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Local Commissioners Memorandum

Section 1

Transmittal:	07-LCM-15
To:	Local District Commissioners
Issuing Division/Office:	Center for Employment and Economic Supports
Date:	October 30, 2007
Subject:	Federal Requirements for Work Participation Documentation and Reporting
Contact Person(s):	Employment Technical Advisor or Employment and Advancement Services Bureau at (518) 486-6106.
Attachments:	Not applicable
Attachment Available On – Line:	Not applicable

Section 2

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to instruct districts of recent changes in State employment program policy for families with dependent children resulting from federal changes related to the documentation and reporting of work activities as detailed in New York's Work Verification Plan (WVP) and approved by the federal Department of Health and Human Services (HHS) on September 25, 2007.

II. Background

The Department of Health and Human Services, as required by the Deficit Reduction Act/Interim Final Temporary Assistance for Needy Families (TANF) Rules, established the requirement for States to submit a Work Verification Plan. The New York State Work Verification Plan was approved on September 25, 2007.

The 06-ADM-17 "Implementation of Interim Final TANF Rule" issued on December 28, 2006 set forth the work activity definitions and documentation requirements as submitted in the original draft of the Work Verification Plan. However, some definitions and documentation requirements have been amended to reflect the approved Work Verification Plan as noted below.

The NYS Work Verification Plan shall be in effect as of September 30, 2007.

Districts are reminded that the TANF Interim Final Rule included a penalty of one percent (increasing by 1% for each subsequent year of noncompliance with the work verification requirements up to a maximum of 5%) of the state's TANF adjusted block grant for failure to comply with the work verification requirements, including the requirement to document actual hours of reported participation. As established in New York State Social Services Law (§153), any federal penalty would be shared with districts or fully passed on to districts if district specific fault can be established. OTDA will continue to pursue additional flexibility for work verification and will pursue corrective action compliance to the extent permitted under federal regulations to avoid a fiscal penalty for the state and districts. Districts should pay particular attention to work verification standards outlined in 06-ADM-17 and this LCM to maintain compliance with federal requirements.

III. Program Implications

The latest revisions to the Work Verification Plan require changes to work activity definitions and documentation requirements as described below:

- **Job Entry Documentation Requirements**

HHS has approved New York's request for additional flexibility regarding documentation of the four paid work activities (unsubsidized employment, subsidized private sector employment, subsidized public sector employment, and On-the-Job-Training). Districts were previously notified of the ability to project/schedule hours of participation, for up to six months based upon available documentation, with adjustments required when a change that is expected to last is reported. HHS has also approved the reporting of hours of employment based upon a client's self-attestation at job entry for up to four weeks in certain circumstances.

Self-attestation of hours of employment at job entry is acceptable in those instances in which the employer does not cooperate with efforts to obtain documentation or prior to the time that the client has routine employer documentation such as a pay stub to verify hours of employment and the district has concluded that requesting such documentation would jeopardize the job entry or future job entries by other Temporary Assistance clients. In these instances, districts would determine whether the individual's reported wages and hours appear reasonable. Reported hours that do not appear reasonable based on the wages should not be reported (e.g., when the reported hours and wages demonstrate less than minimum wage compensation). In all instances, districts must obtain verification such as pay stubs to document hours of employment no later than four weeks following the job entry. The projected hours of employment should be modified based upon the employer verification, if necessary. When independent employer verification is not available within four weeks, the employment cannot continue to be reported.

- **Job Search Documentation Requirements**

No later than January 1, 2008, hours related to participation in independent (not directly supervised) job search activities, such as submitting job applications or interviewing for a job, must be reported based upon client logs of the time required to complete such activities.

This method of documentation is required by the federal government. This time may include travel time to and from potential employers. The job search log must be reviewed by the district or its contract/provider staff to assess the extent to which a reasonable number of contacts were made during the time reported. Attention should be given to the amount of time required to identify, apply and interview for a job as well as time spent preparing and sending follow-up materials to an employer. District staff should review time logs for completeness and reasonableness. Hours of participation reported by the client that are determined to be incomplete or not reasonable must not be reported on the Welfare-To-Work Caseload Management System (WTWCMS) or the New York City, Work, Accountability and You (NYCWAY) as actual hours of participation.

