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Administrative Directive

Section 1

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| Transmittal: | 09-ADM-11 |
| To: | Local District Commissioners |
| Issuing Division/Office: | Center for Employment and Economic Supports |
| Date: | June 19, 2009 |
| Subject: | Transitional Employment Advancement Program (TEAP) |
| Suggested Distribution: | Temporary Assistance Directors Employment Coordinators Food Stamp Directors CMS Liaisons WMS Coordinators Accounting Staff Medical Assistance Staff Child Care Directors Staff Development Coordinators Child Support Coordinators |
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| Attachments: | Attachment A – TEAP Agreement Attachment B – Union Concurrence Attachment C – TEAP Program Participant Statement of Understanding Attachment D – TEAP Program Summary |
| Attachment Available On – Line: | Yes |

Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|--|---------------------------|---|--|---|---|
| 09 ADM-04 06 ADM-10 02 ADM-07 01 ADM-17 01 ADM 16 01 ADM-13 01 ADM-03 97 ADM-07 88 ADM-43 04 INF-19 91 INF-05 98 LCM-21 | 88 ADM-43 | 349.6 350.4(a)(7) 351.1(b)(2)(iv) 351.2(c) 351.24 352.15 352.17 352.20 352.29 352.31 369.4 385.9 385.11 385.12 385.13 | 336-e 336-f 137-a | WTW Employment Manual Sections 11, 12, and 13 TASB Chapters 9, 10, 13, and 18 FRM Volume 2, Chapter 3 PICS Manual Appendix D | GIS 06 TA/DC038 06 ADM-17 GIS 05 TA/DC024 01 ADM-16 02 ADM-07 GIS 01 TA/DC015 06 ADM-10 01 ADM-03 01 ADM-13 ABEL Transmittal 02-5 04 INF-19 Dear Commissioner Letter 10/3/07 |

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I. Summary

This Administrative Directive (ADM) replaces 88 ADM-43 (which was originally released on September 15, 1988), and provides information related to the subsidized private sector and subsidized public sector employment program activities through the use of grant diversion, also known as the Transitional Employment Advancement Program (TEAP). Specifically, this ADM provides information which:

- describes the TEAP program's approval process;
- discusses the contractual obligations involved in operating a TEAP program; and
- discusses the Temporary Assistance (TA), Child Support (CS), Medical Assistance (MA), Food Stamp (FS), and Child Care implications for operating a TEAP program, including reporting requirements, and systems implications.

Local social services districts (SSDs) are encouraged to provide subsidized employment opportunities for TA recipients as one method to prepare individuals for unsubsidized employment and as a useful form of engagement when appropriate unsubsidized employment is not available.

The provisions regarding Transitional Benefits Alternative Food Stamps (TBA-FS) as discussed throughout the ADM, and more specifically in sections V. P and VI. A, 2 and 3, are effective July 1, 2009 at which time the necessary systems changes to support the policy will be completed. The remainder of the ADM is effective on the date of release.

II. Purpose

This Directive describes SSD requirements associated with the operation of subsidized employment program activities through the use of grant diversion. Subsidized employment funded through grant diversion in New York State is referred to as TEAP.

III. Background

Pursuant to Social Services Law (SSL) sections 336-e and 336-f, a SSD may establish subsidized public and or private sector employment programs for TA recipients. These programs may be supported wholly or in part with TA funds. TEAP provides one mechanism to fund a subsidized employment position established to provide a paid work opportunity for a TA recipient.

Before becoming the Transitional Employment Advancement Program, TEAP was known as "The Training and Employment Assistance Program" (described more fully in 88 ADM 43). Although more restrictive in nature, this predecessor program was the first program to be implemented allowing SSDs the opportunity to divert the TA grant to subsidize employment efforts.

Subsidized employment can serve as an important component of any district's employment services by offering an effective placement for individuals lacking an adequate or demonstrated work history, who have other barriers to employment, or when employment opportunities in the community are limited due to a contracted economy.

Subsidized employment may be operated as a traditional wage subsidy model with the subsidy used to help an individual gain entry into the workforce. Subsidized employment may also be operated as a transitional jobs program that provides a time limited employment opportunity for individuals while also providing enhanced case management supports and job preparation activities including education and training to prepare participants for unsubsidized employment. In all instances, subsidized employment provides participants financial and other incentives to participate fully in employment and education/training services. The fact that participants are paid for hours worked, reinforces the message that “work pays” and enables participants to access earned income tax credits and other tax credits to further supplement their income.

Districts are encouraged to consider TEAP as a supplement to support the new OTDA subsidized employment initiatives included in the enacted State Fiscal Year 2009-10 Budget. The Budget provides funding for three new initiatives to support subsidized employment through the Green Jobs Corps, the Health Care Jobs program, and the Transitional Jobs program. Specific allocations and guidance on these programs will be released shortly.

