



Public Assistance Work Rules

Public Benefits
Resource Center

A program of
The Community Service Society

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The Community Service Society of New York, a non-partisan social services agency, has been in the forefront of the fight against poverty for over 150 years. It has pioneered programs for school children, low-income tenants, health care patients, immigrants and poor people of every color and race throughout its history. At the midway point of its second century, CSS continues to do research on the causes and solutions to poverty-induced problems and to provide needy people with direct emergency help. Using advocacy and court challenges, CSS works to effect societal changes to improve the lives of those in poverty and empower them to provide better conditions for their children and communities.

Part of CSS, the Public Benefits Resource Center (PBRC) is a single source for social service providers for information, training, and expert case assistance on the full range of government benefit programs. The Center provides training on government benefits, telephone consultations to service providers, direct assistance to the general public and publications, including the *PBRC Manual*, a comprehensive guide to government benefit programs.

Community Service Society of New York

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Public Assistance Work Rules

PUBLIC BENEFITS RESOURCE CENTER

A PROGRAM OF THE COMMUNITY SERVICE SOCIETY

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Public Assistance Work Rules

The law states that every Public Assistance (PA) recipient who is able must take part in work activities. This brochure will explain welfare work rules: who must work, and the rights and the responsibilities of people in the work program.

Who Can Be Assigned to a Work Activity?

The Human Resource Administration (HRA) is the agency responsible to administer PA in NYC and makes decisions about a person's ability to engage in work activities. If HRA decides you are not able to work, you are "exempt" from the work requirements, and you cannot be given a work assignment.

Who is exempt under the work rules?

You are exempt from the work rules if you are:

- 60 years or older
- under 16 years, or under 19 if you are still in school
- needed at home to care for someone who is disabled
- pregnant and due to give birth within a month
- a single parent and have a child who is younger than 3 months
- disabled

How does the HRA define disabled?

To prove that you are disabled and unable to work can be very difficult. If the HRA worker believes you may be disabled or if you state that you think you are disabled, the worker must complete a task list with several activities listed.



If you are unable to perform these tasks the HRA worker should schedule a medical appointment with *WeCare*: Wellness, Comprehensive Assessment, Rehabilitation & Employment.

HRA has contracted with FEGS to serve Manhattan, the Bronx and Staten and with Arbor Education and Training, in Queens and Brooklyn to provide WeCARE services.

Even if your doctor states that you are disabled, this does not mean WeCare will say you are disabled. WeCare will examine you and may take into account your doctor's diagnosis and then make a decision about your disability. WeCare may decide that you:

- have no disabilities and you can be assigned to work
- have a medical or mental health condition
- have some disabilities and you can be assigned to work, but you have limits on what you can do
- are disabled and cannot be assigned to work.

What happens if WeCare decides that I have some disability, but I still can work?

If you are able to work but have some disability, HRA must not give you an assignment that you are not able to do or that might be dangerous for your health. Also, if you have a treatment plan, for example, some type of therapy, then HRA cannot give you any assignment that would interfere with your treatment.

What if I disagree with WeCare's decision?

If you do not agree with *WeCare's decision*, you should immediately request a fair hearing. If you ask for the hearing within 10 days, HRA cannot give you a work assignment until after the hearing has been decided.

What if I have a substance abuse problem?

If WeCare determines you are not able to work because of alcohol or substance abuse you can get a 90-day exemption from work, but must participate in a treatment program. However, WeCare can determine that you are able to work, despite your alcohol or substance abuse and you will be required to do workfare, plus participate in a treatment program.

While WeCare may practice these procedures, there is some question about the legality of their practice. First, the law does not limit an exemption to 90 days, and secondly, HRA can only mandate treatment when they have found an individual unemployable, so it is questionable that they can mandate treatment and at the same time assign you to a work activity.



How Does HRA Decide Where to Assign You?

The HRA worker will ask you about past jobs you may have had, your reading and English language ability, your skills, and what kinds of activities you would prefer to do. This is known as an **assessment**.

When does the assessment happen?

- For households with children, there must be an assessment within 90 days after you start to receive public assistance.
- For households without children, there must be an assessment within one year after you apply for public assistance.

What happens after the assessment?

Once an assessment is done, the worker should write an employability plan or a plan of activities that you will do to help you get a job or improve your skills. If possible, they should take into account what you feel would be best for you to do.

What if I do not agree with my employment plan?

