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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 90 ADM-27

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: August 29, 1990

SUBJECT: Job Opportunities and Basic Skills Training (JOBS) Program

 SUGGESTED

DISTRIBUTION:

Directors of Income Maintenance
 Directors of Children Services
 Employment Coordinators
 WMS Coordinators
 Food Stamp Supervisors
 Staff Development Coordinators

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ATTACHMENTS:

Attachment A - "Listing of Attachments" - available
 on-line.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-44		Part 361	SSL 131	<u>PASB</u>	89 LCM-155
86 ADM-10		Part 385	SSL 153	Section XI	90 LCM-45
85 ADM-45		387.13	SSL 158b	<u>FSSB</u>	90 LCM-83
85 ADM-17		404.1(d)	SSL 164	Section IX	90 LCM-103
82 ADM-68		352.29	SSL 336-c	<u>EM</u>	90 LCM-109
80 ADM-11		352.19	SSL 409-i	All	
78 ADM-11		300.6	through	<u>LDMG</u>	
76 ADM-122		Part 415	409-n	12-1 to	
89 INF-53			Article 5,	12-5	
72 PWD-148			Title 9-B		
72 PWD-023					

I. PURPOSE

The purpose of this directive is to provide local social services districts (SSD) with policies and procedures for operating the Job Opportunities and Basic Skills Training (JOBS) program under Chapter 453 of the Laws of 1990.

II. BACKGROUND

Title II of the Family Support Act of 1988, Public Law 100-485, created the JOBS program for recipients of Aid to Dependent Children (ADC). Chapter 453 of the Laws of 1990 created a JOBS program in New York State and provides for certain conforming changes to other social services programs.

The JOBS program is designed to assist applicants for and recipients of Aid to Dependent Children (ADC), Home Relief (HR), and Veteran Assistance (VA) to become self-sufficient by providing needed employment-related activities and supportive services.

Prior to creation of the JOBS Program, federal law and implementing regulations provided for a number of work and training programs for ADC recipients - the Work Incentive (WIN) program, the Work Incentive Demonstration (WIN Demo) program, the Community Work Experience Program (CWEP), the Employment Search Program, and the Work Supplementation Program. However, since most of these work programs were optional, and state support for the programs had varied, implementation of work and training programs had been uneven among the states. A number of studies of possible factors fostering welfare dependency cited the need for reliable and affordable child care in order for recipients to obtain and maintain employment. Lack of other support services, such as transportation, had also been mentioned as hindering employment.

On October 13, 1988, the President signed the Family Support Act (the Statute), Public Law 100-485. Title II of the Statute establishes the JOBS program under title IV-F of the federal Social Security Act. The purpose of JOBS is to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependency. Title III of the Statute provides child care and other services in support of employment and education and training activities.

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IV. PROGRAM IMPLICATIONS

Historically, employment and training activities were the sole responsibility of the SSD Employment Bureaus. The enactment of JOBS expands this responsibility to a number of program areas and therefore, requires significant coordination among the various program areas within the agency: Employment; Income Maintenance; Children's Services/Child Care; Medical Assistance; IV-D; and the Welfare Management System (WMS).

Several key principles have guided the development of JOBS:

1. That the value of the ADC program should be measured not just by its ability to meet the income needs of individuals served, but also by its ability to help these individuals achieve independence;
2. That parents have the primary responsibility for the support and welfare of their children and that programs should be designed to help parents meet these responsibilities;
3. That women and their children represent the overwhelming proportion of ADC recipients; that within this group the most dependent are never-married mothers who did not complete high school and who had their first child at a young age; and that programs designed to reduce overall dependency must necessarily address this group;
4. That consistent with individual responsibility is choice, and that parents should be given a wide range of options for child care while participating in the program;
5. That education (including literacy and high-school equivalency training) is one of the most important tools an individual needs to achieve full citizenship and independence, and that this should be an important JOBS component;
6. That skills training can be an important element in helping an individual to reach self-sufficiency;
7. That JOBS programs should be designed to prepare participants for private employment in jobs they can realistically be expected to obtain;
8. That resources should be maximized through the coordination of existing programs at all levels of government and in concert with community-based volunteer and business organizations; and
9. That SSDs should be given maximum flexibility to design program components within the JOBS provisions in order to tailor programs to meet local needs.

V. REQUIRED ACTION

A. General Requirements

1. Implementation of JOBS

Effective October 1, 1990, each SSD must implement a JOBS Program.

Each SSD must submit an annual JOBS plan to the Department for review and approval.

2. Participation Target Groups

a. Priority for the provision of JOBS services will be given to individuals from within the target groups described below:

(1) individuals who have received ADC for any 36 out of the preceding 60 months;

(2) custodial parents under the age of 24 who have had little or no work experience in the preceding year or who are not enrolled in or have not completed a high school education or its equivalent; and

(3) members of families in which the youngest child is within two years of being ineligible for ADC by reason of age.

b. Priority of Services

In determining the priority of services from among these target groups, first consideration shall be given to individuals from within such target groups who volunteer to participate. Non-target group volunteers must also be given first consideration but not to the exclusion of mandatory participants when the SSD determines that the needs of mandatory participants are greater. Priority for service shall not be extended to individuals who have previously terminated their participation in a JOBS activity without good cause.

c. A volunteer is an applicant for or recipient of ADC, HR or VA who, whether or not exempt from participation requirements, volunteers for participation in the JOBS program.

d. Chapter 453 of the Laws of 1990 defines a JOBS participant as an applicant for or recipient of ADC, HR or VA who volunteers for or is required to participate in the JOBS program.

e. Expenditures on Target Group Individuals

SSDs are required to expend at least 55% of their local JOBS program costs, including administration and training related expenditures, on members of the target groups.

3. Federal JOBS Participation Rate

Federal regulations set participation rates for a state's ADC JOBS program beginning at 7% in Federal Fiscal Year (FFY) '90 (October 1, 1990 - September 30, 1991) and reaching 20% by FFY '95. Federal financial participation for a state's JOBS Program can be reduced from 60% to 50% for a year unless the state meets the participation rate for the preceding year. No state will be penalized for failure to meet participation rates in FFY '90, but penalties may be imposed for failure to meet the rates in subsequent years. In order to prevent this loss of reimbursement, each SSD is required to meet the federal participation rates. Failure to meet these rates may result in fiscal sanctions under section 20 of the Social Services Law.

a. Who is a JOBS Participant? (For Federal Reporting Requirements Only)

Only an ADC individual who meets the definition of a JOBS participant will be included in the calculation of a district's participation rate. The Federal Department of Health and Human Services (HHS) defines a JOBS participant as an individual who:

- (1) is scheduled to participate in JOBS activities for an average of 20 hours per week; and
- (2) participates for at least 75% of the scheduled hours.

Scheduled hours include time spent in:

- (1) assessment and employability plan development, but only for one month in each period an individual receives ADC;
- (2) any JOBS activity, except job development and job placement;
- (3) any approved self-initiated education or training;

- (4) job entry for the actual number of hours worked, in a month of entry and the following month, if the individual participated in JOBS or received job development and placement services in the month of entry or the prior month;
- (5) an average weekly level for the prior year, for a high school student between school years, if the individual is expected to return to high school the following year.

The federal definition of a JOBS participant sets a standard that many current ADC, CEP and WIN participants may not meet. Modification of SSD employment program operations may be necessary to make recipients JOBS participants. SSDs will be expected, to the fullest extent practical, to schedule ADC recipients to participate in employment and training activities for an average of 20 hours per week.

Beginning on October 1, 1990 SSDs must report the number of hours that recipients are scheduled to participate in employment and training activities. All SSDs, except New York City, will record on the Employment Subsystem the scheduled hours for each activity a recipient (ADC or HR) is enrolled in. The reporting of ADC recipient activity enrollments on NYC systems is limited to those recipients who are scheduled for an average of 20 hours a week.

SSDs must develop procedures to track ADC recipients' actual participation to assure that they are attending at least 75% of their scheduled hours. HR recipients do not have to meet a 20 hours weekly participation standard.

b. Who Counts as "Required to Participate"?

Participation rates are based on participation by a number of people equal to a percentage of those "required to participate" in JOBS. For example, to meet the 7% rate, if an SSD has 500 adult ADC recipients, but only 200 are required to participate, the SSD must have 14 individuals who meet the definition of participation.

Any combination of employable persons and volunteers that participate can count toward the State's participation rate. But only employable ADC persons count toward calculating the number of persons "required to participate".

The number of persons required to participate is not the universe of employable ADC recipients. Federal JOBS regulations allow for the exclusion of certain groups of employable persons when calculating who is "required to participate". Specifically, "the required to participate" calculation will not count employable persons who:

- (1) are the ADC-U non-principal wage earner parent;
- (2) have been sanctioned;
- (3) on a case-by-case basis, are unable to participate because child care is unavailable.

c. Computation Periods and the Participation Rate Formula

A participation rate is determined for a computation period. Beginning in FFY '91 the participation rate requirements increase for each FFY through 1995. The rates and computation periods are:

<u>Year</u>	<u>Rate</u>	<u>Computation Period</u>
FFY '90	7%	the fiscal year
FFY '91	7%	each half of the fiscal year
FFY '92	11%	each quarter of the fiscal year
FFY '93	11%	each quarter of the fiscal year
FFY '94	15%	each month
FFY '95	20%	each month

The formula for computing the participation rate is based upon:

- (1) the average monthly number of individuals required or allowed to participate who did so during the computation period; added to
- (2) the number of participants in the month with the greatest number of participants during the computation period.

This amount is then divided by twice the average monthly number of people "required to participate".

EXAMPLE: In FFY '90, the computation period is one year. During the year, the State has an average of 40,000 ADC employable persons, 3,000 of which are ADC-U non-principal wage earners. An additional 7,000 employable persons are "non-participants" because they

have been sanctioned or necessary child care cannot be guaranteed. The number of persons "required to participate" for the computation period will be 30,000.

During the year, the State's average monthly participation (including exempt volunteers) is 2,000. By the last month of the fiscal year (the month of the highest participation), there were 4,000 participants.

The State's participation rate is determined by:

$$\begin{aligned} & 2,000 \text{ (average monthly participation)} \\ + & \underline{4,000} \text{ (highest month of participation)} \\ & 6,000 \div 60,000 \text{ (twice the average number required} \\ & \quad \text{to participate - 30,000)} \\ & = 1/10 = 10\% \end{aligned}$$

The State has had a participation rate of 10% for the computation period.

B. Definitions

As used in this Release:

1. Basic literacy level means a level of reading ability which allows an individual to function at the level of a person who has successfully completed at least the ninth month of the eighth grade (8.9).
2. Case management means a supportive services system of counseling and interaction between a case manager and a participant. The purpose of case management is to help enhance the participant's motivation to achieve self-sufficiency and to help the participant develop a sense of personal responsibility for resolution of problems.
3. Conciliation process means a procedure for resolving participant grievances and issues related to a participant's refusal or failure to comply with JOBS requirements. The process may establish whether or not a participant's refusal or failure to comply with JOBS program requirements was willful and without good cause.
4. Custodial parent means a parent who lives with his/her child.
5. Day care means any lawful form of care of a child, for less than 24 hours per day including any such form of care defined in 18 NYCRR 415.1.
6. Educational activities include but are not limited to secondary and post-secondary level activities, defined as follows:

- Secondary level: High school means a public or private educational facility providing a standard high school curriculum offered by or approved by the local school district.
 - General education development (GED) means an education program that prepares an individual to obtain a New York State high school equivalency diploma.
 - Basic/remedial education means education in the areas of reading, writing, mathematics and oral communications for individuals functioning below the eighth grade level in those areas.
 - Literacy training means education designed to help individuals improve their ability to read and write.
 - English as a second language (ESL) means an instructional program designed to develop skills in listening, speaking, reading and writing the English language, for individuals whose native or primary language is other than English.
 - Post-secondary education means a two year full-time degree granting program at a community college, at a two year college or at a four year college which offers two year degree programs (or the part-time equivalent if full-time study would constitute an undue hardship).
7. Employability plan means a written document, developed after an individual assessment of and in collaboration with a JOBS participant, which specifies the steps to be taken and services to be provided as part of a planned series of actions leading to the employment of the participant.
 8. Employable refers to an individual who is not exempt from JOBS program requirements.
 9. Individual assessment means a written evaluation of a participant's employability based on the person's educational level, including literacy and English language proficiency, his or her child day care and other supportive services needs and the skills, prior work experience, training and vocational interests of the participant. The evaluation includes a review of family circumstances, including a review of any special needs of a child.
 10. Informal child care means care of a child as defined in paragraph (e) of section 415.1 of 18 NYCRR.

11. Job development and job placement are JOBS activities that include soliciting public or private employer's unsubsidized job openings, discovering job openings, marketing participants and securing job interviews for participants. It may include activities defined as follows:
 - Job solicitation is a program in which local employers are contacted in an attempt to secure jobs for participants and identify job vacancies that can be filled by participants.
 - Job matching means a comparison of listed job openings with participant skills and abilities in an effort to match the two and secure job interviews for participants.
 - Job creation means the use of incentives, tax credits, training programs and grant diversion to create job openings that would not otherwise have existed.
12. JOBS means the Job Opportunities and Basic Skills training program under which participants receiving ADC, HR or VA are furnished education, training and employment opportunities and necessary services in order to secure unsubsidized employment that will assist participants to achieve economic independence.
13. Job opportunity program refers to an activity under JOBS which provides subsidized employment to HR recipients having a one to two year history of unemployment or unsuccessful participation in employment and training related programs. In this program, the regular public assistance grant is diverted to a public or non-profit employer for a minimum of 20 hours per week employment.
14. Job readiness activities are activities under JOBS to help prepare participants for employment through instruction in employers' expectations, appropriate behavior and attitudes in order for participants to successfully compete for jobs. Such activities may include instruction in the completion of employment applications, resume writing, job interviewing techniques, making career choices or life skills. (Job Readiness activities are also referred to as employment readiness training (ERT) when in a structured group setting.) Job readiness activities are provided in group settings defined as follows:
 - Job club means a directed, full-time workshop that teaches participants how to seek employment by themselves. Participants are given the opportunity during the workshop to contact prospective employers

(usually by telephone) and solicit possible job openings, thereby gaining practical experience in using the learned job seeking procedures. Job club activities must include, but are not limited to, interviewing techniques, resume writing, identification of and contact with potential employers and participation in actual job interviews.

- Life skills training means group classroom training designed to assist participants in developing personal goals, identifying barriers to employment and planning strategies to resolve these barriers.
15. Job search is an activity under JOBS in which a participant is assigned to seek employment. For employable ADC participants, job search activities must be supervised in a group or individual setting and include, at a minimum, counseling, job-seeking skills training and dissemination of employment information.
 16. Job skills training is an activity under JOBS of a vocational nature, in occupations where a demand exists in the local labor market. Instruction is in either a specific skill or occupational area or in a program with a specific vocational objective.
 17. Legal child care - Any child care provided by a regulated provider or an informal child care provider as defined in 18 NYCRR 415.1.
 18. Local JOBS plan means an annual plan prepared by a SSD which describes the employment programs and services that are and will be provided to public assistance applicants and recipients under the JOBS program.
 19. Local market rate means that cost representing the 75th percentile of costs of comparable child care for a particular SSD and a particular type of case which is the maximum allowable reimbursement level as established by the department.
 20. Net loss of cash income means an amount by which a household's gross income, less any necessary actual work-related expenses, is less than the cash assistance the individual was receiving at the time of receiving an offer of employment. Gross income includes, but is not limited to, earnings, unearned income and cash assistance.
 21. On-the-job training (OJT) is an activity under JOBS in which participants are trained at worksites for particular jobs. The training is mostly active learning-by-doing with participants immediately applying the skills they

learn. Participants are employed by private sector employers and, while engaged in productive work, receive training that provides the skills and knowledge essential to the full and adequate performance of the jobs. Employers are reimbursed up to 50% of the wages paid to participants to offset training costs. Funds to support the program are set aside at the local level.

NOTE: TEAP (Training and Employment Assistance Program) for Home Relief recipients is an OJT program under JOBS involving grant diversion to offset employer training costs.

22. Participant means an applicant for or recipient of ADC, HR or VA who volunteers for or who has been required to participate in the JOBS program.
23. Participant agreement means a written agreement between an SSD and a JOBS participant or the adult caretaker of the participant's family; it defines the participant's obligations under the program and the purpose, duration and kind of activities to be conducted and the supportive services to be provided during participation. The participant agreement is not a substitute for the required employability plan.
24. Potentially employable refers to an applicant for or recipient of ADC, HR or VA who is not employable for medical reasons and, in the judgment of a social services official, can be restored to self support through appropriate rehabilitation.
25. Regulated child day care means a licensed, certified or registered child day care provider as defined in 18 NYCRR 415.1.
26. Satisfactory participation means that a participant has attended an activity for at least 75% of the monthly hours scheduled, which must at a minimum be a monthly average of 20 hours per week exclusive of commuting time.
27. Satisfactory progress means a minimum written standard of progress, established by the training provider or educational institution and measured on a periodic basis of one year or less, that a participant must achieve while participating in educational, occupational, post-secondary or on-the-job training. This standard must include both a qualitative measure of progress, such as a numerical grade average, a letter grade, job competencies, or cumulative grade point average, and a quantitative measure of progress such as the established amount of time it should take the student or trainee to complete the training or studies. With respect to an educational activity, the standard may

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provide that satisfactory progress is being made during a probationary period despite failure to meet the progress standard otherwise applicable. In the case of an educational institution, the standard must be approved by the New York State Department of Education (DOE). In the case of a training provider, the standard must be approved by the Department.

28. Service provider means a public agency or a private non-profit or for-profit organization providing an employment related activity(ies) or service(s) to the SSD or the Department through contract or agreement.
29. Social services official means the commissioner of the SSD or his or her designee.
30. Transitional child care means day care provided to eligible families in accordance with 18 NYCRR Part 415.7 when such care is necessary for a family member to accept or retain employment.
31. Volunteer means an applicant for or recipient of ADC, HR or VA who, whether or not exempt from participation requirements, volunteers for participation in the JOBS program.
32. Work experience is an activity under JOBS for ADC recipients (called the Community Work Experience Program) and for HR recipients (called the Public Work Program). In both programs, participants are assigned to public or private non-profit agencies that provide them with opportunities to develop, demonstrate or maintain basic work habits while performing useful tasks.
33. Work experience site means a public agency, municipality, or non-profit institution where work experience positions are provided through contract or agreement with the SSD or project operator.
34. Work supplementation is an activity under JOBS for ADC recipients which provides subsidized employment by private sector employers in new jobs. Up to 50% of the wages paid to the participant are reimbursed to the employer to help offset costs; funds are diverted from the participant's public assistance grant.

