

Section 385.12 - Failure to Comply with Requirements (Sanctions)

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Part A - The Regulations

a. Noncompliance of public assistance applicants and recipients with the requirements of this Part.

- 1) Potentially employable applicants and recipients.
 - i. An applicant who has been determined to be exempt from participation in work activities in accordance with the requirements of this Part due to being incapacitated due to a physical and/or mental health condition pursuant to this section, who, in the judgment of the social services official has the potential to improve his/her ability to work through suitable medical care, rehabilitation and/or treatment, will be denied assistance if he/she willfully and without good cause fails to comply with requirements for potentially employable applicants pursuant to section 385.2 of this Part. Ineligibility for public assistance continues until the applicant agrees to comply with the requirements and demonstrates such compliance where appropriate.
 - ii. A recipient who has been determined to be exempt from participation in work activities in accordance with the requirements of this Part due to being incapacitated due to a physical and/or mental health condition pursuant to this section, who, in the judgment of the social services official has the potential to improve his/her ability to work through suitable medical care rehabilitation, and/or treatment, and willfully and without good cause refuses or fails to comply with the requirements for the potentially employable recipient pursuant to section 385.2 of this Part, is ineligible to receive public assistance until such time as he/she is willing to comply with such requirements.
- 2) A public assistance applicant or recipient subject to employment requirements who is determined to have refused or failed to comply with the requirements of this Part in accordance with the provisions of section 385.11(a) of this Part regarding conciliation for individuals not living in a city with a population of 1,000,000 or more people or subdivision (b) of this section for individuals living in a city with a population of 1,000,000 or more people must be provided a notice of such determination and of the intent of the social services district to deny, discontinue or reduce assistance, as follows:
 - i. An applicant must be issued an adequate notice of denial of public assistance which informs him/her that he/she has refused or failed to comply without good cause with employment requirements in accordance with the provisions of section 385.6(a)(7)(i), 385.7(a)(7)(i), 385.9(e)(5) or 385.13(a)(8)(i) of this Part. An applicant must be issued an adequate notice of denial of public assistance which informs him/her that he/she has willfully refused or failed to comply with employment requirements without good cause in accordance with the provisions of this Part other than those specified in this subparagraph.
 - ii. A recipient must be issued an adequate and timely notice of intent to discontinue or reduce assistance which informs him/her that he/she has willfully and without

good cause refused or failed to comply with employment requirements in accordance with the requirements of this Part. For recipients who live in a city with a population of 1,000,000 or more people, the recipient must not have reengaged in work requirements as assigned by the social services district for a minimum of 5 business days but not more than 10 business days.

- iii. The notices specified in subparagraphs (i) and (ii) of this paragraph must also inform:
 - a. the applicant or recipient of the specific instance(s) of refusal or failure to comply willfully and without good cause with the requirements of this Part and of the specific section of this Part in which the requirement(s) is contained;
 - b. the applicant or recipient who does not live in a city with a population of 1,000,000 or more people that he/she has the right to again apply for public assistance at any time, and, for safety net assistance recipients, that he/she may reapply at least 45 days before the end of the sanction period to ensure restoration of benefits immediately following the applicable sanction period provided that the individual is otherwise eligible for public assistance;
 - c. the applicant or recipient who does not live in a city with a population of 1,000,000 or more people of the duration for which he/she will be ineligible for public assistance or for a reduced amount of public assistance in accordance with this section;
 - d. the applicant or recipient who lives in a city with a population of 1,000,000 or more people that he/she has the right to apply for public assistance at any time;
 - e. the applicant or recipient who lives in a city with a population of 1,000,000 or more people that the social services district has determined, based on the information available at the time of the review, that appropriate child care, transportation and accommodations for disability were available at the time of the refusal or failure to participate;
 - f. the necessary action that must be taken to avoid a *pro rata* reduction in public assistance benefits and provide the additional information, for applicants or recipients who live in a city with a population of 1,000,000 or more people, that they may avoid a *pro rata* reduction in public assistance benefits by reengaging in work activities as assigned by the social services district for a minimum of 5 business days but not more than 10 business days and;
 - g. that he/she has the right to a fair hearing in accordance with the provisions of Part 358 of this Title.

