

<b>DEPARTMENT OF HUMAN RESOURCES FAMILY INVESTMENT ADMINISTRATION</b>	<b>TEMPORARY CASH ASSISTANCE MANUAL</b>	
<b>WORK AND EDUCATION REQUIREMENTS 402</b>	<b>COMAR 07.03.03.07</b>	<b>WORK 400</b>

#### 402.1 REQUIREMENTS:

- A. Universal Engagement (UE) requires **everyone** applying for or receiving TCA to participate in a federal or state defined activity on a continuous basis, from the date of the first application interview.
- B. Everyone means that all work eligible TCA applicants and recipients must be engaged in an activity including:
  - 1. Adults
  - 2. Teen parents who are either the head of household or a child on the case
  - 3. Teens, ages 16 and 18 with no children in the assistance unit and with no high school diploma, who are not enrolled full-time in school
  - 4. Legal immigrants
  - 5. 2 parent families when both parents are able-bodied
- C. UE defines individuals as:
  - 1. Engageable
  - 2. Engaged
  - 3. Unengaged
  - 4. Customers who are exempt from participation

#### 402.2 FEDERAL WORK REQUIREMENTS

- A. All work eligible individuals with no children under the age of 6 must participate a minimum of 30 hours per week.
- B. 20 of the 30 hours must be in a federally defined core work activity.
  - The other 10 hours may either be in a federally defined core or non-core work activity.
- C. The federal standards for individuals to be countable work activity participants:
  - 1. Only adults and teen parent heads of household can be countable participants
  - 2. Teen parents are also countable if they meet the 80% school attendance requirement in Secondary Education/GED or an alternative program

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- **An individual under the age of 20 who has a child is considered to be a teen parent.**
3. All single adults and teen parents in other activities should participate at least:
    - a. 20 hours per week if a single parent with a child under age 6
      - Two parent households and teen parents may not claim a reduction in work activity hours because of the child under 6
    - b. 30 hours per week all other households
  4. Households with 2 able-bodied parents must participate at least 55 hours per week with 50 in a core activity if using federally funded child care.

### **402.3 TRAINEES VS EMPLOYEES**

- A. An individual, who is considered an employee, rather than a trainee, must be paid in accordance with the minimum wage provisions of the Fair Labor Standards Act (FLSA).
  - TCA grants and Food Supplement Program (FSP) allotments may be considered as compensation toward meeting the minimum wage provisions
  - Add the TCA benefit amount to the FSP allotment together and divide by the state minimum wage (\$9.25 effective 7/1/17) to get the number of hours a customer may participate in an activity considered work.
- B. An individual is a trainee when:
  1. The training, although at a work site, is similar to that available in a vocational school
  2. The training is primarily for the benefit of the trainee
  3. The employer receives no immediate advantage from the trainee's activities
  4. No regular employees are displaced
  5. There is no promise of a job at the end of the training
  6. The employer and trainee understand that no wages are paid while in training, although a stipend may be given to offset the trainee's expenses

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Note: Trainees may not be in an internship or trainee program for more than 90 days

#### **402.4 EDUCATION REQUIREMENTS**

##### **A. Minors/Minor parents Requirements:**

1. A custodial minor parent with a child over 12 weeks old, who does not have a high school diploma **must be enrolled full-time and attend:**
  - a. School or other educational program that will lead to a high school diploma or its equivalent, or
  - b. An alternative education or training program approved by the State.
2. All minors who are not parents must attend school at least 80% of the time. (See PPI policy section 0314 of this manual)
3. Minors, 16 or 17 years old, who are not parents, who are not registered in and who do not attend school 80% of the time must participate in a work activity and comply with all work requirements.
4. If a minor parent does not attend school 80% of the time, the case manager must implement the conciliation and sanction process.
5. If a minor, under the age of 16, who is not a parent, does not attend school 80% of the time the case manager must implement a PPI (Primary Preventative Initiative) \$25 disallowance.
6. If a minor, age 16 or 17, who is not a parent, does not attend school 80% of the time and does not comply with the work requirements, the case manager must implement the conciliation and sanction process.

<b>NOTE:</b> See PPI in Section 0314, for more information on PPI policy.
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##### **B. Distance Learning**

1. Distance learning or on-line courses are acceptable and countable activities.
2. Case managers must review online or distance learning courses to determine if the course is appropriate.
3. Evaluate the course the same way other vocational or technical classes are evaluated.

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4. Online or distance learning classes may assist customers to obtain knowledge they do not have and marketable skills.
5. Verification of attendance includes a copy of the institution's online course registration.