IV. Program Implications

SSDs are encouraged to provide subsidized employment opportunities for TA recipients as one method to prepare individuals for unsubsidized employment and as a useful form of engagement when appropriate unsubsidized employment is not available. TEAP allows the transfer of an individual’s TA grant to employers who contract with the SSD through written agreements developed and executed in accordance with Office of Temporary and Disability Assistance (OTDA) regulations to partially or fully defray the employer’s expenses for training and paying a new employee. Operating TEAP provides SSDs with an important job development tool for recruiting employers and providing employer incentives to hire individuals who have been unable to secure unsubsidized employment. SSDs may conduct their own job development activities or contract with another agency to perform this function.

Unless otherwise approved by OTDA, a subsidized employment position funded through TEAP or other means must be limited to a maximum of a 12-month period. After the 12-month period, it is expected that the participant remain employed without a subsidy or be placed in another appropriate activity to enable them to obtain unsubsidized employment. Subsidized employment positions may be full- or part-time, but full-time positions are preferred.

Subsidized employment positions for TA recipients must comply with SSL §336-e and §336-f and pertinent OTDA regulations, including, but not limited to:

- The conditions of employment are suitable and reasonable for the participant, including conditions such as the location of employment and that the participant is capable of performing the job duties;
- The participant is deemed an employee for purposes of applicable collective bargaining and labor laws;
- The participant receives the same wages, benefits and protections as existing employees doing a similar job and working a similar length of time; and

- An individual may not be placed in a subsidized position if it results in the displacement of employees or infringes upon the promotional opportunities of employees.

SSDs may develop contracts with employers to retain individuals at the end of the subsidized employment contract period unless there is good cause for not doing so. SSDs may also use TEAP to fund transitional employment opportunities for recipients who have otherwise been unable to obtain or retain employment. Under a transitional employment model, the employer is not necessarily expected to retain the employee at the end of the subsidy period. In any event, SSDs should provide job readiness and job placement services to program participants to help them secure permanent employment. Transitional job opportunities may be useful during periods of higher unemployment or other instances when permanent employment is not readily available such as for recipients with the need to develop work skills and establish a positive job history. In all instances, the goal of subsidized employment is to provide individuals the opportunity to earn a wage and to develop and demonstrate job skills necessary to secure unsubsidized employment after a period of time.

Subsidized employment can be subsidized through TEAP (grant diversion), the use of other public funds (e.g., Flexible Fund for Family Services (FFFS), local funds) or through a combination of funding sources. SSDs are also encouraged to take advantage of the services available through the OTDA's wage subsidy/transitional employment contract providers.

Participants should be matched to TEAP positions based on interests, skills, and abilities. The employment offered through the TEAP position must be appropriate given an individual's qualifications.

Participants should be given the opportunity to work sufficient hours to earn a net wage equal to at least the amount they would have received as recipients of TA or the amount they would have received for his or her household inclusive of the amount for dependants. The net wage should be calculated by deducting federal and state employment taxes and union dues from the gross wages. If the net wage is less than what the individual would receive as a TA recipient, the SSD must provide a supplemental payment to the household equal to the difference. (See additional information in the Budgeting Methodology section below.)

During the TEAP contract period, the participant's TA case remains open. Depending on the amount of the income to be budgeted, the TA case may remain open with a \$0 grant amount or the household may receive a portion of their grant. The participant remains eligible for MA and may remain eligible for FS. When subsidizing the employment, if the case remains open with a \$0 grant amount the SSD is instructed to issue Transitional Benefits Alternative Food Stamps (TBA-FS) at that point, if the household qualifies for TBA-FS. Administrative Directives 01 ADM-16 and 02 ADM-07 discuss TBA qualifying factors. If the recipient completes the TEAP employment and continues in the job, the recipient is now in unsubsidized employment. At this time, SSDs must review current wages received and determine whether closure of the TA case is proper. If the case is no longer eligible to receive TA then the case should be closed due to income exceeding need. (See additional information in the Budgeting

Methodology, Food Stamp Implications, Medical Assistance Implications, and Systems Implications sections below.)

The amount of reimbursement negotiated between the SSD and the employer may remain fixed for the duration of the contract regardless of changes to the household's TA grant due to changes in circumstances or loss of eligibility. In these instances, the SSD could continue to fund the TEAP contract by utilizing other public funds such as FFFS or local funds.

The amount of the TA grant available for the subsidy cannot exceed the amount of the TA grant that would otherwise be available to the household at the time of the TEAP enrollment. That being said, SSDs can still authorize a payment to an employer that is greater than the value of the TA grant and utilize other funds to compensate for the difference. For example, if a household is receiving \$600 a month in TA and the SSD is authorizing \$800 a month to the employer (as negotiated in the contract to subsidize the wages paid to the TEAP participant), the SSD must use other available funds (e.g., FFFS) to fund the remaining \$200 payment to the employer. SSDs may also develop a methodology, subject to OTDA approval, that calculates an average amount of reimbursement that is available to support each TEAP position, rather than varying the payment for each participant based on his or her particular TA grant.

TEAP (grant diversion) may be used to fund On-the-Job Training (OJT) and districts are encouraged to use TEAP as one mechanism to leverage additional training for program participants. OJT payments occur when a subsidy is provided to an employer specifically to subsidize the costs associated with training.

