

Legal Assistance of Western New York, Inc. ®



We provide free legal aid to people with civil legal problems in western New York.

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Public Assistance and Work Requirements

Do I have to participate in Public Assistance work activities or a Work Experience Program (WEP)?

When you apply for or receive Public Assistance, unless the Department of Social Services (DSS) says that you are exempt (not able to work), you must participate in work activities as assigned. Work activities will sometimes include educational activities.

Who is exempt from participating in Public Assistance work activities?

The following is a list of ways that people can be exempt from Public Assistance work activities:

- If you are under age 16;
- If you are under age 19 and attending high school, vocational school or technical school full time;
- If you are 60 years of age or older;
- If you are ill or injured and unable to participate in work activities for up to 3 months;
- If you are determined to be disabled or incapacitated by DSS;
- If you are needed in the home to care for another family member who has a physical or mental impairment. You must be the only one able to care for that person;
- If you are in the last 30 days of pregnancy, with medical proof of the due date;
- If you are the parent or caretaker relative of a child under 3 months old and you are actually caring for the child. This exemption can be extended by DSS up to 12 months. However, there is a 12-month lifetime maximum.

What should I do if I think I am exempt?

You should tell the DSS office. They will require you to provide proof of the reason for the exemption within 10 days. DSS should give you a notice in writing about whether they agree that your reason makes you exempt.

What about if I think I am exempt for medical reasons?

If you believe you have a mental or physical condition that limits your ability to work, tell DSS. They will ask you to provide medical proof of your condition within 10 days. They also may send you for an examination by their doctor. DSS cannot assign you to work activities while they are

deciding if you are exempt.

What does DSS have to do after I claim a medical exemption?

DSS must tell you its decision on your claim for a medical exemption in writing.

They will decide if you are:

Exempt: This means that you are unable to participate in work activities for a certain time due to a disability.

Not exempt but work-limited: This means that you are able to do work activities with certain limitations for a certain time.

Not exempt and not work-limited: This means that you are able to do work activities with no limitations.

DSS will review your medical condition at each recertification. If they expect your medical condition to change, they may review your condition sooner. If you are found to be exempt from work activities, DSS may require you to apply for Social Security Disability (SSD) benefits or Supplemental Security Income (SSI).

Applying for Social Security Disability (SSD) benefits or Supplemental Security Income (SSI) does not make you exempt from work requirements.

What should I do if DSS decides I am not exempt and I disagree?

You can ask for a Fair Hearing if you disagree with DSS's decision on your claim that you are exempt from work activities. If your claim of a medical exemption was denied, you only have 10 days to ask for a Fair Hearing. If you ask for a Fair Hearing within 10 days, you do not have to do work activities until there is a decision in your Fair Hearing. For more information, see the article on [Fair Hearings](#). If more than 10 days have passed, and you have more medical evidence, you can ask for an exemption again at any time.

Can DSS require me to get treatment for my condition?

Maybe. If you are exempt from work requirements for a medical reason, DSS will look into if you can get better. If they think that if you improve you will be able to work, they will require you to go to programs to help you. Depending on your needs, they may require you to go to drug and alcohol treatment, vocational rehabilitation, physical therapy or other programs.

If I am not exempt, what types of activities can DSS assign me to do?

DSS can assign you one or more of the following activities:

- Orientation and assessment
- Job readiness and job search activities
- Community service programs
- Work experience programs. If you do a work experience program, the number of hours you must work is figured by dividing the total amount of your public assistance and food stamp grants by the minimum wage.

- If you agree, providing child care to a public assistance recipient who is doing community service
- On-the-job training
- Subsidized private or public employment
- Unsubsidized employment
- Certain educational activities (to find out more about this one, look below)

Can DSS make me go to school?

If you are under 20 years old and you don't have a high school diploma or a GED, DSS must assign you to educational activities. This is true unless they decide that educational activities are not appropriate for you.

DSS may assign you to basic or remedial education. They may send you to English proficiency classes, high school equivalency classes, vocational training, or a two year college degree program.

What if I want to go to school?

DSS must first approve the schooling as part of your assigned work activities. Post-secondary education (for example, college, business school, trade school) can only be approved if it is no more than a two-year program. The post-secondary education must also be needed to get useful employment in a recognized job field.

If DSS approves the schooling, it must not assign you to other work activities that would interfere with your classes. If you are an undergraduate college student doing work-study, DSS may approve the work-study as your work activity assignment.

How does DSS decide what work activities I must do?

DSS will do an assessment and make an employment plan for you. However, they may send you to work activities before they do an assessment. If you receive Family Assistance, DSS should consider your preferences in developing the employment plan. If they cannot accommodate your preferences, they must tell you why.

