to the primary tenant.

D. Lease

You must now indicate if there is a lease for the premises. If there is no lease, the State wants to be assured that your client won't be evicted in a no-defense holdover proceeding after payment of the arrears. In the apartment is covered by rent stabilization a rent control there may be no current lease. The tenant is protected from

evictions without cause under state statute and regulation under rent stabilization law, it is not in your client's interest to get a renewal lease because the rent will increase. In such a case note "The apartment is covered by rent stabilization and there is no current lease. However, the tenant is protected from eviction by law."

Some suggestions if you have a client in a non-protected tenancy:

- (a) negotiate a lease for your client; (if you do, you should negotiate a pro-tenant lease, i.e., without a waiver of the right to a jury trial or to raise counterclaims etc., rather than use a print preprinted, pro-landlord form); or
- (b) get an agreement that the landlord will not bring a holdover for 12 months (or longer) except for good cause; or
- (c) get an agreement from the landlord that once the arrears are approved or paid he will give a lease or promise not to bring a holdover for 12 months;
- (d) get a sub-lease for the sub-tenant from the prime tenant with the condition that the ongoing rent is paid to the landlord directly.

6. Monthly Accounting of Arrears (Item VI)

Provide a month-by-month breakdown of the rent due, amount actually paid during each month and the categories of rent still due (i.e., what portion is "excess" rent, what portion of the arrears are obtainable as "duplication," etc.). If some money is owed due to a sanction, list that separately in the "other" category. (These funds are not available from HRA or DSS)

One tricky situation that may arise in filling out this portion of the form occurs when shelter allowance payments are not made in the month they are received, but are made at later dates. Accurate completion of the form may result in a statement that no rent was paid in one month, but that no rent arrears from that month should be considered recoupable because that month's shelter allowance was paid to the landlord later on. The HRA print-out is particularly important for this section.

Example: The client's rent is \$400 a month and the shelter allowance is \$250. The rent arrears accrued over a 6-month period. For the first four months the client paid no shelter allowance at

all. In month 5, the client paid her shelter allowance, and the shelter allowance for two previous months. The table (as simplified to omit categories not relevant to the example) would appear as follows:

<u>Mth.</u>	<u>Rent</u>	<u>Rent Pd.</u>	<u>Excess</u>	<u>Adv. & Recp.</u>
1	400	0	150	250
2	400	0	150	250
3	400	0	150	0
4	400	0	150	0
5	400	750*	150	0
6	400	250	150	0

*\$250 applied to shelter for months 3 and 4.

The total arrears sought would be \$1400, of which \$900 would be excess and \$500 would be recoupable.

Please note that SDSS's position is that **duplication cannot be requested for the month in which the application is made.** You should request duplication for that month at the I.S. Center once the approval is received. If your client is receiving an unrestricted shelter allowance, you should strongly urge her to deposit the rent money with you each month if your office has the ability to do this or have her shelter allowance changed to two-party or direct vendor checks or removed by HRA.

7. Arrears (Item VII)

Summarize the breakdown of the arrears by providing total amounts attributable to the various categories by carrying over the figures from page 6.

Make sure that the total arrears requested matches the breakdown of arrears in items A-F as well as the amount contained in the court papers.

Applications will be returned if these amounts are inconsistent.

Do not include any legal fees or non-rent charges in this summary. SDSS will not approve payment of legal fees as part of Jiggetts relief, so they should not be requested. SDSS may also deny applications where the stipulation indicates that legal fees or other non-possessory, non-rent sums will still be due after. Sometimes, HRA will pay the legal fees but not as frequently as they used to do.¹⁶

In some situations the client must sign a statement attesting to the accuracy of the breakdown. (Application, page 8). This statement need only be signed when the shelter allowance was received in cash and the monthly breakdown in the application does not correspond to any breakdown contained in housing court papers or provided by the landlord. SDSS insisted on this signed statement to ensure that applications were not submitted with inaccurate monthly breakdowns intended to reduce the portion of the arrears that would be considered recoupable.

8. Preparer Information (Item VIII)

Remember staff at non-legal advocacy organizations can only submit applications for Jiggetts relief if the organization has been designated by plaintiffs' counsel or an organization authorized to submit Jiggetts applications and if Jiggetts counsel have trained **each** staff member.

9. Allegation of Eligibility (Item IX)

Note that if the preparer of the application is not an attorney, or a law graduate or paralegal acting under the supervision of an attorney, then the client must sign the application as well as the preparer.

