

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 102 CASH ASSISTANCE PROGRAMS**  
**PART 460 RECIPIENT POLICIES - DEFINING GROUP WORK PROGRAM ACTIVITIES**

**8.102.460.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.102.460.1 NMAC - Rp/E, 8.102.460.1 NMAC, 07/16/2007]

**8.102.460.2 SCOPE:** The rule applies to the general public.  
[8.102.460.2 NMAC - Rp/E, 8.102.460.2 NMAC, 07/16/2007]

**8.102.460.3 STATUTORY AUTHORITY:**

**A.** New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

**B.** Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, the New Mexico works program was created to replace the aid to families with dependent children program.

**C.** Under authority granted to the governor by the federal Social Security Act, the human services department is designated as the state agency responsible for the TANF program in New Mexico.

**D.** Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and Title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its cash assistance programs.

**E.** In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.460.3 NMAC - Rp/E, 8.102.460.3 NMAC, 07/16/2007]

**8.102.460.4 DURATION:** Permanent.

[8.102.460.4 NMAC - Rp/E, 8.102.460.4 NMAC, 07/16/2007]

**8.102.460.5 EFFECTIVE DATE:** July 16, 2007.

[8.102.460.5 NMAC - Rp/E, 8.102.460.5 NMAC, 07/16/2007]

**8.102.460.6 OBJECTIVE:**

**A.** The purpose of the New Mexico works (NMW) program is to improve the quality of life for parents and children by increasing family income, resources and support. The further purpose of the program is to increase family income through family employment and child support and by utilizing cash assistance as a support service to enable and assist parents to participate in employment.

**B.** The objective of education works program (EWP) is to provide cash assistance to a benefit group where at least one participant is enrolled in a post-secondary, graduate or post-graduate institution. Education and training are essential to long-term career development. The applicant or recipient benefit group would be otherwise eligible for NMW cash assistance, but chooses to participate in EWP.

[8.102.460.6 NMAC - Rp/E, 8.102.460.6 NMAC, 07/16/2007]

**8.102.460.7 DEFINITIONS:** [Reserved]

**8.102.460.8 WORK PROGRAM:** The purpose of the work program is to facilitate the rapid entry of NMW participants into successful employment. This is achieved by participation in and successful completion of the activities described in this part.

[8.102.460.8 NMAC - Rp/E, 8.102.460.8 NMAC, 07/16/2007]

**8.102.460.9 PROGRAM ACTIVITIES:** The following sections describe the various work program activities in which participant s may participate. A participant may participate in multiple work program activities at the same time or one after the other. The activities to be completed during an established period are identified in a work

participation agreement by the participant and approved by ISD.  
[8.102.460.9 NMAC - Rp/E, 8.102.460.9 NMAC, 07/16/2007]

**8.102.460.10 WORK PARTICIPATION:**

**A. Requirement:** A participant that is required to participate in various work program activities shall be expected to attend and complete all required activities, such as the assessment, individual responsibility plan (IRP), work participation agreement (WPA) and monthly participation requirements.

**B. Conciliation:** Each participant shall be entitled to a single conciliation process the first time that the participant fails to meet participation requirements. See 8.102.620 NMAC for provisions concerning the conciliation process.

**C. Sanction:** A participant who fails to complete any requirement or participation falls below program requirements in any month, the benefit group shall be subject to a sanction for failure to participate as required.

[8.102.460.10 NMAC - Rp/E, 8.102.460.10 NMAC, 07/16/2007; A, 11/15/2007]

**8.102.460.11 PARTICIPATION WAIVER:** Based on request and verification of existing condition, a participant may be qualified for a waiver from the work requirement.

**A. Categories of waivers:** Based on one of the following conditions a waiver be granted for an applicant or participant.

(1) Who is 60 years of age or older.

(2) A single parent, not living with the other parent of a child in the home, or caretaker relative with no spouse, with a child under the age of 12 months. This waiver shall not exceed 12 months during a participant's lifetime. No more than one such waiver is granted to a benefit group at a time.

(3) A single custodial parent caring for a child who has not attained 6 years of age or who is a medically fragile child if the parent is unable to obtain child care for one or more of the following reasons and children youth and families department (CYFD) certifies as to the unavailability or unsuitability of child care:

(a) the unavailability of appropriate child care within a reasonable distance from the participant's home or work site; or

(b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or

(c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements.

(4) A woman in her third trimester of pregnancy. The waiver is extended for six weeks beyond the termination of the pregnancy when the participant's work requirement cannot be waived by another participation waiver.

(5) A participant whose personal circumstances preclude participation for a period not to exceed one month. This includes persons who are temporarily ill, who are pending a domestic violence determination, or who have requested a waiver related to disability but for which the disability waiver has not been determined.

(6) A participant who demonstrates by reliable medical, psychological or mental reports, court orders, police reports, or personal affidavits if no other evidence is available, that family violence or threat of family violence effectively bars the participant from employment. IRU shall make the determination whether a waiver should be granted.

(7) Who is completely disabled, either temporarily or permanently, as determined by IRU in accordance with 8.102.420.11, 8.102.420.12, and 8.102.420.13 NMAC.

(8) A participant may be entitled to the family violence option (FVO). This option allows for a participant in a domestic violence environment and unable to meet work program requirements to have all work requirements waived for the length of time certified by a trained domestic violence counselor. The certification that waives work requirements shall be made, on the basis that the environment where the participant resides would make it more difficult to escape the domestic violence or would unfairly penalize the participant in light of past or current experiences. The certification shall indicate that the participant is in a domestic violence environment which precludes compliance with work program requirements.

(a) A participant's FVO waiver shall be reviewed every six months and shall be determined by IRU based on the domestic violence counselor's certification. The participant shall be temporarily waived from work program requirements pending the determination from IRU.

(b) A participant who can continue to comply with work requirements as certified by a trained domestic violence counselor, may participate in a temporary alternative work activity for 24 weeks as described in 8.102.460.24 NMAC.

(9) Who provides the sole care for a disabled household member as defined in 8.102.420.11 NMAC.

(a) In order to show that the participant is the sole caretaker for a disabled household member, it must be demonstrated that the participant cannot be out of the home for the number of hours necessary to meet program participation requirements.

(b) Only those care activities around which work program activities cannot be scheduled are taken into consideration.

(c) Transportation to medical appointments, food purchase and preparation activities, home maintenance chores, etc. are activities which may be scheduled and performed at times other than work program participation hours and so would not be taken into consideration.

(d) A requirement to be on call for the medical emergencies of a medically fragile participant is taken into consideration in determining whether a waiver is granted.

(10) A participant may demonstrate good cause for the need for the waiver. A good cause waiver may exist and shall be determined by IRU based on the participant's existing condition(s). Good cause is not considered to exist for failure to meet any of the above criteria.

**B. Waiver determination:** The determinations required under Paragraphs (1) - (5) of Subsection A of 8.102.460.11 NMAC shall be made by the caseworker based on information provided by the participant requesting the waiver. The determinations required under Paragraphs (6) - (10) of Subsection A of 8.102.460.11 NMAC shall be made by IRU based upon information provided by the participant requesting the waiver.

(1) It shall be the responsibility of the participant requesting a waiver to provide all information necessary to the caseworker. A person who has requested a waiver shall be granted a temporary waiver.

(2) A participant who has not provided any of the necessary information to make a determination within 30 day, shall be subject to meeting work program participation requirements.

(3) **Temporary waiver:** A temporary waiver shall be granted to a participant when they request a waiver. A temporary waiver shall remain while pending a final determination by IRU even if the participant provides only partial information needed to make a waiver determination.

**C. Complete disability and special needs and considerations:** The caseworker shall be responsible for explaining work program requirements and waivers of work program participation, including possible accommodations for special needs or considerations.

