

First Step Act Video from BOP

Tue, Jul 16, 2024 2:32PM 46:26

SUMMARY KEYWORDS

fsa, credits, earn, eligible, pattern, applied, custody, assessment, eligibility, programming, complete, recidivism, incentives, ftc, placement, confinement, first step, pre release, include, release

SPEAKERS

Shana Grimes, Speaker, Jeremy Cooper, Unknown Person, Dr. Jason Gabel

S Shana Grimes 00:02

Hello. My name is Shana Grimes, and I'm the executive assistant for the reentry services division. I'm excited to be here to discuss a topic of utmost importance to all adults in custody within the Federal Bureau of Prisons, the family and friends of those in custody and to those committed to criminal justice reform, the first step Act. The first step Act, or the FSA, was a criminal justice reform bill that was signed into law on December 21, 2018 the primary objective was to address issues within the federal criminal justice system to include sentencing reform, conditions of confinement and rehabilitation programs. It was designed to bring about positive change for all federal adults in custody as an adult in custody in the Federal Bureau of Prisons. There are many reasons why you should know about the FSA and its potential benefits. For example, the FSA promotes evidence based recidivism reduction programs, which can help you to better prepare for reintegration into society upon release. These programs include, for example, job training, mental health treatment, substance use treatment and much more. The FSA also establishes a system of earned time credits, which allows for some adults in custody to earn credits for successful participation in programming. These credits can be applied to earlier release, to your supervised release term and or to transfer to pre release custody such as a halfway house or home confinement. It is important to note the applicability of the FSA to individual cases varies, and not all adults in custody will be eligible for all FSA benefits. However, the FSA represents a significant step towards criminal justice reform and offers opportunities to work towards rehabilitation and earlier release. Unfortunately, many adults in custody are confused by the FSA, and there continues to be a lot of misinformation about what FSA is and what it's not. The purpose of this video is to provide you with an overview of the first step act so that you can understand how it may affect your specific situation. Today, I'm here with Dr Jason Gable, the North Central Region Psychology Services Administrator, and Jeremy Cooper, the North Central Region Correctional Programs Administrator. They have been traveling to BOP institutions and speaking with BOP employees and thousands of adults in custody about the First Step Act. They are here to share this information with you. First, Dr. Gable is going to discuss FSA eligibility, the SPARC 13 needs assessment and FSA incentives. Then Mr. Cooper will discuss the PATTERN risk assessment and FSA time credits, known as FTCs, we have been listening, and we will end by answering FSA questions by adults in custody. I'm now going to turn it over to Dr Jason Gabel,