What if I do not agree with my work assignment?

If you do not agree with your work assignment, you can file a grievance with DSS. DSS must meet with you within 30 days of the date you file a grievance. While you are waiting for a decision on the grievance, you do not have to go to work activity you are disputing. DSS must give you a written decision about your grievance. If you still don't agree with their decision, you can request a Fair Hearing. Unlike before though, you must do the work activity that you disagree with while you are waiting to have a Fair Hearing and get a decision. If you don't go to the work activity that they have assigned you, DSS may stop your benefits.

What if I need child care so I can do work activities?

DSS must pay for child care for your children up to age 13 if you need it to do your assigned work activities. If you cannot find child care, DSS must give you the names of child care providers. If

adequate child care within a reasonable distance from your home is unavailable, you may be excused from doing work activities.

What if I need transportation so I can do work activities?

DSS must help you if you need help with transportation to a work activity that they have asked you to do. How they help you will depend on your options and what you need. DSS might give you a bus pass. They might provide the transportation themselves. They might reimburse you if you use your own vehicle, though there is a limit on fuel allowance. They can also help you pay for car repairs or car insurance if you use your own vehicle to get to work activities.

What if I do not comply with work activities?

If you don't do what DSS has asked you to do, DSS is sometimes required to first try to find out why. Then, if they don't think you had a good reason, they will stop your benefits. This is called conciliation. DSS will send you what is called a "conciliation notice." The conciliation notice gives you the chance to explain why you did not comply. It also gives you a deadline to respond. You should include evidence with your response. For example, if you were sick, you should include a doctor's note. If you do not respond to the conciliation notice, DSS will send you a sanction notice.

DSS will consider your explanation and any evidence you provide to explain why you did not comply. If they decide that your failure to comply was not willful and you had good cause, they will excuse the non-compliance of you not attending. If they decide that your failure to comply was willful and without good cause, they will send you a sanction notice.

DSS must send you a letter telling you that they are going to sanction you. The notice should say what it was that you failed to do. If you are an applicant for assistance, DSS will send you a notice that they are denying your application. If you are already receiving assistance, DSS will send you a 10 day notice of the sanction.

How long will my sanction be?

The length of the sanction depends on the type of assistance you receive and how many sanctions you have had before. Some sanctions are until compliance. Compliance means that you participate in the work activity. Some sanctions continue for a period of time and until compliance.

If there are other people in your public assistance household, your portion of the money from DSS will be taken out until the sanction is over and you comply. If there are no other people in your public assistance household, your assistance will be stopped until the sanction is over. You will have to reapply and comply with employment requirements to get assistance again. Because there is a 45 day waiting period for Safety Net Assistance, you should reapply for assistance 45 days before the end of your sanction.

What if I quit a job?

If you quit a job, cause your own job loss, or reduce your work hours, the DSS office may think that you wanted to receive, or increase, your amount of public assistance. DSS must give you a chance to prove that you had a good reason for quitting your job, losing your job, or reducing

your hours.

If DSS decides that you quit or reduced your hours to get public assistance or to get more public assistance than you were getting, you will be sanctioned. If you are an applicant for public assistance, the sanction lasts for 90 days from the date that you quit your job. If you are a recipient of public assistance, the sanctions are the same as those for not complying with work assignments.

Does a sanction apply to my SNAP benefits (food stamps)?

Probably. The work requirements for Supplemental Nutrition Assistance Program (SNAP) are similar to those for public assistance, but they are not always the same. If you do not comply with public assistance work requirements, you may lose your SNAP as well as your public assistance.

Does a sanction affect my Medicaid?

No. There are no work requirements to receive Medicaid. This means you cannot be denied or lose your Medicaid if you are sanctioned for not complying with public assistance rules. If you are sanctioned for not following SNAP (food stamp) work rules or for quitting a job, you cannot be denied or lose your Medicaid.

What should I do if I do not agree with a sanction?

You have the right to have a Fair Hearing about the sanction. If you are already getting assistance, and you ask for a Fair Hearing before the effective date of the sanction, your benefits should continue while you are waiting for the fair hearing. If you are an applicant for assistance and your application is denied, it's generally a good idea to reapply even though you have also asked for a Fair Hearing. You must ask for the Fair Hearing within 60 days of the date of the notice. See the article on [Fair Hearings](#).

Legal Help

If you have a work activities problem you cannot solve with DSS, you can contact your local legal services office for possible help. If you get a notice from DSS it should have contact information for legal assistance in your area.

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