(1) Special needs or considerations may include a physical, mental, neurological or sensory impairment that limits the ability to work; functional impairments that limit mobility, such as lifting, bending, walking, sitting for a prolonged period of time and climbing stairs; learning disabilities; or substance abuse problems.

(2) A participant who requests a waiver of work program participation based on disability must submit medical reports to the county office within thirty days of requesting a waiver. The caseworker shall submit for review a completed medical social summary, request for disability determination and all medical reports to the IRU.

(3) **Incapacity review unit (IRU) responsibility:** The IRU shall have sole responsibility for reviewing all medical reports and making a determination that a participant is waived due to disability, that there are limitations requiring special needs or considerations, or that full participation is possible.

(4) **Complete disability:** A participant may be considered completely disabled and waived from meeting work program participation requirements if the participant:

(a) has a physical or mental impairment that is expected to last at least thirty days; and

(b) cannot reasonably be expected to participate in any of the approved work program activities for the NMW work program due to the severity of the physical or mental impairment; and

(c) cannot be expected to meet applicable work program participation standards.

**D. Modified work participation agreement**

(1) **Factors limiting full participation:** Where a participant is found to be capable of engaging in work activities, and IRU has documented limiting factors in the participant's capacity to work:

(a) the caseworker shall inform the participant and work program contractor of the IRU determination;

(b) the participant shall enter into a modified work participation agreement and individual

responsibility plan;

(c) the work program contractor and the participant shall develop a plan for participation in work activities that takes into account the participant's limitations;

(d) the participation in services, activities or programs designed to enhance the participant's capacity to work shall meet the requirements for participation in non-core activities.

(2) **Modified work participation agreement:** The modified work participation agreement shall include at least twenty hours in qualified core work activities, unless the participant is temporarily exempted from full participation. The balance of the hours in the participation standard shall be considered as non-core activities.

(a) Non-core activities may include all those activities identified as qualified non-core activities.

(b) Non-core activities must include participation in services, activities or programs that are intended to enhance the participant's capabilities and capacity to fully participate in work program activities based upon the participant's applicable participation standard.

(c) Required non-core activities may include, but are not limited to, additional screening and assessment to assist the participant in identifying barriers to work; a family assessment; referrals to treatment or counseling facilities; requiring the participant to schedule and attend doctor's appointments, mental health counseling, speech and physical therapy; substance abuse treatment; or continuing participation in services already being provided.

(3) **Temporary exemption:** The IRU may temporarily exempt a participant from meeting applicable hours in the participation standard in work activities as long as the participant develops, with the work program contractor, and implements a modified work participation agreement and individual responsibility plan.

(a) For purposes of work registration, the participant shall be considered as a volunteer, except that the participant shall be eligible for support services during the time the participant works with the work program contractor to develop and implement the modified work participation agreement and individual responsibility plan.

(b) The duration of the temporary exemption shall be determined by the IRU based on the participant's identified limitations.

(c) The participant shall be required to work with the work program contractor to develop and implement work activities identified in the modified work participation agreement.

(d) The participant's modified work participation agreement may include participation in qualified work activities and may or may not meet the participant's weekly participation standard.

(e) The participant must participate in any services, activities, or programs that are identified in the modified work participation agreement and intended to enhance the participant's ability to work and participate fully in work activities that will lead to self-sufficiency.

(4) **Work program contractor:**

(a) A work program contractor may identify a work program participant with special needs or considerations related to the participant's ability to fully participate in work activities. The contractor shall:

(i) inform the participant of the special needs or considerations provision and the possibility of a modified work participation agreement;

(ii) immediately refer the participant back to the caseworker;

(iii) assist the participant, if necessary, in gathering all medical documentation for forwarding to the caseworker; and

(iv) inform the participant that the day after the day the work program contractor refers the participant back to the caseworker begins the thirty day time period for providing medical documentation to the caseworker.

(b) Upon receiving notification that the IRU has determined that a participant is unable to fully participate in work activities, the work program contractor shall work with the participant to develop a modified work participation agreement that takes into account the participant's limitations and emphasizes the participant's capabilities.

(c) The work program contractor shall work with the participant to develop an individual responsibility plan whose ultimate goal is the successful and full participation in work program qualified work activities that will lead to self-sufficiency.

(d) In developing the modified work participation agreement and individual responsibility plan, the work program contractor and participant should consider all available resources in the community, referral to other agencies, and other services that will enhance the participant's capabilities and capacity to work.

(e) The work program contractor shall monitor the requirements and activities in the modified work participation agreement and individual responsibility plan, including increasing interaction with the participant if necessary.

**E. Waived participation limited requirements**

(1) **Requirements:** IRU may establish work participation requirements specific to the participant's circumstances and conditions. Participation requirements shall be based on medical social summary, medical documentation, mental health documentation and other related information in regards to the participant's situation. Work requirements shall meet the purposes of improving the participant's income and strengthen family support.

(2) **Component activities:** For those participants who have been determined to have a limited work capacity the following activities, but not limited to, may be allowable as the participant's core activities through the duration of the waiver such as:

- (a) substance abuse services;
- (b) mental health services;
- (c) pursuit of disability benefits;
- (d) job readiness or education directly related to employment;
- (e) ESL courses for those participants who do not speak English; or
- (f) residence in a domestic violence shelter or receiving counseling or treatment or participating

in a criminal justice activity directed at prosecution of the domestic violence perpetrator for no longer than 24 weeks.

(3) **Review and documentation:** At time of waiver review documentation of a participant's compliance with prescribed limited participation activity requirements shall be provided to establish on going requirements and to evaluate further conditions or circumstances that department shall consider to determine continued waiver status.

[8.102.460.11 NMAC - Rp/E, 8.102.460.11 NMAC, 07/16/2007; A, 08/15/2007; A, 11/15/2007; A, 11/14/2008]

**8.102.460.12 NMW PARTICIPATION REQUIREMENTS:**

**A.** Participation requirements apply to each benefit group member whether the benefit group is considered to be a two-parent or single-parent benefit group. A participant subject to work participation must meet the applicable core and total work activity requirements set forth in this section and must timely meet requirements with respect to the assessment, the participant responsibility plan (IRP), submittal and approval of a work participation agreement (WPA), work activities, and timely reporting of attendance in work activities as follows:

(1) **Assessment:** The assessment shall be completed and verification received by ISD no later than 15 calendar days of application approval, or following the day of the assessment appointment as described under good cause in Subsection C of 8.102.460.14 NMAC. Except as allowed for in 8.102.460.14 NMAC, failure to verify completion of the assessment subjects the benefit group to payment sanctioning.

(2) **Individual responsibility plan (IRP):** The completed plan in accordance with 8.102.460.16 NMAC must be signed and the plan received by ISD no later than 15 calendar days from the date of approval of assistance. Failure to complete and sign the IRP subjects the benefit group to payment sanctioning.

(3) **Work participation agreement (WPA):** The WPA shall be provided to ISD no later than 15 calendar days from date of approval, in accordance with the provisions 8.102.460.16 NMAC. Failure to have an agreement submitted to ISD no later than 15 calendar days from the date of approval of assistance, when good cause does not apply, subjects the benefit group to payment sanctioning.

(4) **Work activities:** The participant must be engaged in and meet applicable participation requirements, in accordance with the WPA, no later than the fifth day after approval of the WPA, and be continuously engaged thereafter.

(5) **Reporting attendance:** Participation in work activities for a month shall be reported to ISD no later than the fifth day of the following month. Failure to meet participation requirements or to timely report attendance each month may subject the benefit group to payment sanctioning.

**B. Waiver termination:** The time and activity schedule shall be applicable to a participant whose work program participation has been waived for a period of time but who has become ineligible for the waiver. The base month is the month in which the participant becomes subject to participation, rather than the month of approval.