D

Dr. Jason Gabel 02:51

Thank you Ms. Grimes. All adults in custody in the Federal Bureau of Prisons are eligible for most of the benefits of the First Step Act. The FSA allows you to receive incentives for successfully participating in evidence based recidivism reduction programs or ebrs and productive activities or pas. Many people assume if they're not eligible for FSA time credits, and they are not eligible for any FSA benefits. But this is not true. FTCs are only one type of FSA incentive. You can still earn other FSA incentives, even if you are not eligible for FTCs. So how are FSA incentives earned? Think of FSA eligibility as a light switch. It's either turned on or off. You are either in opt in status or you are not. There are things that must be done to turn on your FSA. Eligibility for incentives, first upon initial designation, Bureau employees assess 13 need areas with a tool referred to as the Standardized Prisoner Assessment for Reduction in Criminality or SPARC 13. These needs assess factors that may reduce your risk of recidivism. A need indicates what issues are affecting your risk of reoffending and should be addressed through programming, which in turn impacts your ability to live a healthy and productive life. Seven of your 13 needs assessments do not involve your participation. BOP employees will complete these for you. These include mental health, medical recreation, leisure, fitness, finance, poverty, substance use, education and work. Six of your needs assessments do require your participation. These include anger, hostility, antisocial peers, cognitions, family parenting, trauma and dyslexia. The trauma assessment is completed with psychology services employees, typically at the time of your intake assessment. The dyslexia assessment is completed with education employees, the anger, hostility antisocial peers, cognitions and family parenting assessments are typically completed on your electronic bulletin board system or true links, and consist of two surveys. Please remember you must fully complete both surveys missing or not answering even just one question will result in an incomplete survey. Once the need is assessed, it will determine if you have a need or you do not have a need. If you refuse to complete any of the six needs assessments that require your participation, you will be placed in refused status and considered opted out of FSA participation until you complete all the necessary assessments. Your light switch is turned off and you are not eligible for FSA incentives. Second, you must comply with the Financial Responsibility Program or FRP. If you are not compliant with FRP, your eligibility will be suspended and you will not be eligible for FSA incentives. Third Bureau of Prisons employees will recommend FSA programs for you to address your individual needs. These programs include EBRRs and PAs. EBRRs are structured groups or individual activities that address one or more of your identified needs and are shown to reduce recidivism. PAs are group or individual activities that enhance skills and address identified needs. You must successfully participate in complete recommended programming to address your needs, declining FSA programming will put you in opt out status, turning off your FSA incentive eligibility, to summarize, to be an opt in status for FSA incentives, you must do three things, complete both self assessments and both in person assessments, if required, to be FRP compliant, if applicable, participate in recommended FSA programming to address your assessed needs. It's important to note there is no penalty for being on a wait list for recommended FSA programming. Now that we know about FSA eligibility, we can review the FSA incentives. These include phone privileges, visitation, near release, transfer, Achievement Awards, preferred housing incentive events and FTCs. As you can see, there are numerous FSA incentives, the phone privileges, or if available, video conferencing privileges, include up to 30 minutes per day for up to 510 minutes per month. The FSA achievement award is for when you complete an EBRR over 100 hours upon completion, you will receive a \$50 FSA achievement award or placement on a preferred housing unit. If you complete an EBRR under 100 hours, you will be invited to a quarterly FSA incentive event, such as a movie night, special visit session or a parent child event. Please note you must have an identified need for the EBRR completed to

receive these incentives. As you can see, there are numerous FSA incentives. Now that we have discussed FSA needs assessments and FSA incentives, Mr. Cooper is going to explain the risk assessment process and FTCs.

J Jeremy Cooper 08:52

Thanks Dr Gable. Prisoner assessment tool, targeting estimated risk and need or PATTERN is a dynamic system designed to evaluate your risk of reoffending after incarceration. It assigns you a risk level based on your behavior prior to and during incarceration. PATTERN captures historical information, including disciplinary records, programming, educational achievements and other areas. PATTERN is externally reviewed on an annual basis and has been revised numerous times. Let's take a look at the current PATTERN scores. As you can see, pattern calculates your risk of recidivism, measured as minimum, low, medium or high. Your first PATTERN assessment is done at your initial classification, called Team, within 28 days of your arrival at your designated institution, your case manager generates a pattern worksheet, and you will receive a copy during your team meeting. What you will see in your PATTERN worksheet is your general risk level and violent risk level. These might be different levels. However, the one that is highest is your assigned level. So if you have low risk for general, but minimum risk for violent you are low risk. The goal is to lower your PATTERN score. The lower the score, the lower the risk level. One way to lower your PATTERN is to complete programs. Your pattern worksheet shows you how many and what type of programs you have completed, as well as how many and what work programs you have completed, do not confuse the courses recommended for you to take based on your needs assessment as the same courses that will help lower your PATTERN score. The only programs that count toward programs completed are ACE courses, post secondary education courses, drug education, parenting, life, connections, brave, challenge, skills, sex offender treatment, programming, stages and step down courses, please utilize our extensive list of ACE courses available through the education department to reduce your pattern score. Work programs that count are technical and vocational programming, as well as working in UNICOR, as long as you have completed one other vocational or technical program, your pattern score will be updated at every team or program review. Some of the risk categories you have no control over. Examples include your age, Walsh assignment, whether your current offense was violent, criminal history points, history of escapes and history of violence, but others, you do have control over. I already mentioned some types of programming. However, there are risk specific programs in the areas of education and substance use that will lower your pattern score, like obtaining a GED and completing non residential DAP or RDAP, not receiving incident reports and being FRP compliant will also help lower your pattern score. What you do matters, the choices you make while in custody impact not only your pattern level and FSA incentive eligibility, but also help determine your path to a healthy and productive life as previous. Previously mentioned, FTCs are one type of incentive. This incentive is only available to eligible adults in custody. The FSA allows eligible adults in custody to earn days or credits towards your supervised release term or transfer to pre release custody, known as halfway house or home confinement. The goal is to incentivize you to actively participate in programming to reduce your risk of recidivism and maintain it throughout your term of incarceration. So how do you earn FSA time credits known as FTCs? I mentioned you will have your first team within 28 days of arrival, your case manager will complete a review of your eligibility to earn FTCs. In order to be eligible, you must be sentenced to a term of imprisonment pursuant to a conviction for a federal criminal offense and be at your designated institution. Federal criminal offenses do not include DC code, military or tribal authority, your time credit eligibility is determined by your current conviction in most cases, but there are a few circumstances where a prior conviction for a violent offense will