PLEASE READ THIS SECTION CAREFULLY. YOU ARE ALLEGING YOUR CLIENT IS ELIGIBLE AND YOU HAVE GIVEN HER DETAILED INFORMATION ABOUT THE RELIEF PROCESS.

¹⁶ If HRA will not pay the legal fees, they cannot be obtained elsewhere, and there are special circumstances (e.g. it is a post-eviction) please contact us. Judge Moskowitz has ordered SDSS to pay legal fees in one such case. Also, if these fees and charges are in a non-possessory judgment and SDSS denies the application because of the fees and charges, please contact us.

10. Certification

If there is no Housing Court judgment, order or stipulation, you must complete the certification on page 10 of the application and attach a copy of the Housing Court petition and other proof of the rent owed.

11. Third Party Contribution Statement (Item XII)

Complete all sections of the third-party donor letter. The information provided here must match the information provided in item VB Contributions. Review the instructions in item VB before having the third-party contribution letter filled out.

Remind your clients that SDSS and HRA are unwilling to supplement unpaid third-party contributions.

C. COMMON QUESTIONS

The following is a list of the most commonly asked questions and answers of Jiggetts that should help you understand SDSS's policies and procedures.

1. Do I have to fill out a page six and seven for modifications?

You are not required to do a breakdown (pages 6 and 7 of an application) when submitting a modification to SDSS. However, the modification will be approved more quickly and will be less likely to be returned for clarification.

2. Can the third party stop paying or can the amount be lowered if the client has had another child?

No. SDSS will not remove or reduce a third party because another child was born. However, if another child is born and the rent is increased, SDSS will pay the increase up to the maximum they will approve for the new household composition.

3. Will SDSS pay the arrears for someone who started receiving SSI after the original application was approved if they were never told by the advocate or the Center that they had to make a contribution?

It depends. If the client starting receiving SSI many years go, it is possible that the client was never informed that they would have to contribute. Each of these cases will be evaluated on a case by case basis. You should provide a clear explanation of the circumstances in a letter to

SDSS along with a modification. The modification should indicate that the SSI recipient has started to contribute and any other extenuating circumstances. SDSS has consented in some cases.

4. Are "Move Rather than Pays" evaluated differently than modification to moves?

Yes. However, there are similarities in the criteria of evaluation. In both situations, the most important factor is the monthly rent of the old apartment is similar (not more than a \$50 increase) to the monthly rent in the new apartment. In a Move Rather than Pay situation SDSS will also consider favorably a high amount of arrears that will not be requested balanced by the cost of relocating the family (i.e. moving expenses, broker's fees and security deposit). In a modification to move situation, SDSS will consider other factors in addition to the similarities in the rent. Important factors include the reason for the move, how long ago the arrears were paid, how much money was paid to retain the apartment, and how much it will cost to move the family to a new apartment.

5. If a child is receiving SSI is the household still eligible for Jiggetts?

Yes. The mother must meet the eligibility standards of ADC and have an open ADC case. SDSS will consider this case a household of one and therefore the maximum SDSS will pay is \$450. This child must contribute 20% of his SSI income. The reverse can be true if the parent receives SSI and the child has an open ADC case.

6. Will SDSS approve rent increases above SDSS's maximum if a child is added to the budget?

Yes. If additional household members are added to the budget SDSS will pay legal rent increases and the maximum they will pay so long as there was no third party contributor approved previously.

7. Under what circumstances will SDSS pay arrears that accrued because the third party contributor failed to pay?

Only in rare circumstances. If you have a case in which a third party contributor failed to contribute their portion of the rent and you now have future ability to pay this excess, you can request SDSS to pay the arrears. However, you must provide a complete explanation and compelling reason for why the third party failed to contribute. One factor SDSS considers is the length of time the donor contributed prior to no longer being able to contribute.

8. Can a client apply for Jiggetts with a holdover petition?

Yes. As long as rent or use and occupancy in excess of the household's shelter allowance is owed and can be documented by the court papers or by a landlord's breakdown.

If the tenant is going to stay in the apartment, the case must be converted to a Non-Payment proceeding and the landlord must provide a lease or an agreement to permit the tenant to remain in the apartment for at least 12 months. However, more common is a move to a new apartment rather than pay situation. The new apartment must rent for roughly the same rent as the old apartment.