**C. Reopened cases:**

(1) A participant who has been approved for benefits with less than a 12-month break in certification shall be required:

- (a) to submit a revised WPA within 15 calendar days of approval;

(b) to be engaged in an allowable work activity as specified on the participant's WPA at the participation standard specified in 8.102.460.13 NMAC within 15 calendar days of approval; and

(c) to submit the participation report to ISD no later than the fifth calendar day of the month following the month in which the 15-day time limit expires; the participant shall not be required to meet the participation standard for the 15-day period described in (a) and (b) above.

(2) A participant, not granted good cause and, who fails to meet the participation requirements or to timely report work activity attendance each month may subject the benefit group to payment sanctioning.

(3) A participant who has had more than a 12-month break in benefits shall be required to meet all the steps identified in Subsection A of 8.102.460.12 NMAC.

[8.102.460.12 NMAC - Rp/E, 8.102.460.12 NMAC, 07/16/2007; A, 08/15/2007; A, 11/14/2008]

### **8.102.460.13 PARTICIPATION STANDARDS:**

**A. General:** Participation standards are divided into core and non-core total activity requirements. Participation activities may be met only through those activities listed in Subsection A of 8.102.460.19 NMAC. A participant subject to participation shall maintain participation and provide verification of participation at a rate at least equaling the applicable participation standard, as outlined in Subsection D of this section, unless good cause exists to avoid being sanctioned.

#### **B. Calculating hours:**

(1) Hours per week represent the weekly average over the month.

(2) Time spent traveling to and from the work-site, location where child care is provided, or both, do not count as hours of participation.

(3) For paid work activities:

(a) paid leave and holiday time count as actual hours;

(b) hours shall be anticipated prospectively and verification provided no more than every six months.

(4) For non-paid activities allowable excused absences count as actual hours when:

(a) the absence occurs on a day that the participant is scheduled to participate in an activity; and

(b) is considered excused by the institution or sponsoring agency.

(5) For non-paid activities allowable holiday absences count as actual hours when:

(a) the absence scheduled holiday occurs on a day that the participant would have been scheduled to participate in an activity; and

(b) the absence is a scheduled holiday as recognized by the department and determined at the beginning of each federal fiscal year.

(6) A participant may be granted no more than 80 hours of excused absences during a calendar year and no more than 16 hours in any one month. Any excused absence can not exceed the number of hours the participant was scheduled to work during the period of the absence.

(7) Non-paid work experience and community service participation hours are limited to the Fair Labor Standards Act (FLSA) rules. The Fair Labor Standards Act (FLSA) standards are used to determine the maximum number of hours the department can require a participant to meet. When the participant meets the maximum number of hours required by the FLSA calculation and number is less than the core work hour requirement the remaining hours may be deemed up. The maximum amount of weekly hours required by the FLSA are calculated as follows:

(a) **Single parent:** Add the monthly TANF cash assistance benefit to the monthly food stamp benefit and divide by the federal or state minimum wage, whichever is higher, and divide by 4.3.

(b) **Two-parent:** The calculation of participation requirement hours is the same as a single parent. Both parents can not simultaneously participate in an activity subject to FLSA work participation standards.

#### **C. Defining single-parent and two-parent benefit group:**

(1) For the purpose of this determination, a two-parent benefit group shall be considered to exist when both parents of any child included in the benefit group live in the home with the child and are included in the benefit group.

(2) For the purpose of this determination, a single-parent benefit group is any benefit group which does not include both parents of a child in the benefit group and thus includes families in which there is only one parent or in which there are no parents.

**D. Two-parent families:** The participation standard for a two-parent family is based on the receipt

of federal funding for child care. The provisions in this rule do not apply to a two-parent family in which the youngest child is 13 years of age or older, unless the child would qualify as a special needs child under CYFD child care policies.

**(1) Two-parent participation standards:**

**(a)** Where both parents are mandatory work program participants, and federally funded child care is received, the total participation standard shall be 59 hours per week. No fewer than 50 hours per week shall be spent in core work activities. One parent shall participate at least 30 hours per week in core work activities. The remaining hours must be completed between the two parents appropriately for a combined total of 50 core activity hours.

**(b)** Where both parents are mandatory and federally funded child care is not received, the total participation standard shall be 39 hours per week in core work activities. The remaining hours must be completed between the two parents appropriately and must be in a core activity.

**(2)** Where one parent in a two-parent benefit group has been granted a participation waiver based on disability, the mandatory parent shall be subject to the participation standard for a single parent with a child age six or older.

**(3)** Where one parent in a two-parent benefit group is a recipient of SSI, the benefit group shall be considered as a single-parent benefit group, and the mandatory parent shall be subject to the appropriate participation standard for the single-parent benefit group.

**(4)** Where one parent in a two-parent benefit group has been granted a participation waiver for reasons other than disability, the participation standard for the mandatory parent shall be 39 hours a week, and at least 30 hours shall be spent in core work activities.

**(5)** Where one parent is ineligible, disqualified or sanctioned; the other parent shall be subject to a participation standard of 39 hours a week, the minimum acceptable participation is 30 hours spent in core work activities.

**(6)** Where a two-parent benefit group includes an adult who does not meet the definition of a parent, that adult shall be subject to the participation standard for a single parent with a child age six or older.

**(7)** Where both parents in the benefit group are under age 20, the participation standard shall be met for each parent if the parent is maintaining satisfactory attendance in secondary school or its equivalent during the month. Satisfactory attendance shall be based on the requirements of the school and on enrollment in sufficient course work to assure completion of secondary education before turning age 20.

**E. Single-parent benefit group:**

**(1) Single parent with a child age six or older:** Each mandatory participant in a single-parent or caretaker relative benefit group shall participate in work activities for at least 34 hours a week of that amount the minimum acceptable participation is 30 hours a week of which at least 20 hours shall be spent in a core activity or activities.

**(2) Single parent with a child under age six:** The total participation standard for a single parent with a child under age six shall be 24 hours a week at all times, the minimum acceptable participation is 20 hours spent in a core activity or activities.

**(3) Single parent under age 20:** A single parent under age 20 shall be considered to meet the single parent's total program participation standard, as outlined above when the participant:

**(a)** reports on a monthly basis attendance at a secondary school or in a GED program; the single head of household must be enrolled in enough hours to ensure graduation prior to turning age 20 for attendance to be deemed to be meeting the participation standard as specified above based on the child's age, compliance with attendance requirements is deemed during school breaks lasting no longer than four consecutive weeks; or

**(b)** participates in education directly related to employment for at least the average number of hours per week specified above based on the child's age.

[8.102.460.13 NMAC - Rp/E, 8.102.460.13 NMAC, 07/16/2007; A, 08/15/2007; A, 11/15/2007; A, 11/14/2008]

**8.102.460.14 ASSESSMENT:**

**A. Requirements:** No later than 15 calendar days after an application is approved, ISD shall assess the education, skills, prior work experience and employability of the participant. The assessment is a necessary precursor to the IRP and development of WPA and is a crucial and necessary element in meeting work program requirements. Failure on the part of the participant to participate in or to complete the assessment may result in work

program noncompliance and payment sanctioning.

**B. Elements:** The assessment includes the following elements:

(1) a referral by the caseworker to a local agency or agencies who, acting on behalf of the department, carry out the assessment;

(2) a face-to-face meeting between the participant and the agency, no later than 15 calendar days following approval of assistance to the participant, in which the assessment is carried out; there are a variety of assessment tools and forms in existence; any of these may be used, provided that they address the participant's education, skills, prior work experience and employability;

(3) provision to ISD of a copy of the assessment or a certification as to the completion of the assessment; the copy of the assessment or certification must be provided to ISD by the expiration of the 15-day assessment period.

**C. Good cause:**

(1) A participant may not be sanctioned for failure to provide ISD with a certification that the assessment has been completed if:

(a) the participant demonstrates that the participant is unable to obtain a timely assessment and

(b) the participant informs ISD of that fact by the 15th day after approval for benefits; or

(c) department has not demonstrated timely assistance to a participant to complete the assessment or IRP.