3) Refusal of employment

- i. In determining whether an applicant's or recipient's refusal to accept an offer of employment constitutes refusal or failure to comply without good cause, a social services official shall consider the report of the employment unit or agency through which the job referral was made, pertinent information supplied by the prospective employer, the explanation of the applicant or recipient for not accepting the offer of employment, and any other pertinent evidence.

- ii. An individual is deemed not to have willfully and without good cause refused or failed to comply with employment program requirements, or is deemed to have good cause for refusing an offer of employment in which such person is able to engage if the evidence shows that:
 - a. the job offer was not bona fide;
 - b. the salary or wages were less than the minimum required by law, or the conditions of employment were otherwise contrary to law;
 - c. child care necessary for an individual to participate is not available in accordance with Part 415 of this Title;
 - d. necessary supportive services are unavailable;
 - e. a strike, lockout or other public or private industrial controversy was in progress at the place in which employment was offered;
 - f. the job would have been hazardous to the applicant's or recipient's life or health, or there was an absence, if appropriate, of workers' compensation;
 - g. the place of employment required unreasonable, based on the standards of the community, travel from the applicant's or recipient's home;
 - h. child care plans were temporarily disrupted, making it impossible for the applicant or recipient to report as required;
 - i. accepting a job would result in a net loss of cash income for the household and the social services district does not make supplemental payments pursuant to section 352.7(m) of this Title to prevent a net loss of cash income;
 - j. the assignment or activity is contrary to law;
 - k. a personal or family emergency of substantial nature prevents compliance if the participant has notified the social services district with reasonable promptness of his/her inability to comply;
 - l. such refusal is caused by circumstances beyond a participant's control.
- iii. The applicant or recipient is responsible for notifying the social services district of the reasons for failing to comply with an employment requirement and for furnishing evidence to support any claim of good cause.

b. Noncompliance of SNAP applicants and recipients with work requirements.

- 1) If an applicant has, without good cause, refused or failed to comply with a SNAP work requirement pursuant to the requirements of this Part, other than applicant voluntary quit

or reduction in work effort pursuant to section 385.13 of this Part, he/she will be denied SNAP benefits. The individual's ineligibility for SNAP continues until the applicant complies with the requirements of this section as assigned by the social services district or documents that he/she has become exempt from SNAP work requirements. If an applicant is disqualified, and he/she is a member of an otherwise eligible household, he/she is treated as a disqualified member of the household during the period of disqualification, under section 387.16(c)(1) of this Title.

- 2) If a recipient has, willfully and without good cause, refused or failed to comply with a SNAP work requirement pursuant to the requirements of this Part, he/she will be ineligible to participate in SNAP in accordance with the provisions of this section. If a recipient is disqualified and he/she is a member of an otherwise eligible household, he/she is treated as a disqualified member of the household during the period of disqualification, under section 387.16(c)(1) of this Title.
- 3) Prior to notifying the household of the proposed disqualification, the social services district must determine whether good cause for noncompliance exists, in accordance with subdivision (c) of this section.
- 4) For SNAP recipients, within 10 calendar days of determining that the non-compliance was willful and without good cause, the social services district must issue a timely and adequate notice of adverse action to the recipient. This notice must specify:
 - i. the particular act of noncompliance,
 - ii. the proposed period of disqualification,
 - iii. that the individual may reapply in order to resume participation in SNAP at the end of the disqualification period and
 - iv. information about ending the disqualification as specified in subdivision (e) of this section. The disqualification period begins with the first month following the expiration of the notice period unless a fair hearing is requested. In such case the disqualification period may not begin until the fair hearing request is withdrawn, the individual fails to appear at a scheduled fair hearing, or a fair hearing decision upholding the social services district's action is issued.
- 5) When a member of an applicant household has, without good cause, failed to comply with work requirements pursuant to section 385.3 of this Part, the social services district must inform the household of the individual's denial in the notice of action taken. This notice must specify:
 - i. the particular act of noncompliance, and
 - ii. that the individual may reapply for SNAP benefits, but must comply with SNAP work requirements as determined by the social services district or document an exemption from SNAP work requirements consistent with section 385.3 of this Part as part of the process for establishing eligibility for SNAP benefits, provided the individual is otherwise eligible.
- 6) A voluntary participant in a SNAP employment and training program who is exempt from SNAP work requirements and/or participation in an employment and training program