C. Unsupervised Homework

1. Count up to one hour of unsupervised homework for each hour of class time not to exceed the amount of time established by the educational facility as appropriate for the program.
2. Documentation consists of a statement from the educational facility indicating the amount of homework required. The educational institution may have a general "rule of thumb" for outside of class work that is required.
  - A copy of the institution's policy in the participant's case record along with proof the individual is registered in the course is sufficient verification of the homework time.
3. Count the homework hours along with the activity hours.
4. Homework may be counted in the BEV, BER, BED and IST activity that the customer is participating in.

**Example:** Marcia Walley is taking a 3-hour computer class to refresh her skills. The college policy is that students can expect to spend a minimum of 1 hour on homework for each hour of class time. Marcia Walley is allowed a total of 6 hours.

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#### **402.5 EXEMPTIONS AND GOOD CAUSE REASONS FOR NON-COMPLIANCE WITH WORK OR EDUCATION REQUIREMENTS**

##### A. Definitions:

1. **Exemption** – legal reason why the customer does not have to comply with a program requirement. This is usually because of a circumstance such as a long term illness or having a child under 1. With an exemption, the program requirement no longer applies to the customer, as long as the circumstance exists.
2. **Good Cause** – an acceptable reason a customer has for not complying with a program requirement. The customer is still required to participate, but has a good excuse for why they cannot.

##### B. Exemptions for Work Requirements:

1. Child under age one, for a maximum of 12 months in the parent's lifetime
2. An adult needed in the home to care for a severely disabled person living in the home, whether or not the disabled person is in the assistance unit
3. An adult relative other than a parent with no natural or adopted children in the assistance unit

##### C. Good Cause Reasons for Non-compliance with Work Requirements:

Temporary illness or incapacitation (lasting less than 12 months)	Lack of supportive services as specified in the Independence Plan
12 weeks <u>postpartum</u>	Discrimination based on race, sex, disability, religious or sexual orientation
Being referred for substance abuse treatment	Hazardous work conditions
Breakdown in child care arrangements	Verified court-ordered appearances
Breakdown of transportation	Incarceration
Domestic or family violence	Discrimination
Circumstances determined by the LDSS	

- D. The exempt individual may volunteer to be in work programs but may not be sanctioned for not cooperating

#### **402.6 VERIFICATION OF DISABILITY**

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- A. When a customer declares that he or she cannot work because of a disability, the case manager must request that the customer verify the disability with DHR/FIA 500 Medical Evaluation Form.
- B. If the customer is unable to work because he or she is disabled for 12 months or more or the illness is expected to result in death:
  - 1. Begin the Disability Advocacy referral process and require the customer to cooperate with the Disability Advocacy Program (**See TCA for Disabled Section 800 of this manual**).
  - 2. Have the customer's medical provider complete the DHR/FIA 500.
  - 3. Exempt the customer from the work requirements when the medical is returned verifying that the customer is disabled and the customer applies for and cooperates with the SSI process.
  - 4. Implement the conciliation and sanction policy if a recipient does not cooperate with the Disability Advocacy Program.
  - 5. Refer the customer to a work activity if the applicant does not return the DHR/FIA 500 medical form.
- C. If the customer is disabled for less than 12 months:
  - 1. Have the customer's medical provider complete the DHR/FIA 500.
  - 2. Give the customer good cause from the work requirements when the medical forms are returned and state the customer is unable to participate.
  - 3. **If the customer does not return the medical form, require the customer to participate in a work activity.**
  - 4. Short term disabled customers count in the denominator of the Work Participation Rate (WPR).
  - 5. Short term disabled customers can meet the Universal Engagement requirement by participating in wellness activities.
    - a. They are coded as **OTM** in the WORKS system.
    - b. The case manager must also record the activity in the customer's Independence Plan.

