

13.10 GOOD CAUSE FOR FAILURE TO PARTICIPATE FOR WV WORKS

All mandatory Work-Eligible Individuals must be placed into a relevant and a current component for tracking and monitoring purposes on approval date. The participant must remain in that component whether or not they are working, cooperating, or sanctioned until either the case is closed or the Case Manager and participant agree to change the component. Not meeting participation requirements or being sanctioned are not reasons to disenroll the participant from their assigned component(s).

Some reasons for granting good cause for temporarily not meeting participation requirements are life events or problems such as, but not limited to:

- The death of a spouse, parent, child, or stepchild.
- In accordance with the Family and Medical Leave Act (FMLA) of 1993, an acute, life threatening illness of a spouse, parent, or child that requires the client's immediate attention. This does not include individuals who are exempt from participation due to caring for a disabled family member as outlined in section 13.8.
- The minimum suitability standards for the specific activity are not met. See Sections 24.5 – 24.13 for minimum requirements. If none are listed for the activity, the Worker must determine if the activity placed unreasonable requirements on the client. Individuals granted good cause for this reason must be scheduled an appointment or home visit to review the situation and possible PRC update.

The Worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The Worker has considerable discretion in imposing a sanction. The Worker may determine that the requirement was inappropriate based upon additional assessment. An appointment to update the PRC and place the individual in another component must be scheduled as soon as possible. In addition, the Worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction. However, once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed.

- The parent, an included non-parent caretaker, or a non-recipient Work-Eligible Individual quits employment or fails to participate in his assigned activity due to enrollment and full-time attendance in school, training, or an institution of higher learning. The PRC must be updated and these individuals should be placed in the VT, AB, or CL components as soon as possible.

Work Requirements

If a parent or a non-parent caretaker relative included in the payment or a non-recipient Work-Eligible Individual quits or refuses employment within the 30-day period prior to the date of application, for a reason other than school enrollment, or when the client fails or refuses to meet his work requirement and/or adhere to his PRC requirements, the Worker must determine the reason for such failure or refusal. Appropriate documentation must be provided and the circumstances must be recorded in comments, where applicable.

Failure or refusal to comply, without good cause, results in imposition of a sanction. When the Worker discovers the failure or refusal, a notice of adverse action must be issued. When a letter is mailed scheduling the good cause interview, the Worker must allow no less than 7 calendar days. This period begins the day following the date the letter is requested in RAPIDS, or the day following the date a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the appointment is scheduled for a date prior to the 7 calendar days, the participant and the Worker must agree on the appointment date. See Section 6.3, Items D and E. A Worker generated letter from RAPIDS or a manual letter, DFA-WVW-NL-1 is used.

NOTE: A good cause determination is not required when the client is exempt from participation in a work activity. See Section 13.8 for these exemptions. However, documentation is required for not being able to meet the minimum 5 hours per week work requirement or for referrals for assessment testing, or referrals to other appropriate services. See Section 15.7

NOTE: To avoid imposition of a sanction due to good cause, the good cause must be established during the advance notice period. Once a sanction has been imposed it cannot be stopped until the appropriate time has elapsed.

When the Worker determines that the client has good cause for failure to participate for one of the reasons listed in items A through E below, the participant must be placed in the appropriate good cause component:

A. AGE OF CHILD (TF)

This component is used only for a single custodial parent caring for a child under the age of 1. It is a good cause period for a maximum of 12 months lifetime and it ends when the child attains the age of 12 months. It does not apply during the pregnancy period. Any remaining months can be applied following the birth of another child. This good cause reason may be applied when an applicant has given birth to a child and the child is under 12 months of age. The Worker must check the number of months previously used in the TF component before using this good cause reason.