must not be disqualified for failure to comply with the requirements of this Part unless the volunteer is subject to sanction pursuant to paragraph (7) of this subdivision.

- 7) Failure of certain SNAP applicants and recipients who are exempt from SNAP work requirements to comply with other work requirements. If a household contains a member who is exempt from work requirements solely because he/she is registered for work under an unemployment compensation work requirement or because he/she is subject to participation in work activities funded under title IV of the Social Security Act, and such individual willfully and without good cause refuses or fails to comply with the work requirements of those programs, such individual must be treated as though he/she has failed to comply with the requirements of this Part.

c. Good cause for refusal or failure to comply with public assistance and SNAP employment requirements.

- 1) The social services official is responsible for determining willfulness and without good cause in those instances where an individual has refused or failed to comply with the requirements of this Part. In determining whether or not the individual's conduct was willful and without good cause, the social services official must consider the facts and circumstances, including information submitted by the individual subject to such requirements. Good cause includes circumstances beyond the individual's control, such as, but not limited to, illness of the individual, illness of another household member requiring the presence of the individual, inability to participate due to a domestic violence situation, a household emergency, or the lack of adequate child care for dependent children under age 13 that is needed for the individual to participate in work activities assigned by the social services district
- 2) For noncompliance with public assistance work requirements by an individual who lives in a city with a population of 1,000,000 or more people, there shall be no finding of willful and without good cause based on the refusal or failure to comply with a single appointment or work requirement.
- 3) The applicant or recipient is responsible for notifying the social services district of the reasons for refusing or failing to comply with an employment requirement and for furnishing evidence to support an alleged exemption from public assistance work requirements, pursuant to section 385.2 of this Part, SNAP work requirements, pursuant to section 385.3 of this Part, or any claim of good cause.

d. Public assistance sanctions for failure to comply with employment requirements.

An applicant for or recipient of public assistance who willfully and without good cause refuses or fails to comply with employment requirements assigned pursuant to this Part shall

be ineligible to receive public assistance for the periods specified in this subdivision. However, such sanctions shall not apply to: an applicant deemed ineligible for public assistance pursuant to section 385.2(c)(1) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.6(a)(7)(i) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.7(a)(7)(i) of this Part; or an applicant who is ineligible for public assistance pursuant to section 385.9(e)(5)(i) of this Part.

- 1) In the case of a parent or caretaker of a dependent child, when the parent or caretaker does not live in a city with a population of 1,000,000 or more people, the public assistance otherwise available to the household of which that individual is a member shall be reduced *pro rata* as determined by the commissioner of the office:
 - i. for the first such refusal or failure to comply, until the individual is willing to comply;
 - ii. for the second such refusal or failure to comply, a period of three months and thereafter until willing to comply;
 - iii. for the third and all subsequent instances of such refusal or failure to comply, a period of six months and thereafter until willing to comply.
- 2) In the case of an individual who is a member of a household without dependent children applying for or in receipt of safety net assistance and who does not live in a city with a population of 1,000,000 or more people, the public assistance otherwise available to the household of which that individual is a member shall be reduced *pro rata* as determined by the commissioner of the office:
 - i. for the first such refusal or failure to comply, a period of 90 days and thereafter until willing to comply;
 - ii. for the second such refusal or failure to comply, a period of 150 days and thereafter until willing to comply;
 - iii. for the third such refusal or failure to comply, a period of 180 days and thereafter until willing to comply.
- 3) Willing to comply as used in paragraphs (1) and (2) of this subdivision means that an individual, as required by the social services district, reports to and participates in an assigned work activity site or other location on time and prepared to engage in the assigned activity for the number of business days required by the social services district, provided that the number of days required does not exceed 10 business days.
- 4) In the case of an individual who lives in a city with a population of 1,000,000 or more people, the public assistance otherwise available to the household of which that individual is a member shall be reduced *pro rata* as determined by the commissioner until the individual reengages in work activities as assigned by the social services district for a minimum of 5 business days, but no more than 10 business days or cooperates with efforts to document that he/she is exempt from work requirements pursuant to section 385.2 of this Part.