V. Required Action

A. Approval to Operate

SSDs planning to implement subsidized public or private sector employment programs should include these activities in their Biennial Employment Plan and indicate the household/case types to which the program will be made available. SSDs that elect to implement an averaging methodology to establish a fixed monthly subsidy value for an employer that does not vary based on the TA household's grant, must identify that this method is used in their Biennial Employment Plan.

B. Contractual Obligations

Separate contractual agreements between the local SSD and the employer should be developed for each employer participating in TEAP. Agreements should be numbered and filed in the SSD and copies should be retained for review for no less than six years from the end date of the agreement. SSDs may use the state-approved model agreement (see attachment A) or may design a local equivalent. At a minimum, contracts should address the following requirements:

- SSDs determine appropriate contract length; however, contracts may not exceed 12 months. Additionally, SSDs are reminded to take into consideration funding stream time constraints when determining contract

length. For example, if a household is in receipt of TBA-FS and employment will be subsidized by the total amount of the TA grant available to the household, SSDs may wish to limit the contract period to no more than 5 months to be consistent with the TBA-FS 5-month program period.

- Employers participating in TEAP must pay a wage at least equal to the normal starting salary for individuals performing the same work at the same company and not less than minimum wage in accordance with state and federal labor laws.
- Employers are required to comply with all other applicable labor laws.
- The agreement should provide for termination by either the local SSD or the employer upon written notification to the other party at least 10 days in advance of the termination date if it is considered to be in the best interest of either party.
- The TEAP agreement may not violate any union contracts or agreements. When an employee organization represents employees engaged in similar work in the same or substantially equivalent jobs as those proposed to be subsidized by the SSD, the SSD must notify the employee organization and provide the opportunity for comment in accordance with SSL §336-e and §336-f. An addendum to the agreement may be included to allow the sign-off by the labor union representative indicating the union's approval of the agreement and the hiring of the recipient (see Attachment B). SSDs may design a local equivalent to Attachment B, which should contain at a minimum the language contained in Attachment B.
- The amount of the payment to the employer to subsidize the wage or training should be stated in the agreement between the SSD and the employer.
- SSDs may provide service providers with diversion funds that are diverted from participant's grants for payments to employers. There must be a clear accounting record of the transmission of diversion monies from the contractor to the employer. Service providers must agree to set up a separate employer reimbursement account within their accounting system. The funds may be paid to the employer by the service provider as frequently as monthly or upon termination of the employer contract.
- If the SSD is authorizing a payment to the employer to subsidize an OJT by use of TANF funds, the agreement with the employer and the SSD must specify that the subsidy is to cover the cost of training the participant. The payment to the employer should not exceed the cost of training.

C. Required Call-in Appointments

All appointments require advance written notice from the SSD called a “call-in” letter.

1. Face-to-Face Recertification

- a. TA cases with a TANF or state 60-month count of 47 months or less:

For those FA or SNA recipients who are participating in TEAP, face-to-face recertification for TA benefits would normally be waived unless a SSD determines that a face-to-face would not otherwise disrupt a client’s work schedule. In its place a mail-in recertification must be conducted in accordance with 06 ADM-10.

Waiver of face-to-face recertification is not applicable in cases where another adult family member would be available to report to the recertification interview.

- b. TA cases with a State 60-month count of 48 months or more:

For those FA or SNA recipients who are participating in TEAP, face-to-face recertification for TA benefits would normally be waived unless an SSD determines that a face-to-face would not otherwise disrupt a client’s work schedule. In its place a mail-in recertification must be conducted in accordance with 06 ADM-10. Edits prevent cases with a State 60-month count of 48 months or more from being assigned a certification period of more than 6 months.

SSDs are encouraged to address recertification for TEAP participants with a State 60-month count of 48 months before the start of a TEAP subsidized job contract.

- c. Food Stamps:

Face-to-face recertification for recipients of FS is waived on a case-by-case basis determined by hardship. Households that are employed and cannot comply with an in-person interview may be granted a waiver to the in-person interview.

2. Time Limit Reassessment

The time limit reassessment would be suspended if the 60-month time count occurs during a TEAP contract in accordance with 01 ADM-03. The primary purpose of a time limit reassessment is to explore possible activities that could make the household self-sufficient. If the individual is working in a TEAP contract this goal has been met. SSDs would review the case at the end of the TEAP contract. The auto-conversion program would convert the case to SNA.

D. Temporary Assistance Reporting

For TA, including any TEAP open TA case, all changes must be reported timely.

Timely means within 10 days of the changes with the following exceptions:

- The report of a child's absence from the home is timely if made within 5 days of it becoming clear that the child will be absent for a consecutive period of 45 days or more; and
- The report of new or increased income is timely if made within 10 days of the receipt of the new or increased income.

E. Food Stamp Reporting

All TA FS recipients are 6-month households and must comply with recertification or periodic reporting. TBA households must recertify at the end of the 5-month authorization period.

F. Budgeting Methodology

The wages of a participant in subsidized employment are budgeted like any other earner in receipt of TA except that certain earned income source codes are used as discussed in Section VI, Systems Implications.

