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Governor

**NEW YORK STATE**  
**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**  
40 NORTH PEARL STREET  
ALBANY, NY 12243-0001

**Robert Doar**  
Commissioner

## Administrative Directive

### Section 1

<b>Transmittal:</b>	04-ADM-06
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Temporary Assistance
<b>Date:</b>	September 30, 2004
<b>Subject:</b>	Treatment of Full-Time Earnings of Students Under Temporary Assistance (TA) Programs
<b>Suggested Distribution:</b>	Temporary Assistance Directors Food Stamp Directors Staff Development Coordinators WMS Coordinators Fair Hearing Staff Medicaid Staff TOP/CAP Coordinators
<b>Contact Person(s):</b>	Central Team (TA) at 1-800-343-8859; extension 4-9344, Eastern Team (FS); extension 3-1469, Western Team (HEAP); extension 3-0332, and Metro Team, (212) 961-8207 For Medicaid: Upstate Regional Representative at (518) 474-8216; New York City Representative at (212) 268-6855
<b>Attachments:</b>	None
<b>Attachment Available On – Line:</b>	<input type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
85 ADM-33 02 INF-31 OMM/ADM 97-2	See "I. Purpose" section below	352.18 352.20	Chapter 246 Of the Laws of 2002 SSL 131-a	TASB Chapter 18, Section F	GIS 02 TA-DC022 GIS 02 TA-DS023 GIS 02 MA/007

### Section 2

#### I. Purpose

The purpose of this Administrative Directive is to provide guidance to districts on how to budget the full-time earnings of dependent and non-dependent children who are full-time or part-time students when determining eligibility and degree of need for temporary assistance (TA). Additionally, this Directive cancels the section of 85 ADM-33 pertaining to this subject matter. The section is titled, "Earned Income of Full-Time Students".

## **II. Background**

Changes in subparagraphs (i), (iii) and (vi) of paragraph (a) of subdivision 8 of section 131-a of the Social Services Law, made pursuant to Chapter 246 of the Laws of 2002 changed the way districts consider the full-time earnings of students who are dependent children. This change became effective July 30, 2002 and required districts to begin disregarding the full-time earnings of a dependent child who is a full-time or part-time student, when determining the eligibility or degree of need of the student's family for temporary assistance (TA). This includes permanently disregarding these earnings when applying the gross income test. This Office originally transmitted this change to districts through GIS 02 TA-DC022 and GIS 02 TA-DC023.

### Definitions

**DEPENDENT CHILD** – for these purposes, means a child under the age of 21, who resides with a custodial parent or other caretaker (relative or non-relative), or who resides in an institution that exerts parental control over the child.

**FULL-TIME EMPLOYMENT** - employment that is normally recognized as full-time by industry-wide standards for that occupation in that locality. This does not include any work between school semesters, including during summer vacation.

**PART-TIME** - school schedule equal to at least one-half of a full-time curriculum as determined by the educational authority.

**SCHOOL ATTENDANCE** - means attending school, college or university, a course of vocational or technical training designed to fit a person for gainful employment, or participation in the Job Corps program under the Workforce Investment Act (July 2000).

## **III. Program Implications**

This policy applies to all Family Assistance (FA) and Safety Net Assistance (SNA) case types.

### Dependent Children

Districts must disregard the full-time and part-time earnings of a dependent child who is a full-time or part-time student, when determining eligibility or degree of need for TA. This includes permanently disregarding these earnings when applying the gross income test. The full-time or part-time earnings of dependent children under the age of 21 who are full-time or part-time students who are essential persons under Family Assistance are also disregarded.

**Note: When applying this policy, a dependent child retains his/her status as a student between school semesters and during summer vacation, as long as he/she intends on returning to school after the academic break is over.**

**Note: If a dependent child is a full-time or part-time student and reports that he/she is not going to return to school, his/her earnings become countable from that date, or the date he/she withdrew from school, which ever is earlier. If the TA household does not report this change and the district subsequently discovers this information, the student's earnings become countable from his/her last date of attendance, or the end of the previous term or semester, which ever is earlier. A reduction from full-time to part-time student status does not change a student's eligibility for the disregard.**

### Non-Dependent Children

All gross full-time or part-time earned income of a non-dependent child who is a full-time or part-time student is considered when determining his/her eligibility or degree of need.

### Examples

#### Example 1, Full-Time Student, Full-Time Employment, Dependent Child

Robin Smith is an 18 year old full-time high school senior who works full-time at a restaurant. Her mother and two younger siblings are in receipt of Safety Net Assistance (SNA) due to the State 60-month time limit. When the worker calculates the family's budget, Robin's earnings are disregarded for purposes of determining the family's eligibility and the degree of need.

#### Example 2, Full-Time Student, Full-Time Earnings, Essential Person, Dependent Child

Bill Young is a 20 year old full-time college student who works at a local department store full-time. He is an essential person on his aunt's FA case. Since he is determined to be a dependent child, his earnings are disregarded when determining the family's eligibility and degree of need. When Bill turns 21 years old, even if he continues to remain an essential person on his aunt's case, his earnings are no longer disregarded and are applied against the needs of the household. Bill and his aunt both need to evaluate the impact on the family's FA case if he continues in his EP status.

If Bill, prior to turning 21 years old requests to vacate his status as an EP on his aunt's FA case and to receive a SNA grant on his own case, Bill remains eligible to receive the student earned income disregard only if his aunt continues to exert parental control over Bill; he continues to be a dependent child for the purpose of this disregard.