The federal government is also requiring an additional measure of verification. Districts and program providers must contact a sample of employers periodically to verify that the participant actually contacted the employer about a job. However, such reviews need not occur in those instances when the district determines that conducting such direct employer contact for documentation would jeopardize current or future job entry efforts by other Temporary Assistance (TA) clients. This determination may be made based upon an assessment of specific employers or as a district policy for all employers. Districts are reminded that face-to-face contact with job search participants must occur no less frequent than weekly, as described in 06-ADM-17.

Districts are permitted to choose whether or not to apply the federal standards for documenting participation in independent job search to Safety Net non-MOE recipients. Districts may find that consistency among case types is preferred or may determine that applying a standard hourly proxy per job search contact is preferred. Districts should outline the documentation standard in the 2008-09 Temporary Assistance and Food Stamp Employment Plan.

- **Unpaid Internships Reporting Requirements**

HHS did not approve the request to report unpaid internships as on-the-job training (OJT). For federal work activity reporting purposes, unpaid internships should be reported under the activity “Work Experience.” Districts must ensure that participants in unpaid internships participate for at least 20 hours in the internship or other “core” activity. Paid internships should continue to be reported as on-the-job training or employment.

- **Holiday Reporting Requirements**

HHS did not approve New York’s request to count as actual hours of participation all reasonable holiday time observed by regular employees at a place of employment or at an educational or training activity location. HHS has specifically limited holiday time that counts toward hours of actual participation to no more than ten days per year when participation/work did not occur due to the observance of a holiday. Specifically, the days reported as missed but countable due to a holiday are limited by federal rule to the following ten federal holidays: New Year's Day, Martin Luther King Jr. Day, Washington's Birthday (Presidents Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving and Christmas Day. Only when a participant was scheduled to participate on one of these days, and did not participate due to the worksite/provider being closed due to holiday, may the scheduled hours be reported as holiday time and be combined for participation purposes with actual hours.

Additional hours, or days, beyond the approved holiday itself missed due to the site being closed due to the holiday, would continue to constitute good cause for noncompliance, but may not be reported as actual or holiday hours unless these hours fall within the excused absences permitted of up to two per month or ten per year as defined in 06-ADM-17. In this instance, the absence would be reported as a countable excused absence. Districts were informed of the change regarding the tracking and reporting of excused absences from hours to days in GIS 07TA/DC 006.

Effective October 1, 2007, absences resulting from observance of one of these federal holidays should be reported as holiday time hours. District staff must ensure that only the ten designated holidays are reported as holiday time for TANF and SNA MOE families with dependent children until the WTWCMS change to separately limit these days is implemented. NYC staff should use the same reporting methodology.

- **Sanction Exclusion Change**

Based on a revision of federal reporting and rate calculation policy effective October 1, 2007, cases in which an adult is in the conciliation, referred for noncompliance or sanction process may no longer be excluded from the rate calculation. Only cases in which the sanction has been imposed and for which there is a reduction in the grant may be excluded from the rate calculation for up to three months in the preceding twelve-month period. Changes to the Welfare Reform Tracking System (WRTS) tracking and reporting system will be made to support this change. District staff should continue reporting conciliations, referred for noncompliance and referred for sanction on WTWCMS in the same manner as previously instructed. Once the WRTS changes are made, these WTWCMS statuses will no longer cause the sanction monthly counter to increment nor result in the case being removed from each district's participation rate calculations. NYC staff should use the same reporting methodology.

- **Required Action**

Each district must amend policies and procedures for documenting and reporting participation in work activities to comply with 06-ADM-17 and this message. OTDA will update the guidance provided in 06-ADM-17 and will issue an administrative directive to include these changes.

- **Food Stamp Employment and Training Requirements**

None.

- **TA Budgetary Implications**

The hours of paid employment entered onto the Automated Budgeting and Eligibility Logic (ABEL) should be based on the same documentation used to report hours of paid employment on the Welfare-To-Work Caseload Management System or New York City, Work, Accountability and You system.

- **FS Budgetary Implications**

None.

- **Systems Implications**

WTWCMS Version 5.1, tentatively scheduled for January 2008, includes logic that will limit data entry of holiday time to those holidays specified above. This limitation will apply to TANF and SNA MOE families with dependent children.

WRTS changes have been scheduled to support the sanction tracking and exclusion change effective with November 2007 data reports.

Districts will be separately notified of these changes once implemented.

Issued By

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