

### 24.3 MINIMUM HOURS OF PARTICIPATION

Each adult and emancipated minor who receives WV WORKS benefits and non-recipient Work-Eligible Individual must meet a work requirement at a minimum rate of participation. The work requirement does not necessarily mean that the participant must be employed. Work, however, is the focus of WV WORKS. The activities that meet the work requirement are listed in Sections 24.6 – 24.13.

Work-Eligible Individuals describe those whose participation in work activities contributes in determining if the family counts in the calculation of the work participation rate. A Work-Eligible Individual is defined as one of the following:

- An adult or emancipated minor child head-of-household receiving cash assistance
- A non-recipient parent living with a child receiving assistance, unless the parent is excluded for 1 of the following reasons:
  - Minor parent who is not a head-of-household
  - Alien who is ineligible due to his immigration status
  - SSI recipients

In addition, the following Work-Eligible Individuals do not count in the calculation of the work participation rate:

- Parent providing care for a disabled family member living in the home who does not attend school on a full-time basis. Medical documentation must be provided to substantiate the need for the parent to provide this care.
- Single parent with a child under the age of 1 year. This is a one-time only exemption for a maximum of 12 months lifetime.
- Families subject to a sanction may be excluded for a maximum of 3 months in a 12 month period.

#### A. REQUIRED PARTICIPATION

Federal TANF reports require information about 2-parent families to be reported to determine the State's participation rate.

For federal TANF purposes, all AG's with 2 work eligible parents or 2 work eligible non-parent caretakers included, whether married to each other or not, are 2-parent families. With that starting point, those families with 2 parents/non-parent caretakers that meet certain requirements could then be exempt from meeting the 2-parent family requirements. This also includes non-recipient Work-Eligible Individuals.

The definitions below are used only for the Worker to determine the required level of participation, based on the family's circumstances, and should not be used for any other purpose.

- A 2-parent family, for these purposes only, meets all of the following criteria:
  - There are 2 parents with a common child living together and included in the same WV WORKS payment; or
  - There are 2 parents with a common child living together and one or both is excluded from the WV WORKS payment unless the exclusion is due to one of the following reasons:
    - Minor parent who is not the head-of-household;
    - Ineligible alien due to immigration status;
    - SSI recipient; and
  - Neither parent is incapacitated or disabled according to item D below.
- A 1-parent family, for these purposes only, is a family that does not meet all of the 3 criteria above, regardless of the number of parents or other adults included in the household.

One-parent families include, but are not limited to, the following situations:

- Families with only 1 parent living in the home, whether he is included in the AG or is a non-recipient Work-Eligible Individual;
- Families with 2 parents with a common child living together and one is excluded from the WV WORKS payment due to one of the following reasons:
  - Minor parent who is not the head-of-household

## WV WORKS Activities/Requirements

- Ineligible alien due to immigration status
- SSI recipient
- Families with 2 parents included in the WV WORKS payment when one or both parents is incapacitated or disabled according to item D below;
- Families with 1 parent and 1 stepparent included in the check when they have no common child;
- Families with 1 or 2 non-parent caretaker relatives included in the WV WORKS payment;

The minimum requirements for each group are found below.

Required monthly participation hours listed in this section are minimum hours only. The number of required participation hours must be included on the participant's PRC, in RAPIDS and in Work Program comments. Additional hours of participation may be assigned when appropriate. However, no sanction is applied if the minimum monthly hours are met.

For informational purposes, we consider EI, FB, FU, FV, OJ, PB, PU, and PV as paid work components. All other components are considered non-paid work components. For paid work components, RAPIDS will add actual monthly participation hours to the monthly excused absence hours and monthly holiday hours and then divide the result by 4.33. Round that result to obtain the weekly average for TANF reporting purposes. For non-paid work activities, RAPIDS will divide monthly completed hours by 4.33, excused absence hours and holiday hours by 4, and then round the number for each entry. These items will not be added together but will be reported as individual items for TANF reporting purposes.

	Single Parent Child Under Age 6		All Family Household		Two-Parent Household		Two-Parent Household Receiving Federal Day Care	
	Minimum Monthly Hours	Average Weekly Hours	Minimum Monthly Hours	Average Weekly Hours	Minimum Monthly Hours	Average Weekly Hours	Minimum Monthly Hours	Average Weekly Hours
Work Components: Participation Requirements	85	20	128	30	150	35	236	55

1. One-Parent Families

The minimum hours of participation are 128 hours/month or 30 hours/week.

