**Federal Defined Work Activities, TCA Work Activities & WORKS Codes**

**Federally Defined Core Activities. There are 9 core activities:**

|  |  |
| --- | --- |
| Unsubsidized employment | **(WEJ)** |
| Subsidized private sector employment | (WSU) |
| Subsidized public sector employment | **(WSP)** |
| Work experience | **(WEX)** |
| On-the-job training | **(OJT)** |
| Job search and job readiness | **(JBS)** |
| Substance Abuse Treatment (part of job search and job readiness) | **(JBT)** |
| Mental Health Treatment (part of job search and job readiness) | **(JBM)** |
| Rehabilitation Services (part of job search and job readiness) | **(JBR)** |
| Community service programs | **(WEM)** |
| Vocational education | **(BEV)** |
| Child care for an individual participating in community service | **(WEC)** |

**Federally Defined Non-Core Activities.**

* Customers completing 20 hours of the required 30 hours in a federally defined core activity, may complete the final 10 in either a federally defined core activity or one of the three federally defined non-core activities.

|  |
| --- |
| Satisfactory attendance at a secondary school or in a GED program **(BED)** |
| Education (directly related to employment ) **(BER)** |
| Job skills training directly related to employment **(1ST)**  |

**State Defined Activities.**

|  |  |
| --- | --- |
| Prenatal/12 week postpartum | **(OTP)** |
| Disabled for less than 12 months | **(OTM)** |
| Illness or incapacity/wellness rehabilitation | **(OTM)** |
| Court ordered appearance | **(OTO)** |
| Temporary incarceration | **(OTJ)** |
| Family crisis/family services | **(OTF)** |
| Breakdown in transportation/seeking transportation (max 30 days) | **(OTT)** |
| Breakdown in childcare/seeking childcare (max 30 days) | **(OTZ)** |
| Substance abuse referral/waiting list | **(OTS)** |
| Substance Abuse Treatment (when exceeding allowed time) | **(OBT)** |
| Mental Health Treatment (when exceeding allowed time) | **(OBM)** |
| Rehabilitation Services (when exceeding allowed time) | **(OBR)** |
| Domestic /family violence | **(OTV)** |
| In conciliation | **(OTC)** |
| Pursuit of Income supports | **(OTL)** |
| Adverse action or sanction period | **(OTX)** |
| Under appeal for work sanction | **(OTU)** |

**Federal Work Participation Rate**

1. A significant percentage of all work eligible TCA recipients must be participating in a federally defined work activity.
2. The actual percentage of countable recipients in a federally defined work activity each month is called the federal work participation rate (WPR).
3. Calculating the Work Participation Rate.
4. The mathematical calculation of the work participation rate is comprised of a fraction with a numerator and a denominator.
5. Dividing the denominator into the numerator produces a percentage. That percentage is the work participation rate.
6. The numerator includes all countable work eligible TCA recipients.
7. The denominator includes all work eligible TCA recipients.
8. DHR calculates the participation rate every month for each local department and for the State.

**Example:**

If a local department has a numerator of 37 **countable** work eligible TCA recipients and a denominator of 100 work eligible TCA recipients for the month, the local department's work participation rate is 37%. (37/100 = 37%)

**B.** Activities must be of a certain type and hours must be of a certain monthly average for the customer to be either countable or non-countable.

**C.** To be countable in the participation rate calculation, customers must participate in certain activities an average of 30 hours per week each month.

**Note: A minimum of 20 (20 hours total for single parent families with a child under 6) of the 30 hours must be in a federally defined core work activity (FDWA).**

**D.** There are certain limitations placed upon the use of core and non-core federally defined work activities.

**E.** Participation in job search/job readiness (JBS) and substance abuse treatment (JBT) counts, for work participation rate purposes, for a maximum of four consecutive weeks and for a maximum of 120 hours for a single custodial parent with a child under 6 and 180 hours for all other work eligible single custodial parents in the previous 12 month period. (Customer begins a JBS activity in March 2008. The 12 month period ends February 2009.)

**Example:**

Winnie Morris applies for TCA on November 29. She is referred to a Job Search/Job Readiness Workshop that begins on December 6. The four-week program combines classroom, job club, and job search activities, for 30 hours per week. Ms. Morris attends every week. Count Ms. Morris as a work eligible TCA recipient for the month.

Ms. Morris, however, does not find a job. She is scheduled to begin a work experience assignment (WEX). Unfortunately, she must wait a week for the assignment. She and the case manager decide she will complete a supervised Job Search during the week she is waiting. The week Ms. Morris completes Job Search is the 5th consecutive week of JBS (Job Search/Job Readiness). Because it is the 5th consecutive week and TANF regulations do not permit more than 4 consecutive weeks during a 12 month period, Ms. Morris's hours are not countable for that week.

