

Bulletin

October 6, 2006

Minnesota Department of Human Services □ P.O. Box 64941 □ St. Paul, MN 55164-0941

OF INTEREST TO

- County Directors
- Income Maintenance Supervisors and Staff
- Employment Services Providers
- Tribal Representatives

ACTION/DUE DATE

Upon receipt.

EXPIRATION DATE

October 1, 2008

Deficit Reduction Act (DRA) Changes for MFIP

TOPIC

Modifications to the Minnesota Family Investment Program (MFIP) needed to implement federal changes in the Temporary Assistance for Needy Families (TANF) program under the Deficit Reduction Act.

PURPOSE

To explain how the federal changes affect MFIP and provide instructions to County and Tribal Human Services and Employment Services staff on implementation of the changes.

CONTACT

For questions on income maintenance program policy:
Local Agency Support Policy Center
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For instructions on how to submit questions specific to the provisions in this bulletin see page 18.

SIGNED

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Background

In December 2005, Congress passed the Deficit Reduction Act (DRA) which reauthorized the Temporary Assistance for Needy Families (TANF) program. The DRA maintained current TANF funding levels and the work participation rate (WPR) target of 50% for single-parent families. However, it made meeting these targets more difficult for states by changing the base year used for the caseload reduction factor and requiring participants in separate state programs to be included in the WPR. In addition, the DRA required the federal Department of Health and Human Services (DHHS) to issue new rules defining work-eligible individuals, determining whether activities may be counted as work activities, and specifying how to document and verify reported hours of activity.

The final interim rule was issued on June 29, 2006. The rule requires states to submit a verification plan to the DHHS, Office of Family Assistance (OFA) by October 1, 2006. Under the DRA, states can be penalized for not complying with their verification plan. Minnesota's verification plan can be found at the Department of Human Services web site.

Although the rule was effective June 29, 2006, the OFA accepted comments on the rule provisions through August 28, 2006. The Department submitted numerous comments, as did many other organizations. The OFA will review all comments and may make changes in the rule which could affect the state's verification plan and the provisions in this bulletin. We expect a response to comments on the rule early in 2007.

In developing the state's verification plan, the Department tried to take into consideration the requirements in the rules as well as the reality of implementing those rules in the field. As a result, DHS will allow flexibility in the application of the requirements when possible.

While the changes are effective October 1, 2006, the OFA will not apply a penalty for failure to comply with verification procedures until October 2007. This gives states a year to implement their verification plans. It is important that counties and providers immediately begin to put in place policies and procedures necessary to comply with verification requirements so the state can avoid penalties in 2007. Any penalty imposed on the state is also shared by the counties under Minnesota Statutes, section 256J.751, subdivision 5.

Introduction

It is important to remember that the DRA only affects which activities are countable for the state's TANF work participation rate (WPR). It does not change what is allowable under MFIP. Nor does it change any of the other laws in place to protect participants' rights such as the Data Privacy Act, Americans with Disabilities Act (ADA) of 1990, the Fair Labor Standards Act (FLSA) or the Health Insurance Portability and Accountability Act (HIPPA) of 1996.

It is still important to develop individualized employment plans based on the needs of the family, understanding that participants may not be engaged in countable activities at all times. Some

will still need to have modified plans and some will need to be in treatment, job search or vocational education beyond the limits on countable hours. The challenge for us all is to strike a balance between meeting the TANF WPR and engaging the family in ways that will lead to long term self-sufficiency.

The definitions of work activities in the interim rule, while not significantly different from the definitions in current Minnesota Statutes, will require counties and providers to make some changes in employment plans. **See Attachment A for the definitions of countable activities.**

The requirements related to supervision, documentation and verification of countable activities will have the largest impact on counties, provider operations and participants. The rule requires a new level of accountability that could substantially change how participant activities are structured, documented, and verified. This bulletin was developed to provide guidance to counties and providers in meeting these new requirements.

I. General Supervision, Verification and Documentation Requirements of the Deficit Reduction Act

The new TANF regulations define the supervision requirements and hold states to a higher standard of verification and documentation of a participant's time in countable work activities. Activity hours for each participant must be verified and supported by documentation in the case file.

Verification is the action taken by the county or employment services provider to validate the hours and activities of program participants. Documentation provides supporting evidence that the hours and activities have been verified.

II. Guidance for Meeting New Supervision, Verification and Documentation Standards

1. Paid Employment Activities include:

- Unsubsidized Employment (including, but not limited to work study and self-employment);
- Subsidized Private Sector Employment;
- Subsidized Public Sector Employment; or
- On-the-job Training

Daily Supervision

The new TANF regulations assume the participant's employer will provide daily supervision. There are no additional supervision requirements.

Verification and Documentation

The county must verify the number of hours of paid employment. For all participants engaged in paid employment, who are not self-employed, acceptable documentation includes:

- Pay stubs (that include hours worked);
- Employer reports (that list hours worked);
- Employer time and attendance records, and
- Employer statement of hours worked.