There are 2 special considerations for a 1-parent family which do not apply to households with 2 parents even when only 1 is included in the AG.

a. Parent of a Child Under Age 6

A single Work-Eligible parent with a child under age 6 meets the work participation requirement by participating 85 hours/month or 20 hours/week. The parent may be required to participate more than 85 hours, or may volunteer to participate more than the required hours, but no sanction may be imposed as long as the average level is met.

b. Parent Under Age 20

A Work-Eligible parent who is under age 20 and who does not have a high school diploma or the equivalent meets the family’s work requirement as long as he:

- Maintains satisfactory attendance at a secondary school, or the equivalent, during the month for at least 85 hours/month or 20 hours/week; or
- Participates in vocational education for at least 85 hours/month or 20 hours/week.

Individuals scheduled to attend class but who do not attend may not be credited with hours of participation. Actual hours of participation must be reported.

When class is not available for 85 hours/month, an additional activity assignment must be made to meet the minimum required hours.

## 2. Two-Parent Families

The minimum hours of participation for 2-parent families depend upon the receipt of federally funded child care. The participation requirement may be met by one or both parents. There is no requirement that each parent participate equally.

When the family does not receive federally funded child care, the minimum number of hours of participation is 150 hours/month or 35 hours/week. When the family receives federally funded child care, the minimum number of hours of participation is 236 hours/month or 55 hours/week.

**NOTE:** In a two parent family in which a parent under the age of 20, who does not have a high school diploma, that parent must maintain satisfactory attendance at a secondary school (or the equivalent) or be enrolled in a vocational education program. If both parents are under the age of 20 and do not have a high school diploma, both must meet this requirement.

## B. ABSENCES

Workers must determine whether absences are excused or unexcused. Participation for Work-Eligible Individuals is calculated on the actual hours of attendance or participation each month and converted to a weekly average. The following guidelines are used to determine actual hours of attendance/participation for planned school breaks or individual absences.

The Worker records the excused absences as a monthly total and records how the total hours were computed in Work Program comments.

### 1. Planned School Breaks and Holidays

School breaks are not counted as participation hours. Only Federally designated holidays which occur during the regular school year are counted as participation hours. The participant must have been scheduled to attend on those holidays in order to receive participation credit. See item 3 in this Section.

**EXAMPLE:** A participant is scheduled Monday through Thursday in his activity. A federal holiday falls on a Friday. He must not receive participation credit for this holiday.

### 2. Individual Absences

This policy establishes the guidelines for the treatment of hours missed in participation under WV WORKS. All missed time whether excused or unexcused, must be made up within the month in which it is missed. When it is impossible to make up time missed, the Worker must decide if the absence is excused or unexcused.

Excused absences of up to 16 hours/month, not to exceed a maximum of 80 hours in the 12-month period, including the current and the preceding 11 months, may be counted as hours worked in that month. The hours worked include the excused hours when participation did not actually occur. An excused absence includes illness or other good cause which prevented participation. It is the responsibility of the Worker to determine if the absence is excused or unexcused based on contact with the employer/contractor and client documentation. A determination of good cause may only be made by the WV WORKS staff.

Excused absences must not be used toward calculating the monthly participation hours, unless the Worker has determined that the absences meet the definition of what may be excused and the participant was scheduled to work that day. The Worker must document in comments why the absences are being excused and how the reason for the absence was verified.

**NOTE:** A fixed calendar year is not used (i.e. January – December). The running total of excused absence hours credited for the most recent 12 months (defined as the most recent month plus the preceding 11 months) must be calculated each month.

For each month the Worker must record in Work Program comments the number of hours of excused absences counted towards participation for the current month and the absence hours credited for the preceding 11 months. Each month, the preceding 11 months plus the current month must be reviewed to ensure the 80-hour limit is not exceeded in any 12-month period.

**EXAMPLE:** The timesheet for October 2009 is received. To determine the number of absence hours that may be used for October, the Worker must review all absence hours reported from November 2008 through September 2009.

**NOTE:** Additional days/hours of absence may be considered excused if appropriate, but must not count as hours of participation. Inclement weather and states of emergency are included in the 16 hours per month, maximum 80 hours/year excused absences which may count as participation.