When an earner makes a timely report of new or increased earned income, the earner is entitled to a delay in the budgeting of the income for a period that is commonly referred to as the administrative processing period (See 01 ADM-13). SSDs must not budget new or increased earned income until at least one full semi-monthly payment cycle has elapsed following the receipt and timely report of new or increased earnings.

The following example will help to illustrate this process.

Example – Initial Earnings

John Smith is receiving cash SNA. On May 9, 2008 John starts a subsidized job. He receives his first pay on May 16th, which he reports to the SSD on May 25, 2008. The agency reduces John's benefits starting June 16th. No overpayment is calculated for the month of May or for the period from June 1, 2008 to June 15, 2008.

Considering the close association of the SSD and the employer with whom the SSD has a contract for the employment and training of the individual, it is expected that the SSD will know about the work subsidy wages in a timely manner.

In order to accommodate an employer's immediate job placement needs, a recipient may be placed in a TEAP position and in some cases receive a full TA grant during the same period in which the employer may be receiving a TEAP payment. Such overlapping payments would not be considered overpayments and would not be subject to recoupment.

Regarding FS, if a TEAP participant is receiving a portion of their grant, the household's eligibility for non-TBA-FS must be determined. The TEAP income is counted as FS unearned income in determining the household's monthly FS eligibility and benefit level. Earnings, if any, that are not subsidized are counted as earned income.

TEAP participants receiving a \$0 TA grant amount who are eligible for TBA-FS, will have their FS benefit determined by removing the TA income from the last TA FS budget and new earned income is not counted (please refer to 02 ADM-07 and ABEL Transmittal 02-5 for further information).

A TEAP participant must earn wages or receive a combination of wages and TA of at least the amount that person would have received in their TA grant. The supplement is calculated as follows and Automated Budget Eligibility Logic (ABEL) is to be used to perform these steps:

- Project the monthly wages/income, which includes both TEAP wages and any other income of the family.
- Apply the 185% gross income test. If a recipient is not eligible after the 185% gross income test, the case is zero budgeted and remains active for MA. The recipient does not receive a TA cash grant supplement.
- If a recipient is eligible after the 185% gross income test, calculate a normal budget with income; allow the \$90.00 exemption; allow percentage work disregard if appropriate; and, apply net income to needs. If a deficit exists, the cash grant should be sent to the recipient.

Regardless if there is a deficit or not, the amount of the TA grant previously decided and agreed upon between the employer and the SSD would be diverted to the employer.

G. Overpayments

Note: The administrative process period clocks from the date of receipt of the new or increased pay, not from the day it is reported. However, in order to qualify for the administrative processing period, the report of the new or increased income must be made timely, that is, within 10 days of the receipt of the new or increased income. In TEAP cases, it is unlikely that the administrative processing period would ever be disallowed due to a non-timely report because the SSD is almost always going to be aware of the first payment made by the subsidized employer to the client/employee well in advance of the 10-day period.

Example - Increased Earnings

Mary Jones is a TA recipient. She is working part-time in a subsidized job. On May 1, 2008 Mary begins working full-time which she reports to the SSD on May 8th. She receives her first increased paycheck the same day. The SSD reduces Mary's TA budget for June 1st. No overpayment is calculated for the month of May.

Recovery of Overpayments: If an overpayment is identified and calculated, the household must be provided with timely and adequate notice informing about the overpayment amount, reason and period. The household must be told the effective date of the start of the recoupment and the rate of the recoupment (not to exceed 10% of the household's needs), or that the recoupment is being pended until other established overpayments have been recouped. The household must also be told about the opportunity to claim an undue hardship and the possibility to have the recoupment percentage reduced to between 5 and 10 percent. Manual and CNS (Client Notice System) notices support providing this required information.

Examples of circumstances under which an SSD would be issuing a notice of overpayment to a TA recipient during a subsidized employment contract period include:

- discovery of an overpayment for a period prior to the subsidized employment contract period; and
- receipt of income by the household from a source other than the subsidized employment during the TEAP contract period that would have resulted in a grant reduction because the TEAP income was not enough to result in a zero deficit.

H. Child Support Cooperation Standard Under An Assignment

Because the TA case remains open during the TEAP contract period, the TEAP family continues under an assignment of support rights and is required to cooperate with the child support program to establish paternity and establish, modify, and enforce orders of support consistent with other open TA cases.

I. Pass-through Payments, Disregard and Excess Support

The TEAP family is eligible to receive a pass-through payment which is disregarded from the TA budget to the same extent as in other TA households. Currently, up to the first \$100 of current support collected each month by the child support enforcement program is passed through to the family and disregarded when determining the TA budget. Additionally, payments toward support which are made directly to the family outside of the child support enforcement program are disregarded when determining the TA budget. Effective January 1, 2010, the pass-through payment and associated disregard will continue in an amount up to the first \$100 of current support collected each month for a TA family with one child, and will increase to an amount up to the first \$200 of current support collected each month for a TA family with two or more children.

