



## Office of Temporary and Disability Assistance

KATHY HOCHUL  
Governor

DANIEL W. TIETZ  
Acting Commissioner

BARBARA C. GUINN  
Executive Deputy Commissioner

### General Information System (GIS) Message

#### Section 1

<b>Transmittal:</b>	22 TA/DC009 Upstate and New York City
<b>Date:</b>	January 25, 2022
<b>To:</b>	Subscribers
<b>Suggested Distribution:</b>	Commissioners, Employment Coordinators, TA Directors, SNAP Directors, Staff Development Coordinators
<b>From:</b>	<i>Valerie Figueroa, Deputy Commissioner Employment and Income Support Programs</i>
<b>Subject:</b>	Guidance on voluntary quit and good cause determinations as it relates to COVID-19 vaccination and testing mandates for Temporary Assistance (TA) and Supplemental Nutrition Assistance Program (SNAP) employment and work activities
<b>Effective Date:</b>	Immediately
<b>Contact Information:</b>	Employment and Advancement Services Bureau at: 518-486-6106 or <a href="mailto:otda.sm.eisp.eas@otda.ny.gov">otda.sm.eisp.eas@otda.ny.gov</a>

#### Section 2

##### *Voluntary Quit*

The purpose of this GIS is to provide guidance to social services districts (districts) regarding the determination of good cause for employment sanctions for Temporary Assistance (TA) and Supplemental Nutrition Assistance Program (SNAP) applicants and recipients as it relates to employer mandated COVID-19 vaccine ("vaccine") and COVID-19 testing ("testing").

##### *Temporary Assistance (TA)*

Applicants or recipients (A/R) who quit or are terminated from a job due to failure or refusal to comply with a COVID-19 vaccine and/or testing mandate may be subject to a voluntary quit sanction for TA. This includes individuals who stopped going to work in advance of the mandate effective date. To determine if implementing a voluntary quit sanction is appropriate, the following steps must be followed:

1. The A/R must first be afforded the opportunity to demonstrate good cause. Good cause must be evaluated on a case-by-case basis. Good cause reasons may include, but are not limited to, availability or access to the vaccine or medical reasons. A refusal to obtain a COVID-19 vaccine or to participate in COVID-19 testing or screening solely due to personal objection to an employer's requirement shall not, in and of itself, be considered good cause.

2. Any A/R who is found to not have good cause for leaving their job must still be provided a reasonable opportunity to demonstrate that such action was not taken for the purpose of qualifying for initial or increased TA. It is required that both the intent to qualify for initial or increased TA and the lack of good cause criteria must be met prior to a voluntary quit sanction being implemented. If the client can explain or demonstrate that they made reasonable efforts to support themselves prior to applying for TA, then the district must determine that the individual did not quit their job with the intent to qualify for initial or increased TA. Such evidence can include, but is not limited to, job applications or other evidence of reasonable attempts to find alternate means of self-support.

For the purposes of TA, per 18 NYCRR 385.13, voluntary quit includes individuals who provoke their own termination from employment or provoke an employer to reduce their work hours. As such, an A/R who met the above criteria would be subject to a voluntary quit sanction for TA if they left their job due to failure to comply with a COVID-19 vaccine or COVID-19 testing mandate.

However, the district must still evaluate if the individual had potential good cause for that failure to comply, such as availability or access to the vaccine or medical reasons for their failure to comply, prior to implementing a voluntary quit sanction. The district should thoroughly document all evaluations of good cause in the case record.

For TA applicants, the ineligibility following a voluntary quit sanction shall last until 90 days have elapsed from the date the individual left or reduced their employment. The district must still determine TA eligibility for the remaining TA household members. When there is an active TA case for other eligible house members, TA filing unit rules require the ineligible household member to apply to be added to the case at the end of the 90-day period of ineligibility.

For TA recipients that reside in districts outside of NYC, the district must issue a conciliation notice consistent with 18 NYCRR 385.11, when the district is informed that a TA recipient voluntarily quit a job or caused their own termination as described above and evaluate whether the recipient willfully and without good cause voluntarily quit their job or caused their own termination or documents that they were exempt from TA work requirements at the time of the voluntarily quit or termination.

