



# FAMILY INDEPENDENCE ADMINISTRATION

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Policy, Procedures, and Training

## POLICY DIRECTIVE #10-32-ELI

### JOB CENTER ELIGIBILITY REVIEWS OF SANCTIONED INDIVIDUALS

<b>Date:</b> October 1, 2010	<b>Subtopic(s):</b> Eligibility/Employment Sanctions
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**AUDIENCE** The instructions in this policy directive are for staff at all Job Centers **except** those at the Intensive Service Center (71) and are informational for other staff.

**POLICY**

Federal and state laws and regulations mandate that non-exempt individuals comply with Cash Assistance (CA) employment requirements. A pro rata sanction is imposed on active multiple-person CA cases when a participant fails to comply willfully and without good cause with employment requirements.

First- time employment sanctions are nondurational for Temporary Assistance for Needy Families (TANF) and Safety Net Assistance (SNA) family cases with children. First- time employment sanctions are durational for SNA cases without dependent children.

All subsequent sanctions, regardless of category, are durational and require that the sanction period be served and that the individual agree to comply with employment requirements, as applicable, before a sanction is lifted.

If the noncompliant individual is also required to participate in Food Stamp Employment and Training (FSET) activities, he/she is also sanctioned from the Food Stamp (FS) case. FS sanctions are durational.

HAVE QUESTIONS ABOUT THIS PROCEDURE?  
Call 718-557-1313 then press 3 at the prompt followed by 1 or  
send an e-mail to *FIA Call Center Fax* or fax to: (917) 639-0298

**BACKGROUND**

Individuals with nondurational or expired employment sanctions are periodically called into the Job Center for mandatory eligibility review appointments to determine how they have been managing on a reduced budget.

Action Code **10SN** (sanction appointment) or **10SY** (sanction appointment-nonpayee) autoposts in NYCWAY and an Appointment Notice (**W-140JJ**) is generated to the sanctioned individual. The **W-140JJ** states that failure to keep the eligibility review appointment may result in the closing of the sanctioned individual’s case.

The Eligibility Review appointment will result in one of the following outcomes as appropriate:

- If the individual reports to the appointment, claims no employment barriers, and agrees to comply, the JOS/Worker will refer the individual to the Back to Work (BTW) vendor for a work assignment, or to the Training and Assessment Group (TAG), as appropriate
- Individuals who report to the appointment and contend that they are unable to work due to a claimed nonmedical barrier to employment must cooperate with the agency’s efforts to evaluate their claim. Individuals who claim a physical or mental health barrier to employment must be referred to WeCARE and the sanction lifted from the date of the referral. The individual should be exempt from participation pending the outcome of the WeCARE assessment.
- If the individual reports to the appointment, but continues to refuse to comply, the case remains in sanction status.

For the Eligibility Review and WeCARE referral process for Center 71, see [PD #10-21-OPE](#).

Individuals who agree to comply with work requirements will have the sanction lifted and benefits restored from the date that the individual indicated his/her willingness to comply.

FTR to the call-in appointment

If the sanctioned individual Fails to Report (FTR) to the eligibility review appointment, Action Code **496** (failure to keep an eligibility-related call-in) will autopost in NYCWAY, which will place the case on the Notice of Intent (NOI) worklist. An individual line closing will be processed if the sanctioned individual is not the casehead or legally responsible relative.

When the sanctioned individual is the casehead or legally responsible relative and he/she fails to report to the eligibility review appointment willfully and without good cause, the entire CA case will be closed.

The NOI clerk will close the CA case using closing code **N17** (failure to complete the eligibility process).

Walk-in appointments

When a sanctioned individual walks into the Job Center (not via a call-in appointment) and states that he/she is willing to comply, Action Code **10SW** (walk-in) is entered in NYCWAY and the worker will follow the same eligibility review process.

