

Section 385.13 - Voluntary Termination of Employment and Voluntary Reduction of Earning Capacity (Voluntary Quit)

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Part A - The Regulations

a) Public assistance

- 1) For purposes of this section, the term *voluntary quit* means voluntary termination of employment and/or a reduction in earning capacity for the purpose of qualifying for initial or increased public assistance. Such term shall include individuals who provoke their own termination from employment or provoke an employer to reduce their work hours.
- 2) An individual will be disqualified from receiving public assistance for a period specified in this subdivision if the social services official determines that such individual voluntarily quit his/her job.
- 3) Public assistance will not be denied to a public assistance applicant or discontinued for a recipient of such public assistance who requests an increase in benefits, unless he/she has been provided a reasonable opportunity to explain why he/she terminated his/her employment or reduced his/her earning capacity or otherwise demonstrated that he/she did not terminate employment or reduce earning capacity for the purpose of qualifying for initial or increased public assistance.
- 4) It is the responsibility of the applicant or recipient to provide reasons or otherwise demonstrate that his/her voluntary quit was not for the purpose of qualifying for initial or increased public assistance.
- 5) Upon determining that the applicant or recipient voluntarily quit his or her job, the social services district must inform the individual that:
 - i) he/she will be provided a reasonable opportunity to explain his/her reasons for such action or otherwise demonstrate that such action was not taken for the purpose of qualifying for initial or increased public assistance; and
 - ii) it is his/her responsibility to provide reasons or otherwise demonstrate that such action was not taken for the purpose of qualifying for initial or increased public assistance.
- 6) If the applicant or recipient provides reasons or other relevant information regarding his/her voluntary termination of employment or reduced earning capacity, the social services official must determine if the information is sufficient to conclude that the applicant or recipient did not terminate employment or reduce earning capacity to qualify for initial or increased assistance.
 - i) if the information is determined to be sufficient, the applicant or recipient will receive or continue to receive public assistance if all other eligibility conditions are met.
 - ii) if the information is determined not to be sufficient, the applicant or recipient will receive a notice of denial or intent to reduce or discontinue the public assistance benefits.
- 7) If the applicant or recipient provides no reasons for his/her voluntary termination of employment or reduction in earning capacity, then the social services official must

conclude that such action was taken with the intent to qualify for initial or increased public assistance.

- 8) An applicant or recipient who has been determined by the social services official to have voluntarily terminated his/her employment or reduced his/her earning capacity for the purpose of qualifying for public assistance or increasing his/her public assistance benefits will be disqualified from receiving assistance as follows:
 - i) as an applicant, for 90 days from the date of voluntary termination or reduced earning capacity;
 - ii) as a recipient, such disqualification will be in accordance with the sanctions prescribed for non-compliance with employment requirements as specified in section 385.12(d) of this Part.

b) Supplemental Nutrition Assistance Program

1) Voluntary quit.

If an individual who is subject to SNAP work requirements voluntarily quits his/her job as described in this section without good cause, he/she is not eligible to participate in the SNAP program. Disqualification from participation must be in accordance with the provisions of this section for a SNAP applicant and section 385.12(e) of this Part for a SNAP recipient. This provision applies if the employment involved 30 hours or more per week or the weekly earnings were equivalent to the Federal minimum wage multiplied by 30 hours, and the individual voluntarily quit his/her job within 30 days prior to the date of application for SNAP benefits or any time thereafter.

2) Reduction of work effort.

The reduction of work effort provision applies if, before the reduction, the individual was employed 30 hours or more per week and reduced his/her earnings to less than 30 hours multiplied by the Federal minimum wage; the reduction occurred within a period of 30 days prior to the date of application for SNAP benefits or any time thereafter; and the reduction was voluntary and without good cause

3) Minor variations in an individual's work hours or weekly minimum wage equivalent wages must be taken into consideration when assessing a SNAP recipient's compliance with work rules. Minor variations that are not expected to be of an ongoing nature shall not be considered a reduction in work effort or result in an individual who is exempt due to the hours of employment or minimum wage becoming a work registrant.

4) Benefits may not be delayed beyond the normal processing times as specified in section 387.14 of this Title pending the outcome of the determination of whether the applicant voluntarily quit his/her job.