If you do not agree with your plan, you can request that it be changed. You can request this through your worker at the Job Center (JC), through a conference, or through a fair hearing.

What if I am already in an educational or training program?

If you are already in an HRA approved educational or training program and HRA wants to assign you to another work activity, HRA must first do an assessment before you are assigned to something else.



How does the employment plan help me?

Your employment plan should state any training programs you are doing, as well as any training that may be appropriate for you to enroll in. The training programs should match your goals and preferences are stated in the employment plan.

If you have children, HRA should not assign you to an activity that does not match your employment plan. If HRA does assign you to an activity that does not match your employment plan, HRA must give you a reason. There are only a few legitimate reasons HRA can give you for not matching your work activity with your employment plan.

If you have children, HRA should not assign you to an activity that does not match your employment plan

The first reason is that New York State is not meeting certain requirements for participation rates among PA recipients. Currently NYS is meeting their participation rates, so HRA cannot use this reason. A second reason is what you would like to do is not practical.

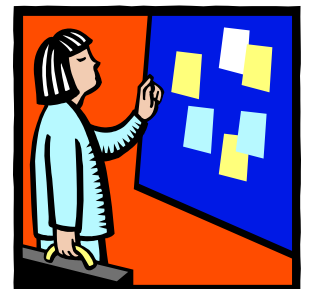
For example, you want to do a program that is not available in NYC or there are very long waiting lists to get into the program.

A third reason is what you want to do is not something that is realistic right now. For example you want to go to community college, but you read at a 5th grade level.

If you do not have children, your employment plan still must be based on the assessment. However, HRA can assign you to any work activity and they do not have to give you a reason why they are not giving you your preference. You should talk about this with your worker to convince them that your preference is the best choice.

What Kind of Activities Can I Be Assigned to?

At some point after you have been found to be able to participate in work activities, HRA will call you in for an assignment. There are different kinds of activities that HRA can assign an individual to including:



- Job search and job readiness activities
- Vocational training or education
- Workfare
- On-the-job training
- Community service programs
- Job skills training directly related to employment
- Additional activities that HRA may assign

The most common assignment for singles or childless couple is “workfare.” Workfare is also called Work Experience Program, or WEP, and it means that you participate in a work activity in exchange for your public assistance grant. WEP participants often work for the Department of Parks, Sanitation and for HRA itself.

Adults with children are generally sent to the BEGIN program. If you are assigned to BEGIN, you may be assigned to participate in WEP for three days of the week and some type of educational activity for the other two days. Educational activities may be literacy, English as a Second Language or a GED program.

Can I go to an educational program instead of WEP or BEGIN?

The Public Assistance work rules often push people to do workfare and they do not always allow you to do education or training. But you may still be able to do an educational program instead, if you fit one of the following:

- You are under 20 years old and have not received a high school diploma; you should be assigned to a high school or GED program.
- You lack basic literacy skills; you should be encouraged to participate in literacy and other basic education programs.
- You are in an education or training program that has an agreement with HRA that allows Public Assistance recipients to participate in their program. So if you know a program that you think would be helpful for you, you should see if they have this kind of arrangement with HRA.



- Under a new law, if you are already in an education or training program when HRA calls you in, they must try to give you an assignment that does not interfere with your classroom schedule.
- You can get an exemption from workfare for 12 months in order to do an education or training program if:
 - The program fits your assessment and employability plan.
 - The program is short-term, usually not more than 6 months. However, sometimes HRA will approve a program for up to a year, and they will sometimes approve attendance at a two-year college (but they will only allow you one year of college without a workfare assignment, in the second year they will assign you to a WEP activity).
 - The program is on HRA's list of approved programs. (See last page of resources)

What if I am doing a work-study program at my school, will I still have to do other work activities?

Work-study programs and internships count as a valid work activity. However, if you are not in a work-study program or internship for “enough” hours, HRA may assign you to additional work activities. HRA must, however, make a reasonable effort that any additional activities that they assign you to do not interfere with your work-study program, internship or class schedule.

How many hours are “enough”?

HRA is making everyone do 35 hours a week of work activities.

What if I am working at a job, will I still have to do other work activities?

The answer to this question is complicated. HRA is under no legal requirement to count the hours that you work as a valid work activity. If HRA decides not to count your work, they can assign you to a work activity for 35 hours a week. Even if HRA does count your work as a valid work activity, and you are not working 35 hours a week, they can assign you additional hours of a work activity so that you are working a total of 35 hours a week.