9. Under what circumstances will SDSS or HRA pay for period in which the client was sanctioned?

Never. You must always obtain this money from a private source, a waiver or rent abatement.

10. If one of the children in the family is receiving child support directly from his father but the other children are on the budget, is this family eligible for Jiggetts?

No, not until the child's income is budgeted against the family's public assistance grant for their household size. Another possibility is that all of the children are taken off the welfare budget leaving the mother to receive ADC benefits for 1. However, each child must then pay a pro rata share of the rent. This is a requirement of the Mandatory Filing Unit.

V. WAITING FOR APPROVAL OF THE RELIEF

There is no set time limit by which SDSS must respond to a request for Jiggetts relief. Generally, the State takes at least four weeks to respond to an application, and payment is generally not available before six to eight weeks. The whole process, however, frequently takes much longer. If SDSS returns an application and it must be resubmitted substantial delays will result. Currently a resubmission takes an additional five weeks to process.

We recommend that applications be sent as promptly as possible, along with the acknowledgment cards described above.

You should always respond immediately to any correspondence sent to you from SDSS. In addition, if your client becomes ineligible or has moved during any part of the application process, you should inform SDSS that your client is no longer requesting relief.

If you notice an error in an application that is currently pending with SDSS, you should immediately send a letter to SDSS indicating the changes and include a copy of the corrected pages or additional documentation.

A. Checking the Status of a Jiggetts Application

To check the status of a Jiggetts application that is currently pending ask the staff member in your office designated to make status checks to call and inquire on your behalf. You should check the status of your application if no receipt is received within two weeks, or you do not get an answer in six weeks. Ask the Jiggetts contact person in your office to do an inquiry to Morris Sacks at 80 Maiden Lane office to check on the status of the application. His phone number is (212) 383-2415 and his fax number is (212) 383-2431. The Jiggetts contact person should make such inquiries by fax, listing the names of each client, the client's ADC number, and the date the application was submitted. If you have no contact person, speak to Amy Crawford. SDSS has requested that, if possible, status inquiries only be made when there is a emergency and you must have the information.

If you need an application expedited because you cannot get more time in Housing court contact the Jiggetts member covering your borough by faxing the application along with specific information regarding the housing court proceedings. We also ask that advocates do not wait until a case reaches a crisis situation in Housing Court before contacting the Jiggetts team. In other words, we ask that you not call us unless time is running out, but at the same time we want to hear from you while there is still some time left. If you do not hear back from us shortly, follow up with a phone call.

B. Housing Court Proceedings

You and your client should deal with your client's Housing Court case on the assumption that it will take a substantial amount of time to obtain a Jiggetts approval. If you are advising a client before there has been a final resolution of his or her housing case, you should advise him or her not to agree to a final judgment and to insist on getting at least 6 weeks to pay any arrears he or she agrees to pay. Many landlords' attorneys are familiar with the Jiggetts case and will grudgingly agree to give a tenant this much time if it is explained to them that the time is needed to get approval of Jiggetts relief. A sample stipulation agreeing, without a judgment, to pay arrears in six weeks is included in **Appendix 7**.

If a client comes to you and already has a judgment or other payment deadline, or if you assist a client in setting a payment deadline but have not heard from SDSS by the deadline, you may need to assist your client in getting more time in Housing Court. **You should never let a deadline on a Housing Court judgment pass without going back to Housing Court to request more time.**¹⁷ By now, most Housing Court judges are familiar with Jiggetts and will grant additional time to satisfy a judgment based on a representation that a letter has been written requesting Jiggetts relief. A sample order to show cause requesting additional time to obtain Jiggetts relief is included in **Appendix 8**. If no more time is granted by the court, call us.

In order to protect your client's privacy, except in special circumstances, do not attach SDSS or HRA documents, including approval letters, to Orders to Show Cause. If you do attach documents, cross out all irrelevant and confidential material.

If you are waiting for a response to a request for Jiggetts relief for a client and your client has tried and has been unable to obtain any more time in Housing Court, you should call us. We may be able to submit a statement to the court telling it of the status of the application. We may be able to contact SDSS to get a quick response to the application. If it proves impossible to get a response, we may be able to assist your client in making a formal motion for preliminary relief before the judge assigned to the Jiggetts case. If this is going to be necessary, we'd like as much lead time as possible. As part of that motion, we can ask that judge to stop an eviction while the SDSS considers our request. In every case that has been brought before

¹⁷ On the other hand, if your client has only agreed to pay by a certain date without a judgment, as in the stipulation in **Appendix 7**, your client may wish to wait until the landlord makes a motion to bring the case back to court. If the landlord delays a week before doing this, your client has gained a week's time without having to request more time from the court.

her in this way, the judge has agreed to stop the eviction while the State considers the request for relief.

