



# Office of Temporary and Disability Assistance

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## Informational Letter

### Section 1

<b>Transmittal:</b>	18-INF-17
<b>To:</b>	Social Services District Commissioners
<b>Issuing Division/Office:</b>	Integrated Family Assistance Programs / Employment and Income Support Programs
<b>Date:</b>	December 12, 2018
<b>Subject:</b>	2018 State Minimum Wage Increase and Its Effect on Temporary Assistance and Supplemental Nutrition Assistance Programs
<b>Suggested Distribution:</b>	Temporary Assistance Directors Supplemental Nutrition Assistance Program (SNAP) Directors Employment Coordinators Staff Development Coordinators
<b>Contact Person(s):</b>	Temporary Assistance Bureau: (518) 474-9344 SNAP Bureau: SNAP Policy Liaison at: (518) 473-1469 Employment Services Advisor or the Employment and Advancement Services Bureau at: (518) 486-6106
<b>Attachments:</b>	
<b>Attachment Available Online:</b>	<input type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
17-INF-15 16-INF-14 15-INF-09 14-INF-15 13-INF-08 01-ADM-13		18NYCRR 351.26 352.17(e) 385.3 385.9	336 336-c Section 652 of the Labor Law	Temporary Assistance and SNAP Employment Policy Manual Section 385.3 and 385.9	TASB Chapter 13 Section A Chapter 54 of the Laws of 2016

### Section 2

#### I. Purpose

The purpose of this Informational letter (INF) is to remind social services districts (districts) of an increase in the State minimum wage, effective December 31, 2018. This is the third increase in the State minimum wage authorized by Chapter 54 of the Laws of 2016. The INF also reminds districts of how an increase in the State minimum wage affects Temporary Assistance (TA) and

Supplemental Nutrition Assistance Program (SNAP) budgeting and employment program requirements.

## II. Background

Districts were informed via [17-INF-15](#) of the previous increase in the State minimum wage authorized by Chapter 54 of the Laws of 2016 that was effective December 31, 2017.

The next increase in the State minimum wage will be effective December 31, 2018 and will increase the State minimum wage in each of the regions identified below. The State minimum wage as authorized by Chapter 54 of the Laws of 2016 will continue to vary by region and by size of employer for individuals who work in New York City as outlined in the chart provided below.

### Future Scheduled Increases to the State Minimum Wage

The State minimum wage rates are scheduled to increase each year on December 31<sup>st</sup>, until they reach \$15.00 per hour. The scheduled increases by region are summarized in the following chart which is also available on the Department of Labor website at:

<https://www.labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm>

Employers must post a Minimum Wage Information poster in their establishment.

Location	12/31/2018	12/31/2019	12/31/2020	2021*
NYC - Big Employers (11 employees or more)**	\$15.00			
NYC - Small Employers (10 employees or less) **	\$13.50	\$15.00		
Long Island & Westchester	\$12.00	\$13.00	\$14.00	\$15.00
Greater New York State	\$11.10	\$11.80	\$12.50	*

\* Annual increases for the rest of the state will continue until the rate reaches \$15 minimum wage (and \$10 tipped wage). Starting 2021, the annual increases will be published by the Commissioner of Labor on or before October 1. They will be based on percentage increases determined by the Director of the Division of Budget, based on economic indices, including the Consumer Price Index.

\*\* The size of the employer being “Big” or “Small”, is determined by the employer and may be subject to review the NYS Department of Labor.

The enacted legislation also authorizes the New York State Division of Budget, as of January 1, 2019, and each January 1st thereafter, until such time as the minimum wage is \$15 per hour in all areas of the state, to conduct an analysis of the state of the economy in each region, and the effect of the minimum wage increases to determine whether the scheduled increases in the State minimum wage shall continue up to and including \$15 and issue a report and recommendation to the Commissioner of the New York State Department of Labor.

The federal minimum wage, currently \$7.25 per hour, will not change as a result of this enacted State legislation.

### III. Program Implications

The increase in the State minimum wage effective December 31, 2018, will vary by region and size of employer for individuals who are working in New York City. The increase in the State minimum wage will result in additional income for some households receiving TA and/or SNAP benefits and offer an incentive for individuals to enter the workforce. The increase in the State minimum wage will also affect the number of hours a TA and/or SNAP recipient may be required to participate in a work experience program (or a community service activity assigned by the district as described in section 336(g) of the Social Services Law) effective January 2019, as described below. The increase in the State minimum wage will also affect the number of hours that an Aabled Bodied Adult Without Dependents (ABAWD) must participate in work experience effective January 2019, to meet the ABAWD requirement for the month consistent with 18NYCRR §385.3.