MFIP participants with earned income are required to submit a monthly Household Report Form to the county and attach documentation of the hours of paid employment. Employment services providers are not required to obtain additional verification of hours in subsidized employment.

Special Documentation and Verification Requirements for Self-Employment

Self-employment participants are required to submit a monthly Household Report Form and either a Self-Employment Report Form with documentation that supports the participant's business related income and allowable expenses or other similar documentation of monthly business income and expenses. The hours of self-employment counted toward the participation rate requirement are determined by subtracting the allowable business expenses from the business income (net income) and dividing the remainder by the federal minimum wage (\$5.15/hour). The MAXIS system will derive the number of hours of self-employment.

Counties must inform employment services providers of a participant's hours of self-employment each month. Employment services counselors must determine if the countable hours of self-employment are sufficient to meet the work participation rate requirements. If the hours are not sufficient to meet the work participation rate, the employment services counselor and participant must consider additional countable work activities.

2. Unpaid Employment Activities includes:

- Work Experience (includes, but is not limited to, volunteer work); and
- Community Service (includes, but is not limited to AmeriCorp and AmeriCorp/Vista Programs)

Daily Supervision

The new TANF regulations require participants who are engaged in unpaid employment activities to be supervised on an ongoing basis no less frequently than daily. Daily supervision means the participant has an assigned supervisor to whom the participant reports daily, preferably at the work site. Supervision includes developing and overseeing the participant's work schedule and assignments. An employer, work site sponsor or other responsible individual, such as an employment services staff person, can provide daily supervision of the participant in an unpaid employment activity.

NOTE: DHS recommends development of a written agreement between the work site and the employment services provider that specifies the party responsible for providing daily supervision of a participant engaged in an unpaid employment activity.

Verification and Documentation

The employment services provider must verify hours of unpaid employment activity in order to count these hours toward the work participation rate.

A time sheet or similar attendance document must be used to document hours a participant is engaged in an unpaid employment activity. The document used to verify hours of participation must include the days and number of hours worked each day. Time sheets or other attendance documents must be submitted to the employment services provider no less than every two weeks. Verify work hours by reviewing the time sheet or other attendance documents.

A time sheet or attendance document that has not been signed by a supervisor is not an acceptable form of documentation for unpaid employment activities. When a participant submits an unsigned time sheet or other attendance document, the employment services provider must contact the work site to verify the hours are correct or have the participant obtain the necessary signature in order for the hours to be countable. A signed release of information from the participant must be obtained prior to contacting the unpaid employment activity supervisor. When hours are verified by contacting the work site, an employment services staff person must sign the time sheet or attendance document and enter a case note in the participant's file.

3. Job Search and Job Readiness Assistance (includes)

- Job Search
- Job Readiness Assistance (includes preparing a resume or job application, training in interviewing skills, instruction on appropriate attire and behavior on the job, effective job seeking as well as life skills training).
- Job Readiness Assistance for Chemical Health Treatment, Mental Health Treatment and Rehabilitation Services.

Daily Supervision

The new TANF regulations require participants who are engaged in job search and job readiness assistance to be supervised on an ongoing basis no less frequently than daily. Daily supervision can be provided by an employment services staff person, or other responsible individual.

At a minimum, daily supervision means the employment counselor and participant must have developed an agreed upon schedule of daily activities for the week. For mental health, substance abuse or rehabilitation activities, hours will be based on the

recommendations or treatment plan signed by a qualified professional, or a schedule of group meetings.

Supervision also includes at least one in-person or phone check-in each week. During the check-in, the participant and the employment counselor must review progress, identify support service needs, and make any necessary changes in the schedule of activities.

Verification and Documentation:

The employment services provider must make sure the hours of job search and job readiness assistance for each participant engaged in these activities are documented and verified in order for the hours to count towards the work participation rate. Acceptable documentation for the weekly check-in is a case note in the participant's file.

Acceptable documentation for on-site job search and job search readiness assistance activity and hours includes schedules of the activities, completed resumes or workshop materials or attendance records that include the dates and hours of activities and the name(s) of the participant(s). Verify on-site activity and hours by reviewing the attendance and participation records.

Acceptable documentation for off-site job search and job readiness assistance activity (other than chemical dependency or mental health treatment or rehabilitation services), includes attendance records signed by the provider of off-site activities, copies of completed applications, or detailed activity logs of specific employment contacts made by the participant, along with other activities such as researching career opportunities. The activity log must include the hours spent in each activity and the status or outcome. Documents used to support a participant's time in job search and job readiness activities must be submitted to the employment services provider no less than once per week.

