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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 90 LCM-101

Date: July 12, 1990

Division: Income Maintenance

TO: Local District Commissioners

SUBJECT: State Enabling Legislation for Job Opportunities and Basic Skills Training (JOBS) Program

ATTACHMENTS: Senate Bill 4763-C - not available on-line.

I. INTRODUCTION

- A. The New York State Legislature recently enacted legislation to implement the Job Opportunities and Basic Skills Training (JOBS) Program. The previous memorandum on this subject (90 LCM-83) was based primarily on the contents of federal JOBS regulations, and advised that state enabling legislation, which had yet to be passed, might necessitate changes to its description of the JOBS Program.
- B. The new legislation creates a JOBS Program in New York State effective October 1, 1990. Following is a summary of the provisions of this law, with special attention to areas in which the state law decides options given the states by federal law and regulation. The two such areas of particular significance are:
 1. Program Components: All program components, except for Home Relief On-the-Job-Training and Job Opportunity (J/O), are mandatory in local districts.
 2. Supportive Services: Each social services district must provide a full range of supportive services (including child care and work-related); however, local districts will be able to choose whether to provide the 90-day transitional services (those other than child care and Medicaid). Case management is mandatory for certain recipients who participate in JOBS.

A copy of the state legislation in the form of a Senate bill is attached for your information.

II. SUMMARY OF NEW YORK STATE JOBS LEGISLATION

A. Policies and Purposes

The purpose of the act is to establish a JOBS program for public assistance recipients to promote the transition of these individuals into unsubsidized employment, consistent with the Family Support Act of 1988 PL (100-485). Local social services districts are given the authority to contract with or establish agreements with public and private agencies including school districts, community based organizations, trade schools, libraries, and post-secondary educational institutions for the provision of JOBS activities. Districts are required to guarantee child care to both ADC and HR recipients who are participating in JOBS or those who are off public assistance due to employment and are eligible for transitional child care for up to one year.

B. Definitions

The legislation provides the following definitions:

1. Target Groups - persons who: have received ADC for any 36 of the preceding 60 months; are custodial parents under age 24 who have had little or no work experience in the preceding year or who are not enrolled in and have not completed a high school education or its equivalent; or who are members of families in which the youngest child is within two years of being ineligible for ADC due to age.
2. Net Loss of Cash Income - the amount by which a family's gross income (earnings, unearned income, cash assistance and other) after any necessary work-related expenses is less than the cash assistance the family was receiving at the time the individual received an offer of employment.
3. Child Day Care - any lawful form of care of a child, as defined by federal and state law and regulation, for less than 24 hours per day. (Types of child care are further defined in 90 LCM-45.)
4. Participant - an applicant or recipient of ADC, HR or Veteran Assistance who volunteers for or is required to participate in the JOBS program.

C. Participation and Exemptions

The same exemptions which exclude individuals from "employable" status apply to both ADC and HR applicants/recipients. New York has elected not to require caretaker parents of children under age three to participate in JOBS, which was an option under federal regulation. For participants age 16-19, assignment to education is mandatory without regard to the age of the youngest child.

Districts are mandated to require sufficient numbers of employable recipients to participate in JOBS to meet federal participation and target group requirements, and are allowed to require more than this number of employables to participate if resources permit. Volunteers within target groups are treated according to federal regulation. Non-target group volunteers also have priority, but not to the exclusion of other non-target group individuals the district requires to participate because they are in greater need of JOBS activities and services, as provided for in the local JOBS plan.

D. Supportive Services

Each district is required to provide all of the supportive services allowable under federal regulations, subject to the availability of federal and state funds. Case management is required also, for all TASA eligibles - pregnant adolescents, adolescent parents, and at-risk youth under age 18 - and, if resources permit, for the following groups, (in order of priority):

1. other at-risk youth, as defined in Department regulations;
2. persons in the target populations;
3. persons whose employability plan indicates a need for two or more concurrent activities; and
4. persons with limited English proficiency.

E. Child Day Care

The legislation requires the local district to provide child day care to JOBS participants, and for up to one year to former public assistance recipients (ADC and HR) who have lost their PA eligibility due to increased hours of, or income from, employment or to loss of the 30 and one-third earnings disregard. To qualify for transitional child day care, the family had to have received ADC in three of the six months prior to losing ADC eligibility.

Local districts must inform public assistance recipients at orientation of the availability of child day care services. The assessment and employability plans must include an assessment of child day care needs including any special needs of the child. Additionally, districts must inform recipients of available child care options, and must assist recipients in locating and selecting care, when requested. Parents may also arrange their own care.

Child day care may be provided directly, through purchase of service contracts, cash, vouchers or reimbursement to the caretaker relative. Reimbursement to the districts will be based on the actual cost of care up to the local market rate. Parents in receipt of transitional child care are required to pay a fee towards the cost of care. The fee is based on the family's gross income. (Refer to 90 LCM-45 for further information on transitional child care.)

F. Local Plans and Requirements

1. Social services districts must submit to the Department an annual plan for JOBS, as is currently required under CEP. These plans must be developed in cooperation and coordination with:
 - a. public and private education institutions;
 - b. child day care providers;
 - c. child day care resource and referral agencies;
 - d. labor unions;
 - e. libraries;
 - f. employment and training agencies; and
 - g. Private Industry Councils (PICS).
2. Local district plans must include, at minimum:
 - a. the number of participants to be served, including those in the target populations;
 - b. a description of the availability of child day care by type; estimates of projected need for additional child day care, and the steps that will be taken to meet the need; and information and assistance to be offered to participants regarding child day care options and selecting from those options, including how participants will be assisted in locating appropriate child day care;
 - c. a description of other available supportive services;
 - d. a description of available activities and their capacity;

- e. a description of the district's plan to meet federal participation requirements, including the criteria for requiring certain non-target group members to participate ahead of non-target group volunteers;
 - f. a list of education and training agencies with which the district expects to enter into agreements or contracts, and descriptions of the latter;
 - g. a description of the orientation to be provided to participants;
 - h. a description of the assessment tools chosen and the qualifications of the employees who will be performing assessments, and a statement of what entity will be responsible for assessments;
 - i. a description of the conciliation procedure to be made available to participants; and
 - j. such additional information as is necessary to meet federal requirements, including reporting requirements.
- 3. Local plans for years after 1990 must be made available for public comment for 30 days prior to submission to the Department. In 1990, submission to the Department and the start of the public comment period may be simultaneous.
 - 4. The Department will issue guidelines and forms shortly for the districts to use in preparing their JOBS plans.