**FEDERALLY DEFINED CORE WORK ACTIVITIES Unsubsidized Employment (WEJ)**

1. WEJ is full- or part-time employment in the public or private sector that is not subsidized by TANF or any other public program.
2. Unsubsidized employment also includes active duty service in the armed forces, entry into a registered apprenticeship program or self-employment.

**Unsubsidized Private Sector Employment (WSU)**

1. **WSU** includes full-time or part-time employment in any private-for-profit or private-non-profit sector job where the employer receives a subsidy from TCA or other public/government funds to offset some or all of the costs of employing a recipient. The term "subsidized" does not include tax credits to which the employer may be entitled for employing the person.
2. Subsidized private sector employment includes:
3. Grant Diversion, where part or the person's entire grant is diverted to reimburse the employer for some or all of the wages paid to the person.
4. Work-study employment where local, state, or federal funds subsidize the individual's wages.
5. Supported work programs for individuals with disabilities or other special circumstances.
6. Employment contract is limited to 16 weeks.

**Subsidized Public Sector Employment (WSP)**

WSP includes full-time 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. An example of this type of activity is Grant

Diversion, in which part or all of the person's grant is diverted to reimburse the employer for some or all of the wages paid to the person by a public sector employer.

**Work Experience (WEX)**

1. WEX includes public or private sector work situations where the person has the opportunity to acquire the skills and knowledge necessary to perform a broad array of jobs, including learning about appropriate work habits and behaviors.
2. Typically, the person is not paid for participating in a work experience activity, although he or she may receive a needs-based payment to cover the incidental costs of participating.
3. WEX is defined as a work activity.
4. Some households are limited in the number of WEX hours that they can work due to the Fair Labor Standards Act (FLSA). WEX is subject to minimum wage requirements of $7.25 per hour.
5. Work Eligible Individual participating in a WEX assignment cannot be required to participate for more hours than the combined Temporary Cash Assistance (TCA) and Food Stamps (FS) grants divided by the State minimum wage.
6. Hours of participation are "deemed" to participants who are limited by FLSA and they are considered participating for the full 20 of the core activity hours for each week they participate for the number of hours allowed under FLSA.

**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 full and adequate performance of the position into which he/she was hired. The employer pays the participant a training wage.

**Job Search and Job Readiness Assistance (JBS)**

**A.** The definition of these codes includes a variety of activities aimed at assisting a TCA parent in locating unsubsidized employment. Assistance in the act of seeking or obtaining employment, including life skills training and substance abuse treatment, mental health treatment or rehabilitation activities for people.

**B.** Participation in a job search and job readiness activity can count for a maximum of 120 hours (for a recipient with a child under age 6) or 180 hours (for all other work mandatory recipients) in a 12 month period with no more than four consecutive weeks being countable.

**C. Job Search activities** include:

1. Instruction in effective strategies that can be used by individuals in seeking/obtaining their own jobs,
2. Making contact with potential employers,
3. Applying for vacancies,
4. Resume writing,
5. Interviewing skills,
6. Labor market information,
7. Telephone techniques,
8. Information on job openings, and job acquisition strategies, as well as the provision of office space and supplies for the job search.

**D. Job Readiness Assistance** includes:

1. Instruction in career exploration,
2. Instruction on basic work place expectations and behaviors.

**E.** Job Search also includes the following activities and codes:

* Substance Abuse Treatment **(JBT)**
* Mental Health Treatment **(JBM)**
* Rehabilitation Services **(JBR)**

**F. Substance Abuse Treatment, Mental Health Treatment and Rehabilitation Services activities (JBT)**

1. Such treatment or therapy must be determined to be necessary according to a qualified medical or mental health professional.
2. This is a treatment oriented service to help individuals make the transition from welfare to work.
3. If a portion of the activity more closely meets the definition of another work activity, then the hours associated with that activity may count under the appropriate work category
4. JBT includes all stages of substance abuse treatment including referral, waiting list, and treatment.
5. Treatment includes both residential and outpatient:
* Detoxification,
* Medical or mental health treatment,
* Therapy, counseling, and other services to address mental, physical or emotional disorders that can interfere with an individual's ability to work or look for work.

**Note:** A recipient's participation in job search/job readiness (JBS) counts, for WPR purposes, for a maximum of four consecutive weeks and for a total of 120 hours in any 12 month period for a single custodial parent with a child under 6 or 180 hours for a single custodial parent with a child over 6

Individuals participating in substance abuse treatment beyond four consecutive weeks and for more than a total of 120 or 180 hours should remain in JBT for the purposes of being countable toward the universal engagement rate. They, however, will not be countable toward the federal WPR during the 12 month period.