Verify off-site job search and job readiness assistance activity and hours by reviewing the schedule of daily activities, attendance records and activity logs for consistency. The review should be done with the participant whenever possible. Employment services providers should attempt to verify inconsistent entries on the activity log. Items that cannot be verified should be crossed off the activity log. Attendance records that are not signed by a provider of off-site services should be returned to the participant so a signature can be obtained, or verified by contacting the supervisor. When an employment services provider contacts a supervisor for verification, the contact should be documented in case notes. DHS recommends that the review occur at least weekly.

NOTE: Hours a participant is engaged in a self-directed job search are not countable unless the hours are verified and documented.

Chemical Health Treatment, Mental Health Treatment, and Rehabilitation Services

Documentation of activities associated with chemical health treatment, mental health treatment, and rehabilitation services include the recommendations or a treatment plan

signed by a qualified professional, or a schedule of group meetings. Verify participation in these services with a statement, signed by the service provider, confirming that the participant is making a reasonable effort to comply with treatment recommendations or participate in rehabilitation services. Statements should be obtained at least once per month. Dates and hours of participation should be documented on the participant's activity log. Verify the dates and hours by reviewing the log with the participant. For participants who are in no other activities but treatment or rehabilitation services, supervision also includes at least bi-weekly in-person or telephone phone contact.

A signed release of information is required to obtain or exchange information with these providers. The release must include the specific name or general description of the program or person permitted to make the disclosure; the name or title of the individual or the name of the organization to which disclosure is to be made; the name of the participant; the purpose of the disclosure; how much and what kind of information is to be disclosed; the signature of the participant; the date on which the consent is signed; a statement that the consent is subject to revocation at any time; the date, event, or condition upon which the consent will expire if not revoked before; this date, event, or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given. Counties and employment services providers should ask for the least amount of information necessary to verify hours of participation.

NOTE: Although Chemical Health treatment, Mental Health Treatment and Rehabilitation Services are subject to the six week limit for reporting purposes (with no more than four of the weeks being consecutive), the actual length of time services are allowable will be determined by a qualified professional based on the participant's needs.

4. Education and Training Related Activities Includes:

- Vocational Educational Training
- Job Skills Training Directly Related to Employment
 - Adult Basic Education (ABE)
 - English as a Second Language (ESL)
 - Functional Work Literacy (FWL)
 - Skills training provided by the county, Workforce Center or other employment services provider (e.g. keyboarding, computer literacy).
- Education Directly Related to Employment
- Satisfactory Attendance at a Secondary School (or GED)

Daily Supervision

The new TANF regulations require participants who are engaged in education and training activities to be supervised on an ongoing basis no less frequently than daily. Supervision may be provided by a representative of the education or training institution, or another responsible individual, such as an employment services staff person. Supervision for all education and training activities, including secondary education, also includes at least bi-weekly telephone or in-person contact.

Verification and Documentation:

The number of hours of education and training activities must be verified in order for the hours to count towards meeting the work participation rate.

When skills training is conducted on-site at the employment services office or a Workforce Center, the training schedule along with attendance records, including monitored study time, is acceptable documentation of participation hours. Attendance record must include dates and hours of training activities for each participant. Verify participation hours by reviewing the training schedule and attendance records.

For all other education and training activities except secondary school, a statement or weekly schedule from the educational institution or training provider, activity logs, and signed statements or attendance records are acceptable documentation of participation hours. A participant's weekly schedule may be used to determine allowable hours of study time. The formula that Minnesota has submitted to DHHS is two hours of countable study time for each hour of classroom instruction.

Obtain statements and schedules from high schools, alternative schools and post-secondary institutions at the beginning of each quarter or semester. Obtain statements and schedules from all other education and training institutions at least once per month.

Participants in post-secondary education should record dates and hours of attendance on an activity log. The log must be submitted at least every two weeks. Verify participation hours by reviewing the activity log and the progress reports and grades issued by the institution.

Participants in GED, ABE, ESL, and FWL must submit a signed statement or attendance record from the instructor at least every two weeks. If the instructor or education provider will not provide documentation every two weeks, the participant should record dates and hours of attendance on an activity log that is submitted at least every two weeks, followed by a signed statement or attendance record submitted at least once per month. Unsigned statements and attendance records are not an acceptable form of documentation. Employment services providers may return unsigned documentation to the participant to obtain a signature, or they may contact the instructor if there is a signed release of information. If the employment services provider contacts an instructor, a case note should be included in the participant's file.

Satisfactory Attendance at a Secondary School

Ongoing documentation for participants attending high school is not required. Participants who attend high school and are under 20 years of age are deemed to be meeting the work participation requirements.

5. Providing Child Care to a MFIP Participant engaged in a Community Service Program Activity

Daily Supervision

The new TANF regulations require participants who are providing child care to another MFIP participant who is participating in a community service program to be supervised on an ongoing basis no less frequently than daily. Supervision may be by a responsible individual, such as an employment services provider staff person. The employment services provider and the participant must develop an agreed upon employment plan that lists the days and hours the participant will be providing child care for another MFIP participant who is in a community service program.