#### **402.7 FEDERALLY DEFINED WORK ACTIVITIES - CORE**

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- A. **Unsubsidized Employment (WEJ)** – part time or full time employment in the public or private sector that is not subsidized by TANF or any other public program.
1. Self-employment, Armed Services, and other government and private sector employment are examples
  2. Tax credits to employers are not considered a subsidy
- B. **Subsidized Private Sector Employment (WSU)** – includes full or part time employment in any private for profit or private non-profit sector job where the employer receives a subsidy from TANF or other public/government funds, including work-study, to offset some of the cost of employing the TCA recipient.
- This also includes Grant Diversion, which uses part or the entire TCA grant to reimburse the employer.
- C. **Subsidized Public Sector Employment (WSP)** – full or part time employment in any public sector job where the employer receives a subsidy offsetting the person’s wages with government funds, including work study. This also includes Grant Diversion, where the customer’s TCA grant is diverted to reimburse the employer for some or all of the wages paid to the person.
- D. **Work Experience (WEX)** – employment in the public or private sector where the customer has an opportunity to acquire skills and knowledge necessary to perform a broad array of jobs, including learning about appropriate work habits and behaviors. A WEX placement:
1. Helps to improve the employability of the customer who cannot find unsubsidized employment
  2. Is not a paid position, but the customer may receive a needs-based payment to cover costs of participating in the work experience
  3. Should not exceed 90 days for the participant. However the individual may have more than one WEX assignment.
  4. Is subject to Fair Labor Standards Act (FLSA) requirements
- E. **On-the-Job Training (OJT)** – training provided to a paid employee by a public or private sector employer. The training is productive work with the employer and provides knowledge or skills essential to the adequate performance of the position to which the individual was hired.
1. The individual is paid a wage considered a training wage

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2. The local department or vendor must enter into a contractual relationship with the employer specifying which funds will be used to reimburse the employer for providing training and supervision

F. **Job Search and Job Readiness Assistance (JBS/JBT/JBM/JBR)** – the act of seeking or obtaining employment, preparation to seek or obtain employment.

1. The job search week for a customer with a child under 6 is 20 hrs with a maximum of 120 hours in a 12 month period.
2. Customers whose children are 6 years or older can participate in job search for 30 hours a week with a maximum of 180 hours in a 12 month period.
3. Customers may not be countable in Job Search/Job Readiness for more than 4 consecutive weeks or 120 hours in a 12 month period. Hours of participation over the required amount per week count toward the 120 or 180 hour limit.
4. Activities include: life skills training, substance abuse treatment, mental health treatment, and rehabilitative activities for those who are otherwise employable, interviewing skills, resume writing, telephone techniques, job acquisition strategies, job opening information, instruction on workplace expectations, career exploration.
5. There must be a documented need for treatment or therapy for substance abuse and mental health issues. The treatment or therapy must be determined necessary by a medical or mental health professional.

G. **Community Service (WEM)** – any structured activity which provides a direct benefit to the community (public or non-profit organizations). These are not usually paid positions, but the individual may receive a stipend.

1. The activity may be a self-initiated activity.
2. Community service activities must be limited to activities that serve a useful community purpose and provide the individual with employable skills in fields such as:



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health and social services	recreation
environmental protection	public facilities
education	public safety
urban and rural development	childcare for another customer who is participating in a community service activity.
welfare	

3. One of the parents in a two parent household may not be placed in WEM to provide child care for their own children while the other parent participates in a community service activity.

H. **Vocational Education (BEV)** Vocational education training is considered career and technical education.

1. The restriction on obtaining a college degree, including programs which lead to a 4 year or advanced college degree has been eliminated. Two and four year degrees are permissible.
  - States are encouraged to review educational program requirements and if the customer exhausts the 12 month limit on Vocational Education, they should determine if the hours may be attributed to Job Skills Training or another program.
2. Do not deny assistance to a customer who is enrolled in an educational program just because the program exceeds 12 months and do not require that the customer leave the program in order to receive assistance.
3. Evaluate the program to determine what the components of the program are and if the components are countable as another activity.

**Example:** a customer is in a plumbing program that lasts 18 months. The actual class work for plumbing could be vocational education (BEV), which is time limited, training on a job site might be WEX or OJT and learning about coding requirements could be an IST. Do not limit the customer and cost yourself valuable countable hours.

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4. Basic skills such and English as a Second Language (ESL) classes may be included in Vocational Education training as long as it is a necessary and regular part of the vocational education training. Although basic skills and ESL help prepare customers for work or training they may not be stand alone classes. The 12 month lifetime limit per individual still applies.

**Example:** Ms. Jane Doe receives TCA for herself and children ages 6 and 10. The customer goes to school for nursing. The program lasts 2 years. The customer is required to do 15 credit hours in class and 8 hours of clinical practice in a hospital per week. The customer also works part time on the weekends in an unsubsidized job for 16 hours. The case manager counts the class room and clinical hours of the customer's nursing program as 23 hours of vocational education for 12 months. The other 16 hours of unsubsidized employment gives the customer a total of 39 hours in more than one core activity. This customer is fully countable. Once the 12 months are up for Vocational Education, the case manager can evaluate the customer's nursing program to see if it fits another work activity definition such as on-the-job training or other appropriate FDWA category, for the remainder of the time the customer will be in the nursing program.

