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Administrative Directive

Section 1

Transmittal:	06-ADM-17
To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	December 28, 2006
Subject:	Implementation of Interim Final TANF Rule
Suggested Distribution:	Employment Coordinators Temporary Assistance Directors WMS Coordinators Child Care Directors WTWCMS Liaisons
Contact Person(s):	WTW Technical Advisor
Attachments:	Attachment A - Federal Definitions for Countable Work Activities
Attachment Available On – Line:	yes

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
06 LCM-10	06 LCM-10	385.6 385.7 385.8 385.9	332 333 335-b 336 336-a 336-c 336-d 336-e 336-f	WTW Employment Manual Sections: 2, 6, 7, 8, 9 and 10	GIS 06TA/DC006 GIS 06 TA/DC036 14 NYCRR §819.2

Section 2

I. Summary

This directive provides information regarding federal and State work participation rate requirements for households with dependent children in effect as of October 1, 2006, as required by the Interim Final Temporary Assistance for Needy Families (TANF) regulations published June 29, 2006 by the U.S.

Department of Health and Human Services (DHHS). This administrative directive replaces 06 LCM-10, released on September 29, 2006, and provides the formal policy established by the Office of Temporary and Disability Assistance (OTDA) regarding federal and State work and participation rate requirements for households with dependent children. Specifically, the ADM provides information which:

- Defines the terms “work-eligible individual”, “disabled”, “disabled family member” and “attending school full-time” as used to determine which individuals are included in the calculation of the federal participation rate;
- Defines the countable federal work activities (Attachment A);
- Outlines the requirements for reporting hours of participation, including actual hours of participation, holiday time and excused absences;
- Describes the requirements that must be met to deem hours of participation in work experience as meeting the “core” work requirement;
- Identifies the changes that districts must make to ensure that work activities in which temporary assistance applicants and recipients with dependent children are engaged are consistent with federal requirements and the hours of participation reported towards the participation rate are countable and accurately documented; and
- Defines internal control requirements that districts must establish to ensure that hours of participation are consistent with federal and State requirements, and accurately reported.

OTDA has discussed the employment related requirements enacted by the Deficit Reduction Act (DRA) of 2005, with social services districts through various venues and has also developed policies in consultation with a TANF Implementation State and Local Workgroup initiated by OTDA and the New York Public Welfare Association.

Districts should refer to GIS 06 TA/DC036 which was released on October 18, 2006, for information on the participation rate requirements pertaining to households without dependent children.

II. Purpose

The purpose of this administrative directive is to provide additional information regarding the work participation rate requirements for households with dependent children in effect as of October 1, 2006, and to identify changes that districts must implement to ensure that the work activities in which temporary assistance applicants and recipients are engaged and the corresponding hours of participation that are reported are consistent with federal requirements. This ADM also provides information on the internal controls that districts must follow to document that hours of participation are countable and accurately reported, defines countable work activities and outlines the requirements for documenting and reporting hours of participation.

III. Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) authorized the Temporary Assistance for Needy Families (TANF) Block Grant program. Under PRWORA, states were granted significant flexibility to design programs to meet families’ basic needs and help individuals enter the workforce. States were required to meet minimum federal participation rates (for federal fiscal year 2002 and thereafter the required rates, prior to any caseload reduction credit, were 50% for all families with an adult or minor head of

household receiving federal assistance, and a separate rate of 90% for two-parent households receiving federal assistance), but were given the authority to establish definitions for each of the countable federal work activities. The caseload reduction credit provided a point-for-point reduction in the required participation rate for each percentage point the average monthly caseload decreased in the prior FFY as compared to FFY 1995. The required participation rate after the caseload reduction credit for many states, including New York, was nominal.

The DRA of 2005 (Public Law 109-171), maintained the federal participation rates for “All Families” receiving assistance at 50% and authorized the following employment program related changes effective October 1, 2006:

- The calculation of the “All Families” work participation rate is modified to include families receiving Safety Net assistance that is funded with dollars that New York counts towards the TANF maintenance of effort (MOE) requirement. Each of these households is included in the work participation calculation in the same manner as TANF-funded assistance families in a combined TANF/MOE rate.
- The caseload reduction credit is modified, effective FFY 2007, so that any reduction in the work participation rate is based on the percentage the caseload has declined since FFY 2005, rather than FFY 1995, resulting in a reduced caseload reduction credit and an effective required federal participation rate much closer to the nominal 50%.
- The federal DHHS was required to promulgate regulations by June 30, 2006, to define which activities constitute countable “work activities,” to establish standards for reporting and documenting hours of work, and to define when a child-only case is included in the federal work participation rate calculation. By September 30, 2006, states were required to have procedures in place and internal controls to ensure compliance with these federal standards. A new fiscal penalty of between 1 and 5 percent of a state’s TANF grant will be assessed based upon the extent to which a state fails to establish and maintain work participation verification procedures.