**REQUIRED ACTION**

If the individual reports to the eligibility review appointment, the JOS/Worker must:

Eligibility Review

- access the household screen (**NQCSO1**) in the Welfare Management System (WMS) to confirm that the individual is currently sanctioned.
- review the WMS internal and external clearances for the adult household members.
- ask the individual how the family has been managing on the reduced budget.
- inquire if someone outside of the household has provided assistance. If so, ask about the relationship to the individual and take the appropriate follow-up action (i.e., rebudget, make a change in the household composition, etc.).
- explain the benefits of compliance and working.
- encourage participation in work activities.
- explore and address any existing employment barriers, as indicated on pages 5-8 in this policy directive.
- ask the participant if he/she is willing to comply.

If the individual (walk-in or call-in) is willing to comply and has a nondurational or expired sanction, the JOS/Worker must proceed as follows:

Employment Reported

If the individual reports that he/she is employed, the JOS/Worker must:

- request verification of income that includes the first pay date and the hours of paid employment (if not provided); and
- give the participant a minimum of 10 days to submit the documentation.

Returns without documentation

If the individual returns within 10 days and claims he/she is still employed but fails to provide documentation of employment willingly and without good cause, a case closing must be processed using WMS Closing Code **V20** (failure to return required documentation).

Employed 30 hours or more

If the employment verification is submitted and confirms that the individual is employed 30 hours per week or more, the JOS/Worker must:

- calculate a budget to lift the sanction; (if the sanction is nondurational or expired) and include the employment income;
- prepare an **FIA-3A** (informational only) in NYCWAY to capture the employment information; and
- Issue supplemental benefits from the date the individual indicated a willingness willingness to comply, if appropriate.

Employed fewer than 30 hours

If employment verification confirms that the individual is employed fewer than 30 hours per week, the JOS/Worker must:

- calculate a budget to lift the sanction; (if the sanction is nondurational or expired) and include the employment income;
- prepare an **FIA-3A** (informational only) in NYCWAY to capture the employment information;
- Issue supplemental benefits from the date the individual indicated a willingness to comply, if appropriate; and
- give the participant an appointment to return within five days (after the Lift Sanction action is processed) to be engaged in additional employment activities.

Assignments cannot be made while the individual is in sanction status.

Return appointment for participants with verified employment for fewer than 30 hours per week

At the return appointment for participants who are employed fewer than 30 hours per week, the JOS/Worker must:

- complete the EP; and
- refer the individual to the BTW vendor or to the Work Experience Program (WEP).

**Note:** Participants employed fewer than 30 hours must return to the Job Center for an engagement assignment. Failure to keep the return appointment will be considered a separate instance of noncompliance. The JOS/Worker must initiate a new employment sanction if it is determined that the participant willfully and without good cause failed to comply with employment requirements.

Participant with a durational sanctions in effect who report new employment

If a participant under a durational sanction that has not expired reports employment income, the sanction cannot be lifted until the sanction expiration date, but the JOS/Worker must budget the income for CA and/or FS.

If the individual is still in a durational sanction, but reports that he/she is employed (full or part-time), the JOS/Worker must:

- request verification of income, including the hours of paid employment, giving the participant a minimum of 10 days to submit documentation, if not already provided.
- budget the earned income.
- if the participant is employed less than 30 hours, give him/her a return appointment that coincides with the expiration of the sanction period. Use NYCWAY Action Code **10SR** (Sanction Call In – Employment Return Appointment) with a Future Action Date (FAD), equal to the last day of the sanction period, to schedule the return appointment.

Lift the sanction after the durational period has expired.

**Note:** Workers must remember to lift the sanction at the end of the durational sanction period for individuals who are employed.

Overpayments

CA participants are required to report new or increased employment income within 10 days of receipt of this income. Overpayments that occur as a result of the participant’s failure to report income on a timely basis must be recouped as concealed income. The JOS/Worker must initiate a recoupment for any overpayments that occurred during the sanction period of a legally responsible relative.

There is no overpayment calculated for the administrative processing period, which is until at least a full semimonthly payment cycle has elapsed following the timely reporting of initial or increased earnings.

School/training

If the individual reports that he/she is currently in school/training the JOS/Worker must:

- verify that it is an approved program;
- ask the individual to submit documentation of enrollment in school/training (e.g., bursar’s receipt, registrar’s receipt, or acceptance letter).
- lift the sanction;
- initiate the employment Plan (EP); and
- refer the individual to the Training Assessment Group (TAG).

