



David A. Paterson
Governor

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

David A. Hansell
Commissioner

Administrative Directive

Section 1

Transmittal:	09-ADM-08
To:	Local District Commissioners
Issuing Division/Office :	Center for Employment and Economic Supports
Date:	May 19, 2009
Subject:	Participation in Food Stamp Program by Students in Institutions of Higher Education
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors Staff Development Coordinators
Contact Person(s):	For Food Stamp Policy Changes: Food Stamp Bureau @ 518-473-1469 For Upstate WMS Systems: Tom Walkuski @ 518-473-9780 For Downstate WMS System: Patricia Bennett @ 212-961-8185
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
02 ADM-07		NYCRR Part 385.3			FSSB, Sect. 5

Section 2

I. Summary

This Administrative Directive (ADM) provides information on the implementation of a waiver to simplify Food Stamp Program (FSP) eligibility determinations and undercare maintenance processes for full-time (enrolled at least half-time in an institution of higher education) students. The measurement of work hours will be changed from a weekly minimum measurement to an averaged measurement.

II. Purpose

The purpose of this ADM is to inform districts of a U.S. Department of Agriculture (USDA) waiver that permits the **averaging** of work hours for students enrolled at least half-time in institutions of higher learning. These changes should:

- Align student eligibility rules with other Food Stamp (FS) Program rules,
- Result in less undercare maintenance of FS cases with full-time students,
- Increase participation by eligible students in the Food Stamp program, and
- Promote payment accuracy.

III. Background

Currently, in order to participate in the Food Stamp program a student must meet one of the following criteria:

- a. Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;
- b. Participate in a State or Federally financed work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965 as amended) during the regular school year as follows:
 1. The work study must be approved at the time of application for FS or at the time that the individual becomes a student as defined by FS rules, and
 2. The work study must be approved for the school term, and
 3. The student must actually anticipate working during that time.
- c. Provide more than half the physical care for one or more dependent household members under the age of six or an incapacitated person;
- d. Provide more than half the physical care of dependent household member who has reached the age of six but is under the age of 12 where adequate child care is not available to enable the individual to attend class and work 20 hours per week or participate in a state or Federally financed work study program;
- e. Enrolled full-time in an institution of higher education (as defined in FSSB) and is a single parent with responsibility for the care of a dependent child under age 12 (regardless of the availability of adequate child care);
- f. Receive benefits from Family Assistance (FA), Federally funded Safety Net Assistance (SNA); or
- g. Be assigned to or placed in an institution of higher learning through:
 1. The Work Force Investment Act (WIA),
 2. A Food Stamp Employment and Training (FSE&T) program,
 3. A Department of Labor program under Section 236 of the Trade Act of 1974, or
 4. A SNA JOBS Program activity which is comparable to a FSE&T activity approved by OTDA in the annual FSE&T plan.

Prior to the release of this directive, full-time students had to meet the 20-hour minimum work requirement **every** week to be eligible for the program.

The Federal government has made a waiver available to states, permitting the averaging of student work hours. Adoption of this waiver will align the policy and procedure for assessing the eligibility of full-time students for the Food Stamp Program with the methods used elsewhere in the FSP to determine eligibility and to calculate income and employment requirement compliance, and also used by other assistance programs.

IV. Program Implications

Work Hours

Effective immediately, Local Social Service Districts (LDSS) must evaluate applications and recertification applications from households with members who are full-time students by averaging the weekly number of hours worked when determining the eligibility of the full-time student to participate in the Food Stamp Program. Full-time students will be considered eligible as long as they work an average of 20 hours per week. The LDSS should determine the weekly average using the hours worked during the 30 days prior to the date of application or re-application (recertification). If the number of hours worked during the prior 30-day period does not provide an accurate indication of the number of hours to be worked weekly, a longer period than just the past 30 days may be used to gain a more accurate indication of the weekly hours being worked.

As stated immediately above, the LDSS should determine the weekly average using the hours worked during the 30 days **prior** to the date of application or re-application (recertification). However, as when calculating income, if the hours that will be worked during the new certification period will be different from the hours worked during the prior 30 days, then the anticipated amount of hours to be worked should be used to determine the average hours worked. If the anticipated number of hours to be worked is known but the weekly amount of hours is expected to fluctuate, then the average amount of hours to be worked weekly should be used. If the exact amount of the anticipated hours to be worked is not known, that portion that can be determined with reasonable certainty should be used.

Self-Employment Wages

The hours for self-employed, full-time students should be assessed according to the paragraphs immediately above. However, as noted in the Background section of this directive, for full-time students whose earnings are generated solely through self-employment, in addition to meeting the 20-hour per week average work requirement, the average weekly self-employment income must equal the Federal Minimum Wage multiplied by 20 hours.

If a full-time student is partially self-employed, **and** needs the hours spent working on self-employment in order to meet the 20-hour average requirement, then income from that portion of employment hours attributed to self-employment must be at a rate equal to the Federal Minimum Wage.

(Example: James Smart is a full-time student applying for food stamp benefits. He works, on average, 12 hours per week stocking shelves at a local supermarket. He also works, on average, 10 hours per week working on his new social networking site for fellow Astronomy students called SpaceBook. He has been making, on average, \$50 per week from SpaceBook. The 12 hours that James works at the supermarket would count toward meeting the 20-hour employment requirement. The 10 hours spent working on SpaceBook would not because he is not earning at a rate equal to the Federal Minimum Wage.)

V. Required Action

Effective immediately, applications and recertification applications for the FSP from households with members who are full-time students should be evaluated according to the policy described in the Program Implications section of this Directive.

The local districts are **not** required to review the food stamp cases of currently active households having ineligible full-time students as members. The eligibility of these currently ineligible full-time students must be re-assessed according to the policy described in the Program Implications section of this Directive at the household's next recertification for the program.

VI. Systems Implications

None

VII. Effective Date:

June 1, 2009

Issued By

Name: Russell Sykes

Title: Deputy Commissioner

Division/Office: Center for Employment and Economic Support