C. Participation Requirements

1. All applicants for and recipients of ADC, HR or VA must participate in JOBS unless exempted as noted below:
 - a. ill or injured to the extent that they are unable to engage in employment and training programs for a period of up to three (3) months. This temporary

condition must be medically verified; except that inability to engage in JOBS activities will be presumed to exist for a period of eight weeks following child birth.

- b. incapacitated, when it has been determined (i) by a physician that a physical impairment, or (ii) by a physician, a licensed or certified psychologist or a certified social worker that a mental impairment prevents them from engaging in employment or training when such impairment is expected to exist for a continuous period of at least three months. Incapacity may include a period of recuperation after child birth.
- c. sixty (60) years of age or older;
- d. residents in an area of the State where a JOBS Program is available, but in a location which is so remote that their effective participation is precluded.

Effective participation is precluded if a round trip of more than two hours by reasonably available public or private transportation, exclusive of the time necessary to transport children to and from day care, would be required for a normal work or training day. However, if the normal round trip commuting time, exclusive of the time necessary to transport children to and from day care, in the area is more than two hours, then effective participation is precluded if a round trip would exceed the generally accepted community standard.

- f. under the age of 16;
- g. under the age of 19 and attending, full-time, an elementary, secondary, vocational or technical school;
- h. needed in the home because another member of the household requires their presence due to a medically verified mental or physical impairment, and it is determined that no other appropriate household member is available to provide the care. Such caretakers must be advised of their option to participate in available employment and training opportunities, and must be informed of the available services for care of disabled persons;
- i. parents or other relatives of a child under three years of age, unless otherwise required by Section V.C., who are personally providing care for the child; provided, however, that in a case receiving ADC-U due to the unemployment of a parent, only the parent or a relative who is not the principal wage earner in the case can be exempted.

- j. parents or other relatives of a child between the ages of three and six, unless otherwise required by Section V.C., who are personally providing care for the child unless appropriate day care is guaranteed and participation in the JOBS program is limited to 20 hours per week; provided, however, that in a case receiving ADC-U due to the unemployment of a parent, only the parent or relative who is not the principal wage earner in the case may be exempted.

NOTE: ADC recipients with children over the age of three who are not exempt and volunteer to participate in the Comprehensive Employment Opportunity Center (CEOSC) or the Public Assistance Comprehensive Employment (PACE) are now subject to a sanction for willful refusal or failure to comply.

- k. working 30 or more hours per week. An individual qualifies for this exemption if the individual is working at least 30 hours per week and is earning at least the higher of the State or federal minimum wage; or the average weekly gross wage received is at least the dollar equivalent of 30 hours times the higher of the State or federal minimum wage; such average shall be calculated on a monthly basis.

NOTE: There is no longer an exemption for persons employed to capacity. These individuals are considered either incapacitated or mandatory employable persons.

- l. pregnant, and it has been medically verified that the child is expected to be born in the month in which participation in the JOBS program would be required or within the following six month period;
- m. full-time volunteers serving in the Volunteers In Service To America (VISTA) program.
- n. attending a program of rehabilitation through the Office of Vocational and Educational Services for Individuals with Disabilities (OVESID).

2. Questionable Employability

- a. When an applicant for or recipient of ADC, HR or VA indicates that he/she is unemployable, the SSD will examine any evidence presented by the individual together with any other relevant information prior to making a determination or redetermination of the individual's employability.

- b. When an applicant for or recipient of ADC, HR or VA indicates that he/she is not employable, the SSD must examine any evidence presented by the individual together with any other information available prior to making any determination or redetermination of the individual's employability.
- c. When an applicant for or recipient of ADC, HR or VA indicates that he/she is not employable due to a medical condition, or when the SSD suspects that a medical barrier to employment or to participation in employment related activities exists, a medical examination and a medical opinion regarding employability must be obtained. If the applicant or recipient provides a physician's or psychologist's statement which is in conflict with a physician's or psychologist's statement obtained by the SSD, the SSD must evaluate both statements and any other relevant evidence in making a determination of employability.
- d. An applicant for ADC, HR or VA who indicates that he/she is not employable or who the SSD suspects may not be employable must provide such evidence as the SSD deems necessary in order for an employability determination to be made. An applicant who fails to provide necessary evidence will be deemed to have failed to meet the eligibility requirements for assistance.
- e. A recipient of ADC, HR or VA who previously has been determined not to be employable and continues to indicate that he/she is not employable must, whenever deemed necessary by the SSD, provide new or additional evidence of continued unemployability. A recipient who fails to provide such evidence will be deemed to have failed to meet the requirements for continued eligibility. A recipient may not be required to repeatedly produce a document already in the SSD files regarding a condition which is not subject to change.
 - (1) A recipient requesting a review of his/her employability may not be required to comply with JOBS requirements until and unless a redetermination of employability has been made by the SSD and the recipient has been notified in writing that he/she continues to be an employable person.
 - (2) The SSD must instruct the recipient regarding the evidence which may be necessary to make an employability redetermination. If the recipient fails to provide the required evidence, the SSD will make a redetermination of employability based on the information available.

3. Potential Employability

In order to establish or maintain eligibility, an applicant for or recipient of ADC, HR or VA, who in the judgment of the SSD is potentially employable, will be required when appropriate to:

- a. provide and/or undergo a medical and other diagnostic examination to determine an individual's potential to become employable, or suitability for training to restore employability and self-support;
- b. accept medical care provided by the SSD or made available through other agencies to assist in restoring an individual to a condition of self-support;
- c. accept referral to and enrollment in a program of vocational rehabilitation, training, and other essential rehabilitation if deemed necessary; and
- d. give evidence, as requested, that indicates the individual is participating fully in a rehabilitative program.

D. SSD Responsibilities

1. Orientation

The purpose of orientation is to provide all applicants and recipients of ADC, HR and VA with information concerning their rights and responsibilities under JOBS and to advise them of the benefits of JOBS participation.

At the time of application for assistance or redetermination of eligibility for assistance, the SSD worker must provide all applicants and recipients, regardless of their employability status, with Book I (DSS-4148A) and Book II (DSS-4148B). The worker must review and discuss the JOBS section of Books I and II with the applicant/recipient. Books I and II are being reprinted to include the new JOBS sections. In the interim, SSD must locally reproduce the attached hand-outs (Attachment 7 and 8) which should be provided with Books I and II or with the application/ recertification package.

The Department has developed a JOBS video which will be distributed to all SSDs. This video which is designed to provide applicants/recipients with JOBS orientation information may be utilized by SSDs. It is expected that the video will be distributed to SSDs by October 1, 1990.

A major procedural change resulting from JOBS is that employable applicants/recipients are no longer required to register at the New York State Job Services as a condition of eligibility for assistance. SSDs may make referrals to the New York State Job Service for receipt of jobs services. In addition, the SSD workers must be aware that there are new and revised WMS employability codes developed to support JOBS. (See 90 LCM-103, dated July 17, 1990).

At the time that an SSD determines that an applicant is eligible for ADC, HR or VA and provides the applicant with a Notice of Acceptance, the SSD must also provide the JOBS letter (DSS-4232). The JOBS letter (Attachment 6) is intended to reinforce the JOBS information provided during the intake process. The information provided at orientation must include, but it is not limited to:

- a. the employment opportunities;
- b. the education, and training opportunities available under the JOBS program, including education and training opportunities available at no cost to the participant;
- c. the supportive services available under JOBS, including case management, day care during orientation, assessment and participation in JOBS activities, transitional day care, and transitional medical assistance, net loss of cash income, and supplementation of day care;
- d. the transportation services;
- e. the other work related supportive services pursuant to section IV.F of this release.
- f. the SSD's obligations regarding program activities and supportive services provided under JOBS;
- g. the rights, responsibilities and obligations of JOBS participants including, but not limited to, the grounds for exemption from assessment and participation, and the consequences of refusal or failure to participate in JOBS willfully and without good cause;
- h. the individual's responsibility for repayment of any student financial aid;
- i. the types and locations of day care services reasonably accessible to participants, how such services will be provided and financed, and the assistance available upon request to help participants select appropriate day care services;

- j. the individual's responsibility for cooperating in establishing paternity and enforcing child support obligations;
- k. the individual's opportunity to participate voluntarily in the JOBS program.

2. Initial Assessment

- a. Prior to placing an ADC participant in any JOBS activity except as provided for in section G.6, the SSD must conduct a written assessment for each ADC participant who is not exempt. For HR and VA participants, the assessment must be completed within a reasonable period of time, but no later than one year after application. However, an HR or VA applicant or recipient may be required to participate in any JOBS activity prior to completion of the assessment.
- b. Assessments may be conducted using various instruments including interviews, testing, counseling and self-evaluation forms. The Department is developing a model assessment form which will be issued at a later date. In the interim each SSD must modify existing assessment forms to accommodate the required changes. The assessment must include, but is not limited to:
 - i. an evaluation of the participant's employability based on educational level, including literacy and English language proficiency; literacy testing must be done within one year from the date the assessment is completed.

For current employable participants who have been assessed, literacy testing must be completed by October 1, 1991.

If the participant's literacy level is below 8.9, the individual must be enrolled in appropriate educational activities based on their employability plan.

- ii. an evaluation of day care and other supportive services needs;
- iii. an evaluation of the skills, prior work experience, training and vocational interests of that individual;
- iv. a review of family circumstances, (including the special needs of a child); and

- v. identification of the target group to which the individual belongs.
 - c. For individuals who have been determined employable prior to October 1, 1990, the SSD must review the current employability plan. If necessary the SSD must call in the individual for a face to face interview to update the assessment and employability plan to ensure that they meet the current JOBS criteria. This process must be completed by January 1, 1991.
 - d. Individuals who were previously exempt but under JOBS may be considered employable should be called in as required by the provisions of this Administrative Directive.
 - e. In order to assist in the identification of SSDs target group population and potential new employable ADC recipients, the Department will provide an initial list of target group individuals and ADC recipients whose youngest child is between 3 and 5.
3. Employability Plan (EP)
- a. The SSD must develop a written EP, based on the initial assessment, developed in collaboration with and signed by the participant and the SSD representative. The EP must specify the steps to be taken and services to be provided as part of a pre-determined series of actions leading to the employment of the participant. The plan must be realistic in terms of time frames and goals.
 - b. All EPs must include an employment goal and a description of the JOBS activities in which a participant will take part.

EPs prepared for an ADC JOBS participant must take into account the preferences of the participant and include justification if these preferences cannot be accommodated.
 - c. The EP must reflect the services that will be provided by the SSD, including day care and other supportive services required by the participant and the participant's family.
 - d. The EP must reflect available program resources and local employment opportunities in relation to the participant's supportive services needs, skills level and aptitudes.

- e. If applicable, a participant's liability for student loans, grants and scholarships must be explored and incorporated into the EP.
 - f. For ADC participants, an assessment and EP must be completed prior to a JOBS activity assignment for ADC participants. However, an ADC participant may complete an initial three-week job search prior to the completion of this process.
 - g. For HR participants in JOBS activities, the assessment and EP must be completed within a reasonable period of time, but no later than one year after application. However, an HR participant may be required to participate in any JOBS activity prior to completion of the assessment and the EP. Some activities however may require an assessment: for example, assigning a person to a second period of job search.
 - h. Changes to existing EPs may be made only after a discussion with the affected participant.
4. Staffing Requirements For Initial Assessments And Employability Plans.
- a. The SSD may either designate SSD staff or contract with service providers to conduct assessments and prepare employability plans.
 - b. If SSD staff is designated to conduct the assessments and prepare the employability plans, the SSD must ensure that such staff have specialized education, training or work experience in conducting assessments and preparing employability plans.
 - c. If a service provider is designated to conduct the assessments and prepare the employability plans, the SSD must ensure that such provider has demonstrated effectiveness in conducting assessments and preparing employability plans.
5. Assignment of Participants
- a. The SSD must assign participants to activities pursuant to their employability plans to the extent that day care is assured and other supportive services are available.
 - b. The SSD must, prior to an assignment to activities, provide participants with oral and written information, as appropriate, regarding day care and the methods of payment for such day care. Such information must be sufficient for the participants to

make informed decisions regarding day care, including the right to request the assistance of the SSD in securing such day care.

- c. If a participant requests assistance in securing day care, the SSD must offer at least two choices of regulated day care providers (as defined in Section V-B above) who are accessible and available to the participant and who are willing to accept the amount and type of payment offered.
- d. If two choices of regulated day care are unavailable or inaccessible, the SSD must:
 - (1) notify the participant of the option to obtain his/her own day care; and
 - (2) excuse the participant from any assignment to JOBS activities until at least two regulated child day care providers are located by the SSD or the participant secures his/her own day care providers; and
 - (3) submit a report, together with its local JOBS plan, on the efforts to increase the supply and availability of regulated day care in the district.

6. SSD/Participant Agreements

- a. Each SSD may, following the initial assessment and development of the employability plan, offer the participant or the adult caretaker in the household of which the participant is a member, the opportunity to enter into an agreement. If SSD opts to utilize SSD/participant agreements, the agreements must be used for all JOBS participants. The agreement must specify:
 - (1) the purpose of the agreement;
 - (2) the participant's and the SSD's obligations under JOBS;
 - (3) the duration of participation in JOBS; including the number of hours of participation per week;
 - (4) the activities to be conducted;
 - (5) the supportive services including day care, to be provided during JOBS participation.

If an SSD opts to utilize an SSD/participant agreement, such an agreement must be signed by both the worker and the client. One copy must be provided to the client and one copy retained in the case record. A model SSD/participant agreement is under development and will be issued at a later date.

- b. The SSD must assist the participant in reviewing and understanding the agreement. Participants should be encouraged to sign the agreement, and a copy must be given to them.

7. Net Loss of Cash Income

- a. The SSD must provide an allowance to supplement the household income of an ADC, PG-ADC, HR or VA JOBS participant, as defined under Section IV.B.11 of this release, when the household experiences a net loss of cash income because the participant is required to accept a job.

- b. Net loss of cash income results if the participant's monthly gross income minus necessary actual work-related expenses is less than the cash assistance the participant was receiving in the month the offer of employment was made.

- (1) gross income includes, but is not limited to, earnings, unearned income and cash assistance.

- (2) cash assistance means the "budget deficit" as defined in 18 NYCRR 352.29.

- (3) the supplement must equal the monthly net loss of cash income that would occur if the supplement was not paid to the family.

- c. Necessary actual work-related expenses are verifiable and unreimbursed expenses directly related to maintaining employment. Such expenses include, but are not limited to, the following:

- (1) mandatory payroll deductions such as federal, State and local taxes, social security taxes, disability insurance and union dues;

NOTE: The amount of taxes must be manually calculated and should reflect only the amount paid for dependents who may be legally claimed on tax returns.

- (2) tools, materials, uniforms and other special clothing required for the job;

- (3) mandatory fees for licenses or permits fixed by law;
- (4) deductions for medical insurance coverage;
- (5) actual cost of day care up to the local market rate;
- (6) transportation, except that the amount for use of a motor vehicle must be computed on a mileage basis at the same rate paid to employees of the SSD and must only be allowed when public transportation is not available.

Such expenses will not include meals, business-related depreciation, personal business and entertainment expenses, personal (not work related) transportation, purchase of capital equipment and payments on the principal of loans.

- d. To determine if there is a net loss of cash income, the following procedures must be followed for all participants in the month in which employment is offered:
 - (1) budget the earned income including earned income from the new job prospectively in accordance with current budgeting procedures (i.e., allowing the \$90 work disregard, \$30 + 1/3 or \$30 if appropriate, day care if appropriate), the resulting cash deficit if any will represent total cash assistance.
 - (2) add any unearned income (for example, UIB, SSA, Worker's Compensation, Disability Insurance, etc.) to the cash assistance.
 - (3) determine gross monthly earned income and subtract any necessary actual work-related expenses. Add resulting sub-total to sub-total as detailed in d.2 above.
 - (4) compare total of 1,2, & 3 as detailed above to PA needs prior to accepting the new job. If total "Cash Income" is less than PA needs prior to having earned income budgeted, issue supplement up to this PA need.

e. The following examples illustrate the net loss of cash income determination:

- (1) Mr. John Doe applies for public assistance for himself and his two dependent children from the Suffolk County Department of Social Services. Mr. Doe has no other income. See attached budget for grant determination. Mr. Doe is determined eligible effective 12/1/89.

Budget for ADC case of 3 in Suffolk Co. w/o other income.

WBGTPA	** PA BUDGET **	VERSION	DISTRICT SUFF	12/04/89
CASE NAME	CASE NO.	OFC	UNIT WORKER TRAN	CASE MR SANC
DOE, JOHN	SCRATCHPAD	11	111 CM 05	11
HH CA DP-HH DP-CA	PI SI FP		*****EARNED INCOME*****	
03 03			# LN 30I 30M SRC FRQ D CCR	
TY R	ACTUAL	ALLOW	1:	
			2:	
BASIC		20000		
ENRGY		3000	****OTHER INCOME****	0 GROSS 0
SPMNT		2300	LN SRC F AMOUNT EXEMPT	0 TAXES 0
01 SHEL	50000	41200	0 0 0	0 NYS DIS 0
WATER	0	0	0 0 0	0 WORK EXP 0
0 FUEL		0	0 0 0	0 EXMPT/HR30 0
OTHER	0	0	TOTAL NET	0 0 CH CARE 0
OTHER	0	0	\$\$\$\$ PA GRANT \$\$\$\$\$\$	0 CH CARE 0
OTHER	0	0	TOTAL NEEDS	66500 0 CH CARE 0
TOTAL NEEDS		66500	TOTAL INC	0 0 30&1/3 0
*****RECOUPMENT*****			CD/AMT D	66500 0 TOT DED 0
TY BALANCE	% MO AMT REM		RECOUPMENT	0 0 UNAVAIL 0
	0 00.0	0 0	UTIL/RES	0 0 NET INC 0
	0 00.0	0 0	SHEL/RES	0
	0 00.0	0 0	RESTRICTED	0 *EFFECTIVE DATE*
RECALC	00.0	0	CASH GRANT	66500 120189 TO 113090
FS CASE NO.			SEMI 33250	33250 DATE STORED / /

(2) Mr. Doe begins working in December and will receive \$1,000 in gross wages for the month. See attached budget for grant determination. Mr. Doe is entitled to receive the \$30 1/3 exemption for 4 consecutive months.

