

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

DCF

Department for Children and Families

BULLETIN NO.: 06-24F

FROM: Joseph Patrissi, Deputy Commissioner
Economic Services Division

DATE: 11/16/06

SUBJECT: Changes to Reach Up Income, Resource, and
Work Activity Rules

CHANGES ADOPTED EFFECTIVE 12/1/06

INSTRUCTIONS

- Maintain Manual - See instructions below.
- Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin: 06-24F
- Information or Instructions - Retain until _____

MANUAL REFERENCE(S):

| | |
|------|------|
| 2250 | 2264 |
| 2253 | 2364 |
| 2255 | |

This bulletin proposes changes in Reach Up income, resource, and work activity rules required by Act 215 and Act 113 enacted by the Vermont General Assembly in April 2006. In addition, it proposes changes to Reach Up work activity rules to align them with new federal regulations issued on June 30, 2006 as required by the federal Deficit Reduction Act (DRA).

Act 113, an "Act Relating to Financial Literacy and Asset Building of Low Income Vermonters," establishes the requirement that assets accumulated from federal and Vermont earned income tax credits (EITC) be excluded for purposes of determining continuing eligibility for the Reach Up program. In addition, Act 113 establishes attendance at financial literacy classes as a work activity, but only to the extent that hours of attendance are countable under the federal Temporary Assistance for Needy Families (TANF) law and regulations. Act 215, "Making Appropriations for the Support of Government," establishes the requirement that cash contributions for medical support be excluded as income in determining eligibility for the Reach Up program.

Changes Related to Income

Current Reach Up rules 2250.1 and 2255 exclude the federal EITC as income, whether it is received with each paycheck or as a lump sum. The lump sum income rules at 2250.1, however, require that the Vermont EITC be counted as lump sum income when the combined total of the Vermont EITC, renters' rebates, property tax rebates, and sales tax rebates exceed the difference between the family's annualized total need standard and the annualized payment standard plus net countable income. When these lump sum rules were adopted, Vermont had a sales tax rebate. The sales tax rebate was repealed in 1994 and references to this rebate are, therefore, obsolete.

Act 113 does not address renters' and property tax rebates. Rebates are excluded as income in Food Stamp rule 273.9(c)(8). This bulletin proposes to align Reach Up rules with Food Stamp rules by excluding renters' and property tax rebates as income.

This bulletin proposes to exclude the Vermont EITC, renters' rebates, property tax rebates, and sales tax rebates as income in determining eligibility for Reach Up.

Changes Related to Resources

The current rules at 2264 exclude the federal EITC as a resource in the month in which it is received and in the following month. The rules also exclude any amount of renters' or property tax rebate excluded from income under 2250.1 when the recipient sets the money aside for the purpose of paying rent or property taxes due within 12 months of the family's receipt of the rebate. The rebates are excluded under 2250.1 only when, combined with the EITC, they do not exceed the difference between the family's annualized total need standard and the annualized payment standard plus net countable income.

This bulletin proposes changing Reach Up rules to treat the federal and state EITC the same as assets accumulated from the earnings of adults and children in participating families. This means that federal and state EITC will be excluded as resources when they are kept in a bank account that is separate from other liquid assets, unless to do so would create a hardship. This bulletin also proposes to totally exclude renters' and property tax rebates as a resource.

Changes Related to Work Activities

The DRA reauthorized the TANF program and required the Secretary of Health and Human Services to promulgate regulations for determining what activities may be counted as work activities for purposes of the federal work participation rate. Previously, states had wide latitude to define the federal work activities. In addition, the DRA made other changes to TANF law that will have a significant effect on Vermont's ability to meet its federal work participation rate. This bulletin proposes changes to the work activities to align Reach Up rules with federal requirements while ensuring Reach Up rules maximize opportunities for countable participation in the activities. As required by Act 113, this bulletin proposes to add attendance at financial literacy classes as a work activity, but only to the extent permitted by federal law and regulations.

Specific Changes to Rules Sections

- 2250 Replaces ANFC with Reach Up and Reach Up financial assistance.
- 2250.1 Adds provision that Vermont EITC be disregarded as income and as a resource. Replaces ANFC with Reach Up financial assistance. Replaces policy with rules.
- 2253 Replaces reference to Lump Sum Income rules at 2250.1 with references to Excluded Income at 2255.1 and Excluded Resources at 2264. Updates procedures reference.
- 2255.1 Adds provision #16 that court ordered cash contributions for medical support paid by a noncustodial parent shall not be counted as income. Adds Vermont EITC to provision #30 that federal EITC shall not be counted as income. Updates rule citation. Replaces “ANFC” with “Reach Up”.
- 2264 Adds Vermont EITC to provision #13 that excludes federal EITC as a resource in the month of receipt and the following month. Adds to that Vermont and federal EITC are excluded as a resource in subsequent months when they meet the criteria in #15 for excluding assets accumulated from subsidized or unsubsidized earnings of Reach Up family members. Changes “earned income credit” to “earned income tax credit”.
- TOC 2340 -2399 Changes numbering of the work activities section in 2364 to reflect additions and modifications to the rules’ sections designations.
- 2364 Introduces concept of and adds information about “core” and “non-core” activities including a list of the activities designated as core and non-core.
- 2364.1 Moves information on self-employment to the subsection on unsubsidized employment and eliminates subsections' designations. Changes how self-employment may be counted as a work activity to comply with changes in federal regulations. Removes requirement of a business plan and allows participation in self-employment when the hours of self-employment net the participant Vermont minimum wage or more and either satisfy the work requirement in full or when combined with hours in other activities fulfill the individual’s entire work requirement.

Since the proposed filing, the department has added a provision that permits other methods of counting hours of self-employment if approved by the federal regulators and included in the work verification plan and revised the rule to be consistent with the federal definition.

2364.2 Aligns rules with federal law by changing “subsidized employment” to two sections called “private subsidized employment” in 2364.2 and “public subsidized employment” in section 2364.3. Removes restrictions to participation related to participant’s phase and details of the contract to make the activity available to more participants and to give the state more flexibility in establishing subsidized employment placements.

Since the proposed filing, the department has made further modifications by adding language to include supported employment and deleting language about contracts.

2364.3 Adds section called “public subsidized employment” (formerly included in “subsidized employment”) to align with federal law. Removes restrictions to participation related to participant’s phase and specifics about contract provisions.

