



**Office of Temporary  
and Disability Assistance**

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**Temporary Assistance and Supplemental Nutrition Assistance Program (SNAP)  
Employment Policy Manual**

**Employment and Income Support Programs**

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## EISP Temporary Assistance and SNAP Employment Policy Manual

### Summary of Changes

#### Chapter # Page #

#### **Section 385.2, Part B.**

#### Explanation of revisions

Page 11: The language has been adjusted to clarify when districts must review an individual's exempt/non-exempt status.

Page 11: A reference to "public assistance" has been added prior to the list of reasons an individual may be exempt from work activities. Additionally, the phrase "full-time" has been inserted to clarify that individuals who are needed in the home full-time to care for a disabled household member are exempt from public assistance work activities. This change is consistent with Section 332 of the Social Services Law. The last bullet has been adjusted to advise districts to inform individuals that any work activity assignments will be consistent with the individual's documented limitations, if any.

Page 14: An adjustment has been made to clarify that a case in which an individual has been sanctioned may be excluded from the participation rate calculation for up to 3 months in a 12 month period.

Page 15: An adjustment has been made to the reference for recipients of unemployment compensation. Additionally, the reference to Welfare-to-Work programs has been changed to Temporary Assistance and Food Stamp Employment programs.

Page 16: The regulatory citation pertaining to grievance procedures has been corrected to 385.11(b).

Page 21: The language has been revised to provide that districts may require all adults applying for or receiving temporary assistance who are part of a household without dependent children to comply with an assessment. An adjustment has been made to clarify that only non-exempt individuals may be assigned to a work activity prior to the completion of the employment assessment.

Page 24: The reference to "mental barriers" has been changed to "mental health barriers."

Page 26: The language has been changed to indicate that exempt, including potentially employable individuals may be required to comply with an employment assessment.

Page 27: The reference to "without good cause" has been changed to "willfully and without good cause." The language pertaining to individuals who are required to apply for SSI as a condition of TA

eligibility has been changed consistent with the policy described in 06 ADM 06.

Page 29: Adjustments have been made to change the references to “without good cause” to “willfully and without good cause.”

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**Section 385.2, Part C.**

Part C is updated to accurately reflect the current definitions for employability codes “31”, “38”, “40” and “70” and to remove the reference to employability code “34” which is now obsolete.

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**Section 385.2, Part D.**

A.13 has been updated to be consistent with the policy described in 06 ADM-06.

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- (a) General participation requirements.

All applicants for and recipients of public assistance must participate in public assistance work activities assigned by the social services official in accordance with the requirements of this Part. Such applicants and recipients who fail to comply without good cause with the requirements of this Part shall be subject to the provisions of section 385.12 of this Part.

- (b) Exemptions from the requirement to participate in work activities. An applicant for or recipient of public assistance is exempt from participation in public assistance work activities pursuant to the requirements of this Part if he/she is determined by the social services official to be:
  - (1) ill or injured to the extent that he/she is unable to engage in work activities for up to three months, as verified by medical evidence;
  - (2) 60 years of age or older;
  - (3) under the age of 16 or under the age of 19 and attending full-time a secondary, vocational or technical school;
  - (4) disabled or incapacitated in accordance with the provisions of subdivision (d) of this section;
  - (5) needed in the home because another member of the household requires his/her presence due to a verified mental or physical impairment, and the social services official has determined that no other member of the household is appropriate to provide such care. For the purposes of this paragraph, the term "verified" shall mean that a licensed physician or certified psychologist has made the determination that such an impairment exists and that the household member is in need of care;

- (6) pregnant, beginning 30 days prior to the medically verified date of the delivery of the child;
  - (7) the parent or other caretaker relative in a one parent household of a child under 12 months of age who is personally providing care for such a child. This exemption must last for no longer than 12 months for any parent or caretaker relative's life.
    - (i) The exemption shall last no longer than three months for any one child unless the social services official makes a determination to extend the exemption for the child for up to the total 12 month maximum for the life of such parent or caretaker relative.
    - (ii) To the extent that the total of 12 months of exemption have not been exhausted by such parent or caretaker, the social services official shall apply the exemption to the parent or caretaker in the case of a child under three months of age, but shall determine whether to apply such exemption in the case of a child more than three months of age.
- (c) Documentation of exemption.
- (1) If an applicant for or recipient of public assistance claims that he/she should be exempt from work activities pursuant to subdivision (b) of this section for reasons other than a medical limitation on his/her ability to work, the social services official shall notify the individual verbally or in writing of the opportunity to provide to the social services official, within 10 calendar days of such notification, such evidence as the social services official deems necessary in order for the social services official to determine whether the applicant or recipient should be exempt from work activities. An applicant or recipient who claims that he/she should be exempt from work activities for reasons other than a medical limitation and who fails to provide documentation that he/she should be exempt will be deemed to have failed to meet the eligibility requirements for assistance pursuant to Part 351 of this Title. Failure of such documentation to substantiate the claimed exemption shall not itself cause the individual to be ineligible for public assistance.
  - (2) A recipient of public assistance who previously has been determined to be exempt from work activities pursuant to subdivision (b) of this section for reason(s) other than a medical limitation on his/her ability to work, and who claims that he/she should remain exempt, must provide such evidence as the social services official deems necessary in order for the social services official to determine whether the recipient should continue to be exempt from work activities. A recipient who fails to provide such evidence shall be deemed to have failed to meet the requirements for continued eligibility pursuant to Part 351 of this Title. A recipient may not be required to repeatedly produce a document already in the social services district's files regarding a condition which the social services official determine is not subject to change.
- (d) Disability and work limitation provisions.

**385.2 – The Regulations**

- (1) A social services official must, at application and recertification, or whenever he/she has reason to believe that an applicant for or recipient of public assistance might have a physical or mental impairment, inquire whether such individual has any medical condition which would limit his/her ability to participate in work activities.
- (2) Should the applicant or recipient declare that he/she has a mental or physical impairment, the social services official:
  - (i) shall notify the individual verbally or in writing of the opportunity to present to the social services official, within 10 calendar days of such notification, any medical documentation, including but not limited to, drug prescriptions and reports of the individual's treating health care practitioner (hereinafter referred to as the individual's practitioner). Such documentation must contain a specific diagnosis resulting from any medically appropriate tests and specify any work limitation of the individual; and/or
  - (ii) may refer the individual to a health care practitioner certified by the New York State Office of Disability Determinations (hereinafter referred to as the district's practitioner) for a determination of the individual's medical condition.
    - (a) If the social services official refers an individual to the district's practitioner prior to such individual submitting documentation from the individual's practitioner, the individual shall make his/her best efforts to bring the documentation to the examination by the district's practitioner, so that it may be reviewed as a part of the examination.
    - (b) In such instances, any documentation available from the individual's practitioner must be submitted to the district's practitioner no later than four days after the examination, provided that in no instance shall such time period exceed 10 calendar days from the notification set forth in subparagraph (i) of this paragraph, or the district's practitioner will not be required to consider it as a part of the evidence used to determine the individual's medical condition.
- (3) In evaluating an individual's claim of a physical or mental impairment, the social services official shall have sole discretion in determining whether any documentation provided by the individual or the individual's practitioner is sufficient evidence of the claimed or declared impairment.
- (4) In evaluating the initial claim of a mental or physical impairment made by an applicant, or the continuing claim of a medical impairment made by a recipient who has been previously determined exempt from participation in work activities, the social services official may require the individual to cooperate with measures to verify such claim and/or to submit documentation as described in subparagraph (2)(i) of this subdivision as a condition of eligibility for public assistance and food stamps in accordance with the requirements of Parts 351

and 387 of this Title. Failure of such documentation to substantiate the claimed impairment shall not itself cause the individual to be ineligible for public assistance.

- (5) In evaluating the ongoing claim of a mental or physical impairment made by an individual who has been determined by the social services official not to be exempt after a determination made in accordance with the requirements of this section, the social services official may require the individual to provide additional documentation from the individual's practitioner. Such individual remains non-exempt until and unless a different determination is made by the social services official.
- (6)
  - (i) In the absence of any claim of mental or physical impairment on the part of the individual, if the social services official suspects that such individual has a mental or physical impairment, the social services official shall refer the individual to the social services district's health care practitioner for an examination and determination of his/her medical condition.
  - (ii) The social services official shall notify the individual of an opportunity to present any medical documentation available from the individual's practitioner at the time of the examination, or in any event no later than four days from the date of that examination if the individual wishes such documentation to be considered by the district's practitioner in the determination of the individual's medical condition.
- (7) At the time that the social services official or the district's practitioner makes a determination of an individual's medical condition, the social services official shall notify the applicant or recipient in writing of such determination and of the right to request a fair hearing to contest such determination within 10 days of such notification.
  - (i) If the individual requests a fair hearing within the 10-day period, the social services official shall not assign the individual to work activities pending the fair hearing determination, except that the social services official may, during the pendency of a determination pursuant to this section assign an individual, with the agreement of such individual, to a limited work assignment which would be consistent with any limitations associated with the mental or physical impairments alleged by the individual.
  - (ii) Notwithstanding any requirement of Part 358 of this Title, an individual shall not have the right to a fair hearing to contest such determination if he/ she requests a fair hearing after the 10-day period specified in subparagraph (i) of this paragraph.
- (8)
  - (i) At any time after an applicant or recipient alleges that he/she has a mental or physical impairment which would limit his/her assignment to work activities, or render him/her exempt from assignment to work

activities and the social services official has reason to believe that the individual misrepresented that he/she suffered from such an impairment, the social services official shall notify the individual in writing of a potential sanction, the duration of which is consistent with the provisions of paragraph (2) of subdivision (d) of section 385.12 of this Part.

- (ii) The social services official shall effect such sanction if:
  - (a) he/she determines, based upon clear medical evidence, that there is no medical basis for the individual's claim that he/she is unable to participate in work activities based upon a physical or medical impairment; and
  - (b) he/she determines that the individual intentionally misrepresented his/her medical condition.
  
- (9) If the social services official refers an applicant or recipient to the social services district's practitioner for an examination as a result of a mental or physical impairment claim by the applicant or recipient, in accordance with the provisions of this section, the examiner shall:
  - (i) review and consider all records or information timely provided by the individual or his/her treating health care practitioner that are pertinent to the claimed medical condition;
  - (ii) provide to the social services official in writing a specific diagnosis as evidenced by medically appropriate tests or evaluations in determination of the individual's claimed condition;
  - (iii) indicate to the social services official and the individual in writing, a medical opinion which specifies whether the medical condition alleged by the individual is present or absent; the social services official shall be responsible for ensuring that the applicant or recipient does receive such written medical opinion;
  - (iv) report to the social services official the presence of any condition other than that which was alleged by the individual, but which was discovered in the course of the examination, which may interfere with the individual's ability to fully engage in work activities;
  - (v) determine whether the individual is:
    - (a) disabled and exempt from participation from work activities assigned in accordance with the provisions of this Part; provided, however, that such determination shall specify the duration of time for which the disability shall prevent the social services official from making an assignment to work activities;
    - (b) work limited, having specific identified limitations affecting the type of work activity to which the individual may be assigned; provided,

however, that such determination shall specify the duration of time for which such work limitations shall apply to such individual;

- (c) neither disabled nor work limited.
- (10) The social services official shall not assign to work activities any individual for whom a medical determination is pending, either as the result of a request by an applicant or recipient or direction of the social services official, until such a determination is rendered pursuant to the requirements of this section unless the individual agrees to a limited work assignment consistent with the individual's alleged medical condition.
- (11) Notwithstanding any other requirement of this section, an individual who is eligible to receive comprehensive health services through a special needs plan as set forth in paragraph (m) or (n) of subdivision one of section 364-j of the Social Services Law and the regulations promulgated thereunder, regardless of whether such a plan is operating in the social services district in which the individual resides, shall be considered to be either disabled or work limited, as determined by the social services official.
- (12) Notwithstanding paragraphs (l) through (11) of this subdivision, an individual whom the social services official suspects as having, or who indicates that he/she has an impairment that is due to alcohol or substance abuse, shall be subject to the requirements of subdivision (i) of section 351.2 of this Title.
- (13)
- (i) An individual shall be deemed to be work limited if the social services official determines that, in accordance with the provisions of this section for determining disabilities, such individual has mental or physical impairments which would limit his/her ability to engage in work activities in accordance to the requirements of this Part.
  - (ii) In the case of an individual who is work limited, the social services official shall assign such individual to work activities only if the assignment:
    - (a) is consistent with the individual's treatment plan when such plan is prescribed by the individual's practitioner and/or the social services district's practitioner;
    - (b) where no treatment plan exists, that the assignment is consistent with the individual's mental and physical limitations; and
    - (c) is determined to be appropriate by the social services official who is satisfied that such individual is able to perform the work assigned and that such assignment will assist the individual's transition to self-sufficiency.
- (14) The social services official shall, when assigning a recipient who is work limited to work activities pursuant to section 385.9 of this Part, inform in writing the

individual responsible for supervising such activities of any limitations of the recipient.

(e) Restoration to self-sufficiency.

An individual who has been determined to be exempt from participation in work activities in accordance with the requirements of this Part due to being disabled pursuant to this section, who in the judgment of the social services official has the potential to be restored to self-sufficiency through rehabilitation, may be required, when determined appropriate by the social services official, to:

- (1) provide information from the individual's practitioner or submit to an examination by the social services district's practitioner in order to determine whether or not the individual can recover from a mental or physical impairment;
- (2) accept medical care provided by the social services official or made available through other agencies to assist the individual in recovering from a mental or physical impairment and in restoring the individual to self-sufficiency;
- (3) accept referral to and enrollment in a program of vocational rehabilitation, training and other essential rehabilitation designed to restore an individual to self-sufficiency;
- (4) give evidence, as requested by the social services official, that he/she is participating in a program assigned by the social services official in accordance with the provisions of this subdivision.

(f) Engaged-in-work requirement.

- (1) For the purposes of this subdivision, the term "engaged-in-work" shall be defined by the social services official. Such definition shall be included in the social services district's local plan prepared pursuant to the requirements of section 385.10 of this Part.
- (2) The social services official shall ensure that each parent or caretaker of a dependent child, when such parent or caretaker is receiving public assistance funded through the Federal Temporary Assistance to Needy Families Program, is engaged-in-work as soon as practicable, but no later than 24 months (whether or not consecutive) from initial receipt of assistance. For the purposes of this paragraph, the initial receipt of assistance for individuals who were receiving such assistance on or before December 2, 1996 shall be December 2, 1996.
- (3) The social services official shall ensure that each parent or caretaker of a dependent child, when such parent or caretaker is receiving public assistance which is not funded through the Federal temporary assistance to needy families program, and each adult member of a household without dependent children who is receiving public assistance, is engaged-in-work as soon as is practicable. Individuals exempt pursuant to subdivision (d) of this section should not be considered by the social services official when complying with the requirements of this paragraph.

## **Part B. Department Policy For Section 385.2**

### **Overview**

All applicants for and recipients of public assistance must comply with employment requirements and social services districts should facilitate an individual's progression to economic self-sufficiency by providing appropriate services. While all recipients have employment responsibilities, the type of assignment a district may require and the consequences of noncompliance differ depending on the district's determination that the individual is either exempt or non-exempt from work activity assignments. This determination is made based upon an evaluation of the individual's abilities and barriers. Additionally, the work activity that will most benefit a client differs depending on the client's skills, abilities and limitations.

Office of Temporary and Disability Assistance policy discussed in this section includes:

- The exempt/non-exempt determination and exemptions from public assistance work activity assignments;
- Identifying barriers to participation;
- Federal disabilities rights laws and public assistance employment requirements;
- The "disability review procedure," which is the procedure for determining whether or not an individual has any health-related limitations;
- Categories of health-related exempt/non-exempt status;
- Employment requirements for each exempt/non-exempt status;
- Consequences of noncompliance with an employment requirement;
- Consequences for failure to cooperate with efforts to obtain medical documentation; and
- The timeframes by which all individuals must be "engaged in work."

## **The Exempt/Non-exempt Determination**

The exempt/non-exempt determination is the district's determination of the extent to which a public assistance recipient can participate in work activities. The determination is based upon an evaluation of the individual's physical abilities and mental health, as well as other factors that may affect the individual's ability to work. Work activities are those activities listed in Section 385.9 of 18 NYCRR, including work experience, job search and job skills training. In certain circumstances, the social services district may also require an individual to participate in other work-related activities such as treatment to help move them toward self-sufficiency.

The primary exempt/non-exempt categories affect the types of employment-related activities that may be required and the corresponding penalties for noncompliance. Individuals who are incapable, even with accommodation, of participating in work activities or who are excused from participation because of their age or caretaker status are deemed to be exempt. Within the primary exempt/non-exempt categories are individuals with a range of abilities. For example, a client who is determined to be work limited due to certain health related barriers is required to participate in work activities which are consistent with the individual's documented limitations and is subject to the non-exempt penalties, but the individual has certain health-related barriers that must be accommodated. Also, clients who are exempt from participation in work activities may be able to participate in rehabilitation activities. Individuals with impairments must not be assumed to be exempt and districts should evaluate each individual's ability to participate in work activities or rehabilitation services through the disability review procedure.

### ***Review Exempt Status***

Districts must determine whether or not an individual is exempt or non-exempt from work activities before making an employment assignment. Districts must review an individual's exempt/non-exempt status at application, recertification or whenever there is reason to believe the status may have changed. Districts may also choose to review an individual's exempt/non-exempt status during assessment as described in 385.6 and 385.7 of 18 NYCRR. Any time the district is making a determination of whether or not an applicant or recipient suffers from physical or mental health limitations that may affect his or her ability to participate in work activities, it must follow the disability review procedure specified in 18 NYCRR 385.2 (d) and discussed below.

### **Exemptions from Work Requirements 18 NYCRR 385.2 SSL § 332**

An individual is exempt from the requirement to participate in public assistance work activities if he or she is:

- ill or injured for up to three months, as verified by medical evidence;
- sixty years of age or older;
- under sixteen years of age or under the age of nineteen and attending full time a secondary, vocational or technical school;
- disabled or incapacitated and unable to work in accordance with the disability review procedure;
- needed in the home full-time to care for a disabled household member; pregnant, beginning 30 days prior to the medically verified due date; or
- the parent or caretaker of a child under three months of age. (Note: An individual may be exempted for this reason for a lifetime total of 12 months. The district may choose to extend the exemption beyond three months for one child up to the 12-month maximum.)

### **Client Notification**

Public assistance applicants and recipients are notified through the “Rights and Responsibilities” booklet (LDSS 4148A) of the factors that may exempt them from work requirements. Districts are required to distribute the booklets to clients at application and recertification. Districts must also verbally discuss the exemptions (e.g., at orientation and during assessment) to ensure that those with difficulty reading and/or comprehending the written material are adequately informed. When explaining exemptions, districts should inform individuals of the following:

- a disability or barrier will not disqualify the individual from receiving public assistance benefits;
- disclosure of a disability is voluntary unless the individual is not able to fully participate in work activities (more information on voluntary disclosure is provided below);
- health-related information about the individual will be kept confidential;
- the accommodations and services which are available to individuals with identified disabilities;
- the different types of barriers (e.g., physical disabilities, mental health issues, learning disabilities, caretaker of ill household members); and,
- any work activity assignments will be made consistent with the individual's documented limitations, if any.

These notifications have been incorporated into the “Rights and Responsibilities” booklet (LDSS 4148A.) A stand-alone model notice is also available for district use (see Section Fifteen.)

### Identifying Barriers

When making the exempt/non-exempt determination, districts evaluate an individual's specific abilities and barriers to determine the most appropriate employment assignment. To make the correct exempt/non-exempt determination, it is necessary to identify factors that could limit participation. It is important to note that the presence of a barrier does not automatically mean that

an individual is exempt. Districts must evaluate the extent to which an individual's barrier(s) affects participation in employment activities.

Workers may be able to identify possible barriers to participation through the use of screening, assessments, or case management. Some barriers are not readily apparent and may become more evident over time. For example, as a worker gets to know an individual through case management contacts, the worker may begin to suspect possible unidentified barriers impeding the individual's progress. The worker could then address the suspicion with the individual and discuss identifying the disability/limitation so it can be appropriately accommodated. Individuals who claim to be work limited or exempt from work requirements must comply with the disability review procedure to have any limitations accommodated. Individuals may not be required to disclose a disability and may choose to participate in employment activities without accommodation.

Districts may choose to offer screening and have trained staff administer validated screening tools to specifically identify client barriers to work. For example, the Washington State screening tool for learning disabilities identifies those individuals who are likely to be learning disabled. The district is not required to notify individuals of the results of screening because screening alone does not render a determination of disability or impairment. If the screening indicates the individual may have a work-related barrier, the district should obtain a qualified professional's assessment of the extent to which a barrier exists, how it affects the individual's ability to participate in work activities and then determine how it can best be accommodated.

### ***LDSS 4005 and 4005 (a)***

#### Notification of Exempt/Non-Exempt Status

Districts must notify an individual of its exempt/non-exempt determination whenever an individual alleges to be unable to participate, or the individual otherwise participates in the employability disability review described in 18 NYCRR 385.2. Districts must also notify an individual whenever his/her status changes from exempt to non-exempt. Districts must use the Notification of Temporary Assistance Work Requirements Determination (Exempt) (LDSS 4005) or Notification of Temporary Assistance Work Requirements Determination (Nonexempt) (LDSS #4005 (a) (or an approved local equivalent) to notify an individual of its determination. These notices and related instructions are contained in Section 17 of the manual.

***Exempt status may affect participation rates. See Section 8 of Manual***

#### Relationship Between Exempt/Non-Exempt Status and Work Participation Rates

Although State law exempts certain individuals from participation in work activities, federal law does not exempt TANF recipients from participating in work activities and, therefore, includes almost all individuals in the calculation of work participation rates. Specific information regarding work participation rates is included in Section 8 of this manual. The only federal exemption that excludes a case from the TANF participation rate calculation is for an individual in a true single-parent case who is personally providing care for a child under the age of one for a maximum of twelve months during the 60-months duration of the case. (Note: while a parent in either a single parent or two-parent family may be exempt from participation in work activities because he/she is the caretaker of a child under twelve months, only true single parent families with the exemption are removed from the TANF All-Families participation rate calculation.) Cases may be excluded from the federal rate for only three other reasons: for up to 3 months in a 12-month period during which time an individual has been sanctioned for failure to comply with employment requirements; cases with a parent who is the caretaker of a disabled child or other disabled family member residing in the household; and child only cases. Two-parent households in which one parent is disabled are excluded from the Two-Parent participation rate, but remain part of the All-Families rate.

### **FSET Exemptions**

**See Section 3 of Manual**

### Relationship Between Public Assistance Work Requirement Exemptions and Food Stamp Employment and Training Requirements

A determination of exempt/non-exempt status must be made for both public assistance and food stamps. Specific information regarding food stamp work requirement exemptions and food stamp employment and training (FSET) activities is included in Section 3 of this manual. An individual may be required to participate in public assistance work activities, but be exempt from participation in food stamp work requirements; therefore, a separate determination must be made for each program.

Individuals who are not exempt from public assistance work activities who may be exempt from participation in food stamp work requirements include recipients of unemployment compensation, students enrolled at least half-time in a training or education program and a caretaker of a child under six years of age (unless the caretaker is participating in a TANF work experience program).

## **Federal Disability Laws and Employment Requirements**

The Personal Responsibility and Work Opportunities Reconciliation Act requires that Title II of the Americans With Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) apply to TANF programs. The ADA (42USC Section 12101 et seq.; 28 CFR Part 35) applies to states, counties and other local governments administering all or part of a TANF program, and Section 504 (29 USC Section 794; 45 CFR Part 84) applies to entities which receive federal funding, either directly or indirectly, through a grant, contract or subcontract. The ADA and Section 504, as they apply to Temporary Assistance and Food Stamp Employment programs, require that districts:

- ensure equal access to employment programs for qualified people with disabilities through the provision of appropriate services;
- adopt methods of administration which do not discriminate against, and which ensure equal access and opportunity to qualified individuals with disabilities; and
- modify policies, practices and procedures to provide equal access which allows qualified individuals with disabilities to participate in and benefit from employment programs unless doing so would fundamentally change the program or cause an undue hardship.

### ***Equal Access***

#### Ensuring Equal Access

To ensure that individuals with disabilities are provided with equal access to employment programs, districts must first assess clients' specific abilities and limitations, and may not make work activity assignments based on generalizations or stereotypes. For example, a district may not determine that any individual with a disability is to be assigned to the same activity or to no activity.

### ***Reasonable Accommodations***

Qualified individuals with disabilities must be provided reasonable accommodations so they have an opportunity to participate in and benefit from services and programs in a manner that is as effective and meaningful as the opportunities available to individuals without disabilities unless doing so would fundamentally change the program or cause the district an undue hardship. The district, when developing the employability plan as described in 18 NYCRR 385.6 and 385.7, should determine what activities are appropriate and available and what accommodations are necessary to allow the individual to participate. Additionally, individuals with disabilities may require accommodation when scheduling appointments. For example, when assigning an individual to appear for an assessment, the district should consider if the individual needs to be seen with little waiting period or has a health-related appointment that conflicts with the appointment time. A discussion of determining appropriate activity assignments is provided below.

For more information regarding federal disability laws, districts may refer to the federal statutes and regulations cited above, or visit the United States Department of Health and Human Services Office for Civil Rights website at [www.hhs.gov/ocr](http://www.hhs.gov/ocr).

**Also see**  
**18NYCRR 385.11(b)**

Grievance Procedure

Whenever an individual requests an accommodation, the district must record the request, including the district's response, in the individual's case record. If an individual who has requested an accommodation believes he/she has not been adequately accommodated, the individual may request in writing to have the matter resolved through the district's grievance procedure as described in 18 NYCRR 385.11(b). The grievance procedure is to be applied whenever an individual who has requested a specific accommodation believes that the district has not adequately responded to the request. The district has thirty days from the date of the written request to resolve the grievance, and must provide for at least one meeting with the individual, appropriate staff and the mediator. The district must also provide the individual with the results of the grievance procedure in writing. If the matter is not resolved through the grievance procedure, the individual must be informed of the right to a fair hearing. The grievance procedure is not used for disputes regarding the district's determination of the exempt/non-exempt status, which is disputed through the fair hearing process, as described in the disability review procedure below.

***Participation Requirements***  
***During Grievance***

During the grievance process, the individual may not be sanctioned for failing to comply with the disputed activity or appointment, however, consistent with 18 NYCRR 385.11(b), the individual may be required to participate throughout the adjudication process. If the client's grievance alleges that the worksite is not appropriately accommodating the individual's health limitations, the individual may not be required to perform the specific worksite tasks at issue until the district determines the individual's limitations are being accommodated.

Voluntary Disclosure

In general circumstances, the United States Department of Health and Human Services prohibits requiring an individual to disclose a disability. Therefore, general screening for a disability, including learning disabilities and mental health disorders, must be voluntary for Temporary Assistance clients. Nonetheless, districts must inquire about an individual's health-related limitations to determine appropriate work assignments. Districts are encouraged to offer screenings as part of a mandatory employment assessment. If an individual refuses to disclose

or cooperate with efforts to identify a suspected disability, the district should discuss the following with the individual:

- an impairment is suspected and that disclosure is voluntary;
- the steps the district wishes the individual to take to identify the suspected impairment;
- the benefits of identification, including the accommodations and services which are available to individuals with documented disabilities; and,
- if he or she chooses to not disclose a disability or cooperate with efforts to identify a disability, he or she may be required to participate in work activities without accommodation.

### ***Waiver of Accommodations***

Districts should document in writing when an individual with a suspected disability refuses to participate with efforts to verify the disability and chooses to participate in work activities without accommodation. A sample waiver is available for district use that describes the requirements and benefits to the individual and has a place for the individual to sign acknowledging he or she has been informed and chooses to participate without accommodation. These individuals would be non-exempt and assigned to work activities without applying the disability review procedure. See Section 15 for the sample waiver form.

### ***Voluntary Screening and Assessment of Disability***

Districts are not limited in their ability to assess an individual's non-health related barriers if the assessment is not intended to identify a disability. For example, assessments that determine an individual's education level, literacy level or English language proficiency are not intended to identify any specific disability and the district may require the individual's cooperation as part of the mandatory assessment.

#### **Exceptions to Voluntary Disclosure**

General screening for a disability under Temporary Assistance programs must be voluntary for the client; however, there are circumstances when identification and treatment for a disability is critical to program administration. Under these circumstances, a client may be required to participate in efforts to evaluate a suspected disability and participate in necessary treatment. Districts may require a client to participate in a screening and evaluation of a suspected disability under the following circumstances:

- If a client claims to be unable to work, or limited in his or her ability to work due to a disability, the individual may be required to participate in a screening and evaluation to verify the alleged disability/work limitation and to identify appropriate services. Failure to participate in efforts to document an alleged disability is subject to public assistance case closure in accordance with 18 NYCRR 385.2(d).
- If a client has demonstrated an inability to successfully participate in work activities or employment and the district has reason to believe this is due to a disability/work limitation, the district may require the client to participate in a disability related screening and/or evaluation. Additionally, if a client has demonstrated an inability to successfully function in a work setting and is determined through an evaluation/assessment to need treatment, the client may be required to participate in necessary treatment as a condition of eligibility for public assistance in accordance with 18 NYCRR 385.2(e).

Individuals with confirmed disabilities must be provided with reasonable accommodations and services to support their participation in employment activities and programs.

## Disability Review Procedure

**SSL § 332-b  
18NYCRR  
385-2(d)**

An individual's capacity to participate in work or other employment activities can range from having no health barriers to employment to permanent disability. Districts may not assume that individuals with disabilities are unable to participate and exempt but instead must accurately document each individual's specific abilities and limitations to support appropriate work activity assignments.

At the time of application and recertification districts must inquire whether the applicant/recipient has any medical or other conditions that would limit his or her ability to participate in work activities. Additionally, districts should review health-related factors whenever an individual alleges an impairment or the district has reason to believe that one exists. For example, districts may suspect a hidden disability after repeated job losses or work activity failures.

If an individual claims or the worker has reason to believe that an individual is unable to participate in work activities, the district must comply with the disability review procedure which includes the following requirements:

- The district may not assign an individual with an alleged or suspected impairment to a work activity until it completes the disability review, unless the individual agrees to such assignment and it is consistent with the alleged limitation.
- The district must notify the individual verbally or in writing that he or she may provide medical documentation to the district within ten calendar days. The medical documentation submitted by the client may include, but need not be limited to, drug prescriptions and reports from the individual's practitioner. To render the documentation useful for purposes of the district's determination of disability, the district may want to inform the individual to submit documentation that 'contains a specific diagnosis and a list of the individual's resulting work activity limitations.
- The district shall decide if the medical documentation provided by the individual or the individual's practitioner is sufficient evidence to support the alleged impairment. There is no requirement that the client's health care practitioner is a certified physician or certified psychologist. Nevertheless, the district always has the option to rely solely on medical evidence submitted by a client or to send the individual to the district's own health care practitioner for additional documentation.
- If the district requires an individual to submit medical evidence of an impairment from his or her own health care provider, then the client must have 10 days to submit the evidence. There may be instances when the district determines that 10 days is insufficient and it may extend the time allowed for the submission of documentation. This may include, but is not

limited to, instances where an individual is unable, through no fault of his or her own, to obtain an appointment with his or her health care provider within the 10 day period.

- If the district sends the client to its own health care provider for a medical exam, the client should be directed to bring any medical documentation to the exam, and he/she must be given 10 days to submit medical information. The district must notify the individual and should ensure the individual understands his or her right to provide medical evidence within 10 days.
- The district's health care practitioner must be certified by the Division of Disability Determinations (DDD) within the Office of Temporary and Disability Assistance. Districts should contact the DDD for information regarding the certification process.
- The district's practitioner is required to provide to the district a specific written diagnosis based on medically appropriate tests or evaluations conducted regarding the alleged impairment. The practitioner must also report to the district any other conditions discovered during the evaluations that would affect the individual's participation in work activities. The district must provide the client a copy of the practitioner's report.
- The district must provide written notification of its determination. If the individual does not agree with the district's determination of his or her exempt/ non-exempt status and any limitations, he or she has only 10 days in total from the issuance of the LDSS 4005 or 4005(a) to request a fair hearing. If the individual requests a fair hearing within the 10 days, the district may not require the individual to participate in work activities pending the fair hearing determination. However, if the individual agrees to the assignment, a district may assign such an individual to a work assignment consistent with any alleged limitations.

#### Collection of Medical Evidence

Rather than relying solely on an individual's practitioner to determine to what extent an individual can participate in work activities, districts may find it advantageous to employ or contract with someone qualified to interpret medical evaluations provided by individuals' health care practitioners, or to contract with a provider to examine individuals directly and make a determination. It is beneficial to both the client and the district to have a medical professional consult on determinations and to identify any necessary treatment or accommodations. The examining professional should be made aware of the purpose of the evaluation and how the district will use the results. A district may want to:

- Attach a cover letter to the medical form that explains what information the district needs and how it will be applied.
- Contract with a specific provider who is aware of the district's goals and intent.

- Speak with the individual's examining professional directly if the medical documentation requires clarification or is inconsistent with your observations.

**See Section 15 of  
the manual for a  
sample notice**

#### Misrepresentation of a Disability

If the local district has reason to believe an individual does not have a claimed disability or limitation, and such belief is based in fact upon medical or other evidence, the district must provide the individual written notification that a sanction may be imposed if the medical evaluation process results in a determination that he or she does not suffer from a limitation. Districts should then impose a sanction if the medical evidence indicates there was no basis for the individual's claim and the district determines that the individual intentionally misrepresented his or her medical condition. Regardless of whether the household has dependent children or not, the sanction period is 90 days for the first sanction, 150 days for the second, and 180 days for the third. (See Section 12 of this manual for specific information regarding a sanction for misrepresentation of a disability.) This sanction notice is supported by the automated client notices system.

#### Relationship Between Disability Review Procedure and Assessment Requirements

A determination of exempt/non-exempt status is distinct from the assessment requirements outlined in Sections 6 and 7 of this manual and Sections 385.6 and 385.7 of 18 NYCRR; however, a district may choose to fulfill both requirements at the same time. Districts have the option to make the determination of an individual's exempt/non-exempt status either before conducting an employability assessment or in conjunction with the assessment process, however, the information obtained about the individual when determining exempt/non-exempt status should be incorporated in the client's assessment and employability plan. The assessment and employability plan should reflect an individual's current circumstances and therefore should be updated as circumstances change, including when an individual's exempt/non-exempt status changes. When fulfilling these requirements, districts must consider the following:

- An individual's exempt/non-exempt status must be determined prior to making an employment assignment and must be reviewed at recertification or sooner if there is reason to believe an individual's status may have changed. As described above, changes should be incorporated in the assessment and employment plan.
- Employment assessments for households with dependent children must be completed within 90 days of case opening and are required of both the exempt and the non-exempt as described in Section 385.6 of 18 NYCRR.

- Employment assessments for households without dependent children must be conducted within a year of the date of application for safety net assistance and districts are only required to complete an employment assessment of those non-exempt from employment requirements as described in Section 385.7 of 18 NYCRR. However, districts are encouraged to provide assessments and may require all adult individuals applying for or receiving temporary assistance who are part of a household without dependent children to comply with an employment assessment.
- Only non-exempt individuals may be assigned to a work activity prior to completion of the employment assessment as described in Sections 385.6 and 385.7 of 18 NYCRR.

***See Medical Documentation  
Requirements 18NYCRR  
385.2(d) SSL 332-b***

The collection of documentation regarding an individual's health status is subject to disability review procedure requirements, even if the information is requested during the individual's employability assessment and plan. Client penalties for failure to comply with the district's efforts to document an alleged medical barrier differ from the penalties for noncompliance with an assessment.

## Medical Documentation Requirements for Clients

Periodic medical reviews are necessary to update an individual's progress toward economic self-sufficiency. This is especially true for those individuals who are work-limited, or potentially non-exempt. Districts should reevaluate an individual's exempt/non-exempt status at least annually at recertification and whenever there is reason to believe the status may have changed.

The request for medical documentation or referral of an individual to a medical assessment for the purpose of determining exempt/non-exempt status is an eligibility requirement as stated in 18 NYCRR 385.2(d). An individual who fails to cooperate with the district's effort to obtain medical documentation is subject to case denial or closing for noncompliance (the entire filing unit closes or is denied assistance), unless the individual has agreed to participate without accommodation in accordance with voluntary disclosure procedures described above. Requests for medical documentation that are subject to case denial or closing include, but are not necessarily limited to, requests under the following circumstances:

- An initial determination of public assistance exempt/non-exempt status when the individual alleges a work limitation or has demonstrated an inability to function in an activity;
- An update or review of an individual previously determined to be exempt, including the potentially non-exempt;
- An update or review of an individual previously determined to be work-limited; A determination of exempt/non-exempt status following a new claim of disability by non-exempt recipients; and
- To develop a treatment plan for individuals with medical limitations (both exempt and non-exempt).

There are certain circumstances for which a district may request medical documentation that are not eligibility requirements. These circumstances include:

- The continued claim of the same disability made by a nonexempt recipient. An individual who claimed a disability and was determined by the district to be non-exempt, but does not agree with the district determination always has the right to furnish additional evidence. However, if the individual does not request a fair hearing within 10 days of being notified that he or she is non-exempt, the individual must participate in employment programs as assigned. The individual remains non-exempt until and unless the district determines the individual to be exempt.
- Failure to cooperate with efforts to obtain medical documentation required by a worksite prior to participation in a particular work assignment. An individual who fails to cooperate with efforts to obtain medical documentation that is required by the worksite is considered to be noncompliant with an employment assignment and subject to a pro-rata employment sanction.

## **Employment Requirements for Each Exempt/Non-Exempt Status**

The employment activities an individual may be assigned to and the subsequent penalties for noncompliance differ depending on the individual's primary exempt/non-exempt status. Districts must assign employment activities that are consistent with individuals' abilities and must ensure that any limitations are accommodated. Additionally, because current information regarding an individual's abilities is essential to support employment assignments that best promote self-sufficiency, districts should ensure that they update information about the individual's abilities as necessary. The following describes the health-related categories of participation for each exempt/non-exempt status and provides guidelines that broadly outline the allowable employment activities for each category.

### **Non-Exempt**

**An individual should be determined to be non-exempt if he or she is capable of participating in work activities.** Non-exempt individuals range from those who have few or no work-related limitations to those with more severe limitations, but for whom an employment assignment with accommodation is appropriate.

Non-exempt individuals fall within one of the following categories:

***Non-Exempt:  
Does not meet one  
of the exemptions  
in 385.2***

#### **Non-exempt: No limitations**

- The individual has no physical or mental health barriers to employment and can fully participate in work activities.
- The individual may be assigned to any work activity included in Section 385.9 of 18 NYCRR or to participate in an assessment as required by Sections 385.6 and 385.7 of 18 NYCRR.

***Non-Exempt, but  
Work Limited  
See 385.2(d)(13)***

#### **Non-exempt: Work Limited**

- The individual possesses physical and/or mental health barriers to employment which may range from mild to severe. However, the individual is able to participate in work activities with appropriate accommodation.

- The individual may be assigned to any work activity included in Section 385.9 of 18 NYCRR; however, any assignment must be consistent with the individual's limitations. The individual is also required to participate in an assessment as required by Sections 385.6 and 385.7 of 18 NYCRR.
  - Districts must inform worksite supervisors in writing of the individual's limitations to ensure they are accommodated. This information should be presented in a manner that is easily understood by the supervisor and which does not disclose a specific diagnosis of disability. For example, inform the supervisor that the individual cannot lift over 10 pounds, but not the specific medical diagnosis. The information must be transmitted as confidential, protected information.
  - The district cannot assign the individual to a work activity which would interfere with a medical treatment plan or which otherwise would be inappropriate in view of the individual's medical limitations.
- The individual is required to accept any medical care or otherwise comply with a treatment plan deemed necessary to recovery.
  - Treatment plans may include vocational rehabilitation or therapy and should be developed by a qualified individual.
  - Each plan must be appropriate and beneficial to the individual's needs and consistent with his/her limitations.
  - Treatment intensity should correspond to the severity of the individual's limitations.

Note: Individuals with suspected limitations who wish to be assigned without accommodation according to the voluntary disclosure procedures described above are considered to be non-exempt and may be assigned to work activities without accommodation. However, the individual may at any time decide to comply with efforts to identify his or her suspected disability and the district must then follow the disability review procedure requirements described above. Additionally, if the individual demonstrates an inability to successfully function in a work setting, the district may require medical evaluations, assessments, and resulting necessary treatment.

### ***PA Work Exemptions*** **385.2**

#### **Exempt**

Exempt individuals include those who are unavailable for a work assignment for reasons such as being needed as a caretaker of another individual, who are exempt due to age and those who are exempt due to health-related limitations.

**An individual should be determined to be exempt due to health factors if he or she is not currently capable of employment in any capacity. Individuals**

**who have been determined to be exempt by the district through the disability review procedure may not be required to participate in the work activities described in 18 NYCRR 385.9.** Districts may assign individuals determined to be exempt from participation in work activities to treatment that has been determined by a health care practitioner as appropriate and necessary to improve the individual's ability to work. Additionally, in certain instances a service organization may have

#### **Exempt: Time-Limited Condition**

- The individual has a condition that results in a temporary removal from the workforce (e.g., a broken leg or postpartum 6-week period).
- There should be no work assignment for the time period defined by the limitation, following which the individual's condition should be reevaluated.
- The individual is required to participate in an employment assessment as required by Sections 385.6 and 385.7 of 18 NYCRR.
- The individual may be required to comply with medical treatment necessary for recovery.