Districts were provided the Interim Final TANF rule and summary information regarding its effect on New York’s temporary assistance work programs in a letter transmitted by the Office of Temporary and Disability Assistance (OTDA) on June 30, 2006. The provisions of the Interim Final TANF rule also have been discussed during conference calls with local districts and through telephone meetings with the TANF Implementation State and Local Workgroup. Work activity definitions were transmitted by 06 LCM-10 and are included as an attachment to this ADM. OTDA has made the following changes to Attachment A since the release of 06 LCM-10:

- The phrase “for households with dependent children” has been added to the first sentence to clarify that the definitions described in Attachment A apply to all households with dependent children receiving temporary assistance.
- The sentence “Such paid internships would be of the type required of all students to fulfill the education requirements and not a requirement due to receipt of temporary assistance” has been added to the definition of unsubsidized employment.
- Additional information has been added to describe the methodology used to calculate the maximum number of hours that an individual can be assigned to work experience.
- The term “inpatient treatment” under job readiness training has been clarified.

The primary goal of the TANF program continues to be helping low-income families enter the workforce and achieve self-sufficiency. Districts must evaluate their welfare-to-work efforts to ensure compliance with federal requirements and avoid fiscal penalties. Failure to meet new federal work participation rates will result in the State being required to meet a higher 80% maintenance of effort (MOE) requirement, as opposed to the reduced 75%, if the State meets the work participation rate, and would necessitate an increase in MOE-countable State and local expenditures of approximately \$114 million. In addition, a potential penalty of up to 5% of the State's adjusted TANF grant also could be assessed in the first year of failure to achieve the federal participation rate, with increased penalties in subsequent years of failure to achieve the federal participation rate to a maximum of 21% of the State's adjusted TANF grant. Such fiscal penalties would, at a minimum, be shared with districts in accordance with State Social Services Law.

IV. Program Implications

The DRA of 2005 and the Interim Final TANF rule maintain the federal participation rates, prior to the caseload reduction credit for "All Families" receiving assistance at 50% and "Two-Parent Families" receiving assistance at 90%. The Interim Final TANF rule also modified the methodology for calculating the federal participation rates and established definitions for each countable work activity.

Districts were informed through 06 LCM-09, of the new funding methodology and claiming mechanism that will be used to separately fund two-parent families. Such action was taken to avoid the unreasonable federal 90% "Two-Parent Families" work participation rate requirement. Although, as a result, certain two-parent households are removed from the federal TANF/MOE work participation rate, the policies included in this directive apply to all households with dependent children, including all two-parent families. "Two-Parent Families" that are funded with non-MOE expenditures will not be included in the calculation of the safety net without dependent children participation rate, yet remain subject to work requirements.

A. Work Eligible Individuals

The Interim Final TANF rule, at 45 CFR §261.22(a) (2), provides that effective October 1, 2006, the federal work participation rate is calculated based on the hours of participation by "work-eligible" individuals and all cases including a "work-eligible" individual are included in the work participation rate denominator. A work-eligible individual as defined at 45 CFR §261.2(n) includes adults (or minor child heads of household) who are receiving assistance funded by federal TANF or State/local MOE funds. These individuals may be exempt or nonexempt from participation in work activities under State rules. The term "work-eligible" individual also includes a non-recipient parent living with a child who is receiving assistance, unless the parent is:

- A minor parent and not the head of household or spouse of the head of household;
- An alien who is ineligible to receive assistance due to his or her immigration status; or
- At State option, on a case-by-case basis, a recipient of Supplemental Security Income (SSI) benefits.

All adults or minor heads of households receiving temporary assistance funded by TANF or State MOE funds are considered to be "work eligible" individuals, unless specifically excluded by federal regulation as discussed in Section IV-A of this directive. The State participation rate reporting logic will continue to evaluate the participation of all active adults and minor heads of households and include such cases in which the reported participation meets the minimum federal standards to be included in the participation rate calculation. In those instances where reported participation is not sufficient to include the case in the participation rate calculation numerator, the system will remove those cases that may be removed or excluded from the participation rate calculation denominator based on the case meeting one or more of the federal criterion to exclude the case from the participation rate calculation denominator (e.g., a case which includes a sanctioned individual, but for no more than three months in the previous 12-month period or a single parent family in which the parent is the

caretaker of a child under 12 months of age and the case has not exhausted the federal 12-month limit for this exclusion).

Cases in which the only adult or minor head of household is receiving SSI will be deemed to be a child-only case and will be excluded from the work participation rate denominator. However, OTDA is exploring a system process to identify adults or minor heads of households whose children are receiving temporary assistance in which the adult or minor head of household is receiving SSI, but is working a sufficient number of hours to count toward the participation rate. Such households would then be determined to include a “work eligible” individual and included in the calculation of the participation rate for each month the SSI recipient is working a sufficient number of hours to count towards the federal participation rate.