2364.4 Renumbers “Work Experience” (formerly 2364.7) activity to align with federal law. Modifies description of activity and broadens participant group.

Since the proposed filing, the department has modified the rule to more closely track language in the federal regulations and to remove unnecessary language pertaining to department procedures.

2364.5 Replaces the activity called "Work, Training, and Education Placement" with the activity of “On-the-Job Training” to align with federal law and maximize opportunities for work activity participation.

2364.6 Moves "Job Search" activities from 2364.2 to this subsection to align structure with federal and state law and adds additional guidance about activity. Makes changes to structure and clarifies when hours are countable.

Since the proposed filing, the department has expanded the rule to permit housing search in situations other than homelessness and to more closely track TANF regulations.

2364.7 Changes “Community Service Programs” section number and name to align with federal law, makes non-substantive changes and removes limitations as to which participants may engage in this activity.

Since the proposed filing, the department has revised the rule by eliminating the job search provisions in this section.

- 2364.8 Loosens requirements for participation in vocational education by removing educational plan requirements so that more participants may engage in a variety of programs that fit within this activity. Expands activity to count up to 12 months of attendance in postsecondary education done in accordance with an education plan.
- Since the proposed filing, the department has removed language about the 30 percent limitation on counting participants in certain education activities and has removed the word “associate’s” to broaden participation in other degree programs if permissible under federal regulations.*
- 2364.9 Modifies “Jobs Skills Related to Employment” to broaden definition and expand opportunities for participation to all participants who can benefit from the activity.
- Since the proposed filing, the department has modified the rule to expand the allowable job market area to any location where the participant may be interested in working.*
- 2364.10 Modifies title of “Basic Education Directly Related to Employment” by removing “Basic” to align with federal law.
- 2364.11 Adds “Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence” to align with federal law.
- 2364.12 Adds activity “Provision of Child Care services to an Individual Who is Participating in a Community Service Program” to align with federal law and adds it must be done consistent with self-employment rules, as required by state law.
- Since the proposed filing, the department has corrected an error in a citation to the self-employment section.*
- 2364.13 Adds activity “Financial Literacy Classes,” but limits participation to the extent that hours in this activity can be counted toward the federal work participation rates.
- Since the proposed filing, the department has removed advisory language about this activity counting as a work-readiness activity.*
- 2364.14 Renumbers section on Work Activity Displacement Policy.
- Since the proposed filing, replaced “Department of Employment and Training” with “Vermont Department of Labor.”*
- 2364.15 Renumbers section on Fair Labor Standards Act.

Comment Period

A public hearing was held on August 21, 2006 at 1:00 p.m., in the Agency of Human Services' Blue Room, DCF, State Office Complex, Waterbury, Vermont. The department did not receive any comments at the hearing.

The comment period on this bulletin closed on August 28, 2006. The Department for Children and Families received written comments from five commenters. Commenters include a private individual and representatives from Vermont Legal Aid (on behalf of the Vermont Network Against Domestic and Sexual Violence), Vermont Coalition for Disability Rights, the Vermont Parent Child Center Network, and the Vermont Student Assistance Corporation (VSAC).

General Comments

Comment: Two of the commenters recommend that the program maintains maximum flexibility and that the department should delay filing the rules until the legislature provides policy direction and the federal regulations are final. In addition, they both want the department to refrain from making the rules any more stringent than the federal regulations.

Response: The department is filing the proposed rule to expand flexibility by removing limiting language where possible and to make Reach Up rules consistent with federal changes. To delay filing of the rules would leave current definitions of work activities in place. Current rules are more restrictive and inconsistent with federal regulations. For the department to delay filing rules would limit participants' choices of activities, exacerbate the state's risk of federal penalties for failure to meet the work participation rates, and would be contrary to the legislated Reach Up program purposes of conforming to federal TANF law and avoiding federal fiscal sanctions. 33 V.S.A §1102(a) (9) and (10).

Comment: One commenter approves of the removal of the phase-related restrictions, but questions why phases were not eliminated in other sections of the rules, such as in the work-ready determination section 2363.1.

Response: The department is able to remove the phase-related restrictions in the work activities because they were created within the rules. The overall phase concept is directly related to state law. The phases cannot be removed from the rules unless state law is amended to change the related provisions.

Comments by section

2364.1 Unsubsidized Employment

Comment: One commenter notes that the reference to a business plan had been removed in other parts of the rule and should be removed in this section.

Response The reference to the business plan has been removed.

Comment: One commenter notes that the proposed rule is inconsistent with the federal regulations definition of unsubsidized employment as employment not subsidized by TANF or any other public funds.

Response: The rule has been changed to be consistent with the federal definition.

Comment: One commenter recommends the rule be expanded to allow other methods of counting self-employment hours and suggests the department use federal minimum wage instead of state minimum wage to determine hours or allow the participant to verify hours in reliance on a business schedule.

Response: At public meetings the department has requested, but not received suggestions for alternate ways to count the hours of self-employment that would be permitted under the federal regulations. To keep the option open, the rule is changed to permit other methods for counting hours of self-employment if they are included in the state's verification and documentation plan that is approved by the Administration for Children and Families. The department will continue to use the state minimum wage standard instead of the federal standard in order to preserve consistency throughout the rule and the program's underlying policies of helping families to move out of poverty while minimizing use of their 60 months of TANF assistance.

2364.2 and 2364.3 Subsidized Private and Public Employment

Comment: One commenter notes that the rule is inconsistent with the federal regulations definition of subsidized employment as employment subsidized by TANF or any other public funds.

Response: The rule has been changed to be consistent with the federal definition.

Comment: Two commenters recommend that supported employment for individuals with disabilities be included in the definition of subsidized employment.

Response: The rule has been changed to include supported employment within the definition of subsidized employment when it fits within the definition.

Comment: One commenter asks for clarification why the rule includes a length of time for placements and recommends that it be removed as it limits flexibility.

Response: The department specifies a time period when the department is a party to the contract because the job is subsidized by TANF or Reach Up funds. The time limitation on the contract is necessary to ensure responsible fiscal management of the state's funds and fulfillment of the contract. As this is more in the nature of a procedure, the language has been eliminated from the rule.

2364.4 Work Experience

Comment: Two commenters recommend that the definition of work experience be modified by removing the restriction that limits participation in this activity to only those participants unable to obtain unsubsidized employment as the limitation is overly restrictive.