#### **Exempt: Potentially Non-Exempt**

- An individual who is currently exempt due to significant physical or mental health barriers to employment such that an assignment to work activities would be inappropriate may be considered potentially "non-exempt" to the extent that treatment, as determined necessary by a health care professional, is expected to improve the individual's health so he or she is able to participate in work activities or employment. This category includes those individuals with significant developmental barriers who are currently incapable of competitive employment but have the ability to participate in sheltered workshops as determined appropriate and necessary by treating professionals.
- The individual may not be required to participate in work activities.
- The individual is required to participate in an employment assessment as required by Sections 385.6 and 385.7 of 18 NYCRR.
- The individual is required to accept any medical care or treatment deemed necessary to recovery and to comply with any prescribed treatment plans or evaluations.
  - Any treatment plan must be appropriate and beneficial to the individual's needs and consistent with his or her limitations.
  - Treatment intensity should correspond to the severity of the individual's limitations.

- Treatment may include work-like activities, if part of a treatment assignment prescribed by a health care professional. Districts may not independently assign such individuals to work activities.

- An SSI application should be filed and actively pursued if appropriate.

### **Exempt: Permanently Unable to Participate**

- The individual possesses severe and permanent barriers to employment and would not currently benefit from rehabilitation or treatment. This category may include individuals who voluntarily participate in a sheltered workshop setting and are not currently expected to become able to work in the future.
- The individual may not be required to participate in work activities or any other employment-related activities.
- The individual is required to participate in an employment assessment as required by Sections 385.6 and 385.7 of 18 NYCRR (see Note below).
- An SSI application should be filed and actively pursued.

### **Assessment Requirements for Exempt**

Note: A public assistance recipient who willfully and without good cause fails to comply with assessment requirements is subject to a pro-rata sanction in accordance with Section 385.12 of 18 NYCRR. An applicant who fails to comply with assessment requirements is denied (case denial) [see 18 NYCRR 385.6(a)(6)(1) or 385.7(a)(6)(1)].

### **Exempt Substance Abusers**

#### Additional Considerations

An individual whose disability is due to alcohol or substance abuse is subject to the requirements of subdivision (i) of Section 351.2 of 18 NYCRR. However, the individual must still be considered within the framework of ability listed above when determining his or her exempt status. This determination is best done in cooperation with the provider who completes the formal drug/alcohol assessment.

### **HIV Clients**

An individual who is eligible to receive health services through a comprehensive HIV special needs plan (Social Services Law § 364-j(1)(n)) shall be considered to be either disabled or work limited by the district.

***SSI Applicants not  
Categorically Exempt***

An individual with physical or mental disabilities may pursue SSI/SSD independently or as required by the district. These individuals are still required to comply with the disability review procedure and to cooperate with efforts to determine his or her exempt/non-exempt status. Individuals who are required by the district to apply for SSI as a condition of eligibility are considered exempt and cannot be assigned to work activities (see 06ADM06). The district may only assign the individual to work activities if it determines, based on medical evidence, that the individual is no longer required to pursue SSI as a condition of eligibility, and has notified the individual that he or she is no longer exempt from work requirements.

**Client Penalties for Noncompliance with Employment Requirements**

The penalty imposed for failure to comply with public assistance employment requirements will vary depending on whether or not the individual is exempt or non-exempt from assignment to work activities and whether or not the individual is an applicant or a recipient of public assistance. Specific information regarding the imposition of a work-related sanction or other penalty is contained in Sections 11 and 12 of this manual.

***Non-Exempt Sanction*****Non-Exempt Consequences of Noncompliance**

- A non-exempt public assistance applicant or recipient who willfully and without good cause fails to comply with an employment requirement (other than applicant job search and applicant assessment) is subject to conciliation and a pro-rata sanction (except as noted below).
- A non-exempt public assistance applicant who fails to comply with job search or an assessment is not eligible for public assistance and the household's application for public assistance shall be denied. See Section 385.9(e) of 18 NYCRR and Section 9 of this manual for additional information regarding job search and related activities. See Sections 385.6 and 385.7 of 18 NYCRR and Sections 6 and 7 of this manual for additional information on assessment requirements.

***Exempt Individual  
Ineligible*****Exempt Consequences of Noncompliance**

- An exempt individual, who the district has determined has the potential to restore his/her employability, who without good cause fails to accept referral to or participate in reasonable medical care, treatment or rehabilitation is

ineligible for assistance (removed from the case) until compliance (see 18 NYCRR Part 385.2 (e)).

- An exempt recipient who willfully and without good cause fails to comply with assessment requirements is subject to conciliation and a pro-rata sanction in accordance with Section 385.12 of 18 NYCRR.
- An exempt public assistance applicant who fails without good cause to comply with an assessment is not eligible for public assistance and the household's application for public assistance shall be denied. See Sections 385.6 and 385.7 of 18 NYCRR and Sections 6 and 7 of this manual for more information regarding assessment requirements.

### Good Cause Considerations

Districts must consider the individual's limitations and abilities when determining whether or not noncompliance was willful and without good cause. It may be appropriate to first determine if the individual's condition has precipitated the noncompliance. In those instances when a recipient is receiving services from a mental health professional, substance abuse counselor or other similar professional, it may be appropriate to have the professional intervene to determine the reason for noncompliance and/or to facilitate re- engagement.

When determining whether noncompliance with a treatment requirement occurred without good cause, the district must consider whether or not continued treatment is appropriate as a work assignment, in particular if the individual is successfully participating with all other work assignments.

When determining whether noncompliance occurred without good cause for those individuals who chose to participate without accommodation in lieu of cooperating with efforts to identify a suspected disability (voluntary disclosure procedure), the district should consider whether the suspected impairment may have contributed to the failure and address the suspected impairment again with the individual. If the district feels the individual's suspected impairment contributed to the failure, and the individual now agrees to cooperate with the disability review procedure requirements, the district may consider the individual to have had good cause for the failure.

### ***Separate Food Stamp Determination***

#### Food Stamp Implications

When an individual fails to comply with public assistance work requirements, a separate determination regarding ongoing eligibility for Food Stamps must be made. See Section 3, Section 12 and Section 13 of this manual for additional information regarding food stamp work requirements.

### **Engaged-in-Work Requirement**

Districts are responsible for making sure recipients of public assistance are “engaged in work” within the following specified time periods:

- A parent or caretaker of a dependent child receiving federally funded public assistance (Family Assistance or TANF-funded Safety Net Assistance) must be engaged in work as soon as practicable, no later than twenty-four months from the date he or she first receives federally funded public assistance. The twenty- four month period includes non-consecutive months of assistance and does not include any assistance received before December 2, 1996.
- A parent or caretaker of a dependent child receiving public assistance that is not federally funded (non-TANF Safety Net Assistance) and who is not exempt from participation in work activities due to a disability must be engaged in work as soon as practicable.
- An adult member of a household without dependent children receiving public assistance who is not exempt from participation in work activities due to a disability must be engaged in work as soon as practicable.

The term “engaged in work” is defined by each district in its local employment plan and should include all activities that the district determines as appropriate to move individuals toward self-sufficiency or otherwise become engaged to the extent possible. As such, “engaged-in-work” may include activities other than the standard work activities described in 18 NYCRR 385.9. For example, a district may wish to include participation in substance abuse or mental health treatment in its definition of “engaged in work.”

Districts should note that the term “engaged in work” is defined separately for participation rate purposes, where it refers to the type of participation that counts toward participation rates (see Section 8 of this manual).

### **Part C. Systems Implications**

The following WMS Employability codes have been revised to allow the district to consider one parent in a two-parent family to be exempt if he/she is the caretaker of a child under 1:

31 - Parent or caretaker relative of a child in the household under 12 months of age (exempt)

The following WMS Employability code has been revised to allow districts more flexibility when determining whether alternate care is available.

38 - Parent needed in the home full-time to care for an incapacitated household member and no other individual is available or appropriate to provide such care (exempt).

40 - Needed in the home part-time to care for an incapacitated household member (non-exempt).

The following WMS Employability code has been revised to clarify that the exemption only applies to those who are contesting their employability determination based on medical reasons.

70 - Contesting employability determination due to medical reasons, including the period prior to the completion of the disability review procedure for individuals with alleged health-related limitations (exempt).

See Section 16 of this manual for a complete list of the WMS Employability codes.

## Part D. Questions and Answers

### Participation Requirements/Exemptions

- Q.1** Can a parent in a two-parent household be exempt because he/she is the caretaker of a child less than twelve months of age?
- A.1** Yes, a parent in a two-parent household can be excused from participation because he/she is the caretaker of a child less than twelve months of age up to a lifetime maximum of twelve months. Because only true single parent families with the exemption are removed from the TANF All Families denominator, the case would remain in the TANF two-parent and All Families denominators and the household is required to meet two-parent participation requirements. For example, a two-parent family without child care is required to participate thirty- five hours weekly. If one parent is exempt because he/she is the caretaker of a child under twelve months of age, the other parent must participate at least thirty-five hours for the household to meet the minimum participation requirements.
- Q.2** Family Assistance applicant has a child who is four months old. Is the applicant exempt?
- A.2** Normally, the three- month exemption will be used in the first three months after the child's birth; however, districts have the discretion to allow the exemption for more than three months as long as the parent does not receive the exemption for more than twelve months in his/her lifetime. The district should consider the need for the exemption based on the household's circumstances, availability of child care for children this age, the district's participation rate requirements, and any other pertinent information when determining whether to extend the exemption beyond three months for any one child.
- Q.3** How long can a person be exempt from employment requirements?
- A.3** While there is no time limit on how long an individual may be exempt, there is the expectation that certain exempt individuals will progress so they are able to participate in traditional work activities. These individuals should be evaluated periodically to monitor treatment progress and to determine if their ability to participate in work activities has changed. If improvement is not seen within a reasonable amount of time, the need for treatment should be re-evaluated, as well as eligibility for SSI/SSD. For those individuals considered permanently unable to participate, SSI and SSD should be pursued. The condition of those who are denied SSI/SSD should be re-evaluated to determine if rehabilitation or treatment is warranted.
- Q.4** Must public assistance applicants and recipients be notified as to whether or not the social services official has determined that they are exempt from work requirements?
- A.4** Districts must use the LDSS 4005 Notification of Temporary Assistance Work Requirements Determination (Exempt) (or an approved local equivalent) to notify an individual that he/she has been determined to be exempt whenever an individual alleges to be unable to participate, or the individual otherwise participates in the employability disability review process described in 18 NYCRR 385.2. This notice is included in Section 17 of the Employment Manual.

**Q.5** What is the difference between the LDSS 4005 (Notification of Temporary Assistance Work Requirements Determination (Exempt)) and the LDSS 4005(a) (Notification of Temporary Assistance Work Requirements Determination (Nonexempt)) and when must they be issued?

**A.5** The LDSS 4005 (Notification of Temporary Assistance Work Requirements Determination (Exempt)) is issued to notify an individual he/she has been determined to be exempt from work requirements. The LDSS 4005(a) (Notification of Temporary Assistance Work Requirements Determination (Nonexempt)) is issued to notify an individual he/she has been determined to be non- exempt from employment requirements. Districts must issue the LDSS 4005 or 4005(a) under the following circumstances:

- whenever an individual alleges to be unable to participate (for medical or non-medical reasons);
- the individual otherwise participates in the employability disability review process; and
- whenever an individual's status changes from exempt to non-exempt, including drug/alcohol.

Following are several examples of circumstances describing when the 4005 or 4005(a) should be issued:

Example of change from exempt to non-exempt

An individual who was previously determined to be exempt because he/she was the caretaker of an incapacitated household member would be issued the 4005(a) if circumstances change and the individual is subsequently determined to be non- exempt.

Example of when an individual requests an exemption

An individual who requests an extension of the caretaker of a child under 3 months of age would either be issued the 4005 or 4005(a) based on the district's determination.

Example of when an individual participates in the disability review process

An individual for whom the district collects medical evidence consistent with the disability review process described in 18 NYCRR 385.2 because he/she alleges to be unable to participate due to a health-related issue, or the district suspects the individual has a health- related issue and the individual has demonstrated an inability to successfully participate in work activities, would be issued either the 4005 or 4005(a) based on the district's determination.

**Q.6** Are individuals who are evaluated for drug/alcohol issues (employability codes 63 and 64) sent the LDSS-4005 and LDSS-4005(a)?

**A.6** Districts are required to send the LDSS-4005(a) (Notification of Temporary Assistance Work Requirements Determination (Nonexempt)) (or an approved local equivalent) whenever an individual's status changes from exempt to non-exempt, including for drug/ alcohol issues. Districts are not required to notify an individual who has been determined to be exempt because of drug/alcohol issues (code 63) with the LDSS-4005 (Notification of Temporary Assistance Work Requirements Determination (Exempt)) however, the

district should inform the individual of any treatment requirements and that he/she is exempt from work requirements.

**Q.7** What are the exemptions from the federal participation rate?

**A.7** The only exemption that removes a case from the denominator for the federal TANF All Families participation rate is a single caretaker relative of a child under one year of age (for three months or longer if decided by the local district) in true single parent cases for a maximum of twelve months in the individual's lifetime. Two-parent families with the caretaker exemption remain in the TANF All Families and Two-Parent denominators. The Safety Net participation rate denominators include only those cases with a non-exempt adult.

**Q.8** If the medical evaluation confirms an individual has work limitations but is able to work, does this remove the case from the participation rate calculation?

**A.8** Work limitations do not remove a case from the TANF or Safety Net participation rate denominators. However, for Safety Net, an individual participating in a countable activity to capacity qualifies as fully participating and the individual is included in the numerator. In addition, for Safety Net, an exempt individual who is participating any number of hours in a countable activity also qualifies as fully participating and is included in the Safety Net numerator and denominator similar to work-limited individuals.

**Q.9** When a public assistance grant is provided for a child living with his or her parent who is under twenty-one years of age, while the parent's needs are being met by the grandparents, can the parent in the household be required to participate in work activities?

**A.9** Yes, and failure to participate is subject to sanction in accordance with Section 385.12. Under the case circumstances, the parent is part of the public assistance case because he/she is legally responsible for the child (filing unit rules). However, because the parent's needs are met by the grandparents, the case receives a reduced grant. Failure to comply would result in a pro-rata sanction (which in this example, would be 50% of the grant).

**Q.10** When a public assistance grant is provided for a child living with his/her grandparent(s) and the grandparent(s)' needs are not being met by the grant, may the grandparent be required to participate in work activities?

**A.10** No. The grandparent is not legally responsible for the child and so is not part of the public assistance case. Therefore, the grandparent cannot be required to participate in work activities.

**Q.11** Is an eighteen year old with a high school diploma who is attending a vocational school exempt?

**A.11** No. The exemption for those under the age of nineteen who are attending a secondary, vocational or technical school full time applies to those who do not have their high school diploma or its equivalent. An eighteen year old with a high school diploma attending vocational school full time would be non-exempt (unless the individual met another exemption criteria) and would be required to participate in work activities consistent with his/her employability plan, which may include vocational education. If it is necessary to

- assign the individual to another, concurrent activity, the district must make a reasonable effort to assign the activity during hours that do not conflict with the vocational education.
- Q.12** What is the penalty if a household does not document whether a household member age sixteen through nineteen is satisfactorily attending school?
- A.12** Documentation of a claimed exemption from work requirements is an eligibility requirement for the household and the entire case would be closed or denied. The household remains ineligible until the necessary documentation is provided.
- Q.13** If someone has applied for SSI/SSD, should we automatically consider him/her exempt?
- A.13** No. The fact that an individual has applied for SSI/SSD does not automatically render the individual exempt, and in fact non-exempt or work limited individuals may also apply for SSI. Code 43 is to be used for those temporary assistance individuals who the district, based on the documentation available, has required to apply for SSI as a condition of eligibility for temporary assistance. Such individuals are exempt and cannot be assigned to work activities until the district determines, based on medical documentation, that the individual is no longer required to pursue SSI and the individual has been notified that he/she is required to participate in work activities consistent with 18 NYCRR 385.2.
- Q.14** What should be done if the district suspects that an individual has an unidentified barrier?
- A.14** The district should inform the individual of the reasons why they think the individual may have a particular barrier and the recommended process for identification. For example, if the district suspects an individual may have a learning disability, the district should inform the individual of their suspicion and the reasons why. The district should then explain the process for determining if the individual has a learning disability. The individual may choose whether or not to participate in screening or assessment to identify the suspected disability. If the individual does not agree to cooperate with efforts to identify the suspected disability, the individual must participate in work activities without accommodation.
- Q.15** How would a district screen individuals for possible unidentified barriers?
- A.15** If the district chooses to screen to identify individuals whom they believe may possess unidentified barriers, it must decide what screening tool will be used. The screening tool must be properly validated for its intended purpose and must be administered by trained staff. The district must also decide who will be screened, the screening process including when in the client flow it will be administered, and what happens after screening. Individuals may not be required to participate until they have been properly informed and have agreed to be screened consistent with voluntary disclosure requirements. As with other claims of work limitations, if an individual claims to be exempt from participation in Temporary Assistance work activities, he/she must cooperate with efforts to document the exemption and failure to do so would result in case closure.
- Q.16** What are the special needs plans and how do they affect the exempt/non-exempt determination?

- A.16** Individuals who are eligible for an HIV special needs plan (HIV positive and in receipt of Medicaid) are to be considered as either disabled or work limited and their limitations must be accommodated. For example, the individual may have doctor's appointments which must be considered when making an assignment. Additionally, activities that are part of the individual's treatment plan may satisfy his/her employment requirements. Individuals are not required to disclose that they are HIV positive to the district, but if they do, the district must treat the information as protected, confidential information and may not disclose it without the individual's express permission.

**Disability Review Procedure**

- Q.17** Can a participant who claims to have health-related limitations be assigned to a work activity pending the completion of the disability review procedure?
- A.17** If the participant agrees, he or she may be assigned to an activity that accommodates the claimed limitations. As when assigning individuals with confirmed work limitations, the district must notify the work-site supervisor in writing of the claimed limitations, and the information should be presented in a manner that is easily understood and which does not disclose a specific diagnosis or disability. The district must also describe that the information is confidential and protected and is only to be used for the purpose of accommodating the individual's limitations.
- Q.18** Can individuals who disagree with the district's exempt/non-exempt determination contest the determination?
- A.18** If an individual does not agree with the district's exempt/non-exempt determination, he/she may request a fair hearing within 10 days (for medical determinations) or 60 days (for non-medical determinations) of being issued a notice of the district's determination (LDSS 4005 Notification of Temporary Assistance Work Requirements Determination (Exempt) or the LDSS 4005(a) Notification of Temporary Assistance Work Requirements Determination (Nonexempt)) (or an approved local equivalent). For medical determinations, if the individual does not request a fair hearing within 10 days as indicated on the notice, the right to request a fair hearing on the issue is terminated and the individual must participate in assigned activities. For non-medical issues, the individual has 60 days from the date of the notice to request a fair hearing to contest the determination. If the individual requests the fair hearing within 10 days of the notice date, the individual does not have to comply with work-related requirements pending the fair hearing decision.
- Individuals who request fair hearings within 10 days cannot be required to participate in work activities, however, they may volunteer to participate in activities and the district must ensure the assignment accommodates the individual's limitations and is consistent with any treatment plan.
- If an individual alleges a new medical impairment, the district is required to repeat the disability review procedure to address the new claim. If the district suspects that the individual is misrepresenting an impairment to avoid a work assignment, the district must notify the individual in writing that he or she could be sanctioned if the district determines that the individual intentionally misrepresented his/her condition.
- Q.19** Does an individual who fails to provide requested medical documentation receive conciliation?
- A.19** No. In most instances, applicants and recipients who fail to provide documentation or cooperate with efforts to document a claimed or suspected impairment are ineligible for assistance (case closes) until compliance and are not conciliated. Non-exempt individuals who fail to cooperate with efforts to obtain medical documentation required for a particular worksite are considered to be noncompliant with an employment assignment and subject to conciliation and a pro-rata employment sanction.

- Q.20** What is the penalty for failure to provide medical documentation to substantiate a claimed disability for a food stamp applicant/recipient?
- A.20** Failure to substantiate a claimed disability by a food stamp applicant/recipient would result in the individual becoming or remaining a work registrant. Providing documentation to support a claim of disability is not an eligibility requirement for food stamps. The regulation regarding this matter [385.2(d)(4)] inadvertently references both the food stamp and public assistance regulations with regard to the failure to provide medical documentation to evaluate a claim of exemption due to a disability as being an eligibility requirement. A regulatory change will be made to correct this error. It is an eligibility requirement for public assistance (18 NYCRR 351) but not for food stamps.
- Q.21** How does the Medicaid disability review determination relate to the exempt/non-exempt determination?
- A.21** Each program has a different definition and a different process for determining whether an individual is considered disabled. Aid to the Disabled (ADs) determinations are disability determinations for the purpose of placing an individual in the Medicaid Aid to Disabled category. The standards for determining AD status and exempt status for employment purposes are not the same. Districts should coordinate medical information and review processes to ensure as complete a medical file as possible for each program determination and for evaluation of any work limitations. An individual determined to be disabled for Medicaid would be exempt from TA/Fs employment requirements if he or she is disabled and currently unable to work.
- Q.22** An individual discloses an impairment and submits medical documentation; however, the district requires that the individual be examined by the district's practitioner. What are the consequences if the individual refuses to comply with the examination by the district's practitioner?
- A.22** An individual who alleges an impairment and who does not comply with the district's requirement to be examined by the district practitioner without good cause is subject to case denial/closure. Even though the individual has provided medical documentation, the district has the authority to accept the documentation or to send the individual to the district practitioner for an evaluation.
- Q.23** What happens if a client does not follow a treatment plan?
- A.23** Section 385.12 of 18 NYCRR states that if an individual is potentially employable and fails to comply with health care or rehabilitation to restore him or her to self-sufficiency, he or she is ineligible for assistance (removed from the case) until willing to comply. When determining if an individual had good cause for failing to comply with treatment, districts must consider if the individual's condition caused the failure. Additionally, the district may only assign an individual to a treatment activity when an appropriate health care professional has determined what specific activity is necessary to restore the individual to self-sufficiency. For example, the district may not require an individual to participate in mental health counseling without first having an appropriate health care professional evaluate the individual and recommend such counseling.
- Q.24** What must a district do to protect an individual's confidentiality regarding protected health-related information?

**A.24** The district must have the individual's signature authorizing it to obtain medical information from health care practitioners. The State medical form (LDSS-4526) contains an authorization the individual signs allowing the release of information to the district. If the district has obtained the individual's authorization, the Health Insurance Portability & Accountability Act of 1996 (HIPAA) does not impose any additional requirements for the provider to release medical information to the district.

**Q.25** May TANF funding be used for medical evaluations?

**A.25** TANF funds may be used to assess the ability of an applicant or recipient to participate in work activities for those individuals who are eligible to receive TANF services. TANF funds may also be used to help the district identify appropriate activities that a TANF eligible individual may participate in to overcome his or her employment-related limitations. TANF funds may be used for these purposes even if the evaluation is conducted by a medical professional because these activities are necessary program requirements of the administering agency and are not solely a service to the individual.

TANF funds may not be used to provide a medical service, including any medical service that is identified as an activity that may help the individual overcome limitations or to assess an individual who is not eligible to receive TANF funded non-assistance. For example, although TANF funds may be used to identify any limitation (e.g., the inability to lift heavy objects) and to recommend a general course of action to overcome the limitation (e.g., physical therapy), TANF funds may not be used to provide a medical service to overcome the limitation (e.g., fund the physical therapy).

**Section 385.3 Work Registration, Registration Exemptions, and Certain Eligibility Requirements for Food Stamp Applicants and Recipients**

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## Part A. The Regulations

### Subdivisions

- (a) Exemptions from food stamp work registration
- (b) Strikers
- (c) Work registration requirements
- (d) Food stamp eligibility requirements for able-bodied adults without dependents

(a) Exemptions from food stamp work registration.

- (1) Each individual, including migrant/seasonal laborers, is required to register for employment at the time of application for food stamp benefits unless the individual is:
  - (i) younger than 16 years of age, or is 60 years of age or older;
  - (ii) physically or mentally unfit for employment;
  - (iii) subject to and complying with any work requirement under title IV of the Social Security Act (SSA); provided, however, that an individual participating in a work experience program in accordance with the provisions of title IV-A of the SSA and of this Part may also be required to participate in work experience for the number of hours represented by the dollar value of the individual's food stamp benefit divided by the Federal or State minimum wage, whichever is higher.
  - (iv) a parent or household member who is responsible for the physical care of a dependent child under the age of six or of an incapacitated person; provided, however, that an individual participating in a work experience program in accordance with the provisions of title IV-A of the SSA and of this Part may also be required to participate in work experience for the number of hours represented by the dollar value of the individual's food stamp benefit divided by the Federal or State minimum wage, whichever is higher.
  - (v) a recipient of unemployment compensation. An applicant for unemployment compensation is exempt if he/she was required to register for work as part of the unemployment compensation application process;
  - (vi) a regular participant in a drug or alcohol treatment and rehabilitation program; for the purposes of this subparagraph, a "regular participant" shall be defined as an individual who is determined unable to work and participating in treatment in accordance with the requirements of section 351.2(i) of this Title or otherwise engaged in drug or alcohol treatment to an extent that assignment to work activities is impractical;

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- (vii) employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours. This provision includes migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days;
  - (viii) a student enrolled at least half-time in any recognized school, training program or institution of higher education. A student enrolled at least half-time in an institution of higher education must have met the student eligibility criteria in section 387.1 of this Title. A student remains exempt during normal periods of attendance, vacation, and recess, unless there is a break in the student's enrollment status due to graduation, suspension, expulsion, or intent not to return to school;
  - (ix) an applicant for SSI and food stamps under the joint processing provisions until such time as the individual is:
    - (a) determined to be eligible for SSI and, thereby, exempt from work registration; or
    - (b) determined to be ineligible for SSI and a subsequent redetermination of his/her work registration status is made; or
  - (x) a person age 16 or 17 who is attending school or an employment training program on at least a half-time basis.
- (2)
- (i) An individual who loses exempt status due to any change in circumstance subject to the reporting requirements of section 387.17(e) of this Title must be registered for work when the change is reported.
  - (ii) An individual who loses exempt status due to a change in circumstances not subject to the reporting requirements of section 387.17(e) of this Title must register for work at his/her household's next recertification.
- (3) Work registrants must be provided with a written statement of their rights and responsibilities and of the consequences of failure to comply. This statement must be provided at each registration and at recertification.
- (4) Each individual or household has a right to a fair hearing to appeal a denial, reduction or termination of benefits due to the social services official's determination of nonexempt status, or determination of failure to comply with work registration or with work requirements specified in this Part.
- (b) **Strikers**
- Strikers who are eligible for food stamps under the criteria set forth in section 387.16 of this Title are subject to the employment requirements of this Part unless they are exempt under subdivision (a) of this section at the time of application.

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(c) Work registrant requirements.

Work registrants are required to:

- (1) participate in food stamp employment programs assigned in accordance with the provisions of this Part if so required by the local social services district. Such programs must be established pursuant to a State food stamp employment and training plan; and
- (2) respond to a request from the social services official or his/her designee for supplemental information regarding employment status or availability for work.

(d) Food stamp eligibility requirements for able-bodied adults without dependents (ABAWDS).

- (1) No individual may participate in the food stamp program if, for at least three months within the most recent 36-month period, he/she participated in such program and did not:
  - (i) work for at least 80 hours per month provided, however, that work means:
    - (a) work in exchange for money;
    - (b) work in exchange for goods and services ("in-kind" work) or unpaid work (volunteer). For purposes of this subdivision there is no hourly wage requirement, but, the work performed may not violate any state or federal law or regulation; or
  - (ii) participate in, for at least 80 hours per month, and comply with the requirements of a work program assigned to such individual by the social services official in accordance with the requirement of this Part, or programs operated under title I of the Workforce Investment Act of 1998 or section 236 of the Federal Trade Act of 1974. Such programs may contain job search or job search training as a subsidiary component if hourly participation in job search or job search training comprises less than one-half of the total hours of participation in any month; or
  - (iii) work and participate in work programs described in subparagraph (i) or (ii) of this paragraph for a combined total of at least 80 hours per month; or
  - (iv) participate in and comply with the requirements of a program established by the commissioner in accordance with the provisions of section 20 of the Food Stamp Act of 1977 or a comparable program established by the commissioner in accordance with the requirements of this Part.
- (2) Countable months. For purposes of determining the months during which an individual received food stamp benefits without meeting the requirements of paragraph of this subdivision, the following calendar months shall not be considered:

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- (i) a calendar month during which the individual did not receive food stamp benefits for the full month;
  - (ii) a calendar month during which the individual is exempt from the ABAWD requirement in accordance with paragraph (5) of this subdivision for all or any part of the calendar month; and
  - (iii) a calendar month during which the individual received food stamp benefits from or resided in an area of the state covered by a waiver of the ABAWD requirement in accordance with section 6(o) of the Food Stamp Act.
- (3) Good cause. If an individual would have worked 80 hours per month but failed to complete some or all of the hours of work, the individual shall be considered to have met the work requirement if the absence from work is with good cause, is temporary, and the individual retains his or her job. The social services official must consider the facts and circumstances of the absence from work in determining good cause. Good cause includes circumstances beyond the individual's control, such as, but not limited to, illness of the individual, illness of a household member that required the presence of the individual, or a household emergency.
- (4) Verification of work hours.
  - (i) An individual subject to the food stamp time limit established by paragraph (1) of this subdivision is required to verify work hours at certification and recertification if he or she is meeting the work requirement by working, combining work and work program participation, or by participating in a program that is not operated by the social services district.
  - (ii) An individual subject to the food stamp time limit established by paragraph (1) of this subdivision must report changes in work/work program hours that result in the individual working less than 80 hours per month.
- (5) The provisions of paragraph (1) of this subdivision do not apply to an individual who:
  - (i) is exempt from work registration in accordance with subdivision (a) of this section. However, an individual is exempt due to being physically or mentally unfit for employment if the individual:
    - (a) provides verification of receipt of temporary or permanent disability benefits issued by governmental or private sources; or
    - (b) is determined by the social services official to be unfit for employment. Where unfitness is not evident, the social services official may require documentation from medical personnel that the social services district determines appropriate. The social services official shall have sole discretion in determining whether

any documentation provided by the individual or by medical personnel is sufficient evidence of the claimed impairment; or

- (ii) is not exempt from work registration but who is:
  - (a) under 18 years or 50 years of age or older; or
  - (b) pregnant; or
  - (c) a parent (birth, adoptive or step) or other adult residing in a household where a household member is under age 18.
  
- (6)
  - (i) An individual who is ineligible for food stamps because of the provisions of this section may establish eligibility, if otherwise eligible in accordance with the provisions of this Part, by working or participating in programs described in paragraph (1) of this subdivision within any consecutive 30 day period; provided, however, that work or participation in work programs must be performed for at least 80 hours in the 30 day period.
  - (ii) For purposes of establishing eligibility in accordance with this paragraph, districts may allow applicant ABAWDs to reestablish eligibility by participating in a 30-day period of job search followed by a work experience placement if no job is obtained.
  - (iii) For purposes of establishing eligibility in accordance with this paragraph, an individual may be determined eligible for benefits if he or she can verify to the satisfaction of the social services district that he or she will meet the requirements of subparagraph (i) or (ii) within the 30 days subsequent to application.
  - (iv) Individuals regaining eligibility by working, participating in a work program, or combining hours worked and hours participating in a work program shall have benefits issued back to the date of application.
  - (v) If an individual who has reestablished eligibility under this paragraph either loses a job or ceases to participate in a work program he/she will be eligible for food stamps for up to one additional three consecutive month period in the 36 month period set forth in paragraph (1) of this subdivision, without working or participating in a work program starting on the date the individual first notifies the social services district that he/she is no longer fulfilling the work requirement; or, if meeting the work requirement by participating in a work or work experience program administered by the social services district, the date the district notifies the individual he/she is no longer meeting the work requirement.
  
- (7) Benefits received in error. Benefits received by an individual in error shall count as a month of benefits received for purposes of determining compliance with this subdivision unless they are repaid in full in accordance with section 387.19 of this Title.

**Part B. Department Policy**

**Food Stamp Employment and Training**

Work Registration

The district is responsible for determining work registration status (exempt or non-exempt) for each individual who applies for food stamps. The district should review work registration status any time there is a reason to believe a previous determination may have changed and at recertification. An individual who claims to be exempt from work registration, but does not cooperate with the work registration process (e.g., failure to submit requested documentation) becomes a work registrant.

Districts should carefully review work registration exemptions included in 385.3 (a)(1) and be aware that not all non-exempt public assistance recipients are required to work register. For example, an individual responsible for the care of a dependent child under six or an individual required to register for work as part of the unemployment insurance compensation process is exempt from food stamp work registration, but not necessarily exempt from public assistance work requirements

All household members who do not fit the exemption criteria listed in 385.3 (a) (1) must be work registered by the district (thereby becoming work registrants) at the time of application. Work registrants must participate in food stamp employment and training programs as assigned, participate in a work experience program as assigned, report to an employer and/or accept a bona fide offer of suitable employment, and respond to requests from the district regarding their employment status and availability for work.

A work registrant may be required to participate in an assessment for purposes of determining an appropriate work activity/employment assignment and necessary supportive services.

Work Activities

Districts may operate any work activity authorized under 385.9 that is included in a district's employment plan as part of the district's Food Stamp Employment and Training (FSET) program. A work registrant may be required to participate in any FSET program activity for up to 30 hours weekly. The total hours of participation in an Employment & Training component for any household member individually in any month, together with any hours of participation in a work experience program, and any hours worked for compensation, must not exceed 120.

Subsidized employment is an allowable FSET program activity, but FSET funds may not be used to subsidize wages.

The local social services agency may require an individual to participate in job search from the time an application is filed for an initial period established by the local district. Following this initial period, the local district may require an additional job search period. The local social services agency may establish a job search period that, in its estimation, will provide participants a reasonable opportunity to find suitable employment. However, in accordance with Federal regulations, local districts should not establish a continuous, year-round job search

requirement. If a reasonable period of job search does not result in employment, placing the individual in work experience, training or an education component to improve job skills will likely be more productive.

A work registrant may not be required to participate in FSET work experience for more hours than the value derived from dividing the food stamp allotment by the higher of the federal or state minimum wage up to the 30-hour FSET maximum. However, if combined with a public assistance work activity, the total assigned hours could be up to 40 per week.

### Exceptions to Certain Exemptions (Simplified Food Stamp Plan)

Under a simplified food stamp plan provision, designed by the United States Department of Agriculture (USDA) to help states meet TANF participation rate requirements, the State is authorized to include the food stamp benefit in the calculation of the maximum number of hours that a TANF recipient may participate in work experience. This authority affects TANF recipients assigned to work experience who are ordinarily exempt from food stamp work registration requirements because they are subject to and complying with TANF work requirements or because they are a caretaker of a child under the age of six years. This policy only applies to individuals actually assigned to TANF work experience. These individuals cannot be assigned to FSET work experience or other FSET activities.

### **Able-Bodied Adults Without Dependents (ABAWDs)**

#### Identifying ABAWDS

ABAWDs are individuals who are subject to food stamp work registration requirements and meet certain additional criteria. All individuals who are exempt from work registration requirements, including those determined to be exempt due to being physically or mentally unfit for employment are also exempt from ABAWD requirements. This includes those who provide verification of receipt of temporary or permanent disability benefits. An individual who is exempt from the ABAWD requirement is not necessarily exempt from work registration requirements, including participation in FSET. In addition to those exempt from FSET, other groups of individuals are also exempt from ABAWD requirements as discussed below.

ABAWDs are work registrants who are **NOT**:

- Under 18 or 50 years of age or older – The month in which an individual turns 18 is an exempt month for ABAWD requirements. When a household recertifies and a household member will turn 18 before the next recert date, the household must be informed of the ABAWD requirements for the 18-year-old. Similarly, an ABAWD who turns 50 during a certification period is no longer subject to ABAWD requirements from the date of his/her 50th birthday.
- Any adult (including a parent) residing in a food stamp household (see definition at 18 NYCRR 387.1(w)) where a household member is under 18 years of age – Any adult in the food stamp household, regardless of responsibility for a household member under the age of 18, is exempt from ABAWD requirements.

- A pregnant woman – A woman is exempt from ABAWD requirements throughout the entire pregnancy. The first exempt month is the month in which the household provides the required medical documentation.
- Unable to work in competitive employment for at least 80 hours per month due to a physical or mental limitation - Individuals determined capable of competitive employment, but limited in either the type of work or the number of hours he or she can work, may be required to participate in employment programs as long as his or her limitations are accommodated. However, individuals whose limitations preclude them from working at least 80 hours monthly are always exempt from ABAWD requirements.

Districts should determine whether or not an individual is an ABAWD during the application period. All food stamps applicants/recipients should be properly coded as work registration and ABAWD required (WR), work registration required but ABAWD exempt (WA), or work registration exempt (WE). For PA/FS applicants/recipients, districts should code individuals as non-exempt from PA work requirements/exempt from FS work requirements and ABAWD (77), or non-exempt from PA and FS work requirements/ABAWD exempt (78). Coding should be updated as circumstances change and checked at recertification.

#### Notifying ABAWDS

Districts are required to notify all ABAWDS of the ABAWD eligibility requirements and of the consequences for failure to meet the ABAWD requirements (see sample ABAWD notification letter in Section 15). It is a district responsibility to notify individuals, track compliance, and determine eligibility.

#### ABAWD Requirements

In order for an ABAWD to remain eligible for food stamps for more than three months in any 36-month period, the individual must meet the ABAWD requirement through one of the following methods. The ABAWD must:

- Work (including “in-kind” work and volunteer work) for a total of at least 80 hours per month. There is no hourly wage requirement, but the work performed must not violate any state or federal law or regulation. All work hours must be verified by the district; OR
- Participate in work programs, including programs under title I of the Workforce Investment Act of 1998 or Section 236 of the Federal Trade Act of 1974, for a total of at least 80 hours per month. Work programs may contain job search and job search training as a subsidiary component as long as the number of hours of participation in job search or job search training is less than one-half of the total monthly hours. For example, if an individual is required to participate in a work program for 30 hours per week, the district may assign job search or job search training for up to 14 of the 30 hours; OR

### **385.3 – Department Policy**

- Participate in work experience for the number of hours equal to their FS and/or PA grant divided by the minimum wage. A food stamp only, public assistance only or a combination program assignment qualifies as meeting the ABAWD requirement.

As long as an ABAWD meets the ABAWD requirement through one of these methods, the ABAWD remains eligible to receive food stamps if otherwise eligible.

Effective October 1, 2002, districts are required to offer and provide a qualifying work or training opportunity to all individuals who are subject to the ABAWD requirement, if such opportunity is requested. These assignments will allow ABAWDs to retain eligibility for food stamps beyond the three-month time limit. The ABAWD notice contained in Section Fifteen informs the ABAWD that a work or training opportunity will be made available. The notice should be given to all potential ABAWDs at application and recertification. Districts may provide the work or training opportunity through the FSET program or other program for which the individual is eligible.

An ABAWD individual is not allowed to participate on behalf of another ABAWD in the food stamp case, thus relieving that second individual of the responsibility of maintaining his or her eligibility.

Two ABAWDs in a household can maintain their eligibility by participating in work experience for a total of the maximum hours allowed by their (individual) grant amount even if it is less than twenty hours per week. To allow an ABAWD to meet the eligibility requirement, districts should apportion hours of work experience among household members as needed. This does not preclude districts from assigning individuals to additional FSET activities if appropriate.

#### Countable Months

For purposes of tracking an ABAWD's three months of eligibility, a month does not count as one of the three months in the 36-month period under the following circumstances:

- A calendar month during which an individual did not receive food stamp benefits for the full month, including the month of application;
- A calendar month during which an individual is exempt from the ABAWD requirement for all or any part of the month;
- A calendar month during which an individual resided in or received food stamp benefits from an area of the state covered by a waiver of the ABAWD requirement (see Waivers/ Exclusions section below). An individual who moves from a waived area (or from a county that excluded the individual) does not become subject to ABAWD requirements until he or she applies for food stamps in the new county; and
- A calendar month during which an individual had good cause for missing some work/ work assignment hours, as long as the absence is temporary and the individual retains his or her job or otherwise resumes participation in a countable activity. Good cause includes circumstances beyond the individual's control, such as, but not limited to, illness of the individual, illness of a household member that required the presence of the individual, or a household emergency.

When determining the number of months of benefits an ABAWD has used in the past 36 months, districts are required to investigate whether an ABAWD has received food stamps in other districts within New York State. Districts are not required to investigate whether food stamp benefits were received in other states.

### Waivers/Exclusions

Some districts or portions of districts may be eligible for a waiver from the ABAWD requirements based on their rate of unemployment or their designation as labor surplus areas. Information regarding eligibility for a waiver is provided annually.