1. Caretaker of a Disabled Child or Other Disabled Family Member Living in Household

Individuals who are currently assigned an employability code of “38 - Needed in the Home Full Time to Care for a Disabled Family Member – Exempt” no longer meet the federal definition of participation in community service and, therefore, are no longer to be deemed as participating in community service based on their caretaker status. However, the Interim Final TANF rule provides that states may opt to exclude from the definition of a “work-eligible” individual a parent/caretaker providing care for a disabled child or other disabled family member living in the home who does not attend school on a full-time basis, provided that the need for such care is supported by medical documentation (45 CFR §261.2[n] [2] [i]). Therefore, cases in which the only “work-eligible” individual is providing care for a disabled child or other disabled family member who lives in the household and is not attending school full-time should be assigned an employability code of “38.” OTDA will exclude these adults from the work participation rate calculation (i.e., removed from the denominator) as part of the methodology used to establish work participation rates effective October 1, 2006.

Districts should be aware that cases in which one parent is caring for a disabled household member who is also a work-eligible individual will remain in the denominator due to the presence of the work eligible individual. For example, a case which includes a parent who is assigned an employability code of “38” based on the district’s determination that the parent is needed to care for another parent in the household who is disabled and assigned an employability code of “43-SSI Application Filed” would not be removed from the participation rate denominator because the disabled parent is still considered to be a “work-eligible” individual, unless he/she is specifically excluded by federal regulations as discussed in Section IV.A of this ADM. Any case that includes a “work-eligible” individual remains in the work participation rate denominator, even if a second adult is removed from the work participation rate denominator.

The following terms are used to determine whether a parent/caretaker who is caring for a disabled child or other disabled family member should be assigned an employability code of “38”, and excluded from the work participation rate denominator:

Disabled is defined as a temporary or permanent incapacity that is medically documented and that requires full-time care. The medical documentation must indicate the expected length of the incapacity and social services districts are responsible for obtaining updated medical documentation on or before the expiration of the current medical documentation to reevaluate whether or not the individual remains disabled. If the individual is no longer disabled or no longer requires full-time care for a disability, the district would assign a new employability code to the caretaker to indicate that he or she is now a work-eligible individual.

Family member may include any individual who is related by blood, marriage, adoption, guardianship or other established relationship.

Attending school full time is defined as regularly attending school for more than 30 hours per week. Excluded from the “full time” category are parents of children for whom it is verified by the school and medical

professional that the child is only able to remain in the school if the parent is immediately available and that the parent is regularly needed to address the needs of the child.

Federal regulations do not permit parents of a disabled family member who is in school “full time” or caretakers of a family member living outside of the home to be removed from the participation rate calculation. As noted above, “attending school full time” is defined as those persons who are in school for more than 30 hours per week. Therefore, in these instances the parent should not be assigned an employability code of “38.” A new employability code of “40 – Needed in the Home Part Time to Care for a Disabled Family Member –Non-exempt” is being developed and should be available in the WMS migration that is tentatively scheduled for February 19, 2007, for part-time caretakers of disabled children or other disabled family members who reside in the household. In such situations, districts may assign employability code “16-Work Limited” until the new employability code “40”, is available.

One exception is that a parent caring for a disabled child or other disabled family member who lives in the household and is attending school more than 30 hours per week may be assigned an employability code of “38” and excluded from the denominator, if verified by the school and a medical professional that the disabled family member is only able to remain in school if the parent is immediately available and is regularly needed to address the needs of the child. Such a determination should be based on a review of the documentation provided by the medical professional and school district and must be maintained as part of the case file. Additionally, a parent who is needed full time to care for a disabled child who is in school full time may be assigned a code “38” during summer months when the child is not in school. In these situations when the parent is employed, districts should actively pursue alternate child care arrangements to permit the parent to maintain employment.

Districts may, on a case by case basis, determine that a parent caring for a disabled child or other disabled family member who attends school is able to participate due to the fact that the district is able to accommodate special circumstances of the household including the need for appropriate child care and a flexible or reduced work schedule as needed. If the district determines that the parent is able to participate in work activities and the district will require the parent to participate, the individual would be assigned an employability code of “16-work limited” (until the new employability code “40” noted above is available) and must be notified via the LDSS-4005(a) or approved local equivalent that he or she is no longer exempt from participation in work activities.

B. Federal Definitions for Countable Work Activities

The Interim Final TANF rule defined each countable federal work activity. The work activity definitions established by OTDA, included as Attachment A to this ADM, incorporate the guidance included in the Interim Final TANF rule at 45 CFR §261.2 and the corresponding Preamble discussion, as well as New York’s Work Verification Plan, which was submitted to DHHS on September 29, 2006. Districts should refer to 18 NYCRR Part 385.8 for information regarding how each definition counts towards the participation rate and the number of hours that a family must participate in countable work activities to count towards the participation rate. These standards are not changed by this release or the Interim Final TANF rule (45 CFR Parts 261, 262, 263, 265).