Verification and Documentation

The number of hours a participant provides child care for another MFIP participant who is participating in a community service program must be verified in order for the hours to count towards the work participation rate.

For participants who provide child care to another MFIP participant in a community service program unpaid position, it is necessary to obtain a statement that supports the hours the participant provides child care. Acceptable documentation includes a statement from the participant in a community services program or another individual who has knowledge of the time spent providing child care. The document used to support the hours must be submitted to the employment provider no less than every two weeks.

A statement from the MFIP participant who provides the child care is not an acceptable form of verification for this activity. An employment services provider that receives a statement or other document that is not signed by the participant who is participating in the community service program or other responsible individual must confirm with the participant in a community services program that the hours are correct in order for the hours to be countable. The employment services provider must write a case note to document the verification of hours.

III. Minnesota's Holiday and Excused Absence Policy for Unpaid Work Activities

The new TANF regulations allow states to give participants in the activities listed below credit for holidays, plus a limited number of days/hours for other excused absences.

- Work Experience
- Job Search and Job Readiness Assistance
- Community Service Programs
- Vocational Education Training
- Job Skills Directly Related to Employment
- Education Directly Related to Employment

- Satisfactory Attendance at a Secondary School
- Providing Child Care to Community Service Program Participant

Excused Holidays

Participants engaged in any of the unpaid activity categories listed below will be credited as participating on the holidays listed below. Participants must be credited with the number of hours they would have been scheduled for if the day had not been a holiday.

New Year's Day (January 1st)
Martin Luther King Day (3rd Monday in January)
President's Day (3rd Monday in February)
Memorial Day (Last Monday in May)
Independence Day (4th of July)
Labor Day (1st Monday in September)
Columbus Day (2nd Monday in October)
Veterans Day (November 11th)
Thanksgiving Day (4th Thursday in November)
The Day after Thanksgiving (4th Friday in November)
Christmas Day (December 25th)

Participants may substitute cultural or religious holidays for the above recognized state and federal holidays when prior notice is provided to the employment services provider.

When New Year's Day, or Independence Day, or Veterans Day, or Christmas Day falls on Sunday, the following Monday shall be a holiday. When New Year's Day, or Independence Day, or Veterans Day, or Christmas Day; falls on Saturday, the preceding Friday shall be a holiday.

Other Excused Absences

In addition to being credited as participating on the holidays listed above, participants engaged in any of the activity categories listed below will also be credited with up to 80 hours of excused absences over a twelve month period, with no more than 16 hours credit for excused absences over a one calendar month period.

Additional Excused Absences for Participants in Education and Training Activities

In addition to the excused absence policy stated above, a participant engaged in Education and Training Activities, including Vocational Educational Training, ABE, FWL, ESL and GED Training will be considered to be meeting the attendance requirements and credited with excused hours when the educational institution is not in regular session, including holiday breaks. This policy does not apply to summer breaks.

Additional Guidance on Granting Excused Absence Credit

- Participants do not have to accrue excused absence hours. A participant is eligible for the full excused absence policy as soon as the participant becomes engaged in one of the activities listed above.
- Credit a participant with up to 16 hours per month for excused absences, with no more than 80 hours of excused absences over a twelve month period. The twelve month period is a rolling period. To determine whether the participant is eligible for an excused absence credit, look back over the previous eleven months.
 - If the participant has been granted excused absences for 80 hours over the previous eleven months, the participant is not eligible for any additional hours of excused absence in the twelfth month.
 - If the participant has been granted excused absences for less than 80 hours of excused absences over the previous eleven months, the participant is eligible to be credited with the number of hours equal to 80 less the number of excused absence hours credited in the previous eleven months or 16 hours, whichever is less.
- Participants are eligible for up to the number of hours they were scheduled for on the excused absence day(s). A participant may use as little as one hour of excused absence per occurrence.
- Hours must be recorded in the activity category where the hours were missed.
- Case note the reason for the excused absence and reference giving the participant an “excused absence” allowance for that day.

NOTE: The “excused absence” for work participation purposes should not be confused with good cause as it relates to the sanction policy. Good cause is not limited to 16 hours per month or 80 hours per twelve months. Participants must not be sanctioned if they have good cause.

IV. Work Experience and Community Service Programs and the Fair Labor Standards Act

Participants who are engaged in work experience or community service program activities are subject to the provisions of the Fair Labor Standards Act. When developing a work schedule for a participant in an unpaid work experience, volunteer or Community Work Experience Programs position, hours are determined by dividing the participant’s actual MFIP grant (both cash and food portions) by the state minimum wage \$6.15/hour. For example, a participant’s MFIP grant is \$400. Divide by \$6.15/hour. The maximum number of hours the participant is permitted to work in an unpaid employment activity during the month is 65. Always round down to the nearest whole number of hours.