Refer to the [Employment Process Manual](#) for the TAG process.

Non-medical barriers to employment

Sanctions must not be lifted unless the sanction is expired or nondurational

If the individual with an expired or nondurational sanction is neither employed nor currently attending a school/training program and is willing to comply, but claims a barrier to employment, the JOS/Worker must initiate the EP and address any existing barriers to employment.

For non-medical barriers, the JOS/Worker must give the appropriate appointments, as follows:

Domestic violence

Refer to [PD #10-08-ELI](#) for the DV process

- Domestic Violence – make an appointment for a Special Assessment for individuals claiming domestic violence via the EP. Action Code **191A** will automatically post in NYCWAY.

Special assessment appointment kept

If the special assessment appointment is kept, the JOS/Worker must proceed as indicated by the Domestic Violence (DV) Liaison’s recommendation, as follows:

- When a full waiver is granted, the individual’s sanction must be lifted and he/she made exempt from participating in any engagement activities.
- If a partial waiver is granted, lift the sanction and make an activity assignment within the parameters of the DV waiver (e.g., excluding an assignment in the borough of exemption).

Benefits must be restored from the date the individual indicated a willingness to comply (at the Job Center) but claimed a DV issue. Usually it is the date of the call-in appointment or walk-in, whichever is appropriate).

FTR to special assessment

Individuals who FTR for a special assessment and refuse to comply with work requirements must remain in sanction status.

Individuals with expired or nondurational sanctions who FTR for a special assessment, but are willing to comply and have no other barriers to employment must have their sanction lifted and be given a work activity assignment.

Substance Abuse (SA)

- Substance Abuse (SA) – make an appointment for a Credentialed Alcoholism and Substance Abuse Counselor (CASAC) via the EP, if SA is indicated. Upon making the appointment, Action Code **193** will automatically post in NYCWAY.

If the SA appointment is kept, the JOS/Worker at the Substance Abuse Service Center(SASC) will proceed as indicated by the outcome of the CASAC assessment:

- Part-time SA treatment - employable
  - Individuals with expired or nondurational sanctions who are deemed to be in need of part-time SA treatment and are employable must have their sanction lifted and be assigned a concurrent work activities in conjunction with their SA treatment requirements. The EP will update the Employability Status [ES] code to **64**-SA nonexempt).
- Intensive SA treatment
  - Individuals determined to need intensive SA treatment are exempt from engagement activities. The sanction must be lifted and the EP will update the ES code to **63**- SA exempt).
- Treatment not required/ employable
  - Individuals determined not to be in need of SA treatment, but who continue to refuse to comply with work rules, must remain in sanction status.
- FTR to CASAC appointment
 

Individuals who Fail to Report (FTR) to a CASAC assessment appointment are ineligible for assistance until he/she is willing to comply with the assessment requirement. The remaining members of the household, if any, will continue to receive assistance in a Non-Cash Assistance category.
- Needed at home
  - Needed at Home – give the participant a Family Care Assessment form (**W-582A**) and a return appointment via the EP if the individual claims he/she is needed at home to care for an incapacitated household member. At the return appointment, the needed-at-home screen in the EP must be completed, depending on the determination.
- Returns with **W-582** (needed at home) documentation
  - If the individual who previously claimed to be needed at home returns with documentation confirming his/her needed at home status, and is serving a nondurational or expired sanction, the sanction must be lifted.
  - If the individual is in a durational sanction, the duration must be served before lifting the sanction.

**Note:** Individuals claiming to be needed at home should submit updated documentation at each call-in appointment unless the original document included a date range that is still effective.

Child care  
 (Refer to [PD #09-40-EMP](#))

- Child Care – if the participant is willing to comply, but requires child care before he/she can be engaged, provide the names of a minimum of two (2) regulated child care providers with confirmed available slots, all required child care forms, and a return appointment generated via the EP, as per current procedure (refer to [PD #09-40-EMP](#)).