Response: The requirement that this activity be limited to participants for whom unsubsidized employment is not available is part of the federal definition of “work experience.” Under state law, the department has an obligation to define work activities consistent with federal law. 33 V.S.A. §1101 (27).

As implied by the comments, the language in the proposed rule could be interpreted to be more restrictive than the federal rule. As a result, the department has modified the rule to more closely track the language in the federal regulation.

Comment: One commenter recommends removing the requirement that the “district manager, or the manager’s designee, shall approve all work experience placements and review the placement at least every three months” because such a requirement is too onerous on the department.

Response: The language that is the focus of the comment has been removed from the rule. While the department believes that there should be some review and approval of the placement to ensure it is appropriate to the purpose and consistent with the participant’s family development plan, this information is more appropriate as guidance and procedures.

Comment: One commenter asks the department to remove the part of the definition about regularly scheduled hours and providing a benefit to the community because these restrictions are not included in the federal regulations.

Response: The language that is the focus of the comment exists in current Reach Up rules. The department agrees with the commenter that the “providing a benefit to the community” language is unnecessarily restrictive for this activity and it has been removed. The provision about regularly scheduled hours is not intended to be restrictive; rather it is to ensure that the participant can count on the placement to provide a degree of certainty to fulfill its purpose of providing the work experience at a level that helps them to meet their work requirement, but this may be better accomplished in guidance or procedures. Accordingly, the department has removed this language from the rule.

Comment: One commenter suggests removal of the last sentence of the first paragraph about participants not being employees of the worksite or the State of Vermont because it is not required by federal rule and is inconsistent with the Federal Labor Standards Act.

Response: The department declines to remove the language specifying that participants in work experience are not employees of the State of Vermont. Work experience placements are not recognized state positions and participants in work experience have not engaged in the formal hiring process or met the qualifications associated with state employment. Though the commenter claims the provision is inconsistent with the Federal Labor Standards Act (FLSA), the commenter does not provide reasons for the claim. This provision is not new to the rule. It was originally included to clarify that although participants' hours may be restricted to those permitted under the FLSA; the participant is not an employee of the State of Vermont. If the commenter is concerned about participants being required to participate in an activity for hours beyond that supported by the FLSA, Reach Up rule 2364.15 ensures consistency and compliance with the FLSA when that law applies.

2364.6 Job Search

Comment: One commenter suggests some additional examples to add to the list of work readiness activities or to include within another activity that does not have the six-week limitation.

Response: Generally, the department uses nonexclusive lists in rules to describe the parameters by example. Usually the list is limited to avoid the risk of the list being interpreted as exclusive. The department acknowledges that the commenter's suggested additions fall within the work readiness definition, but it prefers to include them in any list provided to the districts in guidance. The department interprets current federal regulations to permit these activities only as job readiness activities.

Comment: Two commenters recommend revising the housing search bullet by removing language that restricts housing search to homeless participants because there are situations other than homelessness where it would be beneficial to the family's stability to search for alternate housing.

Response: The department agrees with the commenters that there are other situations other than homelessness where it would be beneficial to stabilize housing, but is also cognizant that any change needs to be consistent with the federal regulations and the program's goals. Accordingly, the language has been broadened consistent with these considerations.

Comment: One commenter suggests that the rule be changed to translate the six-week limitation into hours.

Response: The six-week limitation on this work activity is in federal law. Although the department has submitted comments on the federal regulations recommending an interpretation of the six-week requirement in hours, the federal regulators have signaled an unwillingness to take this approach. Regardless, if the federal regulation is changed to count the six-week limitation in hours the department will count it in hours. A rule change is not needed to accomplish changing the way the department calculates the six weeks.

Comment: One commenter recommends the department delete all language after: “Even though federal law limits the countable hours of job search, hours above the federal limits may be counted for compliance with the FDP and avoidance of sanctions when authorized and coordinated by the case manager and incorporated into the FDP.”

Response: The department declines to delete the language the commenter recommends removing as it is in state law. 33 V.S.A. §1113(e).

Comment: One commenter suggests that the rule not overly restrict the type of therapy or treatment permitted within the definition of this work activity.

Response: In regard to types of therapy, the proposed rule tracks the language of the federal regulation. Accordingly, any restrictions in this activity are as defined by the federal regulations. Consistent with the federal regulations, the proposed rule has been expanded to track federal legislation and include “rehabilitation services.” The department expects that this change, coupled with the existing language, will permit services provided through the Vermont Network Against Domestic and Sexual Violence that are allowed under the federal regulation. Even if the services are not considered to be a countable work activity, state law and rules recognize a deferment from or modification to the work requirement for participants suffering the effects of domestic violence. In addition, the new federal regulations permit a participant to count time in therapy as an excused absence from their work activity. These mechanisms provide a way for participants to engage in related activities when needed.

Comment: One commenter proposes that the rule be changed so that the time permitted to elapse before an assessment is completed is two weeks instead of four weeks.

Response: The department declines to substitute the suggested language because such a change could limit the flexibility of the participant and the case manager to take full advantage of counting the variety of activities, including ongoing therapy, within this work activity definition. As the rule states, the department shall approve this activity in periods no longer than two weeks. This provision coupled with the new daily supervision requirements ensure that ongoing assessment of the appropriateness of the activity will occur.

2364.7 Community Service Programs

Comment: One commenter suggested that the name of this activity be changed to “Community Internship” as suggested by some district Reach Up redesign groups.

Response: For clarity and consistency, the department will maintain the rules with the same terms used in the federal law, federal regulations, and state law. The districts will have the flexibility to name their particular activities that fit within the community service definition provided they report it within the department’s reporting systems as community service. This approach accommodates all districts by permitting them to decide what to call the activity in their community while remaining consistent with the law for reporting purposes.

Comment: One commenter asks whether the five hours of job search would qualify as an “embedded activity” as referenced in the preamble of the federal regulations and another commenter requests that the entire third paragraph containing the provision be removed.

Response: The federal regulators specifically advise that community service programs do not include activities that meet the definition of another allowable TANF work activity. States are warned against the practice of attempting to count job search as part of this activity. The requirement of job search as drafted in section 2364.7 is in existing rules. It does not offend the federal prohibition because the job search hours are in addition to the full number of hours of a participant’s work requirement. In consideration of this comment and others on maximizing flexibility and consideration of the participant’s needs, the department has decided to eliminate the third paragraph language requiring the five hours of job search as an integral part of this activity. Instead, the determination of the timing and hours of job search will be left to the discretion of the participant and the case manager so it can occur when it is needed to make job search a meaningful activity.

