

## **Cash Assistance Work Rules and Sanction Rules in Counties Outside of New York City**

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## **General Information about Sanctions, the Employability Process, and Work Rules**

### ***What are the work rules?***

If you apply for or get cash assistance, you may be required to participate in a “work activity” as a condition of getting that assistance. Work activity might mean getting a job, proving that you have tried to get a job, going to school or training. You may not need to participate in a work activity if you show that you are exempt from the work rules. The work exemptions are explained below.

### ***What is a sanction?***

A sanction is an action taken by your social services district to reduce or stop your grant when it claims that someone who applies for or gets cash assistance has not followed a work rule or activity.

### ***What happens when there is a sanction on my case?***

If you are a household of one person, your cash assistance case will close if you get a sanction. If you are in a household with more than one person, then your cash assistance benefits will be reduced based on the number of household members. For example, if you are the head of household and have two minor children on your case, you are a household of three. If only one of you has a sanction on your case, your benefits would be reduced by 33% (1/3).

### ***How long will the sanction last?***

Sanctions are imposed with increasing severity based on the number of prior sanctions. They also differ based on whether there are children in your household. If your household contains children:

- The first time you get sanctioned, your benefits will be reduced until you comply.
- The second time will be for three months and until you comply.
- The third time (and any additional times) it will last for six months and until compliance.

If your household does not contain children:

- The first sanction will last for 90 days and until you are willing to comply.
- The second will last for 150 days and until compliance.
- The third time (and any additional times) it will last for 180 days and until compliance.

### ***What happens if I receive a shelter supplement in addition to my public assistance grant?***

If you receive a shelter supplement (not all counties have shelter supplements), you will lose your supplement entirely, even if there are other members of the household who are not sanctioned.

***What are work activities?***

Your social services district decides which work activities are acceptable based on your employability plan (described below). In general, work activities include subsidized employment in both the public and private sector, unsubsidized employment, on-the-job training, community service, and education related to employment. Work activities may end up being a combination of one or more of these activities.

***What is an employability plan?***

Your social services district will, after a process, create a employability plan. Your district will screen you for employability which means figuring out if there are things that are keeping you from working (for example, not having a high school diploma or GED) and, if you are working now, deciding whether your job satisfies your district's work rules. This "employability plan" is supposed to guide your next steps – meaning whether you need to find work, get training, go to school, or other steps. You can ask your worker for a copy of your employability plan.

***Do I have to attend these appointments if I am already working?***

Yes. You can still be sanctioned even if you are working. Your social services district has to create your employability plan *and* approve your current work even if you already have a job. Also, your district must decide if your current job meets the work requirements.

***Why would or does my job not meet the work activity requirements?***

Your social services district will usually approve a job that you already as an allowable activity and make it part of your employment plan. Your district also sets a minimum number of hours per week of work activity in the employment plan. If you are not currently working the minimum number of hours, the district will require you to participate in other work activities.

***How many hours of work activity must I have each week?***

Remember that work activities include more than just work and depend on your Employment Plan.

There are some rules that are limitations or expansions on the minimum hours required:

- Households with dependent children are only required to engage in work activities for 30 hours per week
- Two-parent families are generally required 30 hours week, but if you receive federal child-care money, a total of 50 hours is required.
- If you have a child under the age of 6, generally 20 hours a week are required (up to your social services district).

- You are not required to work more hours than the amount of your public assistance grant and your SNAP benefits divided by the minimum wage. Educational and training activities are not counted when making this calculation.
- A person cannot be assigned more than 40 hours per week of all activities combined, including educational and training activities.

*How do I know if I can be exempt from some or all the work rules?*

If you are an applicant or recipient, you should be exempt, which means not required to participate, if you are:

- 60 years old or older
- Under 16 years old
- Under 19 years old and attending secondary, vocational, or technical school full-time
- Disabled or incapacitated (see more on page 9)
- Pregnant and due to give birth within 30 days
- Needed at home to care for a household member who has a mental or physical impairment, that has been verified by a doctor or psychologist
- You may receive a three-month exemption if you are the parent or relative of a child under one year old and personally providing care for the child (a household cannot receive this exemption for no more than 12 months in a lifetime).
- If you are exempt or made a request to be exempt from the work requirements, the agency must send a notice that tells you your exempt status.
- *What happens if the agency wants to sanction me?*  
If the agency believes you have failed to comply with the work rules, it must issue a notice that tells you have failed to comply and that you have a right to request conciliation.

## **Missing an Appointment, Conciliation, and “Good Cause”**

*What Notice(s) should I be looking out for?*

First, if the agency believes you have failed to comply with the work rules, it must issue a notice that says you have failed to comply and that you have a right to request conciliation.