Budget for ADC case of 3 in Suffolk Co. with employment. income and in receipt of 30 + 1/3 for 4 consecutive months.

WBGTPA	** PA BUDGET **	VERSION	DISTRICT SUFF	12/04/89
CASE NAME	CASE NO.	OFC	UNIT	WORKER TRAN CASE MR SANC
DOE, JOHN	..30-1/3	SCRATCHPAD	11	111 CM 05 11
HH CA DP-HH DP-CA	PI SI FP	*****EARNED INCOME*****		
03 03		# LN	30I 30M SRC	FRQ D CCR
TY R	ACTUAL	ALLOW	1: 01 2 03 01	1 F
BASIC		20000	2:	
ENRGY		3000	****OTHER INCOME***** 100000 GROSS 0	
SPMNT		2300	LN SRC F AMOUNT EXEMPT	0 TAXES 0
01 SHEL	50000	41200	0 0	0 NYS DIS 0
WATER	0	0	0 0	9000 WORK EXP 0
0 FUEL		0	0 0	0 EXMPT/HR30 0
OTHER	0	0	TOTAL NET 0 0 CH CARE 0	
OTHER	0	0	\$\$\$\$ PA GRANT \$\$\$\$\$\$ 0 CH CARE 0	
OTHER	0	0	TOTAL NEEDS 66500 0 CH CARE 0	
TOTAL NEEDS	66500		TOTAL INC	58667 32333 30&1/3 0
*****RECOUPMENT*****		CD/AMT	D	7800 41333 TOT DED 0
TY BALANCE	% MO	AMT	REM	RECOUPMENT 0 0 UNAVAIL 0
	0 00.0	0	0	UTIL/RES 0 58667 NET INC 0
	0 00.0	0	0	SHEL/RES 0
	0 00.0	0	0	RESTRICTED 0 *EFFECTIVE DATE*
RECALC	00.0	0	CASH GRANT	7800 120189 TO 113090
FS CASE NO.			SEMI 3900	3900 DATE STORED / /

(a) Net Loss of Cash Income Determination

(i)	\$ 78	cash assistance received for Dec. (PA budget deficit)
(ii)	\$ 0	no other unearned income
(iii)	\$1,000	gross mo. earned income for Dec.
	- 125	fed. tax for Dec.
	- 62	state tax for Dec.
	- 12	union dues for Dec.
	- 75	soc. sec. tax for Dec.
	- 8	<u>dis. ins. for Dec.</u>
	\$ 718	subtotal
	- 80	trans. costs for Dec.
	\$ 638	subtotal
	+ 78	cash assistance received for Dec.
	\$ 716	total "cash income"
(iv)	\$ 665	needs prior to income budgeted
	- 716	total "cash income" received for Dec.
	\$ -51	no supplement owed for Dec. as "cash income" > needs prior to income budgeted for Dec.

(b) Same as above example. However, Mr. Doe must drive his car 40 miles roundtrip per workday. The following illustrates the net loss of cash income determination.

\$ 78	cash assistance received for Dec. (PA budget deficit)
\$ 0	no other unearned income
\$1,000	gross mo. earned income for Dec.
- 125	fed. tax for Dec.
- 62	state tax for Dec.
- 12	union dues for Dec.
- 75	soc. sec. tax for Dec.
- 8	<u>dis. ins. for Dec.</u>
\$ 718	subtotal
- 184	trans. costs for Dec. (40 mi. x \$.23/mi. x 5 da. x 4 wks in Dec.)
\$ 534	subtotal
+ 78	cash assistance received for Dec.
\$ 612	total "cash income"
\$ 665	needs prior to income budgeted
- 572	<u>total "cash income" received for Dec.</u>
\$ 53	supplement owed for Dec.

f. the net loss of cash income determination applies only for the month in which employment is offered. Because of the availability of the earned income disregards, transitional benefits, and supportive services, it is anticipated that the number of affected cases will be minimal.

(1) for those participants who are determined ineligible for a net loss of cash income supplement, no further action is necessary.

(2) for those participants who are determined eligible for a net loss of cash income supplement, this determination must be done on a monthly basis until there is no longer a need for a net loss of cash income supplement, even if the public assistance case is closed.

(3) the participant who may be entitled to a net loss of cash income supplement must document on a monthly basis actual work related expenses and income that are taken into consideration for the net loss of cash income determination.

(4) the participant who may be entitled to transitional benefits and/or supportive services must apply for them before having those types of expenses included in the net loss of cash income determination (e.g. day care, transportation, etc.).

g. for Food Stamps, the net loss of cash income supplement is to be considered a reimbursement for the cost of work related expenses and excluded as Food Stamp income.

8. Supplementation of Day Care Costs

a. When recipients of ADC, HR and PG-ADC who are employed and entitled to the child care disregards as contained in 18 NYCRR 352.19 and are using legal day care arrangements, as defined under Section V.F of this ADM, have actual day care costs which exceed the amounts allowable under the day care disregards, the SSD must provide a supplement up to the actual child care costs or the appropriate market rate, whichever is lower. Those recipients who are employed and cannot document legal child care arrangements as defined above remain eligible to receive the day care disregards as in 18 NYCRR 352.19. However, they are not entitled to a child care supplement. In order to receive this supplement, the recipient must document the actual day care costs incurred. Detailed procedures to follow are found in the Systems Implications Section (VII) of this release.

In order to determine the type of day care and whether the day care is considered legal, Attachment 14 (Identifying Types of Regulated Child Day Care) should be referred to. All affected cases must be reviewed by next client contact or next recertification, whichever is sooner, to determine if a day care supplement is required. Supplementation must be retroactive to October 1, 1990 if appropriate. Further instructions on day care procedures are forthcoming.

- b. Supplemental day care payments are to be excluded as Food Stamp income. The amount of such payments are not to be allowed as a Food Stamp dependent care cost.

NOTE: The SSD must provide recipients with appropriate notification of the results of net loss of cash income and day care supplementation calculations and any changes using current appropriate notices.

E. Client Responsibilities

Employable public assistance applicants or recipients must, as required by the SSD:

1. provide medical verification and/or undergo a medical examination or other diagnostic assessment necessary to determine any limitations on the type of employment and training activity in which they are able to engage.
2. accept referrals to or offers of employment in which they are able to engage.
3. accept referrals to and participate in JOBS employment and training activities and services assigned by the SSD, its designated provider, or by the Job Service. Such programs and services include, but are not limited to assessment, an employability plan, employment related training, job search, on-the-job training, work supplementation, educational and job skills training, case management, public works projects and community work experience projects.

F. Support Services

1. Day Care

a. Each SSD, in accordance with the requirements of 18 NYCRR Part 415 must guarantee day care to each JOBS participant. No individual may be required to participate in such programs unless necessary day care is actually available. SSD responsibilities with regard to the provision of day care to JOBS participants consist of:

- (1) providing information to participants, orally and in writing, regarding day care and the methods of payment for it;
- (2) offering households in which the participant requests assistance in securing day care, at least two choices of day care providers who are regulated, accessible and available to the participant, and willing to accept the amount and type of payment offered;
- (3) notifying the participant of the option to obtain the participant's own day care in cases in which the SSD is required to, but cannot offer the participant two choices of day care;
- (4) excusing from JOBS participation parents to whom the SSD is required to, but cannot, offer two choices of day care and who are unable to make their own provisions.

b. In addition to providing day care during JOBS participation, each SSD must provide day care during certain periods when a participant is not actually enrolled in a JOBS activity, but is scheduled to begin or resume a JOBS activity. For both ADC and HR recipients, up to two weeks of day care can be provided, or to one month where the day care arrangement would otherwise be lost and an activity is scheduled to begin or resume within that time.

c. Rates

- (1) participants will be reimbursed for the costs of day care up to the local market rate as established by the Department. Local market rate information was distributed to the SSD on April 2, 1990 by memorandum.

(2) the SSD share is 25%. There is no reimbursement for child day care costs in excess of the local market rate.

2. JOBS Related Supportive Services

In addition to day care, SSD must provide to JOBS participants on an "as needed" basis, the following JOBS related supportive services if and to the extent determined by the SSD to be reasonable and necessary:

- a. tuition, books and supplies, including costs for these items in connection with courses in child care for child care providers and assistants, except that tuition will not be paid for self-initiated training;
- b. lunch, at \$2.00 per day;
- c. transportation, not to exceed the rate required for public transportation or at a level not to exceed the reimbursement rate for private transportation set by the SSD;
- d. clothing necessary for participation in JOBS training activities;
- e. fees for licenses necessary to pursue training;
- f. tools and equipment necessary to participate in JOBS activities;
- g. reasonable costs of necessary repairs to a JOBS participant's automobile, and payment of automobile insurance premiums during participation in JOBS activities. Such expenditures may be authorized only when they are the least costly means of meeting the transportation needs of a JOBS participant;
- h. fees required to permit children to attend camp or other programs designed to include activities which assist the family in achieving self-sufficiency and enable the children to avoid welfare dependency in their adult years;
- i. services to meet the needs of children of JOBS participants, as identified in the employability plan, including, but not limited to: drug education, life-skills training, counseling, which is essential for moving an individual toward self-sufficiency pre-employment programs and return to school programs, and costs of medical examinations for children in day care, when such costs are not reimbursable under the medical assistance program;

- j. referrals to providers of assistance with housing, health and family problems;
- k. counseling, including life and parenting skills courses, family counseling and alcohol and drug counseling;
- l. alcohol and drug abuse supportive services identified in the employability plan as necessary to moving a JOBS participant towards self-sufficiency;
- m. day care for incapacitated adults, when the need for such care is indicated by a medical doctor;
- n. expenses related to child care such as registration, application or service fees to secure or hold a day care slot;

NOTE: Payments made as JOBS related supportive services are excluded from Food Stamp income.

3. Work-Related Supportive Services

SSDs must provide certain one-time work related expenses to recipients to enable them to obtain, accept or retain employment. Such expenses can only be based upon a determination by the SSD that the expenses are reasonable and necessary and that funds from other sources are insufficient to meet the recipient's needs. One-time work related expenses which must be provided include:

- a. non-recurring expenses related to child care such as day care registration, application or service fees;
- b. clothing necessary to obtain or retain employment;
- c. fees for licenses necessary for employment;
- d. tools and equipment necessary for employment;
- e. reasonable costs of necessary repairs to a recipient's automobile, and payment of automobile insurance premiums to enable a recipient to obtain or retain employment. Such expenditures may be authorized only when they are the least costly means of meeting the transportation needs of a recipient who is employed or has obtained an offer of employment;
- f. non-recurring transportation costs;
- g. referrals to providers of assistance with housing, health and family problems;

- h. alcohol and drug abuse services identified in the employability plan as necessary to move a JOBS participant towards self-sufficiency;
- i. day care for incapacitated adults, when the need for such care is indicated by a medical doctor;
- j. purchase of liability insurance for recipients of ADC who are family or group family child care providers.

NOTE: Work-related supportive service payments are excluded from Food Stamp Income.

4. Transitional Child Care

Transitional child care will provide working families with a child care subsidy for up to 12 months. To receive the benefits, families must complete an application, meet eligibility standards and pay a fee based upon their family income.

a. Eligibility

In order to be eligible for transitional child care, families must have:

- (1) lost eligibility for public assistance (ADC or HR) due to increased earnings, increased hours of employment or loss of earned income disregards;
- (2) received public assistance during three of the six months prior to being determined ineligible for public assistance;
- (3) income not exceeding 200% of the State eligibility income level;
- (4) a child (children)
 - (a) between 6 weeks and 13 years of age;
 - (b) up to age 19, if physically or mentally incapable of caring for themselves (as determined by a physician or a licensed or certified psychologist);
 - (c) up to age 19, if under court supervision.
- (5) need for child care in order to permit a family member to accept or retain employment.

b. Continued Eligibility

- (1) if a family returns to public assistance during the 12 month transitional child care period, they

may be eligible for another 12 months of transitional child care, if all requirements are met including the requirement that they receive ADC for 3 of the previous 6 months.

- (2) if the caretaker relative loses a job for good cause, and then finds another job, the family can qualify for the remaining portion of the 12 months of child care.

c. SSD Responsibilities

- (1) The SSD must guarantee transitional child care necessary to enable a family member to accept and maintain employment. This child care must be available to the family for a period of 12 consecutive months.
- (2) The SSD must notify families in writing of their potential eligibility for transitional child care benefits at the time they are found ineligible for public assistance. Notification must include steps the family must take to establish eligibility and their rights and responsibilities under the program. The SSD must also notify the families regarding changes that will be made in the manner or amount of payment for child care.
- (3) The SSD must process transitional child care applications within 30 days according to 18 NYCRR 404.1(d).

d. Methods of Providing Care

- (1) The SSD may choose to provide transitional child care directly or through cash advances or reimbursements to the family or provider, or through a purchase of service agreement with a provider or through vouchers.
- (2) There are a number of methods an SSD can use to identify the type of child care in order to authorize payment. Each SSD will have to determine which method or combination of methods will be most appropriate.
 - (a) In most counties, the SSD maintains a day care unit. This unit will, in all likelihood, have a roster of day care providers. Included in this roster will be locally certified family day care providers, and other child day care programs they contract with, i.e. day care centers, and

school age programs. This unit may also be familiar with regulated providers within the county who do not currently have a contract with the SSD.

- (b) The SSD may have (or wish to negotiate) an agreement with a child care resource and referral agency to assist in identifying, selecting, arranging, and/or monitoring of care. This service could also include verifying the type of provider.
- (c) The SSD will receive a directory of all regulated providers in their county. This directory identifies the name and address of the programs and identifies the type of program. If the provider is newly licensed, it may not appear in the directory. The SSD may wish to designate someone to contact the Department's regional child day care licensing office to determine that program's current status.
- (d) The parents, as part of the documentation of child care services, may be able to secure from the provider a copy of the provider's permit.

It may be helpful for the SSD to identify someone who can develop the procedures and be available to assist the workers as necessary.

- (3) Participants have the right to choose between the day care arranged by the SSD and informal day care arranged by themselves.

e. Family Responsibilities

- (1) In order to receive transitional child care, a family must apply and be determined eligible. Eligibility for child care may be retroactive to the first month the family was found ineligible for public assistance if the application is made later than that month, provided eligibility can be established.

NOTE: An application for transitional child care is taken by the services unit of the SSD.

- (2) families are required to pay a fee, based on a sliding scale. The SSD should apply the fee schedule currently in place for day care. All families must pay a minimum of \$1.00 per week per child. SSD must determine whether to collect the fee directly or to allow providers to collect fees.

f. Rates

- (1) day care will be reimbursed for the cost of care up to the local market rate as established by the Department. Local market rate information was distributed to the SSD on April 2, 1990 by memorandum.
- (2) the SSD share is 25%. There is no reimbursement for day care costs in excess of the local market rate.

NOTE: Transitional child care payments are excluded from Food Stamp income and when received, eliminate the Food Stamp dependent care deduction.

5. Extended Supportive Services

For up to 90 days after case closing, the SSD may elect to provide services to individuals who have been participants in JOBS and have lost eligibility for public assistance. To the extent that funds for the services are obligated or have been expended prior to loss of eligibility, the activity may be continued for its duration.

If the SSD elects to provide extended supportive services, the SSD must provide extended supportive services to each employed former JOBS participant except that such expenses can only be provided based upon a determination of need by the SSD and if funds from other sources are insufficient to meet the person's needs.

Extended supportive services which may be provided include all those services included as supportive services in Section V-F.2 above, as well as case management as provided in Section V-G.14 above.

G. Required SSD Employment Program Activities and Participation Requirements

1. Education

a. Educational Activities

In accordance with the JOBS assessment and the EP and as part of its local JOBS Plan, each SSD must make the following educational activities available for JOBS participants:

- (1) high school education, or education designed to prepare a participant for a high school equivalency certificate;

- (2) basic and remedial education;
- (3) education in English proficiency.
- (4) post-secondary education up to and including two year degree programs (see item e.(2) below)

b. Providers of Educational Activities

Typical providers of educational activities include but are not limited to:

- (1) public schools, including high schools and the adult education divisions of local school districts;
- (2) BOCES (Boards of Cooperative Educational Services);
- (3) other community-based literacy and remedial education programs, including Literacy Volunteers;
- (4) community colleges;
- (5) proprietary schools: When an SSD enters into an agreement with a proprietary school to provide job skills training, such training may involve preparation for a high school equivalency diploma or instruction in English proficiency. However, not more than 25 percent of the approved duration of such job skills training program may be devoted to high school equivalency or English proficiency instruction. Furthermore, instructors employed by such proprietary schools to prepare a participant for a high school equivalency certificate or for education in English proficiency must meet the education and experience requirements established by the regulations of the New York State Department of Education.

c. Priority for Referral to Educational Activities

When the SSD assigns a JOBS participant to an appropriate educational activity and such activity is available at no cost to the SSD through the public school system or the BOCES in which the participant resides or through another community agency or organization, the SSD shall refer the participant to the no cost provider.

d. Self-Initiated Education

- (1) An individual who is in a self-initiated educational activity, who would otherwise be required to participate in JOBS, should be allowed to continue his or her course of study provided that:

- (a) the school, course, or program is consistent with the individual's assessment and approved employment goal in the employability plan.
 - (b) the individual is attending in good standing; and
 - (c) the individual is attending at least half time; and
- (2) Where the assessment and employability plan indicate that the self-initiated program is appropriate, and satisfactory progress is being made, the SSD must approve those supportive services (i.e. child care, lunch and transportation) which are necessary for attendance. However, the cost of tuition, books, room and board, or other fees of the school, course or program itself shall not be paid by the SSD. The SSD must not refer a participant to another JOBS activity which would interfere with the self-initiated activity.

e. Participation Requirements for Education

In accordance with the local JOBS Plan, each SSD must assign JOBS participants who have not obtained a high school diploma or its equivalent to appropriate educational activities. This requirement applies to HR and ADC participants under age 20, including custodial parents who would be otherwise exempt from participation because of the age of the youngest child, and to those ADC recipients age 20 and over who would otherwise be required to participate, but only if child care is guaranteed and other supportive services are available. Several specific considerations apply in making assignments to educational activities:

- (1) JOBS participants under age 20 without a high school diploma or its equivalent:

The SSD may require full-time participation (as defined by the educational provider) in high school or equivalency programs by these participants. This requirement applies to individuals who would otherwise only have to participate on a part-time basis because the youngest child is under age 6.