VI. WHAT TO DO AFTER GETTING THE JIGGETTS APPROVAL LETTER.

The approval letter from SDSS will be sent to you. A sample approval letter is attached as **Appendix 9**. You must then send a letter, enclosing the approval letter and the application to the Administrative Assistant to the Director of the client's Income Support Center. A sample letter to the Center is attached as **Appendix 15**.

The amount that you seek to have paid by HRA (the Income Support Center) must match the amount requested from and approved by SDSS unless the difference is solely due to the passage of time between the date the request was made to SDSS and the date that the approval letter was sent to you. If SDSS does not approve all the arrears or you dispute SDSS's approval in any way, you must request that SDSS modify the approval. It is very important that you include a copy of the application with your letter to HRA. HRA needs to see the breakdown of the arrears that SDSS has approved. We have seen cases in which no breakdown was provided and HRA workers substituted their own breakdowns that resulted in more recoupable arrears for clients.

Your letter to the Center should state when the rent arrears checks are needed. The Centers have been told to issue Jiggetts checks within 3 days of receipt of a request for payment, but in reality it usually takes longer. If the situation is an emergency, you should indicate that in your letter.

You should include the landlord's address in your letter. You should also specify in your letter that you want the ongoing rent payments to be made as two party checks, not direct vendor checks. This will allow your client to monitor HRA's continuing payment of his or her ongoing rent and inform you if a problem develops.

You should follow up with the Center to see when the checks are ready to be picked up. We recommend the checks be picked up and hand delivered by your office to the landlord or his attorney so you can make sure the Center issued the correct amount and you can get a receipt and/or sign a stipulation that the rent is paid in full and the housing court case is discontinued.

You must send a copy of only the SDSS approval letter to Amy Crawford, The Legal Aid Society, Civil Appeals and Law Reform Unit, 841 Broadway, 3rd Floor, New York, New York 10003.

Batches of copies should be mailed to Amy in a single envelope from your office, on a weekly basis.

CONDITIONAL APPROVALS

In some cases, where it is urgent that an application be approved although SDSS is not entirely satisfied with the facts as presented by the advocate, the State will issue a conditional approval. You will have 60 days to fulfill the condition(s) of the approval and respond to SDSS. Some of the more common conditional approvals we have seen are:

a. the correction of poor conditions in the apartment which have been stipulated to be corrected; (SDSS expects you to use the conditional approval as a bargaining tool to get the repairs completed before the payment of the arrears.)

If you receive a denial where SDSS requests that your client move based on conditions in the apartment, you should contact one of us if you wish to challenge this decision. Note: in these cases SDSS will approve a move to a new apartment that rents for roughly the same amount as the old apartment.

- b. the addition of a newborn child to the public assistance budget;
- c. an agreement that a recipient of SSI contribute the lesser of 20% of their income, or their pro rata share, to future rent;
- d. an agreement that a recipient of Social Security (SSA/SSD) contribute the lesser of 30% of their income, or their pro rata share, to future rent.

We have also seen more problematic conditional approvals. If you receive one of the following and have a problem meeting the condition, please give us a call to discuss it:

- a. approvals conditioned on the client obtaining a lease;
- b. approvals conditioned on the restriction of the shelter allowance of another occupant of the premises;
- c. approvals conditioned on client compliance with the Office of Child Support regarding an absent parent;
- d. approvals conditioned on the client's agreement not to seek moving expenses from HRA.

It is essential that you respond to SDSS's request for further information if a conditional approval has been issued. SDSS has taken the position that it will rescind or cancel Jiggetts relief for clients when the follow-up information has not been provided.

A conditional approval response form will be attached to each conditional approval. Complete this form as soon as possible in order to secure a full approval.

