

November 20, 2007

SUBJECT: Work/Participation Limits in the Employment and Training Program

TO: Food Stamp Program Directors
All Regions

During the recent review of fiscal year (FY) 2008 State Food Stamp Employment and Training (E&T) Plans we discovered a trend developing in some State programs. In their plans, these State agencies describe E&T components in which participants are allowed to “volunteer” to take part in activities that exceed the maximum hours permitted by statute. The State agencies justify this practice by arguing that the extra hours are necessary to enhance the opportunities afforded food stamp recipients working in low-wage jobs and to permit unemployed E&T participants to take part in full-time E&T programs. While the desire to maximize training and education activities for food stamp recipients is commendable, this practice violates Federal law and must terminate.

Section 6(d)(4)(F)(i) and (ii) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2015(d)(4)(F)(i) and (ii)), lays out the limits of “work” and “participation” in a food stamp E&T program. Hours spent in a work component (workfare, work experience, on-the-job training, or any other activity that entails the participant’s labor in a work environment as part of his or her E&T obligation) required of a household in a month may not exceed the number of hours determined by dividing the household’s food stamp allotment for the month by the higher of the State or Federal minimum wage. For example, a two-person household receiving the maximum monthly food stamp allotment of \$298.00 and living in a State where the applicable minimum wage is \$5.85 an hour is limited to a maximum of 51 hours participation in a work component or components during the month ($\$298.00 \div \$5.85 = 50.94$, or 51 hours). The State agency may apportion the hours between household members as it sees fit. However, it cannot require—or allow—they to volunteer to work beyond that maximum.

Individual participation in a non-work E&T component, plus any work component hours and any hours worked for compensation (in cash or in kind) may not exceed 120 hours per month. Thus, if one individual in the two-person household described above participates in workfare for 51 hours during the month, he/she is limited to 69 hours participation in other, non-work, E&T activities. In another example, an individual working part-time for 80 hours a month may only participate in E&T for 40 hours a month. Individuals working 30 or more hours a week are exempt from program work requirements and may not be allowed to voluntarily participate in E&T.

These work/participation maximums apply only to a food stamp E&T program under 7 U.S.C. 2015(d)(4). Food stamp recipients not assigned to an E&T component who take part in other work or education and training activities are not affected and there is no restriction on the number of hours an individual may choose to participate *separately* from the maximum required hours specified in a State E&T Plan. However, those hours may not be counted as part of a component requirement and no Federal E&T funds may be expended to fund those additional hours or to

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provide participant reimbursements for them. For example, while participating in E&T for their respective 69 and 40 hour monthly maximums, the individuals referred to in paragraph 3 may opt to attend extra classes at a local one-stop agency sponsored under the Workforce Investment Act. Those additional hours must not be described in the State E&T Plan as part of a component; must not be counted as part of the individuals' food stamp work requirements; and must not be paid for with Federal E&T funds. Needless to say, a food stamp disqualification must not be imposed on a recipient who, after working/participating for the maximum allowable time in an assigned E&T component, declines to take part in separate activities.

We hope this clarification is helpful. If you or your respective State agencies have further questions or comments, contact Micheal Atwell at 703-305-2449.

/S/

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