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 OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
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Administrative Directive

Section 1

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| Transmittal: | 14-ADM-04 |
| To: | Local District Commissioners |
| Issuing Division/Office : | Center for Employment and Economic Supports |
| Date: | August 25, 2014 |
| Subject: | Employment and Resource Exemption Changes authorized by Chapter 58 of the Laws of 2014 |
| Suggested Distribution: | Employment Coordinators Temporary Assistance Directors Supplemental Nutrition Assistance Program Directors Staff Development Coordinators |
| Contact Person(s): | OTDA Employment Services Advisor or Employment and Advancement Services Bureau at (518) 486-6106 |
| Attachments: | |
| 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. |
|-------------------------------------|--------------------|---|-----------------------------------|--|----------------------------|
| 08-ADM-07 07-ADM-08 03-ADM-10 | | 352.23(b) (4) 385.6 385.7 385.9 | 131-n 335-a 336 336-a | Temporary Assistance Source Book and SNAP Employment Policy Manual-Section 385.6 Section 385.7 Section 385.9 | Chapter 58 of Laws of 2014 |

Section 2

I. Summary

This ADM is to inform social services districts (districts) of the following changes resulting from amendments to Social Services Law (SSL) made by Chapter 58 of the Laws of 2014:

- Section 335-a was amended to require that when a district is developing an employment plan for a temporary assistance recipient residing in a household without dependent children to consider the individual's preferences to the extent possible and to the extent also consistent with the individual's assessment and the district's need to meet federal and State work participation requirements. If the individual's preferences cannot be accommodated, the district must specify the reason in the individual's employment plan. This provision is consistent with current employment plan requirements for households with children.
- Section 336-a was amended to expand temporary assistance work activities to include up to four years of post-secondary education (or its part time equivalent). Any enrollment in post-secondary education beyond a twelve month (lifetime) period must be combined with no less than twenty hours of participation averaged weekly in paid employment, other core work activities or community service when paid employment is not available. Section 336 was also amended to include participation in up to four years of post-secondary education in the definitions of vocational education and job skills training to the extent such activities are consistent with federal and State requirements.
- Section 131-n was amended to expand the existing resource exemption of up to \$1,400 for funds in a separate bank account established by a recipient of temporary assistance for the purpose of paying tuition, to include tuition at an accredited four year post-secondary educational institution.

II. Purpose

The purpose of this Administrative Directive (ADM) is to inform districts of changes to the sections 131-n, 335-a, 336, and 336-a of SSL as authorized by Chapter 58 of the Laws of 2014 and to provide information to assist districts to identify adjustments in local procedures that may be necessary to implement these changes.

III. Background

Districts are required to complete an employment assessment within designated timeframes and to develop an employment plan consistent with 18 NYCRR §385.6 for individuals in receipt of temporary assistance residing in households with dependent children; and, consistent with 18 NYCRR §385.7 for non-exempt temporary assistance recipients residing in households without dependent children. Districts have also been required when developing an employment plan for a temporary assistance recipient who is a member of a household with dependent children to consider an individual's preferences, to the extent possible and also consistent with the individual's assessment and the district's need to meet federal and State work participation requirements and if the district is unable to accommodate such preferences to record the reason in the employment plan. The recent change to Section 335-a of the SSL establishes the same employment plan requirements for an individual in a household without dependent children.

Districts continue to be able to enroll non-exempt individuals in work activities prior to completing an assessment within the required timeframes. In all instances, the activities to which an individual is assigned must be those that the individual is capable of participating in, contribute to the individual's efforts to obtain employment or enhance current employment efforts, and are limited to no more than 40 hours per week. Work activities may include paid employment or participation in work preparation activities such as work experience, job search,

job readiness, vocational education, jobs skills training and education activities directly related to employment. Educational activities had previously been limited to participating in no more than two-year post-secondary programs. Chapter 58 of the Laws of 2014 amends the definition of educational activities to include participation in up to four years of post-secondary education. Participation in up to four years of post-secondary education may be reported as vocational education for a maximum of 12 months in the individual's lifetime or as jobs skills training. Districts are reminded that to count toward federal work participation requirements as job skills training, the education program must directly relate to a specific occupation or job. Participation in job skills training will count toward the participation rate only if the individual also participates in a core work activity (including but not limited to: unsubsidized employment, work experience, or community service) for at least 20 hours averaged per week during the month. Post-secondary education/training activities must be provided by a community college, licensed trade school, registered business school or a two-year or four-year college.

Hours of participation must continue to meet the definition of the particular work activity as reported and must be reported separately for each work activity.