Comment: One commenter requests that the last sentence in the first paragraph stating that “[p]articipants in this work activity are not employees of the placement site or of the state of Vermont” be removed.

Response: As with the section about work experience, the department declines to remove the language about participants in community service placements not being employees of the State of Vermont. Community service placements are not recognized state positions and participants in these placements have not engaged in the formal hiring process or met the qualifications associated with state employment. The commenter claims the provision is inconsistent with the Federal Labor Standards Act (FLSA), but does not provide reasons for the claim. This provision is not new to the rule. It was originally included to clarify that even though the FLSA may apply, the participant is not an employee of the State of Vermont. If the commenter is concerned about participants being required to participate in an activity for hours beyond those supported by the FLSA, Reach Up rule 2364.15 ensures consistency and compliance with the FLSA when that law is applicable.

Comment: One commenter requests clarification of the last paragraph that states the placement must be conducted in accordance with a contract between the department and the placement regarding length of placement, development of job skills, and release time for job search.

Response: The rule includes the contract requirement with the specified provisions to ensure a method to monitor fulfillment of the participant’s needs and responsible fiscal management of the state’s funds.

2364.8 Vocational Education

Comment: One commenter recommends the department move the reference in section 2364.9 related to “try-out courses” to this section so that participation in try-out course may be counted as a core activity.

Response: The department believes that, depending on their subject matter, try-out courses may fit within either or both of the definitions of this activity and the definition of job skills directly related to employment. There is nothing that prohibits counting hours of participation in try-out courses as vocational education provided they meet the definition of vocational education.

The department is reluctant to encourage the practice of counting try-out courses as vocational education because it may be interpreted to mean that try-out courses are always vocational education, which is not the case. In addition, counting try-out courses as vocational education should be done sparingly as it will be applied to the participant’s 12-month participation limitation on vocational education.

Comment: Two commenters remarked upon the inclusion of the federal limitation on counting no more than 30 percent of the engaged caseload as meeting their work requirement in this and other educational activities.

Response: While the 30 percent limitation is in federal law and the state must abide by it, the department agrees with the commenters that it does not need to be included in rule. Accordingly, the language has been removed.

Comment: One commenter asks about the derivation of the list of examples of fields of occupations.

Response: The list of occupations is simply a non-exclusive list of examples that is already included in the rule.

Comment: One commenter recommends changing the language from “associate’s degree” to “a degree approved by the department.”

Response: The department has changed the rule to allow participation in activities related to any degree permitted and countable under federal TANF law and regulations.

2364.9 Job Skills Training Directly Related to Employment

Comment: One commenter requests clarification of the use of the word “local” to describe employment market because the commenter thinks it is an overly restrictive qualifier.

Response: The department has changed to language to make it consistent with other rules’ sections by replacing “local employment market” with “local or adjacent labor market or in some other labor market to which the participant is willing to relocate.”

2364.12 Provision of Child Care –

Comment: One commenter suggests renumbering this activity to group it with other core activities.

Response: For ease of use and consistency with state and federal law and regulations, the department will keep this activity in its current place. The department believes that it is more likely that the listing of core and noncore activities will be the reference for determinations of the work activities status as core or noncore.

Comment: One commenter points out the reference to self-employment should be 2364.1 not 2364.1b.

Response: The commenter is correct and the reference has been corrected.

Comment: One commenter recommends defining this activity as broadly as possible to maximize a participant's ability to count hours.

Response: Currently, state law restricts this activity to being consistent with the department's rules on self-employment. Because in response to comments the rule on self-employment was modified to leave room for alternate methods of counting hours, this activity by its link to the self-employment activity is expanded as well. This means that if the participant can verify the hours using the self-employment income formula or other methodology included in the department's work verification and documentation plan that has been approved by the federal regulators the hours of participation can count toward the participant's work requirement.

2364.13 Financial Literacy Classes

Comment: One commenter would like the rule on this activity to state that participants should be encouraged to participate in these classes.

Response: The department declines to add the requested language because encouraging participants to engage in these classes is more in the line of guidance or practice. Many participants do participate in financial literacy classes as a job readiness activity in the Making it Work program.

Comment: One commenter recommends that the department remove the last sentence in this section as it may count in other activities. The commenter does not suggest another activity's definition within which the classes may fit nor does the commenter suggest why the reference is limiting.

Response: As interpreted under current TANF law and regulations, participation in this activity is countable only as a job readiness activity. State law limits our work activities to the extent and degree that they are allowed and countable in accordance with Part A of Title IV of the Social Security Act (TANF law). 33 V.S.A. § 1101 (27). Because the language is advisory and can be provided in guidance, it has been removed.

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking go to the website of the Office of the Vermont Secretary of State at: <http://vermont-archives.org/apa/rules.html> or call Louise Corliss at 828-2863

For information on upcoming hearings before the Legislative Committee on Administrative Rules go to the website of the Vermont Legislature at: <http://www.leg.state.vt.us/schedule/schedule2.cfm> or call 828-5760.

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Vertical lines in the left margin indicate significant changes. Dotted lines at the left indicate changes to clarify, rearrange, correct references, etc., without changing content.

Manual Holders: Please maintain manuals assigned to you as follows.