Work activities continue to be grouped into “core” and “non-core” activities. Core work activities count for all hours of participation, to the respective limitations noted for vocational education and job readiness training/job search and include unsubsidized and subsidized employment, work experience, community service, on-the-job training, vocational education (not to exceed 12 months in the individual’s lifetime), job readiness training/job search (not to exceed 6 weeks per fiscal year, no more than 4 weeks consecutive) and provision of child care for an individual participating in community service. “Non-core” work activities only count for hours of participation once the individual has achieved the 20 hours per week in a “core” work activity and include job skills training directly related to employment, education directly related to employment and satisfactory attendance in secondary school.

Districts were previously notified that work activity definitions for households with dependent children are much more restrictive effective October 1, 2006, and intended primarily to be mutually exclusive. Therefore, work activity definitions cannot include components of other, distinct activities that are defined separately. For example, while districts were previously permitted to include a job search component as part of a work experience assignment and report the combined hours as work experience; the Interim Final TANF Rule prohibits reporting combined activities as one activity. Additionally, as districts were previously informed, the definition of community service, in particular, is defined much more narrowly, specifically excluding certain activities previously included in a number of community service definitions established by districts.

C. Countable Hours of Participation

Hours of participation must meet the definition of the work activity to be reported under the respective work activity. Furthermore, hours of participation must be reported separately for each work activity. For example, the hours of participation in work experience must meet the definition of work experience and cannot include hours of participation in other activities. Hours of participation that an individual is concurrently assigned and engaged in other activities must meet the definition and be reported under the respective activity.

Districts and program providers should review program offerings to determine the most appropriate activity under which the participation should be reported. For example, a job readiness program may incorporate some activities such as basic education or training in a computer software application and it may be beneficial to report time spent in these activities as education or job skills training which is not subject to a time limitation. Also one area where definitions overlap is vocational education and job skills training. Vocational education activities could also be reported as job skills training (although not all job skills training constitutes vocational education). Therefore, if an individual is also employed or engaged in work experience for 20 hours weekly, it may be beneficial to report participation in training as job skills training which has no time limitation rather than reporting the participation as vocational education.

1. Actual Hours of Participation in Work Activities other than Paid Employment

According to the Interim Final TANF rule published by DHHS, only **actual** hours of participation may be reported and counted toward the participation rate calculation. Additionally, DHHS has specifically stipulated in 45 CFR §261.60 that it is not acceptable for states to report scheduled hours of participation and that actual affirmative reporting of hours of participation in the work activity is required (i.e., exception reporting is not permitted). DHHS has provided for projected actual hours for participation in self-employment and other paid employment, but otherwise only actual hours of participation may be reported toward the participation rate for all other work activities, consistent with the information outlined in this ADM.

2. Hours of Participation in Paid Employment, Including Paid On-The-Job Training

The Interim Final TANF rule permits hours of paid employment including unsubsidized or subsidized employment and paid On-the-Job Training (OJT) positions to be based on current documentation and projected forward, but for no more than six months, and with updates provided whenever a change in the number of hours worked is reported. Hours of employment reported to OTDA, whether unsubsidized, subsidized or on-the-job training must be consistent with documentation received and documentation of the hours of work must be maintained by the district. In determining the amount of average income or hours of work, the hours should generally be based on an average of verified income and hours reported for the preceding four weeks, if available, and adjusted for other known and verified information demonstrating that one or more of those proceeding weeks was unusual or to reflect changes expected to continue.

Consistent with current policy, the State participation rate reporting logic will use hours of work based upon either the Automated Budgeting and Eligibility Logic (ABEL) or WTCMS entries, whichever is most recent, as determined by the “from date” of the temporary assistance budget or WTCMS schedule.

3. Self-Employment

Absent other documentation of the hours of employment for self-employed individuals, districts may document the number of hours of work for a self-employed individual by dividing the individual’s net income after subtracting certain allowable (as described in 95 INF-33) business expenses (this is the amount counted as temporary assistance gross income before earned disregards in the ABEL budget) by the federal minimum wage. If hours other than the net income divided by the federal minimum wage are reported as hours of work, then alternate documentation other than self-attestation must be maintained to verify the hours of work reported. Alternate documentation may include statements from individuals for whom the self-employed individual provides services, and time records used to document child care payments to those serving as child care providers.