(2) Upon being informed that an participant is unable to receive a timely assessment, ISD shall:

(a) determine whether the participant was unable to obtain a timely assessment by any reasonable means; and

(b) arrange for an assessment.

(3) If it is determined that the participant was unable to obtain a timely assessment by any reasonable means, ISD shall extend the time for the participant to provide a certificate of completion of the assessment to three working days from the date of the rescheduled appointment date.

[8.102.460.14 NMAC - Rp/E, 8.102.460.15 NMAC, 07/16/2007; A, 11/15/2007]

**8.102.460.15 INDIVIDUAL RESPONSIBILITY PLAN:**

**A. Requirement:** Following completion of the assessment, the department and the NMW participant shall develop an individual responsibility plan (IRP). The importance and relevance of the IRP shall be explained to the NMW participant. The department and participant shall work together to identify appropriate activities and determine goals for reaching self-sufficiency. The signed and completed plan must be received by ISD no later than 15 days from the date of approval of assistance.

**B. General purpose:**

(1) The IRP is a personal planning tool, which is intended to assist the participant in long-term career planning and in securing and maintaining employment.

(2) The IRP is intended to assist the participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals.

(3) The IRP is not intended to fulfill the limited purpose of identifying work activities which will meet NMW work program participation requirements. The participant is encouraged to use the IRP to choose work activities which will meet work program participation requirements, and at the same time, will assist in setting long-term employment goals.

(4) The IRP is designed to move the participant into whatever employment the participant is capable of handling, and to provide the support services necessary to increase the responsibility and amount of work the participant will handle over time.

(5) The IRP describes:

(a) the services the department, or

(b) other programs or entities, may provide so that the stated goals may be achieved, including job counseling services, or appropriate substance abuse treatment.

**C. Content of the IRP:** The IRP shall include the following elements:

(1) a specific achievable employment goal or goals and a plan for securing and maintaining employment;

(2) commitments by the participant which will assist in meeting long-term goals. Such commitments may include, but are not limited to, school attendance; maintaining certain grades; keeping school-age children in

school; immunizing children; undergoing substance abuse treatment, or any other activity that will help the participant become and remain employed;

(3) a signature by the participant acknowledging the importance of the IRP, the identified activities and goals which will assist in achieving self-sufficiency, and the commitment to participate in activities which will achieve the stated goals;

(4) a signature by the department's representative acknowledging that there has been a discussion of the activities and goals with the participant, and that the department shall provide on-going support services as needed so that the participant may achieve the participant's stated goals.

**D. IRP reviews:** At least once every six months, ISD and the participant shall review and update the IRP. The review consists of a meeting to review the activities and goals set forth in the IRP, to review and document the participant's progress in achieving the stated goals, and to amend activities and goals as determined necessary and appropriate by the participant. Both the participant and ISD must initial or sign the updated IRP.

**E. Conciliation and sanction:**

(1) A participant shall be required to enter into a conciliation if the participant refuses or fails to develop an IRP; refuses or fails to sign an IRP; or refuses or fails to attend a six-month review of the IRP. The conciliation process is available once for work programs during each occurrence of participation and shall be provided in accordance with 8.102.620 NMAC.

(2) A participant is subject to sanction if the participant fails to develop an IRP; refuses to sign an IRP; or fails or refuses to attend a six-month review of the IRP. A participant is not sanctioned for failure to meet a goal identified on the IRP.

(3) The requirement for completion of an IRP shall not be waived by the department. Prior to entering into conciliation or imposing a sanction, for failure to complete the IRP, the department shall determine if good cause applies to a participant not meeting the required time limit. Good cause for failure to complete a timely IRP shall include those items identified in Subsection A of 8.102.460.17 NMAC.

**F. HUD family self-sufficiency agreements:** Some housing authorities administer self-sufficiency programs under which residents develop a self-sufficiency plan and agreement with the housing authority. A participant with HUD family self-sufficiency plans may use those plans for their IRP. The participant must supply a copy of the plan to ISD.

[8.102.460.15 NMAC - Rp/E, 8.102.460.16 NMAC, 07/16/2007]

**8.102.460.16 WORK PARTICIPATION AGREEMENT:**

**A. General:** The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet minimum work program requirements and that support services and support service reimbursements are approved.

**B. Contents of the agreement:** At a minimum, the WPA shall:

- (1) identify the participant's proposed work activities;
- (2) identify the level of effort for each activity;
- (3) identify the support services to be provided by the department;
- (4) be signed by the participant; and
- (5) upon approval of the activities and support services, be signed by ISD.

**C. Submission of a proposed agreement:** The participant must submit a signed proposed WPA to the department:

- (1) no later than 15 calendar days from date of approval, in accordance with the provisions 8.102.460.16 NMAC; or
- (2) prior to requesting support services associated with such activity or claiming reimbursement for support services associated with such activity;
- (3) no later than 30 calendar days from approval for benefits only if good cause criteria applies to untimely completion.

**D. Review and approval:**

- (1) ISD shall approve the WPA if:
  - (a) the proposed activities meet the minimum work program participation standards; and
  - (b) the requested support services allowable under department policy, are appropriate to the activity proposed and funding is available to support the reimbursement; and
  - (c) the participant has provided ISD with a copy of the participant's IRP.

(2) ISD shall deliver or mail a copy of the reviewed agreement to the participant no later than three working days after receipt of the proposed WPA.

**E. Denial:**

(1) In the event that work activities or support services are denied, ISD shall also provide the participant with a short explanation of the reason for denial. Any change in the type of work activities or requested support services requires a new WPA.

(2) If the proposed agreement has been denied in any part, the participant shall contact ISD to discuss changes to the agreement that will allow approval. The participant must submit a revised WPA to ISD that meets work program requirements no later than 30 days from the date of approval of assistance. Failure to have an approved agreement on file by the deadline may subject the benefit group to work program sanctions.

**F. Conciliation and sanction:**

(1) A participant shall be required to enter into a conciliation if the participant refuses or fails to complete a WPA. The conciliation process is available once for work programs during each occurrence of participation and not again available until there has been a break of 12 months between occurrences of participation when a participant fails or refuses or fails to comply with the WPA process shall be provided in accordance with 8.102.620 NMAC.

(2) The requirement for completion of a WPA shall not be waived by the department. Prior to entering into conciliation or imposing a sanction the department shall determine if good cause applies to a participant not meeting the required time limit. Good cause for failure to complete a timely WPA shall include those items identified in 8.102.460.17 NMAC or if the department has not demonstrated timely assistance to a participant to complete the WPA.

[8.102.460.16 NMAC - Rp/E, 8.102.460.17 NMAC, 07/16/2007; A, 08/15/2007; A, 11/14/2008]

**8.102.460.17 GOOD CAUSE FOR FAILURE TO MEET PARTICIPATION REQUIREMENTS:** A participant who has failed to meet participation requirements may avoid sanction if the participant can show good cause.

**A.** A participant with good cause for failure to participate, who expects the cause of failure to continue for more than 30 days, must contact the department to review the participant's circumstances. Good cause applies to timely completion of assessment, IRP, WPA, and work activity participation requirements. Under no conditions shall good cause be granted for more than 30 days during any given reporting period. Good cause may be considered to exist for no more than 30 days in the event of:

- (1) family death;
- (2) hospitalization;
- (3) major injury to the participant or a benefit group member for whom the participant has been the primary caretaker;
- (4) reported domestic violence; or
- (5) catastrophic event.

**B.** Good cause shall be considered to exist when a participant meets the minimum work participation requirement, but may not meet the total hours of participation or the non-core work requirement. There is no limit for allowing good cause for this reason during a time period; however, the department shall work with the participant to identify the reason the total work requirement is not met.