#### **Change in the Maximum Number of Hours in Work Experience and Community Service**

Section 336-c of the Social Services Law specifies that the maximum number of hours that an individual may be required to participate in work experience (or a community service activity assigned by the district authorized under section 336(g) of the Social Services Law) is equal to the sum of the participant household's Temporary Assistance grant plus SNAP allotment, if any, divided by the higher of the federal or State minimum wage. The resulting hours for the month are then divided by 4.333 and rounded down to the nearest whole number to calculate the maximum number of hours that an individual can be assigned to work experience or participate in work experience or a community service activity per week. However, in no instance may an individual be required to participate in work experience or other work activities for more than 40 hours per week combined. Additionally, as indicated in [17-LCM-10](#), individuals who participated in assigned work activities for 30 or more hours per week, but less than the number of hours required by the district are not subject to a SNAP sanction, but may be subject to a TA work sanction.

#### **Required Action**

As a result of the increase in the State minimum wage, districts must review the cases of all individuals engaged in work experience or a community service activity assigned by the district and use the increased State minimum wage per hour in effect for their corresponding region as identified in the chart above to calculate the maximum hours that a TA or a SNAP recipient may be assigned to work experience and/or community service effective January 2019. Districts must ensure that the hours an individual is required to participate in work experience or community service do not exceed the maximum hours under State law. Districts may adjust the hours assigned to other work activities as needed but cannot exceed 40 hours per week. The district should continue to engage the individual in a combination of work activities, consistent with the individual's assessment and employment plan up to 40 hours per week.

In New York City where the minimum wage varies based on the size of the employer, the higher minimum wage that applies to large employers should be used for recipients in all of New York City when determining the maximum number of hours permitted for a work experience or community service assignment.

#### **Example 1:**

A TA recipient residing in the Greater New York State region who is currently assigned to a work experience activity with a maximum of 22 hours per week (rounded) based on the hours derived by dividing the household's TA grant plus SNAP allotment by \$10.40 could only be

required as of January 2019, to participate in work experience for 20 hours per week based on the hours derived by dividing the TA grant plus SNAP allotment by \$11.10 per hour.

#### Example 2:

A TA recipient residing in the New York City region who is currently assigned to a work experience activity for a maximum of 22 hours a week based on the hours derived by dividing the household's TA grant plus SNAP allotment by \$13.00 may only be required as of January 2019, to participate in work experience for 19 hours per week based on the hours derived by dividing the TA grant plus SNAP allotment by \$15.00 per hour.

Note: The examples provided above are to illustrate the maximum number of hours that members of a household may be required to participate in work experience or community service. While the number of hours that may be assignable to work experience or community service are limited to the calculations listed above, the district should continue to engage the individual in a combination of work activities, consistent with the individual's assessment and employment plan up to 40 hours per week.

### **Temporary Assistance Budgetary/Eligibility Implications**

The increase in the State minimum wage may have budgetary implications for those TA cases whose earnings increase following the effective date of the change. TA recipients are obligated to timely report any changes in a household's circumstances which occur, including increased earnings (i.e., ten days after receipt of increased earnings). The TA grant must be adjusted prospectively for any significant changes. A significant change is not based on a specific monetary amount, but rather is a change in income, such as wage increase or decrease that is expected to last at least thirty days. If a TA recipient experiences significant changes in amount of earnings, the district must obtain verification of the change including any changes in the number of hours that an individual is working and adjust the TA budget after any appropriate administrative processing period (see 18 NYCRR 352.17(e) and [01-ADM-13](#)) and allowing for timely notice.

If a TA recipient has a significant change in earned income because of the minimum wage increase and does not report the change in earnings timely, an overpayment must be calculated beginning with the actual month in which the significant changes occurred. The \$90 work disregard and the earned income disregard are not applied in those instances when a TA recipient fails, without good cause (see 18 NYCRR 351.26), to make a timely report of new or increased earnings. Additionally, a recipient of TA does not receive an administrative processing period for increased earnings if the recipient fails to make a timely report of the increased earnings.