Receipt of support on behalf of a family which includes a wage subsidy participant can add a complication since current support collected for a given month may exceed the TA provided for that month. Because a TA recipient assigns his/her rights to support, the amount of current support collected in the month is retained by the state and SSD as reimbursement for the TA grant.

Whenever the amount of current support retained by the state and local SSD in the month exceeds the countable assistance provided in the month plus the pass-through payment for the month, the excess must be paid to the family as excess current

support. Although an excess current support situation could occur in any case where there is both income and current child support collections, it is more likely to occur in grant diversion cases since the TA case remains open during the contract period even when there is a small or zero TA grant amount. TA workers must review such cases and determine if an excess current support situation exists and if it does, issue the excess current support.

To review for excess support, TA workers must review the monthly CSMS 8649 report "Obligation and Collection Greater Than Assistance Granted" and other source documents that report warning messages, and determine if excess support must be paid.

- The CSMS 8649 reports TA cases where the support collections for the current month appear to exceed the combined total of the assistance granted in the month and the pass-through payment for the month.
- ABEL budgets include support amounts and generate a TA "Surplus" message or, Upstate only, a "Warning" message; or which include a monthly amount of assigned support which exceeds the TA deficit amount by the amount of the pass-through.
- The monthly IV-D MRB/A (child support pass-through mass rebudgeting/authorization) "eligibles" and "exceptions" lists identify cases with a "TA WARNING" message, for which total current support collected from all respondents associated with the case in the previous month exceeds the TA deficit in the stored (Upstate) or authorized (NYC) ABEL budget as of the date of the IV-D MRB/A.

To determine if an excess of current support exists, consider only issued direct and indirect assistance payments made in the month (even if the payment relates to a different period) and the pass-through payment for the month. In the case of a TEAP participant, there will often be zero assistance issued in the month. Do not count excess current support or excess support arrears payments as assistance payments in the month.

Example

The TEAP recipient received an excess current support payment in October based on the record of assistance and current support collected for the month of September. When determining what assistance to count in October in order to determine whether current support for October exceeds assistance for October, TA will not count the excess current support payment for September that was made in October. Although excess current support payments and excess arrears payments are included in the total of assistance for the purpose of the automated excess support arrears process, they are included only to account for the distribution of the support to the client. The payments are not otherwise considered assistance payments. Please see 09 ADM-04 for a listing of the designations of TA payment types as either assistance or non-assistance.

Once the amount of countable assistance issued for the month is determined, TA must reconcile with IV-D to determine the amount of current support collected for the month. If an excess of current support exists, payment of the excess current support must be issued to the family.

As provided for by 18 NYCRR 352.31(a)(8), any amount of excess current support paid to the household must be treated as income in the month after the month in which the payment was received by the household. The result of this will be no impact on the family whose TA benefit is already at zero due to the budgeting of the TEAP income. However, since an item in the TA budget is changed, the household must receive the appropriate adequate notice that includes the income counted for the month. In situations where counting the excess current support payment will result in a reduction of the family's TA benefit, the notice must be timely and adequate.

J. Case Level Ineligibility vs. Sanctions

An individual's acceptance of, and continued participation in, TEAP-funded subsidized employment is subject to the same case actions/sanctions as any other employment opportunity.

- Case Level Ineligibility (Bona Fide Job Offer – 04 INF-19):

When a TA recipient has received a bona fide job offer in a subsidized public or private sector job, the recipient's refusal to accept the bona fide job offer without good cause will result in the TA case closing since the recipient is refusing an available resource that can reduce or end the recipient's (and family's) need for TA.

An offer of a job can be only viewed as a resource when it is a valid offer of employment. A valid offer of employment exists when an employer or social services official advises a recipient that he or she will be able to start work at a specific job. The essential details of the job must be provided, including the employer's name, the job title for the offered job, the general duties, hours, rate of pay and approximate start date.

Job offers that meet these criteria and are offered at initial eligibility determination, recertification, or through a specific call-in for the job offer are an available resource. Refusal by a recipient to accept a valid job offer is a refusal to use an available resource, a condition of eligibility that results in the entire case being closed.

SSDs must ensure that their staff does not confuse a job referral with a valid offer of employment. Employment staff routinely makes job referrals to employers where no definite job opportunity exists for the person being referred. For example, there may be an actual job opening, but the employer will interview applicants before hiring. The employer could also be taking applications or simply doing interviews for a possible future job opening. A job referral is only an opportunity to apply for a job and cannot be considered a viable resource for the individual being referred. A recipient's failure to accept a job referral or report for a job interview is

an issue of employment noncompliance and subject to employment regulations (pro-rata sanctions for recipients).

- Sanctions:

During the first 5 days in which the TEAP participant retains the job, a voluntary job quit or client caused discharge is treated as an eligibility requirement and the case should be closed. Applications filed subsequent to such case closings should be denied within the 90-day timeframe. If the participant voluntarily quits the job after the fifth day, the job quit is treated as an incident of employment noncompliance in a manner consistent with 18 NYCRR 385.13.