In the above example, the individual would fall short of the 87 hours per month core requirements. However, because of the FLSA restrictions, the new TANF regulations allow states to deem the participant to have met the TANF core hour requirement of 87 hours per month if he/she worked the maximum number of hours allowed under the FLSA.

The new TANF regulations do not allow states to deem additional hours to meet the 130 hours per month requirement for families without a child under the age of six. These participants must be engaged in additional countable activities, not subject to the FLSA, in order to meet the 130 hour per month participation requirement.

The new TANF regulations define AmeriCorp/USA and AmeriCorp /VISTA to be community service programs. However, because AmeriCorp/USA and AmeriCorp/VISTA volunteers are compensated for their work, participants engaged in AmeriCorp and VISTA are not subject to the FLSA provisions.

V. Subsidized Employment

Paid work experience may or may not be considered subsidized employment. Paid work experience is considered subsidized employment when the employment services provider reimburses the employer for wages paid to the participant. Paid work experience is not considered subsidized employment when the employment services provider pays the participant's salary directly (unless the participant is an employee of the employment services provider). In either case, hours in paid work experience count as core hours and are collected from the MAXIS system.

Tax Credits are not considered subsidies for the purpose of determining if a participant is in subsidized employment.

VI. Other Work Activity Changes and Clarifications

1. Job Search and Job Readiness Assistance

The new TANF regulations allow states to count hours in Chemical Dependency and Mental Health treatment and Rehabilitation Services for participants who are otherwise employable when the services are determined necessary by a qualified professional (see Minnesota Statutes, section 256J.49, Subdivision 73 (a), for definitions of qualified professionals).

A participant is considered "otherwise employable" unless he or she has been determined to be unemployable by a vocational counselor or the county. This is the same definition that is used to determine that someone is unemployable for granting an extension.

The new TANF regulations continue to restrict countable job search and job readiness assistance to no more than six weeks per federal fiscal year (October through September) with no more than four of the weeks consecutive.

2. Community Service Program

The new TANF regulations require states to verify that a community service program position assigned to a participant fulfills a useful public purpose. MFIP employment services providers must identify and document, in the participant's case file, the useful public purpose the position fulfills. Some examples include work performed for a school, Head Start Program, providing clerical support for a government and not-for-profit agency and working for a church preparing meals for the elderly, as well as participation in volunteer organizations, such as Volunteers in Service to America or private volunteer organizations.

States are also required to document how the community service program work assignment enhances the participant's employability. MFIP employment services providers must document in the participant's case file how the work assignment enhances the participant's employability.

3. Vocational Educational Training

Vocational educational training includes either academic and vocational course work that can provide an associate of arts (AA), associate of science (AS), or associate of applied science (AAS) degree in fields defined as vocational, and credential or industry recognized certificates such as a Microsoft certifications. Though still an allowable activity under MFIP, the new TANF regulations do not allow states to count hours of participation in baccalaureate or advanced degree programs under Vocational Educational Training.

Because the TANF regulations allow up to 12 months of longer programs to be counted as vocational educational training, and Minnesota Statute allows up to 24 months of post-secondary education, Minnesota will report the first 12 months of a longer program as vocational educational training.

Tracking: The first 12 months of a longer program will be reported as Vocational Education. Track participation on WorkForce One under "Vocational Education – 12 months or less" for the first 12 months of a longer program. Information about reporting and tracking the remaining months of a longer year program is included below under Job Skills Training Directly Related to Employment.

4. Job Skills Training Directly Related to Employment

Job skills training directly related to employment includes both training done by post-secondary institutions and training done by the county or a private contractor.

Track Adult Basic Education, English as a Second Language and Functional Work Literacy training under the job skills training directly related to employment TANF category.

Tracking: The final months of an educational program that is longer than 12 months will be reported as Job Skills Training Directly Related to Employment. Track participation on WorkForce One under “Job Skills Training Directly Related to Employment” for the months beyond the first 12 months of a longer program. The tracking category “Vocational Training/Education – 13-24 months” should no longer be used.

5. Education Directly Related to Employment

For the time being, this will not be used for TANF participation purposes.

6. Satisfactory Attendance at a Secondary School or in a Course of Study Leading to a GED

Track General Educational Development (GED) participation under the Satisfactory Attendance at a secondary school category.

7. Participation in Activities that are Neither Core nor Non-Core

Employment counselors must continue to record hours of participation in activities that are neither Core nor Non-Core. These hours are included in the federal reports that the Department submits, though they do not count towards meeting the state’s TANF work participation rate.

VII. Work Eligible Individuals

The new TANF regulations included a new term, Work Eligible Individuals, to identify individuals that are included in a state’s denominator for determining the state’s TANF work participation rate. In Minnesota, “work eligible individuals” for the purpose of determining the federal work participation rate includes any of the following:

- an adult (or minor child head-of-household) receiving assistance (and includes children who are not removed from the grant when they turn 19 years of age);
- a non-recipient parent due to sanctions;

- a non-recipient parent due to the 60 month time limit;
- a non-recipient parent receiving SSI (if the parent meets the work requirements); and
- a non-recipient parent due to other reasons.

