

**DSS ADMINISTRATIVE LETTER
FAMILY SUPPORT AND CHILD WELFARE SERVICES FSCWS-06-08**

TO: County Directors of Social Services

ATTENTION: Work First Administrators, Program Managers, and Supervisors

DATE: March 20, 2008

SUBJECT: FLSA and Child Support Income; Tax Rebate Checks

EFFECTIVE DATE: Upon Receipt

FLSA and Child Support Income

The Deficit Reduction Act of 2005 reminded states that minimum wage laws under Fair Labor Standards Act (FLSA) must be adhered to when determining the maximum number of hours for the participant to complete in work experience and community service work activities. Current Work First policy requires that the Food and Nutrition Services allotment and the Work First grant be added together and divided by North Carolina's minimum wage of \$6.15 to establish hours for the participant. However, child support income has not been addressed in policy to date.

This letter is to clarify that child support income that is assigned to the Department of Health and Human Services as required by Work First Policy Section 116 or received by the family unit, must **not** be counted towards the minimum wage calculation. Child support is a legal obligation for the absent parent and the custodial parent. Upon recommendation from our legal specialists, child support income should not be considered in the minimum wage calculation under FLSA.

Work First Policy Section 114 IV. Budgeting Income A. Prospective Budgeting instructs the case worker to budget all income prospectively when determining the Work First Family Assistance payment. This method is based on income projected to be received in that month. For example, July's Work First Family Assistance payment is based on the income projected to be received in July. Therefore, the case manager must ensure that the FLSA minimum wage calculation does not include projected child support.

As a reminder, the calculation of hours based on the FLSA guidance determines the maximum number of hours a participant can complete without violating minimum wage laws. The Deficit Reduction Act of 2005 introduced the process of deeming hours, which allows a participant to complete the maximum number of hours allowable based on the minimum wage calculation. If that number is below an average of 20 hours per week, then you may "deem" that person to have completed an average of 20 hours per week of work for that month. For example, if a person is limited to 76 hours per month and if he/she actually completes 76 hours in a month, you may "deem" him/her to have completed 20 hours a week and key the corresponding number of hours into EPIS. Refer to Work First Policy Section 118 III Federal Work Activities for more guidance.

Tax Rebate Checks

Starting in May, the United States Treasury Department will begin sending economic stimulus payments or tax rebate checks to taxpayers. To receive a payment, taxpayers must have a valid Social Security number, at least \$3,000 of income and file a 2007 federal tax return. The Internal Revenue Service (IRS) advises taxpayers that in most cases, the taxpayer does not need to do anything.

For purposes of determining TANF eligibility, the tax rebate check would be considered the same as an income tax refund. Therefore, it would not be counted as income or a resource. Refer to Work First Section 114 on Income and 115 for Resources for further guidance.

Stimulus payments will be subject to offset against outstanding tax and non-tax liabilities as regular tax refunds.

If you have questions around this issue, please contact your Work First Representative or Carla McNeill at (919)-733-4622.

Sincerely,

A handwritten signature in black ink that reads "Charisse S. Johnson". The signature is written in a cursive, flowing style.

Charisse Johnson, Chief
Family Support and Child Welfare Services

cc: Sherry Bradsher
Jo Ann Lamm
Sarah Barham
Family Support and Child Welfare Team Leaders
Children's Programs Representatives
Local Business Liaisons