**EXAMPLE:** During October, Mr. Foxworthy attended vocational training 18 days at 7 hours per day for a total of 126 hours. The school observed 1 federal holiday, Columbus Day. Mr. Foxworthy missed 2 days. He was ill 1 full day, 7 hours, and had a doctor's statement to verify the illness; he missed the 2<sup>nd</sup> day because he overslept. Since the excused absence may be counted and credited as participation hours, his total hours for October are 126. Seven hours are entered for holiday and 7 hours are entered for excused absences. These are separate entries.

**EXAMPLE:** Ms. Crump participates in a CWEP assignment 128 hours per month. She works 8 hours per day the first 4 weeks of each month, Monday through Thursday. There were no observed holidays during the month. In October, Ms. Crump had medical appointments and was absent on the following dates: 10/3, 2 hours; 10/11, 4 hours; 10/17, 2 hours; and 10/23, 4 hours. These absences are considered excused, the total that can be credited towards her participation for October are 12 hours for these days. Her total participation hours are 116. Twelve hours are entered for excused absences.

Form DFA-DRA-2 is used to track the number of excused absence hours in any 12-month period. This form must be attached to the case record and updated each month. A case recording must be made in Work Program comments each month listing the number of excused absence hours credited that month for participation hours and the total number of excused absence hours credited during the previous 11 months.

**NOTE:** Any ongoing cases will begin a new absence look-back period as of October 1, 2008.

**NOTE:** Because use of excused absences is limited to 16 hours per month / 80 hours per 12-month period, the Case Manager should use his discretion when counting these hours. If the participant will not meet the participation requirement when including the absence hours, it may not be in the best interest of the client to count these absence hours for participation.

Unexcused absences that cannot be made up during the month are not counted as hours of participation. Only the hours actually worked are used.

Record the results of all contacts with the employer/contractor concerning this issue in RAPIDS. At the end of the month the timesheet must correctly identify any absence. Any inconsistency or irregularity on the timesheet must be worked out with the employer/contractor. Absences that are made up during the month are not reported as excused or unexcused.

### 3. Holidays

Only federally designated holidays may be counted as days worked when the client would normally have been scheduled. These include New Year's, Martin Luther King Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

### 4. Paid Vacation/Sick Leave

When the Work-Eligible Participant is on paid vacation, paid sick leave, or paid annual leave from work, the time he would normally have spent at work during that time is counted as hours worked.

## C. PARTICIPANT DOCUMENTATION

### 1. Methods Of Documenting Participation Hours

All hours of participation in activities must be verified. The Participant Timesheet, DFA-TS-12, is the standard timesheet used to document participation. When used, it is given to providers to report attendance and satisfactory progress in the activity. These timesheets may also be given to the client to have providers complete. Some employers/sponsors have their own timesheets. These are acceptable means of verification as long as these timesheets provide the necessary information and are signed by

the site supervisor. Documentation is required and must be available from the activity site at least monthly to support what is reported for participation and may include electronic records. Monthly timesheets must be filed in participants' case records.

For Work-Eligible Participants who are employed, other documents and methods may be used to verify work hours. Although timesheets and written confirmation from the employer may be used, the following alternative methods may also be used to document these hours:

- Pay stubs
- Time cards signed by the employer
- Sign-in/sign out sheets signed by the employer
- Work schedules signed by the employer

For employment, based on valid documentation, hours may be projected for 6 months unless there is a change in the number of work hours. When this happens, then actual hours must be documented and prospectively reported for 6 months. At the end of 6 months, current hours must be re-verified. The preferred method of verification of hours is 30 days of pay stubs to be used to project the client's participation for up to a six month period.

To receive support service payments, employed participants who continue to receive cash assistance must submit a timesheet signed by the employer listing the days worked. Pay stubs cannot be used for this purpose. Employed participants who no longer receive cash assistance must submit the application for continued support service payments, DFA-SS-2. In addition, a timesheet signed by the client listing the days worked must be submitted.

## 2. Participation Calculation

The calculation of monthly participation hours for self-employed Work-Eligible Individuals (those owning/operating their own business/service, providing child care, etc.) is determined in the following manner: Gross income minus business expenses divided by the federal minimum wage. If the number of recordable participation hours fall short of the minimum required hours, additional activity placement must be made by the Worker.

**EXAMPLE:** Ms. B provides child care for her neighbor's two children, Monday through Friday from 8 a.m. to 5 p.m. The neighbor pays Ms. B \$170 per week. Ms. B claims no business expenses. Ms. B received \$731 pay for August. Her hours of participation are:  $\$731 \div \$7.25 = 100.83$  (rounded up to 101 hours.) In this example Ms. B has a work requirement of 128 hours month week; therefore, she must participate in another core or non-core work activity for no less than 27 hours/month.