(a) The SSD shall require any such ADC or HR JOBS participant under age 18 to attend educational activities designed to prepare the participant for a high school degree or its equivalent. The SSD may exempt these individuals from such participation if:

- (1) the decision to excuse the parent from the school attendance requirement was based on an individual assessment and did not rely solely upon grade completion; and
- (2) the parent participates in another educational activity or in job skills training appropriate to and designed for youths. If the parents participate in another educational activity, they cannot be assigned to any other JOBS activity that might interfere with the educational activity.

(b) The SSD shall assign any such ADC or HR JOBS participant who is age 18 or 19 to educational activities except when one of the following occurs:

- (i) the participant fails to make satisfactory progress in completing educational activities; or
- (ii) prior to assigning the participant to educational activities, the SSD determines, based on an assessment and the employment goal established in the participant's employability plan, that participation in educational activities is inappropriate for such individual.

Where the above exceptions apply, the SSD must assign the participant to alternative JOBS activities (subject to the 20 hour limit for custodial parents).

(2) ADC JOBS participants age 20 or over without a high school diploma or its equivalent:

The SSD shall assign educational activities which are consistent with the employment goals identified in the participant's employability plan. However, the SSD may choose not to require participation in educational activities if:

- (a) the participant demonstrates a basic literacy level, as defined by the Department; or

(b) the participant's long term employment goal as identified in the employability plan does not require a high school diploma or equivalent.

(3) ADC-U JOBS participants under age 25 in an ADC - Unemployed Parent Household:

The SSD shall encourage and may require a JOBS participant who is a parent in any family eligible for ADC-U to participate in educational activities which are consistent with the employment goals as indicated in the employability plan.

The SSD may not assign any participant to any activities which interfere with participation in assigned educational activities.

2. Post-Secondary Education

Each SSD may refer participants to post-secondary education, up to and including two year degree programs (or the part-time equivalent if full-time study would constitute an undue hardship). Participation in post-secondary education must be necessary to attaining the participant's employment goal as indicated in the employability plan and such goal must relate directly to obtaining useful employment in a recognized occupation.

A two-year degree program includes such programs in two year colleges, community colleges and in four-year colleges.

3. Job Skills Training

a. Provision of Job Skills Training

In accordance with an assessment of need and as part of its local JOBS Plan, each SSD must make available job skills training which is designed to prepare recipients of ADC and HR for occupations available within the local labor market. Job skills training includes vocational training in technical job skills and equivalent knowledge and abilities necessary for entry to specific occupations.

b. Providers of Job Skills Training

Typical providers of job skills training may include, but are not limited to:

- (1) BOCES (Boards of Cooperative Educational Services);

- (2) the local Job Training Partnership Act Agency (JTPA);
- (3) one year certificate programs in Community Colleges
- (4) proprietary schools, with the limitation that not more than twenty-five percent of the duration of such training may be devoted to high school equivalency or English proficiency instructions, and that instructors of such educational components must meet the educational and experience requirements as set by the NYS Department of Education.
- (5) Community Based organizations and non-profit agencies
- (6) the Job Service
- (7) Local School Districts

c. Self-Initiated Training

- (1) An individual who is in self-initiated training, who would otherwise be required to participate in JOBS, shall be allowed to continue the course of study provided that:
 - (a) the school, course, or program is consistent with the individual's assessment and approved employment goal in the employability plan.
 - (b) the individual is attending in good standing; and
 - (c) the individual is attending at least half time; and
- (2) Where the assessment and employability plan indicates that the self-initiated program is appropriate and satisfactory progress is being made, the SSD shall approve those supportive services (i.e. child care, lunch and transportation) which are necessary for attendance. However, the cost of tuition, books, room and board, or other fees of the school, course or program itself shall not be paid by the SSD. The SSD must not refer an individual to another JOBS activity which would interfere with the self-initiated activity.

4. Job Readiness Training

- a. The SSD must offer job readiness training designed to enhance the employability of participants by preparing them to find and retain employment. Job readiness

training is usually less than four (4) weeks and should assure that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to successfully compete in their local labor market.

b. Examples of job readiness training include, but are not limited to the following activities:

- (1) Job club is a directed, full-time workshop that teaches participants how to seek employment by themselves. Participants are given the opportunity during the workshop to contact prospective employers (usually by phone) and solicit possible job openings, thereby gaining practical experience in using the learned job seeking procedures. Job club activities shall include, but not be limited to, interviewing techniques, resume writing, identification of and contact with potential employers and participation in actual job interviews;
- (2) Employment readiness training is group classroom training designed to enhance the employability of participants through instruction in such skills as personal appearance, job application completion, job interviewing techniques, job seeking skills and job survival skills;
- (3) Life skills training is group classroom training designed to assist participants in developing personal goals, identifying barriers to employment and planning strategies to resolve these barriers; and
- (4) Specialized training which includes work sampling.

5. Job Development/Job Placement

- a. Each SSD or its designee must offer applicants/recipients of public assistance job development and job placement services.
- b. This activity entails the soliciting by phone or in person, public or private employers for unsubsidized job slots. This process will involve the promoting of participants and the securing of job interviews for direct referral to designated employers.
- c. Each SSD is responsible for initiating and pursuing these contacts with local employers in an effort to broaden the number and variety of slots available to participants in the JOBS program.

6. Job Search (ADC)

- a. Each SSD must establish a job search program for ADC JOBS participants. Job search activities must be supervised in a group or individual setting and must at a minimum include: counseling, job seeking skills, training and dissemination of employment information.
- b. A job search program may be operated by a SSD or wholly or in part through an agreement between a SSD and an employment and training agency of demonstrated effectiveness, including education agencies with demonstrated effectiveness in operating employment programs.
- c. A JOBS participant may be assigned to a job search activity for up to eight weeks beginning with the date that the participant applies for assistance. Up to three weeks of this initial job search may be required prior to the completion of a JOBS assessment, but not before the completion of a job readiness review as described below. In no instance may the initial job search interfere with or cause a delay in the processing of a participant's application for assistance.
 - (1) The job readiness review must include a review of the health of the ADC participant and any other factors deemed appropriate by the SSD (i.e. work experience, education level, skill level etc.). [DSS-4159 "HR JOB READINESS REVIEW" FORM MAY BE USED WITH THE INCLUSION OF CHILD CARE IN ITEM #8 "OTHER".]
 - (2) The SSD cannot sanction or deny assistance to a participant who refuses or who fails to comply with the three week job search activity as described above whether or not the refusal or failure to comply was willful and without good cause.
- d. Upon initial assessment, if it is determined that another JOBS program activity is more appropriate, or is required, the SSD must terminate the job search assignment.
- e. The SSD must require each participant assigned to job search activities to report to the SSD or to the public employment and training entity designated to operate the job search program no less often than once every four weeks to demonstrate that the participant is actively participating in job search.

- f. After the initial period of job search, the SSD may require ADC JOBS participants to participate in job search activities no more than eight weeks in any period of 12 consecutive months. The first period of twelve consecutive months for any participant who was assigned to initial job search, shall begin at any time following the close of the initial eight week period. Such assignment must be consistent with the participant's employability plan.
 - h. Except for the three week applicant job search period described above, job search activities may be assigned only in combination with some other educational, training or employment JOBS activity designed to improve the recipients' prospects for employment; provided, however, that under no circumstances may a recipient be required to participate in job search activities for more than four months in any consecutive 12 month period.
7. Job Search (HR)
- a. Each SSD must establish a job search program for employable, job ready HR JOBS participants who are not residing with their dependent children under the age of 18.
 - b. The HR job search program may be operated by the SSD or wholly or in part through an agreement between the SSD and a public employment and training agency, including an education agency of demonstrated effectiveness in operating employment programs.
 - c. Each SSD must require each JOBS participant who is not residing with a dependent child under the age of 18 to participate in a review of job readiness prior to assignment to Job search.
 - (1) for JOBS participants who are applicants of HR, the review must be conducted at the time of application or as soon thereafter as is possible.
 - (2) for JOBS participants who are recipients of HR, this review must take place no later than the date of recertification for home relief.
 - (3) The review must include at least an evaluation of the participant's work history, level of education, skill level and health, and must be sufficient to determine whether lack of education, lack of or limited work history, lack of skills or low skill level, poor health, lack

of adequate transportation or other conditions would preclude the participant from engaging in productive employment in, or from being competitive for, positions for which there are openings in the local economy.

NOTE: JOB READINESS REVIEWS MUST BE CONDUCTED USING THE DEPARTMENT'S "HR JOB READINESS EVALUATION" FORM (DSS-4159).

- (4) Job readiness reviews must be conducted by the SSD employment unit, by staff who conduct JOBS assessments, or staff of the employment and training or education agency which has been delegated the responsibility to conduct JOBS assessments. While outside agencies can make recommendations regarding job readiness, actual responsibility for the determination of job readiness rests with the SSD and may not be delegated to the employment and training agency.
- (a) Upon completion of the job readiness review, JOBS participants determined able to be competitive for positions for which there are job openings in the local economy must be determined to be job ready.
- (b) At the time of review, JOBS participants determined to be job ready must be informed that transportation allowances and other JOBS supportive services are available, and must be informed of the consequences of willfully refusing or failing to participate in assigned job search activities without good cause.

NOTE: The review must in no way delay the processing of a participant's application for HR.

- d. Each participant determined not to be job ready, as a result of the job readiness review, must be assigned to other available and appropriate employment related activities.
- e. JOBS participants who are determined to be job ready must be provided with an adequate notice of that determination and of the right of the participant to conciliation and a fair hearing to contest that determination and assignment to job search. The notice must be issued to an individual prior to assignment to job search.

- f. Job ready participants must be assigned to a program of job search as soon as possible after a determination of job readiness has been made.
 - (1) If an individual is currently participating in other activities, assigned by or approved by the SSD, which are designed to lead the individual to self-sufficiency, assignment to job search is not required.
 - (2) Assignment to job search must in no way delay the processing of an participants' application for HR.
- g. JOBS participants who are assigned to HR job search may be required to report to the SSD or the public employment and training agency operating the job search program no more often than once every 14 days to demonstrate that they are participating actively in the program.
- h. All JOBS participants assigned to job search must make a minimum of three employer contacts during each week they are assigned to the program.
- i. JOBS participants assigned to HR job search must participate in the program for a period of up to 60 days.

If it is determined during this period that the participant is not job ready due to an inability to compete for job openings in the local economy or for other reasons not evident at the time of the job readiness review, than participation in job search may be terminated prior to the completion of the 60 day period.

- j. At the end of the initial 60 day period of job search, the SSD must make a determination of whether or not to assign the participant to an additional 60 days of job search or to other employment programs, provided that:
 - (1) An initial JOBS assessment and employability plan must be in place prior to this determination.
 - (2) The employability plan must indicate that job search is the appropriate activity for the JOBS participant to pursue. Also, written justification for the assignment must be recorded in the employability plan or other document which becomes part of the individual's case record.

8. Work Experience (ADC)

a. The Community Work Experience Program (CWEP) shall be established in each SSD for the purpose of developing, conserving and demonstrating work skills of JOBS participants who are ADC recipients.

(1) CWEP may be operated by an SSD, or wholly or in part through an agreement with a public employment and training agency of demonstrated effectiveness in operating such employment programs.

(2) CWEP 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, in accordance with the regulations of the Department.

(3) The work experience site to which the participant is assigned 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, and child day care.

(4) CWEP work experience positions shall not be developed at religious or religiously affiliated institutions unless the conditions described in 82 ADM-68 are met.

b. An ADC JOBS participant may be assigned to participate in CWEP only if:

(1) the participant's previous training, experience and skills, to the extent possible, are taken into account;

(2) the JOBS assessment indicates that no other education or training opportunities are appropriate. If other appropriate activities are not available to the participant for assignment, the SSD may assign the participant to CWEP until these activities become available;

(3) the assignment has been made to improve the employability of the participant and is consistent with the JOBS employability plan;

(4) the number of hours that a participant may be required to work in any month does not exceed the number of hours which would result from dividing

the family's monthly grant, excluding any portion reimbursed by a child support collection (except for the \$50 pass-through), by the highest of:

- (a) the federal minimum wage; or
 - (b) the State minimum wage; or
 - (c) the prevailing rate of pay for persons employed in the same or similar occupations by the same employer at the same or equivalent site. (This rate must be obtained from the Department of Labor).
- (5) the length of any specific work experience assignment lasts no longer than six consecutive months. No participant may be assigned to CWEP for more than a total of six months during any consecutive period of eligibility for public assistance;
- (6) provisions are made to permit the participant to seek regular employment and/or to secure appropriate training or retraining opportunities which may be available;
- (7) at the conclusion of each work experience assignment, the SSD reassesses and revises, as appropriate, the participant's employability plan.
- c. An assignment of a JOBS participant to a work experience activity must not result in:
- (1) the displacement or partial displacement of any currently employed worker or loss of job or position or result in the impairment of existing agreements for services or collective bargaining agreements;
 - (2) 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 created with the JOBS participant; or
 - (3) any infringement of the promotional opportunities of any currently employed person.
- d. The SSD may not assert any lien to recover payments of public assistance if the payments were included in the

calculation of hours of participation in work experience and to the extent of the hours that the participant actually participated in work experience.

- e. The SSD or the public agency in which it has a contract must develop an agreement with the employer at each work site. Each agreement must include but is not limited to:
 - (1) a description of the work experience positions which will be provided by the site, including the nature of the work to be performed;
 - (2) guarantees that the requirements of this section are met;
 - (3) assurances that necessary supervision and any equipment or tools required by the position will be provided;
 - (4) assurances that time and attendance records will be maintained;
 - (5) procedures for notification of the SSD in the event of participant absence;
 - (6) procedures for reporting participant illness; and
 - (7) assurances that the employer will interview and consider an assigned participant for unsubsidized employment when an opening occurs in a job title that is the same or similar to that in which such participant has satisfactorily performed.

- f. All work experience activity must meet the following requirements:
 - (1) Appropriate standards of health, safety, and other work conditions will be established and maintained to insure that participants are adequately protected against hazards or activities which may adversely affect their health or safety;
 - (2) Participants will be required to perform only those physical activities which are within their physical capabilities;
 - (3) Provision must be made for the development and/or maintenance of participant work habits or the development of new work related skills or the maintenance or improvement of existing work related skills;
 - (4) The work performed must be productive;

- (5) Participants must be provided appropriate workers' compensation or equivalent protection for on-the-job injuries and tort claims protection on the same basis as they are provided to other persons in similar employment;
 - (6) There must be no discrimination on the grounds of race, color, religion, sex, sexual orientation, age, marital status, national origin, prior criminal record, mental or physical disability, or veteran status;
 - (7) No participant will be required to travel an unreasonable distance from his/her home as defined in part 385.2(b)(5) of Department Regulation or remain away from the individual's home overnight for the purpose of participating in work experience.
- g. In addition to providing other supportive services as needed the SSD must ensure that the CWEP participant has transportation to and from the assigned worksite. The district may:
- (1) arrange for transportation; or
 - (2) provide transportation; or
 - (3) provide an allowance for transportation which may not exceed the cost of any available public transportation, or the reimbursement level for mileage paid to SSD employees for private transportation.
- h. Other conditions to consider when assigning an individual to CWEP are:
- (1) A participant shall not be required to work off that portion of the household's grant which represents the allowance for expenses incident to participation in work experience.
 - (2) If two or more JOBS participants in the same household are participating in CWEP, the total number of hours these individuals collectively participate in work experience shall not exceed the amount of the grant.
 - (3) JOBS participants other than heads of households participating in CWEP shall not be required to participate more than the number of hours required to earn the portion of the grant included for their maintenance. (The participant's portion is equal to the individual's prorated share of the grant).

(4) A participant shall not be required to work:

(a) more than eight hours in a day; or

(b) more than 40 hours in one week; or

(c) more than the customary work week of the sponsor, if less than 40 hours.

(5) A JOBS participant participating in CWEP and in other JOBS activities may have those hours spent in other activities credited to their CWEP work hours requirement.

9. Work Experience (HR)

a. Each SSD will establish or may enter into an agreement with a public employment and training agency for the establishment of the Public Works Program (PWP) for employable HR recipients who are unable to secure employment in the regular economy. PWP must be operated as required by Section 385.13 of Department regulations. Recent Social Services Law amendments implementing JOBS made no changes to this program.

10. Work Supplementation for ADC recipients (ADC TEAP)

a. Each SSD must establish a program to provide on-the-job training (OJT) for JOBS participants who are ADC recipients by private employers, including non-profit agencies or institutions, which is funded in part by grant diversion.

b. This program must be conducted through written agreements with employers. ADC funds transferred to an employer participating in work supplementation will be at a level set by the Department, subject to periodic adjustment. Currently, the amount of ADC funds to be transferred has been set at a rate of up to \$250.00 per month for each trainee participating full-time in the program. Reimbursement to an employer for a partial month or for part-time employment shall be paid at the rate of \$12.00 per day.

c. The amount of ADC funds diverted to an employer must not exceed 50% of the total gross wages paid by the employer to the participant. Funds must be used to reimburse the employer for part of the costs incurred in providing the program.

- d. Participating employers must provide assurances that each work supplementation position represents a new position which did not previously exist, and that upon satisfactory completion of the work supplementation program, the participant will be retained.
 - e. The SSD will specify the period of time each participant must participate in the program. The period may be less than, but in no event exceed, nine months. Written agreements must be executed for whole months.
 - f. Each participant is entitled to earn compensation at not less than the prevailing wage for such job within the local labor market. Further the participant shall have the opportunity to earn wages or a combination of wages and public assistance equal to at least the amount the individual would have received in an ADC grant.
 - g. A JOBS participant assigned to and satisfactorily participating in a work supplementation program will be deemed to be employed and will continue to be considered an ADC recipient, regardless of the impact the earnings have on the cash grant.
 - h. Work Supplementation participants are exempt from retrospective budgeting requirements for public assistance.
11. On-the-Job Training for ADC Recipients
- a. SSDs must establish an on-the-job training (OJT) program through which an ADC recipient is employed by a private or public employer and while engaged in productive work receives training that provides knowledge or skills essential to the full and adequate performance of that job.
 - b. ADC OJT is not restricted to new positions. Rather, an established, unfilled vacancy can be subsidized under ADC OJT.
 - c. Under ADC OJT, payments to an employer must not exceed an average of 50% of the wages paid by the employer to the participant during the period of such training. Unlike work supplementation, such payments are not limited to the \$250 flat rate, and the amount paid to the employer is a JOBS program expense (Title IV-F) rather than a diversion of the ADC grant (Title IV-A).