5) In the case of a SNAP applicant household, it must be determined if any household member subject to SNAP work requirements voluntarily quit his or her job or reduced his or her work effort without good cause within a period of 30 days prior to the date of application.

- 6) In the case of a SNAP applicant household, if the household has lost a source of income or experienced a reduction in income after the date of application, but before the household is certified, it must be determined whether a voluntary quit or reduction in work effort occurred.
- 7) In the case of a SNAP applicant household where a voluntary quit without good cause by a household member has been established, the household member must be disqualified from the SNAP program for a period of time as outlined below, provided, however, that the time period of such disqualification shall begin on the date of the application for SNAP benefits.
 - (i) For 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 the requirements of this section as determined by the social services district.
 - (ii) 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 the requirements of this section as determined by the social services district.
 - (iii) 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 the requirements of this section as determined by the social services district.

8)

- (i) In the case of a SNAP recipient where a willful and without good cause voluntary quit or reduction in work effort by an individual has been established, including where the voluntary quit by the individual occurred prior to application or between application and certification, but which was discovered after certification, the individual must be disqualified from participation in accordance with the provisions of section 385.12(e) of this Part; provided, however, that the period of disqualification begins with the first month after all normal procedures for taking adverse action have been followed unless a fair hearing is requested and the household requests that SNAP benefits be continued without change. In such case, the disqualification period may not begin until the fair hearing request is withdrawn, the individual fails to appear or a fair hearing decision upholding the social services district's action is issued. An individual whose voluntary quit occurs or is determined in the last month of his/her certification period must be denied recertification for a disqualification period established pursuant to the provisions of section 385.12(e) of this Part beginning with the first month after the certification period ends. If such individual does not recertify, the disqualification period begins with the month after the month in which the voluntary quit occurred, and a claim must be established for any benefits received by the household during that period of ineligibility.

- (ii) In the case of a recipient where a voluntary quit by a member of the household has been established, the provisions of subparagraph (i) of this

paragraph apply, and the sanction will only apply to the needs of the disqualified member.

9) A household member who is an employee of any Federal, State or local government who is dismissed from his/her job due to participation in a strike is deemed to have voluntarily quit his/her job. The social services official must evaluate such a voluntary quit in accordance with the requirements of this subdivision. However, terminating a self-employment enterprise or resigning a job at the employer's demand cannot be considered a voluntary quit for purposes of this subdivision. In addition, for an individual who quits a job, secures new and comparable employment, but through no fault of his/her own, loses the new job, the earlier quit must not be considered a voluntary quit.

10) Persons who, at the time they terminated employment were exempt from the requirement to participate in SNAP work requirements pursuant to section 385.3 of this Part, are exempt from the voluntary quit provisions.

11) Applicants and recipients must be provided with appropriate notice as specified in section 387.20 of this Title if they are disqualified from participation due to a determination of voluntary quit. Such notification must contain the proposed period of disqualification, notice of the household's or a household member's right to reapply in order to resume participation at the end of the disqualification period established pursuant to the provisions of section 385.12(e) of this Part, and notice of such person's right to a fair hearing.

12) A person who has been disqualified for a voluntary quit and who joins a new household remains ineligible for the remainder of the disqualification period.

13) If an application is filed in the last month of disqualification, the social services official must use the same application for the denial of benefits in the remaining month of disqualification and for certification for any subsequent month(s) if all other eligibility criteria are met.

14) Good cause for leaving employment or reducing work hours.

(i) Prior to any action to deny or terminate eligibility, the social services official must determine whether there was good cause for terminating employment or reducing the hours of work to a total of less than 30 hours per week. In determining whether or not good cause exists, the social services official must consider all relevant facts and circumstances, including information submitted by the individual who quit or reduced his/her hours and by the current or former employer of such member. A determination of good cause will be made where the social services official finds that employment was terminated due to:

(a) discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(b) work demands or conditions that rendered continued employment unreasonable, such as not being paid on schedule;

- (c) acceptance by the individual of employment or enrollment of at least half-time in any recognized school, training program or institution of higher education, that required the individual to leave employment;
- (d) acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision which required the household to move and thereby required the individual to leave employment;
- (e) resignations by persons under the age of 60 which are recognized by the employer as retirement;
- (f) acceptance of a bona fide offer of employment of 30 hours per week or which on a weekly basis yields earnings of at least 30 times the Federal minimum wage but which, because of circumstances beyond the individual's control, subsequently did not materialize or which resulted in employment of less than 30 hours per week or which pays less than 30 times the Federal minimum wage on a weekly basis;
- (g) leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work; and
- (h) resignation from a job which is unsuitable pursuant to the criteria specified in paragraph (15) of this subdivision.