- 5) In the case of an individual who was the member of a household without dependent children prior to being sanctioned in accordance with the provisions of this subdivision, and who does not live in a city with a population of 1,000,000 or more people, and for whom the specified sanction period has ended, a reminder shall be sent to such individual indicating an opportunity to end the sanction by complying with employment programs. The commissioner shall establish the language required in the reminder.
- 6) In the case of an individual who lives in a city with a population of 1,000,000 or more people at the time of being sanctioned for noncompliance with public assistance work requirements in accordance with the provisions of this subdivision, and for whom the public assistance sanction has continued for 30 or more days, a reminder shall be sent to such individual indicating an opportunity to end the sanction by complying with employment programs or by documenting that he/she has become exempt consistent with section 385.2 of this Part. The commissioner shall establish the language required in the reminder.

e. SNAP sanctions for failure to comply with employment programs.

- 1) An applicant who is required to participate in work activities who, without good cause, fails to comply with the requirements of this section shall be denied participation in SNAP until such time as he/she complies with SNAP work requirements as determined by the social services district or documents an exemption from SNAP work requirements consistent with section 385.3 of this Part. This provision does not apply in the case of a voluntary quit or a voluntary reduction in work effort without good cause, as described in section 385.13 of this Part, by a SNAP applicant who is subject to SNAP work requirements.
- 2) The needs of a recipient who is required to participate in work activities and who has, willfully and without good cause, failed to comply with the requirements of this section will not be considered in determining the needs of his/her household for SNAP for the following time periods:
 - i. for the first instance of willful failure to comply without good cause, a period of one month and thereafter until the individual complies with the requirements of this section as determined by the social services district;
 - ii. for the second instance of willful failure to comply without good cause, a period of three months and thereafter until the individual complies with the requirements of this section as determined by the social services district; and
 - iii. for the third and all subsequent instances of willful failure to comply without good cause, a period of six months and thereafter until the individual complies with the requirements of this section as determined by the social services district.

- 3) Following the end of the disqualification period for noncompliance with the requirements of this Part, a household may request that the disqualified individual be added to the household and resume participation. The social services district must act on this request in accordance with section 387.17(e)(6) of this Title.
- 4) Eligibility may be reestablished during the disqualification period if the participating household requests that the disqualified individual be added to the household, and the disqualified individual becomes exempt from the work requirement pursuant to section 385.3 of this Part.
- 5) A disqualification for noncompliance with work requirements may be ended, after the time periods specified in paragraph (2) of this subdivision, if the disqualified individual complies with the requirement which caused the disqualification or an alternate work assignment as determined by the social services district.

Part B - Department Policy

Temporary Assistance (TA)

TA applicants/recipients may be required to participate for up to 40 hours weekly in appropriate work activities consistent with the requirements of 18 NYCRR 385.2 and 385.9. Individuals who willfully and without good cause fail to comply with employment requirements (other than applicants who fail to comply with job search, employment assessment requirement or who voluntarily reduce or terminate employment, which are eligibility requirements) are subject to pro-rata sanctions. Applicants who fail to comply with job search or employment assessment requirements without good cause are subject to case denial and applicants who voluntarily reduce or terminate employment without good cause and with the intent to obtain TA are subject to individual ineligibility for a period of 90 days from the voluntary quit or reduction. Pro-rata sanctions may be non-durational and until compliance or may continue for a minimum duration and until compliance. The duration of the sanction is based on the number of times the individual has failed to comply and differs depending on whether or not the household includes dependent children or lives in a city with a population of 1,000,000 or more people.