VII. THE ONGOING JIGGETTS RELIEF

After your client's rent arrears have been paid, as long as the circumstances have remained the same, HRA is supposed to pay the rent each month for as long as the client continues to receive ADC and the Jiggetts case continues. These payments will be made in the form of semi-monthly checks. Although the Income Support Centers often issue these payments as direct vendor checks mailed directly to your client's landlord, you should insist that the ongoing rent be issued as two-party checks to your client.¹⁸ This is crucial because HRA often fails to issue the ongoing relief or does issue it for awhile and then ceases to do so without notice. By receiving two-party checks, your client can monitor HRA's compliance with the ongoing relief and notify you of any problems.

If your client prefers to have her rent sent directly to the landlord you should advise her to check and keep her EPFT vouchers semi-monthly. The bottom left hand corner of the vouchers have a comment section which indicates the landlord's name, address and check amounts when rent is sent by direct vendor checks. Although the EPFT vouchers are not admissible in court as receipts, they should be saved in the event a client is sued and needs to subpoena canceled checks.

Please make sure that your client understands that if no check is sent, the comment section will be blank. She should then take immediate steps to avoid the danger of eviction.

Because of these problems with HRA's continued payment of Jiggetts rent supplements, you should tell your client to be on the alert for such an error. You are responsible for checking to see if the ongoing relief is added to your client's budget before you close her case file. Once the case is closed, the client should contact her worker to try to resolve the problem. If she cannot resolve the problem she should return to your office for assistance. Any problems with HRA's compliance with the ongoing relief that you cannot resolve at the Center should also be brought to the attention of Anthony Imbo, HRA's Director of Rental Assistance and

¹⁸ SDSS's approval of Jiggetts relief is always conditioned upon the client's agreeing to some sort of restricted shelter payments -- either direct vendor or two-party.

Case Consultation. His office oversees HRA's implementation of Jiggetts relief. See Appendix 26 for a list of his staff's phone and fax numbers. If you notice systemic problems let us know.

HRA calculates any recoupments based on what the grant would be without the Jiggetts rent added. Therefore, you should watch the case until after the first cycle is paid to ensure that the recoupment is not more than 10% of the regular grant. If the Center calculates it wrongly, you should first attempt to work it out there. If you don't succeed, speak to Tony Imbo (212) 274-2338 or Burt Blaustein (212) 274-2283. Your client will be recouped for rent duplications and applicant rent arrears above the shelter allowance.

If a Jiggetts recipient comes to you for a modification and her case has been closed for more than 30 days at any point since the original approval, it is SDSS's position that you should fill out a new application, not a modification. On that application you should indicate that the case was previously approved. Check the reapplication box at the top of page 1. You should fully complete the breakdown page (page 6), and list all those arrears which accumulated while the public assistance case was closed as "applicant arrears". **NOTE:** The case must be reopened before you can submit the application.

A. MODIFICATIONS TO THE ONGOING RELIEF

Below are several specific issues which may arise with respect to your client's ongoing Jiggetts relief. These changes in your client's circumstances must be reported to SDSS. A form for reporting such changes is attached as Appendix 2 and is called the "Modification of Request" form. Two copies of this form should be sent to the Jiggetts Processing Unit in Albany along with a receipt and an envelope for the receipt. SDSS takes four to five weeks to process modifications.

We recommend that Jiggetts recipient to the provider that submitted the original application. However, in the event your intake is closed or curtailed and you cannot prepare a modification, the Jiggetts recipient should be referred to another organization. You should provide her with a copy of the original application, approval letter and any subsequent correspondence and submissions along with a referral note explaining the reason why your organization cannot assist. See Appendix 29 for a list of some Jiggetts providers.

1. Changes in Household Size or Income

Approval of requests for Jiggetts relief are made based on your client's specific circumstances at the time of the request. Using the "Modification of Request" form, you must therefore inform SDSS of any changes in your client's household size or income. You should make sure your client knows to provide you with this information so that you can forward it to SDSS. Of course, if your client stops receiving ADC, or she is no longer eligible for Jiggetts

relief. If you are concerned that some other change in your client's circumstances may affect her continued eligibility for relief, you should speak to us before you contact SDSS. If you do not have a copy of your client's original approval letter to do a modification, you should first try and locate a copy of it from the Center. If the Center does not have a copy, you can submit a Modification without it but you must note the date of approval. You should state on the Modification Form that you do not have a copy of the original approval. To obtain the date of the original approval and to guarantee that a case has been approved before, contact SDSS through your office's contact person for status inquiries.

It is not necessary to file a modification if the only changes are a new born in the house or the SSI annual cost of living increase each January. However, if you are reporting any other changes, these changes must be noted and the SSI recipient must increase her contribution proportionately to the increase in SSI income.