4. Holiday Time

In addition to actual hours of participation, countable hours in work activities will include hours of participation that are scheduled, but missed due to holidays regularly observed by a provider or employer and may include all national and State observed holidays as well as the period of time that a place of business, school or entity is closed to routine business in observation of a holiday thereby rendering the participant unable to attend the institution to participate in the work activity. Such holiday time may include breaks observed by an educational institution for up to four weeks (per observed holiday) and hours missed from participation in a countable work activity due to a disaster/emergency situation that broadly affects the ability of individuals to report to scheduled work assignments. Any hours of participation reported as “holiday time” due to a disaster or emergency situation must be approved by OTDA in writing. Districts should contact their Welfare-To-Work Technical Advisor for approval as soon after the emergency situation arises as is practical.

5. Excused Absences

In addition to the number of hours an individual has worked or participated in a countable work activity, the actual hours of participation may include paid leave time for employed recipients, hours missed due to holidays as described above and up to 80 hours of excused absence for unpaid leave or for a countable work activity during any 12 month period, but no more than 16 hours of excused absence during any month as part of the actual hours of participation reported via the Welfare-To-Work Caseload Management System (WTCMS) or NYC Work, Accountability and You (NYCWAY) System.

Districts may grant hours of excused absence in those instances where the district determines that the individual’s conduct was not willful and/or the district determines that the individual had good cause for not complying with the assigned work activity consistent with OTDA regulations (18 NYCRR §385.11, 385.12 and 385.13). Good cause may include circumstances beyond the individual’s control, including, but not necessarily limited to: illness of the individual or another household member requiring care; a household emergency; required meetings with child support and child welfare caseworkers; school, court or medical appointments; or, lack of adequate childcare. Districts are advised that only hours that an individual was scheduled and expected to participate in a countable work activity and the individual’s failure to attend was not willful and was with good cause may be reported as an excused absence. For example, excused absence does not include time pending a disability determination review. Furthermore, excused absences that exceed the federal limits noted above can not be reported as actual countable hours of participation.

6. Deeming Hours of Participation in Work Experience

An individual who is participating in work experience for the number of hours derived by dividing the household's temporary assistance and food stamp allotment by the State minimum wage will be deemed as meeting the 20 hour core work requirement, even when the result of such calculation is fewer than 20 hours.

The WTWCMS will continue to display an estimate of the maximum number of hours that an individual may be assigned to work experience, but the determination of whether the case is eligible to be deemed as meeting the "core" work requirement based on actual participation in work experience will be made by the State participation rate reporting logic. Specifically, the State participation rate reporting logic has been modified effective October 1, 2006, to deem a case as meeting the 20 hour "core" work requirement in those instances in which the average weekly actual hours in work experience reported (including holiday time and excused absences as described in this ADM) are equal to the number of hours derived by dividing the household's temporary assistance deficit amount (from the temporary assistance budget) and food stamp allotment amount for the respective month by the higher of the federal or State minimum wage, then divided by 4.333 and rounded down to the nearest whole number to calculate the number of required hours weekly. In those instances where the household is deemed to be meeting the 20 hour "core" work requirement based on participation in work experience, the participant would also need to participate in additional countable work activities for a minimum of 10 hours weekly, if the household is required to meet the 30 hour participation requirement. True single parent families with a child under 6 years of age would be countable based on the deemed 20 hours of participation in work experience.

The WTWCMS will not deem hours of participation in community service which are equal to the calculation of the household's temporary assistance deficit amount plus food stamp allotment amount divided by the higher of the State or federal minimum wage because as defined in Attachment A, community service assignments are generally voluntary in nature. Nonetheless, individuals cannot be mandated to perform community service for more hours than the number derived by the grant calculation described above. Furthermore, individuals who agree to participate in a community service activity, but do not comply with a voluntary community service assignment, can not be sanctioned, but should be reevaluated and assigned to work activities consistent with the individual's employment assessment and employability plan.

7. Distance Learning

Distance learning is a formal learning activity where students and instructors are separated by geography, time or both for the majority of the instructional period. For all educational or job skills work activities, countable hours of participation may include up to ten hours weekly through a distance learning model. Any distance learning participation must be documented by on-line participation or completion of instructional learning packets or workbooks. The district is responsible for verifying and documenting these actual hours of participation and must ensure that such activities are supervised. Mechanisms for verifying and documenting actual hours of supervised participation may include on-line tracking of time participating in the educational activity, combined with intermittent review of work assigned to and completed by the student or reasonable approximations of the time required to complete work packets as determined by the education provider and approved by the social services district. Detailed records of the instruction provided, dates when student packets were sent out and received, performance on the assigned work as well as the assignments completed by all students on the roster must be maintained.

Any distance learning component must be supported by face-to-face instructional support, unless otherwise approved by OTDA. Educational activities may be provided solely through distance learning instruction in those instances where the participant is homebound or employed more than 30 hours weekly. Distance learning is not generally appropriate or countable for job readiness activities, such as development of appropriate workplace behaviors, given that such individuals who require such interventions would most benefit from more intensive and directed instruction.