Districts also continue to retain the authority to approve an individual's participation in homework/study time which is required by an educational activity as reportable toward the individual's weekly work participation requirements. The total number of hours of supervised and unsupervised homework/study time may not exceed the documented number of hours of study time expected by the education program. Additionally, the hours of unsupervised homework/study time required by an educational program is limited to no more than one hour for each hour of class time. Districts should refer to 08-ADM-07 for households with dependent children and 07-ADM-08 for households without dependent children for additional information pertaining to documenting and reporting hours of engagement, including homework/study time.

Districts have been able to exclude, as an available resource for purposes of determining a household's eligibility for ongoing temporary assistance, a separate account that an individual has established while receiving temporary assistance to pay tuition at a two-year accredited post-secondary institution, provided the funds are not used for any other purpose. This provision has been modified to include four year accredited post-secondary educational institutions.

IV. Program Implications

Employment Plan Requirements

The change to Section 335-a of the SSL requires districts to consider the preferences of the participant to the extent possible and consistent with the individual's assessment and the need of the district to meet federal and State work participation requirements when developing an employment plan for an individual in a household without dependent children. If the individual's preferences cannot be accommodated, the district must specify the reason(s) in the individual's employment plan. Consideration of an individual's preferences when making work activity assignments is expected to improve program attendance and employment outcomes.

Educational Activities for Temporary assistance and/or SNAP Applicants and Recipients

Social Services Law has been amended to permit up to four years of post-secondary education as a public assistance work activity. Districts are encouraged to accommodate individuals' efforts to attain post-secondary education as an avenue to employment and higher wages. Districts that elect to approve enrollments in four-year college programs as a work activity will

need to submit an amendment to their 2014-15 biennial Temporary Assistance and Supplemental Nutrition Assistance Program (SNAP) Employment Plan (Plan). The Plan amendment must describe the district's procedures for determining whether or not an individual is approved/assigned to participate in jobs skills training or vocational educational activities including up to four years of post-secondary education, consistent with the guidance outlined in this ADM. As part of the local plan modification, OTDA will also modify the definition of vocational education and jobs skills training to include participation in up to four years of post-secondary education.

District approval policies for enrollment in educational programs may consider factors such as, but not limited to, the individual's ability to successfully complete the program (based on academic testing); the extent to which the individual is able to secure employment without the additional education or training; and the extent to which the education or training will prepare the individual for jobs in an occupation with favorable job opening projections. Consistent with social services law post-secondary education must be necessary to the attainment of the participant's employment goal as set forth in the individual's employment plan and such goal must relate directly to obtaining useful employment in a recognized occupation.

Social Services Law requires that districts' continued approval of enrollments in an educational activity must ensure that the participant maintain satisfactory progress (having a cumulative "C" average, or its equivalent), as determined by the academic institution. Maintaining satisfactory progress for educational activities that do not use a grade system, such as adult basic education or English as a Second Language may be based on the training provider's determination that the individual is making progress as demonstrated by testing level progression. The requirement to maintain satisfactory progress in an educational activity may be waived if it is determined by the institution and the district that the client's inability to maintain satisfactory progress is due to hardship caused by the death of a relative, personal injury or illness, or other extenuating circumstances. Districts may, but are not required to, consider an educational institution's current enrollment of a student as an indication that the institution has determined the individual to meet satisfactory progress standards. A district may also require a student to document his or her attendance and academic performance and may disapprove or discontinue approval of the work assignment if the student fails to provide documentation of attendance and/or performance without good cause.

When making an assignment to an educational activity as a work activity, districts should determine the appropriateness of such assignment based on the individual's employment assessment, the district's need to comply with federal and State work participation rate requirements and other factors taken into consideration when developing the individual's employment plan. Districts should continue to determine when, and to what extent, homework/study time is approved as part of an educational activity based on district policy, federal limits on the reporting of homework/study time, the individual's circumstances and the district's need to meet federal and State participant rate requirements. Districts are encouraged to consider some hours of homework, consistent with federal and State requirements, as satisfying a work activity assignment in an effort to promote academic progress.

The district's procedure for approving educational activities must also ensure that any enrollment in post-secondary education beyond a twelve month (lifetime) period is only approved when it is combined with a minimum of 20 hours averaged weekly of participation in paid employment or other core work activities, such as work experience or a community service assignment. The twelve month period is based on the twelve months in an individual's lifetime that may be reported as vocational education. Beyond the 12 month lifetime limit, an individual

must be concurrently employed or participating in another core work activity for an average of 20 hours per week during the month for the enrollment in post-secondary education to be approved by the district. Districts are encouraged to help individuals obtain employment in their field of study to support both academic and employment outcomes.

Participation in educational activities that prepare individuals for employment consistent with the guidelines in this directive that require up to four years of post-secondary education may be assigned and approved by the district and reported as an allowable SNAP work activity. A student who is assigned by the social services district to participate in educational or training at an institution of higher education at least on a half-time basis would be exempt from assignment to other SNAP work activities. A student enrolled at least half-time in an institution of higher education must meet the student eligibility criteria in 18 NYCRR §387.1.