An individual who moves into a geographic area subject to the ABAWD waiver no longer has to fulfill ABAWD work requirements to maintain food stamp eligibility beginning the month they move to a waived area. ABAWDs who are exempt due to living in a waived area or due to the use of exclusions must still be coded work registration and ABAWD required (WR) for reporting purposes.

Regardless of eligibility for the waiver, all districts have the option to exempt a portion of non-waived ABAWDs from the eligibility requirement. The total number of exclusions allotted to a district must be approved by the department in advance. The exclusion option allows districts a great deal of flexibility. Each district may establish its own exclusion criteria. For example, a district may wish to exempt non-public assistance individuals, or food stamp recipients who are working, but do not meet the required number of hours to maintain eligibility under the ABAWD provisions. Criteria chosen must account for the limit on the number of persons for whom the exclusions may apply. The number of exclusions a district uses each month must be tracked. This information is then reported to the Bureau of Data Management and Analysis of the Office of Temporary and Disability Assistance (OTDA) on a quarterly basis. Reports must be submitted within 30 days following the end of each quarter. If a district's exclusion policy applies to an entire group of individuals (e.g., all NPAs or all ABAWDs who are not living in a waived portion of the district), this should be clearly stated in the district's policy. If the exclusion policy is case specific (e.g., to exclude individuals residing in remote areas), then exclusions must be tracked on a case-by-case basis with documentation of the exclusion in the case record of such individuals. Specific instructions related to these issues are provided to districts annually. Any district interested in pursuing the use of exclusions should contact their OTDA Technical Advisor.

### The 36-Month Period

An ABAWD must work or participate in qualifying work programs to remain eligible for food stamps for more than three months in any 36-month period. The 36-month period is a look back from the current point in time when eligibility is being determined. It is necessary to look back over the 36-month period (not to extend further back than December 1996) to determine the number of months an ABAWD was subject to the ABAWD requirement and received food stamps without working or participating in a work program as stated previously. If the number of such months is three or more, the individual is not eligible for food stamps. An example of the 36-month look back period follows.

An individual who first applied for food stamps and was determined eligible on 6/12/97, was determined to be an ABAWD, and became subject to ABAWD tracking on 7/1/97. The individual was enrolled in an ABAWD qualifying activity through March of 1998 for all months but October and November of 1997. On April 1, 1998 the district worker reviews the individual's eligibility for food stamps. For ABAWD purposes, the worker looks back 36 months to determine the number of months during which the individual received food stamps, was an ABAWD and didn't meet the ABAWD requirement. The "look back" indicates two months of not meeting this requirement (October and November 1997). Therefore, the individual has one additional month during which he or she can continue to receive food stamps without meeting the ABAWD requirement.

### Re-establishing Eligibility

An individual who becomes ineligible for food stamps after failing to meet the ABAWD requirements may restore eligibility in several ways.

- Applicant Prospective Compliance - Eligibility is reestablished if an applicant ABAWD can verify to the satisfaction of the district that he or she will meet the ABAWD requirement within the 30 days following application. For example, an individual who lost eligibility due to failing to meet ABAWD requirements has just started a new job and applies for food stamps. As long as the individual can verify that he or she will work enough hours within the 30 days following application to satisfy the ABAWD requirement (80 hours), eligibility is reestablished. The ABAWD must continue to work the required number of hours each month to maintain eligibility.
- 80 Hours of Participation - Eligibility may be reestablished by participating in a qualifying activity for at least 80 hours within any consecutive 30-day period, not necessarily a calendar month. The consecutive 30-day period does not have to immediately precede the date of application. For example, an individual who lost eligibility some time ago but has now been working 80 hours per month for the past six months, was recently laid off from his or her job and now applies for food stamps. Eligibility may be reestablished if the individual provides verification that he or she has worked 80 hours in a consecutive 30-day period. The individual would then have to get a job or be placed in a work program or work experience in order to maintain eligibility.
- 30-Day Job Search/Work Experience - Districts have the option to allow ABAWDs the opportunity to reestablish eligibility after having exhausted the three-month time limit by participating in a 30-day period of job search followed by a work experience placement if he or she does not find a job by the end of the 30-day period. An applicant ABAWD who, except for having exhausted the time limit, is eligible for food stamps, may be assigned to 30 days of job search followed by work experience. The ABAWD is required to perform job search for a minimum of 12 hours in the 30-day period to reestablish eligibility. Districts have the discretion to require more than 12 hours of job search during the 30-day period. If the ABAWD satisfies the job search requirement, thereby reestablishing eligibility, but does not find an adequate job, he or she must be placed in a work experience assignment in the next month. No other FSET activity may substitute for work experience if this method is used to reestablish eligibility for an ABAWD.

- Recipient Prospective Compliance - A recipient who has not met the ABAWD requirements for three countable months of food stamps receipt, but who is able to provide proof before the effective date of an adverse action notice that he/she will meet the ABAWD requirement in the next benefit month (i.e., has obtained employment which will provide at least 80 hours per month, enrolled in a district approved work program which will provide 80 hours or more of participation per month, or enrolled in work experience, without regard to the number of hours as long as the individual is participating the maximum number of hours based on his or her benefit), should continue to receive food stamps until it is determined that the employment, work activity, or work experience will not meet the ABAWD eligibility requirement. In instances in which the district has already issued an adverse action disqualification notice, the notice must be rescinded based on verification of the prospective compliance for the next benefit month.

Whenever a district authorizes continued receipt of food stamps based on prospective compliance, the district must document the reason for continued authorization of benefits clearly in the case record or face a potential quality control error. Even if eligibility is granted based on a verbal assurance of prospective compliance, this should be noted in the case record.

As long as the district has documentation to support the continued eligibility based on prospective compliance, the decision to authorize food stamp benefits should not be subject to a quality control error for this reason. However, districts should use discretion when determining whether or not to consider the documentation of prospective compliance as sufficient. For example, a district may determine that an individual's statement regarding prospective compliance is not sufficient based on previous acts of noncompliance. This is a local district decision.

Once an individual's case is closed, he or she has to file a new application to begin receiving food stamps again. By law, a food stamp application must be accepted whenever it is submitted. The normal eligibility rules apply and food stamps should be issued back to the date of application after the individual has reestablished eligibility through one of the previously mentioned ways, and is otherwise eligible for food stamps.

An individual purchasing and preparing food alone and whose food stamp case is closed due to ABAWD requirements, will have met the ABAWD eligibility requirement for food stamps as soon as he/she has worked or participated in an appropriate activity 80 hours in a consecutive 30-day period, or participated in job search for at least 12 hours in a 30-day period followed by a work experience placement as soon as the individual becomes a food stamp participant, or is determined to be prospectively eligible. The application is considered a new one as the individual is not being added to an active case. For example, an individual starts a 20-hour per week job on March 15. He/ she works 80 hours by April 14, purchases and prepares meals alone, is otherwise eligible, and applies for food stamps on that day. The food stamps should be prorated from April 14, the date of application. Another example is an individual applies for food stamps on May 4, participates in the required number of hours of job search and is otherwise eligible for food stamps by May 19. The food stamps should be issued from the date of application, May 4. An individual who demonstrates prospective compliance at application would also receive benefits from the date of application if otherwise eligible.

When a member of a food stamp household is removed from the case for failing to meet the ABAWD requirement, the household must request that the member be returned to the case and he/ she has to meet all other eligibility requirements. In this instance, the new household

member should be added to the household effective in the month following the month the change was reported.

### Additional 3-Month Grace Period

An ABAWD who lost eligibility due to failure to work or participate in a work program, who re-established eligibility through compliance during a 30 day period as described above, and subsequently lost a job or work assignment is eligible to receive food stamps for an additional 3 month period during which he/she does not work or participate in a work program. This additional period of eligibility is referred to as the “grace period.” The 3-month grace period begins the month following the month the individual first notifies the district that he or she is no longer fulfilling the work requirement, or if the individual has been satisfying the work requirement by participating in a program administered by the district, the 3-month grace period begins the month following the month the district notifies the individual that he or she is no longer meeting the work requirement. An individual is eligible for this 3-month grace period only one time in a 36-month period. The 36-month period is defined as a “look back” of 36 months from the point in time used to determine the initial 36-month period. The 36-month period related to the grace period is the same 36-month period established for the initial 3 months of eligibility. Once an individual is eligible again for the initial 3-month period, he/she is eligible for a grace period if the conditions for receipt of the grace period as described above are met. The grace period must be used consecutively, unlike the first 3-month period.

The ABAWD requirements are complex. Unfortunately, the program is subject to Quality Control review. District staff responsible for implementation of this eligibility requirement should contact their OTDA Technical Advisor if they have any questions.

### Months Not Receiving Food Stamps

Any break in assistance is not counted toward an individual's initial 3-month limit of non-working status. This includes sanction periods. The 36-month period includes months of non-assistance, although a month of non-assistance cannot be counted as a month of noncompliance.

### Benefits Received In Error

Food stamp benefits received by an ABAWD who is not eligible for benefits count as a month of benefits received for purposes of determining compliance with ABAWD requirements unless and until the individual repays them in full in accordance with 18 NYCRR 387.19.

### Tracking

The three-month eligibility count begins with the first full month of receiving food stamp benefits after November 22, 1996. For individuals who were recipients on November 22, 1996, this means the first month that may count toward the 36-month period is December 1996. For applications after November 22, 1996, the prorated month does not count as a month for which ABAWD compliance is required unless the filing date is the first of the month.

It must be determined at application and each month following, when a member of the case is an ABAWD, whether the ABAWD is meeting the requirement. The case should be processed and tracked for continued compliance as long as the ABAWD continues to receive food stamps. ABAWDs are required to verify the number of hours they have participated in employment or a work program at certification, recertification and any time that their hours fall below 80 hours per month. Districts must obtain information necessary to confirm compliance each month. Section 15 of this manual contains a sample tracking form that districts may wish to duplicate.

An ABAWD individual must be disqualified if food stamps were received for three months or more while not meeting the ABAWD requirement. When local districts become aware that an ABAWD has received food stamps for three months in which he/she has not complied with the ABAWD requirement, action must be taken to delete him/her or close the case, whichever is appropriate. Timely notice must be given.

Tracking becomes problematic for ABAWDs who are not meeting the work requirement and have less than three months of eligibility remaining. In order to avoid problems, it is recommended that districts assign such ABAWDs certification periods of three months or less.

### Tracking Employed Individuals

Safety-Net individuals who are employed at least 80 hours per month are not exempt from the ABAWD requirement, but are meeting the requirement. These individuals must be instructed to include the number of hours worked each month in the quarter on the public assistance quarterly report. For the food stamp program, employed Safety-Net/Food Stamp individuals are subject to six-month reporting requirements. Please refer to the Office of Temporary and Disability Assistance guidance in 01-ADM-09 for further information on six-month reporting requirements.

A non-public assistance (NPA) food stamp household that is subject to ABAWD requirements, has earnings and is certified for at least six months, will be a six-month reporting household. ABAWD households, however, have an additional obligation to report when their work hours fall below 80 hours per month. The ABAWD household must report the reduction in work hours within ten days after the end of the month in which they fell below 80 hours. For ABAWD households that have used at least one of their three months of eligibility without working, districts may send monthly requests for verification of hours worked. If the ABAWD household fails to comply with the request for verification, the district must issue a timely notice of adverse action to delete the individual or, for a one-person household, to close the case.

### What is Considered a Complete Quarterly Report?

While the QR may be used as a means of reporting work information for Safety-Net ABAWDs, the ABAWD requirements and QR requirements are completely separate. The QR may be complete according to the existing criteria, but be lacking information to confirm continuing eligibility for the ABAWD. In that case, the ABAWD should be required to provide the additional information in order to remain eligible. Whether or not the information is provided, the worker must process the QR and authorize food stamps for the remainder of the household. In instances in which the ABAWD's information is provided and he/she remains eligible, the worker should authorize the case with the ABAWD included. In instances in which the information is not provided or is provided but the ABAWD did not meet the requirements, the local district must

delete the ABAWD from the case when he/she has received food stamps for three months without meeting the work requirement.

In instances in which the household states on the quarterly report or at recertification that the ABAWD worked an average of 80 hours per month, each month of the report quarter, and it is verified by the pay documentation for the last four weeks of the last month of the report quarter, and this information is consistent with other case information, his/her compliance with the ABAWD requirement for the entire quarter is assumed. The month(s) would be counted against the ABAWD's eligibility when the household reports any month of work for the ABAWD individual as being below the 80 hours per month requirement.

It is important to note that not all food stamp recipients who submit QRs are ABAWDs. Additionally, not all individuals who are working are required to submit QRs.

Exceptions to Quarterly Reporting requirements are as follows:

- a. households in which someone receives SSI
- b. seasonal/migrant worker households
- c. households in which the only earned income is from annualized self-employment
- d. persons who reside in group living arrangements

In any of the above listed households in which there is an employed ABAWD, the local district must use whatever means are available to track his/her compliance with the ABAWD requirements (e.g., three-month certification periods, Anticipated Future Action (AFA) codes or other locally developed tracking mechanisms).

#### Discrepancies on the Quarterly Report Between Stated Hours and Verified Hours

In instances in which the household indicates on the QR or during an agency contact that all three months exceed the ABAWD required hours, but it is not reflected in the last verified month of the report quarter (i.e., by the documented wages of the last month of the quarter) then the last month is counted against the individual. However, the first two months cannot automatically be counted as not meeting the ABAWD work requirement unless the district, through investigation, can prove the individual did not meet the required hours as stated in the quarterly report.

#### Training Related Expenses (Supportive Services)

All participants in Food Stamp Employment and Training (FSET) activities are entitled to reimbursement for the actual costs of transportation and other costs necessary and directly related to participation in FSE&T work activities. This includes a recipient of expedited food stamps who has been assigned to applicant job search. Reimbursable costs may include, but are not limited to, transportation and other work, training or education related expenses such as uniforms, personal safety items or other necessary equipment, and books or training manuals.

There is no other obligation to authorize supportive services to ABAWDs to help them maintain their food stamp eligibility.

Conciliation

There are no requirements for conciliation when discontinuing individuals for failure to meet ABAWD requirements.

**Part C. Systems Implications**

The ABAWD tracking screens can be found on the WMS menu (selection 17 – Time Limit Tracking). Districts can view the screen data as an accurate account of an individual's ABAWD status: ABAWD exempt (E), ABAWD required (R), or not receiving food stamps (N).

Please note that for districts that have a waiver from the ABAWD requirement for the entire county, the ABAWD status on the system will indicate ABAWD exempt (E), even though these individuals are coded work registration and ABAWD required (WR). Therefore, months of non-participation will not accumulate. For those districts that have a waiver for only a portion of the county, the ABAWD status on the system will be ABAWD required (R), and the count of months non-participating will continue. Districts must use the override function for ABAWDs living in the waived area in order to reflect an accurate count of months of non-participation.

ABAWD screens for NYC clients are available, but should not be used to determine whether or not an individual is complying with ABAWD requirements. The system will not be able to track ABAWD compliance until NYC employment data is available to support the tracking system. When the ABAWD Exempt/Required code is equal to 'E' (exempt) for NYC clients, it can be accepted as an accurate account of that individual's ABAWD status. The addition of NYCWAY data to the Welfare Reform Tracking System (WRTS) is presently being worked on. You will be informed once this has been accomplished.

Workers must independently verify that an individual is truly an ABAWD and that the individual did not meet ABAWD work requirements before taking action to close a case. The system will alert workers that an individual may have failed to meet ABAWD requirements, but independent worker verification through review of case record information must confirm whether or not the individual has met ABAWD requirements.

Districts should use WMS individual reason code F94 when removing an individual from a case or when closing a case due to a failure to comply with ABAWD requirements.

**Part D. Questions and Answers**

**ABAWDs**

- Q.1 Are all adults in a household that contains a child under 18 years of age exempt from the ABAWD requirements?
- A.1 No. According to recent clarification issued by USDA on this subject, all adults in a FOOD STAMP household that includes a child under 18 years of age would be exempt from the ABAWD requirements. (The definition of a food stamp household can be found at 18 NYCRR 387.1(w)). Districts must determine how ABAWD requirements affect individuals who reside in the same dwelling unit but receive food stamp benefits separately. For example, if a dwelling unit contains a food stamp household consisting of four persons (including a child under 18 years of age), and a separate food stamp household consisting of a single able-bodied adult, all adults in the four person food stamp household would be exempt from ABAWD requirements based on the presence of the child under 18 years of age. The adult in the other food stamp household is considered an ABAWD and is subject to ABAWD requirements.
- Q.2 Are districts required to assign ABAWDs to work programs to maintain eligibility for food stamps?
- A.2 Effective October 1, 2002, districts are required to offer and provide a qualifying work or training opportunity to all individuals who are subject to ABAWD requirements, if such opportunity is requested. These assignments will allow ABAWDs to retain eligibility for food stamps beyond the three-month time limit.
- Q.3 Is anyone who lost a job or work assignment eligible for an additional 3 months of food stamps (grace period)?
- A.3 No. Only an individual who has regained eligibility following ABAWD noncompliance and subsequently loses a job or work assignment may be eligible for the additional 3-month grace period.
- Q.4 Are individuals who are determined to be ABAWDs allowed three “free” months of food stamps before becoming subject to the ABAWD requirements?
- A.4 No. Individuals who are determined to be ABAWDs are allowed only three months of food stamps in a 36-month period if not meeting the ABAWD requirement. Districts must inform these individuals of the ABAWD requirements and of the consequences for failure to meet the requirements at application and at any time that circumstances change. There are no “free” months of food stamps for individuals designated as ABAWDs. Because all ABAWDs are work registrants, all FSET requirements apply and the district may assign them to FSET activities at any time.

**FSET**

- Q.5 What does it mean exactly when you say that an individual must “work register?”

- A.5 In the past, a non-exempt applicant for food stamps was required to go to the local DOL office and fill out an application for work. This constituted “registering for work.”

This process is no longer required. When the district reviews an individual’s food stamp application now, the district determines whether the person is a work registrant exempt or non-exempt from FSET work activities), and the district then codes the individual as appropriate. This completes the work registration process.

- Q.6 Can an individual fail to comply with “work registration?”

- A.6 An individual cannot fail to work register. The process of determining work registrant status is a district responsibility. There is no state requirement to complete and/or sign any work registration form. Districts must provide participants with information about their rights and responsibilities with regard to participation in work activities. However, failure or refusal to sign a form delineating these rights and responsibilities does not constitute failure to comply with work registration or work activities. After an individual is determined to be a work registrant (non-exempt), he or she may be required to meet the requirements of a work registrant including participation in a work activity assignment or acceptance of a job. Failure to comply results in a durational sanction of the individual who failed to comply in accordance with 385.12(e).

Should an individual, who claims an exemption from work registration requirements, fail to submit required documentation of the claimed exemption, (i.e., a medical statement or verification of receipt of UIB), the individual automatically becomes a work registrant (WR), and may be required to meet the requirements of a work registrant including participation in a work activity assignment. Districts are advised, when making an assignment, to make accommodations for the alleged limitation. Districts may also want to require the individual to participate in an assessment, which may include a physical fitness exam specific to the potential work activity assignment. Failure to comply with the assigned work activity results in a durational sanction of the individual who failed to comply in accordance with 385.12 (e).

- Q.7 Can food stamp recipients who would normally be exempt from work registration because they are complying with TANF or are the caretaker of a child under six be sanctioned for food stamps?

- A.7 Food stamp recipients are normally exempt from work registration by virtue of participating in a TANF activity or due to being the caretaker of a child under six. (An individual who is exempt from food stamp work requirements solely due to TANF participation may be sanctioned for food stamps if he or she fails to comply with TANF work requirements. See Section 385.12(b)(6)). However, the simplified food stamp plan approved by USDA allows a social services district to use the TANF caretaker exemption for TANF/FS recipients assigned to work experience instead of the food stamp child under six exemption. Therefore, noncompliance by a TANF recipient assigned to work experience may result in a food stamp sanction even if the individual is a caretaker of a child under six. The simplified food stamp regulation change affects TANF households by waiving the work registration exemptions for TANF and caretaker of a child under six. This change allows the FS benefit to be added to the PA benefit when calculating hours of work experience. Therefore, when a TANF recipient is assigned to work experience, a sanction for noncompliance with TANF work experience would then be applied to food stamps as well even if the individual is a caretaker of a

child under six. The food stamp sanction would be applied regardless of whether or not the food stamp benefit was used to determine the maximum hours of work experience. This is only applicable to work experience and no other work activities.

Q.8 Is there a limit to the number of hours of work experience to which a work registered food stamp recipient may be assigned?

A.8 The maximum number of hours of work experience assigned to a work registrant each month is determined by dividing the household's coupon allotment (plus the public assistance benefit amount, if applicable) by the higher of the federal or state minimum wage. Work registrants may be assigned to FSET work experience for up to 30 hours per week or, with the recipient's consent, more than 30 hours in one week as long as the total hours for the month do not exceed 120. A public assistance recipient may be assigned additional hours, based on his/her receipt of a public assistance benefit, not to exceed 40 hours total weekly. If a public assistance/food stamp recipient is assigned to a food stamp work activity concurrent with a public assistance activity, a portion of each day's required hourly assignment is considered a food stamp assignment and the balance considered a public assistance assignment.

Q.9 Can FSET 100% federal funding be used to support the same FSET related costs as 50% federal funding?

A.9 Yes. Both the 100% and 50% federal FSET funding allocations may be used to support any eligible administrative or program cost associated with serving work registrants through the FSET program. Districts should refer to reimbursement guidelines established by the Office of Temporary and Disability Assistance to determine which costs are eligible for FSET reimbursement. FSET funds may be used to support administrative costs associated with subsidized employment, but they may not be used as a wage subsidy or other incentive payment to any employer.

## Section 385.4 Supportive Services

### Contents

- Part A Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions & Answers

**Part A. The Regulations**  
Subdivisions

- (a) Public Assistance
- (b) Food Stamps

(a) Public assistance.

- (1) To the extent Federal and State resources are available and consistent with a local plan submitted pursuant to this Part, the social services official must provide to applicants and recipients transportation, work related expenses, child care for children up to age 13, case management and medical assistance in a manner which is consistent with the social services district's local plan prepared in accordance with the requirements of section 385.10 of this Part.
  - (i) To the extent local resources permit, case management shall be provided for pregnant adolescents, adolescent parents and at risk youth under 18 years of age, persons with limited English proficiency and individuals whose employability plans indicate the need for two or more concurrent work activities.
  - (ii) Child care shall be guaranteed to individuals who need such care to participate in activities assigned in accordance with the provisions of this Part and Part 415 of this Title.
- (2) The social services official may provide supportive services for up to 90 days to individuals who have lost eligibility for public assistance due to employment.
- (3) The social services official may provide any other supportive services which he/she deems necessary to allow individuals to participate in work activities, assist individuals at risk of needing public assistance to improve their opportunities for employment or to maintain their employment, or to assist employed public assistance recipients to improve their opportunities for employment which will move them to self-sufficiency.
- (4) The social services official shall make diligent efforts to assist a person who needs transportation to get to and from a work activity site assigned in accordance with section 385.9 of this Part to obtain such transportation. Where lack of transportation is a direct barrier to participation in an assigned work activity the social services official shall make a reasonable effort to assign the individual to an appropriate work activity at a site in closest proximity to such individual's residence.

(b) Food stamps.

The social services official shall provide, as appropriate, transportation, or reimburse the costs of transportation and provide for dependent care, or reimburse the costs of dependent care expenses for individuals participating in food stamp employment and

**385.4 - The Regulations**

training programs identified in local plans developed pursuant to section 385.10 of this Part.

- (1) Reimbursement for transportation costs shall not exceed a total of \$25 per month per individual.
  
- (2) Reimbursement for dependent care shall not exceed the actual cost of care or the market rate for such care as established by section 415.9(j) of this Title. Individuals cannot be required to participate in food stamp employment and training programs if the cost of dependent care exceeds the allowable amounts, provided, however, that food stamp applicants and recipients participating in combined food stamp and public assistance employment and training activities for which the requirements of subdivision (a) of this section apply shall be required to participate if dependent care costs in excess of the maximum allowed by this paragraph are made available if appropriate and in accordance with the provisions of such subdivision.

**Part B. Department Policy  
for Section 385.4**

Section Summary

Supportive services are provided to applicants and recipients subject to the availability of federal and state funds. Supportive services that are offered to individuals assigned to work activities or to satisfy other employment requirements are the ones that are detailed in your local plan.

Local districts should reimburse the actual costs of transportation and other costs it determines to be necessary and directly related to participation in the Food Stamp Employment and Training program. Reimbursable costs may include, but are not limited to, transportation, and other work, training or education related expenses such as uniforms, personal safety items or other necessary equipment, and books or training manuals.

The previous cap of \$25.00 on Federal reimbursement for transportation costs related to participation in a Food Stamp Employment and Training assignment has been lifted.

Services include but are not limited to:

1. Transportation
2. Work related expenses
3. Child care for children up to age 13
4. Case management
5. Medical assistance

Note: While this section of the regulations authorizes child care as a supportive service, child care payments are funded through the child care block grant. Please refer to Office of Family and Children regulations at 18 NYCRR section 415 for policy on provision of child care. Contact the Bureau of Child Care at 518-474-9454 for information and guidance.

**Part C. Systems Implications**

WMS - no impact - system currently supports authorization of payments via BICs using payment codes that correspond to specific services and, in the case of child care, the type of service.

The Welfare To Work Caseload Management System (WTW CMS) Evaluation Employability Plan requires entry of the required child care information. This information is sent back to the Welfare Reporting and Tracking System (W RTS), allowing those preparing reports related to child care to identify the following factors:

- In Receipt of Child Care (WRTS employment activity status code 47)
- Child Care Not Required (W RTS employment activity status code 49)
- Appropriate Child Care Unavailable Within Reasonable Distance From Home or Work Site (WRTS employment activity status code 55)
- Informal Child Care Unavailable or Unsuitable (WRTS employment activity status code 56)
- Appropriate Affordable Formal Child Care Unavailable (W RTS employment activity status code 57)

**Part D. Questions and Answers**

- Q.1 Can I pay to repair an applicant's car in order to enable the applicant to continue working?
- A.1 Yes. Supportive services can be used as a diversion in a front door program. You may use the assessment process as a front door activity and determine that repairing the car enables the applicant to continue in his/her employment and prevents the applicant from needing public assistance.
- Q.2 Can I pay child care for applicants who are doing job search?
- A.2 Yes. Individuals with a child under thirteen who require child care in order to participate should be provided it. In instances where the district requires an applicant to participate and the individual does not have child care, the district must make at least two referrals for child care, one of which must be to a regulated child care provider. Child care for individuals eligible for services under the Child Care Development Block Grant should be funded with Child Care Development Block Grant funds.
- Q.3 Which cases receive case management?
- A.3 If local funds are available, pregnant adolescents, adolescent parents, at risk youth under eighteen and individuals with limited English proficiency are case managed. However, the local district plan may offer case management to other groups.
- Q.4 Can supportive services be issued to a client after a case is closed?
- A.4 Yes, for up to 90 days after the case is closed due to employment. Also, based on the availability of local district funds and/or appropriate programs, supportive services may be continued beyond 90 days post-employment if the individual qualifies for TANF funded services under the 200% of poverty guidelines.
- Q.5 Can a client be required to move to an area with better job opportunities?
- A.5 No, but remoteness is no longer an allowable reason for failing to comply with work activity assignments. If the district determines that jobs exist outside of the individual's community for which the individual is capable of engaging, then the district may refer the individual to these jobs even if no public transportation exists between the community in which the individual lives and the one in which the job opportunity exists. The regulations require districts to make diligent efforts to assist individuals in overcoming transportation problems, including the provision of supportive services if the district deems them necessary. Districts can even provide the supportive services necessary to help an individual move and set up housekeeping in another community if it deems such services appropriate.

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- Q.6 Are the costs of FSET participation reimbursement payments eligible for Federal funding?
- A.6 Effective May 13, 2002, the entire portion of an FSET participant reimbursement payment is federally reimburseable at a rate of 50%. The federally reimburseable portion of such costs was previously limited to \$25.00 per month per participant. FSET participant reimbursement payments are eligible for 50% federal and 25% State reimbursement. Districts should now include the total costs of participant reimbursements (excluding dependent care costs) using the WMS payment code F2 (Food Stamps Employment/ Training Related Expenses).

## Section 385.5 Orientation Requirements

### Contents

- Part A Regulations
- Part B Department policy
- Part C Systems Implications
- Part D Questions and Answers

**Part A. The Regulations**

Subdivisions

- (a) Providing information to applicants and recipients
- (b) Informing applicants and recipients of their responsibility
- (c) Notification of the opportunity to participate
- (d) Additional information districts may provide to applicants and recipients

- (a) Providing information to applicants and recipients

The social services official shall, at the time of application or redetermination for public assistance and food stamps, inform applicants and recipients of activities and supportive services provided under this Part for which they are eligible, including:

- (1) education, employment and training opportunities, including those which are available at no cost to the individual, which are available under the local plan prepared in accordance with the provisions of section 385.10 of this Part
- (2) responsibilities associated with the repayment of student financial aid;
- (3) supportive services available through the social services district, and the obligation of the social services district to provide such services pursuant to section 385.4 of this Part;
- (4) work activities available through the social services district and the social services districts' obligation, if any, regarding those activities;
- (5) child care available in accordance with the provisions of Part 415 of this Title, for individuals whose public assistance has terminated;
- (6) in accordance with the provisions of Part 415 of this Title and of this Part:
  - (i) the types and settings of child care services which may be reasonably accessible to individuals assigned to work activities and how such services shall be provided and financed;
  - (ii) the assistance available upon request to help individuals assigned to work activities select appropriate child care services; and
  - (iii) the assistance available upon request to help individuals assigned to work activities obtain child care services.

- (b) Informing applicants and recipients of their responsibility

The social services official shall inform applicants and recipients of public assistance of their responsibility in establishing paternity and enforcing child support obligations.

**385.5 - The Regulations**

(c) Notification of the opportunity to participate

Within one month of orientation, the social services official shall notify the applicant or recipient in writing of the opportunity to participate in the social services district's work activities.

- (1) Such notification shall provide a clear description of how an individual may enter and participate in work activities.
- (2) Nothing herein shall preclude the social services official from incorporating such notification into the district's orientation.

(d) Additional information districts may provide to applicants and recipients

The social services official may inform applicants and recipients of public assistance of their obligations under law and regulations, any applicable time limits on public assistance, and any other information deemed pertinent by such official.

**Part B. Department Policy for Section 385.5**

Section Summary

The orientation requirements have not changed and are the same as they were under the JOBS program. All applicants and recipients of public assistance are entitled to receive information on work requirements. At application and recertification clients must be given an explanation of their rights and responsibilities as well as the benefits and obligations of participation in work activities. Orientation must also inform clients of new time limits on receipt of public assistance, requirements to engage in work, school attendance requirements for teen parents and clients' responsibility for finding necessary child care. Districts may include additional elements in their orientation.

**Part C. Systems Implications**

None

**Part D. Questions and Answers**

Q.1 Is orientation an individual process or can the district conduct group orientation?

A.1 It is the option of the district to decide which type of orientation best suits its needs.

**Section 385.6 Assessments and Employability Plans for Households  
with Dependent Children**

Contents

- Part A Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions and Answers

**Part A. The Regulations**

Subdivisions

- (a) Assessments
- (b) Employability plans
- (c) Qualifications for assessors
- (d) Child care
- (e) District discretion

(a) Assessments.

- (1) The social services official shall ensure that an employability assessment is provided for each public assistance recipient who is a member of a household with dependent children and is:
  - (i) 18 years or older; or
  - (ii) is 16 or 17 years of age and not attending secondary school and has not completed high school or an equivalency program.
- (2) Such assessment shall include, but not be limited, to a review of the individual's:
  - (i) education level, including literacy and English language proficiency;
  - (ii) basic skills proficiency;
  - (iii) child care and other supportive services needs;
  - (iv) skills and prior work experience;
  - (v) training and vocational interests;
  - (vi) family circumstances, including the special needs of a child.
- (3) The assessment shall be completed within 90 days of the date such recipient is determined to be eligible for public assistance pursuant to Part 351 of this Title.
- (4) The social services official shall encourage and may require a recipient who has not attained a basic literacy level and who is not subject to the educational requirements of section 385.9 of this Part to enroll in a basic literacy program, high school equivalency program or other educational program in combination with other work activities. Any such assignment shall be consistent with the employability plan prepared pursuant to subdivision (b) of this section.
- (5) An applicant or recipient may be assigned to work activities in accordance with the provisions of this Part prior to the completion of an assessment.

**385.6 - The Regulations**

- (6) Applicants and recipients are required to participate in an assessment as assigned by the social services official.
  - (i) An applicant who fails to comply with assessment requirements shall be ineligible for public assistance, provided, however, that the term applicant means the entire public assistance applicant household.
  - (ii) A recipient who fails to comply with assessment requirements shall be subject to the provisions of sections 385.11 and 385.12 of this Part.
- (b) Employability plan.
  - (1)
    - (i) Based upon the assessment required pursuant to this section, an employability plan shall be developed in writing and in consultation with the recipient, which shall set forth:
      - (a) the services which the district will provide, including child care;
      - (b) the work activities to which the recipient will be assigned;
      - (c) the recipient's employment goal, which shall reflect, to the extent possible, the recipient's preferences to the extent they are consistent with the assessment;
    - (ii) In developing the plan, the social services official shall take into account:
      - (a) the recipient's supportive services needs;
      - (b) the available program opportunities;
      - (c) the local employment opportunities;
      - (d) if the recipient is assigned to an education program, the recipient's liability for student loans, grants and scholarship awards;
  - (2) Notwithstanding the requirements of paragraph (1) of this subdivision, the social services official must consider the need of the social services district to meet Federal and State work activity participation rates before completing an individual's employability plan.
  - (3) If a recipient's preferences cannot be accommodated in the employability plan, the plan shall record the reasons.
  - (4) The plan shall be explained to the recipient.
  - (5) Any change to the plan shall be discussed with the recipient and documented in writing.

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(c) Qualification for assessors

The social services official shall use designated trained staff or providers with demonstrated effectiveness in assessment and employability development to prepare the assessments and plans required by this section.

(d) Child care.

Assignments to work activities made pursuant to an employability plan can be made to the extent that child care is available in accordance with the provisions of this Part and Part 415 of this Title. The social services official shall provide information to the applicant or recipient either orally or in writing, as appropriate, regarding child care and methods of payment for such care.

(e) District discretion

Social services officials may provide assessments which are more detailed and comprehensive than required by this section.

**Part B. Department Policy  
for Section 385.6**

Section Summary

All recipients who reside in households with dependent children and who are adults eighteen years of age or older, and those children who are sixteen and seventeen years old who are not attending secondary school and have not completed high school or have a GED, must be assessed.

The regulations list the six requirements of a TANF assessment at subdivision (a)(2) on pages 6A-1 and 6A-2. The district's assessment process must be described in the local employment plan (see Section 385.10).

Each adult member of a TANF household (or the sixteen and seventeen year-olds described above) must be assessed within ninety days of the determination of eligibility for public assistance.

An employability plan is developed in consultation with the client, but the district does not necessarily need client agreement with the finished plan. The employability plan should detail the client's path to self-sufficiency, but assignments to work activities must be made at district discretion after considering the ability of the district to attain its participation rate.

The employability plan can be changed as needed as long as the local district informs the client in writing.

Releases:

    Canceled: 97 ADM-11.

**Part C. Systems Implications**

No Systems Impact.

The assessment and employability plan are supported in the WTWCMS. Data identifying that the assessment and/or employability plan have been completed is sent from the WTWCMS to the WRTS data base for reporting and tracking purposes.

**Part D. Questions and Answers**

- Q.1 Can the district sanction an individual who refuses to comply with a work activity assigned in accordance with the employability plan, e.g., basic education, but who is willing to do another work activity, such as work experience?
- A.1 Yes. If the district determines that the individual needs the activity assigned to reach self- sufficiency or the assignment is necessary for the district to meet its participation rate, then it can sanction the individual for refusing or failing to comply with the assignment. Of course, the procedure for conciliation must be followed (Section 385.11).
- Q.2 What happens to an applicant or recipient who fails without good cause to attend an assessment?
- A.2 In the case of an applicant who fails to comply with a required assessment, the entire case is denied. No conciliation is required. A recipient who fails to comply with an assessment requirement is subject to the same conciliation and sanction as one who fails to comply with other work activity requirements.

**Section 385.7 Assessments and Employability Plans for  
Households Without Dependent Children**

Contents

- Part A Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions and Answers

**Part A. The Regulations**

Subdivisions

- (a) Assessments
- (b) Employability plan
- (c) Qualifications of assessors
- (d) District discretion

- (a) Assessments.
  - (1) To the extent that resources are available, the social services official shall conduct an assessment of employability for applicants and recipients in households without dependent children who are not exempt from assignment to work activities in accordance with the provisions of section 385.2 of this Part.
  - (2) Such assessment shall be conducted within a reasonable period of time, but in any case shall be conducted within a year following a recipient's application for safety net assistance.
  - (3) Such assessment shall include, but not be limited to, a review of the individual's:
    - (i) educational level, including literacy and English language proficiency;
    - (ii) basic skills proficiency;
    - (iii) supportive service needs;
    - (iv) skills and prior work experience;
    - (v) training and vocational interests; and
    - (vi) family circumstances.
  - (4) The social services official shall encourage and may require a recipient who has not attained a basic literacy level and who is not subject to the educational requirements of section 385.9 of this Part to enroll in a basic literacy program, high school equivalency program or other educational program in combination with other work activities. Any such assignment shall be consistent with the employability plan prepared pursuant to subdivision (b) of this section.
  - (5) An applicant or recipient may be assigned to work activities in accordance with the provisions of this Part prior to the completion of an assessment.

**385.7 - The Regulations**

- (6) Applicants and recipients are required to participate in an assessment as assigned by the social services official.
  - (i) An applicant who fails to comply with assessment requirements shall be ineligible for public assistance, provided, however, that the term applicant means the entire applicant household.
  - (ii) A recipient who fails to comply with assessment requirements shall be subject to the provisions of sections 385.11 and 385.12 of this Part.
  
- (b) Employability plan.
  - (1) Based upon the assessment required pursuant to this section, an employability plan shall be developed in writing and in consultation with the recipient, which shall set forth:
    - (i) the services that will be provided, including supportive services;
    - (ii) the work activities to which the individual will be assigned; and
    - (iii) the individual's employment goal.
  - (2) The plan shall take into account the individual's:
    - (i) supportive service needs;
    - (ii) available program resources;
    - (iii) local employment opportunities; and
    - (iv) liability for student loans, grants and scholarship awards if the recipient is assigned to an education program.
  - (3) Notwithstanding the requirements of paragraph (2) of this subdivision, in developing an employability plan for an individual the social services official must consider the need of the social services district to meet State work activity participation rates before completing an individual's employability plan.
  
- (c) Qualification of assessors

The social services official shall use designated trained staff or providers with demonstrated effectiveness in assessment and employability development to prepare the assessments and plans required by this section.
  
- (d) District discretion

Social services officials may provide assessments which are more detailed and comprehensive than required by this section.

**Part B. Department Policy  
for Section 385.7**

Section Summary

Districts must assess nonexempt Safety Net recipients who are part of a household without dependent children within one year of application. The assessment process includes the requirements of paragraph(a)(3) of the regulations. The district's assessment process must be documented in the local employment plan (see section 385.10).

Prior to the completion of the assessment the district may assign the applicant or recipient to work activities.

An employability plan is developed for each individual that is assessed but in determining work activity assignments, the social services district must give priority to the needs of the district to meet the prescribed participation rate.

**Part C. Systems Implications**

The assessment and employability plan are supported in the WTWCMS. Data identifying that the assessment and/or employability plan have been completed is sent from the WTWCMS to the WRTS database for reporting and tracking purposes.

**Part D. Questions and Answers**

- Q.1 Can the district sanction an individual who refuses to comply with a work activity assigned in accordance with the employability plan, e.g., basic education, but who is willing to do another work activity, such as work experience?
- A.1 Yes. If the district determines that the individual needs the activity assigned to reach self-sufficiency or the assignment is necessary in meeting the district's participation rate, then it can sanction the individual for refusing or failing to comply with the assignment. Of course, the procedure for conciliation must be followed (Section 385.11).
- Q.2 What happens to an applicant or recipient who fails without good cause to attend an assessment?
- A.2 In the case of an applicant who fails to comply with a required assessment, the entire case is denied. No conciliation is required. A recipient who fails to comply with an assessment requirement is subject to the same conciliation and sanction as one who fails to comply with other work activity requirements.