**C.** Good cause applies to a participant not meeting the required time limit to complete the assessment, IRP, or WPA when the department has not demonstrated timely assistance to a participant.

**D. Excused absences:** For non-paid activities, allowable excused absences that are not approved by the employer or sponsoring agency may be considered good cause based on the approval of ISD. There are no more than 16 allowable hours per month and no more than 80 hours in the preceding 12 month period.

[8.102.460.17 NMAC - Rp/E, 8.102.460.18 NMAC, 07/16/2007; A, 11/14/2008]

**8.102.460.18 ORIENTATION:**

**A. General:**

(1) Participants of NMW who are mandatory work program participants shall be provided a work program orientation, which explains the work program and its objectives to the participant.

(2) Participants shall be given information concerning their rights, supportive services provided during participation, and transitional services available after the NMW case closes because of earnings from

employment.

(3) Mandatory participants shall be informed of their responsibilities for complying with work program requirements and that failure to do so, without good cause, shall result in the reduction or loss of NMW benefits.

**B. Waiver of participation requirement:** Persons for whom work program participation was waived at the time of approval, but who later become subject to participation, shall meet the work program participation requirements and time limits set forth at 8.102.460.12 NMAC, except that instead of measuring time from the month of approval, time is measured from the end of the month in which the waiver expires.

**C. Orientation content:**

(1) The orientation session provides each participant with the following information:

(a) an explanation that NMW is a temporary program intended to briefly assist the family while readying themselves for employment;

(b) an explanation of the opportunities available to the participant through the program, including education, training, work experience, and help in job search;

(c) reminder of participant's rights and responsibilities, program regulations and requirements, and the consequences for failure to meet requirements;

(d) overview of supportive services available, such as child care, transportation and education costs reimbursement, employment counseling and contacts with other agencies;

(e) explanation of participant's obligation to obtain an assessment and return to ISD within 15 days of the date of approval of application;

(f) explanation of participant's obligation to request approval in writing of participant's work participation activities and secure approval of activities by ISD; and

(g) overview of transitional services available to participants whose NMW case closes due to employment/earnings.

(2) Since the amount of information provided to the participant is extensive, ISD may include written program information with the orientation letter or at the orientation.

[8.102.460.18 NMAC - Rp/E, 8.102.460.20 NMAC, 07/16/2007; A, 11/14/2008]

**8.102.460.19 QUALIFIED WORK ACTIVITIES:**

**A. Core work activities:** Core activities are allowable for a participant to meet the total participation standard or for a single or two parent household or to meet the minimum work participation standard as defined at 8.102.460.13 NMAC. A core activity can not be considered a non-core activity once a participant meets the minimum core requirement. For purposes of meeting the participant's participation standard core work activities are defined in sections 8.102.460.20 NMAC thru 8.106.420.28 NMAC.

**B. Non-core work activities:** Non-core activities are allowable for a participant to meet those hours in excess of the minimum work participation standard as defined at 8.102.460.13 NMAC. A non-core activity shall include an activity as defined in 8.102.460.29 NMAC thru 8.102.460.31 NMAC.

**C. Single head of household:** A participant who is a single head of household and under age 20 shall be deemed to be meeting the single head of household's participation standard for the month if:

(1) the single parent maintains satisfactory attendance in a secondary school or its equivalent during the month, satisfactory attendance shall be based on the requirements of the school and on enrollment in sufficient course work to assure completion of secondary education before turning age 20; or

(2) participates in education directly related to employment for at least the average number of hours per week specified in 8.102.460.13 NMAC.

**D. Limited work requirement:** Based on participant circumstances and in order to address barriers a limited participation requirement shall be determined as the best placement as per Subsection E of 8.102.460.11 NMAC.

[8.102.460.19 NMAC - Rp/E, 8.102.460.14 NMAC, 07/16/2007; A, 08/15/2007; A, 11/15/2007; A, 11/14/2008]

**8.102.460.20 UNSUBSIDIZED EMPLOYMENT:**

**A.** Unsubsidized employment is full- or part time employment in the public or private sector that is not funded directly or in part by TANF or any other public program. Unpaid apprenticeships and unpaid internships are included as unsubsidized employment.

**B. General:**

(1) Hours for participants who are employed for wages at or above minimum wage will be determined by actual hours worked and will include paid leave and holidays.

(2) Hours for participants who are self employed will be determined by subtracting business expenses from gross income for the term reported and divided by the federal minimum wage.

**C. Component activities:** The following shall be considered as qualified participation hours for unsubsidized employment.

(1) A participant who is employed less than 30 hours per week in unsubsidized employment is considered to be participating in the part-time employment work program activity.

(2) A participant who is employed 30 or more hours per week is considered to be participating in the full-time employment work program activity.

(3) A participant whose employer claims a tax credit for hiring economically disadvantaged workers in lieu of public sector subsidies, will be considered unsubsidized.

(4) **Child care as self-employment:** Participants may meet work participation requirements by providing child care services as self-employment. Participants choosing to provide child care for income shall meet the requirements as indicated below:

(a) A participant electing to participate as a child care provider is referred to CYFD to enroll in the family nutrition program and to become a registered child care provider with the state prior to placement of any children there by the department. Participants must also agree to obtain 20 hours of child care training within six months of approval.

(b) Upon placement of any child for pay, by CYFD or by a parent, the participant is considered to be employed.

**D. Supervision and documentation:** Hours of participation in an employment related activity will be projected, based on actual hours worked, for up to six months at which time current documentation shall be required in order to evaluate any changes in the prospective hours of participation.

[8.102.460.20 NMAC - N/E, 07/16/2007; A, 11/14/2008]

#### **8.102.460.21 SUBSIDIZED PRIVATE SECTOR EMPLOYMENT:**

**A.** Employment 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 is considered to be subsidized private sector employment.

**B. General:** New Mexico will use TANF funds to offset the wages of employing a TANF participant for an established period of time, at which time the employer is expected to hire the participant.

**C. Component activities:** The following shall be considered as qualified participation hours for subsidized private sector employment.

(1) Employment will be considered subsidized if the employer receives a TANF or other public sector funding for an employee.

(2) A participant whose employer claim a tax credit for hiring economically disadvantaged workers in lieu of public sector subsidies, will be considered unsubsidized.

(3) Public sector paid apprenticeships and paid internships shall be considered subsidized employment.

(4) Participation in various support services designed to remove barriers towards employment shall be considered countable hours as long as the participant is paid for involvement.

**D. Supervision and documentation:** Hours of participation in an employment related activity will be projected, based on actual hours worked, for up to six months at which time current documentation shall be required in order to evaluate any changes in the prospective hours of participation.

[8.102.460.21 NMAC - N/E, 07/16/2007; A, 11/14/2008]

#### **8.102.460.22 SUBSIDIZED PUBLIC SECTOR EMPLOYMENT:**

**A.** Employment 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 is considered subsidized employment. The employment will be considered subsidized if an employer receives a TANF or other public sector subsidy for an employee.

**B. General:** An employee cannot receive TANF while employed. Subsidized public sector employees will be paid no less than the greater of federal or state minimum wage.

**C. Component activities:** The following shall be considered as qualified participation hours for subsidized public sector employment.

(1) Paid apprenticeships and paid internships shall be considered subsidized employment.

(2) Participation in various support services designed to remove barriers towards employment shall be considered countable hours as long as the participant is paid for involvement.

**D. Supervision and documentation:** Hours of participation in an employment related activity will be projected, based on actual hours worked, for up to six months at which time current documentation shall be required in order to evaluate any changes in the prospective hours of participation.