This is what that notice looks like:

LDSS-4230 (Rev. 5/14)		Employment		
<b>CONCILIATION NOTIFICATION</b>				
NOTICE DATE:		NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE		
CASE NUMBER:	CIN NUMBER:			
NAME OF NONCOMPLIANT INDIVIDUAL AND ADDRESS				
OFFICE NO.	UNIT NO.	WORKER NO.	UNIT OR WORKER NAME	TELEPHONE NO.
<p><b>Notice:</b> This notice may affect your household's public assistance and Supplemental Nutrition Assistance Program (SNAP, new name for the Food Stamp program) benefits if the SNAP section below has been completed. We believe you have willfully and without good cause refused or failed to comply with a work requirement. As a result, your public assistance and/or SNAP benefits for your household may be reduced or stopped.</p> <p>We believe you have willfully and without good cause refused or failed to comply with a work requirement (specify instance(s) of refusal or failure to comply): _____</p> <p><input checked="" type="checkbox"/> <b>How This Affects Your Public Assistance Benefits:</b> To avoid having your household's <b>public assistance</b> benefits reduced or stopped, you <b>must</b> contact this agency at _____ to speak to _____ by _____ and provide a good cause reason (see examples below) to explain why you did not comply with your work activity assignment or that you were unable to participate due to a work exemption.</p> <p><input type="checkbox"/> <b>How This Affects Your SNAP Benefits:</b> To avoid a loss or reduction in your household's <b>SNAP</b> benefits, you <b>must</b> either:</p> <ul style="list-style-type: none"><li>• Contact _____ at _____ by _____ and provide a good cause reason (see examples on next page) to explain why you did not comply with your work activity assignment or document that you are exempt from SNAP work requirements. Even if you do not have a good reason for not complying with your work activity assignment or you do not document an exemption from SNAP work requirements, you may avoid a SNAP sanction by demonstrating compliance with an assigned SNAP work activity. Please see information below:</li></ul>				

*What does a right to request conciliation mean?*

You will receive a notice telling you that you have a right to conciliation if the agency believes you have failed to comply with the work rules. As you can see from the notice above, the agency must fill in the blanks to give you a phone number to call to request conciliation, the name of the person you should ask to speak to, and the deadline to request conciliation. **It is very important that you request conciliation by the deadline date.** Conciliation gives you the opportunity to show that the agency is wrong

or that you had a good reason for not complying. **If you are receiving Safety Net Assistance benefits, the request for conciliation must be made within seven days. If you are receiving Family Assistance, the request for conciliation must be made within ten days.** At the conciliation the worker will determine whether your failure to comply, if there was one, was “willful and without good cause.”

*What is “good cause”?*

“Good cause” is something outside of your control that kept you from going to a work activity or appointment. Examples of good cause include, an illness, another member of your household is ill and required your presence, a household emergency, transportation issues, and lack of adequate childcare. If your conciliation is in-person, you should bring evidence like doctor's notes, or receipts from a repair shop to your conciliation meeting. A conciliation may also be conducted over the phone. If that is the case, either submit your relevant documents to your worker or upload your documents if your district allows you to upload your documents online. (Some districts use a mobile application called NYDocSubmit).

*What is “willful”?*

Whether an act was “willful” is determined on a case-by-case basis taking into consideration whether the individual intentionally, knowingly, or deliberately refused or failed to comply with TA or SNAP employment requirements.

*What happens after a conciliation?*

If conciliation does not resolve the issue, and the social services district decides you have failed without good cause to comply with the work rules, the social services district must send a written notice of intent to sanction to you.

## The Sanction Process

*How can I tell if I am sanctioned?*

You should *always* get a written notice *before* your sanction starts. This is what that notice looks like:

LDSS-4004A (Rev. 5/19)		Employment Action Taken		
<b>NOTICE OF INTENT TO CHANGE BENEFITS - PART A</b> PUBLIC ASSISTANCE GRANT AND/OR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) BENEFITS FOR NONCOMPLIANCE WITH WORK REQUIREMENTS (TIMELY AND ADEQUATE) AND NOTICE OF EFFECT ON MEDICAID BENEFITS				
NOTICE DATE:	EFFECTIVE DATE:	NAME AND ADDRESS OF AGENCY/CENTER OR DISTRICT OFFICE		
CASE NUMBER	CIN			
CASE NAME (And C/O Name if Present) AND ADDRESS				
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
GENERAL TELEPHONE NO. FOR QUESTIONS OR HELP				
<b>OR</b> Agency Conference Fair Hearing information and assistance Record Access Legal Assistance information				
OFFICE NO.	UNIT NO.	WORKER NO.	UNIT OR WORKER NAME	TELEPHONE NO.
<p>This <b>NOTICE</b> is to tell you that this agency intends to <b>CHANGE</b> your household's benefits as explained below and on PART B. See PART B for <b>SUPPLEMENTAL NUTRITION ASSISTANCE (SNAP) INFORMATION</b>.</p>				
<b>ATTENTION: IF YOU DO NOT AGREE WITH ANY DECISION EXPLAINED IN THIS NOTICE, YOU HAVE A RIGHT TO ASK US FOR A CONFERENCE AND/OR ASK FOR A FAIR HEARING. READ THE CONFERENCE AND/OR FAIR HEARING SECTION (ON THE BACK OF THIS NOTICE) TO SEE HOW TO ASK FOR A CONFERENCE AND/OR A FAIR HEARING.</b>				

