



NEW YORK STATE
 OFFICE OF TEMPORARY AND DISABILITY
 ASSISTANCE
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Governor

Administrative Directive

Section 1

Transmittal:	09-ADM-20
To:	Local District Commissioners
Issuing Division/Office:	Center for Employment and Economic Supports
Date:	November 3, 2009
Subject:	Employment Sanctions and the Redetermination of Benefits
Suggested Distribution:	Employment Coordinators Temporary Assistance Directors Food Stamp Directors
Contact Person(s):	Employment Technical Advisor or Employment and Advancement Services Bureau at (518) 486-6106
Attachments:	None
Attachment Available On – Line:	<input type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18NYCRR §385.2 18NYCRR §385.3 18NYCRR §385.9 18NYCRR §385.11 18NYCRR §385.12 18NYCRR §385.13	SSL Title 9-B	Employment Policy Manual Sections 2, 12 and 13	GIS 05 TA/DC032

Section 2

I. Summary

This Administrative Directive (ADM) addresses the requirements related to resolving employment sanctions and restoring or re-determining a household's Temporary Assistance and Food Stamp budgets once the sanction period has ended.

II. Purpose

The purpose of this ADM is to provide clarification for social services districts regarding the restoration or redetermination of Temporary Assistance and Food Stamp benefits for applicants/recipients who are sanctioned for failure to comply with employment requirements once the sanction period has ended.

III. Background

Temporary Assistance applicants/recipients may be required to participate for up to 40 hours weekly in appropriate work activities consistent with the requirements of 18 NYCRR §385.2 and §385.9. Individuals who willfully and without good cause fail to comply with employment requirements (other than applicants who fail to comply with job search, employment assessment requirements or who voluntarily reduce or terminate employment, which are eligibility requirements) are subject to pro-rata durational sanctions. Applicants who fail to comply with job search or employment assessment requirements without good cause are subject to case denial and applicants who voluntarily reduce or terminate employment without good cause are subject to individual ineligibility. Pro-rata sanctions continue for a minimum duration and until compliance. The duration of the sanction is determined based on the number of times the individual has failed to comply and differs depending on whether or not the household includes dependent children (see 18 NYCRR §385.12).

Temporary Assistance benefits are restored and the pro-rata budget reduction is removed once the minimum sanction duration has expired and the individual demonstrates that he/she is willing to comply with employment requirements as assigned by the district. An individual would only need to submit an application (LDSS-2921) to restore Temporary Assistance benefits upon the conclusion of a pro-rata sanction if the Temporary Assistance case was closed for some other reason (e.g., failure to comply with recertification) or the sanction was imposed while the individual was in receipt of Safety Net Assistance as part of a single person household and the pro-rata reduction resulted in a case closure.

Food Stamp applicants/recipients (unless otherwise exempt) who fail to participate in work activities without good cause are ineligible for Food Stamps and removed from the household's Food Stamp budget. If otherwise eligible, the individual may be included back in the household's Food Stamp budget and the Food Stamp benefits re-determined if the household requests the disqualified individual be added to the household and:

- the minimum sanction duration has been satisfied and the individual complies with an assigned work activity [see 18 NYCRR §385.12(e)(4) or 18 NYCRR §385.13(b)(13)]; or,

- the disqualified individual has been determined by the district to be exempt from Food Stamp work requirements other than because he/she is participating in a TANF work activity or in receipt of Unemployment Insurance Benefits (UIBs).

Note: An application (either a LDSS-4826 or a LDSS-2921) does not need to be submitted in order to add a formerly disqualified individual back into an active food stamp household. As when adding any individual to an active household, when adding a formerly disqualified individual to the household, the district need only determine the disqualified individual's eligibility, the impact of the household member to be added on case circumstances, and recalculate the food stamp budget accordingly.

IV. Program Implications

Temporary Assistance

Temporary Assistance benefits must be restored to the household upon the completion of the minimum sanction duration period **and** upon the individual demonstrating a willingness to comply with employment requirements consistent with the district's applicable demonstrated compliance procedures described in Section 5.2 of its approved Temporary Assistance and Food Stamp Employment Plan. In those instances where the individual's case is closed, a new application for assistance must be submitted and the individual must comply with all program requirements including the 45-day waiting period, if applicable. Once the individual has demonstrated compliance consistent with the district's requirements, Temporary Assistance benefits are restored retroactive to the date the individual indicated a willingness to comply (but no earlier than the expiration of the minimum duration period).