| | | Manual Maintenance | |
|----------------------|--|------------------------------|-----------------------------|
| | | <u>Reach Up Rules</u> | |
| <u>Remove</u> | | | <u>Insert</u> |
| 2250 | | (88-15) | 2250 (06-24) |
| PP&D Facing 2250.1 | | 7/1/06 | Nothing |
| 2250.1 | | (90-35) | 2250.1 (06-24) |
| 2250.1 P.2 | | (93-2F) | 2250.1 P.2 (06-24) |
| 2250.1 P.3 | | (93-2F) | 2250.1 P.3 (06-24) |
| PP&D Facing 2253 | | 7/1/06 | Nothing |
| 2253 | | (98-1) | 2253 (06-24) |
| PP&D Facing 2255 | | 7/1/06 | Nothing |
| 2255.1 P.4 | | (01-06) | 2255.1 P.4 (06-24) |
| 2255.1 P.6 | | (94-36) | 2255.1 P.6 (06-24) |
| PP&D Facing 2264 P.2 | | 7/1/06 | Nothing |
| 2264 P.2 | | (01-06F) | 2264 P.2 (06-24) |
| TOC P.2 (2340-2399) | | (00-22F) | TOC P.2 (2340-2399) (06-24) |
| TOC P.3 | | (00-22F) | TOC P.3 (06-24) |
| 2364 | | (00-22) | 2364 (06-24) |
| 2364.2 P.2 | | (00-22) | 2364 P.2 (06-24) |
| 2364.3 P.2 | | (00-22F) | 2364.2 (06-24) |
| 2364.3 P.3 | | (00-22F) | 2364.6 (06-24) |
| 2364.41 P.2 | | (00-22F) | 2364.7 (06-24) |
| 2364.43 | | (00-22F) | 2364.9 (06-24) |
| 2364.45 | | (00-22F) | 2364.11 (06-24) |
| 2364.46 P.2 | | (00-22F) | 2364.14 (06-24) |
| 2364.6 | | (00-22F) | Nothing |
| 2364.8 | | (00-22F) | Nothing |
| 2364.8 P.2 | | (00-22F) | Nothing |
| 2364.81 P.2 | | (00-22F) | Nothing |
| 2364.81 P.3 | | (00-22F) | Nothing |
| 2364.10 | | (00-22F) | Nothing |
| 2364.11 P.2 | | (00-22F) | Nothing |

12/1/06

Bulletin No. 06-24

2250

2250-2259

Income

Income is defined as any cash payment or equivalent "in kind" which is actually available to the applicant or recipient. Sources of income include, but are not limited to, earnings from employment or self-employment, and "unearned" income (pensions, benefits, interest, or return on investments, contributions, assistance from other agencies, etc.).

All income except that specifically excluded shall be evaluated to establish net income available to meet need. When spouses are maintaining a common living arrangement, their joint incomes shall be evaluated and considered for availability to meet their joint needs, even though only one applies for or receives assistance under any Department program. Verification of all income except that specifically excluded shall be required in the Reach Up Program.

Transfer of assignment of income for the purpose of qualifying for a larger amount of assistance than that of which the individual would otherwise be entitled is prohibited. Voluntary transfer of income within two years before date of application or while in receipt of Reach Up shall result in ineligibility unless the income is reconveyed to the applicant or recipient.

Future and potential sources of income shall be identified and developed, when feasible. (See Potential Income and Resources.) State assistance in the amount needed based on currently available income shall, however, continue until such income becomes in fact available, at which time appropriate budgetary adjustment shall be completed.

12/1/06

Bulletin No. 06-24

2250.1

2250.1 Lump Sum Income

The applicant or recipient of Reach Up is responsible for notifying the Department promptly upon receipt of any lump sum payment of earned or unearned income.

Lump sum payments, including windfall payments, shall be counted as income unless excluded under an exception cited below. Windfall payments shall not include sums resulting from the conversion of an existing asset (i.e. acquired when the individual was not in receipt of Reach Up benefits) to a liquid asset. However, money resulting from the sale of a vehicle acquired when the individual was in receipt of Reach Up benefits shall be treated as a resource and not as a windfall payment. Lump sum payments, including windfall payments, which have been set aside in a trust fund and which are excluded in accordance with Reach Up policy relating to "Trust Funds" shall not be counted as income.

Additional exceptions to the above regulation are:

- 1) An income tax refund shall be treated as a resource, except for any portion which is a federal or Vermont Earned Income Tax Credit (EITC) refund. EITC payments are disregarded both as income and as a resource (see 2255.1#30 and 2264 #13).
- 2) Insurance payments or similar third party payments, if received for payment of medical bills or funeral costs and used for those purposes, must be excluded. Also excluded would be a home owner's insurance payment (e.g. for a house which burned down) if it is used to rebuild or repair the house or purchase a new one.

Lump sum payments which are not excluded should be added together with all other non-Reach Up income received by the assistance group during the month. When the total less applicable disregards exceeds the standard of need for that family, the family will be ineligible for Reach Up for the number of full months derived by dividing this total income by the need standard applicable to the family. Any remaining income will be applied to the first month of eligibility after the disqualification period.

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2250.1 P.2

2250.1 Lump Sum Income (Continued)

The period of ineligibility due to a lump sum benefit may be recalculated if:

1. An event occurs which, had the family been receiving assistance, would have changed the amount paid.
2. The income received has become unavailable to the family for circumstances beyond its control. Such circumstances are limited to the following unless the Commissioner or his or her designee determines that the recipient's circumstances are substantially similar to those described below:
 - a. death or incapacity of the principal wage earner.
 - b. loss of shelter due to fire or flood.
 - c. repairs to owner-occupied homes which are essential to the health and safety of the family.
 - d. repair or replacement of essential, major household appliances.
 - e. repair or purchase of one motor vehicle per Reach Up assistance group, essential for employment, education, training or other day-to-day living necessities. Expenses may include purchase and use tax, inspection fee, insurance, and registration fees, but not day-to-day operating expenses.
 - f. payments attributable to current monthly housing expenses (as defined in 2245.3) which are in excess of the maximum monthly Reach Up housing allowance. Advance payments (i.e. payments for expenses which will be incurred after the period of ineligibility has ended) toward excess monthly housing expenses are not allowed.
 - g. payment of expenses which meet the following criteria:
 - (1) The bills were overdue as of the date the lump sum income was received.
 - (2) The bills were the legal liability of the client or other member of the assistance group.
 - (3) The client provides documentation that the lump sum income was used to pay the bills.

Eligible expenses under "g" above are as follows and are restricted to those of the primary residence and would include any late charges described in payment agreements or allowed by Public Service Board rules.

- a. overdue rent (including lot rent)
- b. overdue mortgage payments (principal and interest)
- c. overdue property taxes
- d. overdue homeowner's insurance
- e. overdue heating bills
- f. overdue utility bills (e.g. electricity, gas, water, or sewage)

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2250.1 P.3

2250.1 Lump Sum Income (Continued)

Other eligible expenses:

- g. overdue telephone bills (basic monthly charge, applicable taxes, plus \$5 per month in toll charges)
 - h. overdue child care expenses necessary for a member of the assistance group to maintain employment, with the following limitation. If the overdue expenses were incurred when the individual was receiving Reach Up, only the unsubsidized amounts attributable to employment-related child care are considered eligible expenses.
 - i. overdue expenses for one motor vehicle per Reach Up assistance group, essential for employment, education, training or other day-to-day living necessities. Expenses may include overdue bills for repairs, purchase and use tax, inspection fee, insurance, and registration fees, but not day-to-day operating expenses.
3. The family incurs and pays for medical expenses which offset the lump sum income.