[8.102.460.22 NMAC - N/E, 07/16/2007; A, 11/14/2008]

**8.102.460.23 ON-THE-JOB TRAINING (OJT):**

**A.** Training in the public or private sector that is given to a paid employee that provides knowledge and skills essential to the full and adequate performance of the job shall be considered on-the-job training. On-the-job training may be subsidized or unsubsidized. The employer of an OJT participant will retain the employee after the successful completion of the OJT contract and the existence of a written training plan; these plan requirements distinguish OJT from other subsidized employment.

**B. General:**

(1) Hours in an on-the-job-training activity will be determined by actual hours worked or upon the contract the HSD has with the employer including paid leave and holidays and projected for up to six months.

(2) The department will coordinate with department of workforce solutions, Workforce Investment Act (WIA), one-stops or the New Mexico in-plant-training program to engage TANF participants in this work activity.

(3) To qualify as OJT there must be a contractual agreement with the employer and HSD may pay no more than 50 percent of the participant's wage and benefit package.

**C. Component activities:** The following shall be considered as qualified participation hours for OJT:

(1) on-the-job training as paid employment; or

(2) professional certification; or

(3) practicum, internship, and clinical training.

**D. Supervision and documentation:**

(1) Hours for this activity will be projected for up to six months at which time current documentation shall be required in order to evaluate any changes in the prospective hours of participation.

(2) This activity must be supervised by an employer, work site sponsor, or other responsible party on ongoing bases no less frequently than daily.

[8.102.460.23 NMAC - N/E, 07/16/2007; A, 11/14/2008]

**8.102.460.24 JOB SEARCH AND JOB READINESS ASSISTANCE:**

**A.** Job search includes the acts of seeking or obtaining employment, and preparation to seek or obtain employment.

**B. General:**

(1) Countable hours for looking for job openings, making contact with potential employers, applying for vacancies and interviewing for jobs, and in labor market training will be determined by actual hours spent engaged in these activities. Travel time between these activities does count as actual hours of participation, except the travel time to and from home.

(2) Job search hours are countable in meeting the core work activity participation requirements for an individual with the following limitations:

(a) a single parent with a child under age of six can not participate for more than 80 consecutive hours and not to exceed 120 hours in a preceding 12 months; or

(b) a single parent with a dependent child over age six can not participate for more than 120 consecutive hours and not to exceed 180 hours in a preceding 12 months; and

(c) in either of the above circumstance participation shall not exceed four consecutive weeks of engagement in job search and job readiness.

**C. Component activities:** The following shall be considered as qualified participation hours for job search and job readiness.

- (1) Participation in parenting classes, money management classes or life skills training.
- (2) Participation in an alcohol or drug addiction program where a qualified health or social professional provides verification that such treatment or activity is necessary.
- (3) Participation in job search including searching for job openings, applying for jobs and interviewing for positions.

**(4) Domestic violence**

(a) Participants who have significant barriers to employment because of domestic violence or abuse may participate in domestic violence work activity to receive services focused on assisting the participant to overcome the effects of domestic violence and abuse. Participants participating in this activity may reside in a domestic violence shelter or may receive services while residing elsewhere. The primary focus of such services is on helping the participant to move into employment. Domestic violence is a temporary work-readiness activity limited to no more than 24 weeks.

(b) The need for domestic violence services can be identified at any point, starting with the resource planning session up to the point at which the case is scheduled for closure. Services are provided by local agencies or programs through referral.

(c) Domestic violence activity can include a mix of domestic violence services and other work program activities for no more than 24 weeks. At no point shall a victim of domestic violence be required to carry out any activity which puts the participant at risk of further violence. Domestic violence participation can include:

- (i) emergency shelter or re-location assistance;
- (ii) child care;
- (iii) personal, family and career counseling; and
- (iv) participating in criminal justice activities directed at prosecuting the perpetrator.

**D. Supervision and documentation:**

(1) Verification of activities shall be required to determine that a participant has satisfactorily completed the hours by participating in one or several of the component criteria.

(2) Participation requirement hours shall be considered based on actual supervised hours documented on a monthly timesheet.

(3) Job search and job readiness assistance activities must be supervised by the HSD or other responsible party on an ongoing basis no less frequently than daily.

[8.102.460.24 NMAC - Rp/E, 8.102.460.21 NMAC, 07/16/2007; A, 08/15/2007; A, 11/14/2008]

**8.102.460.25 WORK EXPERIENCE:**

**A.** The purpose of work experience is to improve the employability of those who cannot find employment. Work experience may be in a public or private sector setting.

**B. General**

(1) The type of work experience placement needed by a participant may be identified during the assessment or the development of the IRP. A participant in a work experience placement can either be employees or trainees, depending upon the nature of the placement.

(2) **Sponsoring agencies:** Participants may be placed in either a public or private sector work site. The work site is selected based on a participant's individual needs. Sponsoring agencies provide supervision in a safe and healthy work environment and must ensure that the environment is free of discrimination based on race, sex, national origin, handicap, age, religion, or political affiliation.

(a) The sponsoring agency must enter into an agreement with the department which details the expectations and responsibilities of each party and ensures an appropriate work setting.

(b) The sponsoring agency may not displace any currently employed participant in layoff status or infringe on the promotional opportunities of any currently employed participant.

(c) The sponsoring agency shall be encouraged to give a hiring preference consideration to participants assigned to their agency.

(3) **Liability insurance:** All work providers must sign a work experience agreement and provide trainees with liability insurance. The department shall provide all participants in a trainee activity placement with medical-only liability insurance, or both while participating at a work site with a sponsoring agency. Work-site accidents must be reported to the ISD office within 24 hours of occurrence. A written accident report must be obtained from the work site by the ISD office and submitted to the department's central office within five working days.

**C. Component activities:** Placement provides a participant with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment. Unpaid apprenticeships and unpaid internships are included as work experience.

**D. Supervision and documentation:**

(1) This activity must be supervised by an employer, work site sponsor, or other responsible party on an ongoing basis no less frequently than daily.

(2) The Fair Labor Standards Act (FLSA) standards are used to determine the maximum number of hours the department can require a participant to meet. When the participant meets the maximum number of hours required by the FLSA calculation and number is less than the core work hour requirement the remaining hours may be deemed up. The maximum amount of weekly hours required by the FLSA are calculated as follows:

(a) **Single parent:** Add the monthly TANF cash assistance benefit to the monthly food stamp benefit and divide by the federal or state minimum wage, whichever is higher, and divide by 4.3.

(b) **Two-parent:** The initial calculation of participation requirement hours is the same as a single parent. Both parents can not simultaneously participate in an activity subject to FLSA work participation standards.

[8.102.460.25 NMAC - Rp/E, 8.102.460.25 NMAC, 07/16/2007; A, 08/15/2007; A, 11/14/2008]

**8.102.460.26 COMMUNITY SERVICE PROGRAMS:**

**A.** Community service is a non-paid work activity. Participants provide services needed by their community. Sponsoring agencies may be either public sector or private nonprofit entities such as libraries, charities, churches, and schools. The HSD will review each placement and take into account, to the extent possible, the prior training, experience, and skills of a participant in making appropriate community service assignments.

**B. General:** To qualify as a community services placement, the activities carried out must be similar to those which would normally be carried out by a volunteer working with the agency rather than those carried out by an employee. Federal guidelines for determining whether a placement is a "volunteer" versus an "employee" must be followed by the sponsoring agency.

**C. Component activities:** The following shall be considered as qualified participation hours for community service programs.

(1) Community service programs will be limited to projects that serve a useful community purpose in fields such as health, social service, environmental protection, education, urban and rural redevelopment, welfare, recreation, public facilities, public safety, and child care.

(2) **Head-start, schools and child care centers:** Some educational and child care programs allow, or require, parents to contribute time in the classroom or on class activities outside the classroom. Time spent in such activities is considered to be community service time and is countable as a core work activity.

**D. Supervision and documentation:**

(1) This activity must be supervised by an employer, work site sponsor, or other responsible party on an ongoing basis no less frequently than daily.

