

24.9 WORK EXPERIENCE

Work Experience is defined as a work activity, performed in return for **cash assistance** that provides an individual with an opportunity to gain the general skills, training, knowledge, and work habit necessary to obtain employment. All Work Experience activities must be supervised by an employer, work site sponsor, or other responsible party, daily. The Fair Labor Standards Act (FLSA) applies to assignment of hours of participation in Work Experience placements. Work Experience sponsors must provide Workers' Compensation coverage. In addition to other structured Work Experience opportunities that may be available in the community, the following two Work Experience programs are offered by the Department of Health and Human Resources:

A. COMMUNITY WORK EXPERIENCE PROGRAM (CW)

The Community Work Experience Program (CWEP) is a work activity for parents or other caretaker relatives age 18 and older. The primary purpose is to provide work experience and training to assist a client who has limited work experience, is under-employed or has no immediate employment opportunities.

NOTE: WV WORKS clients must not participate as a volunteer with Community Service at any active CWEP contract site regardless of whether or not there is a current CWEP placement at that site.

1. Who May Be A CWEP Sponsor

CWEP sponsors are limited to public agencies, such as federal, local, state and not-for-profit employers. It is limited to public services projects in fields such as health, social services, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public activities, public safety and child care.

2. Requirements Of The Sponsor

The CWEP sponsor must abide by the following requirements:

- The sponsor must provide the client with guidance and supervision necessary to participate in the work experience project.
- The sponsor must provide safety equipment, special clothing and tools needed to perform the assigned duties.
- The sponsor must assume the cost of any required pre-employment medical examinations.

- The sponsor must guarantee that the client is not expected to work more than 8 hours/day, unless the normal work day exceeds 8 hours.
- The sponsor must schedule the client for a minimum of 4 hours/day. An exception to this is the last day of the contract, the last day of the week or month to even out the work requirement, or a make-up day.
- The sponsor must not schedule the client to work split shifts.
- The sponsor must pay the client for any work in excess of his obligation. The rate of pay must be the same as the regular or overtime rate for regular employees.

The client may not volunteer to work for the assigned sponsor in excess of his obligation without pay.

- The sponsor must adhere to the displacement/ replacement policy in Section 24.6,B,1.
- The sponsor must provide Worker's Compensation or comparable coverage.

3. Standard For Contract Development

The standards for contract development are as follows:

- The nature of the placement must meet the requirements of local employers and must involve skills needed in the local work force.
- Placement at the same site must not exceed 12 consecutive months. Reassignment to another CWEP site may occur immediately. However, reassignment to the same site may only occur after 6 months of not participating in CWEP at that site.
- The contract form, DFA-CWEP-3 with attachments, is an agreement between a sponsor and local WV WORKS staff and establishes the number and type of positions to be filled by the employer.
- The contract number will begin with the word CWEP. Each contract is assigned a 6-digit control number. The first 2 digits are the fiscal year; the second 2 digits are the county number. The last two digits are assigned sequentially beginning with 01.

EXAMPLE: CWEP-04-22-14 (CWEP contract negotiated in FY 2004 by Lincoln County, contract number 14).

- Contracts are completed in triplicate. One copy is distributed to each of the following: the sponsor, the client's case record, and the DFA Family Support Policy Unit.
- A detailed job description, form DFA-JD-1, Job Experience Description, must be attached to each contract for each position.
- All contracts are renegotiated annually. If the circumstances warrant it, a contract may be renegotiated earlier. Renewal (renegotiation) of CWEP contracts are completed using the CWEP Addendum/Renewal, DFA-CWEP-3A. These renewals are to be completed prior to July 1. In addition to the Addendum/Renewal, staff must have Job Experience Descriptions, DFA-JD-1, completed and signed by the sponsor if there are any new or changed job descriptions. These job descriptions must be attached to the Addendum/Renewal. It is not necessary to complete an entire contract, DFA-CWEP-3, on renewals. In addition, the fiscal year and contract sequence number does not change on renewed contracts. Placements must not be continued with a CWEP sponsor past June 30 if there is not a signed CWEP Addendum/Renewal contract with that sponsor. Contracts not negotiated within 90 days after the expiration date of the existing agreement require a new contract, DFA-CWEP-3.
- A contract may be terminated by either party with 30 days written notice.