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2253

2253 Earned Income

Earned income shall include all wages, salary (cash or in-kind), commissions or profit from activities in which the individual is engaged as an employee or a self-employed person, including but not limited to active management of capital investments (e.g., rental property).

Earned income is defined as income prior to any deductions for taxes, if applicable, FICA, insurance, or any other deductions, voluntary or involuntary, except that in determining earned income for self-employed individuals, allowable business expenses shall be deducted first (see 2253.2).

Self-employment income will be determined by the client's most recent tax return unless the tax return is not indicative of the current situation, a tax return has not been filed, or the client has earned income not subject to taxation. In these circumstances, the department will use the client's records and other available sources to determine self-employment income. For determining monthly self-employment income, see 2211.3 and P-2210 C.

Earnings over a period of time, for which settlement is made at one given time are also included) (e.g., sale of farm crops, livestock, poultry).

Payments to individuals under the following programs shall be treated, as described below:

A. Vermont Earned Income Tax Credits

The Vermont Earned Income Tax Credit, which is 100 percent state-funded, is paid only as a lump sum following the end of the tax year. See rules at 2255.1, Excluded Income and 2264, Excluded Resources.

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2255.1 P.4

2255 Excluded Income2255.1 Other Excluded Income (Continued)

The provider of care must be 16 years of age or older and submit a completed and signed form 218 P. The child must meet the age requirements in 2352.1.

The actual amount paid, up to a maximum of \$175 per month, shall be deducted from the household's gross earned income.

12. The value of food stamp benefits under the Food Stamp Act of 1977.
13. The value of the U. S. Department of Agriculture donated foods (surplus commodities).
14. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
15. Earned income of an eligible child if the child is a full-time student. Earned income of an eligible child if the child is a part-time student, but not employed full time. A student is a person who is enrolled in a school, college, university, or a course of vocational or technical training designed to fit him or her for gainful employment. The school or institution shall make the determination of the student's status as full-time or part-time (i.e. less than full-time). A full-time employee is one who is employed 100 or more hours per month.

When comparing gross earned income with 185 percent of the need standard to determine eligibility, this exclusion applies only to full-time students and for a period not to exceed six months in any given calendar year.

16. Court ordered cash contributions for medical support paid by a noncustodial parent.

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2255.1 P.6

2255 Excluded Income2255.1 Other Excluded Income (Continued)

27. Any income received from an emergency fuel supplement or energy allowance to assist with the cost of heating.
28. The first \$50 in child support payments made by an absent parent on behalf of an assistance group member within each calendar month. When more than one absent parent makes child support payments on behalf of a single Reach Up assistance group in the same calendar month, the maximum amount of child support to be disregarded in determining the assistance group's eligibility is \$50.
29. Payments to persons of Japanese or Aleut ancestry as restitution for injustices suffered during the Second World War.
30. Vermont and Federal Earned Income Tax Credits (EITC), whether received with each paycheck or as a refund (lump sum), shall not be counted as income. EITC should not be counted when determining the assistance group's eligibility under the 185 percent income test.
31. Payments made from the Agent Orange Settlement Fund or any other fund established because of the Agent Orange product liability litigation are excluded as income in determining eligibility for or the benefit amount in Reach Up financial assistance. This provision is retroactive to January 1, 1989 according to P.L. 101-201 enacted December 6, 1989 and P.L. 101-239 enacted December 19, 1989.
32. Payments made pursuant to the Radiation Exposure Compensation Act (Public Law 101-426).
33. Payments made under Indian Trust Funds Acts (Public Laws 97-458 and 98-64) and initial purchases made with such funds by the original recipient of the funds.
34. Interest held in a trust or in restricted lands pursuant to section 8 of Public Law 93-134 and up to \$2,000 annual income received from the lease or other uses of the individually-owned trust or restricted lands.
35. Distributions made under Public Law 100-241 which amended the Alaska Native Claims Settlement Act as follows:
 - a. cash, including cash dividends on stock received from a Native Corporation, to the extent that it does not, in the aggregate, exceed \$2000 per individual per calendar year; or
 - b. stock including stock issued or distributed by a Native Corporation as a dividend or distribution on stock; or
 - c. a partnership interest; or

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2264 P.2

2264 Excluded Resources (Continued)

11. Any amount of renters' or property tax rebate excluded from income under 2250.1 and set aside for the purpose of using it to pay rent or property taxes due within 12 months of the assistance group's receipt of such rebate.
12. Payments to persons of Japanese or Aleut ancestry as restitution for injustices suffered during the Second World War.
13. Vermont and Federal earned income tax credits (EITC), whether received with each pay check or as a refund following the end of the tax year, are excluded as a resource in the month in which they are received and in the following month. They continue to be excluded in subsequent months, subject to the criteria for assets accumulated from subsidized or unsubsidized earnings in #15 below.
14. Payments made from the Agent Orange Settlement Fund or any other fund established because of the Agent Orange product liability litigation, retroactive to January 1, 1989.
15. The value of assets accumulated from the subsidized or unsubsidized earnings of adults and children in participating families is excluded for the purposes of determining continued eligibility. Interest earned on excluded assets is also excluded. Nonliquid assets, purchased with savings from earnings or with a combination of savings from earnings and other excluded income or resources, such as SSI/AABD retroactive benefits or federal earned income tax credit lump sum income, are excluded.

Liquid assets excluded under this policy must be kept in a separate bank account from other liquid assets, unless to do so would create a hardship. A hardship exists when there is no bank within a reasonable distance from the earner's residence or place of work that allows a bank account without charging fees.

If a family reapplies for assistance after Reach Up terminates, assets accumulated during the time the family was not participating in Reach Up are excluded, provided that all other criteria specified for exclusion are met.

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2364

2364 Work and Work Activities Described

Work activities are the activities that participants must engage in to fulfill their work requirement (2363). Only the types of activities specified in this section may be counted toward fulfillment of the work requirement. An approved activity is an activity that has been approved by the case manager as an FDP requirement. A countable activity is one that can be counted toward the hours of a participant's work requirement, in accordance with Reach Up rules.