2. Rent Increase or Decrease

If your client's rent increases while he or she is receiving Jiggetts relief, either because of a renewal increase or an MCI, there is an excellent chance that SDSS will agree to pay the increased rent through Jiggetts if the increase is similar to "reasonable rents" received by other families through the interim process. You must, however, submit a Modification of Request form to SDSS with supporting documentation, and request this adjustment in the relief. Routinely, SDSS has agreed to pay these rent increases as well as any arrears caused by the increase (including MCI arrears). After you get approval for the rent increase, it should be forwarded to the Income Support Center in the same manner as the original approval. SDSS has denied some requests for rent increases on the grounds that the new rent exceeds the "reasonable" rent for that family size. If you receive such a denial, please contact Jiggetts counsel to discuss the case. You should also report any decrease in your client's rent.

3. Emergency Circumstances Requiring a Move

Because the approval for Jiggetts relief is limited to your client's current specific circumstances, your client cannot move and expect to automatically continue receiving Jiggetts relief. Remember, the purpose of the Jiggetts relief is to prevent an eviction from a current apartment in order to maintain the status quo until the case is decided.

Jiggetts relief is not portable!

You should be sure to discuss this with your client when making the application, and again when it is approved. Go over the pros and cons of Jiggetts relief by reviewing the informational letter with your client (see Appendix 5). If the client does not want to stay in the current apartment, you should not be requesting Jiggetts relief for that apartment. Consider

whether the apartment is too small or if the repairs need to be and will be made. SDSS will not approve a move in the future if the reason for the proposed move existed at the time the Jiggetts application was submitted (e.g., overcrowding, dangerous neighborhood, repairs not completed).

Every office must determine its own priorities regarding assisting client with moves, particularly those that are not based on emergency circumstances. It is also critical to assess with the client whether it makes sense to move to a more costly apartment which may not be affordable if Jiggetts relief ends.

If your client needs to move in the future, while receiving Jiggetts relief, due to an emergency or because a less expensive apartment is found, he or she should inform you **prior to the move**. You will need to use the Modification of Request form to request approval of Jiggetts relief for the new apartment by writing to SDSS. You must attach proof that the apartment is available (a lease, a letter from the landlord), and any available documentation of why the move is necessary (e.g. a police report re: domestic violence). Send two copies to SDSS in Albany. A request is more likely to be approved if there are no costs for brokers, moving expenses and a security deposit. **UNDER NO CIRCUMSTANCES SHOULD YOUR CLIENT MOVE PRIOR TO OBTAINING AN APPROVAL FROM THE STATE.**

The relief is likely to be approved for the new apartment if it has the same rent or a lower rent as your client's current apartment. If it has a higher rent, obtaining approval will be much less likely. Still, if your client has a compelling reason for moving and the new, higher rent is still "reasonable" in Jiggetts terms, it is worth a try.

It is important that permission to continue Jiggetts relief in a new apartment be requested before the client actually moves. SDSS has become concerned about the number of Jiggetts intervenors who later move without seeking prior approval from SDSS. They have informed us that they will be scrutinizing requests to continue Jiggetts relief in different apartment more closely and intend to reject requests made after a move has already taken place unless there is a compelling reason why approval was not sought in advance.

One thing you must be careful not to do is to provide SDSS with a reason for the move which was in existence at the time the original application was approved (e.g., conditions, overcrowding).

B. RESTORATION OF JIGGETTS RELIEF

If your client was previously approved for Jiggetts relief and then lost the relief because her ADC case was closed for more than 30 days or due to some other change in circumstances, the relief can be restored. You must submit a new application noting at the top of page 1 of the

application that you are requesting restoration of previously approved Jiggetts relief.

You do not need to submit a new application if there has been no change in circumstances and the excess rent merely fell off the budget by mistake or negligence. You should ask the center to restore the relief. If they refuse, you should contact the field managers. If you are still unsuccessful, you should then submit an application as a Restoration to the Jiggetts Processing Unit.

VIII. IMPORTANT ADVICE FOR YOUR CLIENT

You should of course explain to your client the importance of keeping in touch with you or your office about relevant changes in her circumstances including any rent increases. It is important to emphasize that the client will lose the ongoing relief if she moves without prior approval of relief for the new apartment by SDSS. In addition, you should also advise your client about the following issues. (**Appendix 6** contains a sample Closing Letter for clients in English and Spanish which explains many of the important things they should understand about receiving Jiggetts relief.)