- d. The length of the ADC OJT agreement shall not exceed 10 months; provided, however, that in instances where a participant requires more than 10 months to acquire the negotiated knowledge or skills, the length may be extended an additional two months for a total of 12 months.
- e. Wages paid to an ADC OJT participant shall be considered to be earned income and shall be treated as provided for in 18 NYCRR Part 352. Further, if wages are sufficient to meet the needs of the ADC household, the case should be closed.
- f. The SSD must enter into an agreement with the OJT employer for providing training and additional supervision to the participant.
 - (1) Separate agreements must be written for each employer.
 - (2) SSD must retain a copy of each negotiated employer agreement in accordance with procedures established by the SSD and approved by the Department.
 - (3) The agreement may not violate any union contract or agreement.
 - (4) The agreement must provide for unilateral termination by either the SSD or the employer upon written notification to the other party at least 10 days in advance of such termination date if it is considered to be in the best interest of either party.
 - (5) The length of the agreement is to be based on the length of training time for various occupations and shall not exceed 10 months, except that the length may be extended to 12 months in special instances where the skill level of the occupation justifies the additional training time. The SSD may wish to consult the local job service office or SDA training staff for advice on the usual training times for occupations in the local job market.
- g. A participant in OJT must be compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable labor laws, but in no event less than the higher of the federal minimum wage or state minimum wage for the occupation.

- h. If a participant in OJT becomes ineligible for ADC because of the rules applicable to earned income or because of the 100 hour rule in the case of a principal wage earner in an unemployed parent case (ADC-U), the participant shall:
 - (1) remain a JOBS participant for the duration of the OJT;
 - (2) not experience a net loss of cash income resulting from the OJT; provided, however, that a participant who enrolls in an OJT program where a net loss of cash income would result must be provided a supplement as described in Section V-D.7 of this release.
 - (3) be eligible for transitional child care and medical assistance coverage.
 - (4) be eligible for extended supportive services.
 - (5) be assessed for on-going food stamp eligibility.

12. Referral to Job Service

- a. As a JOBS activity, the SSD must arrange for the referral of JOB participants as appropriate to the NYS Job Service for receipt of employment services.
- b. Applicants and recipients are no longer required to register at NYS Job Service.

13. Case Management

- a. General Case Management

The SSD must offer to provide case management services for pregnant adolescents, adolescent parents, and at-risk youth under the age of eighteen as required by the Teenage Services Act or TASA, (SSL Section 409-i Section 409-n). To the extent that resources permit, case management must also be provided (in order of priority) to: persons identified in Department regulations as at-risk youths, persons in the JOBS target population as defined in statute, persons whose employability plans indicate a need for two or more concurrent JOBS activities and persons with limited English proficiency. Case management will be provided as a JOBS activity to JOBS participants and as an extended supportive service to persons meeting the requirements for such services.

b. TASA Case Management

The requirements for the provision of case management services to pregnant adolescents, adolescent parents and at-risk youth are set forth in 18 NYCRR Part 361. An SSD must offer to provide case management services for any pregnant female or any male or female adolescent custodial parent who is in receipt of public assistance and is under the age of 18 years at the time of referral to TASA, regardless of whether or not he or she is a JOBS participant.

Notwithstanding a recipient's JOBS participation, the SSD may elect to provide TASA case management services for any pregnant female or any male or female adolescent custodial parent who is in receipt of public assistance and is 18, 19 or 20 years old at the time of referral. In addition, the SSD may elect to provide TASA case management services for any male or female adolescent who is over the age of 10 but under 21 years of age, is a public assistance recipient and is deemed to be at risk of pregnancy or parenthood because the adolescent meets one or more of the following at-risk criteria:

- (1) receives public assistance in his or her own right;
- (2) is homeless or at imminent risk of becoming homeless;
- (3) has had an abortion or miscarriage;
- (4) has had a pregnancy test, even if the test outcome was negative;
- (5) is sexually active;
- (6) is the non-custodial parent of a child;
- (7) is the younger sibling of an individual who was a teenage parent;
- (8) is a rape or incest victim;
- (9) has dropped out of high school without graduating;
- (10) is having academic and/or disciplinary problems in school;
- (11) requests case management activities, or the individual's authorized representative requests such activities on behalf of the adolescent.

Participation in TASA case management services is voluntary on the part of the adolescent. An SSD may not require an adolescent to participate in TASA case management services, or impose or threaten to impose, fiscal or any other sanctions on an adolescent who refuses to participate in TASA case management services.

H. Optional SSD Employment Program Activities

1. Training and Employment Assistance Program (TEAP) for Home Relief Recipients (HR TEAP)
 - a. SSDs may, in accordance with the conditions of 18 NYCRR 385.11, establish training and employment assistance programs with private employers, including any non-profit agencies or institutions.
 - b. Such programs will be supported in part by HR funds and must be established by written agreements with participating employers. HR funds diverted to an employer participating in such a program will be attributable to the grant each JOBS participant would have received had the individual not participated in such program.
 - (1) The amount of HR funds diverted in any given month must not exceed the amount of the participant's budget deficit.
 - (2) The amount of HR funds diverted may be less than the public assistance grant whenever the full grant diversion would increase local costs or it is determined that the diversion of a lesser amount is in the best interest of the State or SSD.
 - c. The amount of HR funds diverted to a participating employer must not exceed 50 percent of the total gross wages paid by the employer to the recipient. Such funds must be used to reimburse the employer for part of the costs incurred in providing training to the recipient.
 - d. The amount of reimbursement negotiated in an agreement will remain fixed at that amount for the duration of the agreement regardless of any changes which may occur in the participant's public assistance grant.
 - e. The SSD will specify the period of time the participant must participate in such program, but participation must not exceed six months. The Department may approve an extension on a group or

individual basis for a period of up to an additional six months provided that the number of recipients who are granted an extension does not exceed 20% of the States' total annual number of participants in such program. HR TEAP extensions may be approved by Department for:

- (1) An HR recipient who is an alcoholic and who has completed or is successfully participating in an alcohol recovery program and there is medical verification that they are employable; or
 - (2) An HR recipient who is a substance abuser and who is currently drug-free or is successfully participating in a certified drug treatment program and there is medical verification that they are employable; or
 - (3) An HR recipient who is an ex-offender; or
 - (4) An HR recipient who is determined by the SSD to be physically or mentally handicapped to the point that they can not successfully compete in the job market without additional assistance;
 - (5) An HR recipient who has been receiving public assistance continuously (regardless of category) during the past three years. "Continuously" is defined as receiving HR at the time of enrollment in TEAP and receiving PA for at least 30 of the 36 months prior to enrollment;
 - (6) A member of a target group selected at the discretion of the SSD which may include but not be limited to, workers in a specific local industry, youth, displaced homemakers, dislocated workers and refugees.
- f. A JOBS participant assigned to HR TEAP is entitled to earn compensation at not less than the prevailing wage for such job within the local job market. Further, the participant must have the opportunity to earn wages or a combination of wages and PA equal to at least the amount the recipient would have received in an HR grant.
- g. A participant assigned to and satisfactorily participating in HR TEAP will be deemed to be employed and will be deemed to be an HR recipient. Any participant assigned to such program who willfully and without good cause refuses or fails to participate in the program or who voluntarily terminates his/her participation in such program will be sanctioned in accordance with Section L ADM.

- h. Volunteers who are exempt from JOBS participation may not be sanctioned for refusal or failure to comply with an HR TEAP assignment, regardless of the reasons for refusal or such failure.
 - i. Participants in HR TEAP are exempt from retrospective budgeting requirements and face to face recertification for HR is waived. They are not, however, exempt from face to face recertification for Food Stamps. The SSD must develop procedures for recertifying such cases for Food Stamps; these procedures may not jeopardize the employment status of these participants.
 - j. Recipients may be assigned to either newly created positions or established unfilled vacancies.
2. On-the-Job Training for Home Relief Recipients
- a. SSDs may establish On-the-Job Training (HR OJT) programs through which HR recipients are employed by private or public employers and while engaged in productive work receives training that provides knowledge or skills essential to the full and adequate performance of their jobs.
 - b. There are significant differences between the HR TEAP program and OJT.
 - (1) Under HR OJT, the length of the training agreement with an employer may not exceed 10 months, except the length may be extended to 12 months in special instances where the skill level of the occupation justifies the additional training time.
 - (2) The wages paid to a participant in OJT are considered earned income and must be treated as provided for in Part 352 of Department regulations. Further, if wages are sufficient to meet the needs of the household, the HR case should be closed.
 - (3) JOBS program funds, rather than grant diversion funds, are used to support the OJT program.
 - c. As with HR TEAP, the SSD must enter into an agreement with the OJT employer for providing training and additional supervision to the participant.
 - (1) Separate agreements must be written for each employer.

- (2) The SSD must retain a copy of each negotiated employer agreement in accordance with procedures established by the SSD and approved by the Department.
 - (3) The agreement may not violate any union contract or agreement.
 - (4) The agreement must provide for unilateral termination by either the SSD or the employer upon written notification to the other party at least 10 days in advance of such termination date if it is considered to be in the best interest of either party.
 - (5) As noted in subsection b.(1), duration of training under most circumstances will not exceed 10 months. The SSD may wish to consult with the local Job Service office or SDA training staff for advice on the usual training times for occupations in the local job market.
- d. Payments to the employer for OJT must not exceed an average of 50 percent of the wages paid by the employer to the participant during the period of such training.
 - e. A participant in OJT must be compensated by the employer at the same rate, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable labor laws, but in no event less than the higher of the federal minimum wage or State minimum wage for the particular occupation.
3. Job Opportunity (J/O) Program for Home Relief Recipients
- a. The Job Opportunity (J/O) Program is an optional program which provides long term HR recipients with an alternative to public assistance by allowing the SSD to provide these recipients with subsidized employment paid for through the diversion of HR funds to employers. Under J/O, the SSD may make agreements with public and not-for-profit agencies to create or identify existing job openings which will be filled by HR recipients meeting the requirements listed below. The SSD may reimburse the employer for wages paid up to the total amount of the wages or the amount of cash assistance the recipient was receiving at the time he or she enters the program.

There are a number of statutory requirements established in law which must be followed by an SSD that operates a J/O program. These requirements are identified below.

- (1) In order to be eligible for J/O, an individual must have been an employable recipient of HR for a period of 24 out of the most recent 36 months, and have engaged in job search or other employment related activities without finding employment.
- (2) An individual assigned to subsidized employment under J/O will be ineligible for HR for so long as the individual remains employable and resides in an SSD which operates the program. However, J/O participants and their dependents will be eligible for medical assistance during their participation in the program.

Upon completion of the period of J/O employment, if transition to unsubsidized employment does not occur, the participant may reapply for HR and, if otherwise eligible, receive HR benefits again.

- (3) No SSD will place 250 or more J/O participants with a particular employer at any one time, nor place an individual in a job title if the placement would result in more than 10 percent of the employer's employees in that title being participants in the J/O program.
- (4) SSDs operating J/O programs must establish procedures for resolving disputes concerning participation in the program, and the obligations and benefits associated with it.
 - (a) For employers who have entered into a collective bargaining agreement with their employees which includes a dispute resolution procedure, that procedure may be approved by the SSD as the procedure to be used to resolve disputes between J/O participants and their employers. For such a procedure to be acceptable to a social services official, it must contain at a minimum, the following elements:

provisions for providing written notification to the employee by the employer of a problem in the employee's behavior or performance requiring resolution, or prompt recording and

acknowledgment by the employer of a complaint or other problem presented by the employee concerning the terms or conditions of their employment;

a period of at least ten days during which the employee may gather relevant evidence and arrange for relevant testimony, and during which no sanctions will be imposed upon the employee by the employer; and

opportunity for the disputed issue(s) to be heard by a responsible official of employer's management. Such opportunity shall include a right to present relevant evidence and testimony. A decision by the management official shall be issued within five business days of the hearing and shall be provided in writing to the J/O employee.

- (b) For each employer not having an acceptable dispute resolution procedure under an existing collective bargaining agreement, the social services official must obtain the agreement of that employer to provide a dispute resolution procedure for J/O employees containing, at a minimum, the above provisions.
 - (c) The existence of and use of the dispute resolution procedure by a participant does not affect the participant's right to a fair hearing, or to representation by counsel or, if applicable, the participant's collective bargaining representative, at a fair hearing in disputes between the participant and the SSD.
 - (d) A public assistance recipient participating in food stamp employment and training who has requested dispute resolution will be suspended from participation in food stamp employment and training pending the resolution of the dispute.
- (5) The SSD will ensure that conditions of employment and training are appropriate and reasonable for each recipient. The SSD must take into account the interests and abilities of the participant when it assigns J/O employment. The SSD must also consider transportation needs and any other hardships the participant might encounter in accepting a particular job under J/O.

- (6) Where an employee organization represents employees who are engaged in similar work in the same or substantially equivalent job as that proposed to be subsidized under J/O, that organization must be given the opportunity to comment to the SSD commissioner on the proposed placement of the participant or the administration of the program. The commissioner or the commissioner's designee must respond to such comments within 10 days of receiving them.
- (7) SSD operating J/O must make provision for the collection of data and preparation of reports with respect to the program as required by the Department. Such data will include, but not be limited to, the date of employment, name and type (public/not-for-profit) of the employer, hourly wages, hours per month of work and expected completion date for each participant employed under J/O.
- (8) Expenditures incurred by an SSD in operating a J/O program will be reimbursed by the Department as public assistance and care and its administration. Amounts shall not exceed the maximum amount each participant would have received as a recipient of HR and as a grant for the participant's dependents while in receipt of HR, plus the amount the SSD would have received for administrative expenses for that case.
- (9) The SSD will establish a maximum duration for subsidized employment under J/O which will be either one or two years.
- (10) Each subsidized employment position under J/O must provide for a minimum of 20 hours of employment per week.
- (11) The minimum rate of pay for each participant must equal the greater of: the wage paid for comparable work done by the employer's regular employees, the federal minimum wage or the State minimum wage.
- (12) The combination of hours of work and rate of pay offered to each J/O participant must provide the participant with net earnings at least equal to the amount the individual would have been entitled to receive as a recipient of HR, or, where applicable, the amount he or she would have received for his or her household,

including the amount for dependents. The net wage equals the gross wage minus federal, State and local income taxes, federal employment taxes and union dues.

- (13) The HR funds to be transferred by the SSD to the employer for each participant must not exceed the amount the participant and his or her dependents would have been entitled to receive as recipients of HR, plus the amount the SSD would have received for administrative expenses for the case.
 - (14) The SSD must, as a condition of participation in the program, require each employer to report, at intervals not to exceed one month, on each participant's performance on the job. The employer must report on attendance, punctuality, quantity and quality of work performed and other matters the employer would consider in retaining the participant on an unsubsidized basis when the term of participation in the program expires.
 - (15) The SSD must, as a condition of participation in the program require each employer to report promptly to the SSD official any deficiency in the participant's performance or conduct on the job that would, according to the employer's rules and practices, lead to discipline or termination of the participant. The SSD must also secure the employers agreement that prior to imposing discipline or terminating the participant, that the employer will permit the participant to make use of the dispute resolution procedure described in paragraph (4) of this sub-section.
 - (16) A SSD operating a job opportunity program must negotiate agreements with employers under this program for each participant. Such agreements must include provisions relating to paragraphs (9) through (15) of this section, including procedures to be used in reporting and claiming funds.
- d. Requirements of SSD districts, participants and employers under Job Opportunity.
- (1) No employee of a J/O employer may be displaced by any participant of this program. The term "displace" including partial displacement, means

a reduction in the customary hours of work (including overtime), wages or employment benefits.

- (2) No participant will be employed under J/O:
 - (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 workforce with the intention of filling the vacancy(ies) so created by hiring a participant whose wages are subsidized under J/O; 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.
- (3) No positions will 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.
- (4) For employers subject to the Civil Service Law or Regulations or subject to rules consistent with such law:
 - (a) a participant employed by such an employer must be appointed to an appropriate classified position, which must be deemed to be in the non-competitive class of the classified service only while the J/O participant is serving the position.
 - (b) no participant will remain in a position if another employee is eligible for promotion from an eligible list to that position.
 - (c) no provision of law or regulation pertaining to the J/O program will be construed to affect, modify or otherwise abridge any provision of the Civil Service Law.
- (5) Employers are prohibited from using HR funds to encourage or discourage membership in, or participation, in the activities of any employee organization.

- (6) Employers must, at least 10 days prior to filling a position with a J/O participant, notify any employee organization that represents employees 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 they intend to make a placement under the J/O program.
- (7) A participant employed under this program will be deemed an employee for purposes of the applicable collective bargaining and labor laws. Therefore, the participant will receive the same benefits and protections as an employee who has worked a similar length of time doing similar work receives, according to the provisions of law, any applicable collective bargaining agreement or otherwise as made available to the employees of the employer.

I. Approval of Training

1. Responsibility for Approval of Training

- a. Responsibility for the approval of provider training programs rests with each SSD. This responsibility may be delegated through local agreements to employment and training agencies with demonstrated effectiveness in selecting and approving employment and training programs. However, participant grievances regarding approval of training must be handled in accordance with the provisions of section V part M of this ADM.
- b. All training approvals must be made according to SSD standards, which must be developed based upon the requirements of this section.

2. Requirements for Local Standards for Approval of Training

a. Provider Training Programs

Each SSD must develop written standards for approval of training, which must include (but are not limited to):

- (1) procedures by which a training provider submits to the appropriate social services official a training program for review and approval. Each such submission must include a written description of the requirements for maintaining satisfactory progress in the training program;
- (2) provisions for applying the requirements of paragraph 3b of this section, to determine whether a training course or activity is to be approved in the SSD;
- (3) procedures for notifying the training provider, a recipient or other interested person(s) whether a program submitted for review by a training provider has been approved or disapproved;
- (4) procedures by which a training provider or participant may be informed of the reasons why the SSD has made a decision to disapprove a certain training program.