G. Orientation

The legislation follows the requirements of federal regulations in providing for the procedure and content of recipient orientation. (See 90 LCM-83, page two for details.)

H. ADC and HR Assessments and Employability Plans

The legislation follows federal regulations concerning individual assessments and employability plans for ADC recipients, allowing no participation in JOBS activities other than a three-week job search prior to completion of the assessment and employability plan (EP).

The legislation provides that assessment and EP development for HR recipients should be performed within a reasonable period of time after application, as determined by the availability of resources after ADC recipients have received their assessments and EPs, but no later than one year after application.

The assessment must include a review of the family's child day care and other supportive services needs as well as a review of any special needs of the child.

I. Activities

1. The legislation requires the establishment of the following JOBS activities in each social services district, in accordance with federal regulations:
 - a. education, including self-initiated education and no more than a total of two years of post-secondary education at a community college, licensed trade school, registered business school, two year college, or a two year associates degree program at a four year college.
 - b. job skills (vocational) training;
 - c. on-the-job training for ADC participants;
 - d. job-readiness training;
 - e. job development and job placement;
 - f. work supplementation for ADC recipients;
 - g. work experience, with a six month time limit during any period of eligibility for public assistance; and
 - h. job search;
 - i. referral to NYS Job Service.
2. The following activities may be provided at the option of the social services district:
 - a. on-the-job training for HR participants (includes HR TEAP and JOBS OJT);
 - b. Job Opportunity (J/O) program for HR participants.

J. Responsibilities and Cooperation of State Departments and Agencies

The legislation designates the Department of Social Services as the single State agency responsible for administration of JOBS and authorizes it to enter into agreements with any state agency, district or other entity for the performance of activities under JOBS. The Department of Social Services is required to enter into such arrangements with the Department of Labor, the State Education Department or any other State department as may be necessary to implement JOBS.

K. Reports

Starting in 1992, by the first day of every February the Department must produce a report to the Governor and Legislature on the JOBS Program, containing at a minimum information reported statewide and by district on program costs, service and placement levels (for volunteers and mandatory participants), grant savings and Department efforts and recommendations to improve the program's results.

L. Technical Assistance

The State Department of Social Services is required to provide technical assistance to local social services districts in the development, implementation and administration of the JOBS program. The Department also is required to monitor the local districts' implementation of the program, including reviews of sample cases.

M. Dispute Resolution

Clients disputing their assignments to JOBS activities must be provided a mechanism to contest these assignments. Local districts will contract with independent entities or use designated trained supervisory staff to mediate such disputes.

N. Conciliation Procedure and Sanctions

The Department is required to establish in regulation a conciliation procedure for cases of failure or refusal to comply with JOBS requirements. Districts are required to send a 14 day notice to non-compliant participants to inform them of their right to conciliation. Conciliation conferences must be conducted by contracted outside entities, or district supervisory employees not involved in the case. A ten day notice of intent to discontinue or reduce assistance, and of the right to a fair hearing, will be sent to recipients who do not respond to the first letter, or who fail to prove at the conciliation conference that their non-cooperation was not willful or was with good cause. The process must be completed within 30 days of the date of application for conciliation, unless extended by mutual agreement. No sanctions relating to the disputed matter may be imposed during the conciliation process.

Sanctions for HR recipients are retained as under current law. Sanctions for ADC recipients follow federal regulations (see 90 LCM-83 page eight). For both categories, districts must furnish notices after the expiration of the applicable minimum sanction period reminding the sanctioned individual of the option to end the sanction by participating in JOBS or accepting employment.

O. Medicaid

The legislation provides uniform six-month extensions of Medicaid eligibility for ADC and HR families who would otherwise lose Medicaid because increased income or loss of income disregards renders them ineligible for public assistance. Those families who received the entire six months of Medicaid and met all reporting requirements are eligible for an additional six months of medical assistance benefits. Both are contingent upon the family continuing to include a dependent child, and not having average gross earnings greater than 185% of the poverty line after deduction of child day care expenses.

P. Reimbursement

The legislation authorizes federal funds to be paid to the districts for JOBS program and administrative costs at 50% and 60% rates depending upon the category of the cost. For transitional child care, a reimbursement rate of 87½% is authorized. Districts are prohibited from using child day care funds available under the program to supplant any other existing funds utilized for this purpose.

Q. Miscellaneous Provisions

1. Higher Education Services Corporation Notice

The legislation adds a new provision to the Education Law requiring the Commissioner of the Higher Education Services Corporation to provide information to any person determined to be a public assistance recipient that training, employment services and opportunities are available through the JOBS program.

2. Labor Mediation

The legislation amends the Labor Law to provide that the State Mediation Board will resolve complaints by regular employees that the work assignment of JOBS participants violates workers' compensation and tort claims protections.

Questions concerning the state JOBS legislation should be directed to your Bureau of Employment Programs Technical Advisor at 1-800-342-3715 extension 3-8744. Child care questions should be directed to the Bureau of Child Care at extension 4-9324.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance