



FAMILY INDEPENDENCE ADMINISTRATION

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POLICY DIRECTIVE #05-01-EMP

ENGAGEMENT ACTIVITIES FOR NONEXEMPT SAFETY NET ASSISTANCE PARTICIPANTS WITHOUT DEPENDENT CHILDREN

Date: January 4, 2005	Subtopic(s): Employability Plan, Training
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AUDIENCE

This policy directive specifically instructs JOS/Workers as well as SAP and ESP vendors on how to evaluate and assess engagement activities for nonexempt SNA participants without dependent children.

POLICY

Safety Net participants without dependent children can participate in the following activities and have that participation count fully toward the participation rate calculation:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience
- On-the-job training
- Community service
- Child care providers for community service participants
- Vocational education (for a maximum of 12 months)
- Job search*
- Job readiness training*

*Participation in job search or job readiness counts only for a combined maximum of six weeks, only four of which may be consecutive, per federal fiscal year.

HAVE QUESTIONS ABOUT THIS PROCEDURE?
Call 718-557-1313 then press 2 at the prompt followed by 765 or
send an e-mail to *FIA Call Center*

Statutory amendments reduced the portion of the 35 hours of weekly participation that is required to be spent in the above primary activities to a minimum of 20 hours weekly, rather than the 30 hours previously required.

BACKGROUND

Previously, only the following activities were acceptable as primary activities:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience
- On-the-job training

Effective immediately, the following activities were also included as primary activities:

- Community service
- Child care providers for community service participants
- Vocational education (for a maximum of 12 months)
- Job search*
- Job readiness training*

The edits on existing NYCWAY codes for these activities will be relaxed to allow these as primary activities for SNA individuals without dependent children

*Participation in job search **or** job readiness counts only for a combined maximum of six weeks, only four of which may be consecutive, per federal fiscal year.

Safety Net participants must participate in one or more of the above activities for a minimum of 20 hours weekly.

Consistent with current law, participation in any of these core work activities by work-limited individuals fully counts toward the Safety Net participation rate, regardless of how many hours they participate as long as they participate for the full number of hours permitted by their limitations. Additionally, each phase of the process (referral, conciliation and referred for noncompliance [notice of intent -NOI]) associated with any of the core activities continues to count toward the Safety Net work participation rate calculation.

Activity continues to count until sanction for non-compliance is actually in effect

Workers should keep the following in mind when making assignments for SNA cases without children:

- SNA participants must participate in an agency-approved and agency-assigned work and work-related activity as their primary activity;
- SNA participants 19 years of age who have not completed high school or its equivalent should have school as their only activity;
- SNA participants must be engaged in any of the primary activities for the first 20 hours with the remaining hours made up of additional activities or participation in the Work Experience Program (WEP); and
- SNA participants who are not engaged in any of the other primary activities must be assigned to WEP. The WEP hours cannot be more than the maximum number of hours that are supported by a typical SNA grant. The remainder of hours making up the 35-hour simulated workweek will typically be spent with an assigned Employment Services and Placement (ESP) provider, where the participants will be engaged in a combination of job search, job readiness and job-specific training activities designed to maximize their potential for finding and keeping a job.

REQUIRED ACTION

The Screening Interview: Time Limits and Employment Goals

The FIA Worker must make sure the applicant/participant:

- Understands the goal of obtaining full-time unsubsidized employment as quickly as possible;
- Is aware of the lifetime time limits for cash assistance (two years for Safety Net Assistance participants) and how much time remains for him/her to receive cash assistance;
- Has been informed that when s/he has reached the time limit for cash assistance, the case may be reclassified to Safety Net Non-Cash assistance (SNNC).
- Has explored all possible alternatives to public assistance that might be available and has actively investigated these alternatives.

Employability Assessment: Initial Screening

As part of the employability assessment process, the Worker is required to initiate and complete an Employability Plan (EP) (**W-584A**) for all applicants and participants, including those who are found to be work rules exempt. The only exception to this requirement is that an EP is not required for those individuals who are applying for assistance under the Emergency Assistance to Adults (EAA) category. The Employability Plan is automated in NYCWAY.

The JOS/Worker must:

- Explain to the applicant/participant the guidelines that determine his/her employability plan as it relates to job preferences and enrollment in training/education. They are the following:
 - Participants are required to participate in work and work-related activities up to 35 hours per week.
 - The applicant/participant’s preferences must be taken into consideration, whenever possible. However, if the applicant/participant’s preferences cannot be accommodated, the FIA Worker has final authority over the Employability Plan and the activities in which applicants/ participants must be engaged.
 - In almost all instances, the activities will be comprised of a primary work activity (as defined in the “Acceptable Work, Training and Education Assignments” section on page 8) or WEP/community service up to the maximum weekly hours supported by the participant’s grant with the balance to be comprised of a combination of other work-related activities, such as training and job search, that would lead to self-reliance.

- Conduct an initial screening of each applicant/participant, addressing barriers to employment using the automated EP.

Bear in mind that an individual cannot be assigned to WEP or community service for more hours than his/her grant will support.

Conducting the Employability Assessment

Valid Work Rules Exemptions

Valid Work Rules Exemptions

The following conditions are reasons for which the applicant/participant may be either temporarily or permanently exempt from work requirements:

- Under age 16 or 60 years of age or older
- 16 through 18 years of age and attending a secondary, vocational or technical school full-time
- The primary caretaker in a one-parent household of a child under 12 weeks of age (12-month lifetime limit)
- The primary caretaker of a disabled household member
- A substance abuser (exemption status is determined by a CASAC evaluation)
- Physically or mentally disabled
- A victim of domestic violence (waiver granted)
- Ill or injured and unable to be engaged in work activities for up to three months
- Pregnant beginning 30 days prior to the expected date of confinement

Invalid Work Rules Exemptions

Invalid Work Rules Exemptions

The following reasons are not valid reasons for exemptions from the work requirements:

- Deficient in language skills
- Lacking functional literacy skills
- Serving on jury duty (a temporary waiver of participation may be granted upon presentation of documentation)
- Employed part-time (activity assignments will be coordinated with any verified employment)
- Presenting an invalid medical claim
- In school/training
- Demonstrating inappropriate behavior, dress or grooming
- Claiming/presenting other reasons not supported in the above list of exemptions

After the initial screening and assessment sections of the automated **W-584A** have been completed, the EP will automatically prompt the worker to refer individuals for medical evaluations, substance abuse treatment, or domestic violence assessment whenever screening has indicated a need. All further employment-related activity is deferred until the evaluation/assessment is complete.

- If no barrier exists, and if preliminary assessment indicates that job search is the appropriate activity, refer the applicant/participant to the Skills Assessment and Placement (SAP) vendor for assessment and job search, unless the applicant/participant is already in an approved training/education program.
- If the applicant/participant is already enrolled in an approved training/education program, check NYCWAY to see how many months s/he has used toward the 12-month lifetime limit in training/education. If less than 12 months have been used, the individual will not be referred to SAP, as training will be his/her primary activity for engagement.
- If the applicant/participant is enrolled in a training program that is not approved (not on the Master List of Approved Training Programs and/or not approved by the Training Assessment Group [TAG]) or the program is not specified in the applicant's/participant's Employability Plan, it:
 - Will not count toward participation as a primary activity;
 - May not be used to make up the complement of the 35-hour full engagement; and
 - Will not be tracked in NYCWAY.

See TAG referrals on page 9

In addition, the applicant/participant will not be eligible for Training Related Expenses (TREs).

The final decision as to whether to approve continued training will be at the discretion of TAG. After the 12-month limit has been reached, the first 20 hours of the workweek must be spent in a work activity other than training. Additional hours must be added to complete the 35-hour full engagement schedule. Again, this is an allowable option only if immediate paid work is not available.

- There is no limit on internships/externships or federal work-study programs and they may be served either concurrent with or subsequent to training. However, training related expenses (TREs) can only be provided if the program is approved by HRA.

See Internships, Externships and Federal Work-Study and other Placements Considered as a Primary Work Activity
PD #02-07-EMP

All hours that are spent in internships, externships or Federal Work-Study programs may be counted toward the mandatory work hours. Concurrent work activities that accommodate school hours must be given so that the individual is fully engaged. Internships may be denied in accordance with the enrollment guidelines provided in PD #02-07-EMP, College Internships, Externships and Other Work Placements.

Four-Year College Programs

- Four-year college programs are not approved for satisfaction of the 35-hour mandatory workweek. However, the Training Assessment Group (TAG) will give individuals enrolled in a four-year college program a flexible WEP assignment and will accommodate school hours to the fullest extent possible.

Note: Enrollment in a graduate degree program does not count as acceptable educational activity and is not grounds for referral to TAG.

Acceptable Work, Training, and Education Assignments

Acceptable Work, Training and Education Assignments

Participants are required to engage in 35 hours of work-related activities per week. Of these, the first 20 hours must be activities selected from list A below. The next 10 hours may be from either list A or list B. The remaining five (5) hours may be selected from these activities or from additional work-related activities such as college or another educational program. In all instances, the combined assigned hours should not exceed 35 hours weekly.

List A

(Whenever “work activity assignment” is referred to in this document, it means a task chosen from this list.)

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- WEP (Work Experience Program), if sufficient private sector employment is not available
- On-the-job training
- Community service
- Child care providers for community service participants
- Vocational education (for a maximum of 12 months)
- Job search*
- Job readiness training*
 - *Participation only counts for a combined maximum of six weeks, only four of which may be consecutive, per federal fiscal year.

Note: Participants 18-19 years of age who have not obtained a high school diploma or its equivalent should be assigned to high school, vocational school or a GED program as their work activity. If participants aged 18 and 19 are attending high school or its equivalent full-time, they are not required to participate in any other activities.

List B

- Job skills training directly related to employment;
- Education directly related to employment
- Attendance at a secondary school or in a course of study leading to a certificate of equivalency

Limits and Conditions on Using Training/Vocational Education as a Primary Activity

In certain instances, training may be considered a primary activity, i.e., may be counted toward the first 30 hours of participation. For a training/vocational education program to be so considered, all of the following conditions must be met:

- There is a 12-month lifetime limit on counting training/vocational education as a participating activity for the first 20 hours of the applicant/participant's schedule. The 12-month limit applies only to training/vocational education programs that are tracked in NYCWAY.
- The applicant/participant has not used up his/her 12-month maximum lifetime limit on training/vocational education as a primary activity in NYCWAY (see below).
- The program is on the HRA Master List of Approved Training Programs. (Individuals requesting approval for enrollment in a program that is not on the master list must be referred to TAG.)
- The program is consistent with the employment goals as stated on the applicant/participant's Employability Plan.
- The individual must be assigned to an approved activity, as well as other training and education programs (including higher education) for any remaining hours.
- During the 12-month period, the participant must be engaged in a combination of activities that total 35 hours per week.

To be approved for continued participation in training;

- The participant must be called in when s/he has completed six months of training, a vocational program, or a semester (in the case of postsecondary education), whichever comes first, for an evaluation of progress by staff specially designated to make this evaluation.
- The applicant/participant must have maintained mandated standards of satisfactory progress, including satisfactory attendance and a grade point average of C (2.0) or better.

See TAG Referrals on
Page 9

Nonexempt Safety Net individuals without dependent children enrolled in or interested in a training/education program must be referred to the Training Assessment Group (TAG) to ensure that the education/training program is consistent with the EP and that the individual meets the entrance requirements for the chosen program.

The Master List of Approved Programs

TAG will ensure that any training and education in which the applicant/participant is enrolled, except for internships, externships and federal work/study, is listed on the *HRA Master List of Approved Training Programs* (programmed into NYCWAY) and is specified in the applicant/participant’s Employability Plan. If the program is not on the master list, TAG will evaluate the program and its accreditations to determine if the program meets the minimum standards to be approved. The most up-to-date list of the approved training programs can be found on the FIAweb under “Applications.”

Referrals to TAG

Referrals to the Training Assessment Group (TAG)

Applicants Already Enrolled in a Training/Education Program

If an applicant is currently enrolled in or will be starting an education/training program (including four-year college programs) in 30 days or less, the individual must be referred to TAG. To refer the individual to TAG, the JOS/Worker must:

See PD #04-14-EMP, for details regarding TAG referrals and assessments

- Complete the Training Assessment Questionnaire screen in the EP answering yes (“Y”) to the question “Applicant in (or nearing) training?” This will generate the Notice of Self-Enrollment in Training/Education Program (**W-507A**), which informs the applicant that his/her training activity has not been approved and that s/he will be called in to the Training Assessment Group for evaluation of the training request once the case is accepted;

The edits on the existing TAG referral codes will be relaxed to allow referral of SNA participants to TAG.

Please note: The Notice of Self-Enrollment in Training/Education Program **W-507A** has been revised to accommodate referrals of Safety Net individuals without dependent children.

- Give the applicant the FIA School/Training Enrollment Letter (**W-700D**) to be completed and submitted to TAG; and
- Inform the applicant that s/he will receive the TAG call-in appointment notice in the mail.

Applicants not Already Enrolled in a Training/Education Program

Applicants who are deemed nonexempt and are not already enrolled in a training/education program must be referred to SAP first if they have expressed an interest in enrolling in such a program. SAP will evaluate the basic education and literacy needs of the individual.

Once the case is active, the Outstationed Worker at SAP will evaluate the results of the SAP assessment.

If the SAP assessment shows that a Safety Net individual without dependent children does not require basic education or have literacy needs, the Outstationed Worker will refer the individual for a TAG assessment. TAG will ensure that the individual is fully engaged in the 35-hour mandatory workweek.

Participants

Re-enrollment in the same program

The JOS/Worker may approve enrollment in a training/education program for a nonexempt participant who has a previous training history in an HRA-approved program and are re-enrolling in the same program, provided that they were not initially enrolled by TAG. If initially enrolled by TAG, TAG will call them in. The JOS/Worker must:

- initiate/update the EP;
- ensure that no barriers to re-enrollment exist (see list of issues that require a referral to TAG on next page);
- ensure that the individual has a current **W-700D** or post action code **109Z** to give a return appointment to bring in the document from the school registrar;
- complete the Training Assessment Questionnaire in the EP (answer "No" to the question "Do you want to refer this client to TAG?");
- verify that the selected training/education program is consistent with the participant's employment goals and past training history;
- verify that the selected training/education program is on the HRA Master List of Approved Training Programs (can be viewed on the FIAweb);
- evaluate training history to determine if education/training will be the primary or secondary activity. If the individual has not reached the 12-month lifetime limit, training will be the primary activity;
- enter the name of the school, program start and end dates, school hours and all other enrollment information in the NYCWAY Training Enrollment screen. The system will post action code **135K** to indicate that the participant is enrolled in a training program as an assignment;
- assign concurrent activities such that the individual is fully engaged in the mandatory 35-hour workweek.

If the program does not begin within 30 days, the JOS/Worker must give the participant a return appointment for one week before the start of the program to complete the steps for re-enrollment as described above. Participants are to remain in their currently assigned activities until the program start date.

Who should be referred to TAG?

The following individuals who cannot be re-enrolled by the Job Center must be referred to the Training Assessment Group.

Participants who:

- have not previously been assessed for education/training activities or no test scores are on record;
- are requesting a program that is not on the HRA Master List of Approved Training Programs;
- do not know if they meet the entrance requirements of the requested program;
- are seeking to enroll in a program that is different than the one shown in the NYCWAY training history;
- request to enroll in a program that is inconsistent with the EP employment goals;
- have not identified a specific training program;
- are requesting undocumented full-time training (claiming internships or lab work hours that are not provided on the **W-700D**);
- are requesting more than 15 hours of education/training per week and have exceeded the lifetime limit for training/education as a primary work activity. The participant must submit a CUNY College Student Hardship Exemption Request Form or his/her own supporting documentation to TAG;
- are enrolled in unapproved training activities such as four-year college programs;
- have a sanction that is nondurational or expires within 45 days and are requesting an identified training program to lift the sanction (see Sanctioned Individuals in the Training Assessment Group section of this procedure).

Do Not Refer to TAG

Do not refer participants to TAG who:

- have a completed EP in NYCWAY, were given an assignment that is consistent with the assessment and honors their preferences, and who have not been in the assignment for at least six months. (These participants must stay in their assignments for a total of six months of participation before receiving a referral to TAG for training assessment.)
- are assigned to the PRIDE program. PRIDE vendors will ensure assessment and enrollment data entry in NYCWAY for all PRIDE participants.
- have a durational sanction in effect that will not expire within 45 days.

Ensuring Full Engagement and Completion of the EP

TAG will ensure that:

- referred individuals are fully engaged in work activities whether training requests are approved or denied,
- all barriers have been addressed, and
- the EP is completed, certified and signed off, and a copy scanned into the case record along with all other relevant training documentation.

Making the Activity Assignment

Making the Activity Assignment

- Determine the number of hours of WEP/community service that may be assigned.

No work activity assignment may be made until the case is active in AC status.

If an individual must be assigned to WEP/community service, NYCWAY will show the number of hours that the participant’s grant will support. The maximum number of hours can also be calculated by using the following formula:

See PB #04-219-EMP Minimum Wage Calculation

1. Multiply the semimonthly public assistance grant by 2 to get the monthly public assistance amount;
2. Add the monthly public assistance amount to the amount of the monthly Food Stamp Benefit;
3. Divide the total amount by 2 to get a total semi-monthly PA + FS amount;
4. Multiply that sum by 24 (number of annual PA payments);
5. Divide by 26 (number of biweekly periods in a year);
6. Divide the results by 6.00 (minimum wage). The result is the number of biweekly hours of required in WEP/community service.

Minimum wage increased to \$6.00 per hour effective 1/01/05

Guidelines for Making Activity Assignments

- If a participant is not currently enrolled and has not requested to be enrolled in training, review the activity options available for each individual. The focus of the Employability Plan must be to engage him/her in a combination of an appropriate work activity with another activity focused on leading to employment as quickly as possible, selected according to the individual’s skill levels and preferences.
- At present, the main activity options available to participants not already engaged in approved training are:
 - Work Experience Program (WEP), with or without an additional concurrent (supplemental) activity;
 - Assignment to an ESP vendor with additional hours in work experience or another work activity.

- The selection and scheduling of the work assignment(s) must be made from the available choices taking into account the participant's preferences as stated in the Employability Plan and in the engagement interview.
- The work activity assignment(s) will depend on the following factors:
 - The above-listed guidelines;
 - The 35-hour-per-week full engagement requirement;
 - The maximum hours of WEP participation supported by the grant;
 - The availability of work activity options that meet the requirement for participation;
 - The results of the employability assessment conducted by the SAP vendor;
 - The applicant/participant's preferences.
- Each location will have specially designated staff to whom cases requiring special attention may be referred.
- Once the employability plan has been developed, the participant should be enrolled in either 35 hours of work assignments or a combination of work assignments and other activities depending on his/her needs and preferences. An appropriate combination of activities might consist of a work assignment combined with an assignment to an ESP vendor who will engage the participant in a combination of job search, job preparedness, and vocational training that will maximize his/her chances of finding a job at the earliest possible date. Once assigned, an applicant/participant cannot change activities without HRA's prior approval. Such an individual would be considered noncompliant and subject to sanctions.
- If the assignment is to an ESP vendor, the participant should get two assignments: one to the ESP vendor to start at the next cycle, and a work activity assignment such as WEP to start the following cycle (two weeks later). The work activity assignment is to be made concurrent with the ESP vendor activity, at a ratio of 2 to 3 (two days of vendor activity with three days of work activity).