#### Example 3, Full-Time Student, Full-Time Earnings, Dependent Child, Non-Relative

Joe Johnson is an 18 year old high school student who has resided with his mother's friend Virginia since he was 12 years old. Virginia assumed parental control over Joe when his mother was incarcerated at that time. Virginia receives SNA on Joe's behalf. Joe begins to work full-time evenings at a local hospital. Since he is considered a dependent child, his earnings are disregarded.

In June, Joe graduates and moves out of Virginia's house into his own apartment, but is returning to college in the fall. Since Joe, still a student, no longer resides with a caretaker who exerts parental control over him, his earnings are no longer disregarded.

#### Example 4, Full-Time Student, Full-Time Earnings, Non-Dependent Child

Jessie Long is a 19 year old full-time college student who lives with her 20 year old boy friend. Jessie works full-time. Jessie and her boy friend apply for TA. Since Jessie resides with someone who cannot be determined to exert parental control over her, her earnings are considered when determining her eligibility and her degree of need.

#### **IV. Required Action**

To apply the disregard, on a case by case basis, workers must determine if the child under the age of 21 is residing with a parent, or if the child is under the parental control of another caretaker (relative or non-relative) or living in a supportive living arrangement (institution) that exerts parental control over the child.

Situations illustrative of when a caretaker (institution) may be determined to be exerting parental control over a dependent child may include, but are not limited to, a caretaker who makes decisions about the child's finances, determines where the child lives, determines where the child attends school, is recognized as assuming the parental role for the child by schools, courts or other community institutions, is designated as the person responsible for making health decisions related to the child, or is receiving child support from one or both of the natural parents on behalf of the dependent child.

For TA, districts must immediately cease budgeting full-time earnings of dependent children who are full-time or part-time dependent students, even at application when applying the Gross Income Test. Additionally, districts must review all applications and active cases where these earnings determined eligibility or need, including applications denied on or after July 30, 2002. Districts must then determine if adjustments are necessary and make them accordingly.

For active cases, the adjustments must occur by the next recertification or next case contact. Districts must calculate underpayments for cases not budgeted correctly in accordance with directions issued in GIS 02 TA-DC022 and GIS 02 TA-DC023 retroactive in accordance with current procedures to July 30, 2002, although the number of these underpayments should be minimal.

#### **Systems Implications**

##### Upstate WMS/ABEL

Districts must cease using "Other/Unearned Income Source Code 73-Earnings of a Child or Minor Child who is a Full or Part-Time Student Who is Not Employed Full-Time". This code applied dependent student earnings against the 185% Gross Income Test, but disregarded earnings when determining degree of need.

##### Downstate WMS/ABEL

Employability Code 01 – "Dependent Student – Employed Full-Time or Part-Time" should be input on Screen NSBL06 for individuals under 21 years of age. This code will exempt the dependent individual's earned income when determining eligibility and degree of need.

#### **V. Additional Information (Optional)**

##### **Food Stamps Implications**

Food Stamp program treatment of student earnings has not changed. For Food Stamp eligibility determinations, the earned income is excluded if the earner is a household member who is under age 18, attends elementary or secondary school/GED/home school, and lives with a natural, adoptive or stepparent or is under the parental control of another household member. This Food Stamp income exclusion continues during semester or vacation breaks if the child returns to school following the break, and continues through the end of the month in which the child turns 18.

### **Medicaid Implications**

Medicaid treatment of earnings of students has not changed. For purposes of determining Medicaid eligibility, full-time earnings of full-time students under age 21 are disregarded for up to 6 months per calendar year under Low Income Families (LIF) and Aid to Dependent Children (ADC)-related (including expanded eligibility) determinations. Therefore, after the first 6 months of applying the disregard in a calendar year, separate Medicaid eligibility determinations are required for TA recipients under age 21 who are full-time students and employed full-time. Earnings of part-time students under age 21 who work full-time are counted in determining Medicaid eligibility under LIF and ADC-related determinations. Separate Medicaid eligibility determinations are needed for TA recipients under age 21 who are part-time students who work full-time.

**Note: Children under the age of 21 who are living with or not living with a caretaker relative receive LIF/ADC budgeting, as described in 97 OMM/ADM-2. The student earnings disregards described also apply to persons under the age of 21 who are not living with their caretaker relatives.**

For certified blind and certified disabled students under the age of 22, effective January 2004, \$1,370 per month (up to a maximum of \$5,520 annually) of earnings is disregarded by Medicaid. (See GIS 02 MA/007 for further information on the SSI-related student earned income disregard.)

### **Counting Dependent Student Employment Towards Employment Requirements**

Districts should continue to consider the hours of employment when assigning non-exempt students to other concurrent work activities. Although the dependent student's earnings may be disregarded for temporary assistance budgeting, districts should continue to enter information related to the dependent student's job, including the actual number of hours worked on the Welfare-To-Work Caseload Management System (WTWCMS), (or Employment Subsystem (ESS) for districts that have not converted to the WTWCMS) to ensure that the appropriate participation credit is applied. It is important to make sure this information is entered on the WTWCMS (or ESS) on a monthly basis, since this information will no longer be entered on ABEL.

## **VI. Effective Date**

Effective July 30, 2002

Issued by: \_\_\_\_\_

**Name:** Russell Sykes  
**Title:** Deputy Commissioner  
**Division/Office:** Division of Temporary Assistance