## Section 385.8 Participation Rate Requirements

### Contents

- Part A Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions and Answers

**Part A. The Regulations**

Subdivisions

- (a) Participation rate for all families with dependent children receiving federal temporary assistance for needy families
- (b) Participation rate for two parent families with dependent children receiving federal temporary assistance for needy families
- (c) Participation rate for all families without dependent children who are receiving safety net assistance excluding those receiving federal temporary assistance for needy families benefits

- (a) Participation rates for all families with dependent children receiving Federal temporary assistance for needy families.
  - (1) The minimum number of families in each month for which at least one adult or minor child head of household must be engaged in work as defined in paragraph (2) of this subdivision must be as follows:
    - (i) for Federal fiscal year 1997: 25 percent of the number of cases;
    - (ii) for Federal fiscal year 1998: 30 percent of the number of cases;
    - (iii) for Federal fiscal year 1999: 35 percent of the number of cases;
    - (iv) for Federal fiscal year 2000: 40 percent of the number of cases;
    - (v) for Federal fiscal year 2001: 45 percent of the number of cases; and
    - (vi) for Federal fiscal year 2002 and thereafter: 50 percent of the cases.
  - (2) A member of a household shall be engaged in work if such member is participating in the work activities listed in paragraph (3) of this subdivision for at least the number of hours per week, averaged monthly, as specified in subparagraphs (i) through (iii) of this paragraph, provided, however, that a recipient who is the only parent or caretaker relative in the family of a child who has not attained six years of age is deemed to be engaged in work for a month if the recipient is engaged in work for an average of at least 20 hours per week during the month.
    - (i) for Federal fiscal years 1997 and 1998: 20 hours;
    - (ii) for Federal fiscal year 1999: 25 hours; and
    - (iii) for Federal fiscal years 2000 and thereafter, 30 hours.

**385.8 - The Regulations**

- (3) An individual participating in the work activities identified in section 385.9(a)(1)-(8) and (12) of this Part for the first 20 hours per week, shall be deemed to be engaged in work as allowed by Federal law.
  - (4) An individual participating in work activities identified in section 385.9(a)(1)-(12) of this Part shall be deemed to be engaged in work for the required hours above 20 hours.
  - (5) A recipient who is married or a head of household and has not attained 20 years of age is deemed to be engaged in work for a month if the recipient:
    - (i) maintains satisfactory attendance at secondary school or the equivalent during the month; or
    - (ii) participates for an average of at least 20 hours per week during the month in education directly related to employment as set forth in section 385.9(a)(10) of this Part.
  - (6) Calculation of the rate.
    - (i) Denominator. Each month the commissioner shall determine the number of cases receiving Federal temporary assistance to needy families.
      - (a) Such count shall exclude those cases deemed to be child-only cases in accordance with the provisions of this Title, and for which the social services official has determined an adult to be exempt in accordance with the provisions of section 385.2(b)(7)(i) of this Part regarding caretakers of children under 12 months of age;
      - (b) Such count shall also exclude for a period not to exceed three months in each 12 month period all cases in which the parent or caretaker has been sanctioned in accordance with the provisions of section 385.12(d)(1) of this Part.
    - (ii) Numerator. The commissioner shall count monthly the number of cases in which at least one adult or minor child head of household has engaged in work as defined by this section. Such count shall be the numerator of the calculation.
    - (iii) The commissioner shall calculate the rate monthly by dividing the numerator by the denominator.
  - (7) Such calculation shall be consistent with Federal law and shall apply unless a different rate is imposed by the Federal government; in such instance the commissioner shall establish a rate based upon a methodology consistent with Federal law.
- (b) Participation rate for two parent families with dependent children receiving Federal temporary assistance for needy families.

**385.8 - The Regulations**

- (1) The minimum number of families in each month for which the parent or parents must be engaged in work as defined in paragraph (2) of this subdivision must be as follows:
  - (i) or Federal fiscal years 1997 and 1998: 75 percent of the number of families;
  - (ii) for Federal fiscal year 1999 and thereafter: 90 percent of the number of families.
- (2) For Federal fiscal year 1997 and thereafter, a parent or both parents in a two parent family shall be engaged in work if either or both parents are deemed to be participating in the work activities listed in this paragraph for at least the number of hours per week, averaged monthly, as specified in subparagraphs (i) and (ii) of this paragraph and as limited by Federal law:
  - (i) if no Federally funded child care is made available to the family, one or both parents for a total of 35 hours not fewer than 30 hours per week of which are attributable to an activity described in section 385.9(a)(1)-(8) or (12) of this Part;
  - (ii) if Federally funded child care is provided to the family, both parents for a total of 55 hours, not fewer than 50 hours per week of which are attributable to an activity described in section 385.9(a)(1)-(8) or (12) of this Part;
  - (iii) a parent or both parents participating in work activities identified in section 385.9(a)(1)-(12) of this Part shall be deemed to be engaged in work for the required hours above the 30 hours and 50 hours set forth in subparagraphs (i) and (ii) of this paragraph.
- (3) Calculation of the rate.
  - (i) Denominator. Each month the commissioner shall determine the number of two parent families in which such parents have a child in common (includes spousal relationship and non-legal union with child in common) receiving Federal temporary assistance to needy families.
    - (a) Such count shall exclude those cases in which one adult is disabled, ill or incapacitated in accordance with the provisions of section 385.2 of this Part.
    - (b) Such count shall exclude those active cases in which one or both adult members are sanctioned pursuant to section 385.12 of this Part; provided, however, that such exclusion shall not exceed three months in any 12 month period.
  - (ii) Numerator. The commissioner shall count monthly the number of cases in which a parent or both parents are engaged in work as defined by this section. Such count shall be the numerator of the calculation.

**385.8 - The Regulations**

- (iii) The commissioner shall calculate the rate monthly by dividing the numerator by the denominator.
- (c) Participation rate for all families without dependent children and all families with dependent children which are receiving safety net assistance excluding those receiving Federal temporary assistance for needy families benefits.
  - (1) For all families for each month in which at least one parent is not exempt in accordance with the provisions of section 385.2 of this Part, the percentage of families for which at least one adult or minor child head of household must be engaged in work as defined in paragraph (2) of this subdivision must be as follows:
    - (i) or Federal fiscal years 1997 and 1998: 75 percent of the number of families;
    - (ii) for Federal fiscal year 1999 and thereafter: 90 percent of the number of families.
  - (2) For Federal fiscal year 1997 and thereafter, the adults in a family without dependent children or one or both parents in a family with dependent children shall be deemed to be engaged in work if such members are participating in the work activities listed in paragraph (3) of this subdivision for a total of at least the number of hours per week, averaged monthly, as specified in subparagraphs (i) through (iii) of this paragraph, or otherwise participating as defined by subparagraphs (iv) through (ix) of this paragraph.
    - (i) In the case of one parent families with dependent children:
      - (a) for Federal fiscal years 1997 and 1998: 20 hours;
      - (b) for Federal fiscal year 1999: 25 hours; and
      - (c) for Federal fiscal years 2000 and thereafter, 30 hours.
    - (ii) In the instance of two parent families where child care is provided, one or both adults or parents for a total of 55 hours.
    - (iii) In the instance of adults in families without dependent children or parents in two parent families where child care is not provided or one parent is caring for a disabled child, one or both adults or parents for a total of 35 hours.
    - (iv) The individual has been called in by the social services official for a referral or assignment to a work activity identified in paragraphs (3) through (8) of this subdivision, has failed to report, and to whom a conciliation notice has been sent.
    - (v) The individual has been assigned to a work activity identified in paragraphs (3) through (8) of this subdivision; provided, however, that

such individual shall be considered engaged in work only during the month in which such assignment is made.

- (vi) The individual has been referred to a work activity identified in paragraphs (3) through (8) of this subdivision for the purpose of an interview and possible assignment to such activity; provided, however, that the individual will be considered engaged in work only during the month in which such referral is made.
  - (vii) The individual has been sent a conciliation notice for failure to participate in a work activity identified in paragraphs (3) through (8) of this subdivision and such participation would have met the hourly requirements identified in this subdivision for being engaged in work.
  - (viii) The individual has been sent a timely and adequate notice of intent to discontinue public assistance for the failure to comply with the requirements of this Part and such notice has yet to take effect.
  - (ix) The individual has requested a fair hearing in accordance with the requirements of this Part and Part 358 of this Title, the results of which have not been provided to the social services official.
- (3) An adult in a single parent family participating in the work activities identified in section 385.9(a)(1)-(8) and (12) of this Part for the first 20 hours per week, shall be deemed to be engaged in work.
  - (4) An adult in a single parent family participating in work activities identified in section 385.9(a)(1)-(12) of this Part shall be deemed to be engaged in work for the required hours above 20 hours.
  - (5) One or both parents in a two parent family participating in the work activities identified in section 385.9(a)(1)-(8) and (12) of this Part for the first 30 hours per week, shall be deemed to be engaged in work.
  - (6) A parent or both parents in a two parent family participating in work activities identified in section 385.9(a)(1)-(12) of this Part shall be deemed to be engaged in work for the required hours above 30 hours.
  - (7) All adults in a family without dependent children participating in the work activities identified in section 385.9 (a)(1)-(5) of this Part for the first 30 hours per week, shall be deemed to be engaged in work.
  - (8) All adults in a family without dependent children in work activities identified in section 385.9(a)(1)-(12) of this Part shall be deemed to be engaged in work for the required hours above 30 hours.
  - (9) Calculation of the rate.
    - (i) Denominator. Each month the commissioner shall determine the number of households receiving safety net assistance in which there is a nonexempt adult.

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- (ii) Numerator. The commissioner shall count monthly the number of adult individuals that are engaged in work as defined by this section. Such count shall be the numerator of the calculation.
  - (iii) The commissioner shall calculate the rate monthly by dividing the numerator by the denominator.
- (10) Notwithstanding the requirements of this subdivision, the commissioner may identify those individuals or families who are participating in work experience to the fullest extent possible based on the limitation to maximum hours required as set forth in section 385.9 of this Part and deem them to be engaged in work for the purpose of calculating the participation rate.
- (11) Notwithstanding the requirements of this subdivision, an individual who is work limited shall be deemed to be engaged in work and, therefore, count in the numerator if such individual is assigned to a work activity identified in paragraph (7) of this subdivision for a number of hours determined by the social services official after taking into consideration such limitations.
- (12) For the purposes of this subdivision, an individual who is work limited due to an impairment related to alcohol or substance abuse shall not be deemed engaged in work solely by participating in an alcohol or substance abuse treatment program unless such individual is engaged in a work activity as a part of such treatment program.

## Part B. Department Policy for Section 385.8

### Overview

Federal and state welfare reform legislation contain specific minimum participation rate requirements for recipients of each category of public assistance. Federal legislation establishes requirements for all families receiving TANF funds (which includes single parent and two parent families) as well as a separate rate requirement for two parent families receiving TANF funds. This section describes the minimum participation requirements that districts must attain for each public assistance case type. Districts should assign individuals to appropriate activities for up to 40 hours weekly and provide the necessary support services to allow them to attain self-sufficiency, while at the same time being mindful of the need to meet participation rates.

The policy discussed below:

- Outlines district participation rate requirements;
- Defines the denominator for each rate;
- Defines the numerator for each rate; and
- Identifies the allowable activities which “count” toward the participation rate.

### District Participation Rate Requirements

All participation rates are calculated on a monthly basis. However, districts are required to attain minimum TANF rates (All Families and Two Parent Families) on a federal fiscal year basis. Districts may fail to attain the TANF rates for a particular month, but must meet the TANF rates for each federal fiscal year. The federal fiscal year rate is based on an average of the monthly rates. Effective October 1, 2001, districts must attain a TANF All Families rate (includes TANF single and two parent families) of 50 percent. The TANF Two Parent Families rate is 90 percent.

For Safety Net, districts must attain a 90 percent rate for Safety Net Households With Dependent Children (which includes Safety Net single and two parent families) and for Safety Net Households Without Dependent Children for each quarter of the calendar year. Districts can fail to attain the Safety Net participation rates for a particular month, but must meet the Safety Net rates for each quarter of the calendar year. The quarterly Safety Net participation rate for each Safety Net rate requirement is calculated by dividing the sum of the numerators for each month of the quarter by the sum of the denominators for each month of the quarter. There is no annual rate requirement for Safety Net.

The specific rate requirements for TANF and Safety Net are described in Chart 1.

### Participation Rate Denominator

#### **TANF**

TANF All Families: The TANF All Families rate denominator includes all cases receiving TANF funded assistance except for child only cases, cases in which an adult is sanctioned or subject

to penalty for no more than 3 months during the preceding 12 months, and single parent cases with a child under the age of one as described below.

**TANF Two Parent Families:** For participation rate purposes, two parent families are those cases in which both parents are in receipt of TANF or would be in receipt of TANF except for a sanction for failure to comply with a TANF requirement and include spousal relationships with or without a child in common and non legal unions with a child in common. The TANF two parent families rate denominator includes all two parent families in receipt of TANF in which both parents are not disabled (except for two parent families in which an adult is sanctioned or subject to penalty for no more than 3 months during the preceding 12 months). TANF two parent families in which at least one parent is disabled are treated as single parent families and remain included in the All Families rate but are removed from the Two Parent Families rate.

Cases in which one of the parents is not in receipt of TANF funds for any reason other than failure to comply with a TANF requirement are treated as single parent families. For example, a two parent household where one parent is in receipt of SSI would not count in the two parent rate and would be treated as a single parent family. A two parent household with one parent incrementally sanctioned (and therefore not in receipt of TANF) would continue to be included in the two parent families rate. Cases in which there are two parents who are both in receipt of TANF funds and one parent is disabled are also treated as single parent families.

**TANF Excluded Cases:** Generally, all TANF cases are included in the denominator of each TANF participation rate calculation. However, cases are excluded from the denominator of the TANF All Families and Two Parent Families participation rate calculation in the following instances:

- Child only cases;
- Cases in which an adult is sanctioned or “subject to penalty” for up to 3 months in the preceding 12-month period. “Subject to penalty” includes the entire sanction process, beginning with conciliation, and cases may be excluded from the denominator from the month any adult individual (not solely the participating adult or minor child head of household) in the case has failed to comply with employment requirements and is subject to penalty. (Currently, however, the system is unable to accommodate this and will only remove cases from the TANF denominator for 3 months in every federal fiscal year when the case has an individual who is in sanction status. Districts should adjust any future manual reports to reflect the correct policy. Any penalty applied against the State for failure to attain the minimum federal participation rate requirements would subsequently be applied to districts who failed to attain the minimum rate requirements for that period and would be calculated based on manual adjustments to system reports. See systems implications page 117); and
- Cases in which a parent or caretaker in a true single parent case is personally providing care for a child under the age of one for a lifetime limit of twelve months. Note: this is the only federal exemption from participation in work activities.

### **Safety Net**

**Safety Net Rate-Households Without Dependent Children:** District participation rate requirements for Safety Net Households Without Dependent Children apply only to households

with a nonexempt adult. Factors that exempt an individual from participation in work activities are included in Section Two of this Manual.

The denominator for Safety Net participation rates, for both Households Without Dependent Children and Households With Dependent Children (Safety Net Families) includes only those cases with a nonexempt adult or minor head of household (see also note below).

Safety Net Rate-Households With Dependent Children (non-TANF): The participation rate for Safety Net Households With Dependent Children is figured separately from the rate for Safety Net Households Without Dependent Children. Initially, Safety Net cases were composed mainly of singles and childless couples, however, beginning in December 2001, Safety Net includes families with dependent children who have reached the 60-month lifetime limit for the receipt of TANF benefits. These families are no longer part of the TANF participation rate denominator, but now comprise the Safety Net Households With Dependent Children rate denominator.

The denominator for Safety Net participation rates, for both Households Without Dependent Children and Households With Dependent Children (Safety Net Families) includes only those cases with a nonexempt adult or minor head of household. Factors that exempt an individual from participation in work activities are included in Section Two of this Manual.

Note: However, although the denominator for Safety Net participation rates includes only those cases with a nonexempt adult or minor head of household, it also includes cases in which an adult is miscoded as exempt because the individual has exceeded the twelve month lifetime limit as a care-taker of a child under the age of one. Additionally, cases with an exempt adult or minor head of household who is participating in a countable activity to the extent the individual would count in the numerator are also included in the denominator.

### **Participation Rate Numerator**

The participant definition or participant count as described below means that the individuals in the household who are required to participate in work activities are participating in countable activities for at least the minimum number of hours required for the household and therefore are counted as participants in the numerator. For example, a nonexempt adult in a single parent TANF household meets the participant definition and causes the case to be included in the TANF All Families numerator if the individual participates for at least 30 hours weekly in countable activities.

Additionally, for both TANF and Safety Net rates, any recipient in the household meeting that household's participation requirements causes the case (for TANF) or the individual (for Safety Net) to be included in the numerator as long as the activity and hours meet the minimum requirements for the case. For example, a participating adult child would cause the case to be counted in the numerator so long as the individual was participating in an activity which was countable for the household.

### **TANF**

The TANF All Families and Two Parent Families rate requirements apply to case or household counts, not individuals. The TANF participation rates are case based and are calculated as a percent-age of all families receiving TANF funded public assistance (including TANF funded Safety Net assistance) that meet the participant definition. Therefore, if two individuals in a case

are participating as required, the case counts in the numerator only once. For TANF, both the numerator and denominator are case, not individual, counts.

**TANF All Families:** The TANF All Families rate requires that one individual alone must participate an average of 30 hours weekly during the month in certain activities for the case to be included in the numerator. Additionally, a two parent case does not count in the TANF All Families rate unless one parent participates for an average of 30 hours weekly, even though their combined hours (either 35 or 55) allows the case to count in the TANF Two Parent rate.

**TANF Two Parent Families:** The TANF Two Parent Families numerator is determined by the number of two parent cases who meet the minimum hourly participation requirements. TANF two parent families must participate 35 hours weekly if child-care is not provided; or 55 hours weekly if the family is in receipt of federally funded child-care. The hours of participation by both parents may be combined to meet the two parent hours per week requirement. However, for the two parent case to be included as participating in the All Families rate, one parent must participate at least an average of 30 hours weekly.

**Note:** A two parent household with one disabled parent may be excluded from the Two Parent Families rate and is only required to participate 30 hours weekly to count in the TANF All Families rate. However, the State, for federal reporting purposes, may opt not to report the disability of one parent in a two parent household with one disabled parent if the second parent is participating enough hours to count the family in the Two Parent Families numerator (35 or 55 hours), thereby ensuring that the case remains in the two parent rate calculation. Districts are required to continue to accurately report the exempt/non-exempt status of both parents, however, they are encouraged, for two parent families with one disabled parent, to engage the second parent in enough hours to meet the two parent rate requirement.

### **Safety Net**

The participant count (numerator) for each Safety Net rate is an individual, not case, based count and is calculated as a percentage of all cases in which there is a nonexempt individual receiving non-federally funded Safety Net Assistance that meet the participant definition. For example, a Safety Net case without dependent children in which both adults are nonexempt and participating (and each is discretely meeting the participant definition) counts both adults as participants in the numerator while a case count of only one is reflected in the denominator. However, the individuals may not combine their hours of participation to meet the household requirement.

### **Safety Net Rate-Households Without Dependent Children**

The nonexempt adult(s) in the household are each required to participate a total of at least 35 hours per week (see note).

Also, a nonexempt Safety Net teen, living on his/her own, under 20 years of age, participating and maintaining satisfactory attendance at secondary school or the equivalent or participating in education training for at least an average of 20 hours weekly are included in the SN participation count.

### **Safety Net Rate-Households With Dependent Children**

The nonexempt adult(s) in single parent Safety Net families are each required to participate a total of at least 30 hours weekly to count toward the Safety Net rate for Households with Dependent Children.

Two parent Safety Net families with dependent children must participate at least 35 hours weekly if the family does not have child care or one parent is caring for a disabled child, or at least 55 hours weekly if in receipt of child care. For two parent families only, the hours of participation of both parents may be combined to meet the hourly household requirements and each parent may then be counted as a participant in the numerator.

Note: For Safety Net, work limited individuals count as participants in the numerator if they participate in unsubsidized employment, subsidized private or public sector employment, work experience, on-the-job training, job search and job readiness training (6 week limit), community service, vocational education (12 month lifetime limit) or the provision of child-care for a community service participant to the extent their limitation allows. Additionally, individuals participating in work experience count as participants in the numerator if they are participating in work experience the maximum number of hours the grant will allow.

The required hours of participation are described in Chart 1.

### **Countable Activities**

Districts are required to engage individuals in appropriate activities and provide the necessary supportive services to enable individuals to move toward self-sufficiency. While districts have considerable flexibility in assigning individuals to activities, not all activities count toward participation rate calculations. Charts 2A and 2B identify which activities count for each participation rate requirement. Additional information regarding work activities is included in Section 9 of this Manual.

Generally, only actual participation in a countable work activity equal to or exceeding the required minimum hours weekly will result in the individual (Safety Net) or case (TANF) being included as participating in the numerator. However, actual hours of participation in work activities for both TANF and Safety Net include the following:

- excused absences from hours of assigned activities as determined reasonable and appropriate by the district (for example, illness of the individual, illness of another household member requiring the individual's presence, household emergency, death in the family, lack of adequate child care for children under 13);
- reasonable hours of study time, as determined by the district and described in their local employment plan, for individuals enrolled in education or training; and
- paid hours of leave for employed individuals.

### **Additional Countable Participation for Safety Net Rates**

For both Safety Net participation rates, certain individuals count toward the rate (in the numerator) even if they are not meeting the standard minimum required hours. Specifically, the following count toward the Safety Net participation rates:

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- Individuals participating in work experience the maximum number of hours allowed by the restrictions based on the public assistance grant and food stamp allotment count as participants.
- Work limited nonexempt individuals who are participating in accordance with their limitations in unsubsidized or subsidized employment, work experience, on-the-job training, job search and job readiness training (6 week limit), community service, vocational education (12 month lifetime limit), or the provision of child-care for a community service participant also count toward the participation rate.

In addition to individuals actually participating in countable work activities, for both Safety Net participation rates, the participant count includes:

- individuals called in for a referral or assignment to a work activity who fail to report and are sent a conciliation notice;
- individuals assigned to a countable work activity (counts for the month assignment was made);
- individuals referred to a countable activity (counts for the month in which referral was made);
- individuals being conciliated for failure to participate in a countable work activity (provided that the assignment would have met hourly requirements);
- individuals to whom a sanction notice has been sent (for failure to comply with employment requirements) but the notice has yet to take effect; and
- individuals who have requested a fair hearing (relating to employment requirements), until the results are received by the district.

Note: Although the calculation of what is countable is more expansive for Safety Net than for TANF, districts should be aware that Safety Net households with dependent children only count toward the State MOE rate when they are participating in activities which would include the case in the TANF rate calculation if the case were a TANF case. For example, although an individual in a Safety Net Household with dependent children would count as a participant in the Safety Net Households With Dependent Children rate if the individual had requested a fair hearing, the case would not count toward the State MOE rate. There currently is no minimum MOE rate requirement.

Provided below are several charts that illustrate important participation rate requirements.

**Chart 1 Participation Rate Requirements****TANF ALL FAMILIES**

<b>FFY</b>	<b>Participation Rate</b>	<b>Number of Weekly Hours<sup>1,2</sup></b>
<b>2002 and thereafter</b>	<b>50%</b>	<b>30</b>

**TANF TWO PARENT FAMILIES**

<b>FFY</b>	<b>Participation Rate</b>	<b>Number of Weekly Hours<sup>1,3</sup></b>
<b>2002 and thereafter</b>	<b>90%</b>	<b>35 or 55</b>

**SAFETY NET HOUSEHOLDS WITHOUT DEPENDENT CHILDREN**

<b>FFY</b>	<b>Participation Rate</b>	<b>Number of Weekly Hours<sup>1</sup></b>
<b>2002 and thereafter</b>	<b>90%</b>	<b>35</b>

**SAFETY NET HOUSEHOLDS WITH DEPENDENT CHILDREN<sup>5</sup>**

<b>FFY</b>	<b>Participation Rate<sup>4</sup></b>	<b>Number of Weekly Hours<sup>1,2,3</sup></b>
<b>2002 and thereafter</b>	<b>90%</b>	<b>30; 35 or 55</b>

1. The number of weekly hours must be in specified activities as described in Chart 2.
2. For both TANF and Safety Net single parent families, the number of weekly hours required is 30. However if the parent is a caretaker of a child under 6, the weekly requirement is 20 hours.
3. For both TANF and Safety Net two parent families the number of weekly hours required is 35 unless the family is in receipt of federally funded child care. Two parent families must participate 55 hours weekly if the family is in receipt of federally funded child care (at any time in the month) and neither parent is disabled. TANF two parent families in which one or both parents are disabled are not counted in the TANF Two Parent rate, but are treated as single parent families and included in the TANF All Families rate. TANF two parent families with one parent caring for a disabled child may count the parent providing such care as participating in community service and are required to participate 35 hours. Safety Net two parent families with one parent caring for a disabled child are also required to participate 35 hours weekly.
4. There currently are no fiscal penalties for failure to meet the participation rate requirements for Safety Net Households With Dependent Children.
5. Safety Net single parent families and two parent families are included together in the Safety Net Households With Dependent Children rate.

Chart 2A TANF COUNTABLE ACTIVITIES

	TANF ALL FAMILIES	TANF TWO PARENT FAMILIES
Unsubsidized Employment	counts	counts
Subsidized Private Sector Employment	counts	counts
Subsidized Public Sector Employment	counts	counts
Work Experience	counts	counts
On-The-Job Training	counts	counts
Job Search	counts but for only 6 weeks per federal fiscal year	counts but for only 6 weeks per federal fiscal year
	(including job readiness training)	
Job Readiness Training	counts but for only 6 weeks per federal fiscal year	counts but for only 6 weeks per federal fiscal year
	(including job search)	
Community Service	counts	counts
Vocational Education	counts but for only 12 months total	counts but for only 12 months total
Job Skills Training	counts toward hours above 20 only	counts toward hours above 30 or 50 only
Education Training	counts toward hours above 20 only	counts toward hours above 30 or 50 only
High School or Equivalent	counts toward hours above 20 only	counts toward hours above 30 or 50 only
Child Care Provider for Community Service Participant	counts	counts
Other Local District Activity not included above	does not count	does not count

- > Cases in which a true single custodial parent or caretaker relative with a child under six years of age are participating for at least an average of 20 hours weekly are included in the TANF participant count (numerator).
- > Cases in which married teens or single heads-of-household under 20 years old are participating and maintaining satisfactory attendance at secondary school or the equivalent or participating in education training for at least an average of 20 hours weekly are included in the TANF participant count.
- > An individual is allowed to count for participation rate purposes no more than 12 months of Vocational Education during the entire time the individual is in receipt of assistance, including Safety Net. Additionally, no more than 30% of a state's total participant count in the TANF All Families or in the TANF Two Parent Families rate calculation may be determined to be participating on the basis of participating in vocational education. This 30% limit includes married teens or single heads-of-household under 20 years of age that are participating in either secondary school or equivalent or participating in education directly related to employment for at least an average of 20 hours weekly during the month.
- > Cases in which an individual is participating in job search or job readiness training are also subject to limitation. The six week limit on counting participation in job search/ job readiness training during each federal fiscal year applies to participation in either job search or job readiness training, not to each separately. Participation in job search and job readiness training counts for a maximum of six weeks, regardless of whether the six weeks was spent in one or a combination of the two programs.
- > An individual is allowed to count for participation rate purposes no more than a total of two years of post secondary education (or the part-time equivalent, if full-time study would constitute an undue hardship). However, in any instance an individual is enrolled in post secondary education and the individual is counted as a participant under vocational education, the vocational education is countable for only 12 months total during the individual's lifetime receipt of assistance, including Safety Net.

Chart 2B SAFETY NET COUNTABLE ACTIVITIES

	SN Households Without Dependent Children	SN Households Without Dependent Children
Unsubsidized Employment	counts	counts
Subsidized Private Sector Employment	counts	counts
Subsidized Public Sector Employment	counts	counts
Work Experience	counts	counts
On-The-Job Training	counts	counts
Job Search	counts but for only 6 weeks per federal fiscal year (including job readiness training)	counts but for only 6 weeks per federal fiscal year (including job readiness training)
Job Readiness Training	counts but for only 6 weeks per federal fiscal year (including job search)	counts but for only 6 weeks per federal fiscal year (including job search)
Community Service	counts	counts
Vocational Education	counts but for only 12 months total	counts but for only 12 months total
Job Skills Training	counts toward hours above 20 only	counts only toward hours above 20 for single parent families, 30 for two parent families
Education Training	counts toward hours above 20 only	counts only toward hours above 20 for single parent families, 30 for two parent families
High School or Equivalent	counts toward hours above 20 only	counts only toward hours above 20 for single parent families, 30 for two parent families
Child Care Provider for Community Service Participant	counts	counts
Other Local District Activity not included above	does not count	does not count

- > A single custodial parent or caretaker relative with a child under six years of age counts as a participant if he/she participates for at least an average of 20 hours weekly.
- > Married teens or single heads-of-household under 20 years of age, including teens that are eligible for Safety Net Families Without Dependent Children, count as participants if they maintain satisfactory attendance at secondary school or its equivalent or participate in education training for at least an average of 20 hours weekly.
- > Job Search, Job Readiness Training. The six week limit on counting participation in job search/job readiness training during each federal fiscal year applies to participation in either job search or job readiness training, not to each separately. Participation in job search and job readiness training counts for an individual for a maximum of six weeks, regardless of whether the six weeks was spent in one or a combination of the two programs.
- > An individual is allowed to count for participation rate purposes no more than 12 months of Vocational Education during the entire time the individual is in receipt of assistance, including TANF.
- > An individual is allowed to count for participation rate purposes no more than a total of two years of post secondary education (or the part-time equivalent, if full-time study would constitute an undue hardship). However, in any instance an individual is enrolled in post secondary education and the individual is counted as a participant under vocational education, the vocational education is countable for only 12 months total during the individual's lifetime receipt of assistance, including TANF.
- > Work limited individuals count as participants if they participate in unsubsidized employment, subsidized private or public sector employment, work experience, on- the-job training, job search and job readiness training (6 week limit), community service, vocational education, (12 month lifetime limit) or the provision of child-care for a community service participant to the extent their limitations allow.
- > Individuals participating in work experience count if they participate in work experience the maximum number of hours their PA and FS grant will allow, even if it results in a number of hours which does not meet the minimum weekly requirements.
- > Safety Net households with dependent children are only counted toward the State MOE rate if an individual is participating in TANF countable activities.

**Part C. Systems Implications**

System changes are being implemented in the Welfare Reporting and Tracking System (WRTS) that will cause sanction tracking to identify if an individual has been sanctioned for three months out of the preceding twelve months. The production date for this change is not yet scheduled.

In the meantime, the tracking logic will continue to identify individuals who have been sanctioned up to three months in the federal fiscal year. Districts will be notified with any further systems changes relating to this issue. Districts should, however, apply the current policy when adjusting the WINR 9465 for purposes of completing the RSW200 when manually adjusting system reports.

Additionally, changes are being implemented in the WRTS database to the Job Search/Job Readiness Weeks Used tracking logic. These counters are being modified to include Safety Net Individuals and Childless Couples as well as TANF and Safety Net Family cases.

Changes are also being made to the Welfare To Work Caseload Management System (WTWCMS) Minimum Required Hours of Participation logic. These changes, which are expected to go to Production in early first quarter 2005, will reflect changes that were previously made in Participation reporting logic.

**Part D. Questions and Answers**

- Q.1 Does the Safety Net participation rate calculation reflect sanctioned status similar to the TANF calculation?
- A.1 No. Under the Safety Net Program individuals who are being conciliated, individuals sent a notice of intent until the a sanction takes effect, and individuals who have requested a fair hearing relating to employment requirements are included as otherwise participating and remain in both the numerator and the denominator. Currently, the system removes TANF cases from the TANF denominator once a sanction has been imposed (for up to 3 months in each federal fiscal year). If the TANF case stays open and the individual fails to comply, the case returns to the denominator after 3 months (see also Systems Implications, page 118). This exclusion does not apply to Safety Net and the case remains in the Safety Net denominator.
- Q.2 Under Safety Net, do work-limited nonexempt recipients count as participants regardless of the activity and hours of participation?
- A.2 Safety Net work-limited nonexempt recipients count as participants regardless of the hours of participation as long as they are participating the maximum number of hours allowed by their health related limitation in unsubsidized employment, subsidized private sector or public sector employment, work experience, on-the-job training, job search and job readiness training (6 week limit) community service, vocational education (12 month lifetime limit) or the provision of child-care for a community service participant. This applies to both Safety Net households with and without dependent children.
- Q.3 Which acts of noncompliance are considered when determining which cases are excluded from the TANF denominator for up to 3 months in a 12-month period?
- A.3 The federal rule is that individuals who refuse to engage in work must be sanctioned. This includes the requirement for non-exempt individuals to participate in an employment or training activity or to participate in a substance abuse rehabilitation program that is part of the individual's employment plan. Therefore, cases in which an individual is subject to penalty or sanctioned for failing to comply with a work requirement, including failing to participate in substance abuse rehabilitation which was required as part of the individual's employment plan, result in the case being excluded from the denominator for up to three months in a 12 month period (see also Systems Implications, page 118).
- Q.4 Which exemptions meet the state's definition of "disabled" for purposes of determining which two parent cases are excluded from the two parent count?
- A.4 Federal law allows two parent cases in which one of the parents is "disabled" to not count as two parent cases for participation rate purposes although the case would remain in the TANF All Families rate calculation. The Department has defined "disabled" to include disabled, ill and incapacitated as defined in 385.2. Specifically, this definition includes the following employability codes:
- 24 – Pregnant Within 30 days of Medically Verified Date of Delivery
  - 36 – Incapacitated/Disabled (more than 6 Month Exemption)
  - 41 – Temporary Illness (1 to 3 Month Exemption)
  - 42 – Temporary Incapacity (4 to 6 Month Exemption)
  - 43 – Incapacitated (SSI Application Filed)

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- 44 – Incapacitated (In Receipt of SSI)
- 63 – Substance Abuser (In Rehabilitation or Waiting for Rehabilitation) - Exempt
- 70 – Contesting Employability Determination

Districts should only use code 70 for persons contesting employability based upon one of the disability issues listed above.

Q.5 Are two parent cases that are treated as single parent cases due to one of the parents being disabled eligible for the 12-month exemption for having a child under the age of one?

A.5 No. The federal rule indicates that only true single custodial parents caring for a child who has not attained 12 months of age can be disregarded in determining the participation rate.

Q.6 What is the definition of a child only case for participation rate purposes?

A.6 For participation rate purposes, child only cases are cases in which children only are in receipt of TANF assistance. This includes cases in which the parent(s) or caretaker, although in the household, are not receiving TANF assistance for reasons other than a sanction for failing to comply with TANF rules. Cases in which the parent or caretaker is sanctioned do not become child only cases.

Q.7 Do two parent family participants count toward the All Families participation rate?

A.7 Yes, all TANF families (single or two parent) count toward the All Families rate as long as one individual alone participates the minimum number of hours to meet the All Families requirement (30 or 20 if the two parents are married teens under 20 years of age participating in education or training).

Q.8 Which two parent families must participate 55 hours weekly to count as participants?

A.8 Two parent TANF and Safety Net families that are in receipt of federally funded child care must participate 55 hours weekly even if they have received child care for only one day in the month.

Q.9 How many hours do two parent families have to participate if one parent is disabled or caring for a disabled household member?

A.9 Two parent TANF families in which one parent is disabled and exempt are treated like single parent families for participation rate purposes and are required to participate 30 hours weekly to count toward the All Families rate. However, if the household participates enough hours to meet the two parent rate requirement, the state may opt to report the family as a two parent family and count the case in the two parent rate. Two parent Safety Net families with one disabled, exempt parent are required to participate 30 hours weekly.

Two parent families in which one parent is caring for a disabled household child have to participate 35 hours weekly to count toward the TANF Two Parent rate. The parent providing care counts as participating under community service to the extent the parent

is providing care. Two parent Safety Net families in which one parent is caring for a disabled child are required to participate 35 hours weekly.

Q.10 Do all teens in secondary school or equivalent or other educational training count as participants for purposes of calculating the TANF All Families and Safety Net participation rates and how should they be reported?

A.10 Yes. Teen parents, married teens, or teens living on their own, that are heads of households cause the case to be included in the participation rates based on secondary school or its equivalent attendance, for any number of hours, or participation in educational training for at least 20 hours weekly. Federal TANF law restricts the numerator to cases that include an adult or minor child head of household who is “engaged in work.” However, any adult individual fulfilling the household participation requirements triggers the case to count in the numerator. For example, an adult 18 year old who is not married or the head of household, but who is participating the number of required hours in a countable activity includes the case in the numerator.

For TANF and Safety Net cases, married Teens, teen heads of household, and single teens residing alone and who are enrolled in secondary school or equivalent should be entered on WMS with an Employability Code of 17. This employability code, combined with a confirmed enrollment in the activity of High School (including GED and Secondary School or equivalent), with scheduled hours present; or Educational Training with actual hours pro-rated for 20+ hours weekly, will effectively cause the case to be included in either the TANF numerator or the Safety Net numerator as appropriate.

Q.11 Do adults participating in educational activities such as adult basic education, literacy training, or English as a Second Language (ESL) count toward the participation rate?

A.11 The hours of participation in such activities by adults count only toward the hours required above 20 for TANF All Families and single parent Safety Net Households With Dependent Children, above 30 for two parent Safety Net Households With Dependent Children, and above 30 or 50 for Two Parent TANF Families. For Safety Net Households Without Dependent Children, the activities count for the hours above 20.

Q.12 Does the federal TANF six week limit apply to job search and job readiness training jointly or to each separately?

A.12 Participation in either job search or job readiness training counts toward the participation rate calculation for a combined total of six weeks, no more than four weeks consecutive, during each federal fiscal year.

Q.13 How are the limits on job search and job readiness training and vocational education applied for TANF and Safety Net?

A.13 An individual’s participation in job search/job readiness training is countable for 6 weeks every federal fiscal year, regardless of whether the individual is in receipt of TANF or Safety Net assistance. There is no lifetime limit for job search/job readiness training.

However, participation in vocational education is limited to a lifetime of 12 months. An individual’s participation in vocational education is countable for 12 months total during his/her lifetime receipt of assistance, including both TANF and Safety Net. For example,

an individual who is counted as participating in vocational education for 12 months while in receipt of TANF would subsequently not be able to be counted as participating in vocational education for Safety Net because he/she had already reached the lifetime 12-month limit.

Q.14 May individuals combine their participation to meet the household's participation requirements?

A.14 Parents in TANF and Safety Net two parent families may combine their hours of participation to meet the household requirements. For TANF two parent families, the parents may combine their hours of participation to include the case in the two-parent numerator; however, one parent alone must participate at least 30 hours weekly to include the case in the TANF All Families numerator. For Safety Net two parent families, the parents may combine their participation to meet the household requirements and each would therefore be counted in the Safety Net Households With Dependent Children numerator.

Individuals in cases which are not two parent cases may not combine their hours of participation to meet household participation requirements. For TANF, any individual discretely meeting the participant definition includes the case in the TANF All Families numerator. Individuals in receipt of Safety Net (excluding two parent families as described above) must each discretely meet the participant definition in order to be included in either the Safety Net Households Without Dependent Children or Safety Net Households With Dependent Children numerators.

Q.15 How should participation in post-secondary education be reported?

A.15 An individual may be allowed to participate in post- secondary education for a total of two years (or the part time equivalent if full time would constitute an undue hardship.) Participation in post secondary education may be reported as vocational education, however, an individual may be counted as participating in vocational education for only 12 months total during his/her lifetime of receipt of assistance, including both TANF and Safety Net. The remainder of the post-secondary education may be reported as community service participation if the district has defined community service in its Temporary Assistance and Food Stamp Employment Plan to include participation in approved post-secondary education combined with some type of work component.

## Section 385.9 Work Activities and Work Requirements

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## Part A. The Regulations

### Subdivisions

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(a) Work Activities

Social services districts may provide, and require applicants for and recipients of public assistance to participate in a variety of activities, including but not limited to the following:

- (1) unsubsidized employment;
- (2) subsidized private sector employment;
- (3) subsidized public sector employment;
- (4) work experience in the public sector or non-profit sector, (including work associated with refurbishing publicly assisted housing) if sufficient private sector employment is not available as determined by the social services official. The maximum number of hours a recipient or applicant may be required to engage in this activity is limited to the number which equals the amount of assistance payable with respect to the public assistance household of such individual (inclusive of the value of food stamps received by the public assistance household of such individual, if any) divided by the higher of (i) the Federal minimum wage, or (ii) the State minimum wage. The limitation of the number of hours of work experience to which a participant may be assigned is a calculation of allowable hours in a work activity and does not mean that such participant is receiving a wage for the performance of such activities. The participant is not working off the grant, but is engaged in work activities as an element of his/her plan to become self-sufficient;
- (5) on-the-job training;
- (6) job search and job readiness assistance, as time limited by Federal law, provided that job search is an active and continuing effort to secure employment, configured by the social services official;
- (7) community service programs provided, however, the number of hours a participant in community service activities authorized pursuant to this section

may be required to work in such assignment shall not exceed a number which equals the amount of assistance payable with respect to the public assistance household of such individual (inclusive of the value of food stamps received by the public assistance household of such individual, if any) divided by the higher of (i) the Federal minimum wage, or (ii) the State minimum wage. No participant shall be assigned to a community service activity that conflicts with his/her bona fide religious beliefs. The definition or parameters of this activity shall be set forth in the local plan submitted by the social services district, provided that an individual needed in the home because another member of the household requires his/her presence due to a verified mental or physical impairment shall be deemed to be engaged in community service to the extent such person is actually providing care for such member of the household. The limitation of the number of hours of community service to which a participant may be assigned is a calculation of allowable hours in a work activity and does not mean that such participant is receiving a wage for the performance of such activities. The participant is not working off the grant, but is engaged in work activities as an element of his or her plan to become self-sufficient. For purposes of calculating the participation rate, recipients who are acting as foster parents for children are deemed engaged in community service to the extent they are actually providing care for such children;

- (8) vocational educational training as time limited by Federal law and pursuant to subdivision (c) of this section;
  - (9) job skills training directly related to employment;
  - (10) education directly related to employment, in the case of a recipient who has not yet received a high school diploma or a certificate of high school equivalency;
  - (11) satisfactory attendance at secondary school or a course of study leading to a certificate of general equivalency in the case of a recipient who has not completed secondary school or received such certificate;
  - (12) provision of child care services to an individual who is participating in community service;
  - (13) job search and job readiness assistance once the individual has exceeded the six week limit set in Federal law;
  - (14) educational activities pursuant to subdivision (c) of this section; and
  - (15) other activities set forth in a local district plan.
- (b) Additional Provisions:
- (1) No participant shall be required to provide child care services as a work activity described in this part unless the participant expressly requests in writing to provide such services.
  - (2) Social services districts may enter into agreements with public and private employment agencies to assist recipients of public assistance to find jobs.