Unsupervised participation in educational activities, homework time or study time that can not be verified can not be reported as participation. However, monitored study sessions that are an integral component of the educational activity may be reported as participation under the respective educational work activity and documentation of actual hours must be maintained by the district or if participation is reported directly by the provider.

D. Documentation of Participation

The Interim Final TANF rule requires that documentation be maintained to support the hours of participation reported towards the federal work participation rate.

1. Acceptable Documentation

Acceptable documentation may vary depending on the type of work activity in which the individual is engaged. For example, documentation for the hours that an individual is participating in paid employment may include pay stubs, employer records or time and attendance records. Documentation for the hours that an individual is participating in unpaid work activities may include attendance sheets or other documentation developed by the provider to verify attendance. At a minimum, monthly attendance sheets should include:

- The actual hours of participation for each activity for each day of participation;
- The number of hours missed due to holiday time observed by the worksite;
- The number of hours granted as excused absence; and
- The total number of hours of participation for each activity.

All hours of participation (actual for unpaid work activities, actual prospective for paid employment, including OJT) should be entered into the WTWCMS (NYCWAY for NYC) no later than the 15th of the month following the report month and documentation must be maintained as discussed below.

2. Record Retention Requirements

Documentation to support the hours of participation reported by the district will be subject to review by federal and state representatives and must be maintained either as part of the case record or by alternate means that permits the district to locate the attendance record for any individual reported as participating. If attendance information is entered by the provider directly on to the WTWCMS or NYCWAY, documentation must be maintained as part of the provider's records. Documentation of all hours of participation must be maintained by the district for no less than six years from the date the information is submitted to the State.

3. Internal Control Requirements

Districts will be required to establish internal controls to ensure that hours of participation are consistent with federal and state requirements, and accurately reported. For example, districts will be required to describe:

- The process that will be used to identify work-eligible individuals;
- The procedures that will be used to document and report hours of participation and
- The mechanism that will be used to ensure the hours of participation are countable and accurately reported under the reported work activity.

Information on the internal controls that districts will need to establish and submit to OTDA for review as an addendum to the biennial local employment plan will be provided via a separate release.

V. Required Action

Districts must ensure that work activities in which temporary assistance applicants and recipients are engaged and the corresponding hours of participation that are reported are consistent with the requirements detailed below:

A. Work Eligible Individuals

Districts must ensure that the relationship, employability and individual disposition status codes are entered correctly on to the Welfare Management System (WMS) for all individuals to ensure that the State participation rate reporting logic accurately identifies those individuals who are “work eligible” and when a case may be properly excluded from the work participation rate denominator. For example, an alien who is ineligible to receive assistance due to his or her immigration status and whose children are receiving assistance should be coded, on screen five of WMS, with an individual disposition status code of “08- Inactive-Excess Restricted Income/Non-Applying HH Member (PA Only)”.

1. Caretaker of a Disabled Child or Other Disabled Family Member Living in Household

Districts must review each temporary assistance case to ensure that cases including a parent/caretaker providing care on a full-time basis for a disabled child or other disabled family member living in the household who is not attending school full-time are properly coded with employability code “38”, and that medical documentation supporting the exemption is available and current. Districts should not assign an employability code of “38” to a parent caring for a disabled child or other disabled family member who is in school full-time (as defined above) or caring for a non-household member, but instead assign them an employability code of “16-work limited.” A new employability code of “40” is being developed to more discretely identify part-time caretakers of a disabled child or other disabled family member living in the household.

B. Federal Definitions for Countable Work Activities

The work activity definitions in Attachment A were effective October 1, 2006, for all households with dependent children. Districts will be advised of the process for amending their local employment plan to include the work activity definitions provided in Attachment A via a separate release. However, districts must review each WTWCMS enrollment (New York City must review NYCWAY enrollments) to ensure that the work activities in which temporary assistance applicants and recipients in households with dependent children are engaged are consistent with the work activity definitions in Attachment A for all participation reported on or after October 1, 2006.

C. Countable Hours of Participation

Districts should assign temporary assistance applicants and recipients to appropriate work activities not to exceed 40 hours per week. In all instances, the hourly limitations on work experience must be adhered to and as well as instances when an individual has a medical condition which limits the number of hours he/she is able to participate in work activities. Hours of participation in work activities must meet the following requirements.