Potentially Employable Applicants and Recipients

A TA **applicant** who is determined to be exempt from participation in work activities due to being incapacitated due to a physical and/or mental health condition, who in the judgment of the social services official has the potential to improve their ability to work through suitable medical care, rehabilitation and/or treatment determined by a medical professional to be necessary to improve the individual's ability to work, is ineligible for receive TA if they willfully and without good cause fail to comply with the requirements for potentially employable applicants pursuant to 18 NYCRR 385.2. The individual remains ineligible for assistance until they are willing to comply with the recommended treatment program.

A TA **recipient** who has been determined to be exempt from participation in work activities due to being incapacitated due to a physical and/or mental health condition, who in the judgment of the social services official has the potential to improve their ability to work through suitable medical care, rehabilitation and/or treatment, determined by a medical professional to be necessary to improve the individual's ability to work, and who willfully and without good cause refuses or fails to comply with the requirements for potentially employable recipients pursuant to 18 NYCRR 385.2 is ineligible to receive TA until such time as they are willing to comply with the recommended treatment program.

Conciliation is not required, but the district must afford individuals the opportunity to show good cause for the failure to comply with the recommended treatment program, and must consider all information known to the district via the case record when determining good cause. Individual reason code W40 (failure to become employable) would be assigned in WMS and incremental sanction budgeting methodology would be applied. The individual remains ineligible for assistance until they are willing to comply with the recommended treatment program.

TA Sanctions for Failure to Comply with Employment Requirements in Districts Outside of New York City

Following the conciliation process, once the district has determined it is appropriate to sanction an individual, the district must select the proper sanction type and sanction period, enter the individual reason code for the sanction in WMS, generate the appropriate client notice to inform the household of the sanction, and document the case record. A timely and adequate notice of intent to inform the household of the TA employment sanction and pro-rata reduction or discontinuance in TA benefits must be issued consistent with the notice requirements described in SSL §342. For TA sanctions districts should refer to the LDSS-4958 TA Sanctions & Denial Policy/Participation Rate Impact Guide.

TA sanction periods for TA recipients in districts outside of New York City are as follows:

- For TA Households with Dependent Children:
 - 1st instance: non-durational and until willing to comply
 - 2nd instance: a durational period of 3 months and until willing to comply
 - 3rd and subsequent instance/s: durational period of 6 months and until willing to comply

- For TA Households without Dependent Children:
 - 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 subsequent instance/s: a durational period of 180 days and until willing to comply

Sanctions imposed under the Safety Net Assistance (SNA) program do not count towards the sanction progression once an individual establishes their eligibility for TANF funded assistance.

Unlike SNAP sanctions, individuals cannot “cure” a TA employment sanction during the minimum required duration by documenting an exemption from TA work requirements. Individuals who are determined to have willfully and without good cause failed to comply with TA employment requirements are subject to a prorata reduction in benefits for a minimum duration without exception and benefits cannot be restored until the minimum duration period has been satisfied and the individual demonstrates a willingness to comply with employment requirements. Individuals who claim an exemption from work requirements must cooperate with efforts to document the exemption, including providing medical documentation or participating in a medical evaluation.

Demonstrating Compliance with TA Work Requirements in Districts Outside of New York City

TA benefits are restored and the prorata budget reduction is removed for sanctioned individuals in districts outside of New York City once the minimum sanction duration has expired and the individual demonstrates they are willing to comply with employment requirements as assigned by the district. In all instances, the time period established for demonstrating compliance to the satisfaction of the district cannot exceed ten business days.