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- (3) No participant shall in any case be required to engage in assigned activities for more than forty hours in any week.
- (4) A non-graduate degree student who is participating in a work-study, internship, externship, or other work placement that is part of the curriculum of a student approved for participation by the City University of New York (CUNY), the State University of New York (SUNY), another degree granting institution, or any other education, training or vocational rehabilitation agency approved by the state or social services district, shall not be unreasonably denied the ability to participate in such program as a work activity assignment made in accordance with the provisions of this Part. A social services district may deny such participation based upon consideration of factors including, but not limited to:
  - (i) the determination that the student voluntarily quit a job or reduced earnings to qualify for initial or increased public assistance as determined in accordance with section 385.13 of this Part;
  - (ii) that a job or on-the-job training position that is comparable to the work-study, internship, externship or other work placement cannot reasonably be expected to exist in the private, public, or not-for-profit sector;
  - (iii) that the student is not maintaining a cumulative C average (or its equivalent), which may be waived by the district for cases of undue hardship based on the death of a relative, the personal injury or illness of the student or other extenuating circumstances as determined appropriate by the district;
  - (iv) failure of the institution or student to monitor and report to the social services district monthly, or as otherwise reasonably required by the district, information regarding the student's attendance and performance related to the work placement. Failure of the institution to monitor and report student attendance and performance shall be cause for the district to reasonably deny approval of the student's participation in such programs as a work activity;
  - (v) failure of the student to progress toward the completion of a course of study without good cause as determined by the social services district; and,
  - (vi) that the student had previously enrolled in a work-study, internship, or other work placement and failed to complete the work placement without good cause as determined by the social services district.
- (5) When a social services district assigns a non-graduate student participating in a social services district approved work-study, internship, externship or other work placement to work activities in accordance with the provisions of this Part, the district shall make reasonable efforts to assign the student to such activities during hours that do not conflict with his or her academic schedule.
- (6) The hours of participation by an individual in a work-study, internship, externship or other work placement that is part of the student's curriculum and that has been

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approved by the social services district shall be included as a work activity within the definition of unsubsidized employment, subsidized private sector employment, subsidized public sector employment or on-the-job training pursuant to subdivision (a) of this section.

- (7) In no event shall the programs and activities enumerated in this Part be deemed the sole activities that a social services district may provide and require applicants for and recipients of public assistance to engage in. Any program or activity that meets the goals of this part and is consistent with the requirements of the Labor Law and Social Services Law shall be allowed.
  - (8) Any social services district that establishes and provides a program or activity not herein enumerated shall set forth the requirements and structure of such program or activity in its local plan pursuant to the provisions of this Part.
  - (9) The social services district retains the right to determine, consistent with statute and regulations, the activity or activities to which an applicant or recipient is to be assigned.
  - (10) No particular assignment or opening for any activity need be created except on the determination and consent of the social services district.
- (c) Educational activities and Vocational Educational Training.
- (1) A social services official shall make available vocational educational training and educational activities in accordance with an assessment conducted and the employability plan prepared pursuant to the requirements of sections 385.6 and 385.7 of this Part. Such activities may include, but need not be limited to:
    - (i) vocational educational training, which may include but not be limited to organized educational programs offering a sequence of courses which are directly related to the preparation of individuals for current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs may include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence. Such term may also include applied technology education.
      - (a) When a social services district contracts with a proprietary vocational school to provide vocational educational training to individuals assigned in accordance with the provisions of this section, not more than 25 percent of the duration of such program can be devoted to preparation for a high school equivalency or to English as a second language.
      - (b) Instructors employed by proprietary schools to prepare individuals for a high school equivalency certificate shall meet experience requirements established in regulation by the commissioner of education.

- (c) Individuals in need of basic literacy programs shall be referred to basic and remedial education rather than to vocational proprietary schools.
- (ii) high school education or education designed to prepare a participant for a high school equivalency certificate;
- (iii) basic and remedial education;
- (iv) education in English proficiency;
- (v) no more than a total of two years of post-secondary education (or the part-time equivalent, if full-time study would constitute an undue hardship).
  - (a) Such post-secondary education must be necessary to the attainment of the participant's employment goal, as set forth in the employability plan required pursuant to sections 385.6 and 385.7 of this Part. Such goal must relate directly to obtaining useful employment in a recognized occupation.
  - (b) Enrollment may be in the following types of educational institutions:
    - (1) community colleges and two-year colleges;
    - (2) four-year colleges; provided, however, that the course of instruction for which an individual is enrolled is limited to a two-year degree granting program;
    - (3) licensed trade schools; or
    - (4) registered business schools.
- (2) Except as otherwise provided in this subdivision and as resources permit and pursuant to a local plan prepared in accordance with the requirements of section 385.10 of this Part, a social services official must assign to educational activities an individual who has not attained 20 years of age and who has not obtained a high school diploma or its equivalent.
- (3) Notwithstanding the requirements of this subdivision, an individual between the ages of 16 and 18 years of age may be excused from school attendance requirements if:
  - (i) the decision not to require school attendance is based upon an individual assessment which indicates that further attendance is unlikely to result in attainment of a high school diploma or its equivalent based upon consideration of the individual's aptitude and other factors such as grade completion; and

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- (ii) he/she participates in either another educational activity other than one which would lead to the attainment of a high school diploma or its equivalent or in job skills training appropriate to and designed for youths.
  - (4) Notwithstanding the requirements of this subdivision, the social services official shall assign individuals 18 and 19 years of age to activities other than those described in this subdivision if such official makes a determination, based upon an assessment and employability plan that educational and vocational educational activities are not appropriate or if such individual has failed to make satisfactory progress in educational activities.
  - (5) An individual who is assigned to educational activities consistent with the employment goals identified in the employability plan developed pursuant to sections 385.6 or 385.7 of this Part shall not be assigned to any other activity that might interfere with attendance at class; provided, however, that a social services official may periodically reevaluate an individual's employment plan and having given due consideration to the individual's progress in the current, and if applicable, prior program make assignments to other activities in order to meet participation rates established in accordance with the provisions of section 385.8 of this Part.
  - (6) An adult member of a two-parent family may be required by a social services official to participate in education activities consistent with the employment goals contained in his/her employability plan.
  - (7) Nothing in this subdivision shall be construed to supersede the eligibility requirements of teen parents as set forth in this Title.
- (d) Work Experience.
- (1) Work experience programs meeting State and Federal requirements may be established by social services districts.
  - (2) Work experience programs may include the performance of work for a Federal office or agency, county, city, village or town or for the State or in the operation of or in an activity of a non-profit agency or institution.
  - (3) A recipient may be assigned to participate in such work experience program only if:
    - (i) appropriate Federal and State standards of health, safety and other work conditions are maintained;
    - (ii) the number of hours an individual assigned to work experience activities authorized pursuant to this section may be required to participate in such assignment shall not exceed a number which equals the amount of assistance payable with respect to such individual's household (inclusive of the value of food stamps received by such household, if any) divided by the higher of (a) the Federal minimum wage or (b) the State minimum wage;

- (iii) such recipients are provided appropriate workers' compensation or equivalent protection for on-the-job injuries and tort claims protection on the same basis, but not necessarily at the same benefit level, as they are provided to other persons in the same or similar positions, while participating in work experience activities under this section;
- (iv) the project to which the participant is assigned serves a useful public purpose in fields such as health, social services, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, operation of public facilities, public safety and child day care;
- (v) such assignment would not result in:
  - (a) the displacement of any currently employed worker or loss of position (including partial displacement such as reduction in the hours of non-overtime work, wages or employment benefits) or result in the impairment of existing contracts for services or collective bargaining agreements;
  - (b) the assignment of a participant or the filling of a position when any other person is on layoff from the same or any equivalent position or the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant assigned pursuant to this section;
  - (c) any infringement of the promotional opportunities of any current employed person;
  - (d) the performance, by such participant, of a substantial portion of the work ordinarily and actually performed by regular employees;
  - (e) the loss of a bargaining unit position as a result of work experience participants performing, in part or in whole, the work normally performed by the employee in such position; or
  - (f) such assignment is not at any work site at which the regular employees are on a legal strike against the employer or are being subjected to lock out by the employer.
- (4) Public employers participating in work experience programs (or the social services official, pursuant to an agreement established between any such employer and the social services official) shall publish on a monthly basis a report summarizing the employer's work experience program for the month.
  - (i) Such monthly report shall include, at a minimum, summary information regarding the agencies or departments where participants are assigned, work locations, job duties and assignments, hours worked and period worked and shall be provided to the certified collective bargaining

representative of public employees at such employer and may not be disclosed to any other party.

- (ii) Such certified collective bargaining representative shall take reasonable steps to protect the confidentiality of such information and shall take reasonable steps to prevent disclosure of same to non-authorized persons.
  - (iii) Reports provided pursuant to this section shall contain a warning against re-disclosure and asserting the confidentiality of the information therein provided.
- (5) In assigning to work experience a recipient who is a non-graduate student attending CUNY, SUNY or other approved non-profit education, training or vocational rehabilitation agency, the social services district shall:
- (i) after consultation with officials of CUNY, SUNY or other non-profit education, training or vocational rehabilitation agency, assign the student to a work experience site on campus where the recipient is enrolled, if a work experience assignment approved by the social services official is available. Where such work experience assignment is not available, the social services district shall, to the extent possible, assign the student to a work experience site within reasonable proximity to the campus where the recipient is enrolled. Provided, however, in order to qualify for a work experience assignment on-campus, or in close proximity to campus, a student must have a cumulative C average, or its equivalent. The social services district may waive the requirement that the student have a cumulative C average or its equivalent for undue hardship based on:
    - (a) the death of a relative of the student;
    - (b) the personal injury or illness of the student; or
    - (c) any other extenuating circumstances;
  - (ii) not unreasonably assign the student to participate in work experience during hours that conflict with the student's academic schedule.
- (e) Job Search Activities.
- (1) Each applicant for or recipient of public assistance shall, upon request of the social services official, demonstrate that he or she is engaged in an active and continuing effort to achieve self-sufficiency.
  - (2) Such effort shall include but not be limited to an active and continuing search for employment, or for persons otherwise exempt in accordance with sections 385.2 and 385.3 of this Part, and where deemed appropriate by the social services official, activities that foster preparation for employment.
  - (3) Each such applicant or recipient shall have an affirmative duty to accept any offer of lawful employment in which he or she may engage.

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- (4) The failure of a social services district to assign applicants and recipients to activities pursuant to this Part shall not relieve such persons from the requirements of this subdivision.
  - (5)
    - (i) An applicant who fails to comply with the requirements of this subdivision shall be ineligible for public assistance; for purposes of this subparagraph, the term applicant shall mean the entire applicant household.
    - (ii) A recipient who fails to comply with the requirements of this subdivision shall be subject to sanction in accordance with the provisions of sections 385.11 and 385.12 of this Part.
  - (6) Supervised job search activities shall be described in the local plan.
- (f) Subsidized Public Sector Employment Programs.
- (1) A social services official may establish subsidized public sector employment programs for public assistance recipients including, but not limited to, grant diversion programs, which may be supported wholly or in part with public assistance funds. Such programs shall be established through agreements between social services districts and employers; provided, however, that, if appropriate, the Office may act on behalf of one or more social services districts in establishing such agreements.
  - (2) Programs may include, but need not be limited to, on-the-job training programs which reimburse employers in part or in whole for the cost of training public assistance recipients through wage subsidies.
  - (3) The social services official or the Office is authorized to transfer public assistance funds to employers through written agreements developed and executed in accordance with Office regulations.
  - (4) A recipient may be assigned to a subsidized public sector employment activity only if:
    - (i) the conditions of employment including such factors as the type of work, geographical region and proficiency of the participant are appropriate and reasonable;
    - (ii) the recipient is deemed an employee for purposes of the applicable collective bargaining and labor laws and receives the same benefits and protections as existing employees similarly situated (working a similar length of time and doing similar work) receive pursuant to the provisions of law and any applicable collective bargaining agreement or otherwise as made available to such existing employees;
    - (iii) The social services official shall ensure that any such program agreement contains adequate provisions for the prompt resolution of disputes

concerning participation in the program and the obligations and benefits associated with it;

- (iv) Nothing contained in this section shall be deemed to affect, modify or abridge a participant's right to a fair hearing pursuant to Part 358 of this Title or representation thereof by counsel or, if applicable, the participant's collective bargaining representative.
- (5) A participant employed by an employer subject to the Civil Service Law or subject to rules consistent with such law shall be appointed to an appropriate classified position. Notwithstanding any other provision of law, rule or regulation, such position shall be deemed to be in the non-competitive class of the classified service only while such participant is serving in the position.
- (6) No employee of the participating employer may be displaced by any recipient employed pursuant to this subdivision. For the purpose of this subdivision, the term displacement shall include partial displacement, such as a reduction in the customary hours of work (including overtime), wages, or employment benefits.
- (7) No participant shall be employed:
  - (i) if any other employee of the employer is available for reinstatement, recall or reemployment following a leave of absence, furlough, layoff or suspension from the same or any substantially equivalent job;
  - (ii) when the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy or vacancies so created by hiring a participant whose wages are subsidized under this program; or
  - (iii) when the employee organization representing employees of the employer is engaged in a strike against the employer or such employees have been locked-out by the employer; or
  - (iv) where such employment results in the loss of a bargaining unit position as a result of assigned individuals performing, in part or in whole, the work normally performed by the employee in such position.
- (8) No position may be created that will infringe in any way upon the promotional opportunities of currently employed individuals or individuals currently engaged in an approved apprenticeship training program.
- (9) No participant shall remain in a position if another employee is eligible for promotion from an eligible list to that position. An employer shall, at least 10 days prior to filling a position with a participant, notify any employee organization that represents employees of the employer who are engaged in similar work or training in the same or substantially equivalent job as that in which the placement is to be made, that it intends to make a placement pursuant to the terms of this subdivision.

- (10) Where an employee organization represents employees of the employer who are engaged in similar work in the same or substantially equivalent job as that proposed to be funded under this program, an opportunity shall be provided for such organization to comment on the proposed placement of the participant or the administration of the program and the social services official shall respond to such comments within 10 days of receipt of such comments.
  - (11) Employers are prohibited from using public assistance funds to encourage or discourage membership in, or participation in the activities of, any employee organization, and each employer shall provide to the social services district assurances that no such funds will be used for such purposes.
  - (12) Nothing herein shall be construed to affect, modify, or otherwise abridge any provision of the Civil Service Law.
- (g) Subsidized Private Sector and Not-For-Profit Employment Programs.
- (1) A social services district may establish subsidized private sector employment programs for public assistance recipients including, but not limited to, grant diversion programs, which may be supported wholly or in part with public assistance funds. Such programs shall be established through agreements between social services districts and employers, including not-for-profit employers; provided, however, that, if appropriate, the Office may act on behalf of one or more social services districts in establishing such agreements.
  - (2) Programs may include, but need not be limited to, on-the-job training programs which reimburse employers in part or in whole for the cost of training public assistance recipients through wage subsidies.
  - (3) The social services official or the Office is authorized to transfer public assistance funds to employers through written agreements developed and executed in accordance with Office regulations.
  - (4) A recipient may be placed in a subsidized private sector or not-for-profit employment activity only if:
    - (i) the conditions of employment including such factors as the type of work to be performed, the geographic location of the job, and the qualifications of the participant are appropriate and reasonable;
    - (ii) the recipient is deemed an employee for purposes of the applicable collective bargaining and labor laws and receives the same benefits and protections as an employee similarly situated (working a similar length of time and doing similar work) receives pursuant to the provisions of law, an applicable collective bargaining agreement or otherwise as made available to the employees of the employer;
    - (iii) no employee of the participating employer is displaced by any recipient hired pursuant to this subdivision. For the purpose of this subdivision, the term displacement shall include partial displacement, such as a reduction

in the customary hours of work (including overtime), wages, or employment benefits;

- (iv) no participant is hired:
    - (a) if any other employee of the employer is available for reinstatement, recall or reemployment following a leave of absence, furlough, layoff or suspension from the same or any substantially equivalent job; or
    - (b) when the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy or vacancies so created by hiring a participant whose wages are subsidized under this program; or
    - (c) when the employee organization representing employees of the employer is engaged in a strike against the employer or such employees have been locked-out by the employer; or
    - (d) when such hiring will result in the loss of a bargaining unit position as a result of assigned individuals performing, in part or in whole, the work normally performed by the employee in such position;
  - (v) no job is created that will infringe in any way upon the promotional opportunities of current employees or individuals currently engaged in an approved apprenticeship training program;
  - (vi) no participant shall remain in a job if another employee is eligible for promotion to that job. An employer shall, at least 10 days prior to filling a position with a participant, notify any employee organization that represents employees who are engaged in similar work or training in the same or substantially equivalent jobs as those on which the placement is to be made, that it intends to make a placement pursuant to the terms of this section.
  - (vii) where an employee organization represents employees of the employer who are engaged in similar work in the same or substantially equivalent jobs as those proposed to be funded under this program, an opportunity is provided for such organization to comment on the proposed placement of participants or the administration of the program and the social services official or his/her designee shall respond to such comments within 10 days of receipt of such comments;
  - (viii) employers are prohibited from using public assistance funds to encourage or discourage membership in, or participation in the activities of, any employee organization and each employer shall provide to the social services district assurances that no such funds will be used for such purposes.
- (5) The social services official shall require every private or not-for-profit employer that intends to hire one or more assigned individuals to certify to the social

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services district that such employer has not, in the past five years, been convicted of a felony or a misdemeanor the underlying basis of which involved workplace safety and health or labor standards. Such employer shall also certify as to all violations issued by the State Department of Labor within the past five years. The social services official in the social services district in which the participant is placed shall determine whether there is a pattern of violations sufficient to render the potential employer ineligible. Employers who submit false information under this section shall be subject to criminal prosecution for filing a false instrument.

**Part B. Department Policy  
For Section 385.9**

The work activities described in Section 385.9 include those listed in federal TANF legislation. The list represents a variety of work-related activities and programs which are intended to offer recipients of public assistance and food stamps employment opportunities to help them attain economic self-sufficiency. The list is not intended to be exhaustive, and districts are free to develop their own activities which meet local needs in moving individuals to self-sufficiency.

Among the activities listed in section 385.9 are the work activities which count toward the federal and state participation rates (see Section 385.8 for participation rate information). In order for these activities to be considered countable, the participant must be engaged in the activity for a minimum hourly requirement per week, averaged monthly, depending on case type. It is important to remember that the hours required represent a minimum for meeting participation rates only, and should not be considered as the standard number hours needed to ensure a successful transition into unsubsidized, full-time employment. The local district may assign a recipient to participate in activities for up to forty hours per week and, for recipients engaged in more than one activity, a forty-hour week may not be unusual. A limitation is that the number of hours a recipient is assigned to work experience or community service must not be greater than the sum of the public assistance grant and food stamps benefits divided by federal or State minimum wage, whichever is higher. This maximum is considered by the State Office of Temporary and Disability Assistance as a method for calculating the statutorily maximum allowable hours a recipient may be assigned to these activities and not as calculation which represents the hours needed to "work off" the amount of the grant. "Working off the grant" is no longer possible. Under current law, an individual is granted public assistance based on need and is assigned to activities designed to help him or her become self-sufficient. Districts are not required to assign individuals for the total number of hours derived by the calculation, but may assign individuals to other activities in combination with work experience to meet participation rate requirements. In fact, when a district decides to assign a recipient to work experience and/or community service, the actual number of hours assigned must be based on what the recipient needs to become self-sufficient and the district's need to meet participation rates. Community service, as defined by the local district, may include a work component as all, some, or none of the activity.

The non-displacement provisions in 385.9(d)(3)(v) place certain restrictions on the nature of activities that may be performed as a work experience assignment. Subparagraph (a) indicates that an assignment cannot result in the "loss of a position." This statement refers to a position existing at the time of placement and not the potential existence of a position in the future. Similarly, subparagraph (e) refers to the "loss of a bargaining unit position" and means only positions existing at the time of the work activity assignment placement. In subparagraph (d), the term "substantial portion of the work ordinarily and actually performed" means work performed by an individual in a position which is potentially subject to loss as described in subparagraphs (a) and (e).

Unsubsidized employment is considered a work activity and as such does not exempt individuals from other work requirements. Individuals working 30 hours are no longer exempt from work requirements as they were under JOBS. It is important that full-time, steady employment is stressed

### **385.9 - Department Policy**

to individuals, and that job-keeping skills and supportive services (see Section 385.4) be encouraged and offered until the individual has made a complete transition into the work force.

Subsidized employment, both in the public and private sector, may include on-the-job training or simple work subsidy programs, funded through grant diversion or program funds. There is tremendous flexibility with these programs. For instance, part-time positions may be funded, grant diversion or program funds may be used to cover benefits other than wages or to cover training costs; local districts will be able to establish agreements with employers to better match the needs of the individual. In some cases New York State may act on behalf of several local districts in developing and establishing such agreements with an employer which covers a number of districts.

Job search and job-readiness assistance are allowable activities, for participation rate purposes, for a combined total of six weeks per year, four of which may be consecutive. It is important to remember, however, that job search and job preparation must be an active, continuous effort for all nonexempt participants on public assistance. Districts should consider integrating job search and readiness training programs into their employment programs even when these programs do not count toward participation rate calculations. Job search and job readiness are critical components for securing employment and achieving self-sufficiency.

Community service is a countable activity for TANF households but not for those in the New York State Safety Net program (other than for five of the thirty-five hours required). As noted above, activities considered to be community service will be left to the discretion of the local districts. When a local district is determining what will constitute community service, the function should signify a service or usefulness to the community.

TANF recipients enrolled in vocational education may be considered as engaged in work (and counted in the participation rate) under certain circumstances. This activity does not count as a participation rate activity for those in the Safety Net program. Only thirty percent (excluding teen parents) of a local district's TANF recipients counted as engaged in work may be enrolled in vocational education activities and still count toward the federal participation rate. Additional enrollments in vocational education will only count toward the rate if individuals are also engaged in another countable activity for a minimum number of hours as specified in Section 385.8. For example, an individual enrolled in a culinary arts program may also be assigned to a work experience at a local meal site. At this time all teen parents count as participants if enrolled in high school or another education activity. They will be included in the 30% vocational education participant cap beginning in federal fiscal year 2000. Vocational education counts toward the TANF participation rate for up to twelve months for the allowable 60 months an individual may remain in TANF. Districts may allow participation for longer periods if appropriate.

Work activities should be assigned to each individual based on his/her needs. These needs will be documented in an individual employability plan as described in Sections 385.6 and

385.7. The local social services district may reassign an individual to other activities as needed, with consideration given to keeping with the expectations and desired outcomes of the employability plan. When assigning individuals to work activities, districts must consider the need to make the TANF participation rate.

Food stamps

Federal welfare reform changes make all TANF work activities comparable for food stamp purposes whether or not an equivalent FSET activity is offered by a State or locality. This means that a TANF recipient who fails to comply with a TANF work activity assignment without good cause can be sanctioned under food stamps as well as Family Assistance, even if the activity he or she was assigned to under TANF is not comparable to any provided under FSET.

**Part C. System Implications**

**None**

**Part D. Questions and Answers**

- Q.1 How can district employment staff be sure that the work activity definitions it uses will be acceptable?
- A.1 Work activities have not been defined in federal statute or in proposed regulations. State Office of Temporary and Disability Assistance regulations do not define them either, but require districts to define them locally through the local district employment plan. Technical assistance staff will be available to provide guidance to local districts in developing their local employment plans.
- Q.2 Can districts approve two-year college programs as an employment activity?
- A.2 Districts may approve any employment activities which meet local needs for moving individuals toward self-sufficiency. Approved activities may not always count toward participation rates, however. Since the activities which count toward participation rate are undefined, districts may decide to include college programs as part of one or more of these activities. One of the most important considerations for district planners when defining work activities is the 60-month maximum for receipt of TANF funded public assistance.
- Q.3 Can districts assign an individual to more than one countable activity in order to meet the minimum requirement of hours per week in the participation rate calculation?
- A.3 Yes.
- Q.4 Do we have to notify clients of the combined hours assigned to PA work experience activity and the FSET work experience activity? If noncompliance occurs, how should the notice be written?
- A.4 Yes, the client must be informed that they are being assigned to two activities (FSET work experience and TANF or Safety Net Work Experience). The client must be informed these are separate programs with separate consequences for noncompliance.

## Section 385.10 Local District Employment Plans

### Contents

- Part A The Regulations
- Part B Department Policy
- Part C Questions and Answers

**Part A. The Regulations**

(a) General requirements.

The social services official shall submit a biennial plan to the Office which includes all of the elements specified in this section. The commissioner shall establish a beginning and ending date which shall constitute the effective dates for which such plan is in force.

- (1) The plan shall describe the provision of education, work training and the supportive services which are related to the operation of work activity programs for public assistance and food stamp programs by the local district.
- (2) The plan shall be developed in cooperation and coordination with:
  - (i) public and private education institutions;
  - (ii) child care providers;
  - (iii) child care resource and referral agencies if available in the district;
  - (iv) labor unions;
  - (v) libraries;
  - (vi) public and private employers;
  - (vii) employment and training agencies and organizations; and
  - (viii) private industry councils.
- (3) The plan shall be available for review and comment by the public at the offices of the social services district for a period not less than 30 days prior to the date that the plan must be submitted to the commissioner.
- (4) No later than 90 days prior to the date on which the biennial plan must be submitted to the Office (or 60 days if the date of submission of the plan to the Office and for public comment are the same), the commissioner shall transmit planning instructions to each social services official which shall include, but not be limited to:
  - (i) the date of plan submission to the Office;
  - (ii) instructions for completing the plan and for submitting amendments thereto.
- (5) The plan shall include, but not be limited to:
  - (i) estimates of the number of participants to be served;

**385.10 - The Regulations**

- (ii) a description of the supportive services which the social services district will provide individuals assigned to work activities;
  - (iii) a description of the work activities which will be available in the social services district;
  - (iv) a description of the social services district's plan to meet Federal and State participation rate requirements;
  - (v) a description of the process to be used by the social services district in meeting the requirements of the disability program described in section 385.2 of this Part;
  - (vi) a list of the education and training and other work activity providers with which the social services district expects to enter into agreements or contracts, along with a description of the contracts;
  - (vii) a description of orientation provided in accordance with the requirements of section 385.5 of this Part;
  - (viii) a description of the assessment tools, qualification requirements for employees providing assessments, the social services district's administrative unit responsible for assessments or the entity contracted by the social services district to provide assessments and employability plans;
  - (ix) a description of conciliation procedures established in accordance with the requirements of section 385.11 of this Part;
  - (x) a description of the approval of training policy.
- (6) The plan shall also include any additional information which the commissioner deems necessary to comply with Federal and State reporting requirements or for Office planning and program analysis.
- (7) The plan shall be amendable upon notice and comment as directed by the commissioner.

**Part B. Department Policy  
For Section 385.10**

Section Summary

The local district Welfare-To-Work Employment Plan is a biennial plan which incorporates both the temporary assistance and the Food Stamp Employment and Training programs. It is the local social services district's official Welfare-To-Work policy document.

The planning procedure requires a thirty day public comment period. This allows community input into agency proposed initiatives. Interagency coordination and cooperation are required in the planning process.

Welfare reform placed responsibility on districts to determine their local employment policies.

Districts describe in their local plans the work activities that they will approve for enrollment. They describe the standards by which enrollment will be allowed for individuals. Local districts also need to develop performance standards for training providers. The ability to design local programs with community input provides local districts the opportunity to accommodate the needs of their clients. Districts have the experience to know which activities will best serve the goals of full employment and self-sufficiency for their populations.

Districts must also describe in their plans the following:

- their orientation policies;
- supportive services they will provide, including the assistance that will be given to those with transportation barriers, and transitional supportive services;
- conciliation and dispute resolution procedures;
- Food Stamp Employment and Training policies, including supportive services;
- the district's disability determination procedure;
- methods employed to target recipients at 24 months on assistance and near sixty months on assistance.

**Part C. Questions and Answers**

- Q.1 For planning purposes, is it possible to receive some guidance defining work activities that were heretofore undefined, e.g., Community Service?
- A.1 Community Service is partly defined in the regulations to include those individuals who are caring for disabled dependents in the household when it has been documented that there is a need and the care meets the minimum required number of hours per week to meet the participation rate. It also includes those who are performing the duties of a foster care parent. In addition, community service can include individuals in a TANF case who are engaged in supported work at facilities which provide such programs for the mentally handicapped and the blind. In most instances, however, the local district should focus on activities that perform a service to the community while preparing the participant for paid employment. Obtaining paid employment should always be the primary goal in designing a work activity.
- Q.2 Can a district make changes to its local plan?
- A.2 You may amend your plan while it is in force. Another thirty day comment period may be necessary depending on the extent of the amendment. Your technical advisor should be consulted in that case.
- Q.3 The district has greater flexibility to design its own work activities and to approve supportive services. There is concern that neighboring districts may impose stricter standards and induce recipients to move to surrounding districts. Does a district have any recourse in such instances?
- A.3 It will be advantageous to maintain a dialogue with your neighboring districts to discuss planning strategies. Regional meetings can be facilitated by your WTW technical advisor.
- Q.4 How will the Office of Fair Hearings be apprised of how a district's work activities and other plan elements are defined?
- A.4 Fair Hearings will be provided with each district's plan. The local plan, once finalized, will become the district's policy manual and the document by which district actions will be judged when fair hearings are held.

## Section 385.11 Conciliation

### Contents

- Part A The Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions and Answers

**Part A. The Regulations**

Subdivisions

- (a) Conciliation for refusal or failure to comply with employment requirements.
- (1) The social services official shall issue a conciliation notice to any nonexempt applicant for or recipient of public assistance who has failed to comply with the requirements of this Part. However, no notice of conciliation shall be issued 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)(6)(i) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.7(a)(6)(i) of this Part; or an applicant who is ineligible for public assistance pursuant to section 385.9(e)(5)(i) of this Part.
- (2) Such notice shall:
- (i) indicate that a failure or refusal to participate has occurred;
  - (ii) indicate that the individual has a right to provide reasons for such failure or refusal to participate;
  - (iii) indicate that, in the case of an applicant for or recipient of family assistance, the individual shall have 10 days to request a conciliation, and in the case of an applicant for or recipient of safety net assistance, seven days to request conciliation.
- (3) If the individual does not contact the social services official within the periods set forth in paragraph (2) of this subdivision, the social services official shall issue a notice of denial or a 10-day notice of intent to discontinue or reduce public assistance. Such notice shall:
- (i) be designed by the Office; provided, however, that the social services official may submit for approval a local equivalent which meets the requirements of this paragraph;
  - (ii) indicate the employment requirement for which the individual failed or refused to comply;
  - (iii) include a statement approved by the commissioner and in accordance with the provisions of Part 358 of this Title indicating that the individual has the right to a fair hearing related to such denial, discontinuance or reduction.
- (4) If the individual does contact the social services official within the periods set forth in paragraph (2) of this subdivision, the individual shall be responsible for providing the social services official with reasons for his or her failure or refusal to comply.

- (i) if the social services official determines that the individual's refusal or failure to comply was willful and without good cause, the social services official shall issue a 10-day notice pursuant to the requirements of paragraph (3) of this subdivision;
    - (ii) if the social services official determines that the individual's failure or refusal to comply was not willful or was with good cause, the procedure shall terminate.
  - (5) The conciliation period shall last no longer than 14 days from the date on which an applicant for or recipient of safety net requests conciliation, and no longer than 30 days from the date of the conciliation notice issued to an applicant for or recipient of family assistance, unless the individual and the social services official agree that the conciliation period should last longer.
- (b) Conciliation for the grievances of individuals assigned to work activities.
- (1) The social services official must establish a conciliation procedure for the resolution of grievances initiated by individuals assigned to work activities.
  - (2) In establishing such procedure, the social services official must:
    - (i) enter into an agreement with an independent entity; or
    - (ii) employ district staff at a supervisory level who are trained in mediation and who have no direct responsibility for an individual's case; or
    - (iii) designate supervisory staff, who need not be trained in mediation who have no direct responsibility for an individual's case to serve as mediators for such grievances.
  - (3) Such procedure must afford the individual an opportunity to dispute an assignment to a work activity made in accordance with the provisions of this Part.
  - (4) The social services official shall provide for at least one meeting which includes the individual, appropriate social services staff and the mediator. Such meeting shall occur within 30 days of the day on which the individual submitted a grievance in writing to the social services official.
  - (5) No sanction relating to the subject dispute shall be imposed during the conciliation process, which shall begin on the day on which the individual submitted a grievance in accordance with the provisions of this subdivision and shall end on the day upon which written notice has been provided to the individual which indicates the results of the conciliation.
  - (6) If the individual's grievance is not resolved through conciliation, the individual shall be informed of the right to a fair hearing. Notwithstanding such right to a fair hearing, the individual shall be required to participate in work activities as assigned in accordance with the requirements of this Part during the adjudication process.

**Part B. Department Policy  
For Section 385.11**

Section Summary

Conciliation for Instances of Noncompliance

Conciliation for instances of noncompliance is a procedure designed to provide individuals who have failed to comply with employment requirements a chance to give the district reasons why they failed to comply.

When the district discovers that an individual has failed to comply with a requirement, it must send the individual a notice which indicates that there has been a failure to comply and that the individual has a certain number of days to respond. If the individual responds to the notice within the time allowed, he or she must be provided the opportunity to report to the district and provide reasons for the noncompliance. The district must review the reasons provided by the individual, along with any other evidence it has about the noncompliance, and make a determination of whether the noncompliance was without good cause. If the individual does not respond to the conciliation notice within the prescribed time limit, the district must make a determination of good cause without the individual's input. If the district determines that the failure to comply was without good cause, then it must send the individual a ten-day notice of intent to discontinue the public assistance grant (for a single person case) or reduce the grant pro rata (in a multi-person case).

Public assistance: When a failure or refusal to comply has occurred the district must issue a notice which gives a Family Assistance client ten days and a Safety Net client seven days to request a conciliation.

The process of conciliation for applicants and recipients of Family Assistance and Safety Net who fail to comply with employment requirements must not last longer than thirty days for Family Assistance or twenty-one for Safety Net cases unless the client and the social services official agree that it should last longer.

Conciliation procedure based upon current regulations no longer requires that a third party mediator be involved as was the case for the JOBS Program. It can be accomplished through a face-to-face meeting, telephone discussion or in writing by the individual. If conciliation takes place, the district must inform the individual in writing of the results, i.e., whether or not the district determined that the noncompliance was without good cause. This notification can be done separately, or as a part of the denial notice for applicants or ten-day notice for recipients. District procedure for conciliation must be described in the local employment plan.

Food stamps: Federal welfare reform changes allow states to opt out of a conciliation procedure for food stamps. New York has decided to do so. Districts still need to make a determination of whether refusal or failure to comply with FSET requirements was without good cause. For public assistance/food stamp applicants and recipients, the public assistance conciliation process can also serve as the food stamp procedure for determining good cause. For non public assistance food stamp applicants and recipients (NPAs), a determination must be made based upon available evidence.

Dispute Resolution (Public Assistance)

This is a conciliation procedure afforded to applicants and recipients of Family Assistance and Safety Net who dispute their assignments to work activities. It shall include a meeting between the client, appropriate social services staff and a third party mediator. This meeting shall take place within thirty days of the day the client submits a written grievance. Submission of the grievance initiates the procedure. It ends when the client is provided written notice of the results of the conciliation. Conciliation for disputing assignments requires a meeting with the participant, social services staff and a mediator. The mediator must be trained supervisory level staff who have no direct responsibility for the case. The district may utilize the staff of an independent agency to conduct dispute mediation.

The individual retains the right to request a fair hearing if the issue is not resolved in the participant's favor. The individual shall be required to participate in assigned work activities during the dispute resolution and fair hearing process.

**Part C. Systems Implications**

**Part D. Questions and Answers**

- Q.1 Must a district offer conciliation to applicants who fail to comply with work requirements?
- A.1 Not in all instances. Applicants who are assigned to and fail to comply with an employability assessment or job search, or who fail to accept an offer of employment are not entitled to conciliation. Conciliation is required in instances where applicants refuse or fail to comply with work activity requirements other than assessment and job search.
- Q.2 If a district wants to retain the conciliation process it used for noncompliance issues under JOBS, which includes a mediator, can it continue to do so?
- A.2 Yes. The regulations do not prevent districts from conducting a conciliation process which is more elaborate than the minimum required. Districts should, however, consider the need to achieve TANF participation rates when deciding their procedures. Individuals who are not in compliance with the hours per week requirement for an individual to be considered as engaged in work under TANF cannot be counted in the rate, but they still remain in the denominator of the rate calculation.

## **Section 385.12 Failure to Comply with the Requirements of This Part**

### **Contents**

- Part A The Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions & Answers

**Part A. Part A The Regulations**

Subdivisions

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  - (b) Noncompliance of food stamp applicants and recipients with work registration or work requirements 12-5
  - (c) Good cause for failure to comply with public assistance and food stamp employment requirements 12-6
  - (d) Public assistance sanctions for failure to comply with employment requirements 12-6
  - (e) Food stamp sanctions for failure to comply with employment requirements 12-8
- 
- (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 disabled pursuant to this section, who in the judgment of the social services official has the potential to be restored to self-sufficiency through rehabilitation, will be denied assistance if he/she fails to comply with requirements for potentially employable applicants pursuant to section 385.2 of this Part. Ineligibility for 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 disabled pursuant to this section, who in the judgment of the social services official has the potential to be restored to self-sufficiency through rehabilitation, 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 without good cause with the requirements of this Part in accordance with the provisions of section 385.11 of this Part regarding conciliation 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 this Part.

- (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 refused or failed without good cause to comply with employment requirements in accordance with the requirements of this Part.
  - (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 willful refusal or failure to comply 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 that he/she has the right to apply for public assistance at any time, and for safety net 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;
    - (c) the recipient 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; and
    - (d) 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 a referral to an employment opportunity or 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 failed or refused to comply without good cause with employment program requirements or to have refused to accept a referral to an employment opportunity or an offer of employment in which such person is able to engage due to his/her refusal to accept an offer of employment, 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 food stamp applicants and recipients with work registration or work requirements.
- (1) If an individual without good cause has refused or failed to comply with food stamp program work registration or assignment to work activities pursuant to the requirements of this Part, he/she will be ineligible to participate in accordance with the provisions of this section. If an individual is disqualified and he/she is a member of an otherwise eligible household, he/she is treated as an excluded member during the period of disqualification, under section 387.16(c)(1) of this Title.

- (2) Prior to notifying the household of the proposed disqualification, the social services district must determine whether good cause for non-compliance exists, in accordance with subdivision (c) of this section.
  - (3) For food stamp recipients, within 10 calendar days of determining that the noncompliance was without good cause, the social services district must issue a timely and adequate notice of adverse action to the recipient. This notice must specify the particular act of non-compliance, the proposed period of disqualification, and that the individual may reapply in order to resume participation in the food stamp program at the end of the disqualification period. The notice must also contain 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 or a fair hearing decision upholding the social services district's action is issued.
  - (4) When a member of an applicant household has without good cause failed to comply with work registration requirements pursuant to section 385.3 of this Part, the social services district must inform the household of the individual's disqualification in the notice of action taken. This notice must specify the particular act of non-compliance, the proposed period of disqualification, and that the individual may reapply in order to resume participation in the food stamp program at the end of the disqualification period. The notice also must contain information about ending the disqualification as specified in subdivision (e) of this section.
  - (5) A voluntary participant in a food stamp employment and training program who is exempt from food stamp work registration 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 sanctionable pursuant to paragraph (6) of this subdivision.
  - (6) Failure of certain food stamp applicants and recipients who are exempt from work registration to comply with other work requirements. If a household contains a member who is exempt from work registration 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 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 failure to comply with public assistance and food stamp employment requirements.
- (1) The social services official is responsible for determining good cause in those instances where an individual has failed to comply with the requirements of this Part. In determining whether or not good cause exists, 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 member,

illness of another household member requiring the presence of the member, a household emergency, or the lack of adequate child care for children who have reached age 6 but are under age 13.