Determine Whether Any Accommodations Need to be Made for the Applicant/Participant's Special Needs:

Work Limited
Participants

- If HRA's authorized medical provider coded the applicant/participant as "employable with limitations," give her/him an assignment that is consistent with the limitations specified by HRA's authorized medical provider. Note that for this category of applicants/participants the following legal limitations apply:
 - Prior to referring an individual with limitations for a work assignment, give him/her a copy of his/her medical evaluation, the Notification of Work Requirement and Right to Contest form **W-574YY** and the Applicant/Participant Task List.
 - Instruct the applicant/participant to read all materials.
 - Inform the WEP Coordinator of any medical limitations (such as no heavy lifting, no long periods of standing, no overexposure to dust, etc.) to ensure that the individual is appropriately assigned.
 - Instruct the individual to have a copy of the medical evaluation conducted by HRA's authorized medical provider ready to present to the WEP Coordinator in case there are any questions.
 - Make sure that the work site is notified of the individual's verified limitations prior to the date the individual is to report to the work site.
 - Participants in a work assignment that they believe conflicts with their medically verified work limitations are entitled to challenge the work assignment and to continue receiving assistance while their case is being decided. If the participant disagrees with the determination that s/he is able to work, s/he may request a Fair Hearing. If the Fair Hearing is requested within 10 calendar days of the date of the Assignment Notice, s/he will not have to report to the work assignment until the Fair Hearing decision has been issued.

However, the recommended way to contest a WEP assignment as medically inappropriate is to report to the WEP assigned location, obtain details regarding what the assignment entails, and to utilize available mechanisms to work out any disagreements.

If a satisfactory resolution is not obtained, the participant may then request a Fair Hearing. The individual will not have to report to his/her activity until the decision has been issued.

- Enter action code **711**-Fair Hearing Requested/Contesting Employability to ensure that no sanction is initiated for these individuals while they are challenging their assignment and their case is being decided.
 - In instances where an applicant/participant calls the Center regarding an allegedly medically inappropriate WEP assignment, be sure to inform him/her of the action steps mentioned above. Check the case record to see if the applicant/participant received the **W-574YY** regarding work requirements, work limitations and the right to a conference and/or Fair Hearing. Ask the applicant/participant if s/he has read this notice. In addition, check the case record to see if the Applicant/Participant Task List was provided to the applicant/participant and provide a copy of the Task List to the WEP Coordinator.
- Make the appropriate assignments and data-enter them on the automated **W-584A**.
 - Identify an appropriate program to meet the needs.
 - Make the assignment to the program. Determine the number of hours and schedule of the program and subtract those hours from the hours of required work activity participation (35).
 - Make an appropriate work assignment for the remainder of the first 30 hours, taking into account the applicant's/participant's preference as indicated on the Employability Plan (maintenance, human services, or office work). The remaining five (5) hours may be in training or another qualifying activity.
 - If the applicant/participant does not require a special needs assignment:
 - Print out Form **W-574YY**, discuss employability expectations with the participant, and have him/her sign the form;
 - Discuss with the applicant/participant the advantages of certain kinds of work assignments, e.g., a Parks assignment, in developing work skills and habits that lead to paid employment.
 - Make an assignment for the first 30 hours to an appropriate combination of work activities, taking into account the applicant/participant's preferences as indicated in the **Job Preferences** section of the automated EP, (maintenance, human services, or office work).