What if HRA assigns me to a work activity that interferes with the hours that I work, can they do that?

Yes, they can. If HRA decides that your job is not the best way for you to spend your time, they can give you 35 hours of a work activity that is in direct conflict with your job. HRA may not do this as a matter of practice, but they have the right to do this.

How many hours of workfare will I be required to do?

In order to figure out how many hours of workfare you are required to do, HRA will take the amount of your public assistance cash grant and your food stamps and divide it by the minimum wage (**\$7.15 per hour - 2007**). This is the maximum number of hours that HRA can assign you to a workfare assignment.

What if the number of hours in this formula does not equal 35 hours a week?

HRA can only assign you to workfare according to the number of hours figured out in the formula above. However, HRA can assign you to other types of work activities to make up the difference between 35 hours a week and the number of hours figured out in this formula.

What Kind of Services Can I Get While I Am Doing These Activities?

When you are assigned to a work activity, there are at least two important new responsibilities you must deal with, the cost of traveling to and from the worksite, and finding and paying for day care for your children. To help you meet these responsibilities, there are certain “supportive services” available.

Can I get assistance for my transportation costs?

Whenever you must take public transportation in order to get to your work assignment, HRA must provide you with the money (or a Metrocard) so you can pay for the trip to and from your home.



Can I get assistance for my child care costs?

For recipients with children, HRA cannot require you to participate in any work activity unless you are able to find child care or they help you find child care. This rule applies to children under the age of 13, or up through the age of 17 for children with special needs, such as a disabled child. HRA will pay for child care costs for all work related activities.

What will I have to do to get child care?

HRA can ask you to try to find a child care provider on your own. But if you can show that you have tried and have not been able to find care for your child, then HRA must give you the names of at least two child care providers that you must look into.



What should I do while I look for child care?

Keep a written record of all of your attempts to find a good child care provider. You should make sure, if you decide not to use a child care provider, that you make a note of why you made that decision. For example, you may find out that the provider has a long waiting list, so she is not really available; or you went to the home of a provider and it did not seem healthy and safe.

What is informal care?

Informal care means that a friend or relative cares for your child in a private home. There is a shortage of good quality, inexpensive child care, so HRA will often pressure recipients to use informal care. Some parents prefer this kind of situation, but often parents would like more formal care, such as a day care center. HRA should not force you to take informal care if you do not feel comfortable with it. Again, you should make a careful record of the reasons why you are not accepting the care if you decide to reject an informal care provider.

What are my rights?

You should be able to insist that child care:

YOUR RIGHTS

- Not be too far away. This is now defined as no more than 1¼ hour away from you home.

- Be “appropriate”, that is, the situation must be healthy and safe and must be available during the hours and days that you need the care.
- If it is informal care, it must be “suitable”, that is, the home is healthy and safe, and that the provider is in good mental and physical health.

What Are Sanctions?

When you have a sanction a portion of your welfare grant and a portion of your food stamp grant will be taken out of your budget for a period of time. Sanctions happen when HRA believes you have not “complied” with, or obeyed the rules of Public Assistance, this includes the work rules.

How long is the sanction for?

It depends if you have children on the case and if you were sanctioned before:

Public Assistance

For families with dependent children:

- **1st sanction:** you are removed from the household budget until you show that you are now willing to comply with the rules. You usually can show this by reporting to your next assignment.
- **2nd sanction:** you are removed from the budget for 3 months plus any more time, until you show that you are willing to comply with the rules.
- **3rd sanction,** and all other times you are removed from the budget for 6 months, plus any more time until you show that you are willing to comply with the rules.

For families without dependent children:

- **1st sanction:** you are removed from the household budget for 3 months, plus any more time until you show that you are now willing to comply with the rules.
- **2nd time:** you are removed from the budget for 5 months, plus any more time until you show that you are willing to comply with the rules.
- **3rd time,** and all other times: you are removed from the



budget for 6 months, plus any more time until you show that you are willing to comply with the rules.

What are the time periods for Food Stamps?

For families with dependent children or families without dependent children:

- **1st** sanction: you are removed from the household budget for 2 months
- **2nd** sanction: you are removed from the household budget for 4 months
- **3rd** sanction, and all other times: you are removed from the household budget for 6 months.

Will HRA take away my Medicaid?