Exempt Notice  
 Non-exempt Notice

In all instances of claimed non-medical barriers, the JOS/Worker must issue the Notification of Temporary Assistance Work Requirements Determination (EXEMPT) ([LDSS-4005 NYC](#)) with Part 2 (Other than Medical) completed to inform the individual about the Agency’s determination. For individuals determined to be nonexempt, the JOS/Worker must issue the Notification of Temporary Assistance Work Requirements Determination (NONEXEMPT) [LDSS-4005\[a\] NYC](#) with Part 3 (Other than Medical) completed.

Medical Barriers to Employment/Referrals to WeCARE

For Job Centers other than Center 71, lift the sanction at the point of referral to WeCARE (Refer to [PB #10-59-ELI](#))

If the sanction has expired or is nondurational and the participant claims a physical or mental health barrier to employment a referral to WeCARE must be generated through the EP. The sanction must be lifted at the point of the referral to WeCARE.

Once the WeCARE assessment is complete and the individual’s employability has been determined, the WeCARE vendor will issue a Notification of Temporary Assistance Work Requirements Determination (Exempt) ([LDSS-4005 NYC](#)) form or Notification of Temporary Assistance Work Requirements Determination (Nonexempt) [LDSS-4005\(a\) NYC](#) form to inform the participant about the outcome of his/her claim.

WeCARE will only engage participants determined work-limited

Individuals determined by WeCARE to be fully employable after the sanction has been lifted will be referred back to the Job Center (Action Code **168J**) and placed on the **CALLD** worklist for a priority call-in appointment to the Job Center. The Job Center will assign the individual to a work activity.

FTR to WeCARE

If the participant is the casehead or legally responsible relative and FTR to the WeCARE appointment without good cause, the entire CA case must be closed. Non-legally responsible adult participants in the household who FTR to WeCARE are subject to a line closing.



Don't lift the sanction unless it is nondurational or expired

**Note:** Sanctions for individuals in receipt of CA must not be lifted due to non-medical or medical barriers to employment unless the sanction is nondurational or has expired. Benefits must be restored from the day after the sanction expires.

Once all barriers have been resolved, or if no barriers were claimed, the JOS/Worker must:

- lift the sanction for individuals with expired or nondurational sanctions who are willing to comply and claimed no employment barriers;
- assign the individual to an engagement activity (e.g., Parks, BEGIN, Wage Subsidy, or BTW/WEP) or refer individuals who express an interest in education or training activities to TAG for an assessment;
- complete the EP;
- give the assignment notice to the individual.

**PROGRAM IMPLICATIONS**

Paperless Office System (POS) Implications

If the sanction period is expired/nondurational and the individual is willing to comply with or exempt from the work requirements, the POS Turn-Around Document (TAD) must be changed to reflect the change in status from “sanctioned” to “active” status and the employability code updated through POS. If employment verification is received, it must be scanned and indexed into the POS system.

Food Stamp Implications

Sanctioned Individuals claiming a medical exemption from CA and FS work requirements who fail to document the exemption claim are ineligible for CA purposes but are determined to be work rules required for FS purposes, unless otherwise exempt. CA cases closed for failure to document a claimed medical exemption require a separate FS determination.

Individuals who are sanctioned for FS and subsequently become exempt from FSET requirements may, if otherwise eligible, reestablish eligibility for FS benefits at any time during the sanction period. Individuals who are sanctioned for FS and are nonexempt from FSET requirements cannot have the FS sanction lifted until the sanction period has expired.

In instances in which the CA case of a FS sanctioned individual is being closed for FTC with efforts to document a claim of disability, the individual must serve the balance of the current FS sanction period, if any, before the sanction can be lifted, unless the individual provides documentation to verify that he/she is currently exempt from FS work requirements.

Medicaid  
Implications

There are no work requirements for Medicaid.

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**LIMITED ENGLISH  
SPEAKING  
ABILITY (LESA)  
AND HEARING-  
IMPAIRED**

For Limited English-Speaking Ability (LESA) participants, make sure to obtain appropriate interpreter services in accordance with [PD #10-12-OPE](#). For hearing-impaired participants, make sure to obtain appropriate interpreter services in accordance with [PD #08-20-OPE](#).

