



Office of Addiction Services and Supports

RE: Limitations on Participant Work Activities

PURPOSE

The purpose of this Guidance is to inform providers of the Office of Addiction Services and Supports (OASAS) policy regarding the appropriateness of participant involvement in work activities that are not directly related to their treatment and rehabilitation.

CONTEXT

A primary objective of treatment for persons who have substance use disorders is to return these individuals to a productive lifestyle. In treating participants, service providers are expected to uphold legal and ethical standards of professional conduct; respect the integrity and assure the welfare of the participant and not exploit participants for whom they have responsibility.

The population we serve often have long histories of abuse and neglect. Providers should be cognizant of the potential for participants being triggered by activities may be perceived as exploitive or profiteering. The power differential inherent in the therapeutic process between the participant and staff/agency should always be considered when assigning work activities as a part of the treatment plan. Empowerment is key to recovery. It is paramount that service providers do not take unfair advantage by placing undue pressure on any participant to partake in any activity that does not have a clinical purpose within the context of an individual's treatment plan. Participants shall not be required to perform labor or personal service for any staff member, or agency, nor be subjected to coercion or undue influence from any staff member or the agency for purposes of individual or personal benefit.¹

LIMITATIONS ON PARTICIPANT ACTIVITIES

OASAS has placed the following limitations on participant activities:

- Provider Fund Raising Activities

The practice of using any participant in any fund-raising activities on behalf of the provider, such as the soliciting of donations or signatures, is prohibited. Such activities have no therapeutic benefit to the participant.

- Work Activities

¹ See 14 NYCRR 815.5 (a)(16)



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The providers may involve participants in work activities only to the extent that the activity supports clinical goals such as improving social and vocational skills. Work activities must be documented in the participants case record (i.e. Individualized treatment plans and updates, progress notes, vocational assessment) as beneficial to the participants recovery.

The work experience should afford the participant choice and autonomy in addition to vocational skill building that include resume writing, mock interviews, and performance evaluation as they are supervised. Work activities when utilized appropriately are a tool to build community cohesion, learned responsibility, challenge the participants self-image and are important opportunities to facilitate personal change.

Work activities may be in the form of Adult livings skills (ADL's), stipends, internships, certificate-based training programs and volunteering.

The opportunity to perform service-related activities can be an integral part of the recovery process. In addition to volunteer opportunities provided by addiction recovery groups such as AA and NA, working with adults, animals and other community providers positions participants for compelling gains. Volunteering can help people seeking long term recovery reclaim a sense of belonging that they may have lost due to addiction. In addition to building connections with others, volunteering can engender feelings of purpose and power, and foster community engagement. Addiction can cause people to feel isolated from their family, friends, and sometimes society. Volunteering provides an opportunity to reintegrate into a community. It also gives those in recovery a chance to surround themselves with positive influences. Volunteer activities must be voluntary, and providers cannot require participants to offer their services as a precondition to treatment.

When the allowable work activity is of consequential economic benefit to the service provider, the participant must be compensated in accordance with applicable Federal and State Labor Laws.²

The service provider's involvement of participant in any work activities that are not specifically documented in the patient's/client's case record as beneficial to the individual's recovery, as described above, **is prohibited**.

In engaging participant in employment or other work-like activities, providers should be cognizant of the requirements of the Federal Fair Labor Standards Act (29 USC Section 206) and the State Minimum Wage Act (Title 19 New York State Labor Law).

² See 14 NYCRR Part 815.5(a)(16)



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No employment relationship exists when the participant is involved in the following activities:

- performing personal housekeeping chores, such as maintaining his or her own quarters at a residential facility. These can be documented as Adult Living Skills
 - making craft products, where the participant voluntarily engages in this activity and,
 - the products become the property of the participant; or
 - the proceeds resulting from the sale of the products are distributed among the patients/clients participating in the craft making activity; or
 - the proceeds resulting from the sale of the products are used to purchase the materials used in the making of the craft products.
 - performing work development activities designed for the participants therapeutic benefit which are of no economic benefit to the provider and for which the participant may receive a small stipend.
- **Work Activities Federal Labor Law Restrictions**

Where an employment relationship exists, the provider is required to pay the patient/client worker an amount not less than the Federal statutory minimum wage, unless the provider secures a special certificate from the Wage and Hour Division of the U.S. Labor Department authorizing payment of a subminimum wage to the patient/client worker.

There are four types of special certificates: (1) evaluation and training, (2) group minimum wage, (3) individual exception and (4) work activities center. Under each type, the patient/client must receive at least commensurate pay, i.e. wages that are commensurate with those paid to non-disabled workers employed by the provider or in industry, maintaining acceptable standards in the area labor market for essentially the same type, quality and quantity of work.

Aside from the protections afforded to patient/clients in Federal and State Law, the provider must use discretion in the employment of current and former patients/clients to ensure that they are properly screened to assume the types of work assignments that: (1) do not jeopardize the confidentiality rights of other patients/clients; (2) do not compromise the objectivity of urinalysis testing; and (3) do not provide them free access to controlled substances.



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- **Political Activities - Prohibitions**

Providers are prohibited from requiring patients/clients to participate in political activities as a condition of their treatment and rehabilitation.

Accordingly, providers are specifically prohibited from requiring patients/clients to:

- campaign for candidates;
- solicit funds on behalf of candidates;
- participate on behalf of the provider in any activity designed to affect the outcome of any election, including the dissemination of campaign literature;
- engage in any lobbying activity on behalf of the provider designed to influence any government actions;
- engage in voter registration activity; and
- make campaign contributions to candidates.

This does not preclude the voluntary involvement of participants in political activities, as a legitimate exercise of their Constitutional rights.

STATEMENT OF PATIENT RIGHTS

Providers are encouraged to incorporate provisions in their individual “Patient Rights” policies, procedures and literature that include limitations on participants activities described in this Guidance