



Office of Temporary and Disability Assistance

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Administrative Directive Memorandum

Section 1

Transmittal:	23-ADM-01
To:	Social Services District Commissioners
Issuing Division/Office:	Employment and Income Support Programs
Date:	February 22, 2023
Subject:	Andersen v. Hein - Impact on Using Work Experience Program (WEP) Participation as a Temporary Assistance (TA) Recovery Source
Suggested Distribution:	Temporary Assistance Directors Employment Coordinators WMS Coordinators Fair Hearing Staff SNAP Directors HEAP Coordinators Medicaid Staff Staff Development Coordinators
Contact Person(s):	Temporary Assistance Bureau: (518) 474-9344 or tabureau@otda.ny.gov Employment Services Advisors or Employment and Advancement Services Policy Bureau: (518) 486-6106 or otda.sm.eisp.eas@otda.ny.gov Audit & Quality Improvement: (518) 402-0117
Attachments:	Attachment A - "Instructions for Obtaining Work Experience Program (WEP) Credit Information"

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
15-ADM-05-T			SSL § 104 SSL § 104-b SSL § 105 SSL § 131-r SSL § 336-c		GIS 20 TA/DC079 GIS 22 TA/DC037

Section 2

I. Summary

This Administrative Directive (ADM) is to advise Social Service Districts (districts) that, as a result of a partial settlement of the *Andersen v. Hein* class action litigation, recipients and former recipients

of Temporary Assistance (TA) who had a TA obligation recovered between August 10, 2020, and April 1, 2022, through an inheritance (Social Services Law (SSL) § 104), personal injury award (SSL § 104-b), insurance proceeds (SSL § 105), real property/mortgage lien (SSL § 106), and/or lottery winnings (SSL § 131-r), and had such TA obligation credited for the value of time spent participating in a district assigned Work Experience Program (WEP) activity, must have the TA obligation re-evaluated based upon a new formula set forth below.

In addition, this ADM provides guidance to districts on the implementation of additional requirements pursuant to *Andersen v Hein*. These items include reporting requirements, revised WEP calculation method and application of WEP credits, as well as the requirement to provide individuals an accounting statement at the time a district recovers a TA obligation from an inheritance, personal injury award and/or insurance proceeds.

Pursuant to *Andersen v Hein*, districts are not required to credit WEP with respect to any recovery of a TA obligation that occurred before August 10, 2020.

II. Purpose

The purpose of this this ADM is to provide details of the steps that districts must take to implement the requirements of the partial settlement of *Andersen v. Hein*.

III. Background

[20 TA/DC079 – “Using Work Experience Program \(WEP\) Participation as a Temporary Assistance \(TA\) Recovery Source”](#) advised districts to apply the monetary value of hours in which a recipient or former recipient participated in a district assigned WEP activity, as defined in Social Services Law SSL § 336-c, as a credit when recovering TA issued to a recipient or former recipient from an inheritance, personal injury award, real property/mortgage lien, and/or lottery winnings.

Specifically, [20 TA/DC079](#) advised districts that the WEP credit is to be calculated based upon the TA portion of the actual hours participated in WEP, multiplied by the applicable minimum wage.

IV. Program Implications

Effective immediately, any TA obligation that was recovered from recipients or former recipients between August 10, 2020, and April 1, 2022, from an inheritance, personal injury award, insurance proceed and/or real property/mortgage lien, must be re-evaluated/recalculated.

Districts must recalculate the WEP credit as outlined in Section V to determine the adjusted WEP credit for the value of time spent participating in WEP and apply the adjusted credit to the amount of recoverable TA.

As a reminder, effective April 1, 2022, districts must not enforce or recover upon real property/mortgage liens that were previously accepted and have not yet been satisfied as outlined in 22 TA/DC037.

V. Required Action

A. Calculating WEP Credit

Effective April 1, 2022, a WEP credit, with respect to the TA obligation of a recipient or former recipient of TA, is calculated as the monetary value of time spent participating in a district assigned WEP activity. The credit is calculated by multiplying the total number of TA and SNAP hours a recipient or former recipient participated in WEP, in a given month, by the applicable minimum wage.