- (2) 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.

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

An applicant for or recipient of public assistance who refuses or fails without good cause 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)(6)(i) of this Part; an applicant who is ineligible for public assistance pursuant to section 385.7(a)(6)(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, 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 failure or refusal to comply, until the individual is willing to comply;
  - (ii) for the second such failure or refusal to comply, a period of three months and thereafter until willing to comply;
  - (iii) for the third and all subsequent instances of such failure or refusal 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, 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 failure or refusal to comply, a period of 90 days and thereafter until willing to comply;
  - (ii) for the second such failure or refusal to comply, a period of 150 days and thereafter until willing to comply;
  - (iii) for the third such failure or refusal to comply, a period of 180 days and thereafter until willing to comply.
- (3) Willing to comply as used in this section means that an individual, as required by the district, reports to an assigned work activity site or other location as assigned by the local services district on time and prepared to engage in the assigned activity.

- (4) 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 for whom the specified sanction period has ended, the social services official shall send a reminder to such individual indicating an opportunity to end the sanction by complying with employment programs. The commissioner shall establish through an Office policy directive the language required in the reminder.
- (e) Food stamp sanctions for failure to comply with employment programs.
- (1) The needs of an individual who is required to work register and who has failed without good cause to comply with the requirements of this section will not be considered in determining the needs of his/her household for food stamps for the periods set forth in this subdivision.
    - (i) For the first instance of failure to comply without good cause commencing on or after September 22, 1996, a period of two months and thereafter until the individual complies with the requirements of this section.
    - (ii) For the second instance of failure to comply without good cause within a three year period beginning with the effective date on which the individual became ineligible for food stamps in accordance with subparagraph (i) of this paragraph, a period of four months and thereafter until the individual complies with the requirements of this section.
    - (iii) For the third instance of failure to comply without good cause within a three year period commencing with the effective date on which the individual became ineligible for food stamps in accordance with subparagraph (ii) of this paragraph, a period of six months and thereafter until the individual complies with the requirements of this section.
    - (iv) For all subsequent instances of failure to comply without good cause within a three year period commencing with the effective date of the last instance in which the individual became ineligible for food stamps due to failure without good cause to comply with the requirements of this section, a period of six months and thereafter until that individual complies with the requirements of this section.
  - (2) 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)(3) of this Title.
  - (3) Eligibility may be reestablished during the disqualification period if the participating household requests that the disqualified individual be added to the household, provided that the disqualified individual becomes exempt from the work requirement other than by reason of participation in an employment program under title IV of the Social Security Act or in an unemployment compensation employment program.

- (4) A disqualification for noncompliance with work registration requirements may be ended, after the time periods specified in paragraph (1) of this subdivision, if the disqualified individual complies with the requirement which caused the disqualification respectively, as follows:
- (i) failure to participate in a food stamp employment or training program: participation in that component or in another component as assigned;
  - (ii) failure to respond to a request for information regarding employability: compliance with the request for information;
  - (iii) failure to report to an employer: reporting to the employer if employment is still available, or reporting to another employer upon referral;
  - (iv) failure to accept suitable employment: acceptance of employment if it is still available, or securing other employment which yields weekly earnings at least equal to the refused job, or securing full-time as specified in section 385.3(a)(1)(vii) of this Part.

**Part B. Part B Department Policy for Section 385.12**

Section Summary

Public Assistance

Durational sanctions for Family Assistance and Safety Net recipients remain much the same as they were for ADC and Home Relief.

The regulations clearly extend these sanctions to applicants for failure or refusal to comply with work activity assignments (exception: applicant households are denied if an adult case member refuses or fails to comply with assessment or applicant job search).

The most significant change for public assistance sanctions is the effect of the sanction on the public assistance grant. Sanctions of individuals are now calculated pro-rata rather than based upon the non compliant individual's needs. This means that during a sanction the grant is reduced by a fraction equal to what fraction the non compliant individual is of the total number of people in the caseload. District staff who have questions about how pro-rata reductions are calculated should review 97-ADM 23.

Progressive public assistance sanctions are no longer governed by the requirement that they be within a three-year period of the last sanction served.

Another significant issue related to durational sanctions is the relation of these sanctions to the TANF participation rate. The TANF case in which a sanctioned adult was a member prior to the sanction is removed from the TANF participation denominator, but only for three months. At the end of three months the case is added back to the denominator regardless of whether the individual has agreed to comply with employment requirements. This issue is currently under review by the Department.

Food Stamps

A nonexempt individual who refuses or fails without good cause to comply with the Food Stamp Program work requirements is ineligible to participate in the Food Stamp Program, and will be considered an ineligible household member.

As soon as the local social services agency learns of the individual's noncompliance, it must determine whether good cause for the noncompliance exists.

Since it is not possible to enumerate each individual situation that should or should not be considered good cause, the local social services district must take into account the facts and circumstances, including information submitted by the employer and by the household member involved, in determining whether or not good cause exists.

Good cause includes circumstances beyond the member's control such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

Within ten days of establishing that the noncompliance was without good cause, the local social services agency must provide the individual with a 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.

An Employment and Training disqualification 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 Food Stamp Program requirements, even if the disqualification begins after the certification period expires and the household has not been recertified.

Food Stamp sanctions for failure to comply with employment programs:

The needs of an individual who is a work registrant, and who has failed without good cause to comply with the Food Stamp Program work requirements, will not be considered in determining the needs of his/her household for food stamps.

The following disqualification periods will be imposed:

- For the first instance of failure to comply without good cause, a period of two months and thereafter until the individual complies.
- For the second instance of failure to comply without good cause, a period of four months and thereafter until the individual complies.
- For the third instance of failure to comply without good cause, a period of six months and thereafter until the individual complies.
- For all subsequent instances of failure to comply without good cause, a period of six months and thereafter until that individual complies.

**Effective August 19, 2002, progressive food stamp sanctions are no longer governed by the requirement that they be within a three-year period of the last sanction served.**

Note: An individual who is exempt from Food Stamp Program work requirements because he or she is 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 he or she failed to comply with the Food Stamp Program work requirements.

Except in cases of permanent disqualification, at the end of the applicable mandatory disqualification period for noncompliance with Food Stamp Program 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.

An individual who has been disqualified due to noncompliance with work requirements must be permitted to receive food stamp benefits during the disqualification period,(if otherwise eligible), if he or she becomes exempt from work requirements other than by reason of participation in an employment program under Title IV of the Social Security Act or in an unemployment compensation program.

**Part C. Systems Implications**

**None.**

**Part D. Questions and Answers**

Public Assistance

- Q.1 Do progressive Family Assistance and Safety Net employment sanctions build on each other?
- A.1 Family Assistance sanctions count when determining the number of the sanction for Safety Net, but not vice versa. This was also the case under the JOBS Program.
- Q.2 Do we “wipe the slate clean” with regard to previous sanctions imposed prior to Welfare-To-Work legislation enacted in August of 1997?
- A.2 No. Since welfare reform legislation amended existing law rather than creating a new program, progressive sanctions continue uninterrupted from the JOBS Program.
- Q.3 Can we discontinue exempt individuals for not following their treatment plan? Can we require them to get surgery?
- A.3 This requirement should be reviewed on a case-by-case basis. 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. Technically this requirement could also apply to surgery, but obviously there are limits. If the client fails to cooperate with his or her treatment plan, districts can discontinue the individual’s needs from the case.

Food stamps

- Q.4 Do sanctions apply only to individuals?
- A.4 Yes, sanctions for failure to comply with Food Stamp Work Registration or Work Requirements apply only to individuals in a case who are required to work-register and fail to comply. This requirement is without regard to one’s status as the head of a household. Previously, a failure to comply by the designated head of a household would have disqualified the entire household.
- Q.5 Can a sanction for failure to comply with work requirements be “cured?”
- A.5 No, the entire length of a food stamp sanction must be served before a sanctioned individual may be reinstated. After the disqualification periods ended, a household must request that the individual be added to the case and the individual must also comply with any district work assignment.
- Q.6 Is conciliation required before initiating a food stamp sanction?
- A.6 No. Federal law now makes conciliation an option for food stamps, and Department Regulations do not require it. In all instances, districts must make a determination of good cause which includes consideration of any information presented by the individual regarding his or her noncompliance.

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- Q.7 Can a sanctioned individual be added to the case if he/she becomes exempt during the sanction period?
- A.7 Yes, the sanction can be lifted while it is being served if the person becomes exempt from work requirements other than by reason of participation in an employment program under Title IV of the Social Security Act or in an unemployment compensation program.
- Q.8 Is there a requirement for progressive food stamp sanctions to be within a three-year period of the date of the last sanction served?
- A.8 No. This requirement has been removed. Once a work registrant has reached the third or subsequent occurrence of noncompliance, he/she will be ineligible for food stamps for a period of six months and thereafter until the individual complies with the work requirement.

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

Contents

- Part A The Regulations
- Part B Department Policy
- Part C Systems Implications
- Part D Questions & Answers

**Part A. Part A The Regulations**

Subdivisions

(a) Public Assistance

(b) Food Stamps

(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) Food stamps.

For purposes of this section, the term voluntary quit means voluntary termination of employment and/or a reduction in work effort when a participant, after such reduction, is working less than 30 hours per week. Such term shall include individuals who provoke their own termination from employment or provoke an employer to reduce their work hours.

- (1) If an individual voluntarily quits his/her job without good cause, he/she is not eligible to participate in the food stamp program. Disqualification from participation must be in accordance with the provisions of section 385.12(e) of this Part. This provision applies if the individual voluntarily quit his/her job within 60 days prior to the date of application for food stamp benefits or any time thereafter.
- (2) 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.
- (3) In the case of an applicant household where a voluntary quit without good cause by a household member has been established, the household member's application for participation in the food stamp program must be denied and the household member must be disqualified for a period of time determined pursuant

to the provisions of subdivision (e) of section 385.12 of this Part provided, however, that the time period of such disqualification shall begin on the date of the voluntary quit.

- (4)
  - (i) In the case of an applicant or recipient where a voluntary quit without good cause 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 subdivision (e) of section 385.12 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 assistance 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 local department'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 subdivision (e) of section 385.12 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 an applicant or 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.
- (5) 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.
- (6) Persons who at the time they terminated employment were exempt from work registration pursuant to section 385.3 of this Part, except those persons who were exempt by reason of full-time employment, are exempt from the voluntary quit provisions.
- (7) 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.

- (8) 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.
- (9) 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.
- (10) 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 at least 20 hours per week or which on a weekly basis yields earnings of at least 20 times the federal minimum wage but which, because of circumstances beyond the individual's control, subsequently did not materialize or which resulted in employment which is less than

- 20 hours per week or which pays less than 20 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 (11) of this section.
- (ii) Questionable information pertaining to a voluntary quit must be verified. The social services district must offer assistance to 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.
- (11) Any food stamp 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.
- (12) 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 have reached age 6 but are under age 13.
- (13) Ending a voluntary quit or reduction in hours disqualification.
- (i) An individual may reestablish after the end of his/her disqualification period and, if he/she applies and is otherwise eligible, must be permitted to resume participation if he/she:
    - (a) 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
    - (b) becomes exempt from work registration requirements pursuant to section 385.3 of this Part other than by reason of subparagraph (a)(1)(iii) or (v) of such section.
  - (ii) an individual may end a disqualification for voluntary quit at the end of the disqualification period established in accordance with the provisions of section 385.12 of this Part by applying for food stamps and by complying with the requirements of this section and of this Part.

## Part B. Part B Department Policy for Section 385.13

### Section Summary

#### Public Assistance

The term “voluntary quit” applies to applicants and recipients who leave employment or reduce their work hours of their own accord, and those who provoked their own termination from employment or a reduction in work hours. The term assumes the quit was without good cause, and the district can presume this unless and until the individual demonstrates otherwise.

An applicant will be ineligible for public assistance 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 his/her work hours or provoking the reduction of hours. 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 Section 385.13(a) of 18 NYCRR. The ineligibility shall last until 90 days have elapsed from the date the individual left or reduced his or her employment.

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 his/her 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 he/she must be issued a ten-day employment notice indicating that he/she will be sanctioned due to a voluntary quit and referencing Section 385.13(a) of 18 NYCRR.

Voluntary quit sanctions for recipients are the same as those for noncompliance with work activities, so they are included when determining which level of sanction to use [see 385.12(d)].

At the end of a sanction (or immediately, in the case of a first sanction for an individual otherwise eligible for Family Assistance), the individual can demonstrate compliance by securing employment or participating in work activities as assigned by the social services district.

Releases canceled: 76 ADM-11, 76 ADM-122

#### Food Stamps

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 and after the reduction, is working less than 30 hours per week and earning less than 30 hours times the minimum wage. Unlike the definition for voluntary quit under public assistance, this definition does not include the assumption that the individual quit without good cause. Additionally, individuals who provoke their own discharge are no longer subject to food stamp voluntary quit sanctions.

The voluntary quit provision applies if:

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- 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;
- The quit was without good cause.

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;
- The reduction was voluntary and without good cause.

The minimum wage equivalency does not apply when determining a reduction in work effort. For example, an individual working 20 hours per week at \$15.00 per hour, who reduces his/her 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 food stamps in accordance with the sanction periods identified in Section 385.12(e) of Department Regulations if the voluntary quit without good cause took place within 30 days of application for food stamps. There is no such limitation for recipients. In instances where an individual voluntarily quit his/her job before applying for food stamps, but this fact was unknown to the district until after the individual became a food stamp 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 a number of 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 his 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 Section 385.13(b) of 18 NYCRR.

For applicants, the disqualification is effective as of the date of application for food stamps, whether the remaining household members are certified, or the application is denied. (Federal regulations have changed and supercede what is currently listed in State regulations. The disqualification is not effective from the date of the quit.)

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 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., 2 months, 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 food stamp 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. Systems Implications**

The changes in policy as they relate to voluntary quit provisions for food stamp applicants have an impact on the Client Notice System for the notices for applicants with Individual Reason Codes N31, N32, N33. As such, these reason codes have been temporarily disabled until system changes can be made. In the interim, local districts are instructed to use a manual notice to notify an applicant of a voluntary quit sanction.

When processing the action through WMS, the appropriate Individual Reason Code should be used on screen 3 and an “N” in the Notice Indicator on screen 1.

Districts must use the following manual notices to notify food stamp applicants of a voluntary quit sanction:

LDSS-3152 “Action Taken On Your Application” (NPA)

LDSS-4013 “Action Taken On Your Application” (PA/FS)

**Part D. Questions and Answers**

Public Assistance

- Q.1 The first sanction for a voluntary quit is “until willing to comply.” Other than the individual securing a comparable job or increasing his/her hours, what counts as willingness to comply?
- A.1 While not specifically stated in regulation, districts may determine an individual’s willingness to comply by assigning him or her to up front job search, assessment or any of the work activities which the district deems appropriate. Obviously workfare-type assignments cannot be made unless the individual is receiving a grant.

Food Stamps

- 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 food stamps. 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). 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 2, 4, 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. In the case of a voluntary quit which occurs not more than 30 days before application or before certification, but is not discovered by the district until after certification, the individual is treated as a participant.
- 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 Food Stamp Program work requirements, and who voluntarily quits a job of 30 hours or more per week, or reduces his/her hours to less than 30 per week without good cause is subject to a sanction.

An individual recipient, who is a work registrant (WR) 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 his/her work hours to less than 30 hours per week without good cause is subject to sanction.

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).

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 food stamp 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 = 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 @ \$5.15 per hour and quit = not subject to sanction

An individual who is exempt from work requirements (WE) cannot be sanctioned for voluntary quit or reduction of hours unless the sole reason he or she is exempt (WE) 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 food stamps, 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 food stamp applicant or recipient be sanctioned for voluntary quit if the job was for less than 30 hours a week?

A.5 No . 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.

Q.6 Can a food stamp 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.

Q.7 Can a food stamp 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 food stamp voluntary quit sanctions. This policy differs from public assistance rules that do consider an individual who provoked his or her own discharge to have voluntarily quit the job.

## **Section 15 Model Documents and Worker Aids**

### **Contents**

- Agreement with Worksite Sponsor Agency
- Sample ABAW D Tracking Log
- Sample ABAW D Notification Forms
- Sample Warning Letter for Intentional Misrepresentation of a Disability
- Sample Waiver of New York State Welfare-to-Work Medical Review Procedure
- Sample Disability Rights Notification
- Employment Related Violations Desk Guide
- Sample Cover Letter to Accompany the Request for Medical Information

**Agreement with Worksite Sponsor Agency**

Following is a copy of a model agreement you may use as a guide for establishing worksite agreements with organizations that will provide work experience placements. This model incorporates all statutory and regulatory requirements governing work experience assignments. Any agreement used by your district should ensure that all such requirements are met. You may wish to include additional information in your worksite agreement to specify how such requirements are met or to address local concerns.

Agreement with Worksite Sponsor Agency

THIS AGREEMENT, made the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_ in THE COUNTY OF \_\_\_\_\_, having its offices at \_\_\_\_\_, hereinafter designated the "social services district", and (Name of Sponsor and Address)

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hereinafter designated the "sponsor."

WHEREAS, the social services district is charged with receiving and administering federal Temporary Assistance for Needy Families (TANF) funds, state Safety Net funds and Food Stamp Employment and Training (FSET) funds to be used for work activities in accordance with State Social Services Law and its implementing regulations. TANF activities must be in accordance with the state plan filed with the U.S. Department of Health and Human Services under Title IV-A of the Social Security Act. The social services district may use federal and state funds for work activities as authorized under the TANF Program, the state-administered Safety Net Program, and the FSET program to provide for the establishment of work experience projects, including any work experience that is part of a community service program, for persons in receipt of TANF, Safety Net and/or food stamp benefits. Such projects may include the performance of work experience activities in the public sector or non-profit sector, including activities associated with refurbishing publicly assisted housing. Work experience projects also may include the operation of an activity of a governmental unit, a non-profit agency, or an institution, pursuant to an agreement with the social services district in accordance with state regulations; and

WHEREAS, the sponsor is a state or federal government institution, a municipality, a public agency, or a public or private nonprofit entity desiring to provide work experience activities for recipients of TANF, Safety Net, and/or food stamps under an agreement complying with such provision of law and regulations.

NOW, THEREFORE, it is agreed as follows:

1. The social services district shall assign to the sponsor recipients of TANF, Safety Net, and/or food stamps (hereinafter called "participants") to whom the sponsor shall assign work experience activities in accordance with the provisions of this Agreement and applicable law and regulations.
2. Work experience activities shall be performed at the sponsor's office or at such other worksite locations as shall be mutually agreed upon between the social services district and the sponsor. The work experience assignment, however, must serve a useful public purpose in fields such as health, social services, environmental protection, education, urban and rural development and re-development, welfare, recreation, operation of public facilities, public safety, or child day care.
3. The assignment of a participant to a work experience activity must not result in:

**15 - Agreement with Worksite Sponsor Agency**

- a. the displacement of any currently employed employee or loss of job or position, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits, or result in the impairment of existing contracts for services or collective bargaining agreements;
  - b. the assignment of a participant to a work experience activity when an employee is on layoff from the same or any equivalent position, or the employer has terminated the employment of any regular employee or otherwise has reduced its workforce with the effect of filling the resultant functional vacancy with such participant;
  - c. any infringement of the promotional opportunities of the sponsor's employees;
  - d. the performance, by such participant, of a substantial portion of the work ordinarily and actually performed by regular employees; or
  - e. the loss of a bargaining unit position as a result of the work experience participant performing, in part or in whole, the work normally performed by the employee in such position.
4. Work experience assignments shall not be made at any worksite at which the regular employees are on a legal strike against the employer or are being subjected to a lock out by the employer.
  5. No participant shall be assigned to a work experience activity that conflicts with his or her bona fide religious beliefs.
  6. The social services district will advise the sponsor as to the number of mandatory hours for which each participant must participate in work experience activities each month. A participant may be assigned to work experience activities for a maximum number of hours calculated by dividing his or her public assistance grant and food stamps, if any, by the state or federal minimum wage, whichever is higher. The limitation of the number of hours of work experience activities to which a participant may be assigned is only a calculation of allowable hours in work experience activity and does not mean that such participant is receiving a wage for the performance of such activities; the participant is not "working off" the grant, but is engaged in work experience activities as an element of his or her plan to become self-sufficient. In no event may a participant be required to work more than forty hours in any week.
  7. The social services district will advise the sponsor as to any limitations a participant may have with regards to the nature of work experience activities in which they may participate; participants will be required to perform only those activities that are within their physical capabilities.
  8. The sponsor will maintain and provide to the social services district time records with respect to each participant, and shall ensure that such time records are adequate to meet the needs of the social services district. Such time records will include the sponsor's name and address, the participant's name, the hours during which the participant participated in work experience activities, and the period covered by the report.  
The sponsor will notify the social services district if a participant refuses and/or fails to perform assigned work experience activities.

**15 - Agreement with Worksite Sponsor Agency**

9. The sponsor warrants that it will not discriminate on the grounds of age, race, color, religion, sex, national origin, or mental or physical disability.
10. Participants shall not be required to travel an unreasonable distance from their homes (generally a round trip lasting more than two hours) or to remain away from their home overnight for the purpose of participating in work experience activities.
11. The sponsor shall provide for each participant workers' compensation or equivalent protection for on-the-job injuries and tort claims protection on the same basis, although not necessarily at the same benefit level, as such protections are provided to the sponsor's employees.
12. The sponsor shall promptly notify the social services district of a participant's absence (whether for illness or otherwise), except when such absence is on a pre-planned basis approved by the social services district. Such notification shall include prompt telephone notice to the social services district followed by written confirmation if requested. Additionally, the sponsor shall report to the social services district any injury to or illness of any participant.
13. The sponsor shall provide adequate supervision to the participant. The sponsor will review the performance and attitude of all participants with a representative of the social services district at regular and mutually convenient intervals.
14. The sponsor will establish and maintain appropriate standards of health, safety, and other work conditions to ensure that participants are adequately protected against hazards or activities that may affect adversely their health or safety. Such standards shall meet or exceed those required by public employee safety and health standards as established in New York State Labor Law section 27-a.
15. The social services district will provide transportation or will meet the cost of transportation, provide necessary allowance for child care and provide other supportive services as may be required by participants.
16. The sponsor shall provide any special clothing, specific tools or equipment that may be required for the participants to perform work experience activities.
17. Participants may be required to operate a motor vehicle in the course of executing work experience activities. If so, the sponsor shall provide the motor vehicle, and also shall provide adequate liability insurance for such motor vehicle which shall cover the participant who may be operating the vehicle. Only properly licensed participants may be assigned such work experience activities.
18. The sponsor may terminate the work experience activities of any participant, provided that the sponsor shall promptly furnish the social services district with a written evaluation of the participant's performance and the reason for the termination.
19. The sponsor may offer full-time paid employment to any participant, provided the sponsor furnishes to the social services district written notice of such offer and the participant's acceptance or rejection thereof, including details as to the job description, wages and date of employment.

**15 - Agreement with Worksite Sponsor Agency**

20. The sponsor agrees to indemnify and save harmless the State of New York and the County of \_\_\_\_\_, their officers, employees and agents from and against all liability, loss or damage they may suffer as a result of any claims, demands, costs, judgments or damage to state or county property in the care, custody or control of the sponsor arising directly or indirectly out of this Agreement, including losses arising out of the negligent acts or omissions of the sponsor. The sponsor further agrees to provide defense for and defend any claims or causes of action of any kind or character directly or indirectly arising out of this Agreement at its sole expense and agrees to bear all other cost and expenses relating thereto. The foregoing provisions shall not be construed to cause the sponsor to indemnify the state and the County, their officers, agents or employees from its or their sole negligence. The sponsor affirms that it will comply in the performance of the Agreement with all applicable provisions of the Labor Law, Workers' Compensation Law, State Employment Insurance Law, State General Obligations Law, federal Social Security Law and any and all rules and regulations promulgated by the U.S. Department of Labor, the U.S. Department of Health and Human Services, the Commissioner of Labor of the State of New York, and any other applicable laws, rules and regulations.
21. This Agreement shall take effect as of \_\_\_\_\_, \_\_\_\_\_ and may be terminated at any time by either party upon thirty (30) days written notice by registered or certified mail, return receipt requested.
22. This agreement shall not be modified except by a further written agreement signed by both parties.

In witness thereof, the parties have executed this agreement on the dates noted below.

By: \_\_\_\_\_, Commissioner County Department of Social Services

Date: \_\_\_\_\_

By: \_\_\_\_\_, (Sponsor Organization)

Date: \_\_\_\_\_

**Sample ABAWD Tracking Log**

_____	_____
Case Name	Client Name (if different)
_____	_____
Case Number	Social Security #

MO/YR	RQ	MET	MO/YR	RQ	MET	MO/YR	RQ	MET
JAN			JAN			JAN		
FEB			FEB			FEB		
MAR			MAR			MAR		
APR			APR			APR		
MAY			MAY			MAY		
JUNE			JUNE			JUNE		
JULY			JULY			JULY		
AUG			AUG			AUG		
SEPT			SEPT			SEPT		
OCT			OCT			OCT		
NOV			NOV			NOV		
DEC			DEC			DEC		

RQ = ABAWD Required – enter R (required) or E (exempt)

MET = client met ABAWD requirement – enter Y (yes) or N (no)

## Sample ABAWD Notification Forms

### UPSTATE VERSION

(SPACE FOR LETTERHEAD)

Client's Name:

District:

Address:

Apartment #, If Applicable:

City, State Zip Code

Case Number:

Telephone # for Questions or Help:

Date

Dear Sir /Madam:

This is to inform you of a work requirement established by the federal government that may affect your eligibility for food stamps.

This notice applies to you as an able-bodied food stamp work registrant, or to any member of your household who is an able-bodied food stamp work registrant, unless you or they are:

- under 18 or 50 years of age or older; or
- pregnant; or
- the parent or other adult member of a food stamp household that contains a child under 18 years of age; or
- medically certified as physically or mentally unfit for employment (you should not, in this case, be a work registrant nor be subject to the work requirements).

If you are subject to work registration and work requirements, and not included in one of the categories above, you will only be eligible to receive food stamps for three months during each 36 month period unless you: (1) work at least 80 hours per month, (2) participate in a work program approved by the social services district for at least 80 hours per month, or (3) are assigned to and fully comply with a work experience (workfare) assignment.

If you want to continue to receive food stamps beyond the three-month time limit, your social services district must make a qualifying work or training opportunity available to you. You should contact the telephone number listed above to discuss what work or training opportunities are available to permit you to continue receiving food stamps beyond the three-month limit.

***As an able-bodied food stamp work registrant, you must notify your case worker if your work hours fall below 80 hours per month.***

If you lose your eligibility for food stamps because you were not working or participating in a work program for three months during which you received food stamps, you could begin to

**15 – Sample ABAWD Notification Forms**

receive food stamps again, if you are otherwise eligible, after you have worked for at least 80 hours in a 30-day period or have participated in a work program for the same number of hours, or demonstrate that you will do so within 30 days following your application for food stamps. You would then be expected to continue to work or participate in a work program in order to continue to receive food stamps.

After you reestablish your eligibility for food stamps by working or participating in a program, if you lose your job or are unable to participate in your assigned program, you may be eligible for up to one additional three month period of food stamps in the same 36-month period without working or participating in a program.

If you have questions about the above, please call the telephone number listed above.

**NEW YORK CITY VERSION**

(SPACE FOR LETTERHEAD)

Client's Name  
Address  
Apartment #, If Applicable  
City, State Zip Code  
Case Number :

IMC/FSO:

Date

Dear Sir /Madam:

This is to inform you of a work requirement established by the federal government that may affect your eligibility for food stamps.

This notice applies to you as an able-bodied food stamp work registrant, or to any member of your household who is an able-bodied food stamp work registrant, unless you or they are:

- under 18 or 50 years of age or older; or
- pregnant; or
- the parent or other adult member of a food stamp household that contains a child under 18 years of age; or
- medically certified as physically or mentally unfit for employment ( you should not, in this case, be a work registrant nor be subject to the work requirements).

If you are subject to work registration and work requirements, and not included in one of the categories above, you will only be eligible to receive food stamps for three months during each 36 month period unless you: (1) work at least 80 hours per month, (2) participate in a work program approved by the social services district (in New York City, the Human Resources Administration), for at least 80 hours per month, or (3) are assigned to and fully comply with a work experience (workfare) assignment.

If you want to continue to receive food stamps beyond the three-month time limit, your social services district must make a qualifying work or training opportunity available to you. You should contact the telephone number listed above to discuss what work or training opportunities are available to permit you to continue receiving food stamps beyond the three-month limit.

***As an able-bodied food stamp work registrant, you must notify your caseworker if your work hours fall below 80 hours per month.***

If you lose your eligibility for food stamps because you were not working or participating in a work program for three months during which you received food stamps, you could begin to receive food stamps again, if you are otherwise eligible, after you have worked for at least 80 hours in a 30 -day period, or have participated in a work program for the same number of hours,

**15 – Sample ABAWD Notification Forms**

or demonstrate that you will do so within 30 days following your application for food stamps. You would then be expected to continue to work or participate in a work program in order to continue to receive food stamps.

After you reestablish your eligibility for food stamps by working or participating in a program, if you lose your job or are unable to participate in your assigned program, you may be eligible for up to one additional three month period of food stamps in the same 36-month period without working or participating in a program

If you have questions about the above, please call your welfare office.

**UPSTATE VERSION ( includes 30- day job search option)**

(SPACE FOR LETTERHEAD)

Client's Name:

District:

Address:

Apartment #, If Applicable:

City, State Zip Code

Case Number:

Telephone # for Questions or Help:

Date

Dear Sir /Madam:

This is to inform you of a work requirement established by the federal government that may affect your eligibility for food stamps.

This notice applies to you as an able-bodied food stamp work registrant, or to any member of your household who is an able- bodied food stamp work registrant, un less you or they are:

- under 18 or 50 years of age or older; or
- pregnant; or
- the parent or other adult member of a food stamp household that contains a child under 18 years of age; or
- medically certified as physically or mentally unfit for employment ( you should not, in this case, be a work registrant nor be subject to the work requirements).

If you are subject to work registration and work requirements, and not included in one of the categories above, you will only be eligible to receive food stamps for three months during each 36 month period unless you: (1) work at least 80 hour s per month, (2) participate in a work program approved by the social services district for at least 80 hour s per month, or (3) are assigned to and fully comply with a work experience (workfare) assignment.

If you want to continue to receive food stamps beyond the three-month time limit, your social services district must make a qualifying work or training opportunity available to you. You should contact the telephone number listed above to discuss what work or training opportunities are available to permit you to continue receiving food stamps beyond the three-month limit.

***As an able-bodied food stamp work registrant, you must notify your caseworker if your work hours fall below 80 per month.***

If you lose your eligibility f or food stamps because your were not working or participating in a work program for three months during which you received food stamps, you could begin to receive food stamps again, if you are otherwise eligible, after you have worked for at least 80 hour s in a 30-day period or have participated in a work program for the same number of hours, or demonstrate that you will do so within 30 days following your application for food stamps. You would then be expected to continue to work or participate in a work program in or der to continue to receive food stamps.

You may also reestablish your eligibility for food stamps after having received food stamps for three months without working or participating in a work program by participating in a 30-day period of job search ( at application), followed by a work experience placement if you do not find an adequate job. You will be required to complete at least twelve hours of job search in the 30- day period to reestablish your eligibility for food stamps. You would then be expected to continue to participate in work experience to continue to receive food stamps.

After you reestablish your eligibility for food stamps by working or participating in a program, if you lose your job or are unable to participate in your assigned program, you may be eligible for up to one additional three month period of food stamps in the same 36 -month period without working or participating in a program.

If you have questions about the above, please call the telephone number listed above.

**NEW YORK CITY VERSION (includes 30-day job search option)**

(SPACE FOR LETTERHEAD)

Client's Name  
Address  
Apartment #, If Applicable  
City, State Zip Code

IMC/FSO: \_\_\_\_\_  
Case Number: \_\_\_\_\_

Date

Dear Sir /Madam:

This is to inform you of a work requirement established by the federal government that may affect your eligibility for food stamps.

This notice applies to you as an able-bodied food stamp work registrant, or to any member of your household who is an able-bodied food stamp work registrant, unless you or they are:

- under 18 or 50 years of age or older; or
- pregnant; or
- the parent or other adult member of a food stamp household that contains a child under 18 years of age; or
- medically certified as physically or mentally unfit for employment ( you should not, in this case, be a work registrant nor be subject to the work requirements).

If you are subject to work registration and work requirements, and not included in one of the categories above, you will only be eligible to receive food stamps for three months during each 36 month period unless you: (1) work at least 80 hours per month, ( 2) participate in a work program approved by the social services district (in New York City, the Human Resources Administration), f or at least 80 hours per month, or (3) are assigned to and fully comply with a work experience ( workfare) assignment.

If you want to continue to receive food stamps beyond the three-month time limit, your social services district must make a qualifying work or training opportunity available to you. You should contact the telephone number listed above to discuss what work or training opportunities are available to permit you to continue receiving food stamps beyond the three-month limit.

***As an able-bodied food stamp work registrant, you must notify your case worker if your work hours fall below 80 hours per month.***

If you lose your eligibility for food stamps because you were not working or participating in a work program for three months during which you received food stamps, you could begin to receive food stamps again, if you are otherwise eligible, after you have worked for at least 80 hours in a 30 -day period, or have participated in a work program for the same number of hours, or demonstrate that you will do so within 30 days following your application for food stamps. You would then be expected to continue to work or participate in a work program in order to continue to receive food stamps.

You may also reestablish your eligibility for food stamps after having received food stamps for three months without working or participating in a work program by participating in a 30-day period of job search (at application), followed by a work experience placement if you do not find an adequate job. You will be required to complete at least twelve hours of job search in the 30- day period to reestablish your eligibility for food stamps. You would then be expected to continue to participate in work experience to continue to receive food stamps.

After you reestablish your eligibility for food stamps by working or participating in a program, if you lose your job or are unable to participate in your assigned program, you may be eligible for up to one additional three month period of food stamps in the same 36-month period without working or participating in a program

If you have questions about the above, please call your welfare office.

**Sample Warning Letter for Intentional Misrepresentation of a Disability**

This is to notify you that your household's public assistance grant may be reduced because we believe \_\_\_\_\_ may have intentionally misrepresented that he/she suffers from an impairment that would limit his/her participation in work activities or make him/ her exempt from assignment to work activities.

If we determine, based on medical or other evidence, that \_\_\_\_\_ intentionally misrepresented that he/she suffers from an impairment, your household's public assistance benefits would be reduced pro-rata for \_\_\_\_\_ days and until he/she complies with employment requirements. If so, you will receive another notice that will advise your household of the sanction and the reduction in public assistance benefits. After you receive that notice, you may request a fair hearing if you do not agree with the decision.

If you wish to discuss this matter with us before we make a decision, or if you have any additional information to provide, you may call \_\_\_\_\_ at \_\_\_\_\_ no later than \_\_\_\_\_.

## Sample Waiver of New York State Welfare-to-Work Medical Review Procedure

**Instructions:** Please read this form carefully. If you do not understand something, or if you have any questions, ask your worker. If you agree with the waiver requirements, please sign and date the form. You will be given a copy and your worker will keep a copy.

### The Medical Review Procedure

- The medical review procedure includes all of the things your worker will ask you to do to determine whether or not you have any health-related limitations that affect your ability to work or participate in employment and training programs. For example, you might have to undergo screening and evaluation or have your doctor examine you and fill out a form.
- Participating in the medical review procedure will help you and your worker decide which activities are best for you and if you will need extra help or services.
- If you are evaluated and found to have a disability or health limitation, the social services district will arrange for the help and services you need to participate in a work activity assignment made by the district.
- You decide whether or not to participate in the medical review procedure.

### If You Decide Not To Participate in the Medical Review Procedure

- If you decide not to participate in the medical review procedure, you will have to participate in work activities and may not have your medical condition accommodated. You may not receive the help and services you need.
- You may change your mind at any time and ask for a medical review of your ability to work. If you cannot successfully participate in work activities without accommodations, and we believe it is because you might have a disability, you may be required to participate in the medical review procedure.

### Your Signature

I have read this form and understand it. I do not want to participate in the medical review procedure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Worker Signature

## Sample Disability Rights Notification

### What You Should Know About Your Rights If You Have a Disability

If you have a physical or mental health impairment that substantially limits one or more major life activities, have a record of an impairment or are regarded as having an impairment, you may have rights under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. These are laws that protect qualified individuals with disabilities. Physical or mental health impairments include, for example, learning disabilities, mental retardation, depression, mobility impairments, and hearing or vision impairments. A qualified individual is a person with a disability who meets the eligibility requirements for receipt of services or participation in programs or activities. If you are a qualified person with a disability:

- Having a disability will not disqualify you from receiving Temporary Assistance;
- You are not required to tell the social services official about your disability and you cannot be required to participate in an evaluation of your disability if you can successfully participate in work activities. However, if it becomes apparent that your disability is a barrier to successful participation, you can be required to cooperate with an evaluation of your disability;
- Any health information you provide to the social services worker will be kept confidential and will be used to determine if you need services and reasonable accommodations to help you participate in work activities;
- You are entitled to individualized treatment and effective and meaningful opportunities to participate in employment programs; and
- You may be required to apply for Supplemental Security Income (SSI).

The social services district will ask you if there is anything, including a physical or mental health impairment that might affect your ability to participate in work activities. If you think you may have a disability and need reasonable accommodations or services to help you participate in work activities, you may let your worker know. Reasonable accommodations may include, for example, reduced or changed work hours, accessible work sites, auxiliary aids, and specialized programs, including rehabilitation.

If you have a disability and you believe that the social services district did not adequately accommodate your disability when it assigned you to a work activity, you may request a conciliation conference with the social services district. You also have the right to request a fair hearing before an administrative law judge if you are not satisfied with the conciliation decision.

## Employment Related Violations Desk Guide

Item (regulatory citation for requirement )	Conciliation	Reason Codes	Action	Regulatory Citation for Case Action (18 NYCRR)
<b>Public Assistance</b>				
Failed to keep/complete assessment appointment – Applicant 385.6 (a)(6) hh with children 385.7 (a)(6) hh without children	No	N21	Case denial	385.6 (a)(6) (i): with children 385.7 (a)(6) (i): without children
Failed to keep/complete assessment appointment – Recipient 385.6 (a)(6) hh with children 385.7 (a)(6) hh without children	Yes	WE1 WE2 WE3	Individual durational sanction (pro rata)	385.6(a) (6)(ii): with children 385.7(a) (6)(ii): without children
Failed to keep/complete an employment or training appointment (other than job search) – Applicant or Recipient385.2 (a)	Yes	WE1 WE2 WE3	Individual durational sanction (pro rata)	385.12(d)(1): with children 385.12(d)(2): without children
Failed to go to an employment or training assignment ( other than job search) – Applicant or Recipient385.2 (a)	Yes	WE1 WE2 WE3	Individual durational sanction (pro rata)	385.12(d)(1): with children 385.12(d)(2): without children
Failed continuation of an employment or training assignment (other than job search) – Applicant or Recipient385.2 (a)	Yes	WE1 WE2 WE3	Individual durational sanction (pro rata)	385.12(d)(1): with children 385.12(d)(2): without children
Failed to complete job search – Applicant 385.9 (e)	No	N19	Case denial	385.9 (e)
Failed to complete job search; go to a job interview or take a job – Recipient 385.9 (e)	Yes	WE1 WE2 WE3	Individual durational sanction (pro rata)	385.9 (e)
Voluntary Quit – Applicant 385.13 (a)	No	N31	Individual ineligible for 90 days from date of quit	385.13 (a) (8)(i)
Voluntary Quit – Recipient 385.13 (a)	Yes	N41 N42 N43	Individual durational sanction (pro rata)	385.12 (d)
Intentional misrepresentation of medical condition 385.2 (d) ( 8)	No	BE1 BE2 BE3	Individual durational sanction (pro rata)	385.12 (d)

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Failure of an exempt individual to participate in an assignment to restore individual to self- sufficiency – Applicant or Recipient 385.2 (e)	No	W40	Individual ineligible until willing to comply ( individual removal from case).	385.12 (a) (1)
<b>Item (regulatory citation for requirement)</b>	<b>Conciliation</b>	<b>Reason Codes</b>	<b>Action</b>	<b>Regulatory Citation for Case Action (18 NYCRR )</b>
<p>Food Stamps</p> <p>Note: All FS work sanctions apply to persons who have already been determined to be work registrants ( WR). An individual cannot fail to work register ; this is an LDSS responsibility.</p>				
FS WR Failure to agree to comply with work registration requirements – Applicant or Recipient	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS WR – Failure to respond to a request for information regarding employment status or availability for work. Includes failure to keep/ complete an assessment appointment. 385.3 (c)	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS – Failure to keep/complete an assessment appointment	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS – Failed to keep/complete an employment or training appointment 385.3 (c)	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS – Failed to go to an employment or training assignment 385.3 (c )	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS – Failed continuation of an employment or training assignment 385.3 (c)	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS – Failure to participate in job search – Applicant or Recipient 385.3 (c)	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)
FS – Failure to actively seek employment and provide proof 385.3 (c)	No	WE1 WE2 WE3	Individual durational sanction (incremental)	385.12 (e)

**15 - Employment Related Violations Desk Guide**

FS – Voluntary quit within 30 days of application – Applicant 385.3 (c)	No	N31 N32 N33	Individual durational sanction (incremental) (60,120 or 180 days) with duration to begin from date of application.	385.13 (b) (3)
FS – Voluntary quit – Recipient ( includes quits that occur before application that are discovered after eligibility is established) 385.13 (b)	No	N41 N42 N43		
FS – Failure to meet ABAWD requirements 385.3 (d)	No	F94	Individual ineligible	385.3 (d)

**Note:** While conciliation is no longer required for instances of noncompliance with food stamp requirements, districts must establish whether or not good cause for noncompliance exists before implementing a food stamp sanction. Reference 385.12(b)(2)

(1) **Sanction Definitions:**

**Public assistance sanctions [385.12 (d)]** A pro-rata reduction in grant for the following duration:

For households with dependent children: 1st - until compliance, 2nd - longer of 3 months or compliance, 3rd and subsequent - longer of 6 months or compliance. For households without dependent children: 1st - longer of 90 days or compliance, 2nd - longer of 150 days or compliance, 3rd and subsequent - longer of 180 days or compliance.