For example, an individual who resides in a household with dependent children subject to a three-month durational sanction that began 6/1/09 who indicates a willingness to comply 9/1/09, and completes the district's applicable demonstrated compliance period on 9/8/09 shall have his/her Temporary Assistance benefits restored retroactive to 9/1/09.

Unlike Food Stamp sanctions, individuals cannot "cure" a Temporary Assistance employment sanction during a minimum required duration by documenting an exemption from Temporary Assistance work requirements. Individuals who are determined to have willfully and without good cause failed to comply with Temporary Assistance employment requirements are subject to a pro-rata reduction in benefits for a minimum duration without exception and benefits cannot be restored until the minimum duration period has been satisfied and the individual demonstrates a willingness to comply with employment requirements. Individuals who claim an exemption from work requirements must cooperate with efforts to document the exemption, including providing medical documentation or participating in a medical evaluation.

The district's sanction resolution procedures for individuals who are unable to participate in work activities must result in exempt individuals, or individuals claiming to be exempt, receiving grant restoration not later than the timeframes required for those individuals who are able to work and demonstrate compliance in work activities. A sanctioned individual who subsequently indicates an inability to participate in work activities should have his/her ability to participate in work activities documented in accordance with 18 NYCRR §385.2 and Temporary Assistance benefits are restored retroactive to the date the individual claimed to be unable to participate (but no earlier than the expiration of the minimum duration period), provided the individual has cooperated with efforts to document the exemption. If the timeframes required to document an

exemption from work activities takes longer than the timeframe required for an able-bodied individual to demonstrate compliance, the district must initiate benefit restoration even if the employability determination is not complete, so that the timeframe required to initiate grant restoration is no longer than would be required for an able-bodied individual.

For example: District “A” has in effect a policy requiring 5 days of participation in work activities to demonstrate compliance to resolve a Temporary Assistance sanction and, for those who demonstrate compliance benefits are restored retroactive to the date an individual indicates a willingness to comply. District “A” must have a procedure in place so that those unable to participate in work activities, or claiming to be unable to participate, also have a determination of compliance that is not longer than required for those able to work, or in this instance is not longer than 5 days. In this instance, if an individual who is unable to work is complying with efforts to determine employability during the 5-day period, the individual would be determined to be compliant and would have his/her benefits restored retroactive to the date the individual claimed to be unable to participate in work activities even if the disability/employability review procedure has not been completed. If an individual fails to comply with the disability review procedure to verify the claimed impairment, Temporary Assistance benefits are discontinued (case is closed) consistent with the requirements of 18 NYCRR 385.2(d)(4) and 18 NYCRR 351.

Food Stamps

Individuals disqualified due to an employment sanction may be added back to the household and Food Stamp benefits re-determined upon the conclusion of the minimum disqualification period once the household requests the individual be added to the household and the disqualified (or sanctioned) individual complies with the requirement that caused the disqualification or another Food Stamp Employment and Training (FSET) activity as assigned by the district. *For example,* an individual subject to a four-month sanction beginning 6/1/09 for failure to comply with a work experience activity (WEP) may be added back to the household’s Food Stamp budget beginning 10/1/09 so long as the household requests the individual be added to the household and the individual complies as assigned by the district before 10/1/09.

Individuals may reestablish Food Stamp eligibility during the sanction period if the household requests the individual be included back in the household and the individual is determined by the district to be exempt from participation in Food Stamp work requirements for reasons other than he/she is participating in TANF work activities or is in receipt of Unemployment Insurance Benefits. *For example,* if an individual subject to a four-month sanction beginning 6/1/09 notifies the district that he/she is physically unfit for employment 8/15/09, he/she is added back to the household’s Food Stamp budget and benefits re-determined (provided the individual is otherwise eligible) from 9/1/09 so long as the household requests the individual be added to the household and the individual cooperates with verifying the impairment. The district can assume that by reporting the change and notifying the district that he/she is impaired, the household has requested the disqualified individual to be added to the household.

V. Required Action

Districts are required to comply with this directive immediately upon release.

VI. Systems Implications

There are no systems implications as a result of this directive.

VII. Additional Information (Optional)

VIII. Effective Date

This directive is effective immediately upon release.

Issued By

Name: Russell Sykes
Title: Deputy Commissioner
Division/Office: Center for Employment and Economic Supports