(2) The Fair Labor Standards Act (FLSA) standards are used to determine the maximum number of hours the department can require a participant to meet. When the participant meets the maximum number of hours required by the FLSA calculation and the number is less than the core work hour requirement. The maximum amount of monthly hours required by the FLSA are calculated as follows:

(a) **Single parent:** Add the monthly TANF cash assistance benefit to the monthly food stamp benefit and divide by the federal or state minimum wage, whichever is higher, and divide by 4.3.

(b) **Two-parent:** The initial calculation of participation requirement hours is the same as a single parent. Both parents can not simultaneously participate in an activity subject to FLSA work participation standards.

[8.102.460.26 NMAC - Rp/E, 8.102.460.26 NMAC, 07/16/2007; A, 11/14/2008]

**8.102.460.27 CHILD CARE FOR COMMUNITY SERVICE PARTICIPANTS:**

**A.** NMW participants may meet participation requirements by providing child care services, at no cost, to other NMW participants engaged in work experience or community services.

**B. General:** Use of a child care provider by a participant, as provided in this section, is at the sole discretion of the participant.

(1) The department will make a good faith effort to assure the provision of quality care and a safe

environment by referring community service participants only to childcare providers who have been certified by CYFD. The department makes no claim as to the quality of care which will be provided, and assumes no liability, physical or emotional, regarding children referred to a home certified by CYFD.

(2) The minimum number of children a participant may care for is determined based on the number of families needing child care while participating in a community service component. However, at no time will the number exceed child-care standards established by CYFD. A participant electing to participate as child care provider is referred to CYFD to enroll in the family nutrition program and to become a registered child care provider with the state prior to placement of any children there by the department. Participants must also agree to obtain 20 hours of child care training within six months of approval.

(3) After successful registration, meeting safety regulations, and receiving training, NMW participants shall become registered child care providers. NMW participants shall then become eligible to receive payments from CYFD for providing child care services.

(4) Hours of participation are based on the number of hours each day the participant is actually providing care for the children, plus one hour before and one after the children leave for the purposes of clean-up and preparation.

(5) Upon placement of any child for pay, by CYFD or by a parent, the participant is considered to be employed.

**D. Supervision and documentation:**

(1) The provider is required to maintain attendance records to verify the hours of work. Also included in participation hours is time spent registering with CYFD, time spent correcting any deficiencies necessary to complete registration as well as any time spent in attendance at child care training activities.

(2) The ISD office shall maintain a list of registered child care providers who are providing non-paid child care and refer to them any participant in community services who needs child care in order to participate. [8.102.460.27 NMAC - Rp/E, 8.102.460.27 NMAC, 07/16/2007]

**8.102.460.28 VOCATIONAL EDUCATION AND TRAINING:**

**A.** Organized educational programs that are directly related to the preparation of a participant for employment in current or emerging occupations requiring training, to include a baccalaureate or advanced degree are considered to be vocational education and training. Engagement shall be reported as core participation.

(1) A course of vocational education or training is one whose purpose is to provide the specific knowledge and skills needed by a participant to carry out the functions and activities of an occupation or class of occupations listed in the DOT (dictionary of occupational titles). College of education English teaching program or a school of nursing LPN program is intended to prepare a participant to work in a vocation which is described in the DOT and is considered to be vocational education. A participant will be granted a degree or certificate at the end of the program which names the occupation.

(2) The following are not considered vocational education:

(a) two- or four-year degree programs which focus on an area of information, but which are not specifically designed to ready an participant to work in that area;

(b) liberal arts degree programs.

(3) Vocational educational training must be provided by education or training organizations, which may include, but are not limited to, vocational-technical schools, community colleges, postsecondary institutions, proprietary schools, non-profit organizations, and secondary schools that offer vocational education.

**B. Approval of vocational education training:**

(1) A fixed number of vocational education training education slots shall be authorized by the department and shall not exceed 30 percent of the total number of persons subject to work program participation. For a participant in a slot, all approved hours of participation in vocational education activities shall count in meeting the participant's core work participation requirement.

(2) No more than 12 months in a lifetime of such activity are countable in meeting core work activity participation requirements.

(3) **Assignment to a slot:** To be approved for a vocational education placement:

(a) the participant must be admitted in the specific vocational education program by the facility providing the education or training; and

(b) the participant may not already have a post-graduate degree or have a certificate qualifying the participant to work at a particular vocation; and

- (c) a vocational education slot must be available for use; assignment to a slot is made by the caseworker on a first come, first served basis.
- (4) Enrollment in an agreed-upon vocational training program is the responsibility of the participant.
- (5) **Level of effort:** Participation requirement hours shall be considered based on:
  - (a) actual supervised class time hours;
  - (b) labs and similar activities are considered class time;
  - (c) actual hours of completed supervised study-time;
  - (d) one hour of unsupervised study time per hour of class not to exceed the educational program requirements; and
  - (e) holiday time and excused absences.

**C. Component activities:** Vocational educational training programs should be limited to component activities that give participants the knowledge and skills to perform a specific occupation. The following shall be considered as qualified participation hours for vocational education and training.

(1) **Vocational associate degree programs:** Programs consisting of both academic and vocational for credit course work that requires approximately 60 credits. Completion of these programs can provide an associate of arts, associates of science or associates of applied science degree in fields defined as vocational as per Subsection B of this section.

(2) **Instructional certificate programs:** Programs designed to upgrade job related skills which generally require up to a year to complete and involve less academic work than associate degrees.

(3) **Industry skills certifications:** Certificates for students who demonstrate specific skills often thru testing. Preparation for tests include both self-study and courses offered at post secondary institutions or other training providers.

(4) **Non-credit course work:** Curriculum designed to accommodate those who want specific job related skills.

**D. Supervision and documentation:**

(1) Verification of level of effort shall be required to determine that a participant has satisfactorily completed the hours by one or several of the component criteria.

(2) Participation requirement hours shall be considered based on actual supervised and unsupervised hours documented on a monthly timesheet.

[8.102.460.28 NMAC - Rp/E, 8.102.460.24 NMAC, 07/16/2007; A, 11/14/2008]

**8.102.460.29 JOB SKILLS TRAINING:**

**A.** Education or job skills required by an employer to provide a participant with the ability to obtain employment or to advance within the workplace is considered job skills training.

**B. General:** Non-core work activities are countable towards the total work participation standard for a participant who has completed the core work activity hours.

**C. Component activities:** Participation in the following is considered as meeting work participation requirement hours when combined with a core work activity:

(1) full-time training for adult basic education (ABE), English as a second language (ESL);

(2) post-secondary education; or

(3) any other job related training that can not be considered vocational education as outlined in 8.102.460.28 NMAC.

**D. Supervision and documentation:**

(1) Verification of activities shall be required to determine that a participant has satisfactorily completed the hours by participating in one or several of the component criteria.

(2) Participation requirement hours shall be considered based on actual supervised hours documented on a monthly timesheet.

(3) Job skills training directly related to employment must be supervised on at least a daily ongoing basis.

(4) Countable work participation hours shall be determined by actual hours spent in class time, completion of supervised and unsupervised study hours to include holidays and excused absences. One hour of unsupervised study time for each hour of classroom time will be counted, as long as the amount of study time does not exceed the educational program requirements.

[8.102.460.29 NMAC - Rp/E, 8.102.460.19 NMAC, 07/16/2007; 8.102.460.29 NMAC - Rn, 8.102.460.30 NMAC,

11/15/2007; A, 11/14/2008]

**8.102.460.30 EDUCATION RELATED TO EMPLOYMENT:**

**A.** Any organized activity which is designed to improve the participant's knowledge or skills for the specific purpose of increasing the participant's ability to perform in the workplace is considered to be education directly related to employment.