Note to Outstationed Workers: WEP assignments may not be made until the case is in **AC** status. For applicants, if the case is still in **AP** or **SI** status, do not make a WEP assignment until the system shows the case is in **AC** status. If it is close to the 25-day limit for eligibility determination, contact the appropriate location to alert them that the decision must be made on the application so that the assignment can be given.

- If assigning to an ESP vendor, assign the participant to the vendor initially for two weeks full time (35 hours per week totaling 70 hours bi-weekly), then subsequently for each two-week cycle to an ESP and a work activity such as WEP (assign them to WEP for the maximum hours supported by their SNA grant, plus an assignment to the ESP vendor for the remaining hours).

Workers should try to accommodate the applicant/participant's preference for the type, location and schedule of work assignment.

Note: If the applicant/participant's preference cannot be accommodated, an assignment must still be given. However, **a note must be made in the applicant/participant's case record** and in the Automated Employability Plan that his/her preference could not be accommodated and the reason why (unavailability of slots, inconsistent with employment plan, travel time/distance too great, preferred schedule not available, etc.)

- Indicate the participant's activity assignments in the appropriate data entry areas of the automated EP.

Completion of the Employability Plan (FIA Worker)

Once the activity assignment has been determined, enter the activity assignments on the **Certification** screen of the Employability Plan in NYCWAY. A selection must be made from the following options:

- Work Assignment (A full-time work activity, such as WEP);
- Other -- A combination of a work activity, such as WEP, with another employment-focused activity (these activity components will be addressed in most cases by the ESP vendor);
 - Enter the appropriate answers to the checkboxes in the **Certification** section indicating that the individual's preferences have been addressed and, if the preference could not be met, the reason why.

- Print out the employment plan and have the applicant/participant sign and date the printout indicating that s/he understands his/her obligations to participate in work activities and that his/her preferences were addressed, or were not able to be addressed for the reasons indicated, in making the assignment.
- Sign and date the document and give a copy to the applicant/participant and put a copy in his/her file. (Note: this document does not require a supervisor’s sign-off.)

Conciliation If the Agency receives information indicating the participant’s possible noncompliance with employment activities, s/he will be sent a conciliation notice. The participant has seven calendar days from the date of the notice to comply. Workers should follow established procedures for conciliation. Once they are sanctioned, SNA participants without dependent children must wait out the full period of the sanction before their public assistance grant can be reinstated.

PROGRAM IMPLICATIONS

Paperless Office System (POS) Implications There are no POS implications.

Food Stamp Implications Applicants

Nonexempt from PA and FS work requirements If a nonexempt SNA applicant refuses without good cause to comply with assessment and Job Search, deny the public assistance grant for the entire household. If the individual is also work rules required under the Food Stamp work registration requirements, s/he must be sanctioned from the Food Stamp case. However, the other household members may be eligible for food stamps if all other eligibility criteria have been met. (See PD #99-16R(2),”Work Rules.”)

Nonexempt from PA work requirements, but exempt from FS work requirements If a nonexempt SNA applicant refuses without good cause to comply with assessment and Job Search but is exempt from the Food Stamp work requirements, only the cash assistance application is denied for the entire household. A separate Food Stamp determination must be made for the entire household including the noncompliant individual.

Participants

Sanctions for refusal to comply with the Food Stamp work registration requirements carry a durational sanction period. The individual who is sanctioned may not receive food stamps until the sanction period has expired and s/he has complied. The sanction periods are as follows:

- **First offense** - two months and until compliance
- **Second offense** within a three-year period beginning with the effective date of the first sanction - four months and until compliance
- **Third offense** and all subsequent offenses within a three-year period beginning with the effective date of the previous sanction - six months and until compliance

Medicaid Implications

Compliance with work rules is not a condition of Medicaid eligibility. In instances where a public assistance case is denied because an applicant failed to comply with work requirements, be sure to use the appropriate code and prepare a referral for a separate Medicaid determination.

Unless a participant indicates that s/he does not want Medicaid, a case can be closed for public assistance and remain eligible for medical assistance. When a case is closed using a code that does not affect the Medicaid status, Medicaid will automatically continue.