Temporary Assistance and SNAP applicants and recipients enrolled in work activities assigned by and approved by the district must be provided support services such as transportation and child care necessary to enable the individual to participate in the assigned activity. The requirement to provide necessary support services also applies to individuals approved by the district to attend a four-year post-secondary education program as a public assistance and/or SNAP work activity.

Post-Secondary Education Related Temporary Assistance (TA) Resource Exemption

SSL Section 131-n was amended to expand the existing resource exemption of up to \$1,400 for funds in a separate bank account established by a recipient of TA for the purpose of paying tuition at a two year accredited post-secondary education institution, to include tuition at an accredited four year post-secondary educational institution.

The exemption only applies to TA recipients. It does not apply to applicants, including former recipients, with previously established accounts who subsequently reapply for TA.

Districts must monitor the balance of this account(s) at least at recertification, to ensure the funds are not used for any other reason than paying tuition. Once it has been determined the funds have been used for purposes other than paying tuition, the full amount of the funds in the account prior to the withdrawal become countable towards the TA resource limit.

If a two or four year college tuition account is established with lump sum income, and the funds are used for any reason other than paying tuition the full amount of the funds in the account prior to the withdrawal become countable towards the TA resource limit and the prior lump sum ineligibility period is reinstated. Any resulting overpayment is calculated back to the effective date of the initial lump sum.

If a two or four year college tuition account is established by any means other than lump sum income, and the funds are used for any reason other than paying tuition the full amount of the funds in the account prior to the withdrawal become countable towards the TA resource limit. Any resulting overpayment is calculated back to the first of the month in which the funds were inappropriately withdrawn.

Documentation of these accounts must be obtained by the district directly from the financial institution and maintained in the TA case record.

V. Required Action

Employment Plan Requirements

Districts must modify local procedures to ensure that all employment plans completed for temporary assistance recipients take the individual's preferences into consideration to the extent possible and to the extent consistent with the individual's assessment and the need of the district to meet federal and State work participation requirements. If such preferences cannot be accommodated, the district must specify the reason in the individual's employment plan. Districts must ensure that employment assessments and employment plans continue to be completed consistent with 18 NYCRR §385.6 for temporary assistance recipients residing in households with dependent children and 18 NYCRR §385.7 for nonexempt temporary assistance recipients residing in households without dependent children.

Employment Plan Amendments to include Enrollments in Up to Four Years of Post-Secondary Education

Districts that elect to approve enrollments in four-year college programs must submit to OTDA an amendment to the district's 2014-2015 Temporary Assistance and SNAP Employment Plan (Section 3.6) which describes the district's procedure for implementing the change to the post-secondary education provision. 2014-15 plan amendments should be submitted to the district's Employment Services Advisor with a copy via e-mail to BarbaraC.Guinn@otda.ny.gov or by mail to:

Barbara C. Guinn
Director
Employment and Advancement Services
40 North Pearl Street, 11th Floor
Albany, New York 12243

All districts must implement procedures no later than October 1, 2014 to require that any assignment to post-secondary education beyond a twelve-month period be combined with no less than twenty hours of participation averaged weekly in paid employment or other core work activities or community service when paid employment is not available and that local procedures ensure that individuals assigned to educational activities are making satisfactory progress consistent with the guidance provided in this ADM. Districts should refer to 08-ADM-07 for households with dependent children and 07-ADM-08 for households without dependent children for a list of core work activities. Districts must also continue to ensure that reported hours of participation are consistent with federal and State requirements, including, but not limited to confirming that the work activity meets the definition of the work activity to be reported and that the hours of participation are reported separately for each respective work activity.

Change in Resource Exclusion Related to Post-Secondary Education

Districts must modify local worker instructions pertaining to resource exclusions to include tuition accounts for four-year accredited post-secondary educational institutions. Districts must exclude an amount of up to \$1,400 in a separate bank account established by an individual while receiving temporary assistance for the purpose of paying tuition to at a two-year or four-

year accredited post-secondary educational institution, provided the funds are not used for any other purpose. This resource exemption standard is effective March 31, 2014.

VI. Systems Implications

Language in the Client Notice System (CNS) will be modified consistent with the statutory change to SSL Section 131-n.

VII. Effective Date

The changes in policy outlined in this directive regarding employment plan requirements for individuals in households without dependent children, the authority for districts to approve up to four years of post-secondary education, and the changes to the resource exclusion for bank accounts established to cover the costs of post-secondary education to include four-year institutions are effective March 31, 2014. Districts that elect to approve enrollments in post-secondary education to include four-year institutions must submit to OTDA an amendment to the local Employment Plan to reflect this policy.

Issued By

Name: Phyllis Morris

Title: Deputy Commissioner

Division/Office: Center for Employment and Economic Supports