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**Center for Employment & Economic Supports**

**June 30, 2009**

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**TO:** Commissioners; Employment Coordinators; TA and FS Directors; WMS Coordinators, WTWCMS Liaisons; Staff Development Coordinators

**FROM:** Russell Sykes, Deputy Commissioner, Center for Employment and Economic Supports

**SUBJECT:** Federal Minimum Wage Increase and Its Effect on Temporary Assistance and Food Stamp Programs

**EFFECTIVE DATE:** July 24, 2009

**CONTACT PERSON:**

Employment Questions: Employment and Advancement Services Technical Advisor or EAS Bureau at (518) 486-6106

TA Program Questions: Bureau of Temporary Assistance at (518) 474-9344

FS Program Questions: FS Bureau at 1-800-343-8859 Extension 3-1469

The purpose of this message is to inform social services districts (districts) about the upcoming increase in the federal minimum wage which will be effective July 24, 2009, and to identify the effects that the increased minimum wage will have on Temporary Assistance (TA) and Food Stamp (FS) program requirements, including Food Stamp work exemptions and the Working Families Food Stamp Initiative Screening.

The Federal minimum wage will increase to \$7.25 per hour for work performed on or after July 24, 2009. This represents the final increase in the Federal minimum wage as was authorized by the Fair Minimum Wage Act of 2007 (121 Stat. 188 to be codified at 29 USC §206).

The state minimum wage was not affected by the previous increases in the Federal minimum wage (which occurred in July 2007 and July 2008, respectively) as the state minimum wage was then already greater than the increased Federal minimum wage in effect at those times. However, the upcoming increase in the Federal minimum wage also results in an increase in the state minimum wage from \$7.15 to \$7.25 per hour for work performed on or after July 24, 2009.

**Temporary Assistance Employment Requirements**

Self-Employment

As described in 08-ADM-07, absent other documentation, the hours of work for a self-employed TA applicant or recipient are determined based on the individual's net income after subtracting certain allowable business expenses (as described in 95 INF-33) divided by the Federal minimum wage. Districts must apply the increased federal minimum wage effective July 24, 2009 to determine the number of hours of work for those newly reporting self-employment, unless the district uses alternative documentation other than self-attestation (e.g., statements from individuals for whom the self-employed individual provides services or time records used to document child care payments to those serving as child care providers). The hours of self-

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employment reported on ABEL and/or the Welfare-To-Work Caseload Management System (WTWCMS) or entered on NYCWAY or other systems used by the New York City Human Resources Administration for undercare cases must be revised prospectively as appropriate at next client contact, but no later than **October 1, 2009**.

Work Experience

The maximum number of hours that an individual may be assigned to work experience is limited to the participant's combined temporary assistance budget deficit and food stamp allotment, if any divided by the greater of the federal or State minimum wage. However, in no instance may an individual be required to participate in work experience or other work activities for more than 40 hours per week.

Districts must review the cases of all individuals engaged in work experience and use the increased minimum wage of \$7.25 to determine the maximum hours that a TA or FS recipient may be assigned to work experience. The maximum number of weekly hours available for a work experience assignment, displayed on the Employability Plan screen of the Welfare-To-Work Caseload Management System (WTWCMS), will be based on the increased minimum wage effective July 24, 2009.

**TA Budgetary/Eligibility Implications**

The increase in the minimum wage may have budgetary implications for those TA cases whose earnings increase as a result. TA recipients are obligated to report timely any changes in a household's circumstances which occur. The TA grant must be adjusted prospectively for any significant changes. A significant change is not a monetary amount but rather is a wage increase or decrease that is expected to last at least thirty days. If a TA recipient experiences a significant change in the amount of earnings, the social services district must obtain verification of the change and adjust the benefit after any appropriate administrative processing period (see 18 NYCRR 352.17 (e)) and allowing for timely notice. If a TA recipient has a significant change in earned income because of the minimum wage increase and does not report it timely, an overpayment must be calculated beginning with the actual month in which the significant change occurred.

The \$90 work disregard and the earned income disregard are not applied in those instances when a TA recipient fails, without good cause, to make a timely report of new or increased earnings. Additionally, a recipient of TA does not receive the administrative processing period for increased earnings if the recipient fails to make a timely report of the increased earnings.

Districts must also ensure that the hours of employment entered in to the temporary assistance budget and/or reported onto the WTWCMS (NYC workers should review and adjust the hours of employment reported on the form FIA3A, as appropriate) are consistent with the documentation that is maintained as part of the case record.