result in you being ineligible to earn FTCs. The FSA specifically outlines the convictions that are precluding meaning. If you are convicted of one of the listed statutes in the FSA, you do not qualify to earn FTCs. For example, if you were only convicted of a 924 (c) or use or possession of a firearm during or in furtherance of a crime of violence or drug trafficking, you are not eligible to earn FTCs. If you were convicted only of a 922(g) convicted felon in possession of a firearm, you are eligible to earn FTCs. If you are outside the institution, for example, furlough, writ, escort trip outside hospital placement and others, you will continue to earn FTCs if you are in the institution for any part of that day. However, if you are outside of the institution for the entire calendar day, you will not earn FTCs for that period of time. When you return to the institution, you will resume earning FTCs. Now that we have discussed your eligibility to earn. How are the FTCs accrued? All FTC eligible adults in custody coming into the Bureau of Prisons, start out earning at a rate of 10 FTCs every 30 days you are in opt in status. Once you have completed two FSA assessment periods as a minimum or low risk level, you will begin earning at a rate of 15 FTCs per 30 days you are in opt in status. Your first FSA assessment period is 28 days, and your subsequent FSA assessment periods are 180 days if you have more than a year to serve, and 90 days if you have less than a year to serve. FTCs are calculated once per month. The next question is, how are your FTCs applied? There is a difference between eligibility to earn FTCs and eligibility to apply FTCs. To have your FTCs automatically applied, you must have a low or minimum pattern level. You also must remain opted in and not refuse or decline to participate in any recommended programming. If you have a medium or high pattern level, you could petition the warden and request your FTCs be applied. The warden has the authority to grant the application of FTCs if you meet certain criteria, it is important to note that you must show a good faith effort to lower your pattern level through participation in programming, refusing programming and engaging in misconduct does not demonstrate a good faith effort. Finally, regardless of your pattern level, an adult in custody who is subject to a final order of deportation or removal is prohibited by the FSA from applying FTCs for more specifics about the criteria and procedure, please reference Program Statement, 5410.01, change notice to your case manager and unit manager are also here to assist you. FTCs are applied in two distinct categories, toward early supervised release and toward pre release placement, also called halfway house or home confinement placement, if you have a term of supervision to follow, the first 365 days of FTCs are applied towards your release date, meaning you will release 365 days earlier. All additional earned FTCs are applied toward pre release placement. FTCs towards pre release placement are only limited by the number of days you have remaining on your sentence if you do not have a term of supervision, all earned FTCs are applied to pre release placement. Let me give you an example. Let's say your Unit T team is reviewing you for consideration of pre release placement under the provisions of the Second Chance Act and recommend 180 day placement. You have also earned 400 days of FTCs toward pre release you would then be referred for a 580 day pre release placement. As you can see, FTC eligible adults in custody that meet all the requirements can earn a significant number of FTCs.

S

Shana Grimes 17:26

Thanks for that example, Mr. Cooper, as you just heard, the First Step Act is complicated and can feel overwhelming. As we've learned, people often have many questions when discussing the FSA. Please join us as we address some of these questions from one of our institutions.

D

Dr. Jason Gabel 17:47

Okay, now that we have provided a brief overview of the First Step Act, we would like to take questions from you to hear about what your concerns and questions are, specifically about the First Step Act.