TA benefits must be restored to the household upon the completion of the minimum sanction duration period **and** upon the individual demonstrating a willingness to comply with employment requirements consistent with the district's applicable demonstrated compliance procedures described in Section 5.2 of its approved TA and SNAP Employment Plan. Once the individual has demonstrated compliance consistent with the district's requirements, TA benefits are restored retroactive to the date the individual indicated a willingness to comply (but no earlier than the expiration of the minimum duration period).

If after the completion of the minimum sanction duration period, the sanctioned individual indicates that they are unable to participate in work activities, the sanction resolution for such individual must not be later than the timeframes required for those individuals who are able to work and demonstrate compliance in work activities. Sanctioned individuals who subsequently indicate an inability to participate in work activities should have their inability to participate in work activities documented in accordance with 18 NYCRR 385.2 and TA benefits must be restored retroactive to the date the individual claimed to be unable to participate (but no earlier than the expiration of the minimum duration period), provided the individual has cooperated with efforts to document the exemption. If the timeframes required to document an exemption from work activities takes longer than the timeframe required for an able-bodied individual to demonstrate compliance, the district must initiate benefit restoration even if the employability determination is not complete, so that the timeframe required to initiate grant restoration is no longer than would be required for an able-bodied individual.

An individual would only need to submit an application to restore TA benefits upon the conclusion of a prorata sanction if the TA case was closed for some other reason (e.g., failure to comply with recertification) or the sanction was imposed while the individual was in receipt of SNA as part of a single household and the prorata reduction resulted in case closure. In those instances where the individual's case is closed, a new application for assistance (LDSS-2921) must be submitted and the individual must comply with all program requirements including the 45-day waiting period, if applicable. Applicants for TA are not required to demonstrate compliance to lift an employment sanction once the durational sanction period has expired. The procedures for demonstrated compliance as described in Section 5.2 of the district's approved TA and SNAP Employment Plan applies to TA recipients only. However, TA applicants who do not comply with all program requirements, (which may include providing documentation to verify a claimed exemption from work requirements or engaging in an applicant job search if assigned), shall remain ineligible for Temporary Assistance benefits.

TA Sanctions for Failure to Comply with Employment Requirements in New York City

Effective January 15, 2019, sanction procedures for New York City (NYC) were changed to reflect amendments to Chapter 562 of the Social Services Law that eliminate durational sanction periods for all TA households in a city with a population of 1,000,000 or more people. All TA employment sanctions that are imposed when a TA applicant or recipient willfully and without good cause refuses or fails to comply with a mandatory appointment or work activity assigned by the NYC Human Resource Administration (HRA) 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.

TA applicants and recipients who do not respond to the re-engagement/conciliation notice, refuse or do not demonstrate compliance as assigned by HRA for a minimum of five business days may be subject to a non-durational TA and/or durational SNAP sanction in those instances where the worker determines that the individual willfully and without good cause refused or failed to comply with an assigned work requirement.

A timely and adequate notice of intent to inform the household of the TA employment sanction and pro-rata reduction or discontinuance in TA benefits must be issued consistent with the notice requirements described in SSL 342-a. HRA should continue to use the Client Notices System (CNS) to issue the notice of intent to impose a TA employment sanction.

Demonstrating Compliance with TA Work Requirements in New York City

TA applicants and recipients in NYC who are sanctioned for noncompliance with assigned work requirements may end the TA sanction by demonstrating compliance by participating in an assigned work activity for a minimum of five business days. Demonstrating compliance means that the individual engages in the assigned work activity and fully participates as assigned by HRA for a minimum of five business days. An individual's TA (and SNAP) employment sanction will also end if the individual is determined by HRA to be exempt from work requirements consistent with 18 NYCRR 385.2 for TA and 18 NYCRR 385.3 for SNAP. With respect to SNAP benefits, a SNAP recipient, who was also sanctioned for noncompliance with SNAP work requirements, must serve the balance of the SNAP durational sanction period and demonstrate compliance with work requirements unless the individual documents that they are exempt from SNAP work requirements and is otherwise eligible for SNAP benefits. Absent minimum TA sanction periods in NYC, the individual's benefits would be restored back to the date they indicated the willingness to comply.