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**FS Budgetary Implications**

Food Stamp recipient households subject to the simplified (“six-month”) reporting rules would not be required to report an increase in earnings due to the increased minimum wage unless this increase would put the household over the 130% of poverty gross income limit. The increase in earnings due to the increase in the Federal minimum wage should be reviewed at the time of the next assessment of employability status, periodic report or recertification.

**Working Families Food Stamp Initiative (WFFSI)**

As of January 1, 2008, local districts began screening all applications for Non-Temporary Assistance Food Stamp (NTA-FS) benefits using the LDSS-4921 Working Families Food Stamp Initiative Screening Sheet (or approved local equivalent). Effective July 24, 2009, the above mentioned screening will be modified to incorporate the increase in the Federal Minimum Wage.

Any NTA-FS applicant or recipient household would qualify for WFFSI that has:

At least **one** adult member who is:

- either working **30 hours per week** or more, **or**
- earning an average weekly income equal to or greater than **\$217.50** which is the Federal Minimum Wage (FMW) of **\$7.25 times 30 hours per week**.

**OR**

At least **two** adult members who are both:

- either working **20 hours per week** or more **each or**
- earning an average weekly income equal to or greater than **\$145** each which is the FMW of **\$7.25 times 20 hours per week**.

**Note:** The revised LDSS-4921 form must be used to screen all applications for NTA-FS benefits.

**Food Stamp Employment and Training (FSET) Requirements**

An increase in the Federal minimum wage affects the number of individuals exempt from Food Stamp Employment and Training (FSET) work requirements based on the exemption for individuals receiving weekly earnings equal to or greater than the Federal minimum wage multiplied by 30 hours. Currently, individuals earning at least \$196.50 per week or greater are exempt from participation in FSET work activities. Effective July 24, 2009, individuals must be earning at least \$217.50 per week (30 hours times \$7.25) in order to be exempt under this criterion.

At the next client contact or recertification, districts must review the cases of individuals who are exempt from food stamp work requirements based on earning weekly wages of at least 30 times the federal minimum wage (\$7.25) to ensure that the new criterion is met. Individuals who no longer meet the criterion should be screened to determine if they meet any of the other food stamp exemption criteria. If not, these individuals should be re-coded as nonexempt work

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registrants and be notified of the change in their food stamp employability status. Districts may then assign these individuals to FSET work activities.

### **Systems Implications**

#### Welfare-To-Work Caseload Management System/State Participation Rate Reporting Logic

The Welfare-To-Work Caseload Management System and the State Participation Rate Reporting Logic have been updated to reflect the increased minimum wage effective July 24, 2009. Therefore, the maximum number of weekly hours available for work experience assignment displayed on the Employability Plan screen on WTWCMS will be based on the increased minimum wage effective July 24, 2009.

Districts are reminded that only individuals who are scheduled and actually participating in work experience for the maximum number of hours permitted by the above calculation will be **deemed** to have fulfilled the 20 core hours of work participation required for participation rate purposes, even if the resulting hours of participation are less than 20. The minimum wage increase will increase the number of individuals eligible for the deeming provision. Individuals who are required to participate more hours than the core work hours (i.e., 30 or 35) must participate in another countable work activity to fulfill those hours for work participation rate purposes.

#### Working Families Food Stamp Initiative

Lists will be sent to local districts, via BICS, identifying FS cases that are

1. potentially eligible for WFFSI (ABEL Budget indicates case appears to be financially eligible but no WFFSI Indicator present on WMS); or
2. currently participating in WFFSI, and ABEL Budget indicates case still appears to meet earnings criteria; or
3. currently participating in WFFSI, and ABEL Budget indicates the case no longer appears to meet earnings criteria.

A separate GIS will be issued when these lists are ready to be sent to districts. **Information regarding the revised WFFSI Screening Sheet Form 4921 will be provided at a later date.**

#### Food Stamp Employment and Training Reporting Changes

Work registrant reporting changes are being made to ensure that individuals who are earning the equivalent of at least 30 hours times the federal minimum wage are not reported as ABAWDs or food stamp work registrants. Although all districts except New York City have suspended and will not apply ABAWD requirements through September 30, 2010, districts should continue to code ABAWDs with the appropriate employability code. OTDA will also update the ABAWD tracking to include the new Federal minimum wage where hours per month must be calculated for FSET work exemption or ABAWD purposes.