1. Work Activities other than Paid Employment

Districts must conduct a review of all WTWCMS entries (New York City must review NYCWAY entries) for recipients receiving temporary assistance to ensure that all hours of participation reported are consistent with the work activity definitions included in Attachment A. Documentation to support the hours of participation reported by the district must be maintained either as part of the case record or by alternate means that permits the district to locate the attendance record for any individual reported as participating. If attendance information is entered by the provider directly on to the WTWCMS or NYCWAY, documentation must be maintained as part of the provider’s records. For example:

- Hours of participation reported under a work activity must meet the definition for that work activity.
- Unsupervised study time no longer counts toward the calculation of actual hours of participation for any educational or vocational training activity and cannot be included in the hours of participation reported to OTDA.
- Federal regulations only permit participation in substance abuse treatment or other treatment to be reported as Job Readiness Training. Hours that an individual is participating in substance abuse or other treatment should be entered on the WTWCMS as “Treatment Plan for Substance Abuse” or “Treatment Plan Other than Substance Abuse”, respectively. On September 18, 2006, OTDA issued guidance on the specific WTWCMS changes that districts need to make to modify offerings and report hours of participation related to “Treatment Plan for Substance Abuse” or “Treatment Plan Other than Substance Abuse” if they have been reporting individuals in “Treatment Plan for Substance Abuse” or “Treatment Plan Other than Substance Abuse” as a component of Community Service.

The State participation rate reporting logic has been modified effective October 1, 2006, to deem the actual hours of participation in “Treatment Plan for Substance Abuse” or “Treatment Plan Other than Substance Abuse” as job readiness training and track such participation toward the federal work participation rate, subject to the federal limit of no more than six weeks in a federal fiscal year, of which no more than four weeks may be consecutive. Districts may not remove from treatment individuals who require substance abuse treatment beyond the four or six week limitations permitted for participation rate calculation and should continue to report such enrollments. However, these enrollments will not cause the individual to count in the work participation numerator beyond the weekly limitations.

Districts must be diligent about collecting actual documented hours of participation for each of the unpaid work activities and recording these hours on the WTWCMS, no later than the 15th of the month following the report month.

2. Documentation and Reporting of Hours in Paid Employment

For unsubsidized or subsidized employment and paid OJT, districts should project actual hours of employment for up to six months based on the verified number of hours available when the employment is documented. In determining the hours of work, the hours should generally be based on an average of verified hours reported for the preceding four weeks, if available, and adjusted for other known and verified information demonstrating that one or more of those preceding weeks was unusual, or to reflect verified changes. Districts should not wait until the individual has worked for four weeks before entering employment information onto the WTWCMS or NYCWAY. Information should be entered as soon as possible after documentation to verify the projected actual hours of employment (e.g., employer statement) is received by the district. If fewer than four weeks of documented hours of work is available, districts may use as few as one week’s worth of documented hours of work to project hours of paid employment for up to six months. In all instances when a change is reported, hours of work must be acted upon in a timely manner as described below.

Districts are required to recalculate the number of hours of work that are reported prospectively in a timely manner, whenever a change is reported. The adjusted hours of work must be based on documentation received and may be used prospectively for up to six months. If a change is reported, it must be acted upon to adjust the hours of work from the date the change was reported and projected no later than two weeks from the date the information was provided.

Districts should ensure that local procedures for district workers and providers are consistent with these requirements, and that mechanisms are in place for timely information sharing between temporary assistance and employment staff. District should also confirm that hours of employment, whether subsidized, unsubsidized or

paid OJT, which are reported to OTDA as of October 1, 2006, are consistent with documentation received from the employer and that documentation is maintained by the district.

3. Self-Employment

Absent other documentation of the hours of employment for self-employed individuals, districts should calculate the number of hours of work for a self-employed individual by dividing the individual's net income after subtracting certain allowable (as described in 95 INF-33) business expenses (this is the amount counted as TA gross income before earned disregards in the ABEL budget) by the federal minimum wage. If hours other than the net income divided by the federal minimum wage are reported as hours of work, then alternate documentation other than self-attestation must be maintained to verify the hours of work reported. Alternate documentation may include statements from individuals for whom the self-employed individual provides services and time records used to document child care payments for those serving as child care providers.

4. Holiday Time

Districts should report scheduled hours of participation in countable work activities which are missed due to an observed holiday as actual hours of participation in the field labeled "holiday time" on the schedule input screen on WTCMS (NYC will need to modify NYCWAY to report holiday time separately from actual hours of participation). Districts are further advised that documentation to verify the hours of participation must identify the number of hours and days that were designated as holiday time for each activity.

Enrollment Schedule Detail - Update

Last Update Name: Quinn, Duane District User

Last Update Date: 12/1/2006 12:25 PM

Week Ending Date: 11/19/2006

Minimum Number of Weekly Hours Required for Participation for Case TEST21: 35 hours

Activity/Component: Community Service/something else now

Schedule Status: ACTUAL

DAY	FROM HR:MIN AM/PM	TO HR:MIN AM/PM	SCHEDULE HOURS	ACTUAL HOURS
MONDAY	09:00 AM	05:00 PM	8	8
TUESDAY	09:00 AM	05:00 PM	8	8
WEDNESDAY	09:00 AM	05:00 PM	8	8
THURSDAY	09:00 AM	05:00 PM	8	8
FRIDAY	09:00 AM	05:00 PM	8	
SATURDAY				
SUNDAY				
WEEKLY TOTAL:			40	32
			HOLIDAY TIME:	8
			PAID LEAVE:	
			EXCUSED HOURS:	
			UNEXCUSED HOURS:	

EXCUSED ABSENCE REASON:

OTHER EXCUSED ABSENCE REASON:

COMMENTS:

5. Excused Absences

Districts must review attendance policies for work activities other than unsubsidized or subsidized employment and OJT to ensure that mechanisms are in place for identifying and reporting excused absences from work activities in a timely manner.