The following criteria must be incorporated into the approval standards of each SSD. The training should:

- (1) by itself be sufficient to greatly enhance participant's opportunity to secure unsubsidized employment; or
- (2) when coupled with or given in conjunction with other training, represent part of a comprehensive approach to securing unsubsidized employment.

b. Enrollment of Participants in Approved Training

Each SSD must develop written enrollment standards, which must include, (but are not limited to):

- (1) procedures, consistent with the requirements of Part V, of this administrative directive for enrolling participants in training;
- (2) procedures for notifying participants of approval/disapproval of enrollment in training, including provisions for review in instances of disapproval and for issuance of the notice required by Section V-J.
- (3) procedures for notifying participants of supportive services available as described in Section V-F for persons in approved training;
- (4) local administrative forms, referral procedures, attendance schedules, and a process for tracking satisfactory progress according to the requirements of Section D;
- (5) procedures for establishing the need of a participant for supportive services.

3. Application of Local Standards for Approval of Training

- a. Each SSD must evaluate each training program submitted for review by a training provider and determine whether the program meets the requirements of the local standards for approval of training. The SSD must approve or disapprove such training program accordingly.
- b. Each SSD must maintain a list of those training programs which it has approved or disapproved.
 - (1) Reasons for training program approval and disapproval must be documented and such documentation must be maintained with the program lists.

- (2) Lists of approved and disapproved programs along with the appropriate documentation must be made available for the Department's review upon request by the commissioner or the commissioner's designee.

4. Employment - Related Rehabilitation

- a. SSD may refer participants determined to be in need of employment related rehabilitation to the Office of Vocational and Educational Services for Individuals with Disabilities (VESID) or other appropriate agency for possible enrollment in a rehabilitation program that may include training as described in paragraph (c) of this subdivision.
- b. No training program, course or activity or combination of training programs, courses, or activities, excluding pre-training and post-training activities such as counseling, may be approved for more than a two year period unless a written justification of need is received by the SSD from VESID or other rehabilitation approved by the SSD.
- c. Employment-related rehabilitation includes, but is not limited to, vocational training, employment related training and high school/GED training when provided by or through a recognized rehabilitation agency such as the VESID. The provision of ancillary services such as counseling, employability plan development, medical services, and evaluation is considered part of employment-related rehabilitation.

5. Satisfactory Progress

Each SSD must periodically review whether a JOBS participant who is enrolled in educational, job skills, post-secondary or on-the-job training is demonstrating satisfactory progress.

The SSD must ensure that each education/training provider has a written policy which describes the minimum standard of progress a trainee or student must achieve to demonstrate satisfactory progress. Such standard should include both a qualitative measure of progress, such as a numerical grade average, a letter grade, job competencies, or cumulative grade point average, and a quantitative measure of progress, such as the established amount of time it should take the student to complete the training. The qualitative and quantitative measures which might be used by providers to determine satisfactory progress will vary with the type of training in which the trainee is

enrolled. Typical measures which might be used by providers to develop standards of satisfactory progress are detailed in 90 LCM-109. In the case of a education institution, the standard must be approved by the Education Department and in the case of a training provider, the standard must be approved by this Department.

a. Local District Action

The SSD must request a statement from the educational/training provider on a periodic basis to document whether a JOBS participant is demonstrating satisfactory progress, based on the provider's standard of progress. The interval at which this information will be required may vary with the type and length of the training program, but should be based on the following schedule:

<u>Program</u>	<u>*Satisfactory Progress Review</u>
HIGH SCHOOL	Quarterly
ABE/GED PREPARATION/ESL	Quarterly
POST SECONDARY	Quarterly or trimester basis
OCCUPATIONAL CLASSROOM TRAINING	
o 1-6 months duration	At the midpoint
o More than 6 mos. duration	At least two progress reports should be received prior to completion of the training. The interval may be developed locally but in no case should the first report be received later than the initial four months of training.
OJT	
o 6 months or less	At the midpoint
o More than 6 months	At least two Progress Reports should be received prior to completion of the training. The interval may be developed locally but in no case should the first report be received later than the initial four months of training.

*For a JOBS participant enrolled in self-initiated training, the SSD must seek information on the participant's progress from the provider at the time of and as part of the district's efforts to determine approval/disapproval of the training. After this initial progress review, subsequent reviews should be made as close to the above prescribed schedule as possible.

b. Probationary Period

The provider's policy may allow a student or trainee who would otherwise be regarded as failing to make satisfactory progress to be reported to the SSD as making satisfactory progress during a probationary period. In such cases, the provider should designate a period of time which has been agreed to by the SSD, during which the trainee can improve performance sufficiently to be considered satisfactory at the next reporting interval. However, if the trainee/student fails to meet the regular standards of satisfactory progress following the probationary period, the provider should then report the student/trainee as demonstrating unsatisfactory progress in the training program.

c. Failing to Make Satisfactory Progress

The SSD must re-evaluate a participant's suitability for a particular training activity if the person fails to make satisfactory progress in the educational or training component. This would take the form of a reassessment of the individual's capabilities to complete the training. Based on this reassessment, the SSD may no longer approve the training and may assign the participant to a more appropriate JOBS component. Upstate districts will have a specific Employment Subsystem Status Code (40) to terminate individuals for failure to make satisfactory progress.

d. Progress Report

A sample progress report form is available as an attachment to 90 LCM-109, and may be used by SSD to solicit the required information from education/training providers. This is only a recommended form and SSD may use a locally developed form which solicits the necessary information.

J. Conciliation

1. Establishment of a Conciliation Procedure

- a. Each SSD must establish a conciliation procedure to assist in resolving participant grievances and instances of noncompliance related to JOBS Program requirements. A description of the procedure must be included in the local JOBS plan except for those plans submitted to SDSS for review prior to October 1, 1990.

- b. The SSD must contract with an independent entity or employ trained SSD staff at the supervisory level who have no direct responsibility for the participant's case to act as mediators in the conciliation process. If neither an independent entity nor trained supervisory staff are available, then the SSD may designate other supervisory staff to act as mediators. The use of "other supervisory staff" must be justified in the local JOBS plan.
- c. The conciliation procedure must provide for at least one conference between the participant, appropriate SSD staff, and the mediator. The procedure may last no longer than 30 days unless an extension is agreed to by both the SSD and the participant.

2. Conciliation Procedure

- a. JOBS participants must be afforded the opportunity for conciliation to dispute a JOBS assignment or other actions taken by the SSD in accordance with JOBS Program requirements.
- b. If the participant's dispute is resolved to the satisfaction of the participant and SSD through the conciliation process, the mediator must convey the resolution to appropriate SSD staff and the participant. The resolution shall be binding on the SSD and the participant.
- c. If the dispute is not resolved to the satisfaction of the participant and the SSD through the conciliation process, then the participant must be notified in writing of the right to a fair hearing. The Department will issue a notice for use in these instances.
- d. A request for a fair hearing does not relieve the participant from the responsibility of complying with assigned JOBS Program requirements.

3. Conciliation for mandatory participants who refuse or fail to comply with the requirements of the JOBS Program.

- a. The SSD must issue "Conciliation Notification" (DSS-4230) (Attachment 4) to each participant who refuses or fails to comply with JOBS Program requirements, which advises the participant of the refusal or failure to comply and indicates that the participant has 14 days to request conciliation with the SSD. Attachment 4 must be used unless a local equivalent is approved by the Department in accordance with 89 ADM-21 and 89 INF-53. Only changes in notice format will be considered.

- b. If the participant requests conciliation within 14 days then the conciliation procedure as described in Section 2. above must begin promptly. It will be the participant's responsibility to offer reasons for the refusal or failure to comply with JOBS Program requirements as described in the conciliation notice.
- c. If the SSD and the participant cannot resolve the issues related to the participant's refusal or failure to comply, and if the SSD determines that the refusal or failure to comply was willful and without good cause, then the SSD must issue an adequate notice of intent to deny (DSS-4013) or an adequate and timely notice of intent to reduce or discontinue assistance (DSS-4004) as described in Section K of this Administrative Directive.
- d. If the participant does not respond to the 14 day conciliation notice issued by the SSD and the SSD determines that the participant willfully and without good cause failed to comply with JOBS Program requirements, then the SSD must issue the participant an adequate notice to deny assistance or an adequate and timely notice to reduce or discontinue assistance as appropriate.
- e. No sanction related to the participant's noncompliance can be imposed during the conciliation period.
- f. The requirements of this section apply to food stamps benefits in cases where the participant is concurrently enrolled in a JOBS/FSET activity or where the JOBS activity is considered comparable to a food stamp activity.

K. Failure to Comply with JOBS Program Requirements

- 1. A JOBS participant who is determined to have refused or willfully failed, without good cause to comply with JOBS Program requirements in accordance with the requirements of Section J of this Administrative Directive must be issued either DSS-4013 or DSS-4004 as appropriate.
- 2. The notices must inform the participant that the participant has willfully and without good cause failed to comply with JOBS requirements. In addition, the notices must indicate:
 - a. the specific instance(s) of refusal or willful failure to comply with JOBS requirements and of the specific section(s) of Department Regulations in which the requirement(s) is contained;

- b. the length of the sanction period (see Section L) and that the participant has the right to apply for public assistance at any time, and for recipients, the date by which the recipient must reapply in order to ensure restoration of benefits immediately following the sanction period if the recipient is otherwise eligible for assistance; and
- c. that the participant has the right to a fair hearing in accordance with the provisions of 18 NYCRR Part 358.

Both the DSS-4013 and the DSS-4004 forms have the necessary fair hearing language incorporated. The DSS-4004 incorporates the necessary language required in subsection is above b. above with some worker fill-in required. The DSS-4013 does not incorporate the appropriate language, which must be filled in by the SSD.

3. Refusal of Employment

- (1) In determining whether a JOBS participant's refusal to accept an offer of employment constitutes failure to comply without good cause, the social services district will 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.
- (2) A JOBS participant is deemed not to have willfully failed to comply, without good cause, with JOBS program requirements or refused to accept 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) a caretaker relative is personally providing care for a child under six and the employment would require such individual to work more than 20 hours a week;
 - (d) child care necessary for an individual to participate is not guaranteed;

- (e) the child care is not available during the hours required by such individual participation;
- (f) the child care does not meet any special needs of the child as may have been identified in the assessment;
- (g) a strike, lockout or other public or private industrial controversy was in progress at the place in which employment was offered;
- (h) 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;
- (i) the place of employment was an unreasonable distance from the applicant's or recipient's home;
- (j) transportation by public carrier or by private means between the applicant's or recipient's home and the place of employment was unavailable;
- (k) child care plans were temporarily disrupted, making it impossible for the applicant or recipient to report as required;
- (l) temporary and verified illness incapacitated the applicant or recipient;
- (m) accepting a job would result in a net loss of cash income for the assistance unit and the SSD does not make a supplemental payment to prevent a net loss of cash income; or
- (n) such referral or failure is caused by circumstances beyond a participant's control.

4. Volunteers

A volunteer who is exempt from JOBS participation requirements and who is placed in employment as part of JOBS, and while still exempt from JOBS participation, terminates that employment or reduces his or her earnings, is not subject to the sanctions of Section L of this Administrative Directive.

L. Sanctions for Willful Failure to Comply Without Good Cause

1. Employable ADC or HR recipients who have been determined to have willfully failed, without good cause to comply with

JOB requirements will be ineligible for assistance or shall remain at a reduced level of assistance as described below:

a. For recipients of ADC:

- (1) for the first instance of willful noncompliance without good cause within any period commencing on or after October 1, 1990, a period beginning with the effective date of the discontinuance or reduction of public assistance and until the recipient's willing to comply with assigned JOBS activities;
- (2) for the second instance of willful noncompliance without good cause within a three year period beginning with the effective date of the discontinuance or reduction of assistance in the first instance of willful noncompliance without good cause as described in (1) above, a period of three months and thereafter until the recipient is willing to comply with assigned JOBS activities;
- (3) for the third instance of willful noncompliance without good cause within a three year period beginning with the effective date of the discontinuance or reduction of assistance in the second instance of willful noncompliance without good cause as described in (2) above, a period of six months and thereafter until willing to comply with assigned JOBS activities;
- (4) for all subsequent instances of willful noncompliance without good cause within a three year period beginning with the effective date of the discontinuance or reduction in assistance in the last instance of willful noncompliance without good cause, a period of six months and thereafter until willing to comply with assigned JOBS activities.

b. for recipients of HR other than those being sanctioned for willful failure without good cause to comply with HR Job Search requirements:

- (1) for the first instance of willful noncompliance without good cause, a period of 30 days and until willing to comply with assigned JOBS activities.
- (2) for the second instance of willful noncompliance without good cause within a three year period beginning with the effective date of the

discontinuance or reduction in assistance arising from first instance of willful noncompliance without good cause as described in (1) above, a period of 60 days and thereafter until willing to comply with assigned the JOBS activities.

(3) for the third instance of willful noncompliance without good cause within a three year period beginning with the effective date of discontinuance or reduction in assistance arising from the second instance of willful noncompliance as described in (2) above, a period of 90 days and thereafter until willing to comply with assigned JOBS activities.

(4) for all subsequent instances of willful noncompliance without good cause within a three year period beginning with the effective date of the discontinuance or reduction in assistance for the last instance of willful noncompliance without good cause, a period of 90 days and thereafter until willing to comply with assigned JOBS activities.

c. Home Relief recipients who have willfully failed to comply without good cause with the requirements of the Home Relief Job Search Program shall be sanctioned as follows:

(1) For the first instance of willful noncompliance without good cause, a period of 45 days beginning with the effective date of the discontinuance or reduction in assistance and thereafter until willing to comply with such requirements;

(2) For the second instance of willful failure to comply without good cause within a three year period beginning with the effective date of discontinuance or reduction in assistance for the first instance of willful noncompliance without good cause described above, a period of 120 days and thereafter until willing to comply with such requirements;

(3) For the third instance of willful noncompliance without good cause within a three year period beginning with the effective date of discontinuance or reduction in assistance for the second instance of willful noncompliance without good cause described above, a period of 180 days and thereafter until willing to comply with such requirements;

- (4) For all subsequent instances of failure to comply without good cause within a three year period beginning with the effective date of discontinuance or reduction in assistance for the last instance of willful failure to comply without good cause with such requirements, a period of 180 days and thereafter until willing to comply with such requirements.
 - d. The SSD shall provide a written reminder to each individual who was in receipt of ADC prior to discontinuance or reduction as a result of non-compliance with JOBS activities and whose failure to comply has continued for three months or longer, of the option to end a sanction after the end of the minimum sanction period by indicating to the SSD a willingness to comply with JOBS program requirements. The same requirement applies to individuals who were in receipt of HR except that the notice must be sent at the end of the fixed sanction period, regardless of its length. The commissioner shall establish through policy directives the language required in this written reminder.
 - e. For a household containing an individual who is subject to JOBS and FS E&T requirements and who fails without good cause to comply with a JOBS requirement, the SSD must determine whether the requirement is comparable to their FS E&T requirements. If so, the individual is subject to a 60 day sanction for Food Stamps, unless the individual is a head of household in which case the entire household shall be sanctioned for 60 days. (See FSSB Section IX-I regarding procedures for non compliance, determining good cause, notification requirements and ending sanctions).
2. Voluntary Termination of Employment or Voluntary Reduction in Earning Capacity
- a. This applies to all applicants for HR, ADC and VA, all recipients of HR and VA, and to all recipients of ADC who are not required to participate in the JOBS program. ADC recipients who have been deemed exempt from JOBS participation solely because they were employed full time shall be considered to be individuals required to participate in the JOBS program and are subject to the provisions of 2.b. of this section.
 - (1) An individual will be disqualified from receiving assistance for a period of 75 days, if the individual voluntarily terminates employment or

has voluntarily reduced the individual's earning capacity for the purpose of qualifying for initial or increased public assistance.

- (2) Public assistance will not be denied to an applicant of ADC, HR or VA, or discontinued in the instance of a recipient of such public assistance who requests an increase in benefits, unless the applicant/recipient has been provided a reasonable opportunity to explain why the applicant/recipient terminated employment or reduced earning capacity or otherwise demonstrated that the applicant/recipient did not terminate employment or reduce earning capacity for the purpose of qualifying for initial or increased public assistance.
- (3) It is the responsibility of the applicant or recipient to provide reasons or otherwise demonstrate that termination of employment or reduction in earnings was not for the purpose of qualifying for initial or increased public assistance.
- (4) Upon determining that the applicant or recipient voluntarily terminated employment or voluntarily reduced earning capacity, the SSD must inform the individual that:
 - (a) the applicant/recipient will be provided a reasonable opportunity to explain the 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
 - (b) it is the applicant/recipient's responsibility to provide reasons or otherwise demonstrate that such action was not accomplished for the purpose of qualifying for initial or increased public assistance.
- (5) If the applicant or recipient provides reasons or other relevant information regarding voluntary termination of employment or reduced earning capacity, the SSD will determine if the information is sufficient to conclude that the applicant/recipient did not terminate employment or reduce earning capacity to qualify for initial or increase assistance.
 - (a) If the information is determined to be sufficient, the applicant/recipient will

receive or continue to receive public assistance if all other eligibility conditions are met;

- (b) If the information is determined not to be sufficient, the applicant/recipient will receive a timely and adequate notice of denial or intent to reduce or discontinue the public assistance benefits.
- (6) If the applicant/recipient provides no reasons for voluntary termination of employment or reduction in earning capacity, then the social services official must conclude that such action was accomplished with the intent to qualify for initial or increased public assistance.
- (7) An applicant/recipient who has been determined by the social services official to have voluntarily terminated employment or reduced earning capacity for the purpose of qualifying for public assistance or increasing public assistance benefits will be disqualified from receiving assistance as follows:
 - (a) as an applicant, for 75 days from the date of voluntary termination or reduced earning capacity;
 - (b) as a recipient, 75 days from the effective date of a timely notice of intent to reduce or discontinue assistance.
- (8) A voluntary participant in the JOBS program who is placed in employment pursuant to the JOBS Program and, while still exempt from mandatory participation, terminates that employment or reduces earnings, is not subject to the sanctions of this section.
- b. A public assistance recipient who is required to participate in the JOBS Program and who terminates employment or reduces earning capacity will be considered to have failed to comply with JOBS requirements and be subject to the conditions described in this Section.
- c. For Food Stamps purposes, if the household primary wage earner voluntarily quits employment without good cause the entire household shall be disqualified for 90 days. There is no Food Stamp sanction for reducing ones hours of employment. (See FSSB Section IX-F regarding procedures on determining who is the primary wage earner, good cause, notification requirements and ending a disqualification).