If your benefits have stopped and you have not received notice, you should contact your worker immediately.

*I have a job. Why am I getting sanctioned?*

You must show that you are doing work activities that were assigned to you and participating in any assessment process assigned by the district. Even if you are already working when you apply for benefits, your social services district must *approve* your job as a work activity. There are also minimum weekly hour requirements.

*Can I count education or training towards my weekly work activities requirements?*

Yes, if your social services district has approved your education or training as a work activity, and it is part of your employability plan. You must verify your attendance in classes and get certain grades.

*I am under the age of 25, and I do not have a high school diploma. Can I finish school as a work activity?*

Yes! Your social services district needs to approve your education as a work activity, but people under the age of 25 may count full-time enrollment in high school or a high-school equivalency program (GED) as your work activity. In some cases, you may be able to count full-time literacy programs as a work activity. You will need to prove attendance and progress towards a goal (for example, a diploma or GED).

*I am worried that I have a sanction or that the worker has made a mistake. What should I do?*

You should try to resolve your sanction by talking to your worker. Tell your worker if you had a good reason not to attend a work assignment; if you did not get a notice in the language you speak/read, or if there were reasons you cannot do work activities, such as a disability. In addition, you should request a Fair Hearing. The best way to request a Fair Hearing is online (<https://otda.ny.gov/hearings/request/#online>). Remember to print/save a copy of your request. You can also call 800-342-3334 and request a Fair Hearing by phone.

If you receive a notice of sanction and ask for a hearing, you may ask that your benefits continue unchanged until your hearing is decided. To receive continuing benefits (called “aid continuing”) you must ask for a hearing within 10 days of the date of the notice, or before the effective date of the hearing. If you lose your hearing, you will be required to pay back the benefits.

## **Medical Exemptions from Work Activities**

*I am sick, have a disability, or have other health issues that keep me from working.*

*What do I do?*

If you are an applicant or recipient who is unable to work due to an illness or injury that will last up to three months, you should be found “not employable” and therefore exempt from a work assignment. Additionally, in the course of an application of your application or recertification, your agency must inquire whether you might have a mental or physical impairment that would limit your ability to participate in work activities. If you believe you may have a disability, the agency must give you 10 days to produce medical documentation containing a diagnosis and your work limitations. Despite this agencies still have a broad discretion to decide if that evidence is sufficient, and they may require further examinations or information.

*How will I know if my social services district accepts my disability status?*

Once a medical determination has been made, your social services district must send you a written notice of employability. The notice should describe how the district reviewed your medical records, and provide a diagnosis and opinion on your condition, and report any other conditions that may affect your ability to work. Additionally, they should make a determination about your employability level that will indicate if you are:

- Employable without limitations: you must start work activities
- Employable with limitations: there are certain activities that you cannot do, for example lifting over 10 pounds
- Work limited: you are unable to work full time because of an illness or injury
- Exempt: you can not work because of a disability.

*What if I disagree with the district's decision?*

**If you disagree with the district's decision, you only have 10 days after the date of the notice to request a fair hearing to contest it.** If you request a hearing, the district cannot assign you any work-related tasks until there is a fair hearing decision that resolves the issue.

## **Other Exemptions & Exceptions to 35-hours-per-week Work Activity Rules**

*What are other reasons or circumstances when I may be exempted from the work rules?*

You may be temporarily exempt from work activity for other reasons, which you will need to prove to your social services district. Your social services district will ask you for documentation, which you must provide so long as it is reasonable.