Districts must track excused absences to ensure that the number of hours reported towards the participation rate do not exceed 80 hours in any 12 month period, and 16 hours per month as described above until WTCMS has been modified to track excused absences. It is anticipated that the modification to WTCMS to track excused absences will be completed no later than October 1, 2007. Unexcused absences should continue to be reported on

WTWCMS in the unexcused absence field. Unexcused absences never count toward the work participation rate calculation.

6. Deeming Participation in Work Experience

Individuals who are participating in work experience for the number of hours derived by dividing the household temporary assistance grant including food stamp benefits by the higher of the federal or State minimum wage will be deemed as meeting the “core” work requirement, even if the average weekly actual hours in work experience are less than 20 hours per week.

Districts should assign individuals in such cases to additional countable work activities for a minimum of 10 hours weekly if the household is required to meet the 30 hour participation requirement in order to count towards the federal participation rate.

D. Documentation of Participation

Districts must review local procedures to ensure that documentation to support the hours of participation is collected and entered onto the WTWCMS or NYCWAY, as appropriate and in a timely manner. Districts must also ensure that documentation to verify all hours of participation is maintained by the district, or if entered by the provider as part of the provider’s records, for no less than six years from the date the information is submitted to the State. For example, districts must ensure that time sheets which support the number of hours of participation in unpaid work activities or paystubs that document the number of hours of paid employment are maintained by the district, or if entered by the provider, as part of the providers records as described above. Districts are responsible for ensuring that data entered by district staff and providers is accurate and reported in a timely manner.

VI. Systems Implications

In addition to the local implementation workgroup mentioned above, OTDA has also established an interagency workgroup to identify changes which must be made to the Welfare-To-Work Caseload Management System and the State participation rate reporting logic to ensure that data reported to the DHHS is consistent with federal reporting requirements and the Interim Final TANF rule. For example:

- As provided in 06 LCM-10, the State participation rate reporting logic has been changed to consider only actual hours of participation entered on the WTWCMS and no longer consider scheduled hours for unpaid work activities as of the October 2006 participation rate report. Districts must ensure that actual hours of participation for the month of October are documented and entered on WTWCMS no later than November 15, 2006. Additionally, NYCWAY must only report actual documented hours of participation effective with the participation occurring on or after October 1, 2006.
- The State participation rate reporting logic has been modified effective October 1, 2006, to compare the maximum number of hours that an individual can be assigned to work experience as derived by dividing the household’s temporary assistance deficit amount (from the public assistance budget) plus the food stamp allotment amount by the higher of the federal or State minimum wage, divided by 4.333 and rounded down to the nearest whole number to the average weekly actual hours in work experience reported via WTWCMS. The State reporting logic will deem a case as meeting the 20 hour core work requirement in those instances in which the average weekly actual hours of participation (including holiday time and countable excused absence which are consistent with this ADM) in work experience reported for the month are equal to the number of hours in work experience supported by the calculation described above, even if the hours are less than 20.

- The WTWCMS has been modified to remove the field for study time and to add a field to report holiday time effective December 1, 2006. Additionally, the WTWCMS will be modified to record and track excused absences which are subject to the federal limits and those hours of excused absence which exceed the federal limits. OTDA intends for systems changes to support accurate tracking and reporting of excused absences in order to comply with federal work verification requirements to be in place no later than October 1, 2007.
- A new employability code is being added to WMS, and the definition for employability code “38” will be redefined. Employability code “40-Needed in the Home Part Time to Care for a Disabled Family Member – Non-exempt” is being added. Employability Code “38” is being redefined as follows: “Employability Code 38-Needed in the Home Full Time to Care for a Disabled Family Member – Exempt.”

VII. Amendments to the Local Employment Plan

OTDA will be issuing separate instructions to advise districts of the process to be used to modify the biennial employment plan. Districts are encouraged to review their respective employment plan as part of the plan amendment process to ensure that locally developed policies are consistent with federal and State requirements and accurately describe the procedures currently being used by districts. Districts will also need to submit a local work verification plan to describe the internal controls that the district will implement in order to ensure that hours of participation are countable and accurately reported. Information pertaining to the local work verification plan will be issued separately.

VIII. Effective Date

October 1, 2006, unless otherwise specified

Issued By

Name: Russell Sykes

Title: Deputy Commissioner

Division/Office: Division of Employment and Transitional Supports