M. Interagency Cooperation

1. Cooperation/Coordination With Community Agencies

The SSD must cooperate with a wide variety of community agencies in developing its local JOBS Plan and in the subsequent provision of JOBS activities and supportive services. Increased exchange of participant and program information is an important ingredient of the enhanced interagency cooperation required under JOBS.

SSD are required to cooperate/coordinate with the following agencies:

- a. public and private education institutions, especially those that are ACCESS (Adult Centers for Comprehensive Education and Support Services) or CASSET (Counseling, Assessment and Support Services for Education and Training) sites - for the availability of basic education, high school or equivalency, English as a Second Language, job skills training and other programs;
- b. Service Delivery Area (SDA) employment and training agencies - for the training and related activities and services they may provide;
- c. Private Industry Councils (PICS) - to identify job market trends and to provide information on the district's JOBS arrangements and contracts;
- d. job service community service centers - for the availability of job placement services, labor market information or other JOBS related services, e.g. assessment or on-the-job training (OJT);
- e. libraries for the availability of adult and family literacy programs, as community information centers, and as providers of other related services;
- f. public housing agencies - for cooperation in providing transitional and low income housing assistance to JOBS participants and those newly employed, and as information sources regarding various subsidized housing programs;
- g. labor unions - for cooperation in accessing apprenticeship programs, as advocates for workplace literacy programs, and for information regarding labor market training needs;

- h. child day care providers and resource/referral agencies - for availability of child day care and plans for future increases in availability of child day care.

2. Coordination Agreements

- a. Each SSD is required to develop written coordination agreements with the local SDA employment and training agency and with the local education agencies, particularly those which operate the Welfare Education Program (WEP) and Vocational Education Act (VEA) Programs. Each agreement should include the following information:

- (1) service levels;
- (2) description of JOBS activities to be provided;
- (3) client referral arrangements;
- (4) client tracking and data exchange provisions;
- (5) eligibility criteria;
- (6) policy describing satisfactory progress;
- (7) coordination of supportive services;
- (8) contact person.

- b. The intent of interagency coordination agreements is to promote the maximum use of existing resources and to prevent the duplication of services. They must include assurances that both agencies agree to work cooperatively to achieve these goals.

3. Cooperation With the Private Industry Council (PIC)

SSD must cooperate with the local PIC concerning:

- a. the development of arrangements/contracts under JOBS including making the local PIC aware of agreements and contracts for JOBS services the SSD already has concluded;
- b. the identification of, and advice regarding, the types of jobs which are available or are likely to become available in the area.

Each SSD must ensure that the local JOBS Program provide training for the types of jobs that are available or are likely to become available in an area and that resources not be expended on training for jobs that are not likely to be available.

N. Food Stamp Employment & Training

The legislative and regulatory changes required by implementation of the JOBS program, has resulted in clarifications and changes in the FSET program, as outlined below.

1. Work Registration

ADC recipients deemed non-exempt for JOBS participation (i.e., mandatory JOBS participants) are exempt from food stamp work registration. These persons need not be actively involved in a JOBS component, but are subject to the JOBS Program by virtue of being non-exempt.

ADC recipients deemed exempt from JOBS participation, must have their status checked for food stamp exemption criteria. Those not exempt from food stamp criteria, must be work registered by using the DSS-1951 (NPA Food Stamp Employment Registration)

2. Food Stamp E&T Activities

The activities authorized and requirements of the FS/E&T programs have not changed. The names of some of the activities have changed to correspond to the JOBS activities.

Food Stamp Implementation Job Search is now Job Search
Food Stamp Employment Related Training is now Job Readiness Training
Food Stamp Vocational Training is now Job Skills Training
Food Stamp Education Training is now just Education

These changes have been reflected in the FSET planning section of the SSD Jobs Plan.

Whenever applicable, SSD should enroll HR individuals into their food stamp activities in order to satisfy FS/E&T performance factors.

3. Failure to Comply

There is no change in this policy, in that an individual subject to the JOBS program by being non-exempt, who fails to comply, would be subject to Food Stamp sanctions as well, as long as these activities are comparable.

An individual who fails to comply with a mandatory JOBS activity (that is non-comparable) forfeits the FS exempt status, and must be required to FS work register unless otherwise exempt.

The JOBS conciliation procedure meets the food stamp requirement for determining good cause.

0. Local Employment Plan Requirements

1. Each SSD must submit to the commissioner for approval an annual plan for the provision of education, training and

supportive services related to the operation of the JOBS program for applicants and recipients of ADC, HR and VA.

2. The commissioner will establish:
 - a. a planning cycle by designating a beginning and ending date for each plan year;
 - b. a date by which SSD plans must be submitted to the department for each planning cycle, but in no case shall this date be less than 15 days prior to the beginning of the plan year;
 - c. the plan format, guidelines and approval process for each plan year will be transmitted to SSD not less than 45 days prior to the date that the required plan is to be submitted to the department;
3. The local JOBS plan must be developed in cooperation and coordination with:
 - a. public and private education institutions;
 - b. child day care providers;
 - c. child day care resource and referral agencies if available in the district;
 - d. labor unions;
 - e. libraries;
 - f. employment and training agencies and organizations;
 - g. private industry councils.
4. All plans required after the initial JOBS plan due in September 1, 1990 must be made available to the public for review and comment for a period of 30 days prior to submission to the commissioner.
5. Each local JOBS plan must include at least the following items:
 - a. estimates of the number of participants to be served, including the number of individuals in each prescribed target population;
 - b. a description of the availability of child day care by type, including:
 - (1) whether care is half day or full day;
 - (2) estimates of the projected need for additional child day care;

- (3) the steps the SSD will take to meet the need for additional child day care;
 - (4) a description of the child day care services to be provided;
 - (5) the information the SSD will provide participants regarding child day care options and the selection of these options;
 - (6) how the SSD will assist participants in locating and selecting appropriate child day care when such assistance is requested.
- c. a description of available supportive services;
 - d. a description of the available JOBS activities and the estimated number to be served in each activity;
 - e. a description of the SSD' plan to meet the participation requirements including voluntary participation;
 - f. a description of the methodology used to recruit volunteers;
 - g. a description of the coordination and cooperation between SSD and other service providers;
 - h. a statement of the education and training providers, such as job training partnership act agencies, education agencies and other public agencies or private organizations with which the SSD expects to enter into agreements or contracts;
 - i. a description of the orientation to be provided to participants;
 - j. a description of the assessment tools chosen, the employee qualifications and the SSD administrative unit or contracting entity that will be responsible for employment assessments and the development of the employability plans;
 - k. a description of the dispute resolution and conciliation procedures
 - l. a description of the mandatory activities to be provided by the district including:
 - (1) education activities;
 - (2) job skills training, including vocational training;

- (3) job readiness activities;
 - (4) job development and placement;
 - (5) job search activities for HR recipients;
 - (6) job search activities for ADC recipients;
 - (7) on-the-job training for ADC recipients including the amount of allocations to be set aside for operating purposes;
 - (8) work supplementation for ADC recipients;
 - (9) work experience programs for ADC and HR
 - (10) methods for referring participants to the local employment office of the state department of labor for receipt of job services.
- m. a description of the optional activities to be provided by the SSD including:
- (1) on-the-job training for HR recipients;
 - (2) Training and Employment Assistance Program for HR recipients;
 - (3) Job Opportunity Program for HR recipients.
- n. a budget prepared pursuant to department requirements as determined by the commissioner; and
- o. any additional information as the department may require.

P. Local Reporting Requirements

The Comprehensive Employment Report will continue under JOBS. Special program reports, e.g., HR Mandated Job Search, Extended FSET will also continue to be required. Revised reporting instructions will be sent under separate cover.

Q. Federal Reimbursement

Federal reimbursement for JOBS program expenditures will be available at either a 60% or 50% rate depending on the type of expenditure.

60% Reimbursement - Expenditures reimbursed at the 60% rate would include the personnel costs (salaries and benefits) of all full-time staff (not full-time equivalents) working exclusively on JOBS program functions, including administrative functions.

Personnel costs of individuals working less than full time may also be matched at the higher rate if they are performing direct JOBS activities such as orientation, assessment, development of the employability plan, case management and tutoring. Also included in the 60% category are all expenditures made for non-personnel items such as space, utilities, telephone equipment, materials and supplies, directly associated with the performance of JOBS activities.

50% Reimbursement - Expenditures reimbursed at the 50% rate consist of indirect charges, costs related to the general administration and management of JOBS not conducted on a full time basis ,e.g., for personnel cost of payroll personnel and other general administrative functions. Child care, training related expenses and supportive services expenditures are eligible for a 50% reimbursement rate.

Additional information concerning the claiming of JOBS expenditures will be available with additional department transmittals.

VI. MEDICAL ASSISTANCE IMPLICATIONS

In general, MA policy has not changed regarding PA sanctions for work related requirements. When an ADC U or HR case is sanctioned for failure to comply with JOBS or any work requirements, the adults are also sanctioned for MA. The ADC U and HR recipients' children will not be sanctioned, nor will any ADC recipient.

There are numerous changes to the Medicaid program as a result of enactment of the Family Support Act (PL 100-485) and Chapter 453 of the Laws of 1990. The changes will be discussed and instructions for implementation given in a separate Administrative Directive.

VII. SYSTEM IMPLICATIONS

A. WMS Statewide

Employability Codes

Attachment II is a list of the new and revised WMS Employability Codes which were developed to support the JOBS program. Only one set of Employability Codes will be used for both ADC and HR Case Types. These codes have been supported on the WMS production system upstate since August 13, 1990; downstate they have been active since September 24, 1990.

B. WMS Upstate

1. Employment Subsystem

Attachment III is a list of the Employment Status Codes with the new codes designated as such.

- a. Four of the new Employment Status Codes have been developed for use as target group identifiers:

- 51 - Youngest Child Aging Out of ADC

- 52 - Under 24 and No High School Diploma or No Recent Work Experience

- 53 - Long Term Recipient

- 54 - Non Target Group Member

Each time Employment Subsystem Screen WEMUP1 is accessed at Case Types 11-ADC or 12-ADC-U the system will search for one of these Status Codes. If there is no code present, the following system generated message will appear: "Activity Line Containing Target Group Data Required".

This message will continue to be generated until one of the target group Employment Status Codes is entered.

- b. Four of the new Employment Status Codes are being added to identify Child Care Status:

- 01 - Referred for Child Care

- 47 - In Receipt of Child Care

- 48 - Child Care Unavailable

- 49 - Child Care Not Required

- c. Attachment C is a list of the revised Employment Subsystem Activity Codes, with the new and redefined codes designated as such.

- d. In order to distinguish between Self-Initiated Training (SIT) and that which is due to program enrollments, the following edits have been devised.

- (1) If an Employment Status Code of 04 - Enrolled, 05 - Extended Enrollment or 06 - Reenrolled is entered with an Activity Code of 08 - Job Skills, 23 - Job Skills Training (FS) or 31 - Post Secondary Training, then the Employment Source Code must be either 2 - Self, in which case it would indicate Self-Initiated Training or 3 - DSS Staff, which would indicate program enrollments.

e. Employment Subsystem Update Screen 2 (Site Information)

JOBS performance standards require that ADC recipients participate an average of 20 hours a week in employment activities. The Employment Subsystem's Update Screen 2, Site Information is being modified to accommodate this requirement. Date Entry on Update Screen 2 will be required for all employment activities except:

- 01 Individual Assessment
- 02 Employability Plan
- 30 Opportunity Contract
- 32 Job Placement/Job Development

The hours per month on Screen 2 will be changed to hours per week and will be required data entry for all Required Update Screen 2 Activities.

2. Training Related Expenses (see V F-2 & 3)

a. Four new WMS Payment Type Codes have been developed to support the JOBS Program. TRE's are to be authorized only by specific Payment Type Codes on the DSS-3209. A separate payment line must be entered for each TRE authorized. The new Payment Type Codes are:

- R7 - Lunch/Transportation
- R9 - Employment and Training Essential Need
- T1 - On the Job Training Grant
- T2 - Extended Supportive Services

The following Payment Type Codes have been deleted and are no longer valid:

- 27 - Occupational Training
- 80 - Work Experience Reimbursement
- 92 - Clothing Allowance for Recipients Enrolled Full-Time in an Occupational Training Program

3. Child Care (see V F-1)

Several new Payment Type Codes have been added to support the JOBS program child care requirements, and a new Special Claiming Code has also been added. Child Care due to participation in JOBS activities will be authorized using the DSS-3209. The new Payment Types specific to child care are:

- 30 Day Care In-Home Non-Relative (Full Time)
- 31 Day Care In-Home Non-Relative (Part Time)
- 32 Day Care Family Home (Full Time)
- 33 Day Care Family Home (Part Time)

- 34 Day Care Group Family (Full Time)
- 36 Day Care Group Family (Part Time)
- 37 Day Care Center (Full Time)
- 38 Day Care Center (Part Time)
- R0 Day Care In-Home Relative - Full Time
- R1 Day Care In-Home Relative - Part Time
- R2 Informal Child Care - Relative - Full Time
- R3 Informal Child Care - Relative - Part Time
- R4 Informal Child Care - Non-Relative - Full Time
- R5 Informal Child Care - Non-Relative - Part Time
- R6 School Age Child Care Program

The following Payment Type Codes have been deleted:

- 39 Voucher Payment Child Care
- A8 Child Care for parent over 21 in order to complete requirements for high school diploma
- A9 Child Care for parent to participate in approved employment related training program

A new Special Claiming Code has been developed for supplemental child care:

B Day Care Supplemental

4. Transitional Benefits

New Codes were added to WMS in April '90 to support Transitional MA and Transitional Child Care. The following were sent to districts at that time:

- 90 LCM - 47 Transitional MA 4/6/90
- 90 LCM - 45 Transitional Child Care 3/30/90

The following three PA closing Reason Codes were added to support Transitional MA and Transitional Child Care Welfare Reform issues in June '90.

- 138 - End of 30 1/3 or 30 Dollar Disregard
- 139 - Increased Hours (ADC-U Only)
- 176 - Client's Request - Earned Income

A Letter was sent to the districts on May 21, 1990 regarding the above new codes.

5. Supplemental Child Care

Employed ADC or HR recipients who receive reimbursement for child care as an earned income disregard are entitled to an

additional child care payment up to an SSD market rate, if the type of care is legal child care and the actual cost of care exceeds the maximum disregard amounts of \$200 for children under 2 years of age and \$175 for children over 2. As soon as this capability can be developed ABEL will calculate supplemental child care payments for both NYC and upstate districts.

Specifications are currently being developed to allow ABEL to generate supplemental child care allowances up to the market rate for that type of legal child care when actual child care costs are greater than the allowable child care earned income deduction. A new field, Child Care Type Indicator, has been added to the PA Input Screen for workers to indicate the type of child care for each of six occurrences of child care amount. The available codes are as follows:

<u>CODE</u>	<u>DEFINITION</u>
A	DAYCARE IN-HOME NON-RELATIVE (FULL TIME)
B	DAYCARE IN HOME NON-RELATIVE (PART TIME)
C	DAYCARE FAMILY HOME (FULL TIME)
D	DAYCARE FAMILY HOME (PART TIME)
E	DAYCARE GROUP FAMILY (FULL TIME)
F	DAYCARE GROUP FAMILY (PART TIME)
G	DAYCARE CENTER (FULL TIME)
<u>CODE</u>	<u>DEFINITION</u>
H	DAYCARE CENTER (PART TIME)
I	DAYCARE IN-HOME RELATIVE (FULL TIME)
J	DAYCARE IN-HOME RELATIVE (PART TIME)
K	INFORMAL CHILD CARE - RELATIVE (FULL TIME)
L	INFORMAL CHILD CARE - RELATIVE (PART TIME)
M	INFORMAL CHILD CARE - NON-RELATIVE (FULL TIME)
N	INFORMAL CHILD CARE - NON-RELATIVE (PART TIME)
O	SCHOOL AGE CHILD CARE PROGRAM (PART TIME)
P	CHILD CARE SUPPLEMENT NOT ALLOWED

ABEL will use this worker-entered information, along with the child's date of birth to generate the proper child care supplement. This supplemental allowance will be displayed on the PA Output Screen in the third occurrence of the Other PA Allowance field.

Until such time as ABEL can be revised to perform the calculation of the child care supplemental amount, workers will, for budgets with Effective Dates of October 1, 1990

or later, have to manually calculate the supplemental child care amount by subtracting the allowable child care work deduction amount (\$175/\$200) from the lesser of the actual child care expense or the market rate for that SSD, based on the type of child care and that child's age group. (Districts will be provided with a matrix for their district which provides market rates by age groups and child care types).

The total of all supplemental child care payments for each child care type should be paid as a separate payment by writing a separate pay line using the new payment types provided in Section V.F.1. Special Claiming Code "B" should be used in association with these payment lines because, although the claiming category is the same as that applicable to the particular case type involved, Federal reporting requirements mandate tracking child care expenses by type of care and that these payments be distinguished from other TRE's.

One Child Care Type Indicator, "Q-Child Care Supplement Not Allowed", is to be used when the type of child care provided fails to meet any of the other legal definitions for which supplementation is allowed. Use of Code Q will allow the Child Care work deduction amount of \$175/\$200 but will not generate a supplemental child care amount.

Complete instructions, schedules and details of ABEL changes will be found in a forth-coming ABEL Transmittal.

6. Extended Supportive Services

A new WMS Payment Type, T2 - Extended Supportive Services, has been developed to accommodate authorization of this new JOBS payment. These payments may be authorized using Transaction Type 09 - Open/Close and entering Payment Type T-2.

7. A WMS Coordinator Letter will be sent summarizing the changes scheduled for implementation in October. This letter will contain more specifics in regards to the system requirements.