Note: Individuals must be otherwise eligible for TA benefits and must comply with all other program requirements. In those instances where the TA sanction results in closure of the Safety Net Assistance case, if the client does not demonstrate full compliance until after the 30 day period following case closure, then, pursuant to 18 NYCRR 350.4(a), a new application must be filed and the individual must serve the 45-day wait before they are eligible for benefits.

If, however, the client demonstrates full compliance within the 30 days following case closure, a new application is not required, and benefits must be restored without the imposition of a new 45 day waiting period. In instances where a new application is not required, 18 NYCRR 351.8(b) and (c) are not applicable.

Option to End TA Sanction Notice

SSL §342-a also requires that an “option to end sanction” notice is issued to all TA case types in sanction status for 30 or more days. This notice reminds a household in NYC that a sanctioned individual may immediately end their TA employment sanction through compliance or by documenting that they have become exempt from TA work requirements.

SNAP Sanctions for Failure to Comply with SNAP Work Requirements

A SNAP recipient who is non-exempt from SNAP work requirements and refuses or fails, willfully and without good cause, to comply with the SNAP work requirements is ineligible to participate in SNAP and will be considered an ineligible household member. Within ten days of establishing that the noncompliance was willful and without good cause, the local social services agency must provide the individual with a timely and adequate notice of adverse action.

The notice of adverse action must contain:

- the particular act of noncompliance;
- the proposed period of disqualification;
- information to specify that the individual may, if appropriate, reapply at the end of the disqualification period; and
- information describing the action that can be taken to avoid the disqualification before the disqualification period begins.

The notice of adverse action must meet timeliness and adequacy requirements. If the individual complies before the end of the advance notice period, the local social services agency will cancel the adverse action.

The disqualification period must begin with the first month following the expiration of the 10-day adverse action notice period.

A SNAP sanction may be imposed after the end of a certification period. Thus, a notice of adverse action must be sent whenever the local social services agency becomes aware of an individual's noncompliance with SNAP work requirements, even if the disqualification begins after the certification period expires and the household has not been recertified.

The following SNAP durational sanction periods will be imposed for a non-exempt SNAP recipient who has refused or failed willfully and without good cause to comply with work requirements:

- 1st instance: a period of one month and thereafter until the individual complies with SNAP work requirements as determined by the district
- 2nd instance: a period of three months and thereafter until the individual complies with SNAP work requirements as determined by the district
- 3rd instance: a period of six months and thereafter until the individual complies with SNAP work requirements as determined by the district

Note: An individual who is exempt from SNAP work requirements because they are subject to work requirements under Title IV-A or unemployment compensation who fails to comply with a Title IV-A or unemployment compensation work requirements, will be treated as though they failed to comply with the SNAP work requirements.

Except in cases of permanent disqualification, at the end of the applicable mandatory disqualification period for noncompliance with SNAP work requirements, participation may resume if the disqualified individual applies again and is determined by the local social services district to be in compliance with work requirements.

Individuals disqualified due to an employment sanction may be added back to the household and SNAP benefits re-determined upon the conclusion of the minimum disqualification period once the household requests the individual be added to the household and the disqualified (or sanctioned) individual complies with the requirement that caused the disqualification or another SNAP E&T activity as assigned by the district. In all instances the time period established for demonstrating compliance to the satisfaction of the district cannot exceed ten business days.

For example, an individual subject to a three-month sanction beginning 6/1/19 for failure to comply with a work experience activity (WEP) may be added back to the household's SNAP budget beginning 9/1/19 so long as the household requests the individual be added to the household and the individual complies as assigned by the district before 9/1/19.