You may be exempt from some or all of the 35-hour-per-week work activity rules if:

- ✓ You have a “domestic violence waiver” from your social services district
  - You will need to speak with a “Domestic Violence Liaison” to show that you are eligible for the waiver. See section below called “**Domestic Violence Waiver & Domestic Violence Liaison (DVL)**.”
- ✓ You are in the assessment process for, or you are getting treatment approved by your social services district for substance abuse.
- ✓ You have a child under 1 in your household
  - Usually, you can only take 3 months per child up to a maximum of 12 months per lifetime. You can ask to take more time per child if you have not used up your 12 month maximum.
- ✓ You have child(ren) under age 13 and you do not have childcare
  - Your social services district must give you a childcare option if you do not have any. If you do not use their option, the district may sanction you for refusing childcare unless you can show that you had a good reason for not using that childcare provider
- ✓ You are needed at home to care for a family member
  - You will need to provide verification for this.
- ✓ You are unable to work because you have a physical or mental impairment
  - This will have to be medically verified
- ✓ You are injured or sick for up to 3 months
  - You will need to verify this with medical evidence
- ✓ You are under age 19 and still in high school or a full-time high school equivalency (GED) program
  - You will need to provide proof (usually a verification letter from the school) that you are in high school or a full-time equivalent program.
- ✓ You are pregnant, and your due date is in 30 or fewer days
  - You will need to give your social services district a letter from your provider with your due date.

## **Domestic Violence Waiver & Domestic Violence Liaison (DVL)**

### *What is the “domestic violence waiver”?*

Survivors of domestic violence may be able to get a waiver of public assistance rules – including work activity rules and child support cooperation rules. Most waivers are for four to six months at a time and will be reassessed every six months. Waivers may be terminated, extended, or modified at any time, including by the survivor.

### *How do I get the waiver?*

All social services districts are required to inform applicants and recipients at recertification of the availability of services available to people experiencing domestic violence. You should be given the opportunity to indicate that you are experiencing domestic violence. Afterwards you should be referred to a Domestic Violence Liaison who will determine whether the claim is credible and, if so, will refer you for services, counseling, and determine whether certain welfare requirements will be waived.

### *Who are domestic violence liaisons?*

Domestic violence liaisons work with social services districts and handle the domestic violence waiver process. A liaison must have a BA degree, one year of experience as a caseworker, or two years' experience in domestic violence advocacy or counseling. Additionally, they must complete a 3-day training sponsored by the Office of Temporary and Disability Assistance.

### *What do domestic violence liaisons do?*

Domestic violence liaisons assess the credibility of the individual's claim of domestic violence, and if they find the claims credible they take further appropriate action (including but not limited to granting waivers). Domestic violence liaisons are also responsible for working with the individual to develop a services plan intended to lead to self-sufficiency. The interview process with a domestic violence liaison generally takes place in-person, but the interviews may be conducted over the phone.

### *How do I “prove” domestic violence?*

If you have documentation of domestic violence that may be helpful to prove your case (such as an order of protection or police report) you should provide it to the domestic violence liaison. However, documentation is not required. Without such documents, you may be asked to sign a sworn statement regarding your situation.

### *What is meant by “domestic violence”?*

A “victim of domestic violence” is a person who is subjected to:

1. physical acts that resulted in or could result in injury;
2. sexual abuse;

3. being forced as caretaker relative of a dependent child to engage in nonconsensual sexual activities;
4. threats of sexual or physical abuse;
5. mental abuse; and/or
6. neglect; and
7. those acts must be committed by a “family or household member.”

*What are the domestic violence liaisons looking for, anyway?*

Domestic violence liaisons are generally seeking to identify:

- If the client’s situation meets the legal definition of DV,
- If the client might have a document to support their claim of domestic violence,
- If additional questions are necessary when the client is relying upon a sworn statement, and no other documentation is available,
- If certain welfare requirements, such as engagement in work activities or pursuing child support cooperation might put the client and/or the children at risk and therefore, should be waived temporarily, and
- The appropriate length of a waiver if eligible.

The domestic violence liaison will not likely ask these questions directly, rather they will usually deduce the answers themselves based on the information you tell them during your interview.

*What is a “partial waiver”?*

Partial waiver excuses you from only part of a requirement. This typically means your district and domestic violence liaison will select which activities require completion based on your circumstances (which are safe for you to complete).

*How long do the waivers last?*

Waivers last for 4-6 months. You will be called in for a reassessment before the 6-month mark.

*What happens at the 6-month reassessment?*

You will meet again with a domestic violence liaison. They should only be assessing whether the need for the waiver still exists. The reassessment is not about your credibility—meaning whether the liaison believes you—or the original domestic violence.

*How will I know if I received the waiver or if I was denied?*

After reviewing your case, the domestic violence liaison will issue you a written decision granting or denying your request for a waiver. The most common waivers granted are: (1) the obligation to cooperate with DSS in pursuing child support, and (2) work

assignments. You may receive all the available waivers, but the vast majority receive only the two waivers listed above.