**Community Service Programs (WEM)**

1. **WEM** includes two key elements: it must be a structured activity that provides a direct benefit to the community (public or non-profit organizations).
2. Community service activities must be limited to activities that that serve a useful community purpose in fields such as health, social service, environmental protection, education, urban and rural development, welfare, recreation, public facilities, public safety and child care.

Design community service programs to improve the employability of recipients not otherwise able to obtain unsubsidized employment.

**Child Care for an individual participating in a community service program (WEC)**

1. Providing childcare to enable another TCA recipient to participate in a community service activity.
2. WEC is used only when an individual cannot be placed in another activity.
3. The activity must be structured and designed to employability of the individual who completes the WEC activity
4. One parent in a two parent family may not participate in WEC so the other parent can participate in a community service activity.

Providing care for the individual does not help the parent providing the care for employment.

**Vocational Education (BEV)**

1. BEV includes organized, educational programs directly related to current or emerging occupations, trades, or vocations. BEV is now considered a career and technical education activity.

Any vocational activities that do not meet this definition may meet the definition of another activity such as job search and job readiness or job skills training directly related to employment

1. An educational organization (e.g. Vocational-Technical School, Community College, or proprietary school) must provide the training.
2. Post secondary education leading to an advanced degree may be counted as Vocational Education.

**FEDERALLY DEFINED NON-CORE WORK ACTIVITIES**

**Satisfactory Attendance at a Secondary School or GED program (BED)**

1. BED includes educational instruction provided by a secondary school or an alternative educational program leading to a high school diploma or high school equivalency (e.g., GED)
2. Countable hours of participation
3. The number of hours verified as spent in BED is the number of hours countable for the activity.
4. Hours are only countable toward the WPR after the person has participated for 20 hours per week in one of the core work activities (activity categories numbered 1 through 9 above).
5. Teen heads of household (HOH) or teen spouses in this activity are considered to be meeting the work requirement regardless of how many hours per week they participated and without first participating in a core work activity, as long as they attend school 80% of the time.
6. Time spent on unsupervised homework assignments counts for up to one hour of homework time for each hour of class time.
7. Actual hours spent in class as well as time spent performing clinical requirements, lab work, fieldwork and student teaching that are required for approved BED programs are considered to be a part of the primary activity for which they are required and are countable under that category or may be reviewed to determine eligibility for another category
8. BED may not include activities such as adult basic education or language instruction unless they are linked to attending a secondary school or obtaining a GED

**Education Directly Related to Employment (BER)**

**A.** BER includes education related to a specific occupation, job or job offer. This includes:

1. Courses designed to provide the knowledge and skills for specific work settings
2. Adult basic education or ESL, and for activities that prepare participants for employment requiring a high school education
3. Immigrants may have the equivalent of a high school diploma from their native country but the diploma is not comparable with an American high school diploma or can not be verified to comparable.
4. GED class
5. Education related to a specific occupation, job or job offer
6. **Important Note:** Individuals in a **BER** activity **must not have received** a high school diploma or a GED.
7. Hours spent by a person in this type of activity are only countable toward the WPR after the person has participated for 20 hours per week in one of the core work activities (activity categories numbered 1 through 9 above).
8. Teen HOH or teen spouses who participate in this activity are considered countable participants, without first having participated in a core work activity.

**Job Skills Training Directly Related to Employment (1ST)**

1. **IST** includes, training or 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 work place.
2. Job skills training directly related to employment must be supervised daily.
3. **IST** may include literacy or language instruction when the instruction is explicitly focused on skills needed for employment or combined in a unified whole with the job training.
4. Countable hours of participation
5. Hours spent by a person in this type of activity are only countable toward the WPR after the person has participated for 20 hours per week in one of the core work activities (activity categories numbered 1 through 9 above).
6. The number of hours verified as spent in 1ST is the number of hours countable for the activity.
7. **IST** includes monitored and documented study sessions. Time spent on unsupervised homework assignments counts for up to one hour of homework time for each hour of class time.