An individual who has been disqualified due to noncompliance with work requirements must be permitted to receive SNAP benefits during the disqualification period, (if otherwise eligible), if they become exempt from work requirements. Individuals may reestablish SNAP eligibility during the sanction period if the household requests the individual be included back in the household and the individual is determined by the district to be exempt from participation in SNAP work requirements.

For example, if an individual subject to a three-month sanction beginning 6/1/19 notifies the district that they are physically unfit for employment on 7/10/19. The individual is added back to

the household's SNAP budget and benefits re-determined (provided the individual is otherwise eligible) from 8/1/19 so long as the household requests the individual be added to the household and the individual cooperates with verifying the impairment. The district can assume that by reporting the change and notifying the district that the individual is impaired, the household has requested the disqualified individual to be added to the household.

Districts should carefully review work registration exemptions included in 18 NYCRR 385.3 (a)(1) and be aware that several exemptions from the SNAP work requirements are not exemptions for TA. For example, an individual responsible for the care of a dependent child under the age of six or an individual required to register for work as part of the unemployment insurance compensation process is exempt from SNAP work requirements but not necessarily exempt from TA work requirements.

In addition to the examples provided above, a TANF applicant or recipient subject to and complying with any work activity assignment made under TA is exempt from SNAP requirements and may reestablish SNAP eligibility during the duration of the SNAP sanction period. In this instance the district can assume that by participating in an assigned TANF work activity, the household has requested the disqualified individual to be added to the SNAP case for the household.

For example, an individual subject to a three-month SNAP sanction beginning 6/1/2019 begins complying with a TANF work assignment on 7/16/2019. The individual is added back to the household's SNAP budget and benefits re-determined beginning 8/1/2019 (provided the individual is otherwise eligible for SNAP). The district can assume that by participating in an assigned TANF work activity, the household has requested the disqualified individual to be added to the household.

Part C - Questions and Answers

Temporary Assistance

Q.1 Do progressive Family Assistance and Safety Net funded assistance employment sanctions build on each other?

A.1 Family Assistance sanctions count when determining the sanction progression for an individual receiving Safety Net funded assistance, but not vice versa.

Q.2 Can we discontinue the benefits of exempt individuals for not following their treatment plan?

A.2 This requirement should be reviewed on a case-by-case basis. An exempt individual should only be required to engage in recommended treatment when medical documentation supports treatment as a reasonable option for the individual to improve their condition enough to engage in work activities. Individuals may only be assigned to reasonable medical care, vocational rehabilitation or treatment determined by a medical professional to be necessary to improve the individual's ability to work. It is expected that individuals who can be restored to self-sufficiency will cooperate with a medically prescribed treatment plan designed to rehabilitate the client to the point where they can participate in work activities. If the client fails to cooperate with their treatment plan, districts can discontinue the individual's needs from the case. The individual would remain ineligible for assistance until the individual returns to treatment or presents information to verify treatment is no longer necessary.

Q.3 Can districts require sanctioned individuals to sign a statement indicating their willingness to comply as part of the district's demonstrated compliance process?

A.3 While districts may have a process in place to obtain a client's expression of willingness to comply in writing, there is no requirement in OTDA policy or in employment regulations at 18 NYCRR 385.12 for an individual to sign a willingness to comply statement in order to end an employment sanction at the end of the durational sanction period. Additionally, when a client demonstrates compliance with any employment requirement or work activity as assigned by the district, or reports they have obtained employment and provides documentation to verify their earnings or an exemption for work requirements to the district as required, the sanction must be lifted regardless of the presence of a signed willingness to comply statement from the individual.

SNAP

Q.4 Can a sanctioned individual be added to the case if they become exempt during the sanction period?

A.4 Yes, the SNAP sanction can be lifted during the durational sanction period if the person becomes exempt from work requirements.

Q.5 Is there a requirement for progressive SNAP sanctions to be within a three-year period of the date of the last sanction served?

A.5 No. Once a work registrant has reached the third or subsequent occurrence of noncompliance, they will be ineligible for SNAP for a period of six months and thereafter until the individual complies with SNAP work requirements as determined by the district.