Individuals who are not Work Eligible Adults and are not included in the denominator include:

- a non-recipient, but not a parent;
- an ineligible alien due to immigration status;
- a non-recipient parent receiving SSI (if the parent does not meet the work requirements); and
- a parent caring for a disabled family member in the home.

We will continue to disregard cases that do not have enough hours of participation to make it in the numerator if the case is in the first 3 months of sanction out of the previous 12 months and if there is a child less than 1 year and the parent is needed in the home and has not used the federal 12 month life time exemption limit.

A new category of cases that State's are allowed to exclude from the work participation rate denominator are cases that have a parent who is providing care for a disabled family member (adult or child) living in the home who does not attend school on a full time basis. Medical documentation to support the need for the parent to remain in the home to care for the disabled family member will be required. Minnesota will exclude these cases from the denominator.

Note: Instructions for properly coding the MAXIS system to identify a parent to exclude from the work participation rate denominator can be found in MAXIS POLI/TEMP at TE17.10 (Participation Rate).

VIII. Other Federal Laws

Americans with Disabilities Act (ADA) of 1990

While there are more stringent verification requirements under the new rules, county agencies and employment services providers must continue to ensure that participants have equal access to the services funded through TANF as required under ADA law. This may mean that employment plans will need to be modified to meet the needs of a participant with a disability and job counselors will need to assist some participants in obtaining verification of their participation. The Department issued an ADA resource and reference guide in March of 2005 (#05-11-01), which identifies resources available to counties and employment services providers who are assisting persons with disabilities. Please refer to this bulletin for more information about how you can meet the

needs of participants who are unable, because of a disability, to respond to requests for specific documentation or may need reasonable accommodations to participate.

Health Insurance Portability and Accountability Act (HIPAA) of 1996

County and employment services providers continue to be required under HIPAA to protect the medical data of MFIP participants. Because of the verification and documentation requirements in the new TANF rule, counties and employment services providers may need to obtain additional releases from clients in order to obtain verification of certain treatment activities such as chemical dependency or mental health services if the participant is unable to provide documentation. Limit requests to the least amount of information necessary to verify hours of participation.

IX. DHS Monitoring Responsibilities

The new TANF regulations required states to monitor participants' engagement in work activities in order to verify participants' hours of participation. The Department of Human Services Program Assessment and Integrity Division (PAID) will be conducting the monitoring activity. A bulletin describing the upcoming monitoring process will be issued once the state's TANF work verification plan has been approved.

Counties and employment services providers can begin to prepare for the monitoring reviews by reviewing case files to determine if they contain the necessary documentation. **See Attachment B for a checklist of items that should be included in a participant's case file.**

X. Parameters for MFIP Work Activity Documentation and Verification Forms

The forms your agency previously gave to participants for reporting activities may need to be revised to meet new requirements for verification of the activities and hours.

Consider the following when reviewing your current forms.

Form Content

To satisfy the activity verification requirements, AT A MINIMUM include titled space for the following:

- Participant name.
- Identification of the specific activity.
- Identification of the specific date(s) the activity occurred. This is extremely important when a report of activities includes days in more than one month. While the report must be at least bi-weekly, activities are only reported monthly to the federal government.

- Identification of the time period or number of hours for the activity on the dates specified.
- Signature of the instructor/supervisor/other responsible person verifying the time spent on this activity, and date of the signature.
- Title/position/phone number of the signer.
- Signature of the client, and date of the signature.

Data Privacy

One of the major concerns with the new verification requirements is the participants' right to privacy. Requiring signatures to verify activities means that someone other than the participant sees the form and its contents.

If your agency uses participant identifiers in addition to name to help direct contacts to the assigned counselor, ensure that these other identifiers are used in a way that protects the participant's privacy.

Do not require a participant involved in a combination of activities to use a single verification form for all of the activities. He or she may choose to use one form, but cannot be required to.

Instructions/Information

Include written instructions on completion and use of the MFIP Work Activity Verification Form and any information that identifies the person as a recipient of cash or food assistance on a detachable or separate page. This information should not be readily accessible to the verifier.

Include the following in the instructions:

- A return date or instructions on when to return the form (at least bi-weekly).
- Explanation of the activities to be reported. (Note: This does not replace face-to-face discussion of the appropriate activities with the participant.)
- Instructions on how to complete the form properly.
- A return address.
- The consequences of not returning the form to your agency.

Also include the following information:

- The purpose of the form.
- Your agency's ADA statement advising the participant that the form is available in alternative formats. **See Attachment C for ADA Requirements and Sample ADA Statements.**
- Phone number for questions.