**Food stamp sanctions [385. 12 (e)]** For all households, the individual is ineligible for the following duration: 1st - longer of 2 months or compliance; 2nd - longer of 4 months or compliance; 3rd - longer of 6 months or compliance.

### Cover Letter to Accompany the Request for Medical Information

Date:
Re:
DOB:

Dear Health Care Provider:

The above named individual has been referred to you to help evaluate the extent to which he/she can participate in employment or job preparation services including job search, on-the-job training, job skills training, vocational rehabilitation or training, and educational activities including classroom instruction. Additionally, it is important to determine if participation in treatment or rehabilitation is warranted. We also need your assessment of the expected length of the impairment. If the individual has severe impairments that are expected to last at least 12 months or result in death, it may indicate that it would be most appropriate for the district to refer the individual to apply for federal disability benefits.

If the individual is capable of participating in employment or job preparation services in any capacity, we are also requesting information regarding the nature of any limitations so that appropriate accommodations are provided.

Please complete the enclosed medical form. If additional space or clarification is needed in any area, please attach the additional information. Treatment intensity should correspond to the severity of the condition. If, in your opinion, the individual is completely unable to participate in any activities and would not benefit from rehabilitation or treatment, please indicate that so the individual may be referred to the proper agencies and services.

I can be reached at \_\_\_\_\_ if you require additional information. Thank you for your time and consideration in this matter.

Sincerely,

\_\_\_\_\_  
Worker Name

\_\_\_\_\_  
Title

## **SECTION 16: WELFARE REPORTING AND TRACKING EMPLOYMENT CODES (WRTS) CONTENTS**

- Active Employability Codes for WMS Code Cards
- Welfare Reporting and Tracking Employment Codes
  - Employment Activity Codes
  - Employment Status Codes
  - Welfare-To-Work Target Group Codes
  - Employment Source Codes
  - Child Care Codes
- Employment Tracking Inquiry
  - Overview
  - WTRK00 – Employment Tracking Inquiry
  - WTRK31 – FS ABAWD Tracking
  - WTRK32 – PA Individual Employment Tracking Inquiry
  - WTRK43 – FS ABAWD Override Input
  - WTRK42 – PA Employment Override Entry
  - WTRK43 – PA Tracking Override Input
  - Error Messages
  - Data Element Alphabetic Listing

Active Employability Codes for WMS Code Cards  
for June 18, 2007 WMS Migration

<u>Emp Code</u>	<u>Long Text</u>	<u>Short Text</u>
16	Work Limited/Nonexempt	WORK-LIM
17	Teen Head of Household or Married Teen in Secondary School/Equivalent/other Education/Nonexempt	TEEN-HOH
20	Nonexempt	NONEXMPT
24	Pregnant (Within 30 Days of Medically Verified Date of Delivery)/Exempt	PREG-9MO
27	Employed Parttime or Fulltime/Nonexempt	EMPLOYED
29	True Single Parent or Caretaker of Child Under 6 Years of Age/Nonexempt	SP-CH-U6
30	Child Under 16 Years/Exempt	CHD-U-16
31	Parent or Caretaker Relative of a Child in the Household Under 12 Months of Age/Exempt	CT-CH-U1
32	Advanced Age (60 Years or Older)/Exempt	AGED
35	Non Head of Household Child in School Fulltime (age 16-18)/Exempt	CH-16-18
36	Incapacitated/Disabled (More than 6 Months)/Exempt	INCAP
38	Needed in the Home Fulltime to Care for an Incapacitated/Disabled Household Member Exempt	ND-HM-EX
40	Needed in the Home Parttime to Care for an Incapacitated/Disabled Household Member Nonexempt	NDHM-NEX
41	Temporary Illness or Incapacity (1-3 Month Exemption)/Exempt	TM-IL-3M
42	Temporary Illness or Incapacity (4-6 Month Exemption)/Exempt	TM-IL-6M
43	Incapacitated/Disabled (SSI Application Filed)/Exempt	INCP-SSI
44	Incapacitated/Disabled (In Receipt of SSI)/Exempt	REC-SSI
45	Work Requirements Waivable-Exempt	WKRLE
46	Work Requirements Waivable-Nonexempt	WKRLNE
47	Incapacitated/Disabled-Time Limit Exemption (More than 6 Months)	IN-TL-M6
48	Needed in the Home to care for Incapacitated Child Fulltime-Time Limit Exemption	IN-CH-TL
49	Temporary Illness or Incapacity Time Limit Exemption (4-6 Month Exemption)	IN-TL-L6
63	Substance Abuser/Exempt	SUBAB-EX

64	Substance Abuser/Nonexempt	SUBAB-NE
70	Contesting Employability Determination Including the Disability Review Process/Exempt	CON-EMPL
77	Nonexempt from PA Work Requirements/Exempt from FS Work requirements and ABAWD	PA-N-FS-E
78	Nonexempt from PA and FS Work Requirements/ABAWD Exempt	PAFS-NE
99	Unborn	UNBORN
WA	NPA FS Work Registration Required (ABAWD Exempt)	WRNEABEX
WE	NPA FS Work Registration Exempt	WRABEX
WR	NPA FS Work Registration Required (ABAWD Required)	WRABNEX

## WELFARE REPORTING AND TRACKING EMPLOYMENT CODES (WRTS)

### EMPLOYMENT ACTIVITY CODES - EMP. ACTIVITY

- 01 Individual Assessment
- 02 Employability Development Plan
- 03 Work Experience
- 05 Job Search
- 06 Vocational Education Training
- 07 High School (Including GED and Secondary School or Equivalent)
- 08 Job Skills Training
- 09 Educational Training
- 10 Job Readiness Training
- 11 Subsidized Private Sector Employment
- 13 Treatment Plan for Substance Abuse
- 15 Subsidized Public Sector Employment
- 16 Community Service
- 17 Child Care Provider of Community Service Participant
- \*20 Job Readiness Training (FS)
- \*21 Job Search (FS)
- \*23 Job Skills training (FS)
- \*24 Educational Training (FS)
- 31 Post Secondary Education
- 32 Job Placement/Development
- 33 On-the-Job Training
- 34 Post-Employment Services
- 35 Treatment Plan Other Than Substance Abuse

Note: Codes identified with an asterisks (\*) will not be created on current WRTS records, but may be found historically.

### EMPLOYMENT STATUS CODES - EMP. STATUS

- \*01 Referred for Child Care
- 02 Participation Pending Medical Evaluation
- 03 Pending Participation for All Non-Medical Reasons
- 04 Enrolled
- 07 Completed (Fulfilled all Requirements)
- 08 Entered Employment - Part Time (Less Than 30 Hours Weekly)
- 09 Entered Employment - Full Time (30 Hours or More Weekly)
- \*10 Part Time Employment Increased to Full Time
- \*11 Full Time Employment Decreased to Part Time
- \*15 PA Sanction - 90 Days
- \*16 PA Sanction - 180 Days
- \*17 PA Sanction - 150 Days
- 18 Employment Terminated

**WELFARE REPORTING AND TRACKING EMPLOYMENT CODES (WRTS)****EMPLOYMENT STATUS CODES - EMP. STATUS(Continued)**

19	All Other Terminations of Participation in Activity Component
20	FS Exempt - Lack of Child Care
21	FS Exempt - Barriers to Employment
22	FS Exempt - Job Attached Person
23	FS Exempt - Migrant and Seasonal Farm Worker
*24	Notice of Adverse Action Mailed
*25	FS Sanction - 2 Months
*27	FS Sanction - 4 Months
*28	FS Sanction - 6 Months
30	Reassessed
31	Medical Returned - Non-Exempt
32	Medical Returned - Exempt
33	Referred for Activity Enrollment
34	Referred for Noncompliance
35	Referred for Employment
*43	Initial Sanction
*44	Sanction Concluded
*46	Three Month Notice due
*47	In Receipt of Child Care
*49	Child Care Not Required
50	Conciliation
*55	Appropriate Child Care Unavailable Within Reasonable Distance from Home or Work Site
*56	Informal Child Care Unavailable or Unsuitable
*57	Appropriate Affordable Formal Child Care Unavailable

Note: Codes identified with an asterisks (\*) will not be created on current WRTS records, but may be found historically.

**WELFARE-TO-WORK TARGET GROUP CODES – WTWTG**

01	WtWBG 70% Funded Category
02	WtWBG Non-Custodial Parent in 70% Funded Category
03	WtWBG 30% Funded Category
04	WtWBG Non-Custodial Parent in 30% Funded Category
05	Non-Custodial Parent (Non-WtWBG)

Note: Values 01-04 are historical only. 05 may be generated on current records.

**EMPLOYMENT SOURCE CODES - EMP. SOURCE**

- 1 Transition to Same Employer/Work Site
- 2 Self
- 3 DSS Staff
- 4 JTPA
- 5 DOL
- 6 Other
- 7 OVESID
- 8 Block Grant

Note: The employment source codes are only found on historical records.

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**Child Care Codes**

- 1 In Receipt of Child Care
- 2 Appropriate Child Care Unavailable Within Reasonable Distance  
Form Home or Work Site
- 3 Child Care Not Required
- 4 Informal Child Care Unavailable or Unsuitable
- 5 Appropriate Formal Child Care Unavailable

## EMPLOYMENT TRACKING INQUIRY

### OVERVIEW

The Employment Tracking inquiry screens were designed to aid local district workers in tracking mandated employment requirements for PA and Food Stamp recipients. The information displayed on the screens is derived from the Welfare To Work Caseload Management System (WTWCMS), and other sources such as the WMS case record and the ABEL budget.

There are four screens available from the main menu selection (WTRK00). Screen WTRK31 supports Food Stamp ABAWD (Abel Bodied Adults Without Dependents) tracking requirements. Screens WTRK32 and WTRK42 support PA employment tracking. Screen WTRK43 allows for overriding of various PA and ABAWD tracking fields. Screen WTRK42 also has a limited override function for PA employment.

NYCWAY, the source of employment activity data for NYC clients, is not part of the WRTS database. Because NYC employment related data is unavailable, various fields pertaining to FS ABAWD tracking and PA employment tracking will not contain accurate information. Information derived from the WMS case record and from ABEL will be correct. Inquiry done on NYC clients should be limited to the following:

#### WTRK31 – FS ABAWD Tracking:

- Present ABAWD Exempt/Required status
- Demographic information
- Earnings information

#### WTRK32 – PA Individual Employment Tracking:

- Assessment Required End date
- Sanction Months/3 Month Exclusion Applied
- Child Caretaker Months Exempted
- Demographic information
- Earnings information

WTRK00 – EMPLOYMENT TRACKING INQUIRY MENU

**PURPOSE:** Selections P through S allow access to the Employment Tracking Inquiry series of screens. (Selection A through I representing the Time Limit Tracking Inquiry is the responsibility of the New York State Department of Family Assistance, the Office of Temporary and Disability Assistance.)

**ACCESS:** Entering selection 17 – TIME LIMIT TRACKING INQUIRY on the WMS Menu - WMSMNU screen.

WTRK00	Dist ROCK	Date 11/01/1999
TIME LIMIT TRACKING INQUIRY		
Selection _	CIN _____	OR SSN _____
		Starting month/year ____ (Selection B and C only) ____
A - Individual Tracking Summary		G - Tracking Override Input
B - Monthly Tracking Summary		H - Print ALL Tracking Details
C - Tracking Payment Detail		I - Produce Out-of-State Report
D - PA Individual Status History		
E - FS Individual Status History		
F - Tracking Override History		
EMPLOYMENT TRACKING INQUIRY		
Selection	CIN _____	Case# _____ Suf _ Dist ____
P - FS ABAWD Tracking		
Q - PA Individual Employment Tracking		
R - FS ABAWD Override		
S - PA Employment Override		

**SELECTION P**

Entry of a valid CIN returns the WTRK31 – FS ABAWD TRACKING screen. Case Number must be entered if client is in multiple cases.

This screen displays detailed information for an Able Bodied Adult Without Dependents (ABAWD)

**SELECTION Q**

Entry of a valid CIN returns the WTRK32 – PA INDIVIDUAL EMPLOYMENT TRACKING screen.

This screen displays detailed employment tracking data for a PA individual.

**SELECTION R**

Entry of a valid CIN returns the WTRK43 – FS ABAWD OVERRIDE screen.

This screen is used to override the counter that determines the FS ABAWD Number of Months of Non-participating in Present 36 Month Period. The user may delete existing months or add new months to the ABAWD tracking.

**WTRK00 – EMPLOYMENT TRACKING INQUIRY MENU (Cont.)****SELECTION S**

Entry of a valid CIN returns the WTRK42 – PA EMPLOYMENT OVERRIDE INPUT screen. This data entry screen allows changes to be made to the Welfare to Work Assessment Date and additions and deletions to the history of any of the four employment tracking categories.

If the case being accessed through the above four selections is in NYC, a suffix is required. District is a required entry when the case being accessed is in a district other than the one access is being done from.

**DATA ELEMENT FIELDS FOR SCREEN WTRK00:**

**Screen Caption**                      **Data Element Name Size**

**SELECTION**                              **NONE**

The selections supported on the Employment Tracking section of this screen are P – S. One is required.

**CIN**    **CLIENT IDENTIFICATION NUMBER (8)**

The CIN of the individual for which a system search will be initiated. The entry of CIN is required.

**CASE No.**                                      **CASE NUMBER (10)**

The local district assigned Case Number for which a system search will be initiated.

**SUF**    **SUFFIX (2)**

The case suffix number. Used for NYC cases, Upstate cases will display "01".

**DIST**    **DISTRICT (4)**

The first 4 letters of the local district name. For New York City enter NYC.

**FUNCTION KEYS SUPPORTED:**

F        - WBPAFS - PA/FS Budget Calculation Menu  
 F2      - WBNANU - MA Budget Calculation Menu  
 F3      - WST001 - Statistics Menu  
 F4      - WAR001 - Application Register Menu  
 F5      - WDENIL - Application/Services Denial Menu  
 F6      - TERMINAL INACTIVE  
 F7      - WDXMNU - Non-Services Data Entry and Case Disposition Menu  
 F8      - MAPMENU - Mapper Applications  
 F9      - WSEMNU - Services Full Data Entry Menu  
 F10     - WSUMNU - Services Undercare/Maintenance Menu  
 F11     - WCN000 - Client Notice Menu  
 F12     - WINQ01/WINQ02 - Case/Individual Inquiry Menu  
 F13     - KPTMNU - NYSDSS State Central Register Menu  
 F14     - WCTMNU - RFI Menu  
 HELP   - (F15) LDMIP Menu  
 DO     - (F16) Menu - WMSMNU – WMS Menu

**WTRK31\*\*FS ABAWD TRACKING \*\***

**PURPOSE:** This inquiry screen displays ABAWD participation, enrollment, and earnings information for an individual.

**ACCESS:** Selection P from WTRK00 - EMPLOYMENT TRACKING INQUIRY MENU

WTRK31**FS ABAWD TRACKING **										Dist ROCK		07/18/2000	
CIN	SSN	Name		DOB									
AX23411C	120772295	ROBERT		R ROBERTS		12/12/55							
Case Name		Case No.	Suf	CT	CS	FS-IS	Emp	36 Mon	Start				
ROBERT R ROBERTS		P12229	01	SNNC	AC	AC	43	07/01/97					
Total Mon N-P:		Mon Non-Part:											
Removed Due to ABAWD:		Reestablished Date:		ABAWD Exempt Status						As of 06/30/00: E			
*** CURRENT ENROLLMENTS***													
Activity		Hours per Week		Effective Date									
1.													
2.													
3.													
*** EARNINGS***													
Type		Hours per Month		Effective Date				Gross Amount					
1.													
2.													
F17 - FS ABAWD Override Input													

**FUNCTION KEYS SUPPORTED:**

- F6 - TERMINAL INACTIVE
- HELP - (F15) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING INQUIRY MENU with original search data entered
- DO - (F16) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING INQUIRY MENU with all entry fields blank
- F17 - WTRK43 - FS ABAWD OVERRIDE INPUT

**DATA ELEMENT FIELDS FOR SCREEN WTRK31:**

**Screen Caption**

**Data Element Name, Size**

**CIN** CLIENT IDENTIFICATION NUMBER (8)

The CIN of the individual

**SSN** SOCIAL SECURITY ACCT. NO. (9)

The Social Security Account Number of the individual associated with the CIN.

**WTRK31 – FS ABAWD TRACKING (Cont.)****DATA ELEMENT FIELDS FOR SCREEN WTRK31:**

<b>Screen Caption</b>	<b>Data Element Name, Size</b>
<b>NAME</b> The name of the individual associated with the CIN.	<b>NAME (28)</b>
<b>DOB</b> The Date of Birth of the individual associated with the CIN.	<b>DATE OF BIRTH (6)</b>
<b>CASE NAME</b> The case name of the case through which the screen was accessed.	<b>CASE NAME (28)</b>
<b>CASE NO.</b> The case number through which the screen was accessed.	<b>CASE NUMBER (10)</b>
<b>SUF</b> The case suffix number. Used for NYC cases, for Upstate cases “01” will be displayed.	<b>SUFFIX ID (2)</b>
<b>CT</b> The 4 character mnemonic indicating the case type.	<b>CASE TYPE (4)</b>
<b>CS</b> The 2 character mnemonic indicating the case status of the case.	<b>CASE STATUS (2)</b>
<b>IS</b> The 2 character mnemonic indicating the individual status of the individual.	<b>INDIVIDUAL STATUS (2)</b>
<b>EMP</b> The 2 character code for the current employability code as stored on WMS.	<b>EMPLOYABILITY CODE (2)</b>
<b>36 MON START</b> The beginning date of the 36 month look-back for ABAWD tracking. This date is a 36 month look back from the current month and increments monthly.	<b>36 MONTH STARTING DATE (6)</b>
<b>TOTAL MON N-P</b> The total number of months within the past 36 months that the individual was receiving Food Stamps but not participating in an appropriate work activity.	<b>TOTAL MONTHS NON-PARTICIPATING (2)</b>
<b>MON NON-PART</b> The actual month and year that the client was considered to be non-participating. The last 6 months entered as non- participating will be displayed. Further months may be viewed on the WTRK43 FS ABAWD OVERRIDE screen.	<b>MONTHS NON-PARTICIPATING (4)</b>
<b>REMOVED DUE TO ABAWDS</b> The one character code (X) indicating that the FS Individual Reason Code for the individual is F94 – ABAWD Ineligible.	<b>REMOVED DUE TO ABAWDS (1)</b>

**WTRK31 – FS ABAWD TRACKING (Cont.)****DATA ELEMENT FIELDS FOR SCREEN WTRK31:****Screen Caption****Data Element Name, Size****REESTABLISHED DATE****REESTABLISHED DATE (6)**

The date on which the client's Food Stamp eligibility was reestablished. This date is set when an individual who was previously identified as Removed Due to ABAWD becomes active for Food Stamps again and the months non-participating counter shows that the individual was non-participating for at least three of the past 36 months.

**Present ABAWD Exempt Status ABAWD Exempt (1)**

The one character code indicating an individual's ABAWD status as of the end of the previous month. The codes R, E, or N will be displayed in this field (R – Required, E – Exempt, N – Not presently in receipt of Food Stamps). The reasons why an individual would be ABAWD Exempt are explained in the Welfare to Work Policy Manual, section 1300.3.)

**\*\*CURRENT ENROLLMENTS\*\*****ACTIVITY****EMPLOYMENT ACTIVITY (8)**

The activity mnemonic indicating what employment activities an individual is currently enrolled in. The three most recent activities will be displayed from the current Welfare To Work Caseload Management System record.

**HOURS PER WEEK****HOURS PER WEEK (3)**

The hours per week associated with each activity line. From the current Welfare To Work Caseload Management System record.

**EFFECTIVE DATE****EFFECTIVE DATE (6)**

The effective date associated with each activity line. From the current Welfare To Work Caseload Management System record.

**\*\*EARNINGS\*\*****TYPE****FOOD STAMP EARNED INCOME SOURCE (5)**

The individual's source of earned income from the current Food Stamp budget.

**HOURS PER MONTH****HOURS PER MONTH (3)**

The hours per month of the earned income from the current Food Stamp budget.

**EFFECTIVE DATE****EFFECTIVE DATE -- FROM (6) – TO (6)**

The FROM and TO dates of the earnings from income received by the individual. The Effective FROM Date of earnings will reflect the date on which earnings were first applied to the individual's Food Stamp case. The Effective TO Date will reflect the current effective TO date of the Food Stamp budget stored with earnings.

**GROSS AMOUNT****GROSS INCOME (7)**

The gross amount of earned income for the individual from the current Food Stamp budget.

WTRK32 - PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY

PURPOSE: This inquiry screen displays detailed employment tracking data for an individual. Access is also allowed to the WTRK43- PA TRACKING OVERRIDE INPUT screen by transmitting in front of the 5 employment tracking elements listed on the screen.

ACCESS: Selection Q from WTRK00 - EMPLOYMENT TRACKING INQUIRY MENU or F17 from WTRK42 - PA EMPLOYMENT OVERRIDE ENTRY

WTRK32		**PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY**				DIST ROCK		11/03/1999	
CIN	SSN	Name			DOB				
AD45672W	179404041	ELIZABETH G LEWIS			12/01/54				
Case Name	Case No.	Suf	CT	CS	IS	Emp	Par	ST	SN
ELIZABETH G LEWIS	P1547851	01	FA	AC	AC	43	1	06	06
Assessment Req'd End Date		_/_/_		Assessment Date		09/28/99			
_ Sanction Months		3		3-Month Exclusion Applied		Y			
_ Child Caretaker Months Exempted		2							
_ Job Search/Job Readiness Weeks Used In FFY		3		Countable		Y			
_ Vocational Education Months Used		3		Countable		Y			
*** CURRENT ENROLLMENTS ***									
Activity		Hours Per Week		Effective Date					
1. ED-TRNG		36		11/02/99					
2.									
3.									
*** EARNINGS ***									
Type		Hours Per Month		Effective Date		Gross Amount			
1. XXXXXX		XXX		99/99/99 - 99/99/99		99999.99			
2. XXXXXX		XXX		99/99/99 - 99/99/99		99999.99			
Transmit From Detail/Override Selection									

**SYSTEM RESPONSE:**

Transmitting from in front of each employment tracking element:

ASSESSMENT REQ'D END DATE will return WTRK42 – PA EMPLOYMENT OVERRIDE INPUT screen

SANC MONTHS will return WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: SANCTIONED MONTHS COUNTED:

CHILD CARETAKER MONTHS EXEMPTED will return WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: EXEMPTED CARETAKER OF A CHILD UNDER 12 MONTHS – TOTAL MONTHS COUNTED:

**WTRK32 - PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY (Cont.)**

**SYSTEM RESPONSE (Cont.):**

JOB SEARCH/JOB READINESS WEEKS USED IN FFY will return WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: JOB SEARCH/ READINESS WEEKS USED DURING PRESENT FFY:

VOCATIONAL EDUCATION MONTHS USED will return WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: VOCATIONAL EDUCATION MONTHS COUNTED:

**FUNCTION KEYS SUPPORTED:**

- F6 - TERMINAL INACTIVE
- HELP - (F15) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING INQUIRY MENU with original search data entered
- DO - (F16) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING INQUIRY MENU with all entry fields blank

DATA ELEMENT FIELDS FOR SCREEN WTRK32:

<b>Screen Caption</b>	<b>Data Element Name, Size</b>
<b>CIN</b> The CIN of the individual	<b>CLIENT IDENTIFICATION NUMBER (8)</b>
<b>SSN</b> The Social Security Account Number of the individual	<b>SOCIAL SECURITY ACCOUNT NO. (9)</b>
<b>NAME</b> The name of the individual	<b>NAME (28)</b>
<b>DOB</b> The Date of Birth of the individual	<b>DATE OF BIRTH (6)</b>
<b>CASE NAME</b> The case name of the case through which the screen was accessed.	<b>CASE NAME (28)</b>
<b>CASE NO.</b> The case number of the case through which the screen was accessed.	<b>CASE NUMBER (10)</b>
<b>SUF</b> The case suffix number. Used for NYC cases, for Upstate cases "01" will be displayed.	<b>SUFFIX ID (2)</b>
<b>CT</b> The 4 character mnemonic indicating the case type	<b>CASE TYPE (4)</b>
<b>CS</b> The 2 character mnemonic indicating the case status of the case	<b>CASE STATUS (2)</b>

**IS INDIVIDUAL STATUS (2)**

The 2 character mnemonic indicating the individual status of the individual.

**WTRK32 - PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY (Cont.)**

**DATA ELEMENT FIELDS FOR SCREEN WTRK32 (Cont.):**

**Screen Caption** *Data Element Name, Size*

**EMP EMPLOYABILITY CODE (2)**

The two character employability code as stored on WMS.

**PAR NUMBER OF PARENTS (1)**

The number of parents in the household for federal reporting purposes.

<u>Code</u>	<u>Definition</u>
0	No parents in the household (child only case)
1	One parent in the household (includes two parents cases in which a parent is incapacitated as determined by Employability code)
2	Two parents in the household (both parents nonexempt)

**ST STATE 60 MONTH COUNT (2)**

The total number of months applied to the individual's State 60 Month time limit, as reported on the PA Time Limit Tracking screens.

**SN SAFETY NET COUNT (2)**

The total number of months applied to the individual's Safety Net time limit, as reported on the PA Time Limit Tracking screens.

**ASSESSMENT REQ'D END DATE DATE (6)**

This date is the date by which a TANF, Safety Net MOE Families (State/Federal Charge Code 60, 63 or 64) or SN non-MOE individual must be assessed for Welfare To Work programs. The date is reset each time an individual goes from an inactive to an active status excluding reactivations. All adults must be assessed.

**ASSESSMENT DATE ASSESSMENT DATE (6)**

The date the client was actually assessed based on the Effective date of a completed assessment as entered in the Welfare To Work Caseload Management System.

**SANC MONTHS SANCTION MONTHS (2)**

The number of months that the TANF or Safety Net MOE Families (State/Federal Charge Code 60, 63 or 64) individual is in an employment sanction or sanction process during the last 12 months.

**3 MONTH EXCLUSION APPLIED 3 MONTH EXCLUSION APPLIED (1)**

A code (Y) indicates that the TANF or SN MOE case (due to sanction status of the individual) is currently excludable from the Federal and State participation rate calculation. A code of (N) indicates that the case is not currently excludable since the case has been previously excluded for more than three months in the preceding 12 months based on an individual in the case being sanctioned or in the sanction process.

**CHILD CARETAKER MONTHS EXEMPTED**

**CHILD CARETAKER MONTHS EXEMPTED (2)**

The number of months that the TANF individual or Safety Net MOE Families individual (State/Federal Charge Code 60, 63 or 64) has been coded with an Employability Code (31 or 34) indicating that the individual is the exempted caretaker of a child under 12 months of age.

**JOB SEARCH /JOB READINESS WEEKS USED IN FFY**

**JOB SEARCH /JOB READINESS WEEKS USED IN FFY (2)**

The total number of weeks within a Federal Fiscal Year that a TANF or a Safety Net individual was enrolled in Job Search and / or Job Readiness activities or a TANF or SN MOE (State / Federal Charge code 60, 63 or 64) individual was enrolled in Substance Abuse Treatment and / or Treatment Plan Other Than Substance Abuse activities, as entered on the Welfare To Work Caseload Management System.

**WTRK32 - PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY (Cont.)**

**DATA ELEMENT FIELDS FOR SCREEN WTRK32 (Cont.):**

*Screen Caption*

*Data Element Name, Size*

**COUNTABLE**

**COUNTABLE JOB SEARCH/JOB READINESS WEEKS (1)**

A code of (Y) indicates that the TANF, SN MOE or Safety Net individual's time in any of the activities (or combination) can be counted for the federal and state participation rate.

**VOCATIONAL EDUCATION MONTHS USED**

**VOCATIONAL EDUCATION MONTHS USED (2)**

The total number of months a TANF, SN MOE or Safety Net individual has been enrolled in vocational education activity during the individual's lifetime as reported on the Welfare To Work Caseload Management System. This counter is never reset.

**COUNTABLE**

**VOC ED MONTHS COUNTABLE (1)**

A code of (Y) indicates that an individual has been enrolled on the Welfare To Work Caseload Management System in vocational education and has not completed 12 months as a TANF, SN MOE or Safety Net case member while enrolled in that activity. After a total of 12 months have been reached, this indicator will change to "N".

**\*\*CURRENT ENROLLMENTS\*\***

**ACTIVITY**

**EMPLOYMENT ACTIVITY (8)**

The mnemonic for the Employment Activities in which an individual is currently enrolled. From the current Welfare To Work Caseload Management System.

**HOURS PER WEEK**

**HOURS PER WEEK (3)**

The hours per week associated with each activity line. From the current Welfare To Work Caseload Management System record.

**EFFECTIVE DATE**

The effective date associated with each activity line. From the current Welfare To Work Caseload Management System record.

**EFFECTIVE DATE (6)**

**\*\*EARNINGS\*\***

**TYPE**

The source of earned income for the individual. From the current PA budget.

**PUBLIC ASSISTANCE EARNED INCOME SOURCE (5)**

**HOURS PER MONTH**

The hours per month of earned income. From the current PA budget.

**HOURS PER MONTH (3)**

**EFFECTIVE DATE**

The FROM and TO dates of the earnings from income received by the individual. The Effective FROM Date of earnings will reflect the date on which earnings were first applied to the individual's PA case. The Effective TO Date will reflect the current effective TO date of the PA budget stored with earnings.

**FROM (6) – TO (6)**

**GROSS AMOUNT**

The earnings gross amount for income associated with this individual is displayed.

**GROSS INCOME (7)**

**WTRK43 - FS ABAWD OVERRIDE INPUT**

**PURPOSE:** This screen displays a history of ABAWD non-participation for an individual. Up to ten lines in descending order will be displayed on a screen. Multiple screens are available by use of the special function keys listed on the bottom of the screen. Tracking data may be deleted on this screen. A data entry line displayed, along the bottom of the screen, allows the entry of additional months of non-participation.

**ACCESS:** Selection R from WRTK00 - EMPLOYMENT TRACKING MENU, or F17 from WTRK31 - FS ABAWD TRACKING

WTRK43 **FS ABAWD OVERRIDE INPUT**										DIST ROCK	11/08/1999	PAGE 01 OF 01
ABAWD OVERRIDE TRACKING												
CIN		Name										
AF35966JJOHN		T BRIGHTWATER										
NUMBER OF MONTHS NON-PARTICIPATING IN PRESENT 36 MONTH PERIOD: 1												
ABAWD MONTHS NON-PARTICIPATING												
SECTION 1	→	RSN	DIST	CASE NO.	SUF	CIN	MM/YY	CHANGE DATE	USER ID	RSN	OVR	
		ROCK	P04654	01	AF35966J	12/98	11/08/1999	G10030	G10030	C		
SECTION 2	→	-	-	-	-	AF35966J	/	11/08/1999	G10030		XMT	
F1 - Pg. 1 F2 - Fwd F3 - Back F17 - FS ABAWD TRACKING												

**DATA ENTRY ALLOWED ON SCREEN WTRK43**

**Deletion of a Month**

Section 1 contains up to ten lines that represent months that have been applied/deleted to the ABAWD non-participation count. Multiple screens may exist. When blank, the column labeled RSN (Override Reason Code) is the only enterable field for any line displayed.

The allowable entries for RSN are:

Code	Description
C	Conversion Error
F	Fair Hearing Decision
I	Incorrect Coding
O	Overridden in Error
S	Out of State (Section 2 only)

Successful deletion will result in all four of the following:

- 1) entry in the RSN field will change to D,
- 2) the OVR RSN field will display the original code entered in the RSN field,
- 3) a line 24 message **“Update Complete”**,
- 4) the number of months non-participating in present 36 month period will change to reflect the new number of months

Multiple deletions may be processed at one time.

### **WTRK43 - FS ABAWD OVERRIDE INPUT (Cont.)**

#### **Corrections To a Deleted Month**

If a month was deleted (RSN = D) erroneously and that month needs to be re-applied to the counter, the month must be entered as a transaction in Section 2. Successful correction will result in an additional (line) being displayed in Section 1, listed immediately above the original month.

#### **Addition of a Month**

The entry line near the bottom of the screen allows the addition of a new month of ABAWD non-participation. Only 1 A(dd) may be processed at a time.

The following fields are required to add a month to the total non-participation count: RSN, DIST, CASE NO, MM/YY. SUFF is required for NYC cases.

Upon successful completion of the addition of a month, the added month will be displayed chronologically on the screen and the Number of Months Non-Participating field will be incremented by 1.

**SYSTEM RESPONSE: A line 24 message: Update Complete**

#### **FUNCTION KEYS SUPPORTED:**

F1 - Return Page 1  
 F2 - Page Forward  
 F3 - Page Backward  
 F6 - TERMINAL INACTIVE  
 HELP - (F15) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING INQUIRY MENU with original search data entered  
 DO - (F16) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING INQUIRY MENU with all entry fields blank  
 F17 - WTRK31 - FS ABAWD TRACKING

#### **DATA ELEMENT FIELDS FOR SCREEN WTRK43:**

**Screen Caption**                      **Data Element Name, Size**

**CIN**                                      **CLIENT IDENTIFICATION NUMBER (8)**  
 The individual's CIN.

**NAME**                                   **NAME (28)**  
 The name of the individual associated with the CIN.

**RSN**                                    **REASON CODE (1)**  
 A data entry field. The code for the reason an indicated month is being deleted from the non-participation list.

**DIST TRANSACTION DISTRICT (4)**

The first 4 letters of the local district name. This is an enterable field on the data entry line. New York City is coded "NYC".

**CASE NO CASE NUMBER (10)**

The case number of the active case in which the individual was a member at the time the line was generated. This is an enterable field on the data entry line.

**WTRK43 - FS ABAWD OVERRIDE INPUT (Cont.)****DATA ELEMENT FIELDS FOR SCREEN WTRK43:****Screen Caption****Data Element Name, Size****SUF SUFFIX ID (2)**

The case suffix number. Used for NYC cases, for Upstate cases "01" will be displayed. This is an enterable field on the data entry line.

**CIN CLIENT IDENTIFICATION NUMBER (8)**

The individual's Client Identification Number.

**MM/YY MONTH/YEAR (4)**

The month/year entered for the month of non-participation.

**CHANGE DATE DATE (8)**

The date the change was entered on the Employment Tracking System (System generated).

**USER ID USER IDENTIFICATION NUMBER (6)**

The terminal security user id of the individual who has signed on to the terminal being used to perform the override. (System Generated)

**OVR RSN OVERRIDE REASON (1)**

The override reason code, based on the reason code entered for this line. (System Generated)

WTRK42 - PA EMPLOYMENT OVERRIDE ENTRY

**PURPOSE:** This data entry screen allows changes to be made to the Welfare to Work Assessment Date, and access to the history of any of the four employment tracking categories for override or review.

**ACCESS:** Selection S from WTRK00 - TIME LIMIT TRACKING/EMPLOYMENT TRACKING INQUIRY MENU or selection of ASSESSMENT REQ'D END DATE on WTRK32 – PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY or F17 from WTRK43 - PA EMPLOYMENT OVERRIDE INPUT

WTRK42 **PA EMPLOYMENT OVERRIDE ENTRY**		DIST ROCK	11/03/1999
CIN	Name		
AA14117F	ROBERT Z WILLIAMS		
Assessment Date: / /	Change To: __/__/__		
Override Code: __			
	EC - Exempted Caretaker		
	MS - Months Sanctioned		
	JB - Job Search/Job Readiness		
	VE - Vocational Education		
F17 - PA Employment Tracking Inquiry	F18 - FS ABAWD Tracking Screen		__ XMT

**DATA ENTRY ALLOWED ON SCREEN WTRK42**

The field labeled CHANGE TO: is a data entry field. Entering a valid date in this field will update the Welfare to Work Assessment Date.

The field labeled OVERRIDE CODE: allows the entry of one of the four employment activity codes listed. The entry of these codes will return:

Override code - EC - EXEMPTED CARETAKER returns WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: EXEMPTED CARETAKER OF CHILD UNDER 12 MONTHS - TOTAL MONTHS COUNTED:

MS - MONTHS SANCTIONED returns WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: SANCTIONED MONTHS COUNTED:

JB - JOB SEARCH/JOB READINESS returns WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with the heading: JOB SEARCH/READINESS WEEKS USED DURING PRESENT FFY:

VE - VOCATIONAL EDUCATION returns WTRK43 – PA EMPLOYMENT  
 OVERRIDE INPUT screen with the heading:VOCATIONAL EDUCATION  
 MONTHS COUNTED:

**WTRK42 - PA EMPLOYMENT OVERRIDE ENTRY (Cont.)**

**FUNCTION KEYS SUPPORTED:**

- F6 - TERMINAL INACTIVE
- HELP - (F15) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING  
 INQUIRY MENU with original search data entered
- DO - (F16) returns WTRK00 – TIME LIMIT TRACKING and EMPLOYMENT TRACKING  
 INQUIRY MENU with all entry fields blank
- F17 - WTRK32 - PA EMPLOYMENT TRACKING INQUIRY
- F18 - WTRK31 – FS ABAWD TRACKING

**DATA ELEMENT FIELDS FOR SCREEN WTRK42:**

<b>Screen Caption</b>	<b>Data Element Name, Size</b>
<b>CIN</b>	<b>CLIENT IDENTIFICATION NUMBER (8)</b>
The Client Identification Number of the individual	

<b>NAME</b>	<b>NAME (28)</b>
The name of the individual associated with the CIN.	

<b>ASSESSMENT DATE:</b>	<b>ASSESSMENT DATE (6)</b>
The current Welfare to Work Assessment Date as generated by the entry of a complete assessment on the Welfare To Work Caseload Management System.	

<b>CHANGE TO</b>	<b>None (8)</b>
A data entry field. An entry in this field will update the Welfare to Work Assessment Date.	

<b>OVERRIDE CODE</b>	<b>OVERRIDE CODE (2)</b>
A data entry field. Use of one of the codes listed will allow access to the WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen displaying data specific to the selected activity.	

**WTRK43 - PA EMPLOYMENT OVERRIDE INPUT**

**PURPOSE:** This screen displays a history of tracking information of PA Employment Programs for an individual. Up to ten lines in descending order will be displayed on a screen. Multiple screens are available by use of the special function keys listed on the bottom of the screen. Tracking data may be deleted on this screen. A data entry line is displayed along the bottom of the screen allowing the entry of additional months of non-participation or the correction of existing months.

**ACCESS:** Transmitting from in front of one of the Employment Elements on the WTRK32 – PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY screen or by entering an override code on the PA EMPLOYMENT OVERRIDE ENTRY screen, WTRK42.

```

WTRK43  ** PA EMPLOYMENT OVERRIDE INPUT **          DIST ROCK    09/09/1999    PAGE 99 OF 99

                PA EMPLOYMENT PROGRAMS OVERRIDE HISTORY

CIN              Name
AZ15935R         JAMES T BURKE

(FOR SPECIFIC HEADINGS DISPLAYED HERE SEE NOTE BELOW)
+
RSN DIST CASE NO.   SUF  CIN      WK      OVR
  _  ROCK PA04950   01  AA15935S  01/99  09/09/1999  G10030  C
                                     □

  _  _  _  _  _  _  _  _  AA15935S  _/_/_  09/09/1999  G10030
F1 - Pg1      F2 - Fwd      F3 - Back      F17 - PA EMP OVERRIDE      F18 - PA EMP TRACKING__XMT
    
```

NOTE: One of the following line 8 headings will be displayed based on the Override selection made on WTRK32 or WTRK42:

<u>OVERVERRIDE CODE</u>	<u>HEADINGS</u>
EC	EXEMPTED CARETAKER OF A CHILD UNDER 12 MONTHS - TOTAL MONTHS COUNTED
MS	SANCTIONED MONTHS COUNTED:
JB	JOB SEARCH/READINESS WEEKS USED DURING PRESENT FFY: Note: The column labeled MMY Y will be displayed as MMDDYY for the JB heading.
VE	VOCATIONAL EDUCATION MONTHS COUNTED:

**DATA ENTRY ALLOWED ON SCREEN WTRK43**

**Deletion of a Month or Week**

This screen can contain up to ten lines that represent months that have been applied to or deleted from the PA employment tracking count. Multiple screens may exist. When blank, the column labeled RSN (Override Reason Code) is the only field that can be overridden for any line displayed.