(ii) Questionable information pertaining to a voluntary quit must be verified. The social services district must aid the household in order to assist it to obtain needed verification. Whenever documentary evidence cannot be obtained, the social services district must substitute a possible collateral source. If the household and social services district are unable to obtain the requested verification because the voluntary quit resulted from circumstances that for good reason cannot be verified (such as a resignation from employment due to discrimination practices, unreasonable demands by an employer, or because the employer cannot be located), the household cannot be denied access to or terminated from participation in the program.

15) Any SNAP employment is considered unsuitable if:

- (i) the wage offered is less than the highest of the applicable Federal minimum wage, the applicable State minimum wage, or 80 percent of the Federal minimum wage, if neither the Federal nor State minimum wage is applicable;
- (ii) the employment is offered on a piece-rate basis and the average hourly yield the employee can reasonably expect to earn is less than the applicable hourly wages as specified in subparagraph (i) of this paragraph;
- (iii) the household member, as a condition of employment, must join, resign from, or refrain from joining a legitimate labor organization; or
- (iv) the work is at a site subject to a strike or lockout at the time of the offer, unless the strike has been enjoined under section 208 of the Labor-Management Relations Act, commonly known as the Taft-Hartley Act, or unless an injunction has been issued under section 10 of the Railway Labor Act.

16) In addition, employment is suitable unless the household member involved demonstrates or the social services district otherwise becomes aware that:

- (i) the degree of risk to health and safety is unreasonable;
- (ii) medical evidence or other reliable information documents that the individual is physically or mentally unfit to perform the job;
- (iii) the employment offered is not within the individual's major field of experience; however, this provision only applies during the first 30 days after the date of registration;
- (iv) the distance from the individual's home to the place of employment is unreasonable. In determining reasonability, the social services district shall consider the expected wage and the time and cost of commuting. Employment must not be considered suitable if daily commuting time exceeds two hours per day, not including the time involved in transporting of a child to and from a child care facility. Employment may also be considered unsuitable if the distance to the place of employment makes walking prohibitive and neither public nor private transportation is available;
- (v) the working hours or type of employment conflicts with the individual's religious observance, convictions or beliefs; or
- (vi) the individual lacks adequate child care for children in the household who are under age 13.

17) Ending a voluntary quit or reduction in hours disqualification.

(i) An individual may reestablish eligibility after the end of his/her disqualification period if he/she applies and is otherwise eligible, and if he/she:

- (a) complies with the requirements of this section and of this Part as determined by the social services district; or
- (b) secures new employment which is comparable in salary or hours to the job which was quit; however, comparable employment may entail fewer hours or lower net salary than the job which was quit; or
- (c) becomes exempt from SNAP work requirements pursuant to section 385.3 of this Part.

(ii) Eligibility may be reestablished during a disqualification, and the individual, if otherwise eligible, may be permitted to resume participation if the individual becomes exempt from SNAP work requirements pursuant to the provisions of section 385.3(a) of this Part.

(iii) Except in cases of permanent disqualification, following the end of a disqualification, if an application for SNAP benefits is filed in the final month of the mandatory disqualification period, the social services district shall use the same application for the denial of benefits in the remaining month of disqualification and for the certification for any subsequent month(s) if all other eligibility criteria are met.

Part B - Department Policy

Temporary Assistance (TA)

The term “voluntary quit” applies to applicants and recipients who leave employment or reduce their work hours of their own accord for the purpose of qualifying for initial or increased public assistance, including those who provoked their own termination from employment or a reduction in work hours.

An applicant will be ineligible for TA for 90 days from the date of the voluntary quit. The district must provide the individual an opportunity during the application process to give reasons for leaving or being terminated from employment or reducing their work hours or provoking the reduction of hours. It is the responsibility of the applicant to provide reasons or otherwise demonstrate that the voluntary quit was not for the purpose of qualifying for initial or increased public assistance. If, after providing the individual an opportunity to give reasons, the district determines that the applicant voluntarily quit his employment, a standard denial notice should be used, indicating that denial was due to a voluntary quit and referencing 18 NYCRR 385.13(a).