A. Jiggetts Relief is Temporary

Because it is tied to a specific court case and because it is preliminary, pre-decision relief, the most important thing to emphasize to your clients about the ongoing relief is that it is temporary and may not last more than a few months beyond when they begin receiving it. You should advise them that they should be pursuing more permanent solutions to their difficulty in paying their rent. They should consider applying for public housing and Section 8 benefits through the New York City Housing Authority as well as other subsidized housing. Many families have used the time during which they were receiving Jiggetts relief to work their way up waiting lists for Section 8 or subsidized housing. In this way, receiving Jiggetts relief became part of a permanent solution to their housing affordability problem. (If you have a client who begins receiving Section 8 benefits while receiving Jiggetts relief, you should write to the City and SDSS to tell them that the ongoing relief should be stopped because it is no longer necessary.)

B. Jiggetts Relief Affects Food Stamps

Because food stamps are calculated based on a client's total income, and Jiggetts relief increases a client's total income by providing him or her with more money to pay the rent, receiving Jiggetts relief reduces a client's food stamps. The formula used to calculate food stamps leads to a reduction of approximately \$1 in food stamps for every \$3 in extra rent money received through Jiggetts each month. Since your client will no longer have to use food money to try to pay excess rent, he or she should be better off in the final analysis. You should explain to your client how much of a reduction to expect and you should ask them to call you if there is a greater reduction because that would in all likelihood be a mistake. Mistakes of this kind have happened. See **Appendix 22** showing what happens to food stamps when ADC households receive Jiggetts relief.

Example: If your client's shelter allowance is \$250 a month and she received Jiggetts relief of \$240 per month to pay her rent of \$490 per month, her food stamps will be reduced by approximately \$80 (240/3).

C. Be on the Lookout for Problems with Ongoing Jiggetts Payments

In many cases HRA never commences the ongoing payment of the shelter allowance at the full rent amount. You should check that the ongoing relief is being sent before you close your case. In other cases, HRA pays the Jiggetts amount for a few months and then the case is erroneously re-budgeted to the shelter maximum. Because of these problems, clients should be advised to look out for problems with the ongoing rent payments and to contact their welfare worker if they have any indication that their full rent is not being paid. Clients should be advised to check the bottom of their EPFT vouchers to ensure that the correct amount of rent is going to their landlord. If your client cannot straighten out the problem on her own she should return to you or your office. Please contact us if you can't resolve a problem, or if you are experiencing what appear to be systemic problems with one or more Income Support Centers.

It is extremely important that your client notify you if she or someone in her family begins to receive SSI or Social Security disability payments. In some instances HRA has been automatically lowering Jiggetts payments to take into account the client's SSI contribution, without fully explaining the client's obligation to pay the contribution.

IX. OTHER IMPORTANT ITEMS

A. Change in the P.A. Case

Remember, any change in a public assistance case (e.g. income, sanction, missed face to face, recertification) may effect the Jiggetts relief. Advise your client that she/he is entitled to proper and adequate notice regarding all changes to her P.A. case, and that she has the right to challenge any action taken by HRA. Make sure your client has a copy of SDSS's approval letter for her records.

B. Closed Files

Because Jiggetts is a lawsuit, at some point in the future, the case will come to an end, either by judicial decision or settlement. In addition, the longer the case lasts, the more likely it is that your client will return to your office seeking a modification of the original approval (e.g., change in household, composition or income, change in rent). As a result, we suggest you keep

all of your closed Jiggetts files together in the an accessible area. The time may come when you will need immediate access to a closed case file. Thus, it's in your client's best interest to store the files together in a neat and orderly fashion, and it will save you a significant amount of time and hassle when you need to access files.

X. CONCLUSION

As we indicated in the introduction, the criteria and procedures for obtaining Jiggetts relief have evolved as the system has become less ad hoc and more standardized. Because there are no formal criteria and rules, it is likely that the standards will continue to evolve as issues arise that have not been previously addressed. Accordingly, this handbook should be used with caution. Advocates should consult with Jiggetts counsel if they have any questions that are left unanswered by this handbook, or if they encounter a response by SDSS to a Jiggetts application that is not consistent with the information provided in this handbook. We can provide helpful advice to advocates only if we are kept fully informed as to how the system is functioning as a whole. We try to update this handbook periodically. Please make sure your colleagues who were trained in the case have a copy of the current handbook.