C. WMS New York City

1. Client Demographics

The OES screen in WMS will be modified to reflect Initial Assessment Date and Target Group Indicator. The values for Target Group indicator are as follows:

- 1-Youngest Child Aging Out of ADC
- 2-Under 24 and No High School or No Recent Work History
- 3-Long Term Recipient
- 4-Not in Target Group

2. ABEL Implications

Daycare as a Supplemental Issuance for Employed Individuals

Effective with software release 90.3, the ability to issue supplemental daycare will be available on the WMS production environment. The ABEL calculation routines will automatically determine the amount of supplemental daycare that the employed individual is entitled to receive. The calculation will be based upon the input of the type of daycare received, the amount charged by the provider of care and the date of birth of the child. A new code set has been created for input in a new field "TYP" on the employed individual's NSBL06 screen. The new codes and definitions are as follows:

<u>CODE</u>	<u>DEFINITION</u>
F1	DAYCARE-IN HOME-NON RELATIVE-FULL TIME
P1	DAYCARE-IN HOME-NON RELATIVE PART TIME
F2	DAYCARE-FAMILY HOME-FULL TIME
P2	DAYCARE-FAMILY HOME-PART TIME
F3	DAYCARE-GROUP FAMILY-FULL TIME
P3	DAYCARE-GROUP FAMILY-PART TIME
F4	DAYCARE CENTER-FULL TIME
P4	DAYCARE CENTER-PART TIME
F5	DAYCARE-IN HOME RELATIVE-FULL TIME
P5	DAYCARE-IN HOME RELATIVE-PART TIME
F6	INFORMAL CHILD CARE-RELATIVE-FULL TIME
P6	INFORMAL CHILD CARE-RELATIVE-PART TIME
F7	INFORMAL CHILD CARE-NON RELATIVE-FULL TIME
P7	INFORMAL CHILD CARE-NON RELATIVE-PART TIME
P8	SCHOOL AGE CHILD CARE PROGRAM

A Market Rate has been established based upon the type of daycare and the age of the child. The difference between the amount of daycare allowed as an earned income disregard and the lesser of the input daycare amount or Market Rate will be issued as a supplement to the employed individual.

The supplement will only be calculated if the input DOB in the Daycare DOB field on screen NSBL06 indicates that the child in care is 13 years & 2 months or less unless a new code "D" indicating a disabled child is input following the DOB. Input of code "D" allows calculation of the daycare supplement through the age of 19 years & 2 months. In this circumstance the Market Rate used will be the highest allowable rate regardless of the type or DOB of the individual.

3. Daycare as a Special Needs Issuance to Individuals in Training

Effective with the release of software version 90.3, the ability to issue daycare to individuals in training will be available on the WMS production environment. Workers should be instructed to input the type and amount of daycare charged by the provider on the individual NSBL06 screen of the child in care. The ABEL calculation routines will automatically compare the type of daycare, amount input and DOB of the child to the established specific Market Rate (see Supplemental Issuance section of software version 90.3 for codes and definitions).

Workers will have the option to issue the daycare special need as a restricted or non-restricted issuance. We have created two new associated restriction codes for each daycare type to allow issuances to two different vendors for each daycare type. The new codes are as follows:

<u>ASSOCIATED CODE</u>	<u>DAYCARE TYPE</u>
30 31	F1
32 33	P1
34 35	F2
36 37	P2
38 39	F3
40 41	P3
42 43	F4
44 45	P4
46 47	F5
48 49	P5
50 51	F6
52 53	P6
54 55	F7
56 57	P7
58 59	P8

Screen edits on screen NSBL06 will prevent input of the daycare special needs codes if the child in care is greater than 13 years of age unless a code "X" has been input in the A/D indicator field indicating that the child is disabled. Code "X" will allow input of the daycare special needs codes for children with a DOB of up to 19 years of age.

If the child in care is not active on the PA case the daycare special needs code and amount should be input on the individual NSBL06 screen of the individual in training. A new code "J" has been created for input in the "PWP" field to allow input of the codes and amounts on the line of an individual greater than 19 years of age. If code "J" is input, the system will allow the highest Market Rate for the particular daycare type regardless of the DOB of the child in care.

4. PA SINGLE ISSUANCE

Effective with the release of software version 90.3 to the production environment the following new PA single issuance codes will be available:

<u>CODE</u>	<u>DEFINITION</u>
F1	Daycare - In Home - Non Relative - Full Time
P1	Daycare - In Home - Non Relative - Part Time
F2	Daycare - Family Home - Full Time
P2	Daycare - Family Home - Part Time
F3	Daycare - Group Family - Full Time
P3	Daycare - Group Family - Part Time
F4	Daycare Center - Full Time
P4	Daycare Center - Part Time
F5	Daycare - In Home Relative - Full Time
P5	Daycare - In Home Relative - Part Time
F6	Informal Child Care - Relative - Full Time
P6	Informal Child Care - Relative - Part Time
F7	Informal Child Care - Non Relative - Full Time
P7	Informal Child Care - Non Relative - Part Time
P8	School Age Child Care Program

The above codes may be issued to authorize daycare payments through NYC's WMS PA Single Issuance subsystem. They can be issued on active cases and on closed cases eligible for transitional benefits. These codes are valid for all case types.

5. CHILD DAY CARE DEFINITIONS AND PAYMENT CODES

a. Regulated Child Care

(1) Day Care Center

"Day care center" shall mean a program provided for more than three but less than twenty-four hours a day away from the child's home by an individual, association, corporation, institution or agency for seven or more children, except those programs operating as "group family day care".

Code 37 full time, 38 part time

(2) Family Day Care

"Day care in a family home means day care of not more than six children provided in an

individual's own home, except that as many as eight children may be cared for at any one time if at least two of the children are of school age and are receiving care primarily during non-school hours and the authorized agency which certified the provider, or the department, if it issued a permit to the provider, has determined that the provider can adequately care for the additional children.

Code 32 full time, 33 part time

(3) Approved Family Day Care

An approved family day care provider who provides care for one or two children outside the child's own home in a home that is the residence of a provider who has been approved by a SSD as meeting the standards for family day care as contained in Part 417 of Department Regulations.

Code 32 full time, 33 part time

(4) Group Family Day Care

"Group family day care home" shall mean a home wherein day care services are provided to up to ten children of all ages, including not more than four children under two years of age or up to twelve children where all of such children are over two years of age. A group family day care home may provide day care services to two additional children if such additional children are of school age and such children only receive services before or after school hours.

Code 34 full time, 36 part time

(5) School Age Child Care

"School age child care" shall mean programs offering care to more than six children up to age fourteen for a portion of the day, before or after the period children enrolled in such program are ordinarily in school. Such programs shall be in operation consistent with the local school calendar. School age child care programs shall offer care five days a week during the school year to an enrolled group of children at a permanent site and may also provide such care on school holidays and those periods of the year in which school is not in session.

Code R6

(6) Day Care in a Public School

A public school providing care to preschool-aged children, in accordance with a contract entered into between a public school district and a SSD.

Code 37 full time, 38 part time

b. Informal Child Care

(1) Informal child care means:

child care for one or two children provided outside the child's own home in the residence of a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the New York State Labor Law, who has not been convicted of any crime against children, and who is chosen and whose services are monitored by the caretaker/relative; or

Code R2 relative full time, R3 relative part time

Code R4 non-relative full time, R5 non-relative part time

(2) child care for more than two children provided outside the child's own home in the residence of a caregiver who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the New York State Labor Law, who has not been convicted of any crime against children, who provides such care for less than five hours per week and who is chosen and whose services are monitored by the caretaker/relative; or

Code R2 relative full time, R3 relative part time

Code R4 non-relative full time, R5 non-relative part time

(3) informal in-home child care furnished by a provider who is chosen and monitored by the caretaker/relative and who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the New York State Labor Law, has not been convicted of any

crime against children, provided that such providers who furnish informal in home child care for more than four hours a day and more than four days a week must be paid by the caretaker/relative at least the minimum wage set forth in Article 19 of the New York State Labor Law and must receive Social Security and Workers Compensation coverage; and

Code R0 relative full time, R1 relative part time
Code 30 non-relative full time, 31 non-relative part time

- (4) child care provided by an aunt, uncle, grandparent, great grandparent, brother or sister of the child or children except where such relative is a person legally responsible for such child or children.

Code R0 in home full time, R1 in home part time
Code R2 outside of home full time, R3 outside of home part time

- (5) school age child care programs which are exempt from licensure and which choose not to be registered.

Code R5

c. Definition of Full Time/Part Time Care

"Full time" means day care or child care provided for four or more days per week and 30 hours or more per week. "Part time" means day care or child care provided other than on a "full time" basis.

6. TRANSITIONAL BENEFITS

ADC and ADCU cases closed with codes 026, 027, 031, 052, 053, 054, 056, 100, 110, 120, 130, 269, and 272 will extend MA for 6 months and allow child care payments if eligible for 12 months.

HR and HRPB cases closed for reasons 052, 269, 272, 056 and 032 will extend MA for 6 months and allow child care payment if eligible for 12 months.

7. EXTENDED SUPPORTIVE SERVICES

A new PA single issuance code 65 has been created to allow authorization of payments for extended supportive services for all ADC, ADCU, HR and HRPB cases eligible for transitional benefits. Extended supportive services may be authorized for 90 days from the effective date of closing.

VIII. ADDITIONAL INFORMATION

A. Work Incentive Demonstration Program (WIN) Forms

1. With the implementation of JOBS, the WIN program will end and the following forms will no longer be in use:
 - a. DSS-1973: "WIN-IMU Information Notice (to SAU)"
 - b. DSS-2086: "WIN-SAU Information Notice (to IMU)"
 - c. DSS-2612: "WIN Referral Form"
 - d. DSS-2622: "WIN Notice of Change in Registrant's Status"
 - e. DSS-2715: "WIN Monthly Program Activity Summary"
 - f. DSS-3133: "WIN Service Plan"
 - g. DSS-1653: "Certification of Employability"

B. Employment Forms

1. The following forms have been revised:
 - a. DSS-4004: "Notice of Intent to Change Public Assistance Grant and/or Food Stamp Benefits and/or Medical Assistance Coverage for Non-Compliance with Employment Related Requirements (Timely and Adequate) - Employment Action Taken (B)"

The "B" designation will be eliminated in the revision.

- b. DSS-4005: "Notification of Employability and the Right to Contest (Timely and Adequate)"
 - c. DSS-4158: "Notification of Job Readiness and the Right to Contest (Adequate Only)"

To be known as "Home Relief Notification of Job Readiness and the Right to Contest (Adequate Only)".

2. The following forms/publications are obsolete and will no longer be used:
 - a. DSS-4003: "Notice of Intent to Change Public Assistance Grant and/or Food Stamp Benefit and/or Medical Assistance Coverage for

Non-Compliance with Employment Related Requirements (Timely and Adequate) - Employment Action Taken (A)"

- b. DSS-4003(S): Spanish version of the above titled DSS-4003
- c. Pub #1171A: "The Work Incentive Program"
- d. Pub #1171A(S) Spanish version of the above

3. The following are new forms:

- a. DSS-4230: "Conciliation Notification"
- b. DSS-4232: "JOBS (Job Opportunities and Basic Skills Program"
- c. DSS-4231: "Option to End Your Sanction"
- d. "Employment Requirements"
- e. "Becoming Self-Sufficient Through the JOBS Program"

4. Auxiliary Forms/Hand Outs

DSS-4148A and DSS-4148B - Client Books.

Item d and e in number 3 will be included in the next printing of the Client Information Books. We expect districts to receive revised books in early 1991. In the meantime, districts must duplicate the orientation information (Attachments 7 and 8) and distribute them to all applicants, and to recipients at the time of recertification.

C. Local Equivalents. Any request by SSD for the approval of local equivalents are to follow the procedures described in 89 INF-53 and pages 12-1 through 12-5 of the Local District Manager's Guide.

D. Availability of Attachments

Each SSD will have to locally reproduce all of the Attachments until the Department's printed copies are available. At that time your SSD will automatically receive supplies of these forms, the WMS Code Cards (WMS-94), Subsystem Code Cards (DSS-3794) and the Client Books. Districts will be notified by a GIS message when shipment of the forms will begin. Districts that require Spanish versions of DSS-4004, DSS-4005 and DSS-4158 need to request the masters as described in 89 LCM-155 (August 29, 1989). Spanish versions of Attachments 7 and 8 will be forwarded via an Informational Letter. Spanish versions of Attachments 4, 5 and 6 will be available at a later date.

NOTE: When reproducing DSS-4004, DSS-4005 and DSS-4158, local districts are required to print these forms front and back on one sheet of paper. This is necessary because, although the client needs to complete only the second page of the notice to request a fair hearing, the Office of Administrative Hearings, to set up the hearing, must have the client, agency and action taken information locate don the first page of the notice.

NOTE: SSD are to give to the client 2 copies of the appropriate above listed form. This is the same number of copies which the client receives with the pre-printed forms supplied by the Department.

IX. EFFECTIVE DATE

This Administrative Directive is effective October 1, 1990.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance

Listing of Attachments

- Attachment 1 DSS-4004: "Notice of Intent to Change Public Assistance Grant and/or Food Stamp Benefits and/or Medical Assistance Coverage for Non-Compliance with Employment Related Requirements (Timely and Adequate)" - not available on-line.
- Attachment 2 DSS-4005: "Notification of Employability and the Right to Contest (Timely and Adequate)" - not available on-line.
- Attachment 3 DSS-4158: "Home Relief Notification of Jobs Readiness and the Right to Contest (Adequate Only)" - not available on-line.
- Attachment 4 DSS-4230: "Conciliation Notification" - not available on-line.
- Attachment 5 DSS-4231: "Option To End Your Sanction" - not available on-line.
- Attachment 6 DSS-4232: "JOBS (Job Opportunities and Basic Skills Program)" - not available on-line.
- Attachment 7 "Employment Requirements" - not available on-line.
- Attachment 8 "Becoming Self-Sufficient Through the JOBS Program" - not available on-line.
- Attachment 9 Employability Codes - available on-line.
- Attachment 10 Employment Subsystem Status Codes - available on-line.
- Attachment 11 Employment Subsystem Activity Codes - available on-line.
- Attachment 12 Approval of Informal Child Care Provider in Child's Home - not available on-line.
- Attachment 13 Approval of Informal Child Care in Caregivers Home - not available on-line.
- Attachment 14 Identifying Types of Regulated Child Day Care - not available on-line.

EMPLOYABILITY CODES

- *17 - Teen Parent Age 16-19 Without HS Diploma
- *20 - Mandatory Employable
- *21 - Voluntary Employable
- 24 - Pregnant - 4 month or Beyond
- 26 - Remoteness (Not Valid For New York City)
- 27 - Employed Full-time - 30 Hours Per Week Or More
- 30 - Child Under 16 Years
- 31 - Caretaker Of Child Under 3 (ADC/U); 6 (HR/PG) In Same PA Case
(Legislative changes will result in a reduction for HR from
Under 6 to Under 3 in the near future)
- 32 - Advanced Age
- *33 - ADC-U Non-Principal Wage Earner
- 34 - Caretaker Of Child Under 3 (ADC/U); 6 (HR/PG) Not In Same PA
Case (Legislative changes will result in a reduction for HR
from Under 6 to Under 3 in the near future)
- 35 - In School Full-Time Age 16-19
- 36 - Incapacitated
- 38 - Needed In Home To Care For Incapacitated Household Member
- 41 - Temporary Illness - 3 Month Exemption
- 42 - Temporary Incapacity - 6 Month Exemption
- 43 - Incapacitated - SSI Application Filed
- 44 - In Receipt of SSI
- *63 - Substance Abuser - In Rehabilitation
- 64 - Substance Abuser - Waiting For Rehabilitation
- 70 - Contesting Employability Determination
- *73 - OVESID Participant
- 99 - Unborn**
- WR - NPA FS Work Registration Required
- WE - NPA FS Work Registration Exempt

* Employment Subsystem records may be created for these codes.

** Required value in New York City, optional for upstate use.

Employment Subsystem Status Codes

<u>Code</u>	<u>Value</u>
*01	Referred for Child Care
02	Participation Pending Medical Examination
03	Pending Participation for all Non-Medical Resources
04	Enrolled
05	Extended Enrollment
06	Reenrolled
07	Completed (Fulfilled All Requirements)
08	Entered Employment - Part Time
09	Entered Employment - Full Time or Employed to Capacity
10	Part-time Employment Increased to Full-time
11	Full-time Employment Decreased to Part-time
12	PA Sanction - 30 Days
13	PA Sanction - 60 Days
14	PA Sanction - 75 Days
15	PA Sanction - 90 Days
16	PA Sanction - 180 Days
18	Employment Terminated
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 Farmworker
24	Notice of Adverse Action Mailed
25	FS Sanction - 2 Months
26	FS Sanction - 3 Months
30	Reassessed
31	Medical Returned - Employable
32	Medical Returned - Not Employable
33	Referred for Activity Enrollment
34	Referred for Non-Compliance
35	Referred for Employment
*40	Terminated Due to Failure to Make Satisfactory Progress
*41	PA Sanction - 45 Days
*42	PA Sanction - 120 Days
*43	Initial Sanction
*44	Sanction Concluded
*46	Three Month Notice Due
*47	In Receipt of Child Care
*48	Child Care Unavailable
*49	Child Care Not Required
*50	Conciliation
*51	Youngest Child Aging Out of ADC
*52	Under 24 and No High School Diploma or No Recent Work Experience
*53	Long Term Recipient
*54	Non Target Group Member

* New code developed for JOBS

Employment Subsystem Activity Codes

<u>CODE</u>	<u>VALUE</u>
01	Individual Assessment
02	Employability Development Plan
03	Work Experience
04	Voluntary Work Experience
05	Supervised Job Search (PA)
**08	Job Skills Training
09	Educational Training (PA)
**10	Job Readiness Training
11	TEAP
12	OVESID
13	Alcohol and Substance Abuse Treatment/ Rehabilitation
19	Job Opportunity
**20	Job Readiness Training (FS)
21	Independent Job Search (FS)
**23	Job Skills Training (FS)
24	Educational Training (FS)
29	Pre-Individual Assessment
*30	Opportunity Contract
*31	Post Secondary Training
*32	Job Replacement/Development
*33	On-The-Job Training

* New code added for JOBS

** Code redefined for JOBS

Activity Codes Deleted

07	Job Club (PA)
15	JTPA
16	DOL WIN
17	PACE
18	CEOSC
22	Job Club (FS)