4. Determining The Hours Of Participation

The Department of Labor (DOL) has mandated that the requirements of the Fair Labor Standards Act (**FLSA**) of 1938 be applied when determining the maximum hours of CWEP participation. The following procedure is used to determine the monthly maximum number of hours of participation. The monthly CWEP placement obligation is based on the amount of FS benefits and WV WORKS cash assistance a family is eligible to receive during a month.

NOTE: A CWEP Individual Participation Agreement, DFA-CWEP-1, must be completed as a condition of placement in a CWEP position. The original DFA-CWEP-1 is provided to the contractor, the second copy is placed in the participant's case record, and the bottom copy is given to the participant. The client must not work more hours for the

CWEP sponsor, regardless of the amount calculated below. A new DFA-CWEP-1 is required to increase or decrease hours should the client's WV WORKS benefits increase, decrease, or there is a change in the **state or federal minimum wage used to calculate the number of participation hours assigned.**

NOTE: The minimum wage used for the calculation is the Federal or State minimum wage, whichever is higher.

The maximum monthly participation obligation is based on the following process:

Step 1: Determine the amount of the WV WORKS check actually received by the AG, including the amount of the Child Support Incentive and any amount withheld from the check to repay a previous overpayment.

Step 2: Subtract the amount of current child support received for the month by the Bureau for Child Support Enforcement (BCSE). Only current support payments are subtracted, not arrearages or other payments. Use the amount of child support received by BCSE 2 months prior to the month for which the obligation is calculated.

NOTE: Support service payments, EA and payments other than the cash assistance check and Child Support Incentive which are made from TANF funds, are not added to the check amount when determining the obligation.

Step 3: Determine the amount of the AG's Food Stamp entitlement. This is the amount actually received by the AG, plus any amount withheld to repay a previous overissuance.

NOTE: When the WV WORKS recipients are included in the same Food Stamp AG with non-WV WORKS recipients, a separate calculation must be performed, as follows, to determine the share of the Food Stamp benefits that belongs to the WV WORKS recipients.

- Divide the Food Stamp allotment by the number of people in the Food Stamp AG.
- Multiply this amount by the number of people in the WV WORKS AG. Drop all cents. The result of this multiplication is the amount of Food Stamp benefits used to determine the obligation.

Step 4: Add the results of Steps 2 and 3 together and divide by the **federal or state** minimum wage, **whichever is higher**. This is the client's maximum monthly obligation. The resulting figure is rounded down to the nearest whole number.

EXAMPLE:

Add the AG's monthly benefits of:

\$340	WV WORKS Benefit
<u>+\$399</u>	Food Stamp Benefit
$\$739 \div \$6.55 = 112.83$ hours = 112 participation obligation hours	

EXAMPLE:

\$384	WV WORKS Benefit
<u>+\$506</u>	Food Stamp Benefit
\$890	
<u>+ \$25</u>	CSI
\$ 915	Total
<u>- \$250</u>	Redirected Child Support
$\$665 \div \$6.55 = 101.53$ hours = 101 participation obligation hours	

Under no circumstances is the client required to participate more than 40 hours in one week.

5. Meeting The Minimum Core Hours in CWEP

The minimum required core hours of 20 (1-parent) or 30 hours per week (2-parent) are met if the calculation of the CWEP obligation hours (using the Conversion Chart) equal less than the minimum average requirement of 20 or 30 hours per week. When this occurs, the Worker must assign additional core or non-core work activities **not regulated by FLSA** to meet the applicable minimum 20, 30, 35, or 55 hours average participation hours per week.

EXAMPLE:

1-parent household with child over age 6 for participation purposes:

\$301	WV WORKS Benefit
<u>+\$260</u>	Food Stamp Benefit
+ \$25	CSI
<u>- \$200</u>	Redirected Child Support
$\$386 \div \$6.55 = 58.94$ hours = 58 participation obligation hours	

To determine the weekly average **hours, refer to the TANF Participation Hours chart on the DFA Intranet website.**

In this example, the Worker must assign the client to an additional 10 hours average per week in a core **activity not regulated under FLSA** or a non-core activity to meet the 30 hour per week minimum.

If the case above showed the weekly CWEP hours would average 23, then the Worker must assign the client an additional 7 hours per week in another activity **not regulated under FLSA.**

When the time sheet indicates the client participated the monthly assigned CWEP hours (including applicable excused absences and holidays) and this equals the **required** average hours per week, the Worker must **record in CMIC that the required core activity hours are deemed to be met. When the actual weekly hours participated are less than required, the Worker must record in CMIC that the core hours are not deemed to be met.** A full recording must be made each month indicating **whether or not** the required hours were met **or deemed to be met.**

NOTE: In all cases, the Worker must enter the actual hours participated in WPSC.