Work Requirements

EXAMPLE: A WV WORKS single parent had a baby on January 5, 2007. For this child she is eligible for the 12-month good cause exemption from meeting participation requirements. She must be placed in the TF component from January 5, 2007 through December 31, 2007. If she chooses to volunteer to participate in a work activity during this period, she is enrolled in a work component, but also remains enrolled in the TF component. If she fails to meet her work requirement, she cannot be sanctioned. Because she is also identified in a temporary exemption, her failure to participate does not impact the state participation rates. If her WV WORKS benefit stops before December, any remaining TF months may be used when she has another child while she is a WV WORKS participant.

If she has another child(ren) while she is a WV WORKS participant after using 12 months lifetime of TF, she will temporarily have good cause for not participating in an activity only for a 12-week postpartum period in accordance with the FMLA. The need for an extended good cause period must be verified by a doctor's statement.

The 12 month good cause period begins the month that the child is born and extends to the end of the month preceding the child's 1st birthday. The parent no longer has good cause for not meeting the participation requirements beginning with the month in which the child reaches 12 months of age.

NOTE: This good cause reason is not available for a 2-parent household, even if only 1 parent is a Work-Eligible Individual.

B. DOMESTIC VIOLENCE (TV)

Domestic violence and/or the need to protect abused children make participation impossible, dangerous, or embarrassing and the client accepts a referral to the Division of Children and Adult Services or a local domestic violence agency. The participant must comply with the requirements of the domestic violence agency plan. This period is limited to 6 months but may be extended when extenuating circumstances exist and counseling continues at the recommendation of the Domestic Violence counselor. The Worker must maintain close contact with the Domestic Violence agency and monitor this plan regularly.

Work Requirements

C. CHILD UNDER 6 / UNAVAILABLE CHILD CARE (TD)

A single parent can prove that appropriate child care is unavailable for his child, age 6 or younger. The client must accept available child care unless it is an unreasonable distance from the individual's home or work site. Special needs children may require special child care arrangements. If so, the unavailability of suitable and appropriate care must be considered for special needs children. Circumstances involving unavailable child care must be reviewed monthly.

D. PHYSICAL / MENTAL INCAPACITY (TI – Physical, TM – Mental Health Issues)

An individual is experiencing a physical or mental health condition or he is suffering from a temporary debilitating injury for which a reasonable accommodation cannot be made. The individual's condition must be reevaluated within the time limits specified by his medical practitioner or at least quarterly. For any period of disability or incapacity that is expected to last longer than 6 months, the case must be submitted to MRT for evaluation. MRT must also approve all individuals claiming permanent and total disability. See Section 12.3,C for instructions to determine incapacity.

A Work-Eligible female may be placed in the TI component when her doctor places her on bed rest because of a high-risk pregnancy.

NOTE: WV WORKS participants who have a documented disability must be placed in the AD component in Work Programs in addition to other component codes.

E. OTHER GOOD CAUSE REASONS (NA)

The following are circumstances that may be experienced by individuals who are not temporarily exempt and not currently in an activity, or who are not meeting the minimum participation hours while in an activity, but have good cause for failing to participate:

- The individual is at home caring for the children while the other parent is participating in a work activity the required average weekly hours
- The 12-week postpartum period following the birth of any additional child after having used the 12 month lifetime Age of Child (TF) period. Anytime other than the usual 12-week period requires medical documentation of the expected return to work date.
- The 12-week period following the placement of a child with the individual for adoption or foster care.
- A verified job will start within 30 days and there is no other activity available in the interim

Work Requirements

- A verified activity will start within 30 days and there is no other activity available in the interim
- The individual is required to appear in court or for jury duty.
- A requirement of the Division of Children and Adult Services precludes participation for a specified period of time.
- The individual refuses to accept surgery which would eliminate or significantly improve his condition, even if the refusal precludes participation.
- The individual would be required to travel more than 1 hour round trip to participate, unless it can be shown that local community travel standards exceed the 1 hour limitation.
- There is no transportation currently available to the client and all possible sources of transportation have been explored. He must accept appropriate available transportation in the community.

All of these good cause determinations must be recorded in Work Program comments. All good cause determinations must be reviewed monthly and the Worker must update the case comments with the information on the status of the participant.