After the fifth day of the TEAP enrollment and when a participant transitions from subsidized employment to unsubsidized employment, the participant is treated as any other TA applicant or recipient who willfully and without good cause voluntarily terminates employment for the purposes of qualifying for assistance or an increase in assistance. Applicants who reapply within 90 days of this remain ineligible for TA for 90 days from the date of the voluntary quit. The SSD must provide the individual an opportunity during the application process to give reasons for leaving or being terminated from employment or reducing work hours or provoking the reduction of hours. If, after providing the individual an opportunity to give reasons, the SSD determines that the new applicant voluntarily quit employment, a standard denial notice indicating the denial was due to a voluntary quit and referencing 18 NYCRR 385.13(a) is issued. The ineligibility shall last until 90 days have elapsed from the date the individual left or reduced employment (18 NYCRR Section 385.13). A TA recipient who willfully and without good cause voluntarily terminates employment is subject to conciliation and sanction in the same way as a TA recipient who fails to comply with a work activity assignment. If, after the conciliation process has ended, the SSD determines that the recipient voluntarily quit employment, a 10-day sanction notice referencing 18 NYCRR 385.13 (a) is issued. Voluntary quit sanctions for recipients are the same as those for noncompliance with work activities, and are included when determining which duration of sanction to use [see 385.12(d)].

- FS Implications for failure to comply:

Determining when sanction procedures are initiated depends on whether the individual is receiving Non-TBA-FS or TBA-FS and is described in more detail below.

Non-TBA-FS: Individuals participating in TEAP are considered employed for FS purposes. Voluntary quit and sanction provisions apply if the TEAP participant voluntarily terminates his/her participation in TEAP. For FS purposes, the term “voluntary quit” applies to an applicant or recipient who leaves employment of 30 hours or more per week, or who reduces his or her work effort voluntarily and without good cause and after the reduction, is working less than 30 hours per week or is earning less than 30 hours times the federal minimum wage.

However, a nonexempt individual who refuses or fails without good cause to comply with the FS Program work requirements (e.g., failed without good cause to begin participation in TEAP) is subject to a durational sanction in accordance with

385.12(e) and will be considered an ineligible household member during the sanction period. The needs of an individual who is a work registrant, and who has failed without good cause to comply with FS Program work requirements, will not be considered in determining the needs of his/her household for FS. At the end of the sanction period, an individual may begin to receive FS again if he/she applies and is determined by the SSD to be in compliance with work requirements. Eligibility may be reestablished during the sanction period if the household requests that the disqualified individual be added to the case and the disqualified individual becomes exempt from FS work requirements.

TBA-FS: Individuals participating in TEAP would remain work registrants during the TBA-FS period (unless they meet one of the FS exemptions), and if they fail to comply with TEAP may be subject to a sanction after the end of the TBA period.

K. Aid Continuing

In the event a TEAP participant, upon notification of a grant reduction due to the budgeting of wages, requests a fair hearing and receives aid continuing, the TA grant should be restored to the full grant amount based on the recipient's current circumstances. SSDs are authorized to revoke a subsidized employment opportunity supported with grant diversion if the participant refuses to waive his or her request for aid continuing to dispute the budgeting of wages. If a SSD chooses to continue the wage subsidy following an instance where the recipient continues to receive a grant due to a request for aid continuing, the subsidy must be funded by sources other than grant diversion. The reason for this policy is that there is no authority to make duplicate grant payments.

Recovery of Aid Continuing: Whether aid continuing will be recovered or not depends on the SSD's action that the recipient is challenging at the fair hearing. If the individual is challenging the budgeting methodology used to count the new or increased income, or a closing for failure to utilize an available resource, the amount that represents the aid continuing is subject to recovery provided that the SSD is upheld at fair hearing. If the individual is challenging the imposition of a sanction for employment non-cooperation, the aid continuing is NOT subject to recovery. Rather, if the SSD is upheld, the sanction is imposed prospectively.

L. Participant Statement of Understanding

The Participant Statement of Understanding (see Attachment C) discusses the rights and responsibilities of the participant. SSD staff should explain the content of the form to the recipient before requiring the client to sign it. The SSD should also sign the form as a witness, give a copy to the participant, and keep another copy in the case file. The SSD may develop a local equivalent that, at a minimum, must include the language in this attachment and must be approved by OTDA.

SSD staff should discuss the following with potential TEAP participants:

- the benefits of participating in TEAP;
- the length of the TEAP program;

- the amount of wages the participant will receive and the hours per week he/she will be working; and
- review the typical tasks the participant will be performing on the job and any other information the participant would need to prepare to begin working.

Additionally, SSDs should counsel TEAP participants about the effects of participation on benefits and services, including:

- the TA case will remain open and the grant will be diverted to the employer to subsidize wages;
- they will receive TBA-FS for 5 months, if they qualify, and if their grant amount is \$0; or
- If the household is receiving a portion of the TA grant, they will receive non-TBA-FS and the TEAP income is counted as FS unearned income in determining the household's monthly FS eligibility and benefit level;
- MA will continue;
- they are considered TA work participants for child care purposes and therefore will be eligible for a child care guarantee throughout the TEAP period; and
- the participant is responsible for the payment of his/her own rent and/or fuel/utilities in whole or in part from their earned income. (Note: as in any case of changes in the amount or method of payments, the client must be provided with timely and adequate notice.)