Plain Language Requirements

Minnesota Statute, section 256.016, requires that forms directed to participants be understandable at the 7th grade reading level and meet all other requirements of the Plain Language Standards. These standards address the following areas:

- Organization
 - Present information in a meaningful order.
 - Divide sections according to content.
 - Identify sections with meaningful headings and sub-headings.
- Language and Style
 - Avoid unnecessarily long sentences (average 20 or fewer words).
 - Avoid unnecessarily long paragraphs (average 60 or fewer words).
 - Use simple names and identify the parties.
 - Use active verb forms when appropriate.
 - Use familiar vocabulary.
 - Clarify conditions and exceptions.
- Design
 - Use easy-to-read type size (at least 10 point, 12 point is better).
 - Allow adequate space between words, lines, and paragraphs.
 - Use boldface or other emphasis for headings and sub-headings.

Access for Participants with Limited English Proficiency (LEP)

In developing forms for participants with LEP, follow the LEP plan developed by the county to meet the requirements for Title VI of the Civil Rights Act of 1964 (Title VI).

Consistency

Because participants may switch providers, use of the same forms throughout the county is recommended. This will avoid confusion on the part of participants, and on the part of internal and external case file reviewers.

MFIP Work Activity Verification Form

The Department is developing an MFIP Work Activity Documentation and Verification Form that will meet the above mentioned requirements. This form is called "Work Verification Log" (DHS-4897) and will be available on eDocs within the next 10 days.

XI. System Enhancements

The MAXIS system and Workforce One system will be enhanced to accommodate some of the changes to the TANF work participation regulations. MAXIS and Workforce One staffs will send out the specific details of the changes and instructions once the system enhancements are ready to be installed.

XII. Questions about the New TANF Regulations and Updated Manuals

The Department of Human Services is interested in learning the questions that counties and employment services providers have regarding the new TANF regulations. Please submit your questions using a new EMAIL address that was created for this purpose. The EMAIL address to submit your questions about the new TANF regulations is DHS.TES.DRA@state.mn.us. Please include a tentative answer with your questions. The Department will review the questions and provide answers in a subsequent bulletin. In addition, a teleconference may be scheduled, if appropriate, given the type of questions received.

Counties should continue to use the PolicyQuest process for questions that are not directly related to the new TANF regulations.

The Department of Human Services will be revising the Combined Manual and the MFIP Employment Services Manual to reflect the changes associated with the new TANF regulations once the state's TANF Work Verification Plan has been approved.

XIII. Attachments

- Attachment A.** Attachment A is a list of the TANF countable activities and their definitions.
- Attachment B.** Attachment B is a checklist of documents that must be contained in a participant's MFIP employment services case file.
- Attachment C.** Attachment C includes the Americans with Disabilities Act requirements for client notices and forms.

XIV. Special Needs

This information is available in other forms to people with disabilities by contacting Aaron Coonce at 651-296-1835 (voice) or through the Minnesota Relay Service at 1-800-627-3529 (TDD), 7-1-1 or 1-877-627-3848 (speech to speech relay service).

List of countable activities from Minnesota's TANF Work Verification Plan

1. **Unsubsidized employment** means full- or part-time employment in the public or private sector that is not subsidized by TANF or any other public program. Self-employment is included in this activity.
2. **Subsidized Private Sector Employment** means employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient.
3. **Subsidized Public Sector Employment** means employment in the public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient.
4. **Work Experience (including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available)** means a work activity performed in return for welfare, that provides an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.
5. **On-The-Job Training (OJT)** means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job.
6. **Job Search and Job Readiness Assistance** means the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable.
7. **Community Service Programs** mean structured programs in which TANF recipients perform work for the direct benefit of the community under the auspices of public or nonprofit organizations.
8. **Vocational Education training (not to exceed 12 months with respect to any individual)** means organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree.
9. **Job skills training directly related to employment** means training and education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

- 10. Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency** means education related to a specific occupation, job, or job offer.
- 11. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate** means regular attendance, in accordance with the requirements of the secondary school or course of study at a secondary school, or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.
- 12. Providing child care services to an individual who is participating in a community service program** means providing child care to enable another TANF recipient to participate in a community service program.

Checklist
What to Include in MFIP/DWP ES Paper Files

- ☐ Notice of Requirement to attend MFIP Overview (DHS-2929)
- ☐ Rights and Responsibilities and Release of Information forms
- ☐ Case notes (may be on-line)
- ☐ Signed Copies of Employment Plans and EP Modifications
- ☐ Family Violence Referral (DHS-3483) and signed Modified Employment Plan
- ☐ Assessment materials, test scores etc., CD, MH and LD screening tools and observation check lists.
- ☐ Medical, psychological, and other pertinent data collected
- ☐ Verification of activity hours contained in the EP and entered on WF1 including:
 - Activity logs/attendance records
 - School attendance records
 - Non-paid employment activities attendance records
- ☐ Copies of Status Updates generated manually by job counselor
- ☐ Forms required for the Injury Protection Program
See § 3.19 (Injury Protection Program)
- ☐ Copies of OJT contracts or worksite agreements with employers
- ☐ Notice of Intent to Sanction (NOITS) and other communications
- ☐ Any documents needed for an external or internal fiscal review or audit

* Refer to Activity Table and Activity Cheatsheet in the ES Manual, Appendix E for more detail on documentation and verification.