Under the law, HRA is not permitted to take away your Medicaid coverage during a work-related sanction. If you find the Medicaid in not active you must go to the center and report this.

How will a work-related sanction work?

Once a sanction begins, HRA will reduce your public assistance and food stamps grants. HRA will reduce it based on the number of people who are not complying with the work rules divided by the household size. For example, if your household is made up of you and your three children, the household size is 4. If you are not complying, HRA will reduce your total grant by $\frac{1}{4}$. If the household size is 5 and both you and your spouse are not complying with the work rules, HRA will reduce your total grant by $\frac{2}{5}$.

When can I get back on?

Right to reopen

You have the right to reopen your case or to put yourself put back on the family budget before the sanction period is actually over. However, many times a worker will tell you that you cannot reapply until the sanction period is completed. This is not correct. While you still have to complete the sanction period before you get your benefits back, you have the right to apply at any time and should insist on applying before the sanction is over.

For singles or couples without children, you also have the right to reapply

before your sanction is over. However, HRA may tell you that you cannot apply until 45 days before your sanction ends. While this is incorrect, it may be better for you if you do wait until 45 days before your sanction ends. If HRA does let you apply earlier, they could make a decision before the sanction is over and they may deny opening your case because your sanction is not yet over.

How will I know when HRA believes I am not complying with the work rules?

When HRA believes that you have not complied with a work requirement, they should send you a “Notice of Conciliation.”

Conciliation is a meeting where the HRA worker should explain what they think you did wrong, or what you failed to do. You should have an opportunity to show that you did not do anything wrong or that you had a good excuse or explanation. If you want to have a conciliation, you must request it within 14 days of receiving the notice.

What if I don't request a conciliation or I am not able to fix the problem during the conciliation?

If you have conciliation but you are not able to fix the problem, or if you decide not to ask for the conciliation, you will get a “Notice of Intent.” This notice will state that you failed to comply with the work rules and that HRA intends to impose a sanction.

What Are My Rights?

The notice of intent will also tell you about your right to ask for a Fair Hearing. It is very important that you ask for the hearing quickly. The notice will state the date that the sanction is scheduled to begin. If you ask for a hearing before that date, your benefits will not be changed until you have had the hearing and received a decision.

To request a fair hearing call: **(800) 342-3334**

To write for a fair hearing:

New York State OTDA
Office of Administrative Hearings
P.O. Box 1930
Albany, New York 12201



To Fax for a fair hearing: **(518) 473-6735**

For online fair hearing request forms or to make a request online go to:
www.otda.state.ny.us/oah/oahforms/erequestform.asp

In person, go to 14 Boerum Place in Brooklyn.

What happens at the fair hearing?

There will be a judge who works for the state, HRA will have someone there to explain why they believe they are doing the right thing, and you will have the opportunity to explain why you believe they are not correct.

At the hearing you should insist that HRA first show that you did not comply with the work rules or that you do not have a valid excuse. Then you should be given the chance to speak or testify, to present evidence, and to have witnesses that shows they are wrong.

How should I prepare?

When you prepare for a hearing, you should think about whether there are documents or witnesses that can help you win your case. For example, if you missed an appointment because you were sick, you should try to bring in a letter from a doctor, or from a friend or family member who can say that on the date in question you were not able to leave the house. If you could not leave home because your child care provider was not available that day, then it would be helpful to bring in a letter from the provider.

Can I have people help me?

You can also have a lawyer, paralegal, social worker, a community advocate or even a friend, help you at your hearing.

How will I know if I won?

Some time after the Fair Hearing you will receive a decision the mail. If you won, HRA cannot impose the sanction. You cannot be sanctioned unless you failed to comply with the rules “willfully and without good cause.” This means that you did not do what you were required to do, and you did not have any reasonable excuse. If you lost, the sanction will soon begin. It may be possible for you to appeal the decision, either to the state agency in Albany or in state court. But for these options, you will probably need assistance from a lawyer or other advocate.

Where Can I Turn for Help?

HRA Toll Free Infoline: **(877) 472-8411**

HRA link of approved training programs

<https://a069-webapps1.nyc.gov/atp/search.cfm>

Legal Services, check your local yellow pages under “lawyer”, either Legal Aid or Legal Services

PBRC’s Entitlement Counselors **(212) 614-5552.**

Project F.A.I.R.

<http://www.projectfair.org/>