M. Garnishment of Wages

Since a TEAP participant is considered to be a recipient of TA, these funds (including wages) should not be garnished during the term of a contract. Once the TA case is closed, wages may be garnished. (See TASB Chapter 18, Section E. "Exemption from Assignment" and SSL§ 137-a.)

N. TEAP Reporting Requirements

As the wages and employment schedule are known at the time the contract is developed between the SSD and the employer, SSDs should report hours of employment consistent with rules for all paid employment. SSDs are permitted to project actual hours of paid employment for up to 6 months. If changes are reported, and are expected to continue, SSDs are required to recalculate the number of hours of work that are reported in a timely manner, using the newly projected schedule for up to 6 months.

O. Notice to Program Participants

As with any instance where a household's TA grant is to be changed, recipients selected for participation must be provided timely and adequate notice by the SSD of any intended TA budget changes or changes in the amount or method of payments.

P. Food Stamp Implications

Effective July 1, 2009, FS households participating in an employment program that is funded, at least in part, through diversion of the household's entire TA grant (Case Types = 11 or 12) are designated to receive FS benefits under the Transitional Benefits Alternative (TBA), if they otherwise qualify, for up to 5 consecutive months. This means that if a household is receiving a \$0 cash grant because the entire grant is being diverted to support the employment, the household is eligible for TBA FS benefits. As with any TBA-FS case, if any member of the FS household begins to receive a TA or SN cash grant again, the TBA period must end and the household must be recertified.

This policy designation replaces the policy designation which was most recently reiterated in GIS 06 TA/DC038, dated 10/30/06, which stated that "...food stamp households participating in an employment program that is funded, at least in part, through diversion of the household's entire Temporary Assistance (TA) grant, are not eligible to receive Food Stamp benefits under the Transitional Benefits Alternative (TBA) while participating in the grant diversion employment program."

If a household has received any months of TBA while on TA and receives 0\$ cash grant due to diversion to employment, then auto TBA should not be done when closing the TA case on WMS. Doing auto TBA would generate another five-month TBA period for the household.

As stated in Section VI.3 below, for New York City cases, if the full five months of TBA eligibility have not been completed at the time of closing of the \$0 TA case on WMS, the FS case will continue automatically until the full five months of the TBA benefits have been issued. For all other SSDs, workers should use TA/FS Reason Code J06 and issue the remaining months of TBA, if any, through a worker-initiated transaction. Further instruction on how to do this is provided in Section VI. A. 2 and VI. A. 3 below.

Households may be eligible for regular, non-TBA-FS benefits while participating in TEAP if they otherwise remain eligible for a reduced FS benefit after subsidized and unsubsidized earnings are budgeted.

Q. Medical Assistance Implications

MA continues for participants of TEAP. If for any reason TEAP participation ends, the MA case may not be closed before a determination is made for continuing MA coverage, through Temporary Medical Assistance (TMA) if appropriate, or a separate MA determination.

R. Child Care Implications

A parent/caretaker relative participating in a grant diversion program would be considered participating in a TA work program as long as the grant is being diverted for this purpose. The case would be eligible for guaranteed child care assistance throughout the TEAP period. If the parent/caretaker relative transfers to

a non-TEAP funded employment position and their TA case closes due to an increase in earned income or child support, they may be eligible for Transitional Child Care. The SSD must determine the family's eligibility for Transitional Child Care before closing the TA case.

If the parent/caretaker relative transfers to a non-TEAP-funded employment position and remains on TA, he/she may continue to be eligible for the child care guarantee if he/she chooses to close the TA case and elects to receive a child care guarantee under In Lieu Of TA child care. Workers should discuss with the parent/caretaker relative the various options for a child care guarantee. Information regarding the In Lieu of TA child care guarantee was sent to all SSDs via a Dear Commissioner letter dated October 3, 2007.

VI. Systems Implications

A. Welfare Management System

1. Upstate WMS Implications: WMS Payment Type Code "14-TEAP (Transitional Employment Advancement Program)", previously WMS Payment Type Code "14 – TEAP (Training and Employment Assistance Program)," is available to authorize payments to employers.
2. Upstate ABEL Implications: When budgeting TEAP income in ABEL budgets on TA cases, workers should use Earned Income Source Code "31-Earnings from Subsidized Private or Public Sector Employment (TA Only)." On TA/FS budgets, when SF-8 is used to access the FS Budget Input Screen, ABEL brings over this Code and associated amount as Unearned Income Source Code 31. If the TA budget deficit is zero, the FS budget must be calculated as a FS-TBA budget. This requires that the FS budget data (income, shelter costs) be modified to represent the FS budget data that existed prior to the TA budget being calculated as a zero deficit TEAP budget. In most cases, this will result in deletion of the TEAP Unearned Income source 31 amount from the FS budget only. As with any TBA case, the prior TA deficit amount would not be entered as Income when determining the household's FS benefit. In addition a "T" would need to be entered in the SD field which will limit the FS budget from being calculated and stored for a period of greater than five months. Following the five-month TBA period, the FS-TBA budget must be re-budgeted as a non-TBA-FS budget.
3. Downstate WMS Implications - NYC: The date entered in the budget effective date portion of Screen NSBL00 of ABEL will be the start month for TEAP TBA. Workers should enter the TEAP Income (Income Source code 37) with a Program indicator "P" on Screen NSBL06 of the employed individual for diversion cases. WMS will automatically set the five-month FS-TBA end date and calculate the TBA benefit for the case.