To receive support service payments, self-employed Work Eligible Individuals must complete and sign a self-reported timesheet, DFA-TS-12, to determine the days actually worked.

College attendance must be verified by provision of a timesheet, DFA-TS-12, signed by the client to determine days and hours of actual attendance.

The calculation of hours of participation for other allowable activities is based on the following process:

- Step 1: Determine the client's total monthly hours of participation, as reported on his timesheet.
- Step 2: Add hours for paid vacation and paid sick leave. Do not include excused absences in this figure.

The result is the monthly participation hours which are entered by the Worker and recorded in Work Program comments.

Time for excused absences as found in Section 24.3,B, up to 16 hours is entered separately. Time for federally designated holidays is entered separately and is not converted to a weekly average.

For informational purposes, we consider EI, FB, FU, FV, OJ, PB, PU, and PV as paid work components. All other components are considered non-paid work components. For paid work components, RAPIDS will add actual monthly participation hours to the monthly excused absence hours and monthly holiday hours and then divide the result by 4.33. Round that result to obtain the weekly average for TANF reporting purposes. For non-paid work activities, RAPIDS will divide monthly completed hours by 4.33, excused absence hours and holiday hours by 4, and then round the number for each entry. These items will not be added together but will be reported as individual items for TANF reporting purposes.

**EXAMPLE:** The participant is required to complete 128 hours in a core activity. He actually participates 103 hours in JR and will receive 8 hours for federally designated holiday. Attached to his time sheet were 2 doctor’s statements for 16 hours of excused absences. Hours will be entered on as follows:

Component	Scheduled Hours	Completed Hours	Monthly Excused Hours	Monthly Holiday Hours
JR	128	103	16	8

RAPIDS will divide each of these entries by 4 since this is a non-paid work component.

$$\begin{array}{r}
 103 \div 4.33 = 23.79 = 24 \quad \text{average hours/week attended} \\
 16 \div 4 = 4 \quad \text{average hours/week excused absence} \\
 8 \div 4 = \underline{2} \quad \text{average hours/week for federal holidays} \\
 \quad \quad \quad 30 \quad \text{weekly average}
 \end{array}$$

3. Case Recordings

Appropriate case recordings are required in documenting participation hours for Work-Eligible Individuals and how support service payments are calculated (Example, transportation).

4. System Coding Of Participation Hours

Participation hours for months in which WV WORKS benefits were received must be entered in RAPIDS Work Programs as soon as possible but no later than the last day of the following month. The Worker must be certain to enter the hours of participation for the correct month.

For entry of participation hours after the deadline, please refer to the RAPIDS Work Programs Desk Guide, “Expansion of Component Entry and Work Hours Entry Deadlines”.

D. DISABILITY/INCAPACITY – DEFINITION ONLY FOR MINIMUM PARTICIPATION RATE

**NOTE:** The following definitions are used to determine the family’s minimum hour of participation, i.e., whether or not there is a disabled or incapacitated parent. See item A above. Meeting either definition does not automatically exempt the family or individual from the 60-month or 24-month time limits described in Section 15.6 and 15.7.

Disability and incapacity for a Work-Eligible Individual may be established with or without a physician's statement as follows:

1. Establishing Disability Without A Physician's Statement

When the disability is obvious to the Worker, no verification is required. The Worker must record his findings and the reason for his decision in case comments.

If the disability is not obvious to the Worker, disability may be established according to other criteria below. If disability cannot be established according to this item (1), see item 2 below.

- The individual receives benefits from a governmental or private source, and these benefits are based on his own illness, injury or disability.

This includes, but is not limited to: Workers' Compensation, RSDI, SSI, Veteran's Administration (VA) benefits, Black Lung benefits, Medicaid (incapacity, blindness or disability), private insurance, sickness benefits, etc. However, if any of these conditions are questionable, such as a low percentage disability for VA benefits, a physician's statement may still be required.

For SSI and RSDI purposes, being certified for these benefits (approved, but not yet receiving payment withheld to repay, etc.) is the same as receiving them.