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**FAIR HEARING  
IMPLICATIONS**

Ensure that all case actions are processed in accordance with current procedures and that the electronic case files are kept up to date.

Avoidance/  
Resolution

The participant must receive either adequate or timely and adequate notification of all actions taken, depending upon the circumstances of his/her case. Remember to make every reasonable attempt to resolve the issue.

Conferences

A participant can request and receive a conference with a Fair Hearing & Conference (FH&C) AJOS I/Supervisor I at any time. If the applicant/participant comes to the Job Center and requests a conference, the Receptionist must notify the FH&C AJOS/Supervisor I. In Model Offices, the Receptionist at Main Reception will issue an FH&C ticket to the participant to route him/her to the FH&C Unit and does not need to verbally alert the FH&C staff.

The FH&C AJOS/Supervisor I will listen to and evaluate any material presented by the participant, review the case file and discuss the issue(s) with the JOS/Worker responsible for the case and/or the JOS/Worker's Supervisor. The AJOS/Supervisor I will explain the reason for the Agency's action(s) to the participant.

If the participant has in fact presented good cause for the infraction or shown that the outstanding NOI needs to be withdrawn for other reasons, 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 participant to the appropriate JOS/Worker for corrective action to be taken.

In addition, if the adverse case action still shows on the “Pending” (08) screen in the Welfare management System (WMS), the AJOS/Supervisor I must prepare and submit a Fair Hearing/Case Update Data Entry Form ([LDSS-3722](#)), change the 02 to 01 if the case has been granted Aid to Continue (ATC), or prepare and submit a PA Recoupment Data Entry Form – WMS ([LDSS-3573](#)) to delete a recoupment. The AJOS/Supervisor I must complete a Conference Report ([M-186a](#)).

**Evidence Packets**

Should the 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.

All evidence packets must include a detailed history, copies of relevant WMS screen printouts, other documentation relevant to the action taken, including the CASAC evaluation, and copies of NYCWAY **Case Notes** screens.


**REFERENCES**

- [05-ADM-08](#)
- [08-ADM-02](#)
- [09-ADM-20](#)
- 18 NYCRR 351.2 (l)(7)
- 18 NYCRR 351.21
- 18 NYCRR 351.28
- 18 NYCRR 385.2 (b)
- 18 NYCRR 385.9
- 18 NYCRR 385.12

**RELATED ITEMS**

- [PD #09-40-EMP](#)
- [PD #10-08-ELI](#)
- [PB #10-59-ELI](#)

**ATTACHMENTS**

 Please use Print on Demand to obtain copies of forms.

- W-140JJ** Appointment Notice (Rev. 10/1/10)
- W-140JJ (S)** Appointment Notice Spanish (Rev. 10/1/10)

Date: \_\_\_\_\_  
Case Number: \_\_\_\_\_  
Case Name: \_\_\_\_\_  
Center: \_\_\_\_\_  
Caseload: \_\_\_\_\_  
Action Code: \_\_\_\_\_

### Appointment Notice

We have scheduled a case eligibility review appointment to discuss how you have been managing on a reduced budget after you were sanctioned from Cash Assistance. At the eligibility review, you will need to explain how your household is meeting its expenses since you were sanctioned. We may also ask other questions regarding your household circumstances, including your income, and resources.

At this meeting we would also like to discuss if you have a reason why you have not been able to participate in work activities. Your failure to do so resulted in your sanction. We can also work together to resolve these issues and help you to comply with the Cash Assistance employment requirements.

SAMPLE

Appointment Date: \_\_\_\_\_ Time: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Travel Directions:

**This is a mandatory eligibility appointment. Failure to keep this appointment may result in the closing of your Cash Assistance case.** The authority for reviewing Cash Assistance eligibility as necessary is 18 NYCRR 351.2 and 351.21.

If you are working, you must bring proof of your income such as recent pay stubs or a letter from your employer when you report. Other forms of proof can be accepted if these are not readily available.