**B. General:** NMW participants may engage in this activity if they have not received a high school diploma or a certificate of high school equivalency or needs specific education related to current employment or job offer. Non-core work activities are countable towards the total work participation standard for a participant who has completed the core work activity hours.

**C. Component activities:** Participation in the following is considered as meeting work participation requirement hours when combined with a core work activity:

(1) English as a second language (ESL) for participants who are unable to or uncomfortable with their ability to communicate in English, either spoken or written; or

(2) literacy training for participants who have trouble understanding written English and is based on a demonstrated or acknowledged difficulty in reading comprehension, regardless of the level of education completed; or

(3) adult basic education (ABE) to assist participants who need classes providing basic educational training before working on a general equivalency degree (GED); or

(4) GED classes for participants who have completed a general equivalency diploma pre-test and the results indicate the participant is ready; or

(5) high school attendance for participants who are attending an accredited high school, participant who has recently dropped out of high school shall be encouraged to re-enroll or required to pursue a GED; or

(6) post-secondary institution for participants who are enrolled in advanced educational training activity through colleges, technical institutes or universities and who are attending classes in order to complete a two- or four-year college degree; or

(7) education directly related to employment shall include any other job related class provided by a facility or organization.

**D. Supervision and documentation:**

(1) Verification of activities shall be required to determine that a participant has completed the hours by participating in one or several of the component criteria.

(2) Countable work participation hours shall be determined by actual hours spent in class time, completion of supervised and unsupervised study hours to include holidays and excused absences. One hour of unsupervised study time for each hour of classroom time will be counted, as long as the amount of study time does not exceed the educational program requirements. Hours will be documented on a monthly timesheet.

[8.102.460.30 NMAC - N, 07/16/2007; 8.102.460.30 NMAC - Rn, 8.102.460.31 NMAC, 11/15/2007; A, 11/14/2008]

**8.102.460.31 SECONDARY SCHOOL/GED:**

**A.** The secondary school/GED work program activity serves participants who are age 18 or older. This may be a qualified activity for a participant who is under age 18 but cannot enroll in high school if the participant has:

(1) successfully completed a previous education work program activity - English as a second language or adult basic education; or

(2) completed a general equivalency diploma pre-test and the results indicate the participant is ready for GED classes.

**B.** Participation must be supervised on no less than a daily basis. Non-core work activities are countable towards the total work participation standard for a participant who has completed the core work activity hours.

**C. Component activities:** Participation in the following is considered as meeting work participation requirement hours when combined with a core work activity:

(1) ABE or ESL; or

(2) GED or high school shall only be included when they are prerequisites for employment.

**D. Supervision and documentation:**

(1) Verification of activities shall be required to determine that a participant has completed the hours by participating in one or several of the component criteria.

(2) Participation requirement hours shall be considered based on actual supervised hours documented on a monthly timesheet.

(3) Countable work participation hours shall be determined by actual hours spent in class time, completion of supervised and unsupervised study hours to include holidays and excused absences. One hour of unsupervised study time for each hour of classroom time will be counted, as long as the amount of study time does not exceed the educational program requirements.

[8.102.460.31 NMAC - N, 07/16/2007; 8.102.460.31 NMAC - Rn, 8.102.460.32 NMAC, 11/15/2007; A, 11/14/2008]

### **8.102.460.32 NEW MEXICO WAGE SUBSIDY PROGRAM:**

**A.** The New Mexico wage subsidy program is a subsidized employment opportunity where a TANF cash assistance participant is hired into full-time employment.

**B.** The employer is reimbursed a portion of the wages paid to the TANF cash assistance participant for up to 12 months, depending on availability of funds. Payments to employers are made from TANF block grant funds. This subsidy will be a 50-50 match.

**C. Requirements for participating employers:** Participating employers shall:

(1) hire NMW participants for subsidized positions and offer a reasonable possibility of unsubsidized employment after the subsidy period;

(2) not require participants to work in excess of forty hours per week;

(3) pay a wage that is equal to the wage paid to permanent employees performing the same job duties; and will not be less than the federal minimum wage;

(4) ensure that the subsidized employment does not impair an existing contract or collective bargaining agreement;

(5) ensure that the subsidized employment does not displace currently employed persons or fill positions that are vacant due to a layoff;

(6) maintain health, safety and work conditions at or above levels generally acceptable in the industry and not less than those of comparable jobs offered by the employer;

(7) provide on-the-job training necessary for subsidized participants to perform their duties;

(8) sign an agreement for each placement outlining the specific job offered to a subsidized employee and agreeing to abide by all of the requirements of the wage subsidy program;

(9) provide workers' compensation coverage for each subsidized employee; and

(10) provide other benefits (includes but is not be limited to, health care coverage, paid sick leave, holiday and vacation pay) equal to those for new employees, or as required by state and federal law, whichever is greater.

**D. Department requirements:** The department shall determine whether a TANF cash assistance participant is eligible to participate in the program. In order to be eligible the participant must:

(1) have sufficient work experience;

(2) be registered as a participant with work programs;

(3) be in "good standing" with the department;

(4) must have citizenship documentation and a social security number.

**E. Department procedures for implementing wage subsidy:** The department shall:

(1) suspend regular TANF cash assistance payments to the benefit group for the calendar month in which an employer makes the first subsidized wage payment to a participant in the benefit group;

(2) pay employers each month, from the TANF block grant, an amount that equals fifty percent of the wages paid by the employer to program participants;

(3) issue a supplemental TANF cash assistance payment if the net monthly full-time wage paid to the participant is less than the TANF cash assistance amount for which the participant would otherwise be eligible;

(4) reimburse the participating employer each month through current invoice procedures;

(5) assist the work program contractor by making participant referrals.

**F. Effects on TANF cash assistance:**

(1) The participant is ineligible for TANF cash assistance while participating in the wage subsidy program.

(2) The months of participation in the wage subsidy program will not count against a participant's 60 month term limit.

(3) The participant remains eligible for medicaid.

(4) The participant's wages count against his or her food stamp benefits.

(5) The participant may be eligible for a supplemental cash assistance payment if the wage subsidy employment is lost during the month, or if the net monthly full-time wage paid to the participant is less than the TANF cash assistance to which the participant would otherwise be eligible.

(6) The participant's earnings are exempt from HUD housing determinations.

(7) The participant is considered to be in active case status while in subsidized employment and, therefore, must comply with all eligibility requirements of the NMW cash assistance program.

**G. Contractor procedures for wage subsidy:** The department's work program contractor shall:

(1) offer a one-day work readiness session for all participants who are accepted into the wage subsidy program;

(2) develop a list of referrals and submit them to potential employers;

(3) submit a list of referrals to the local ISD office to verify eligibility for NMW cash assistance;

(4) assist the TANF cash assistance participant in submitting an employment application to the state personnel office;

(5) provide case management by monitoring employees' work efforts and production to ensure job retention.

**H. Voluntary quit provision:**

(1) If a wage subsidy participant voluntarily quits a job without good cause the participant will no longer be considered for participation in the wage subsidy program.

(2) The TANF cash assistance participant will then have 10 days to notify the work program contractor and renew his or her work participation activities.

(3) If the TANF cash assistance participant fails to complete this process, the department will follow the policy and procedures for imposing sanctions for non-cooperation with the work program.

[8.102.460.32 NMAC - N/E, 07/16/2007; A; 08/15/2007; 8.102.460.32 NMAC - Rn, 8.102.460.29 NMAC, 11/15/2007; A, 11/14/2008]

#### **HISTORY OF 8.102.460 NMAC:**

**History of Repealed Material:** 8 NMAC 3.FAP, Financial Assistance Program - Repealed, 07/01/97.

8.102.460 NMAC Recipient Policies - Defining Group Work Program Activities - Repealed 07/01/01.

8.102.460 NMAC Recipient Policies - Defining Group Work Program Activities - Repealed 07/16/07.