Districts must also ensure that the hours of employment entered on the Temporary Assistance ABEL input screen and/or reported through the Welfare-To-Work Caseload Management System (WTWCMS) (NYC workers should review and adjust the hours of employment reported on the form FIA3A, as appropriate) are consistent with the documentation that is maintained as part of the case record.

### **Supplemental Nutrition Assistance Program Budgetary Implications**

Supplemental Nutrition Assistance Program (SNAP) recipient households subject to the simplified ("six-month") reporting rules would not be required to report an increase in earnings due to the increased minimum wage unless this increase would put the household over the 130% of the poverty gross income limit for their household size (as set at the time of their last certification). The increase in earnings due to the increase in the State minimum wage should

be reviewed at the time of the next case contact including, but not limited to, assessment of employability status, periodic report or recertification.

### **Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) Requirements**

An increase in the State's minimum wage does not change the standard used to document that an individual is exempt from SNAP work requirements based on receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours (\$217.50 per week) or more. This provision relies on the federal minimum wage and is not affected by a change in the State minimum wage. However, an increase in weekly earnings may result in a change in the SNAP employability status for a SNAP applicant or recipient whose weekly earnings increase to \$217.50 or more per week. Districts must review an employed SNAP recipient's SNAP employability and ABAWD status at the next contact with the SNAP household, such as an employment appointment, periodic report or recertification and adjust the individual's SNAP employability and ABAWD codes on the Welfare Management System (Upstate and Downstate) or MyWorkspace as necessary. In those instances, where an individual is exempt from SNAP employment requirements because the individual is working 30 or more hours per week or earning \$217.50 or more per week, a SNAP employability code of "28" (Employed or self-employed 30 or more hours per week OR earning at least the equivalent of 30 times the federal minimum wage on a weekly basis-Exempt) and the ABAWD code of "N" (non-ABAWD) would be appropriate to use.

### **Compliance with the ABAWD Requirement Through Participation in Work Experience**

Participation in work experience is one way that an ABAWD can meet the ABAWD requirement. The number of hours that an ABAWD is required to participate in a work experience program for purpose of meeting the ABAWD requirement for a calendar month is based on the household's monthly SNAP allotment divided by the number of active adult SNAP recipients and the higher of the federal or State minimum wage (the higher State minimum wage that applies to large employers would be used for ABAWDs that reside in areas of New York City that do not have an approved waiver) which is then rounded down to the nearest whole hour. Therefore, an increase in the State minimum wage may decrease the number of hours that an ABAWD is required to participate in a work experience program to meet the ABAWD requirement. The district should review those cases where an ABAWD has been assigned to a work experience program to determine whether an adjustment in the number of hours assigned needs to be changed. The ABAWD tracking logic will be adjusted to use the increased minimum wage in effect for the district to determine when an individual has met the ABAWD requirement by participating in the required number of hours of work experience during the calendar month.

Note: The calculation described in this section only applies for purposes of determining compliance with the ABAWD requirement and does not impact the maximum number of hours that an individual may be assigned to work experience as part of a TA or SNAP Employment and Training work assignment.

### **System Implications**

The Welfare-To-Work Caseload Management System (WTWCMS), ABAWD Tracking Logic and State Participation Rate Reporting Logic are being updated to reflect the increased State minimum wage in effect by region effective December 31, 2018. Therefore, the maximum number of weekly hours available for a work experience assignment displayed on the client summary screen on WTWCMS as of January 2019, will be based on the increased State minimum wage in effect for that region as of December 31, 2018. The New York City Human Resources Administration must implement changes to calculate the maximum number of hours

that each TA and/or SNAP recipient may be required to participate in work experience or a community service activity and for determining when an individual has met the ABAWD requirement by participating in work experience for the required number of hours during the calendar month based on the higher State minimum wage that applies to large employers that is in effect for the New York City region as of December 31, 2018.

Districts are reminded that only individuals who are participating in work experience for the maximum number of hours derived by dividing the household's TA grant plus SNAP allotment will be deemed to have fulfilled the 20 "core" hours of participation required for participation rate purposes, even if the resulting hours of participation are less than 20 hours per week. The State minimum increase may increase the number of individuals eligible for the deeming provision to the extent that individuals participate in work experience. Individuals, who are required to participate more hours than the core hours, must participate in another countable work activity (minimum of 10 hours weekly, if the household is required to meet the 30-hour weekly participation requirement) to fulfill those hours for work participation rate purposes.

**Issued By**

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