**Some good cause reasons for not reporting to your case eligibility review appointment:**

- you have a physical or mental condition which prevents compliance;
- you failure to comply is directly attributable to a social services district error; or
- other extenuating circumstances beyond your control exist, which prevent you from being reasonably expected to comply with an eligibility requirement.

If you are unable to report to your eligibility review appointment, you must contact the telephone number listed above so that appropriate arrangements can be made to accommodate you.

If you have a physical, mental health or learning problem that makes it difficult for you to travel to our location, or meet other HRA requirements, you have a right to ask HRA for help. This is called a reasonable accommodation. If you need help, you can call \_\_\_\_\_. If you asked for help and think you did not get the help you needed, you can file a complaint. To file a complaint, you can write to: ADA Compliance Officer, Office of Legal Affairs, 180 Water Street, 17th Floor, New York, NY 10038, or fax your complaint to (212) 331-4465 .

**You are in sanction status.**  
**If you are now willing to comply, you can let your Worker know at this appointment or at any other time.**

Fecha: \_\_\_\_\_  
Número del Caso: \_\_\_\_\_  
Nombre del Caso: \_\_\_\_\_  
Centro: \_\_\_\_\_  
Unidad de Casos: \_\_\_\_\_  
Código de Acción: \_\_\_\_\_

### Aviso de Cita

Hemos programado una cita de revisión de elegibilidad para tratar sobre cómo usted se ha administrado con un presupuesto reducido después de haber sido sancionado(a) de la Asistencia en Efectivo. En la revisión de elegibilidad, usted tendrá que explicar cómo su hogar está costeadando los gastos desde que fue sancionado(a). Además, podemos hacerle preguntas adicionales sobre las circunstancias de su hogar, incluyendo el tema de sus ingresos y recursos.

En esta reunión también nos gustaría discutir si usted tiene un motivo por no participar en las actividades de trabajo. Su incumplimiento ha resultado en su sanción. También juntos podemos resolver estos problemas y ayudarle a cumplir los requisitos de empleo de Asistencia en Efectivo.

Fecha de la Cita: \_\_\_\_\_ Hora: \_\_\_\_\_ Teléfono: \_\_\_\_\_

Dirección: \_\_\_\_\_

Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Código Postal: \_\_\_\_\_

Indicaciones de Viaje:

**Esta cita de elegibilidad es obligatoria. El no cumplir esta cita puede resultar en el cierre de su caso de Asistencia en Efectivo.** La autoridad para revisar la elegibilidad de Asistencia en Efectivo según convenga se estipula en 18 NYCRR 351.2 y 351.21.

Si usted trabaja, cuando se presente tiene que traer comprobante de su ingreso como talones de paga recientes o una carta de parte de su empleador. Otros tipos de comprobante pueden ser aceptables si los antedichos no están disponibles.

**Algunas razones justificadas de no presentarse a su cita de revisión de elegibilidad:**

- usted tiene una condición física o mental que le impide cumplimiento.
- usted es directamente atribuible a un error por parte del distrito de servicios sociales; o
- existen otras circunstancias atenuantes ajenas a su voluntad, que no permitieron que usted cumpliera como se esperaba el requisito de elegibilidad.

Si usted no puede presentarse a su cita de revisión de elegibilidad, tiene que llamar al número de teléfono listado más arriba para que se hagan los arreglos convenientes para usted.

Si tiene un problema físico, mental o de aprendizaje que le dificulta transportarse a nuestro local o cumplir otros requisitos de HRA, usted tiene derecho de pedirle ayuda a la HRA. Esto se conoce como arreglo razonable. Si necesita ayuda, puede llamar al \_\_\_\_\_. Si usted pidió ayuda y cree que no la recibió, puede presentar una queja. Para ello puede escribir a: ADA Compliance Officer, Office of Legal Affairs, 180 Water Street, 17th Floor, New York, NY 10038, o faxear su queja al (212) 331-4465.

**Usted esta en estado de sanción.**  
**Si usted ahora esta dispuesto a cumplir, puede decirse saber a su trabajador en esta cita o en cualquier otro momento**