**WTRK43 - PA TRACKING OVERRIDE INPUT (Cont.)**

The allowable entries for RSN are:

<u>Code</u>	<u>Description</u>
C	Conversion Error
F	Fair Hearing Decision
I	Incorrect Coding
O	Overridden in Error
S	Out of State (Section 2 only)

Successful deletion will result in all four of the following:

- 1) entry in the RSN field will change to D,
- 2) the OVR RSN field will display the original code entered in the RSN field,
- 3) a line 24 message "Update Complete",
- 4) number of months (weeks for Job Search/Job Readiness) count will change to reflect the new number of months.

Multiple deletions may be processed at one time.

**Corrections To a Deleted Month or Week**

If a month has been deleted (RSN = D) and that month must be re-applied to the counter, the month must be entered as a transaction at the bottom of the screen. Successful correction will result in an additional (line) being added to the lines displayed.

**Addition of a Month or Week**

The entry line near the bottom of the screen allows the addition of a new countable month or week. Only 1 A(dd) line may be processed at a time.

The following fields are required to add a countable month or week: RSN, DIST, CASE NO, MM/YY. SUFF is required for NYC cases.

Upon successful completion of the addition of a month or week, this addition will be displayed chronologically on the screen and the count for the field being changed will be incremented.

**SYSTEM RESPONSE:** A line 24 message: **Update Complete**

**FUNCTION KEYS SUPPORTED:**

- F1 - Return Page 1
- F2 - Page Forward
- F3 - Page Backward
- F17 - WTRK42 – PA EMPLOYMENT OVERRIDE ENTRY
- F18 - WTRK32 – PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY

**WTRK43 - PA TRACKING OVERRIDE INPUT (Cont.)****DATA ELEMENT FIELDS FOR SCREEN WTRK43:**

**Screen Caption**                      **Data element Name, Size**

**CIN**                                      **CLIENT IDENTIFICATION NUMBER (8)**

The individual's CIN.

**NAME**                                    **NAME (28)**

The name of the individual associated with the CIN.

**RSN**                                      **OVERRIDE REASON CODE (1)**

The override reason code.

**DIST**                                    **TRANSACTION DISTRICT (4)**

The first 4 letters of the local district in which the client was active at the time the counter was incremented. This field is enterable on the data entry line. New York City is coded "NYC".

**CASE NO**                                **CASE NUMBER (10)**

The case number of the active case in which the individual was a member at the time the line was generated. This field is enterable on the data entry line.

**SUF**                                      **SUFFIX ID (2)**

The case suffix number. Used for NYC cases for Upstate cases "01" will be displayed. This field is enterable on the data entry line.

**CIN**                                      **CLIENT IDENTIFICATION NUMBER (8)**

The CIN of the individual for either Upstate or NYC WMS at the time the counter was incremented.

**MMYY or (MMDDYY)**                  **MONTH/YEAR or MONTH/DAY/YEAR (4) or (6)**

The month and year or month, day and year for which a monthly or weekly counter was incremented. If month/day/year is displayed, it will reflect the last day of the week of the enrollment. This field will be displayed as MM/DD/YY for the Job Search/Readiness employment selection. This field is enterable on the data entry line.

**WK CNT**                                **WEEK COUNTED INDICATOR (1)**

A code of "Y" indicates that the TANF or Safety Net individual's time in a Job Search and / or Job Readiness activity or a TANF or Safety Moe (State / Federal Charge code 60, 63 or 64) individual's time in a Substance Abuse Treatment and / or Treatment Plan Other Than Substance Abuse activity can be counted, for a corresponding week, for the federal and state participation rate. A code of "N" indicates that a corresponding week cannot be counted.

**CHANGE DATE**                      **DATE (8)**

The date on which the override was data entered. (System Generated)

**USER ID**                                **USER IDENTIFICATION NUMBER (6)**

The User ID of the worker who performed the override function. (System Generated)



**DISTRICT/CASE/SUFFIX NOT FOUND**

The District Name and Case Number when required must be valid. A valid Suffix is required for NYC cases.

**ENTRY MUST BE BLANK – ENTER TRANSMIT**

On the WTRK32 – PA INDIVIDUAL EMPLOYMENT TRACKING INQUIRY screen, the Transmit position (in front of each Employment Activity) must be blank.

**INVALID CHANGE DATE ENTERED**

If an Assessment Change date was entered, it must be a valid date and not prior to 12/96.

**INVALID DATE**

The date entered is not a valid date.

**INVALID DISTRICT**

If entered, district must be the first 4 letters of a valid district name. For New York City cases district should be “NYC”.

**INVALID SUFFIX**

For Upstate cases, Suffix must be “01” or blank.

**INVALID OVERRIDE CODE ENTERED**

If entered the override code must be EC or MS or JB or VE or AB.

**NOTHING TO PROCESS**

During the override data entry, an add or a delete must be done.

**OVERRIDE REASON INVALID**

The override reason code entered must be one of the following:

<u>Code</u>	<u>Definition</u>
C	Conversion Error
F	Fair Hearing Decision
I	Incorrect Coding
O	Overridden In Error
S	Out of State (To add a line)

**REASON REQUIRED**

Reason Code is a required entry.

**SUFFIX IS INVALID**

Suffix must not be greater than 09.

**SUFFIX MUST BE NUMERIC**

When entered, Suffix must be numeric.

## DATA ELEMENT ALPHABETIC LISTING

### A

#### **ABAWD Exempt**

The one character code indicating that the client is ABAWD exempt. The codes R, E, or N may be displayed in this field (**R** – Required, **E** – Exempt, **N** – No longer in receipt of Food Stamps). The reasons why an individual would be ABAWD Exempt are explained in the Welfare to Work Policy Manual, section 1300.3.

#### **ABAWD Exempt (1)**

#### **ACTIVITY**

The Employment Activity code for the individual taken from the Welfare To Work Caseload Management System.

#### **EMPLOYMENT ACTIVITY (8)**

#### **ASSESSMENT REQ'D END DATE**

This date is the date by which a TANF or Safety Net MOE Families (State/Federal Charge Code 60, 63 or 64) or SN non-MOE individual must be assessed for Welfare to Work programs. The date is reset each time an individual goes from an inactive to an active status excluding reactivations. All adults must be assessed.

#### **DATE (6)**

#### **ASSESSMENT DATE**

The date the client was actually assessed based on the Effective Date of a completed assessment as entered in the Welfare To Work Caseload Management System.

#### **ASSESSMENT DATE (6)**

### C

#### **CASE No.**

The local district assigned Case Number.

#### **CASE NUMBER (10)**

#### **CASE NAME**

The case name of the case in which the individual is a member.

#### **CASE NAME (28)**

#### **CASE NO.**

The case number of the case in which the individual is a member.

#### **CASE NUMBER (10)**

#### **CHANGE TO**

A data entry field. An entry in this field will update the Welfare to Work Assessment Date. Format is mm/dd/ccyy.

#### **NONE (8)**

#### **CHILD CARETAKER MONTHS EXEMPTED**

The number of months that the TANF individual or the Safety Net MOE families individual (State/Federal Charge code 60, 63 or 64) has been coded with an Employability Code (31 or 34) indicating that the individual is the exempted caretaker of a child under 12 months of age.

#### **CHILD CARETAKER MONTHS EXEMPTED (2)**

#### **CIN**

The CIN of the individual for which a system search will be initiated. The entry of CIN is required.

#### **CLIENT IDENTIFICATION NUMBER (8)**

**COUNTABLE****COUNTABLE JOB SEARCH/JOB  
READINESS WEEKS (2)**

The code (Y) that indicates that the TANF, SN MOE or Safety Net individual's time in any of the activities (or combination) can be counted for the federal and state participation rate.

**COUNTABLE****VOC ED MONTHS COUNTABLE (1)**

The code (Y) indicates that an individual has been enrolled in the Welfare To Work Caseload Management System in vocational education and has not completed 12 months as a TANF, SN MOE or Safety Net case member while enrolled in that activity. After a total of 12 months have been reached, this indicator will change to "N".

**DATA ELEMENT ALPHABETIC LISTING****CS****CASE STATUS (2)**

The 2 character mnemonic indicating the case status of the case.

**CT****CASE TYPE (4)**

The 4 character mnemonic indicating the case type.

**D****DOB****DATE OF BIRTH (6)**

The individual's date of birth.

**DIST****DISTRICT (4)**

The first 4 letters of the local district name. New York City is displayed as "NYC".

**E****EFFECTIVE DATE****EFFECTIVE DATE (6)**

The effective date associated with the activity line taken from the Welfare To Work Caseload Management System.

**EFFECTIVE DATE****EFFECTIVE DATE (6)**

The date the earnings, for this individual, first became effective.

**EMP****EMPLOYABILITY CODE (2)**

The current employability code stored on the WMS case record.

**G****GROSS AMOUNT****GROSS INCOME (7)**

For ABAWD tracking, the Food Stamp Earned Income Amount for the occurrence of Earned Income. For PA Tracking the PA gross earned income amount for the occurrence of earned income. This is a monthly amount.

**H**

**HOURS PER WEEK**

**HOURS PER WEEK (3)**

The employment hours per week associated with the activity line.

**HOURS PER MONTH**

**HOURS PER MONTH (3)**

The hours per month of earned income from the current Food Stamp or PA budget.

**DATA ELEMENT ALPHABETIC LISTING**

**I**

**IS**

**INDIVIDUAL STATUS (2)**

The 2 character mnemonic indicating the individual status of the individual.

**J**

**JOB SEARCH /JOB READINESS WEEKS USED IN FFY**

**JOB SEARCH /JOB READINESS  
WEEKS USED IN FFY (2)**

The total number of weeks within a Federal Fiscal Year that a TANF or a Safety Net individual was enrolled in Job Search and / or Job Readiness activities or a TANF or SN MOE (State / Federal Charge code 60, 63 or 64) individual was enrolled in Substance Abuse Treatment and / or Treatment Plan Other Than Substance Abuse activities, as entered on the Welfare To Work Caseload Management System.

**M**

**MON NON-PART**

**MONTHS NON-PARTICIPATING (4)**

The actual month and year that the client was considered to be non-participating for ABAWD tracking. The six most recent months of non-participation will be listed.

**N**

**NAME**

**NAME (28)**

The name of the individual.

**O**

**OVERRIDE CODE (2)**

An entry field. Use of one of the codes listed will allow access to the WTRK43 – PA EMPLOYMENT OVERRIDE INPUT screen with specific data for the selected activity.

**P**

**PAR** **NUMBER OF PARENTS (1)**

The number of parents in the household for federal reporting purposes.

<u>Code</u>	<u>Definition</u>
0	No parents in the household (child only case)
1	One parent in the household (includes two parent cases in which a parent is incapacitated as determined by Employability code).
2	Two parents in the household (both parents nonexempt)

**DATA ELEMENT ALPHABETIC LISTING**

**R**

**REESTABLISHED DATE** **REESTABLISHED DATE (6)**

The date on which the client's Food Stamp eligibility was reestablished.(ABAWD Tracking)

**REMOVED DUE TO ABAWDS** **REMOVED DUE TO ABAWDS (1)**

The one character code (X) indicating that the FS Individual Reason Code for the individual is F94 – ABAWD Ineligible.

**RSN** **REASON CODE (1)**

The 1 character code indicating why an indicated month/year or month/day/year is added or removed from a tracking counter.

**S**

**SANC MONTHS** **SANCTION MONTHS (1)**

The number of months that the TANF or Safety Net MOE Families (State/Federal Charge code 60, 63 or 64) individual is in an employment sanction or sanction process during the last 12 months.

**SN** **SAFETY NET COUNT (2)**

The total number of months applied to the individual's Safety Net time limit, as reported on the Time Limit Tracking screens.

**SSN** **SOCIAL SECURITY ACCT. NO. (9)**

The Social Security Account Number of the individual

**ST** **STATE 60 MONTH COUNT (2)**

The total number of months applied to the individual's State 60 Month time limit, as reported on the Time Limit Tracking screens.

**SUF** **SUFFIX ID (2)**

The case suffix number. Used for NYC cases, for Upstate cases "01" will be displayed.

## DATA ELEMENT ALPHABETIC LISTING

### T

#### **36 MON START**

This date is the beginning date of the 36 month look-back for ABAWD Tracking. This is the same date for all individuals statewide and increments monthly.

#### **36 MONTH STARTING DATE (6)**

#### **3 MONTH EXCLUSION APPLIED**

A code (Y) indicates that the TANF or SN MOE case (due to sanction status of the individual) is currently excludable from the Federal and State participation rate calculation. A code of (N) indicates that the case is not currently excludable since the case has been previously excluded for more than three months in the preceding 12 months based on an individual in the case being sanctioned or in the sanction process.

#### **3 MONTH EXCLUSION APPLIED (1)**

#### **TOTAL MON N-P**

The total number of months within the past 36 months that the individual was receiving Food Stamps but not participating in an appropriate work activity.

#### **TOTAL MONTHS NON-PARTICIPATING (2)**

#### **TYPE**

The PA or Food Stamp Earned Income Source. From the current PA or Food Stamp budget.

#### **PA or FOOD STAMP EARNED INCOME SOURCE (5)**

### V

#### **VOCATIONAL EDUCATION MONTHS USED**

The total number of months a TANF, SN MOE or Safety net individual has been enrolled in vocational education activity during the individual's lifetime as reported on the Welfare To Work Caseload Management System. This counter is never reset.

#### **VOCATIONAL EDUCATION MONTHS USED (2)**

### W

#### **WK CNT**

A code of "Y" indicates that the TANF or Safety Net individual's time in a Job Search and / or Job Readiness activity or a TANF or Safety Moe (State / Federal Charge code 60, 63 or 64) individual's time in a Substance Abuse Treatment and / or Treatment Plan Other Than Substance Abuse activity can be counted, for a corresponding week, for the federal and state participation rate. A code of "N" indicates that a corresponding week cannot be counted.

#### **WEEK COUNTED INDICATOR (1)**

## Section 17 Client Notices and Instructions

### Contents

LDSS-4004 and Instructions for Completion  
LDSS-4005 and Instructions for Completion  
LDSS-4005(a) and Instructions for Completion  
LDSS-4230 and Instructions for Completion  
LDSS-4231

## **LDSS-4004 NOTICE OF INTENT TO CHANGE PUBLIC ASSISTANCE GRANT AND/OR FOODSTAMP BENEFITS FOR NONCOMPLIANCE WITH EMPLOYMENT RELATED REQUIREMENTS (TIMELY AND ADEQUATE) AND NOTICE OF EFFECT ON MEDICAID BENEFITS**

For copies of LDSS-4004, please use the following links:

English Version LDSS-4004	4004.pdf
Spanish Version LDSS-4004SP	4004-SP.pdf

### **INSTRUCTIONS FOR COMPLETION OF LDSS-4004**

#### When to use an LDSS-4004

In accordance with Section 385.12, 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 refused or failed to comply without good cause with employment requirements. Local district staff must complete the LDSS-4004 or an approved local equivalent, and provide it to the client.

This notice is to be used in cases of either PA work activity or FSET noncompliance. It is for use in cases of individual sanction or case closure.

#### Instructions for Completion

**Notice Date** - The date the worker completes and mails the notice. The date must be at least ten days before the effective date of the action.

**Effective Date** - The date the action or change will occur. Fair hearing regulations require that notice be given as to when an action will take effect. The effective date is used to determine if aid continuing can be given until the fair hearing decision is issued. In order for an appellant to have the right to aid continuing, the fair hearing must be requested by the effective date.

The top portion consists of identifying information which is self-explanatory.

#### Public Assistance Section

The **first check box** ("REDUCE") applies to a household with dependent children, first sanction and should be used when an individual is sanctioned but the case stays open for remaining household members. The sanction period is open-ended and until compliance. District staff must fill in the date the sanction will take effect, the current grant amount, the grant amount after the sanction is imposed and the name of the sanctioned individual.

The **second check box** ("REDUCE") applies to a Family Assistance or Safety Net case in which there is a durational pro-rata sanction. District staff must fill in the current grant amount, the grant amount after the sanction is imposed, the number of months that the sanction will last and the name of the sanctioned individual.

Following the first two check boxes is an explanation of the pro-rata reduction. District staff must fill in the name of the sanctioned individual and the date the individual may reapply. This date should be at least 30 days before the end of a durational sanction for a Family Assistance case and at least 45 days before the end of a Safety Net sanction. For households with dependent children first occurrence sanctions (no duration) the date the sanction begins should be entered.

The **third check box** (“DISCONTINUE”) applies to a case closing, necessitated by a durational sanction for a one-person case. The date of the case closing must be entered as well as the number of months the sanction is expected to last.

The **reason section** must be completed with the sanctioned individual’s name, the date of the infraction and a description of the infraction.

### Food Stamps Section

The **first checkbox** (“REDUCE”) should be used when an individual is sanctioned but the case stays open for remaining household members. District staff must enter the effective date of the benefit reduction, the current grant amount and the grant amount after the sanction is imposed.

The **second checkbox** (“DISCONTINUE”) should be used when an individual’s case is closed due to a failure or refusal to comply with a Food Stamp work requirement.

The **third checkbox** (“CONTINUE”) should be used to notify an individual that his/her food stamp benefit will continue unchanged even though he/she may be sanctioned for noncompliance with a Temporary Assistance work requirement.

Whenever a Food Stamp Employment and Training sanction is imposed (first or second checkbox has been checked) the **fourth checkbox** and **reason section** must be completed by district staff. The fourth checkbox is used to identify the individual being sanctioned and the length of the sanction. The reason section includes a description of the infraction.

### Fair Hearing Rights

This section of the notice informs individuals of the right to request a Fair Hearing within 60 days of the notice date for Public Assistance and 90 days from the notice date for Food Stamp Benefits and includes instructions describing how to request a Fair Hearing.

## LDSS-4005 NOTIFICATION OF TEMPORARY ASSISTANCE WORK REQUIREMENTS DETERMINATION (EXEMPT)

For copies of LDSS-4005, please use the following links:

English Version LDSS-4005	4005.pdf
Spanish Version LDSS-4005SP	4005-SP.pdf
English Version NYC LDSS 4005	4005-NYC.pdf
Spanish Version NYC LDSS-4005SP	4005-NYC-SP.pdf

### INSTRUCTIONS FOR COMPLETION OF LDSS-4005

#### When to use an LDSS-4005

In accordance with Section 385.2 of 18 NYCRR, if an applicant or recipient of public assistance claims he or she should be exempt from work activities, or the district conducts the disability review procedure because an individual claims a personal medical limitation or demonstrates an inability to function in a work setting and a health barrier is suspected, the social services official should determine the individual's exempt/non-exempt status. Once this determination is made, the social services official shall notify the applicant or recipient in writing of the determination and the right to request a fair hearing. The LDSS-4005 or an approved local equivalent shall be used to notify an individual of the district's determination that he or she is **exempt** from work requirements.

#### Instructions for Completion

The **notice date** is the effective date of the determination for purposes of establishing the period within which an individual has to request a fair hearing (10 or 60 days depending on whether the determination is medical or non-medical in nature). Once the notice date is established, the notice should be mailed or otherwise delivered to the individual on that day.

The top portion consists of identifying information which is self-explanatory.

The first checkbox (**Part 1-Medical**) applies to an individual who was found to have a personal medical condition which would exempt him or her from work activities. It explains to the individual the effective date of the determination, that he or she may be required to supply medical evidence at some future time to verify continued exemption status based on disability, and that he or she may be required to participate in treatment to become self-sufficient. It also notifies the individual that he or she has **10 days** from the **notice date** to request a fair hearing.

The second checkbox (**Part 2-other than medical**) is used in cases where the individual was found to be exempt from work requirements for reasons other than a personal medical limitation. Part 2 includes the effective date of the determination, the reason for the exemption, and that he or she may be required to provide additional evidence in the future to verify continued exemption status. It also notifies the individual that he or she has **60 days** from the **notice date** to request a fair hearing.

#### Fair Hearing Rights

This section of the notice informs applicants and recipients of the right to request a Fair Hearing within 10 or 60 days of the notice date depending on which section is completed and includes instructions describing how to request a Fair Hearing.

## LDSS-4005(a) NOTIFICATION OF TEMPORARY ASSISTANCE WORK REQUIREMENTS DETERMINATION (NON EXEMPT)

For copies of LDSS-4005(a), please use the following links:

English Version LDSS-4005(a)	4005(a).pdf
Spanish Version LDSS-4005(a)SP	4005A-SP.pdf
English Version NYC LDSS-4005(a)	4005(a)-NYC.pdf
Spanish Version NYC LDSS-4005(a)SP	4005-NYC-SP.pdf

### INSTRUCTIONS FOR COMPLETION OF LDSS-4005(a)

#### When to use an LDSS-4005(a)

In accordance with Section 385.2 of 18 NYCRR, if an applicant or recipient of public assistance claims he or she should be exempt from work activities, or the district conducts the disability review procedure because an individual claims a personal medical limitation or demonstrates an inability to function in a work setting and a health barrier is suspected, the social services official should determine the individual's exempt/non-exempt status. Additionally, the LDSS-4005(a) is issued whenever an individual's status changes from exempt to non-exempt. Once this determination is made the social services official shall notify the applicant or recipient in writing of the determination and the right to request a fair hearing. The LDSS-4005(a) or an approved local equivalent shall be used to notify an individual of the district's determination that he or she is **non-exempt** from work requirements.

#### Instructions for Completion

The **notice date** is the effective date of the determination for purposes of establishing the period within which an individual has to request a fair hearing (10 or 60 days depending on whether the determination is medical or non-medical in nature). Once the notice date is established, the notice should be mailed or otherwise delivered to the individual that day. The top portion consists of identifying information that is self-explanatory.

The first checkbox (**Part 1-Medical Nonexempt**) applies to individuals whose personal health status has been evaluated and who have been determined to be non-exempt from participation in work activities. It explains to the individual the effective date of the determination, and that he or she has **10 days** from the **notice date** to request a fair hearing.

The second check box (**Part 2-Medical Work Limited**) applies to individuals whose personal health status has been evaluated and who have been determined to be nonexempt and work limited. It explains to the individual the effective date of the determination and that he or she has **10 days** from the **notice date** to request a fair hearing.

The third check box (**Part 3-Nonexempt-Other Than Medical**) is used to notify an individual that he or she has been determined to be nonexempt from work requirements for reasons other than a personal health related issue. It explains to the individual the effective date of the determination and the reason for the determination. It also notifies the individual that he or she has **60 days** from the **notice date** to request a fair hearing.

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The notice also includes a description of the duties of a nonexempt person related to finding and keeping a job, including the requirement to participate in work activities.

Fair Hearing Rights

This section of the notice informs applicants and recipients of the right to request a Fair Hearing within 10 or 60 days of the notice date depending on which section is completed and includes instructions describing how to request a Fair Hearing.

**LDSS-4230 CONCILIATION NOTICE**

For copies of LDSS-4230, please use the following links:

English Version LDSS-4230      4230.pdf

Spanish Version LDSS-4230SP      4230-SP.pdf

**INSTRUCTIONS FOR COMPLETION OF LDSS-4230**When to Use an LDSS- 4230

In accordance with Section 385.11, conciliation notices must be given to non-exempt applicants and recipients of public assistance who have failed or refused to comply with employment requirements. This requirement does not apply to PA applicants who fail or refuse to comply with employ-ability assessments, not does it apply to PA applicants who fail to comply with a job search assignment. (In those cases, the applications are denied without the conciliation process.) Conciliation notices need not be sent to applicants who fail to accept an offer of employment. In those instances, the applications would be denied. Conciliation notices are no longer required for failure to comply with FSET requirements.

Instructions for Completion

The upper section is used to provide identifying information which is self-explanatory. Each box must be filled in.

The worker must complete the line indicating the failure or refusal in question. It must describe the client's action which precipitated the notice.

The date by which the client must respond must be entered, as well as the telephone number to call the staff person arranging the conciliation. The date should allow a Family Assistance client 10 days to contact the agency to request conciliation. The date should allow a Safety Net client 7 days to request conciliation.

The LDSS-4230 or approved local equivalent must be issued to the client before a 10-day notice may be sent.

**LDSS-4231 OPTION TO END Y OUR SANCTION**

For copies of LDSS-4231, please use the following links:

English Version LDSS-4231      4231.pdf

Spanish Version LDSS-4231SP      4231-SP.pdf

## Section 18 Safety Net Families with Dependent Children

### Contents

Part A - Department Policy

Part B - Systems Implications

## Part A. Department Policy

### Index

Safety Net Families Employment-Related Issues Narrative  
Comparison of Employment-Related Issues Matrix

### **Safety Net Families (non-TANF) with Dependent Children Employment-Related Issues**

Certain families that lose eligibility for Temporary Assistance for Needy Families (TANF) due to having received TANF assistance for 5 years will be required to apply for Safety Net Assistance and will become Safety Net households beginning December 2001 if they meet the corresponding eligibility requirements. All households approaching the 5-year limit for TANF funded assistance with able-bodied adult members (including sanctioned individuals) are required to apply for Safety Net Assistance. Districts should refer to guidance provided by the Office of Temporary and Disability Assistance for information regarding the application procedure for these households. Once accepted, the employment requirements that apply to these Safety Net families will remain largely unchanged. A discussion of how each employment requirement applies to these Safety Net families as compared to the Family Assistance (TANF) requirement is provided below. The section of regulations that corresponds to the employment requirement is referenced next to each topic.

Throughout this section the term Safety Net family(ies) refers to households with dependent children that are receiving non - federally participating (non-TANF) Safety Net Assistance due to the fact that they exceeded the 5-year lifetime limit on receipt of TANF. Districts can identify these cases by use of the Federal/State Charge Code of "63-TANF Individual Exceeding 5 Year Limit" on screen three of the DSS-3209.

### **Participation Rates (18 NYCRR 385.8)**

#### Required Hourly Participation:

The number of hours a family member must participate to count in the participation rate is the same for FA and SN families with dependent children and is as follows:

- Single parent families are required to participate at least 30 hours per week (20 if the household contains a child under 6)
- Two parent households are required to participate at least 35 hours per week (55 hours if receiving federally funded child care)

#### District Participation Rate:

The participation rate requirements that districts must achieve for families receiving public assistance are:

- TANF All Families; 50%
- TANF Two Parent rate; 90%
- Safety Net Families; 90% of households with a non-exempt adult (however, there currently are no fiscal penalties for failure to meet the SN Families rate)
- Safety Net households without dependent children; 90% of households with a non-exempt adult

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### **Countable Work Activities:**

The activities a family member may be required to participate in are the same for SN families as for TANF families. These activities are listed in 18 NYCRR 385.9. Additionally, the activities that count toward the participation rate are virtually identical. The one exception is that more activities count toward the participation rate for SN two parent families receiving child -care assistance than count for this group under TANF. SN counts activities 1 -12 listed in 18 NYCRR 385.9 for hours above 30, whereas FA only counts the expanded list of activities (1 -12) for the hours above 50.

The calculation of the SN families participation rate also includes certain activities/administrative actions in addition to actual participation in the work activity (e.g., individuals being conciliated if the activity assignment would meet participation requirements, and work-limited individuals participating the number of hours allowed by the limitation). In other words, the participation rate numerator for SN families includes the same types of participation/administrative actions as the SN rate for households without dependent children.

### **Sanctions (18 NYC RR 385.12)**

The duration of pro rata employment sanctions differs depending on whether or not the case includes a dependent child, not by case type; therefore, the duration of sanctions will not change when a family becomes a SN household.

Progressive sanctions for parents or caretakers of dependent children are:

1st noncompliance: until compliance;

2nd noncompliance: 3 months and until compliance; and

3rd and subsequent noncompliance: 6 months and until compliance.

As currently required for automated client notices issued through CNS, workers must indicate whether or not the household contains a dependent child when using CNS for pro rata employment sanctions.

Sanctions incurred while on Family Assistance count when determining the sanction progression for the Safety Net family. For example, an individual who served 2 sanctions while receiving FA would be considered to have committed a third act of noncompliance if he or she fails to participate after becoming part of a SN family.

### **Conciliation (18 NY CRR 385.11)**

Conciliation timeframes differ based on case type and, therefore, will change once the household becomes a SN family. The number of days to request and complete conciliation is fewer for SN cases, including SN families, than for FA cases. FA cases have 10 days to request conciliation and the conciliation process may last 30 days from the date of the notice, unless the client and the district agree to extend the time period. As with other Safety Net households, a family that becomes a SN case will have 7 days to request conciliation and the conciliation process may last 14 days from the recipient's request for conciliation, unless the client and the district agree to extend the time period.

### **Exemptions (18 NY CRR 385.2)**

The exemptions from work activities and corresponding notice requirements are the same for all public assistance recipients. Therefore, there is no change in exemption policy when a family becomes a Safety Net case. For example, a parent of a child under three months of age is exempt (for a lifetime total of 12 months) from employment requirements. This does not change when the parent becomes a SN recipient.

**Assessment and Employability Plan Requirements (18 NY CRR 385.6)**

Assessment and employability plan requirements are based on whether a household contains dependent children, regardless of the case type. SN households with dependent children have the same assessment and employability plan requirements as FA households.

Districts should pay particular attention to address any remaining barriers to employment for these long - term cases. Assessments and employability plans should be current and structured to address needed case management, work activity participation and any work-related supports necessary to encourage and enable these families to become independent of cash assistance.

**Supportive Services (18 NY CRR 385.4)**

All public assistance recipients must be provided with the support services necessary to allow them to participate in employment requirements. A Safety Net family is eligible for the same array of supportive services as a Family Assistance household. Child-care subsidies are provided through the New York State Child Care Block Grant program and are guaranteed to all public assistance recipients with a child under 13 who is required by the district to participate in a work activity or to engage in work, regardless of category of assistance.

Districts may need to adjust funding sources for transportation assistance once a family loses eligibility for “TANF assistance.” Families that are no longer eligible for TANF - funded “assistance” due solely to the 5-year limit remain eligible for “TANF non-assistance.” Transportation benefits provided to employed families is included within the definition of “TANF non-assistance;” therefore, districts may continue to use TANF funds to provide transportation benefits to employed families. However, transportation benefits provided to unemployed families constitutes “TANF assistance;” therefore, districts may not use TANF funds to provide transportation benefits to unemployed SN families. For unemployed SN families, districts may fund transportation benefits needed to enable a family to participate in employment requirements through the Food Stamp Employment and Training if appropriate, or Safety Net funds.

Districts must review local policy and their local employment plan to determine if any amendments are necessary to accommodate families that become SN households. For example, if a district provides certain supportive services, such as car insurance, only to families in receipt of FA, the local policy and local employment plan would need to be amended to reflect if such services will remain available to SN families.

**Access to Employment Services**

Case management and other employment-related program activities for families who become SN households due to exhausting the 5- year limit on TANF assistance may still be funded with TANF so long as they are included within the definition of “TANF non - assistance” and do not provide basic income support. As discussed above, families that lose eligibility for TANF solely due to the 5-year limit remain eligible for “TANF non- assistance” services. Case management and employment programs such as work experience and job skills training are considered “TANF non-assistance” and, therefore, can be funded with TANF. Additionally, these families may continue to receive services provided through the JOBS Program. The primary employment- related services that constitute “TANF assistance” and therefore cannot be supported with TANF funds for these families are transportation assistance for unemployed families and stipends intended to meet basic needs.

Districts may continue to use TANF funds to support employment staff and related “non-assistance” services for these families. Districts can identify these cases by use of the Federal/State Charge Code of “63-TANF Individual Exceeding 5 Year Limit” on screen three of the DSS-3209

**Food Stamp Employment and Training (FSET) requirements (18 NYCRR 385.3)**

TANF cases are generally exempt from FSET work requirements based on their participation in TANF work programs, but SN recipients are not. Districts must determine whether or not each family member is required to participate in FSET programs (a work registrant).

As with existing Safety Net recipients, districts that enroll a member of a family in an FSET program must notify the individual that the assignment is both a Safety Net and Food Stamp work requirement.

**Able Bodied Adults Without Dependents (ABAWD) requirements (18 NYCRR 385.3)**

All food stamp households containing a child under 18 years of age are exempt from ABAWD requirements regardless of category of assistance.

**Families Moving from Family Assistance to Safety Net - Comparison of Employment -Related Issues**

	<b>Family Assistance</b>		<b>Safety Net Households with Children</b>		<b>Comparison</b>
	<b>All Families</b>	<b>Two Parent Families</b>	<b>Single Parent Families</b>	<b>Two Parent Families</b>	
<b>Participation Rate: Minimum Required Hours</b>	30 hours/week (20 hrs/wk for single parent families with a child under 6)	35 hrs/week if child care is not provided or one parent is caring for a disabled child ; 55 hrs/wk if child care provided; 30 hrs/wk if one parent is disabled and exempt.	30 hrs/wk (20 hrs/wk if child under 6)	35 hrs/week if child care is not provided or one parent is caring for a disabled child; 55 hrs/wk if child care provided; 30 hrs/wk if one parent is disabled and exempt.	No change
<b>Participation rate: District Requirements</b>	50%	90%	90%	90%	There is an overall Safety Net families rate of households with a non-exempt adult.
<b>Participation rate: Fiscal Penalties</b>	If the federal government imposes a fiscal sanction against New York State for failure to meet required participation rates for the TANF program, federal reimbursement to each social services district is reduced in an amount equal to the portion of the sanction that is attributable to the district.		None		

	Family Assistance		Safety Net Households with Children		Comparison
	All Families	Two Parent Families	Single Parent Families	Two Parent Families	
<b>Participation Rate: Allowable Activities</b>	Activities 1-8 and 12 of 18 NYCRR 385.9 for first 20 hours; 1-12 of 385.9 for hours above 20.  <b>See Note 1.</b>	Activities 1-8 and 12 of 18 NYCRR 385.9 for first 20 hours (or 50 if child care provided); 1-12 of 385.9 for all hours above 30 (or 50).  <b>See Note 1.</b>	Activities 1-8 and 12 of 385.9 for first 20 hours; 1-12 for hours above 20.  <b>See Note 1.</b> <b>See Note 2.</b>	Activities 1-8 and 12 of 385.9 for the first 30 hours; 1-12 for hours above 30. (No distinction is made from child care arrangements when determining countable activities.)  <b>See Note 1.</b> <b>See Note 2.</b>	SN counts more activities for two parent families with child care in the hours between 30 and 50; also the calculation of the SN participation rate includes additional actions as participating.  <b>See Note 2.</b>
	Note: For both FA and SN Families- recipients under 20 years old who are married or head of household without a high school diploma count if they maintain satisfactory attendance at high school or its equivalent, or if they participate at least 20 hours per week in education directly related to employment.				
<b>Sanctions</b>	Progressive sanctions for individuals who are the parent or caretaker of a dependent child are: <ul style="list-style-type: none"> <li>• 1<sup>ST</sup> occurrence: until compliance;</li> <li>• 2<sup>ND</sup> occurrence; 3 months and until compliance;</li> <li>• 3<sup>RD</sup> and subsequent occurrences: 6 months and until compliance.</li> </ul>		Sanction durations are based on whether or not the case includes a dependent child, not case type. Therefore, sanction durations for SN families are the same as for FA families.		No change.

<b>Conciliation</b>	The individual has 10 days to request conciliation. Conciliation process must be completed by 30 days following the date of the conciliation notice.	The individual has 7 days to request conciliation. Conciliation process must be completed within 14 days from the individual's request for conciliation.	The conciliation period for SN is shorter than for FA.	
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	Family Assistance		Safety Net Households with Children		Comparison
	All Families	Two Parent Families	Single Parent Families	Two Parent Families	
<b>Exemptions</b>	Exemption policy is the same for all individuals regardless of case type. The factors that exempt an individual from participation in work activities are listed in 18 NYCRR 385.2(b).		Exemption policy is the same for all individuals regardless of case type. The factors that exempt an individual from participation in work activities are listed in 18 NYCRR 385.2(b).		No change.
<b>Assessment and Employability Plan Requirements</b>	Assessments must be conducted for all adults in households with dependent children within 90 days of the eligibility determination.		Assessment policy is based on whether or not the case includes a dependent child, not case type. Therefore SN Families have the same assessment requirements as FA households.		No change.
<b>Supportive Services</b>	No program distinction. Eligibility for supportive services is the same for all participants regardless of case type. <b>See Note 3.</b>		No program distinction. Eligibility for supportive services is the same for all participants regardless of case type. <b>See Note 3.</b>		No change in eligibility. May require districts to use alternate funding. <b>See Note 3.</b>
<b>Access to Employment Services</b>	FA cases are eligible for TANF-funded employment services.		Families that lose eligibility for TANF solely due to having received TANF assistance for 60 months remain eligible for TANF funded “non-assistance” including participation in TANF funded employment programs. Districts may continue to use TANF funds to support employment staff and related services provided to these families.		No change. SN Families remain eligible for TANF funded “non-assistance” services.

	Family Assistance		Safety Net Households with Children		Comparison
	All Families	Two Parent Families	Single Parent Families	Two Parent Families	
<b>FSET Requirements</b>	TANF cases are generally exempt from FSET based on their participation in TANF work programs.		SN recipients are not exempt from FSET requirements due to receipt of SN. Districts should determine whether or not each member of the SN household is exempt or non-exempt from participation in FSET.		Household is no longer automatically exempt from FSET based on receipt of TANF.
<b>ABAWD Requirements</b>	All Food Stamp households with a child under 18 years of age are exempt from ABAWD requirements.		All Food Stamp households with a child under 18 years of age are exempt from ABAWD requirements		No change.

**Note 1:** The work activities enumerated in the allowable activities section are as follows:

1. unsubsidized employment;
2. subsidized private sector employment;
3. subsidized public sector employment;
4. work experience;
5. on-the-job training;
6. job search and job readiness assistance (for both FA and SN, for only 6 weeks per year, 4 of which may be consecutive);
7. community service;
8. vocational education (12 month lifetime total for FA, no limit for SN);
9. job skills training directly related to employment;
10. education directly related to employment for those without a high school diploma or GED;
11. satisfactory attendance at secondary school; and
12. provision of child care to an individual participating in community service.

**Note 2:** In addition to participation in work activities as described above, the following individuals count in the numerator of the SN participation rate as otherwise participating:

- Individuals called in for a referral or assignment to a work activity who fail to report and are sent a conciliation notice;
- Individuals assigned to a countable work activity (counts for the month assignment was made);
- Individuals referred to a countable activity (counts for the month in which referral was made);
- Individuals being conciliated for failure to participate in a countable work activity (the assignment would have met requirements);

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- Individuals to whom a sanction notice has been sent (for failure to comply with employment requirements) but the notice has yet to take effect; and
- Individuals who have requested a fair hearing (relating to employment requirements), until the results are received by the district.

The following individuals also count in the SN participation rate numerator:

- Individuals participating in work experience for the number of hours allowed by the total of their PA and FS grants; and
- Work-limited individuals participating in unsubsidized employment, subsidized private or public sector employment, work experience or on - the-job training for the number of hours allowed by the individual's limitation.

**Note 3:** Districts may need to adjust funding sources for transportation once a family converts to SN from FA. TANF funds may not be used to provide ongoing transportation assistance to unemployed SN families. However, an employed family on SN would be eligible for TANF -funded transportation assistance. For unemployed SN families, districts may use FSET if appropriate or Safety Net funds. Child -care subsidies are provided under the New York State Child Care Block Grant program and are guaranteed to anyone with a child under 13 who is required by the district to participate in a work activity, regardless of category of assistance. Case management and other employment -related supportive services may still be provided with TANF funds to SN families so long as they do not provide basic income support. Districts should review local policy and their local employment plan and make any necessary amendments to accommodate families who move from FA to SN.

## Part B. Systems Implications

**The PA Individual Employment Tracking Inquiry screen (WTRK32)** of the WMS Time Limit Tracking selection (selection 17 on the WMS Main Menu) is affected by the addition of Safety Net Families with dependent children. The impacts are as follows:

**Assessment Required End Date:** The Assessment Required End Date for an individual in a Safety Net Family with dependent children will be three months from the date on which the individual becomes an active case member.

**Child Caretaker Months Exempted:** Safety Net Family members who are exempted from work requirements due to their status as a caretaker of a child under 12 months of age must be tracked. These individuals are subject to the 12-month lifetime exemption.

**Job Search/Job Readiness Weeks Used in Federal Fiscal Year:** Safety Net Family individuals who are enrolled in Job Search and Job Readiness must be tracked as if they were TANF participants. The Countable Indicator will also reflect if the individual is currently within the federal fiscal year 6-week limit of which only four may be consecutive.

The Sanction Months counter and the Vocational Education Months Used counter do not apply to Safety Net Families.

**FS ABAWD Tracking (WTRK31):** Workers should be aware that Safety Net Families with a child less than 18 years of age will be exempt from ABAWD tracking. Current logic accommodates this situation.

System changes to the PA Individual Employment Tracking Inquiry function have not yet been scheduled. Districts will be notified in a separate letter when these changes have been completed.