We hope this handbook proves useful and that it assists advocates in obtaining the much needed relief that the Jiggetts case can offer.

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INDEX

A.A.	D3	Appendix 3	F19
Abatement of rent, substandard conditions	A17	Current Apartment Residents	
ADC eligibility	A8	(Item III), application	C6
ADC-I	A8	Denial of application, reversing	C3
ADC-U eligibility	A9	DHCR Rent Guidelines and DHCR	
ADC-U Screening Check List Form,		Information, Appendix 24	F90
Appendix 12	F54	Direct vendor checks, definition of	A4
AFDC benefits, definition	A8	Direct vendor checks, stale	B6
AFDC classification, change from HR . . .	B20	Directory of Civil Legal Services,	
Affidavit, tenant, Appendix 11	F45	Appendix 29	F102
Allegation of Eligibility (Item IX),		Directory of HRA's Field Managers,	
Jiggetts applic.	C12	Appendix 27	F98
Amount Payable as Applicant (Applicant		Directory of Income Support Centers,	
Arrears), p.6 of application.	B4	Appendix 28	F100
Amount Subject to Advance and Recoupment,		Directory of RAU, Appendix 26	F96
p. 6 of application.	B8	Disabled person receiving SSI	B14
Applicant arrears grants	B3	Dispossess, see Nonpayment petition	B1
Application for Jiggetts, preparing	C1	Distinguishing between SSI	
Application Form for Jiggetts	C4	and Social Security	B14
Approval Letter for Jiggetts Relief, Sample,		Duplication	B7
Appendix 9	F48	Electronic Payment Funds Transfer (EPFT)	B6
Approval letter from State DSS	C3	Eligibility criteria for Jiggetts	A7
Approval letter, what to do after getting . .	D3	EPFT vouchers	D5
Arrears (Item VII) of application	C11	Excess rent	A7
Arrears, rent	A15	Excess rent, definition of	A3
Back rent, see Rent arrears	A15	Expedited approval of applicant arrears . . .	B5
Budget deficit	B12	Fact Pattern and Completed Application,	
Budget Screen with Codes,		Sample, Appendix 14	F63
Sample, Appendix 13	F56	Fair hearing, to remove sanction	B20
Case closings	D6	Fair Market Rents, Charts, Appendix 23 . .	F88
Certification, page 10 of application . . .	C13	Food Stamps and Jiggetts, Chart,	
Changes in household size	D6	Appendix 22	F86
Changes in income	D6	Food stamps, how Jiggetts affects	E1
Checks, stale	B5	Foster care payments	B17
Closed files	E2	Fraud ("intentional program violations") . .	B19
Closing letter	E1	Future ability to pay rent	B3
Closing Letters in English and Spanish,		Home Relief	A9
Sample, Appendix 6	F31	Home Relief classification change to ADC	B20
Community Based Organizations	A6	Household composition, analysis of	B10
Conditional approvals	D4	Household size, changes in	D6
Conditional approval response form	D5	Housing Court Papers, and application . . .	C8
Conditional Approval Response Form,		Housing Court Proceedings	D2
Appendix 4	F22	HR	A9
Contributions	C8	HR-PG, Home Relief - Pending	A10
Contributor Letters, samples,		HRA, letter to, requesting payment,	

Section 236	C7
Section 8 benefits	E1
Severing arrears	A17
Shelter allowance, definition of	A3
Shelter allowances, maximum monthly	A4
Social Security Disability (SSD)	B15
Social Security, received by non-recipient	B13
SSD (Social Security Disability)	B15
SSI (Supplemental Social Security Income)	B14
SSI Income and Resource Levels,	
Appendix 25	F94
Stale checks	B5
Status of a Jiggetts Application, checking	D1
Stipulation in Housing Court,	
Sample, Appendix 7	F39
Sublet	C9
Subpoena	B6, D5
Succession rights	C9
Supplemental Security Income ("SSI")	B11
Tenant affidavit, sample, Appendix 11	F45
Third party contributions	
Jiggetts application, page 11	C8
Third-party contribution to rent	A13
Third-Party Contributor Letter, Appendix 3	F19
Two-party checks, definition of	A4
Two-party checks, for ongoing relief	D5
Two-party checks, stale	B5
Undocumented alien in household	B18
Waiting for approval	D1
Waiving arrears	A17