Before participants are work-ready, they shall engage in any work activities they can perform, as long as the case manager has approved the activity, the activity is included in the participant's FDP, and participation in the activity leads to attainment of the participant's employment goal. After a participant is work-ready, the participant must engage in the approved work activities that are countable toward that participant's work requirement and support the most expeditious attainment of the participant's employment goal.

The following sections describe the general categories of work activities that may be counted toward fulfillment of the work requirement. As shown below, nine of the activities are "core activities" and three of the activities are "non-core activities."

Core Activities

- 2364.1 Unsubsidized Employment
- 2364.2 Subsidized Private Employment
- 2364.3 Subsidized Public Employment
- 2364.4 Work Experience
- 2364.5 On-the-Job Training
- 2364.6 Job Search and Job Readiness Assistance
- 2364.7 Community Service Programs
- 2364.8 Vocational Education
- 2364.12 Provision of Child Care Services to an Individual Who is Participating in a Community Service Program.

Non-core Activities

- 2364.9 Job Skills Training Directly Related to Employment
- 2364.10 Education Directly Related to Employment (Exception - Core activity for teen parent)
- 2364.11 Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence (Exception - Core activity for teen parent)

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2364 Work and Work Activities Described (Continued)

Hours of participation in core activities count in full toward any hours of a participant's work requirement. Hours of participation in non-core activities only count toward a participant's work requirement after the participant has engaged in a minimum number of weekly hours in core activities. Participants with a work requirement of fewer than 35 hours must engage in 20 hours per week of core activities before hours of participation in non-core activities may count toward the work requirement. Participants with a work requirement of 35 or more hours must engage in 30 hours per week of core activities before hours of participation in non-core activities may count toward the work requirement. Additional limitations or restrictions on participation in a specific activity, if they exist, are addressed in the section pertaining to that activity.

2364.1 Unsubsidized Employment

Unsubsidized employment is a core activity. Unsubsidized employment is a job with wages that are not subsidized with Reach Up or any other public funds.

Self-employment is a type of unsubsidized employment. Self-employment is working for oneself in a job that results in net income to the participant, after business expenses, of no less than the sum of Vermont's minimum wage multiplied by the number of hours the participant claims as working in self-employment.

A participant may count hours engaged in self-employment when the participant is meeting the full work requirement with hours in self-employment or in self-employment combined with hours in other countable work activities.

Participants may count toward their work requirement hours engaged in self-employment when:

- The hours the participant claims as engaged in self-employment are either verifiable as specified in Vermont's federally-approved work verification plan or net the participant the Vermont minimum wage after business costs calculated consistent with Reach Up financial eligibility rules;
- The self-employment is included in the participant's FDP as an approved activity; and
- The hours the participant engages in self-employment alone or when combined with hours the participant spends in other approved and countable activities fulfills the participant's entire work requirement.

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2364.2

2364.2 Subsidized Private Employment

Subsidized private employment is a core activity. Subsidized private employment is a job in the private sector that pays wages that are subsidized with Reach Up or other public funds or 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 participant. Subsidized employment includes supported employment for individuals who have disabilities when it is supported with TANF or public funds.

2364.3 Subsidized Public Employment

Subsidized public employment is a core activity. Subsidized public employment is the same as subsidized private employment in all respects except that the job is in a public sector employment setting.

2364.4 Work Experience

Work experience is a core activity. Participants engaged in this activity are not employees of the worksite or the state of Vermont.

Participation in work experience as a countable activity is to improve the employability of those individuals who have not been able to find unsubsidized employment. Participation in this activity should help the participant establish a good work record and develop good work habits and skills. The type of skills a participant might develop in this activity include learning how to follow instructions, work independently, be a reliable worker, maintain a work schedule and improve work habits.

2364.5 On-the-Job Training

On-the-job training is a core activity. On-the-job training is an activity with daily supervision in which the participant receives training related to performance of a job while engaged in productive work. An apprenticeship is a type of on-the-job training. The participant must be a paid employee during the time the participant spends in on-the-job training.

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2364.6

2364.6 Job Search

Job search is a core activity. Job search includes a variety of activities that are designed to improve the participant's employment prospects and that are supervised on a daily basis. This is an appropriate activity for any participant seeking unsubsidized employment or needing skills that will prepare the participant to seek, obtain, perform and maintain a job. For example, job search includes the following types of employment readiness activities:

- resume and application preparation;
- job interviews;
- work search and work-search training;
- life skills training;
- substance abuse treatment, mental health treatment or rehabilitation activities for those who are otherwise employable, when determined to be necessary and certified by a qualified medical and mental health professional; and
- housing search, if the participant is homeless or alternative housing is needed to prepare the participant to seek or obtain employment.

For purposes of the federal work participation rate, participants may count hours engaged in this activity up to their entire weekly hour requirement. This activity may however count for only up to six weeks during any federal fiscal year, which runs from October 1 through September 30. Of the six weeks, only four may be consecutive, and the case manager shall approve the activity in periods of no longer than two weeks. In no event shall the department require an individual to participate in job search for more than four weeks before an assessment of the participant's employability is completed. If the participant's assessment reveals reasons why job search is not an appropriate activity for the participant, the requirement to participate in job search shall be terminated.

Even though federal law limits the countable hours of job search, hours above the federal limit may be counted for compliance with the FDP and avoidance of sanctions when authorized and coordinated by the case manager and incorporated into the FDP during the following periods:

- either for a two-week period immediately following the family's application for benefits or reapplication for benefits following a period of nonreceipt lasting at least a full calendar month or during the period a decision on application or reapplication is pending, whichever period ends later;
- for a period of two weeks at any time after the participant has completed the activities leading to the employment goal; and
- for a period of two weeks following the loss of paid employment.

During these times, the participant may be required to participate in job search for the number of hours per week that corresponds to the participant's work requirement hours or a lesser amount that, in combination with the participant's unsubsidized paid employment, equals the participant's work requirement hours.

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2364.7

2364.7 Community Service Programs

Community service is a core activity. Community service programs are structured activities monitored by the case manager or other entity. Hours a participant spends in community service provide a benefit to the community or member of the community. The placements may be located at public or nonprofit sites with local supervision on a daily basis. Hours a participant engages in any type of organized community service placement, including those organized and required by the corrections department or diversion program, are community service programs within this activity. Participants in this work activity are not employees of the placement site or of the state of Vermont.