- The individual is a veteran with a service-connected or non-service connected disability, rated or paid as total, under Title 38 of the United States Code.
- The individual is a veteran who is considered by the VA to be in need of regular aid and attendance, or permanently housebound, under Title 38 of the United States Code.
- The individual is a surviving spouse of a veteran and is considered by the VA to be in need of aid and attendance, or permanently housebound, under Title 38 of the United States Code.
- The individual is a surviving child of a veteran and is considered by the VA to be permanently incapable of self-support, under Title 38 of the United States Code.
- The individual has one of the following conditions:
  - Permanent loss of use of both hands, both feet or one hand and one foot

## WV WORKS Activities/Requirements

- Amputation of leg at hip
  - Amputation of leg or foot because of diabetes mellitus or peripheral vascular diseases
  - Total deafness, not correctable by surgery or hearing aid
  - Statutory blindness, unless due to cataracts or detached retina
  - IQ of 59 or less, which was established after attaining age 16
  - Spinal cord or nerve root lesions resulting in paraplegia or quadriplegia
  - Multiple sclerosis in which there is damage of the nervous system because of scattered areas of inflammation which recurs and has progressed to varied interference with the function of the nervous system, including severe muscle weaknesses, paralysis and vision and speech defects.
  - Muscular dystrophy with irreversible wasting of the muscles with a significant effect on the ability to use the arms and/or legs.
  - Impaired renal function due to chronic renal disease, documented by persistent adverse objective findings, resulting in severely reduced function which may require dialysis or kidney treatment.
  - Amputation of a limb, when current age is 55 or older
- Recipients of federal, state or local government disability retirement, who receive such benefits due to one of the conditions specified above. This includes, but is not limited to, payments under Civil Service Retirement (CSR) and Federal Employee Compensation Act (FECA).
  - Those individuals who receive federally- or state-administered supplemental benefits under Section 1616 (a) of the Social Security Act (optional state supplementation to SSI payments) provided that eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act or under Section 212 (a) or Public Law 93-66. West Virginia has no such program.

- Recipients of annuity payments, under Section 2,(a),(1),(iv) of the Railroad Retirement Act of 1974, who also have been determined eligible to receive Medicare under the Railroad Retirement Act.
- Recipients of an annuity payment, under Section (2),(1),(1),(v) of the Railroad Retirement Act of 1974, who have been determined to be disabled based on the criteria used under Title XVI of the Social Security Act.
- Recipients of benefits from the following Medicaid coverage groups:
  - SSI-Related Medicaid
  - HCB Waiver
  - MR/DD Waiver

## 2. Establishing Disability With A Physician's Statement

The following criteria must be met to establish disability when the individual does not qualify according to item 1 above.

### a. Definition of Physician's Statement

The term physician's statement means a medical report from a licensed medical professional, including but not limited to:

Physicians, Surgeons, Doctors of Osteopathy, Chiropractors, licensed or certified Psychologist, Nurse Practitioners, etc.

### b. Content of the Physician's Statement

Generally, the statement must contain enough information to allow the Worker to determine if the client is disabled. If the physician makes a definite statement that the client is permanently and totally disabled, no further information is needed. Usually, however, the physician describes the situation, and the Worker must make the determination. In these situations, the statement must contain:

- The type of condition, including the diagnosis if known;
- Any unusual limitations the condition imposes on the client's lifestyle; and

- The length of time the condition is expected to last. This is required only to set a control for reevaluation; there is no durational requirement for which the condition must exist or be expected to exist.

c. Making the Determination

Once the necessary information is received, the Worker makes the determination based on the following guidelines:

- If the condition is one listed in Appendix D of Chapter 12 as a guideline for presumptively approving an AFDC Medicaid or AFDC-Related Medicaid case, disability is established. No durational time limits are imposed.
- Any other condition must impose limitations on the client's normal way of life. For example, a case of hypertension, requiring only a special diet and daily medication, does not substantially alter an individual's way of life, since eating is part of his daily routine, and taking medication does not significantly interrupt normal activities. However, a diagnosis of hypertension requiring daily medication, special diet, frequent rest periods and avoidance of stress substantially limits a normal lifestyle.

3. Establishing Incapacity

The definition of incapacity and the procedures for making the determination that are found in Section 12.3,C apply here.

E. LIMITATIONS ON DATA SYSTEM ENTRIES

The following limits must be used when entering hours of participation for Work-Eligible Individuals in RAPIDS.

- Job Search - Limited to entries of 161 hours/month unless the client is able to document more hours. Job Search activities include, but are not limited to, time spent on: travel, making phone calls, interviews, completing employment applications, preparing resumes, etc.
- Truckers - Limited to entries of 261 hours/month, unless the client is able to document more hours.
- Paid In-Home Care Providers - Limited to entries of 175 hours/month, even when 24-hour care is needed.