- I. **Child Care Services (WEC)** – unpaid activity, structured activity designed to improve the employability of the participant, whereby the individual provides child care for a TCA recipient who participates in a community service activity.
  1. If paid, the individual must meet the State's child care licensing regulations and the activity is coded as unsubsidized employment.
  2. One parent in a two parent household can not be placed in WEC to care for his or her own children while the other parent participates in community service.

#### **402.8 FEDERALLY DEFINED WORK ACTIVITIES – NON-CORE**

- A. **Secondary Education/GED (BED)** – includes instruction by a secondary school or alternate program leading to a diploma or high school equivalency.
  1. Countable only for those who do not have a high school diploma or equivalency certificate
  2. Countable activity for teen parent heads of household, regardless of the number of hours participating
- B. **Education directly related to employment (BER)** – education directly related to specific occupation, job or job offer. This includes courses designed to provide knowledge and skills for specific work settings. It may also include basic

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adult education or ESL programs, and GED classes. Education directly related to employment is:

1. Countable only for those who do not have a high school diploma or equivalency certificate
2. Can be countable for teen parent head of household participants when this is their sole activity
  - All others must also be in a federally authorized core activity for 20 hours a week for this activity to be countable

Example: A 19 year old parent without a diploma is a countable participant if the only activity is secretarial school.

A 20 year old parent without a diploma would need to be in a core activity, such as community service or work experience, to have secretarial school also count toward the federal participation rate.

3. An allowable activity for up to 12 months

C. **Jobs Skills Training (IST)** – Includes training or education for job skills required by an employer, at an institutional or work setting to upgrade skills and instruction needed for a specific job or to advance or adapt to the changing demands of the work place. Job skills training:

1. Must be directly related to employment
2. Is a countable activity only if the individual is also in a core activity
3. May include higher education, literacy and language instruction when the instruction is explicitly focused on skills needed for employment.

**NOTE:** All activities core and non-core are must include daily supervision and monitoring of time and attendance.

#### **402.9 SUPERVISION**

A. Daily Supervision requirements for unpaid work activities

1. A responsible party must have daily responsibility for oversight for the individual's participation, not necessarily daily, in-person contact.
2. The goal of the supervision is to ensure the individual is participating and making progress in their assigned activity.
3. Contact can be by telephone or other electronic means where those methods are suitable.

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4. A work site sponsor, classroom instructor or a contracted service provider may provide the supervision.

#### **402.10 EXCUSED ABSENCES AND HOLIDAYS**

- A. Holidays-The following ten designated holidays are allowable holidays for TCA:

January 1, for New Years Day	July 4 Independence Day
January 15**, Dr. Martin Luther King Jr's. Birthday	The first Monday in September for Labor Day
The third Monday in February for President's Day	November 11, for Veteran's day
May 30**, for Memorial Day	The fourth Thursday in November, for Thanksgiving
December 25, for Christmas	The Friday after Thanksgiving

\*\*unless the United States Congress designates another day for the observance of that holiday, in which case, the holiday is the day designated by the United States Congress.

- B. Excused Absence

1. Local departments may develop policies regarding excused absences and creditable hours of participation similar to those in common personnel practices.
2. Examples of good cause activities include but are not limited to: sick time, doctor's visits, meetings at the child's school or other activities deemed appropriate by the case manager.
3. In order for holiday and excused absence hours to count the customer must be scheduled to participate in the activity or activities on those days.
4. Absences should be scheduled in advance when possible.
5. Good cause absences are considered "instances" and counted in hours.
6. Customers may not use more than 16 hours of excused absences in a month and no more than 80 hours of excused absences per federal fiscal year (October 1-September 30.)

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**Example:**

Customer has to go to her child's school for a meeting. She will be 3 hours late for her activity. This is a good cause absence. The instance counts as 3 hours.

Note: For federal reporting purposes, an instance does not count in the WPR unless the "instance" hours make the customer countable for a month.

7. Customers are excused from activity participation on days the placement site is closed for holidays or inclement weather. The hours are counted as if the customer participated.
8. Customers may not be excused for more than 16 hours when a placement site is closed. (Such as a college closing for spring break.)
9. For breaks lasting longer than two days in a report month, the participant should be scheduled in a temporary activity so that he or she may generate countable hours during the break period.