The ineligibility shall last until 90 days have elapsed from the date the individual left or reduced their employment. 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.

A recipient will be subject to conciliation and sanction in the same way as a recipient who fails to comply with a work activity assignment. This process will allow the individual to provide reasons for leaving or being terminated from employment or reducing their work hours or provoking the reduction of hours. If, after the conciliation process has ended, the district determines that the recipient did voluntarily quit his employment, then the individual must be issued a ten-day notice of intent indicating that they will be sanctioned due to a voluntary quit and referencing 18 NYCRR 385.13(a).

Voluntary quit sanctions for recipients are the same duration as those for noncompliance with work activities, so they are included when determining an individual 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 subsequent instance/s: 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 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)

The term “voluntary quit” applies to an applicant or recipient who leaves employment of 30 hours or more per week, or who reduces his or her work effort voluntarily and without good cause to less than 30 hours per week. (If an individual reduces their work effort to less than 30 hours a week, but continues to earn weekly wages that exceed the federal minimum wage multiplied by 30 hours, the individual remains exempt from SNAP work requirements and the reduction of work effort provision does not apply.) Unlike the definition for voluntary quit under TA, this definition does not include the assumption that the individual quit with the intent to qualify for public assistance or SNAP. Additionally, individuals who provoke their own discharge are not subject to SNAP voluntary quit sanctions.

The voluntary quit provision applies if:

- the employment involved 30 hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by 30 hours;
- the quit occurred within 30 days prior to the date of application or anytime thereafter; and
- the quit was without good cause for an applicant and was both willful and without good cause for a recipient.

Changes in employment status that result from terminating self-employment enterprises or resigning from a job at the demand of the employer will not be considered a voluntary quit.

The reduction of work effort provision applies if:

- before the reduction, the individual was employed 30 hours or more per week;

- after the reduction, the individual is earning less than the equivalent of 30 hours multiplied by the minimum wage;
- the reduction occurred within 30 days prior to the date of application or anytime thereafter; and
- the reduction was voluntary and without good cause.

The minimum wage equivalency does not apply when determining a reduction in work effort. The individual must be working 30 hours per week prior to the reduction in work effort, regardless of the rate of pay, to consider the reduction in work hours voluntary. For example, an individual working 20 hours per week at \$15.00 per hour, who reduces their weekly hours of employment to 12 hours per week at \$15.00 per hour, is not subject to the reduction in work effort provision.

An applicant will be ineligible for SNAP in accordance with the sanction periods identified in 18 NYCRR 385.12(e) if the voluntary quit without good cause took place within 30 days of application for SNAP. There is no such limitation for recipients. In instances where an individual voluntarily quit their job before applying for SNAP, but this fact was unknown to the district until after the individual became a SNAP recipient, the procedure will be the same as that for a recipient. The district must provide the individual an opportunity during the application process to give reasons for leaving or being terminated from employment or reducing his/her work hours or provoking the reduction of hours.

The regulations in this section provide several reasons which are considered to be good cause for a voluntary quit.

If, after providing the individual an opportunity to give reasons, the district determines that the applicant voluntarily quit their employment without good cause, a standard denial notice should be used, indicating that denial was due to a voluntary quit without good cause and referencing 18 NYCRR 385.13(b).

For applicants, the disqualification is effective as of the date of application for SNAP, whether the remaining household members are certified, or the application is denied.

For participants, the sanction period would begin the first month after all normal procedures for taking adverse action have been taken, (including a fair hearing).

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 first instance of voluntary quit or reduction in work effort without good cause, a period of 30 days (1 month) 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 (3 months) 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 (6 months) 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., 60 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 becomes exempt from 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. Individuals who are dismissed from federal, state or local government for participating in a strike are considered to have voluntarily quit without good cause. If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of his own, loses the new job, the individual must not be disqualified for the earlier quit.

Part C - Questions and Answers

Temporary Assistance

Q.1 For recipients in a household with dependent children, the first sanction for a recipient voluntary quit is “until willing to comply.” Other than the individual securing a comparable job or increasing their hours, what counts as willingness to comply?

A.1 For a TA recipient voluntary quit sanction the individual can demonstrate compliance by securing employment or participating in work activities as assigned by the social services district.