For TA recipients that reside in New York City, NYC HRA must review the case to determine that necessary supportive services were available based on the information available. If the necessary supportive services were available, NYC HRA must issue a conciliation/reengagement notice, consistent with 18 NYCRR 385.11, to provide the opportunity for the individual to explain the reason for the voluntary quit or termination of employment and to offer the opportunity to demonstrate compliance to avoid the sanction. Please see 19-ADM-01 for more information regarding the conciliation process for TA recipients that reside in NYC.

For TA recipients, voluntary quit sanctions are the same duration as those for noncompliance with work activities as specified in 18 NYCRR 385.12, therefore they are included when determining an individual's sanction progression and which level of sanction to use.

- For TA Households with Dependent Children in districts outside of New York City:
  - 1st instance: non-durational and until willing to comply
  - 2nd instance: a durational period of 3 months and until willing to comply
  - 3rd and all subsequent instance/s: a durational period of 6 months and until willing to comply
- For TA Households without Dependent Children in districts outside of New York City:
  - 1st instance: a durational period of 90 days and until willing to comply
  - 2nd instance: a durational period of 150 days and until willing to comply
  - 3rd and all subsequent instance/s: a durational period of 180 days and until willing to comply

At the end of a voluntary quit sanction (or immediately, in the case of a first sanction for an individual in a household with dependent children), the individual can demonstrate compliance by securing employment or participating in work activities as assigned by the social services district.

Voluntary quit sanctions for TA recipients in New York City are non-durational and will continue until the individual demonstrates compliance with work requirements or documents that they are exempt from TA work requirements consistent with 18 NYCRR 385.2.

#### *Supplemental Nutrition Assistance Program (SNAP)*

Per federal rules at 7 CFR 273.7, a SNAP applicant or recipient is subject to a voluntary quit sanction if they:

- Voluntarily and without good cause quit a job of 30 hours a week or more or that provided weekly earnings of at least 30 hours times the federal minimum wage (currently \$217.50 per week), or
- Reduced their work effort voluntarily and without good cause and, after the reduction, is working less than 30 hours per week; and,
- The quit occurred within 30 days prior to the date of application or anytime thereafter.

In addition, if an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of their own, loses the new job, the individual must not be disqualified from receiving SNAP benefits for the earlier quit.

Federal regulations prohibit the implementation of a voluntary quit sanction for SNAP applicants and recipients who resign due to an unreasonable demand of an employer. Employer mandated COVID-19 vaccination and/or testing is not an unreasonable demand. A refusal to obtain a COVID-19 vaccine and/or comply with testing solely due to personal objection will not, in and of itself, be considered good cause. Good cause reasons must be evaluated on a case-by-case basis and shall include, but are not limited to, availability or access to the vaccine or medical reasons.

If the applicant or recipient left their job due to failure to comply with an employer mandated COVID-19 vaccination/testing policy, that individual would be potentially subject to a voluntary quit sanction if:

- They met the voluntary quit criteria stated above; and,
- The individual was terminated or placed on unpaid leave due to failure to comply with an employer's COVID-19 vaccine or testing mandate, or
- The individual stopped going to work in anticipation of being terminated or placed on unpaid leave as a result of a failure to comply with an employer's COVID-19 vaccine or testing mandate.

The district must issue a conciliation notice consistent with 18 NYCRR 385.11, when a SNAP recipient voluntarily quits a job or reduces their earning capacity, as described above and evaluate whether the recipient willfully and without good cause voluntarily quit their job or reduced their earning capacity or documents that they were exempt from SNAP work requirements at the time that the individual voluntarily quit their job or reduced their earnings. The conciliation notice must also offer the SNAP recipient the opportunity to demonstrate compliance to avoid a SNAP sanction. The offer of conciliation and the opportunity to demonstrate compliance to avoid a SNAP sanction may be combined with the conciliation/reengagement notice issued for TA purposes. Please see [14-ADM-06](#) for more information.

