



# Office of Temporary and Disability Assistance

KATHY HOCHUL  
Governor

BARBARA C. GUINN  
Executive Deputy Commissioner

## Informational Letter

### Section 1

<b>Transmittal:</b>	21-INF-10
<b>To:</b>	Social Services District Commissioners
<b>Issuing Division/Office:</b>	Employment and Income Support Programs
<b>Date:</b>	November 15, 2021
<b>Subject:</b>	2021 State Minimum Wage Increase and the Effect on Temporary Assistance and Supplemental Nutrition Assistance Programs
<b>Suggested Distribution:</b>	Temporary Assistance Directors Supplemental Nutrition Assistance Program Directors Employment Coordinators Staff Development Coordinators
<b>Contact Person(s):</b>	Temporary Assistance Bureau (518) 474-9344 Supplemental Nutrition Assistance Program Bureau (518) 473-1469 Employment and Advancement Services Bureau (518) 486-6106

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
20-INF-13		18 NYCRR	336	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
19-INF-08		351.26	336-c		
18-INF-17		352.17(e)	Section 652 of the Labor Law		
17-INF-15		385.3			
16-INF-14		385.9			
15-INF-09					
14-INF-15					
13-INF-08					
01-ADM-13					

### Section 2

#### I. Purpose

The purpose of this Informational letter (INF) is to inform social services districts (districts) of an increase in the State minimum wage, effective December 31, 2021. This increase resulted from changes authorized by Chapter 54 of the Laws of 2016. The INF also provides guidance to 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 [20-INF-13](#) of the previous increase in the State minimum wage authorized by Chapter 54 of the Laws of 2016 that was effective December 31, 2020.

The next increase in the State minimum wage will be effective December 31, 2021 and will increase the State minimum wage in the regions identified 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 New York State Department of Labor website at: <https://dol.ny.gov/minimum-wage-0>.

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

Location	12/31/2019	12/31/2020	12/31/2021
NYC - Big Employers (11 employees or more)	\$15.00	\$15.00	\$15.00
NYC - Small Employers (10 employees or fewer)	\$15.00	\$15.00	\$15.00
Long Island & Westchester	\$13.00	\$14.00	\$15.00
Remainder of New York State	\$11.80	\$12.50	\$13.20

\*Annual increases for the rest of the state will continue until the rate reaches \$15 minimum wage (and \$10 tipped wage). Starting in 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 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 varies by region. The increase will result in additional income for some households receiving TA and/or SNAP benefits and may be an incentive for individuals to enter the workforce or to increase their hours. It 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 2022, as described below.

### **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 a work experience program (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 TA 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 a work experience program or a community service activity per week. However, in no instance may an individual be required to participate in a work experience

program or other work activities for more than 40 hours per week combined. Additionally, as indicated in [17-LCM-10](#), individuals that work and/or participate in work activities approved by the district for at least 30 hours per week (totaling 120 hours per month) are not subject to a SNAP work sanction. Such individuals may still be subject to a TA work sanction if the individual has applied for or is receiving TA and does not participate for the weekly number of hours assigned by the district.

### **Required Action**

As a result of the increase in the State minimum wage, districts must review the cases of all individuals engaged in a work experience program or a community service activity assigned by the district. Districts must use the increased State minimum wage per hour in effect for their corresponding region to calculate the maximum hours that a TA or SNAP recipient may be assigned to a work experience program and/or community service effective January 2022. Districts must ensure that the hours an individual is required to participate in work experience or community service do not exceed the maximum hours permitted 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.

#### **Example:**

A TA recipient residing in Central New York 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 monthly allotment by \$12.50 could only be required as of January 2022, to participate in a work experience program for 20 hours per week based on the hours derived by dividing the TA grant plus SNAP allotment by \$13.20 per hour.

Note: While the number of hours that may be assignable to a work experience program 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 allow 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 TA 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 federal poverty level 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 impacted 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.

### **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, 2021. Therefore, the maximum number of weekly hours available for a work experience program assignment displayed on the client summary screen on WTWCMS as of January 2022, will be based on the increased State minimum wage in effect for that region as of December 31, 2021.

Districts are reminded that only individuals who are participating in a work experience program 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 wage increase may increase the number of individuals eligible for the deeming provision to the extent that individuals participate in a work experience program. 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.

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**Issued By:**

**Name:** Valerie Figueroa

**Title:** Deputy Commissioner

**Division/Office:** Employment and Income Support Programs/Office of Temporary and Disability Assistance