**402.11 CONCILIATION, SANCTION AND GOOD CAUSE**

- A. A customer is entitled to one conciliation period for non-compliance with work requirements
- B. During the conciliation period the case manager must explore good cause to determine if the customer has a good reason for the non-compliant behavior
- C. Do not impose a sanction if the customer verifies good cause during the conciliation period
- D. Lift any sanction imposed if the customer verifies good cause or an exemption after the sanction was imposed
- E. When non-compliance with work requirements occurs during the application process, there is no sanction:
  1. Deny the TCA case if the individual who is not complying is the adult or minor parent head of household and there is no good cause
  2. Do not include the needs of the individual in the benefit calculation if the non-complying individual is a minor child
- F. Impose a sanction when non-compliance without good cause occurs in an active case:

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1. Close the case with a full-family sanction if the non-compliant individual is an adult or minor parent head of household
  2. Use an individual sanction to remove that person's needs if the non-compliant individual is a minor child, age 16 or 17, who is **not** attending school full time, with no children of his or her own,
- G. Curing a sanction and the restoration of benefits depends on the instance of non-compliance:
1. First instance – restore benefits the day after the customer meets compliance
  2. Second instance – restore benefits the day after the customer has complied for 10 days
    - a. The penalty period is 10 days.
    - b. Benefits may not be resumed before the day after the 10<sup>th</sup> day.
    - c. The customer must comply for all available activity days within the 10 days.
  3. Third and subsequent instances – restore benefits the day after the customer has complied for 30 days
    - a. The penalty period is 30 days.
    - b. Benefits may not be resumed before the day after the 30<sup>th</sup> day.
    - c. The customer must comply for all available activity days within the 30 days.

**EXAMPLES:**

Example 1. Ms. Jones receives assistance for herself and her 6-year-old daughter and her 4-year-old son. She searched for a job during the application period, but was not successful. She took a secretarial course in high school, but has never been employed. She would like to work in an office. Ms. Jones can take a computer class and refresher course at the local high school at no charge, but it does not start for 5 months.

- The local department must require her to begin another activity, such as work experience or job readiness, immediately and then start the class later. She needs to participate at least 20 hours per week.

Example 2. Ms. Blue, age 19, has applied for TCA for herself and her 6-month-old son. She dropped out of school in the 11<sup>th</sup> grade and has worked at

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various part-time jobs. Ms. Blue is applying because her boyfriend walked out on her and the baby.

- Ms. Blue is not exempt because she has not completed high school and is a teen parent, even though she has a child under age 1

Example 3. Ms. Bacon receives assistance for herself, and her 10-year-old daughter. Ms. Bacon has not been cooperating with her activity, because she also has a 7 year old son, Tom, who is disabled and his physician want her to be available for his care at any time. Tom receives SSI. He attends special education classes and has done so for 2 years with few absences. Ms. Bacon feels she should be home in case there is an emergency.

- Ms. Bacon is exempt from work participation requirements because she must be available to care for her disabled son.

Example 4. Ms. Barber receives assistance for herself and 3 children, ages 6, 8 and 10. She cares for her aged and severely disabled mother who is lives with them and receives disability benefits.

- Ms. Barber is exempt if Mrs. Johnson's doctor provides proof that she is needed in the home to care for her mother
- The disabled person does not have to be in the assistance unit for the customer to be exempt

Example 5. Ms. Dawson applies for assistance for herself, and her 5-year-old son. Ms. Dawson stopped working last month to care for her mother who lives next door. Her mother suffered a severe stroke and needs full-time help in the home. She provided documentation from her mother's doctor.

- Ms. Dawson is not exempt because the disabled person does not live in the home
- Caring for her mother could be part of Ms. Dawson's Independence Plan
- The LDSS can allow Ms. Dawson good cause for not participating.

Example 6. Mrs. Johnson receives assistance for herself and two nephews.

- Mrs. Johnson is exempt from work requirements because she is a non-parent caretaker relative, but she may volunteer to be placed in a work activity

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Example 7. Mrs. Ranch receives assistance for herself and her two daughters, ages 6 and 7. She has received TCA and worked with a counselor for the past two years because of the family violence and abuse she and her daughters endured from Mr. Ranch. The family violence expert continued to recommend that Mrs. Ranch have good cause from work requirements because the family was in therapy 3 days a week. After another 6 months, the family violence expert recommends that Mrs. Ranch begin some work activities.

- Mrs. Ranch had good cause for 2 ½ years because of family violence
  - She and the children were in family violence counseling
- The family violence expert may help the case manager and Mrs. Ranch develop an Independence Plan

Example 8. Carrie Carson applied for TCA for herself and her two children who were in elementary school. She was required to do job search as part of the application process. Although she completed all the other requirements, she did not participate in job search.

- Deny the case because Ms. Carson did not comply with the work requirement