B. Application of the WEP Credit

Districts were advised, that as of August 10, 2020, WEP credits are to be applied in those months where a TA obligation is recovered from an inheritance (SSL § 104), personal injury awards (SSL § 104-b) or insurance recoveries (SSL § 105). Effective April 1, 2022, the WEP credit is calculated as outlined in Section V(A) and shall be applied by the districts as follows:

1. Against the monthly total of recoverable TA issued in the same month.
2. In those months where a TA obligation is recovered from inheritances, personal injury awards and/or insurance recoveries.
3. At the time of recovery from inheritances, personal injury awards and/or insurance recoveries.

C. Re-evaluation/Recalculation of the WEP Credit for Individuals Whose WEP Credit was Previously Calculated

TA obligations that were recovered between August 10, 2020 and April 1, 2022, when the recovery was from an inheritance, personal injury award, insurance proceed and/or real property/mortgage lien, districts shall re-evaluate/recalculate using the new WEP credit calculation as set forth in Section V(A) within **120 days** from the date of this ADM.

1. If the recalculated WEP credit is greater than the amount previously credited under GIS 20 TA/DC079, the recalculated credit will be applied against any remaining balance on the TA obligation.
2. If the TA obligation was fully recovered and no TA obligation remains, districts must issue a refund for the difference in WEP not previously credited. Districts must contact the Temporary Assistance Bureau prior to processing the credit.

D. Reporting Requirements for Re-evaluated/Recalculated Recoveries

Districts must maintain a record of all re-evaluated/recalculated WEP credits that are applied to TA recoveries from an inheritance, personal injury award, real property/mortgage lien and/or insurance proceeds that were recovered between August 10, 2020 and April 1, 2022. Additional information on how to record WEP credits can be found in Section VI.

In addition, each district **MUST** maintain a record of all WEP credit adjustments made to revise previous WEP calculations that were made pursuant to GIS 20 TA/DC079. This includes:

1. Type of recovery (inheritance, personal injury, etc.)
2. Date district completed the re-evaluation of the TA obligation
3. Original TA obligation amount
4. Original WEP credit applied to the TA obligation
5. Amount of the recalculated TA obligation
6. Amount of the recalculated WEP credit
7. Outcome of the re-evaluation
8. If the re-evaluation resulted in a higher WEP credit being given, how much was the credit
9. If it was determined there was a credit, was the credit applied against the remaining balance on the TA obligation OR was the credit issued to the recipient/former recipient as a refund
10. Date credit issued

Districts must provide the above information to OTDA within 60 days after the re-evaluation. The information can be sent to the Temporary Assistance Bureau at tabureau@otda.ny.gov.

E. Accounting Statement for Non-Mortgage Recoveries

Effective immediately, when a district recovers a TA obligation from a recipient or former recipient through an inheritance, personal injury award and/or insurance proceeds, the district must provide the recipient or former recipient with a document which shows how the amount of recoverable TA was calculated. This document must include any and all credits applied to reduce the TA obligation, including WEP. The document must also include how any WEP calculation was completed including:

1. the number of hours participated in WEP each month;
2. the applicable minimum wage which was multiplied against those hours; and
3. the total dollar amount of each month's credit.

See Section VI for guidance on how districts can obtain the above information

F. Lottery Intercepts

OTDA is responsible for oversight of the Lottery Intercept Program, including compliance with the requirements of *Andersen v. Hein*.

VI. Systems Implications

As outlined in Section V(C), districts must recalculate the TA obligation for each recovery from an inheritance, personal injury award, insurance proceeds and/or real property/mortgage liens, that were satisfied between August 10, 2020, and April 1, 2022.

Districts were advised in 20 TA/DC079, that a new Welfare Management System (WMS) screen was designed to provide districts with the monetary value of district assigned WEP. WMS screen "28: Work Experience Program Credit Menu" is used to:

1. View monthly WEP amounts, which includes but are not limited to information about number of WEP hours for a specific month, the minimum wage for that month and the monetary value of the WEP.
2. Apply the monetary value of WEP that was used to reduce the TA obligation for recovery using an inheritance, personal injury, insurance proceeds and/or real property/mortgage lien.

Attachment A: "Instructions for Obtaining Work Experience Program (WEP) Credit Information" provides information on how to use WMS Screen 28. This information also assists districts in complying with the reporting requirements outlined in Section V(D) as well as the ongoing requirement to provide an accounting statement outlined in Section V(E).

VII. Effective Date

Immediately

Issued By:

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Title: Deputy Commissioner

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