6. Placement In DHHR Offices

The Supervisor to whom the CWEP Worker is assigned is responsible for ensuring that the client understands and abides by all agency rules, regulations, and policy regarding confidentiality, security of records, information, and property. The Supervisor must provide an orientation which includes, at a minimum:

- What constitutes confidential information
- Penalties for Breach of confidentiality
- Discussion of public laws dealing with document integrity and penalties for altering, destroying, or concealing or making false statements.

CWEP participants may not be assigned to work in areas which provide access to sensitive data as defined in the Common Chapters. These restrictions are as follows:

1. Who May Be A JOIN Contractor

Any employer licensed to conduct business in West Virginia is eligible to be a JOIN contractor, provided all business tax payments are current. In addition, the potential contractor must agree to the requirements specified below in item B.

2. Requirements Of The Contractor

To become a JOIN contractor, the following requirements must be met:

- JOIN placements may not exceed the number of full-time employees already on the contractor's payroll.
- The contractor must provide an orientation for the client that outlines the work schedule, job description, contractor's expectations, pay schedule, holidays and the workplace standards for special clothing, reporting absences, breaks and mealtimes.
- The contractor must report all attendance problems immediately to the Department.
- The contractor must not assign the client to work more than an 8 hour day, unless the normal work day exceeds 8 hours.
- The contractor must not schedule split shifts.
- The contractor must schedule the client to work the appropriate number of hours per week. See item D below. Hours worked in excess of the established number must be paid solely by the contractor, at the prevailing wage rate. All such income must be reported to the Worker.
- Contractors must keep daily attendance records for each client using form **DFA-TS-12**. It must be completed in its entirety and signed by both the client and supervisor monthly when all work hours have been completed. The **DFA-TS-12** must be received by the Worker by the 5th working day of the following month. A copy is retained by the contractor for audit purposes.
- The contractor must provide a representative, when requested, to attend any Pre-Hearing Conference or Fair Hearing the client may request.

The contractor must advise his regular employees of their right to file a grievance, if they feel their job has been adversely affected by the JOIN program and must adhere to the displacement/replacement policy in Section 24.6,B,1. See Appendix A and B.

- The contractor must guarantee appropriate standards for employment. See Section 24.6,B,2.
- The contractor must provide Workers' Compensation or comparable coverage and pay into Social Security.
- The contractor must agree to provide safety equipment, special clothing, or tools not covered by the JOIN contract.
- The contractor must guarantee adequate supervision.
- The contractor must provide the JOIN client \$1.00 for each hour of participation. This travel expense stipend must be paid on the regularly scheduled payday. The contractor must withhold applicable local, state or federal wage taxes.

3. Contract Requirements

A contract must be negotiated between the local WV WORKS staff and the contractor.

The contract, form DFA-J-3, is completed in triplicate, signed by the authorized representatives of the contractor and the Department. The original is placed in the client's case record, a copy is forwarded to DFA Family Support Policy Unit, and the contractor receives a copy.

The contract number will begin with the word JOIN. A contract number of six digits is assigned. The first two digits are the current fiscal year; the second two digits are the county number. The last two digits are consecutively-assigned numbers beginning with 01.

EXAMPLE: JOIN - 03 - 33 - 15 (JOIN contract negotiated in FY 2003 by McDowell County, contract number 15).

A job description must be attached to each contract. The job description must be written by the contractor and must describe a job in the workplace that the client may qualify for at the end of the contract period, using form DFA-JD-1

The job description(s) must include the following items:

- Job title
- Minimum educational level required for the position
- Weekly work schedule
- Special licenses required
- Special physical requirements
- Tools required
- Description of the job duties and responsibilities
- Special safety concerns or hazardous conditions
- Name of the supervisor
- Name of the individual responsible for evaluations and time sheets

WV WORKS staff must monitor each placement to ensure that the contractor is in compliance with the contract. Any contract may be canceled with 30-days notice when the contractor does not comply. Any contractor who shows a pattern of non-compliance may be denied future contracts. Renewal (renegotiation) of JOIN contracts are completed using the JOIN Addendum/Renewal form, DFA-J-3A. These renewals are to be completed prior to July 1 or the new state fiscal year. In addition to the Addendum/Renewal, staff must have Job Experience Descriptions, DFA-JD-1, completed and signed by the sponsor if there are any new or changed job descriptions, which must be attached to the Addendum/Renewal. It is not necessary to complete an entire contract, DFA-J-3, on renewals. In addition, the fiscal year and contract sequence number does not change on renewed contracts. Under no circumstances will placements be continued with a JOIN sponsor past June 30 if there is not a signed JOIN Addendum/Renewal contract with that sponsor. Contracts not negotiated within 90 days after the expiration date of the existing agreement require a new contract, DFA-J-3.