At the end of the TBA period, if the case is still in the program, the Program indicator should be changed from "P" to "B" thereby ending the 5-month TBA period and allowing the TEAP income to be budgeted for both TA & FS.

A CNS Notice will be sent to clients in the 4th month of their TBA period requesting information.

WMS will also generate a report of cases receiving FS-TB benefits and cases with expired FS-TB period to alert workers to re-budget the case.

B. Benefit Issuance and Control System (BICS) Implications

After the monthly dollar amount of the diversion has been determined, an indirect payment line can be written on screen six of the WMS authorization. This payment line will generate from BICS, a monthly voucher which should be sent to the TEAP vendor. The payment line should be written as follows:

Local action code = 2 (prepare and issue)

Payment type = 14 (TEAP)

Method of payment = 02 (vendor as authorized)

Dollar amount = full monthly amount of grant to be diverted as agreed on with employer

Issuance code = 1 (recurring)

Pay schedule = M (monthly)

Pick up code = 1 (mailed)

Payment period “from” and “to” dates as appropriate

Individual line = blank

Special claiming code = If the Special Claiming Code field is left blank, the pay type 14 payment would be considered federally participating. A special claiming code of "P" would identify the payment as federally non-participating for any cases not eligible for federal reimbursement.

Vendor ID = TEAP vendor (which must be on the BICS database)

Check FSB number = blank

For those cases where the month to month amount to be paid may vary, SSDs may choose either of the following options:

1. They may produce vouchers with no dollar amount pre-printed on them. (In order to do this, payment lines should be written using Method of Payment 03, Vendor as Billed, and no dollar amount on the payment line); or
2. They may produce vouchers with a dollar amount pre-printed which will represent an upper limit above which the system will not pay for any one voucher. (In order to do this, payment lines should be written using Method

of Payment 04, Vendor as Billed subject to limit, along with a dollar amount on the payment line.)

The returned voucher may be processed and paid via BICS following a manual review of the voucher and bill.

Note: All of these methods assume that the SSD wishes to make these payments on a monthly basis.

C. Welfare To Work Caseload Management System (WTWCMS)

SSD staff must use the WTWCMS Enrollment function to record information regarding participation in subsidized private sector employment, subsidized public sector employment, or OJT. SSDs are permitted to enter schedules for these enrollments projecting actual hours for up to 6 months based on current documentation of hours.

When the individual transitions from subsidized employment to unsubsidized employment, SSD staff must close the enrollment in the subsidized employment or OJT activity. All future schedules will be automatically deleted. A new Employment record must be created in the WTWCMS to record the unsubsidized employment. As with subsidized employment or OJT, SSD staff are permitted to enter schedules for unsubsidized employment for up to 6 months into the future.

D. Claiming Instructions

TEAP expenditures are claimed on the Schedule A – Expenditures for Family Assistance (LDSS-187) or Schedule C – Expenditures for Safety Net Assistance (LDSS-1040), Column 10 (Other Non-Assistance Expenditures), via the RF-2 claim package in the Automated Claiming System. Payment type 14 - Transitional Employment Advancement Program (TEAP) is used to report amounts in this column.

Claiming instructions for completing the Schedules A and C are found in the Fiscal Reference Manual Volume 2, Chapter 3, available on the OTDA intranet site at <http://otda.state.nyenet/bfdm/finance/docs/Vol02.pdf>.

Refer to the Payment Issuance and Control System (PICS) Manual, Appendix D, to review the Schedules A and C claiming matrices.
http://otda.state.nyenet/bfdm/finance/PICS_Manual.asp

VII. Additional Information

Cases in which the full amount of the TA grant is diverted to the employer (Payment Type Code 14) and there is a zero TA payment line, are not included in the participation rate calculation because the family is not receiving a countable assistance payment in the month for the month or future month. However, if the family still qualifies for a partial TA grant after the earned income is budgeted, a case, in which includes a work eligible individual would be included in the participation rate calculation.

Districts should inform program participants of the ability to claim Earned Income Tax Credits and other tax credits to supplement their earnings during and after the subsidy period.

VIII. Effective Date

The provisions regarding Transitional Benefits Alternative Food Stamps (TBA-FS) as discussed throughout the ADM, and more specifically in sections V. P and VI. A, 2 and 3, are effective July 1, 2009 at which time the necessary systems changes to support the policy will be completed. The remainder of the ADM is effective on the date of release.

Issued By

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