LIMITED ENGLISH SPEAKING ABILITY (LESA) IMPLICATIONS

For Limited English Speaking Ability (LESA) applicants/participants, make sure to obtain appropriate interpreter services in accordance with Policy Directive #02-43-OPE.

FAIR HEARING IMPLICATIONS

Avoidance/ Resolution

Ensure that all case actions are processed in accordance with current procedures and that electronic case files are kept up to date. Remember that applicants/participants must receive either adequate or timely and adequate notification of all actions taken on their case.

Conference

An applicant/participant can request and receive a conference with a Fair Hearing and Conference (FH&C) AJOS/Supervisor I at any time. If an applicant/participant comes to the Job Center requesting a conference, the Receptionist must alert the FH&C Unit that the individual is waiting to be seen.

The FH&C AJOS/Supervisor I will listen to and evaluate the applicant/participant's complaint. After reviewing the case file and discussing the issue(s) with the JOS/Worker and/or the Supervisor responsible for the case, s/he will determine if the action taken was correct. If the determination is that the action taken was correct, the FH&C AJOS/Supervisor I will explain the reason for the determination to the applicant/participant. If the explanation is accepted, no further action is necessary. The AJOS/Supervisor I must complete a Conference Report (**M-186a**).

If the determination is that the action taken was incorrect or correct but lacking the supporting documentation, the FH&C AJOS/Supervisor I will settle in conference (SIC), enter detailed case notes in NYCWAY and forward all verifying documentation submitted by the applicant/participant to the appropriate JOS/Worker for corrective action. In addition, if the adverse action still shows in WMS on the "**Pending Action**" (option **08**) screen in Aid-to-Continue status (**2**), the AJOS/Supervisor I must prepare and submit a Fair Hearing/Case Update Data Entry Form (**LDSS-3722**) to change the **2** to **1**. The **M-186a** must also be prepared.

Should the applicant/participant elect to continue his/her appeal by requesting or proceeding to a Fair Hearing which has already been requested, the FH&C AJOS/Supervisor I is responsible for ensuring that further appeal is properly controlled and that appropriate follow-up action is taken in all phases of the Fair Hearing process.

Participants have 60 days from the date of the Notice of Intent to request a Fair Hearing. Fair Hearings for sanctions initiated at the Job Center are prepared for and represented by the Fair Hearing and Conference (FH&C) unit at the Job Center. Fair hearings for sanctions initiated by Employment Services offices are prepared for and represented by the FIA Fair Hearing section at 109 E. 16th Street, NY NY.

Evidence Packets All Evidence Packets must contain a detailed history, copies of relevant WMS screen printouts, other documentation relevant to the action taken and copies of NYCWAY “**Case Notes**” screens. This includes but is not limited to the following:

A copy of the:

- Action Taken on Your Application, Part A (**LDSS-4013-A NYC**), and the Action Taken on Your Application, Part B (**LDSS-4013-B NYC**); or
- Action Taken on Your Recertification, Part A (**LDSS-4014-A NYC**), and Action Taken on Your Recertification, Part B (**LDSS-4014-B NYC**);
- Notice of Intent to Change Benefits, Part A (**LDSS-4015-A NYC**), and Notice of Intent to Change Benefits, Part B (**LDSS-4015-B NYC**); or
- The Client Notification System (CNS) notice sent to the applicant/participant;

And/or;

- Copies of the WMS budget printout;
- The Referral to Skills Assessment and Placement Vendor letter;
- The signed Employability Plan (**W-584A**);
- The ISS completed by the vendor;
- The Notification of Work Requirements and Right to Contest (**W-574Z**);
- A clear and concise history sheet (**W-138V/W-909FF/W-25**), or printout of POS case comments detailing the action taken.

REFERENCES

12 NYCRR Part 1300
 18 NYCRR Part 351
 SSL §§ 330-342
 SSL § 95 (1) (b)
 Bill A11273 signed 8/17/04