4. Determining The Hours Of Participation

NOTE: A JOIN Individual Participation Agreement, DFA-J-1, must be completed as a condition of placement in a JOIN position. The original DFA-J-1 is provided to the JOIN sponsor, the second copy is placed in the participant's case record, and the bottom copy is given to the participant.

The client must not work more hours for the JOIN sponsor, regardless of the amount calculated below (see 24.9,2, sixth dash for hours worked in excess). A new DFA-J-1 is required to increase or decrease hours should the client's WV WORKS benefits increase or decrease, or if there is a change in the minimum wage.

NOTE: The minimum wage used for the calculation is the Federal or State minimum wage, whichever is higher.

The Department of Labor (DOL) has mandated that the requirements of the Fair Labor Standards Act of 1938 be applied when determining the maximum hours of participation. The following procedure is used to determine the weekly maximum number of hours of participation. The weekly JOIN placement obligation is based on the amount of FS benefits and WV WORKS cash assistance a family is eligible to receive during a month.

The maximum monthly participation obligation is based on the following process:

Step 1: Determine the amount of the WV WORKS check actually received by the benefit group, including the amount of the Child Support Incentive and any amount withheld from the check to repay a previous overpayment.

Step 2: Subtract the amount of current child support received for the month by the Bureau for Child Support Enforcement (BCSE). Only current support payments are subtracted, not arrearages or other payments. Use the amount of child support received by BCSE 2 months prior to the month for which the obligation is calculated.

Support Service payments, EA and payments other than the cash assistance check and Child Support Incentive which are made from TANF funds, are not added to the check amount when determining the obligation.

Step 3: Determine the amount of the AG's Food Stamp entitlement. This is the amount actually received by the AG, plus any amount withheld to repay a previous over-issuance.

NOTE: When the WV WORKS recipients are included in the same Food Stamp benefit group with non-WV WORKS recipients, a separate calculation must be performed, as follows, to determine the share of the Food Stamp benefits that belongs to the WV WORKS recipients.

- Divide the Food Stamp allotment by the number of people in the Food Stamp AG.
- Multiply this amount by the number of people in the WV WORKS AG. Drop all cents. The result of this multiplication is the amount of Food Stamp benefits used to determine the obligation.

Step 4: Add the results of Steps 2 and 3 together and divide by the **federal or state** minimum wage, **whichever is higher**. This is the client's maximum monthly obligation. The resulting figure is rounded down to the nearest whole number.

NOTE: There may be some fluctuation in the number of hours worked each week to meet the requirements of the contractor. This is acceptable as long as the total number of hours per month is met.

EXAMPLE:

Add the AG's monthly benefits of:

\$340	WV WORKS Benefit
<u>+\$399</u>	Food Stamp Benefit
\$739 ÷	\$6.55 = 112.83 hours = 112 participation obligation hours

EXAMPLE:

\$384	WV WORKS Benefit
<u>+\$506</u>	Food Stamp Benefit
\$890	
<u>+ \$25</u>	CSI
\$ 915	Total
<u>- \$250</u>	Redirected Child Support
\$665 ÷	\$6.55 = 101.53 hours = 101 participation obligation hours

Under no circumstances is the client required to participate more than 40 hours in one week.

5. Meeting The Minimum Core Hours In JOIN

The policy for meeting the minimum core hours of participation for JOIN is the same as listed in Section 24.9,A, Item 5 under CWEP.

C. OTHER WORK EXPERIENCE PROGRAMS (WE)

This would include any other Work Experience programs offered in the community. **Programs offered by other agencies must be submitted to the DFA Family Support Policy Unit for review and approval to ensure they meet all requirements for the Work Experience component.**

The policy for meeting the minimum core hours of participation is the same as listed under CWEP and JOIN.