Placement in this activity will provide participants with the opportunity to maintain their employment skills as well as to demonstrate their employment potential when they have been unable to obtain subsidized or unsubsidized work. The placement may also provide training and experience designed to enhance the participant's skills.

Placement in community service programs arranged by the department must be conducted in accordance with a contract between the department and the placement that specifies provisions such as length of placement, development of job skills, and release time for job search.

2364.8 Vocational Education

Vocational education is a core activity. Vocational education is an educational program designed to provide the participant with skills or certification in a specific area of study that prepares the participant for a career or occupation requiring training other than a baccalaureate or advanced degree. The program must provide daily supervision. Federal law limits participation in this activity to no more than 12 months for any individual.

Examples of vocational education include training programs to become a nurse's aide, a licensed practical nurse, or an auto mechanic. It also includes organized educational programs directly related to the preparation of individuals for paid employment in such fields as agriculture, education, business occupations, home economics, health occupations, marketing and distributive occupations, technical and emerging occupations, modern industrial and agriculture arts, and trades and industrial occupations. Vocational education includes hours a participant is engaged in postsecondary education in accordance with an education plan for a degree approved by the department for up to 12 months.

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2364.9

2364.9 Job Skills Training Directly Related to Employment

Job skills training is a non-core activity. Job skills training means education or training that enables the participant to become proficient in an occupation or skill necessary to meet the participant's employment goal. Participation in job skills training must be supervised daily and develop or enhance skills directly related to the participant's attainment of, retention of, or advancement in an unsubsidized job available in the local or adjacent labor market or in some other labor market to which the participant is willing to relocate. The jobs skills training must be directly related to employment if the hours of participation are to be counted toward the participant's work requirement.

Job skills training may include up to two try-out courses taken by a participant before reaching the employment goal. Try-out courses must be in the participant's FDP and provide a participant considering vocational education or the postsecondary education program with information and experience related to that decision.

Because job skills training is a non-core activity, hours of participation in this activity only count toward participants' work requirements after they have met their minimum requirement of hours in a core activity. Participants with a work activity of fewer than 35 hours must first engage in 20 hours per week of a core activity before hours of participation in this activity count toward their work requirement. Participants with a work activity of 35 or more hours must first engage in 30 hours per week of a core activity before hours of participation in this activity count toward their work requirement.

2364.10 Education Directly Related to Employment

Education directly related to employment is a non-core activity. Participation in this work activity is limited to participants without a high school diploma or certificate of high school equivalency and must be supervised daily. Adult participants younger than 20 may participate in this activity to meet their full alternative work requirement as defined in 2363.33.

Because education directly related to employment is a non-core activity, hours of participation in this activity only count toward participants' work requirements after they have met their minimum requirement of hours in a core activity. Participants with a work activity of fewer than 35 hours must first engage in 20 hours per week of a core activity before hours of participation in this activity count toward their work requirement. Participants with a work activity of 35 or more hours must first engage in 30 hours per week of a core activity before hours of participation in this activity count toward their work requirement.

Education directly related to employment includes the following:

- basic and remedial education that will provide an individual with basic literacy equivalent to at least grade 8.9;
- education in English proficiency when an individual is unable to understand, speak, read, or write the English language at a level necessary to obtain employment consistent with the participant's employment goal;
- education designed to prepare a person to qualify for a high school diploma or its equivalent; and
- a secondary school program.

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2364.11

2364.11 Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence

Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence is a non-core activity. This is a countable activity for participants who have not completed high school or received a certificate of general equivalence and who regularly attend, in accordance with the requirements of the school or course of study, and receive daily supervision.

Because satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence is a non-core activity, hours of participation in this activity only count toward participants' work requirements after they have met their minimum requirement of hours in a core activity. Participants with a work activity of fewer than 35 hours must first engage in 20 hours per week of a core activity before hours of participation in this activity count toward their work requirement. Participants with a work activity of 35 or more hours must first engage in 30 hours per week of a core activity before hours of participation in this activity count toward their work requirement. Adult participants younger than 20 may participate in this activity to meet their full alternative work requirement as defined in 2363.33.

2364.12 Provision of Child Care services to an Individual Who is Participating in a Community Service Program.

Provision of child care services to an individual who is participating in a community service program is a core activity. Participation in this activity must be done with daily supervision and consistent with rules on self-employment at 2364.1.

2364.13 Financial Literacy Classes

Financial literacy classes means attending classes related to financial literacy. Financial literacy classes include classes on budgeting, saving, investing, and establishing credit. Financial literacy classes are not a countable activity on their own. Hours a participant spends in attendance in financial literacy classes count only to the degree they are permitted and counted toward a participant's work requirement in accordance with federal law.

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2364.14

2364.14 Work Activity Displacement Policy

No adult in a work activity described in section 2364 and funded, in whole or in part, by funds provided by the federal government shall be employed or assigned when:

- any other individual at the same work site is on layoff from the same or any substantially equivalent job;
- the employer has terminated the employment or reduced the regularly scheduled hours of any regular full-time employee or otherwise caused an involuntary reduction of its work force capacity to fill the vacancy so created with a participant of the Reach Up Program; or
- the employment or placement is the result of a strike, lockout, or other bona fide labor dispute.

If there is a bargaining unit at the work site, the department or its agent shall obtain the bargaining unit's certification that the participant's employment or placement will not result in any violation of the bargaining unit agreement.

The department shall maintain a grievance procedure for resolving complaints of alleged violations of the department's displacement policy.

This procedure will involve the opportunity for informal resolution conducted by the Reach Up Welfare-to-Work Director or the director's designee. If no informal resolution can be reached within 30 days, the complainant may file a request for a hearing with the state. The state's grievance procedure shall involve a hearing before a Vermont Department of Labor Appeals Referee. The state shall provide the complainant with a written decision within 90 days from the date of the filing of the complaint. A dissatisfied party may appeal a decision by the state within 20 days of receipt of the state's written decision.

2364.15 Fair Labor Standards Act

The department shall comply with the provisions of the Fair Labor Standards Act with respect to the maximum number of hours participants can be required to engage in certain work activities.

For certain work activities subject to these provisions, the maximum number of hours a participant can be required to work shall be calculated as follows:

- (1) The Reach Up financial assistance grant for the participant's family shall be added to the food stamp benefit a family of the same size with no income other than a Reach Up financial assistance grant would receive.
- (2) The sum of benefits calculated in (1) is divided by the Vermont minimum wage and rounded down to the nearest whole number.