ALTERNATIVE FORMAT OF PARTICIPANT NOTICES AND FORMS

These instructions have been provided to county human service agencies. As contractors to county human service agencies these instructions apply to employment service providers as well.

The Americans with Disabilities Act (ADA) requires all public entities to ensure that communication with applicants, program participants, and members of the public with disabilities is as effective as communication with non-disabled people. Under the ADA, removing communication barriers is an affirmative step that all state and local governments must take. Therefore, ALL notices and forms sent to participants must contain the following statement, printed in a prominent place on the document:

“This information is available in other forms to people with disabilities by contacting us at (000) 000-0000 (voice) (division's general information phone number) or toll free at (800) 000-0000.

TTY/TDD users can call (000) 000-0000 (TTY/TDD) (include the division's 800#, if any) or the Minnesota Relay at 711 or (800)627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.”

If the division does not have its own TDD number, use this statement:

“This information is available in other forms to people with disabilities by contacting us at (000) 000-0000 (voice) (division's general information phone number) or toll free at (800) 000-0000.

TTY/TDD users can call the Minnesota Relay at 711 or (800) 627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.”

The purpose of this language is to inform participants that they can get standard notices, forms, etc., in other meaningful formats when necessary. (This does not mean that all documents are maintained in all alternative forms.) It is the agency's responsibility to determine, along with the participant, when and what alternative formats will best meet the participant's specific needs. The type of alternative format needed by a person will vary depending on the individual needs and preferences of the person, on the type and purpose of the written materials, and on the length and complexity of the communication involved. The agency must provide an opportunity for people to request the format of their choice and must give primary consideration to the choice expressed by the individual. "Primary consideration" means that the agency must honor the choice, unless they can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity, or in undue financial and administrative burdens.

The agency is responsible for providing agreed on alternative formats to written material and the costs related to providing them. The State Services for the Blind (SSB) Communication Center located within the Minnesota Department of Employment and Economic Development can provide services to produce materials in alternative formats. Their services are available to State and county agencies and the public. Contact the Communication Center at (651) 642-0500 or (800) 652-9000 to inquire about their services and rates.

SOME ALTERNATIVE FORMATS ARE:

LARGE PRINT: Because not everyone has the same needs, you will need to find out what size font is desired. Large Print should be at least 14 point, but 16 or 18 may be better. Contrast and letter and line separation are also important. Requests for materials to be produced in large print can be handled in several ways. First, you may be able to enlarge materials in your agency using the copying equipment available to you; second, check with other state printing resources; or, third, obtain the service through a printing or copying company in your area. If FAX machines are available, the person making the request may FAX you a sample of the font size desired, or a sample can be mailed to you. **NOTE:** Large Print material can be mailed without postage if labeled Free for the blind, but it must be at least 14 point print.

COMPUTER DISKETTE: Some materials can be provided on computer diskette, such as text documents in a word processing format, if the person making the request uses voice output software which will read a document out loud to the user, or a large screen monitor or a monitor magnification device or software which allows the person with low vision to read the document with enlarged font from the monitor screen.

The agency does not provide computer hardware or software as part of providing materials in an alternative format - only the computer diskette. The diskette should be converted to a portable document format (PDF) file so that no editing of the material can be made. This alternative may be very effective for written materials that are lengthy or updated frequently making the other alternatives more cost and time prohibitive. **NOTE:** There are some issues to consider when creating a PDF file that will be usable by a blind or visually impaired person. Contact the State Services for the Blind Communication Center for more information.

AUDIO TAPE: Materials can be recorded on audio cassette tape. Contact Ellie Sevdý at SSB by calling (651) 642-0849 or (800) 652-9000.

READERS: Many agencies have their regular staff provide this service as needed. In most cases it doesn't take much time and is the most efficient and effective alternative format for program forms. Sometimes those who need the service can find their own reader. SSB may also be able to help locate reading services. Placing an ad for a volunteer reader in the community newspaper is another option, or establishing a service contract for reader assistance.

BRAILLE: When someone requests materials in Braille, you may contact Mary Archer at SSB by calling (651) 642-0852 or (800) 652-9000. One page of print usually requires 2 pages of Braille, depending on font and paper size. The cost is \$1.75 per Braille page.

Send questions about ADA notification requirements for or the provision of alternative formats to the DHS ADA Coordinator at the Department of Human Services, PO Box 64997, St. Paul, Minnesota 55164-0997.