SNAP

Q.2 When does the sanction period for a voluntary quit or reduction in work hours to less than 30 per week begin and end?

A.2 For applicants, the disqualification is effective as of the date of application for SNAP. For SNAP recipients, the sanction period would begin the first month after all normal procedures for taking adverse action have been taken (including a fair hearing). For example, a member of a household has been determined to have quit his/her job without good cause on December 5th. Assuming that all adverse action procedures have been taken (determination that the quit was voluntary, sanction notice issued) within the month of December, the individual would begin his/her sanction with the month of January and end it 1, 3, or 6 months later depending upon the number of prior sanctions. Assuming that the household requests the district to add the individual to the case at the end of the sanction and the individual complies with work registration requirements as assigned, the individual’s needs would be considered in the month following the month that the household makes the request.

Q.3 Which individuals are subject to sanctions for voluntary quit/reduction in hours? Which ones are exempt?

A.3 An applicant, who is subject to SNAP work requirements, and who voluntarily quits a job of 30 hours or more per week or reduces their hours to less than 30 per week without good cause is subject to a sanction.

An individual recipient, who is a non-exempt work registrant and who quits a job of 30 hours or more per week, (or the equivalent of 30 hours per week multiplied by minimum wage) or reduces their work hours to less than 30 hours per week willfully and without good cause is subject to sanction.

For SNAP, sanctions do not apply to individuals who have been working less than 30 hours per week and who reduce their work hours, (note: minimum wage equivalency does not apply when determining a reduction in work effort). Additionally, sanctions do not apply to individuals who were working less than 30 hours per week or earning less than 30 hours multiplied by the minimum wage and who quit a job.

Examples of SNAP voluntary quit provisions:

- Working 30 hours or more per week and quit = subject to sanction;
- Working 30 hours or more per week and reduce to below 30 hours per week = subject to sanction (unless wages x hours worked are equal or greater than 30 hours x minimum wage);
- Working 20 hours per week @ \$15.00 per hour and quit = subject to sanction (due to minimum wage equivalency);
- Working 20 hours per week @ \$15.00 per hour and reduce to 12 hours of work per week = not subject to sanction;
- Working 20 hours per week @ \$7.25 per hour and quit = not subject to sanction.

An individual who is exempt from work requirements cannot be sanctioned for voluntary quit or reduction of hours unless the sole reason they are exempt is due to working 30 hours or more per week (or earning the equivalent of 30 hours multiplied by minimum wage).

Q.4 How does the date of the quit or reduction of hours relate to the sanction?

A.4 If an applicant quits a job more than 30 days prior to applying for SNAP, the district does not make a determination of voluntary quit or reduction in hours. In the case of a recipient, a district may take action when it discovers the infraction, even if more than 30 days have elapsed.

Q.5 Can a SNAP applicant or recipient be sanctioned for voluntary quit if the job was for less than 30 hours a week?

A.5 A voluntary quit occurs if the individual quit a job where the employment involved 30 hours or more per week or provided weekly earnings at least equivalent to the federal minimum wage multiplied by 30 hours. It is possible that a SNAP applicant or recipient could be sanctioned for a voluntary quit if the job was for less than 30 hours weekly, as long as the weekly hours multiplied by the rate of pay was at least equivalent to the federal minimum wage multiplied by 30 hours. For example, an individual employed 25 hours per week earning \$20 per hour will earn \$500 weekly wages, which is higher than 30 hours multiplied by federal minimum wage (\$217.50).

Q.6 Can a SNAP applicant or recipient be sanctioned for a reduction in the number of hours worked?

A.6 A sanction is only imposed for a reduction in the number of hours worked if the individual was working at least 30 hours a week prior to the reduction in work effort. If the individual reduces their work hours to less than 30 a week, but continues to earn weekly wages that exceed the federal minimum wage multiplied by 30 hours, individual remains exempt from SNAP work requirements and the reduction in work effort provisions does not apply.

Q.7 Can a SNAP applicant or recipient be sanctioned for provoking his or her own discharge from employment?

A.7 No. Individuals who provoke their own discharge from employment are not subject to SNAP voluntary quit sanctions. This policy differs from TA rules that do consider an individual who provoked his or her own discharge to have voluntarily quit the job. Additionally, changes in employment status that result from terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a voluntary quit for SNAP purposes.