For applicants, the disqualification resulting from a voluntary quit determination is effective as of the date of application for SNAP, whether the remaining household members are certified, or the application is denied.

For recipients, the sanction period would begin the first month after all normal procedures for taking adverse action occurred (including a fair hearing, if applicable).

The following SNAP durational sanction periods must be imposed for a non-exempt SNAP applicant who without good cause has voluntarily quit employment or has voluntarily reduced earnings/work effort as described in 18 NYCRR 385.13. The number of SNAP violations does not include any SNAP violations initiated between August 3, 2009 and December 14, 2012.

- The first instance of voluntary quit or reduction in work effort without good cause, a period of 30 days and thereafter until the individual complies with SNAP requirements as determined by the district.
- For the second instance of voluntary quit or reduction in work effort without good cause, a period of 90 days and thereafter until the individual complies with SNAP requirements as determined by the district.
- For the third and all subsequent instances of voluntary quit or reduction in work effort without good cause, a period of 180 days and thereafter until the individual complies with SNAP requirements as determined by the district.

The sanction period for applicants is counted by number of days, (i.e., 30 days from the date of application and thereafter until the individual complies.)

The sanction period for recipients is counted by months, (i.e., 1 month beginning with the first month following the expiration of the 10-day adverse action notice period, and thereafter until the individual complies.)

The ineligibility lasts until the sanction period has elapsed and until the individual:

- Complies with employment requirements as assigned by the district, or
- Becomes exempt from work registration, or
- Secures a comparable job.

Eligibility may be reestablished during a disqualification and the individual, if otherwise eligible, may be permitted to resume participation in the SNAP program if the individual documents they have become exempt from SNAP work registration requirements. Individuals who were or would have been exempt from work registration at the time of the voluntary quit, except in the case of an exemption for full time employed, are not subject to voluntary quit provisions.

Please refer to NYCRR 385.13 for additional information on voluntary quit provisions for TA and SNAP.

#### *Work Activity Assignments and COVID-19 Vaccination and Testing Requirements*

Clients should be informed of all requirements for a Work Experience Program (WEP) site or other work activity placement in advance of the assignment. This information should include an explanation of any expectations of the site, including proper attire, attendance policies, and safety requirements, and whether COVID-19 testing and/or vaccination is required. The district worker should not inquire about a client's vaccine status directly, but after explaining the site requirements to the client, should ask the client if they would have any problem complying with those requirements. If the client indicates no, then the client may be assigned to the activity. If the client indicates yes, then the district should ask which of the requirements the client cannot meet. If the reason provided by the client is related to supportive service needs (e.g., lack of work boots or transportation) then the district should assist the client by providing supportive services to overcome those barriers.

If the client indicates they cannot comply with the site requirements because they are not vaccinated or decline to be vaccinated (with no medical exemption requests) and the work activity site has no alternative for testing in lieu of vaccination, then the district should attempt to make an alternate work activity assignment for that client. If the work activity requires COVID-19 testing in the absence of proof of vaccination, either as a response to calling in sick or as a regular screening measure, then the client would be expected to comply with testing requirements and may face negative action for failure to do so willfully and without good cause if all necessary supportive services were in place.

To the extent possible, the client's employment plan and resulting work activity assignments should reflect the preferences of the client in a manner that is consistent with the results of the client's assessment and the need of the district to meet federal and State work activity participation requirements. If such preferences cannot be accommodated, the reasons shall be specified in the employment plan and case record. The plan shall also take into account the client's supportive service needs, available program resources, and local employment opportunities.

If the client willfully and without good cause fails to participate in the work activity assignment, negative action may be taken, following the conciliation/ reengagement process described above, if applicable. A refusal to obtain a COVID-19 vaccine solely due to personal objection to the COVID-19 vaccine requirement will not, in and of itself, be considered good cause. Good cause reasons include, but are not limited to, availability or access to the vaccine or medical reasons.