**FAIR LABOR STANDARDS ACT (FLSA)**

**Determining if the Work Program is Employment or Training**

Local departments should review each of their work programs to determine whether the program is employment or training and ensure the program meets the requirements associated with each. The key in determining whether a placement meets the definition of employment, rather than training, is **who benefits the most from the placement (refer to the activity review sheet in the appendix.) FLSA is based on hours per week. Participants may not exceed the FLSA hours allowed per week.**

**A. When the employer benefits more than the customer:**

1. The activity is considered employment, and
2. FLSA minimum wage provisions apply.

**B. When the customer benefits more than the employer**:

1. The placement is considered to be training, and
2. FLSA provisions do not apply, and
3. Placement in such activities is limited to a period of 90 days or less.

**C. Bona fide trainee and internship placements** are not subject to FLSA. A trainee or intern is not considered an employee if all the following factors are met:

1. The training offered is similar to that provided in a vocational school,
although training may include operations of the employer's facility.
2. Training is for the benefit of the trainee or intern.
3. The trainee or intern does not displace regular employees, and works under close observation.
4. The trainee or intern's activities provide no immediate advantage to the employer and may actually hinder operations.

5 Trainees or interns are not necessarily entitled to a job upon completion of the trainee or internship assignment.

1. Both the employer and the trainee or intern understands that the trainee or intern is not entitled to wages for the time spent as a trainee or intern.
2. The length of time a trainee or intern can stay in any particular assignment is limited to a period of 90 days or less.

**D.** All placements that do not meet the federal definition of training are considered employment and FLSA minimum wage standards apply.

1. An example is Work Experience (WEX)

1. The participant receives knowledge and skills in an actual work setting.
2. The employer receives more of a benefit because he receives the customer's labor.
3. Since the employer receives more benefit, the participant is considered to be working and federal Fair Labor Standards Act (FLSA) requirements apply.
4. The monthly combined TCA and FS grant for the household must equal or exceed the monthly federal minimum wage.

2. Work placements are not time limited. DHR suggests a review of these assignments every six months to ensure the participant is making satisfactory progress towards self-sufficiency and have not become a fill in work force for the employer.

**E.** Local department autonomy in designing employability strategies has created activities variously described as trainee or internship programs.

1. Each local department must ensure that their trainee and/or internship programs meet the federal definition of training.
2. Local departments must limit the length of these programs to 90 days or less.
3. At the end of the 90-day period, the trainee or intern must be reassigned if the placement is to continue as training.
4. This subsequent assignment may include another position at the same employer.

**Example:** Mary Green is a trainee at a local hospital in the medical records department. Her 90-day assignment is now ending. Both Mary and her case manager believe that while it has been a beneficial placement she still requires additional training. The hospital has another trainee position in one of the clinics. Mary could be referred to this second placement in the hospital because it is not the same job and offers additional training in a different department. (Conversely, extending Mary's assignment in the medical records department past 90 days would be considered employment and FLSA rules would then apply).

**Minimum Wage Calculation for Employment Activities**

For each customer in a federally defined work activity, the case manager responsible for the work participation placement determines whether the TCA grant amount and FS benefit amount equal or exceed the State minimum wage.

**Participant's name:**

**Customer ID:**

**Activity:**

1. Number of Hours per week:
2. Multiplied by minimum hourly wage: x 7.25
3. Equals Weekly Rate: = \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. Multiplied by 4.3 weeks per month: x 4.3
5. Equals monthly State minimum wage: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. TCA grant amount: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
7. Plus FS grant amount: + \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
8. Equals combined TCA and FS amounts = \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
9. Does the combined TCA and FS amount on line 8 equal or exceed the monthly State minimum wage on line 5?

Yes \_\_ No \_\_

 If no, then review participation hours for possible adjustment.

Reviewer's Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of calculation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Activity Review for Determination of Training or Employment Status** To be completed by the WORK ACTIVITIES COORDINATOR

**Date of Review:**

**Activity Title:**

**WORKS Activity Code**

**According to the Wage and Hour Division of the U.S. Department of Labor, a trainee or intern is not considered an employee, if all the following factors are met:**

1. Training provided by the employer is similar to that offered in vocational schools.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. Training benefits the trainee or intern more than the employer.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. The trainee or intern does not displace any regular employee.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. The trainee or intern is under close observation.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. The trainee or intern's activities provide no immediate advantage to the employer and may on occasion impede the operation of the business.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. The trainee or intern is not entitled to a job after training.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. The employer, trainee or intern all understand that trainees or interns are not entitled to wages for any time spent in a trainee or internship activity.

Yes \_\_\_\_\_ No \_\_\_\_\_

1. The trainee or internship activity is limited to ninety days or less.

Yes \_\_\_\_\_ No \_\_\_\_\_

*If the response is no to any statement. the activity is considered employment.*

**Employment:** (Fair Labor Standards Act provisions apply.)

**Training:** (May only be for 90 days or less)

**Signature of Reviewer:**