U Unknown Person 18:01

yeah, my question is, I'm eligible for and have been receiving my FTC, but then I noticed when I was on transfer to a different institution, and also when I went to the hospital for a medical procedure for two weeks that I didn't receive. It is this correct? It's a good

J Jeremy Cooper 18:17

Good question. And then that question comes up. That question comes up a lot. So it is correct. And unfortunately, if you're outside of your designated institution for more than 24 hours, you will not be in time credit earning status. But as soon as you get to your designated off of a transfer or as soon as you return back from a medical trip that lasts more than 24 hours, you will then begin earning time credits. Again. Great. Thank you.

S Speaker 18:44

Yes, I was convicted of a 922(g) and a 924(c) both charges run concurrent. My 922 is FTC eligible, but my 924 is not. Do I earn time credits?

J Jeremy Cooper 18:58

Another great question. So the Bureau of Prisons, we aggregate sentences. So if you have a 922(g) and a 924(c) whether they're consecutive or concurrent, we have to go based on either one of those charges. So because a 924(c) is ineligible, even though you have an eligible conviction of a 922(g) you would be placed in ineligible status.

S Speaker 19:22

Okay, thank you.

 19:24

When I was first assessed, I didn't have a substance abuse need, I noticed, after getting sanctioned an incident report for using alcohol, that I now had a substance abuse need. Is that correct?

D Dr. Jason Gabel 19:37

That's a great question, and that is correct. The important thing to remember is that FSA needs

can change. Let me give you a couple of examples. Let's say when you came into the custody of the Bureau of Prisons, you did not have a substance abuse need, but it's but then subsequently you are found to be using substances that need would convert from no to a yes, meaning you now have a substance abuse need. The same would be true for anger. Let's say that when you came into the custody of the Bureau of Prisons, you did not have an anger need, but you assaulted someone, you would now have an anger need as well. Thank you for that question.



20:15

My question is, I'm FTC eligible and have a low PATTERN score, but however, have a pending charge, does my FTC still apply? Yes,



Jeremy Cooper 20:24

Yes, that's correct. So it would apply assuming that you have a term of supervision to follow. So all those, all those time credits would apply towards your release date. FTCs can be applied towards pre release with a pending charge. However, there are other procedures in place when it comes to inmates or adults in custody with pending charges or detainers or warrants. Where you do, you could have the option of going to halfway house if you choose.



20:54

Thank you.



20:56

My question is, once the BOP has an FSA conditional to release date calculation in place that calculates my maximum number of potential FTCs and I may earn during my sentence. Will it be used to determine a placement at a camp or for maximum placement in the community?



Jeremy Cooper 21:12

So good question. The BOP does make every effort to transfer to an appropriate security level institution, including transferring to a camp when you're near to your release date, if appropriate. Now, the FSA conditional release date calculator is currently in place. However, it is not used to determine camp placement. It is used by the Unit Team to make accurate referrals, though, for pre release placement.



21:43

Okay? Thank you.



21:44

So I'm aware that if you're FSA eligible, and you get the 365 days, you get the year off. My question is, even though that continues to occur, what happens to those extra days past the 365 what happens to those days?



Dr. Jason Gabel 22:06

Yes, you are correct. That's exactly how time credits are applied. The first 365 days of time credits go towards early supervised release, and the remaining will go towards pre release placement. All right. Thank you. Thank



22:21

Yes, will the BOP stack Second Chance home confinement with FSA pre release custody credits. So if I had six months of FSA time credits that could be applied to home confinement, can I also apply six months of Second Chance under 3624 (c)(2) for 12 months total



Jeremy Cooper 22:41

in short, yes, we can we stack them, right? So you have your Second Chance Act home confinement eligibility date. That's either six months or 10% of your sentence, whichever is shorter, right? So we would take that and then add your FTCs towards it, and you can go to that entire portion to home confinement. Thanks.



23:01

Can I still earn and apply FTCS if I'm eligible to receive the RDAP early release benefit? Yes,



Dr. Jason Gabel 23:07

if your sentence is long enough and you complete RDAP soon enough, you can receive the full 365, day FTC benefit and the full 3621(e) benefit as well.



23:20

Thank you.



23:22

What's the BOP's position on non US citizens actually earning time credits and applying those to their basically their sentence and their pre release custody? I've seen some verbiage about the removal status, but it's not applied until later in their sentence.

 Jeremy Cooper 23:46

Yeah, so eligibility to earn FTCs does not depend on your citizenship or immigration status. However, if you have a final order of deportation or removal under immigration laws, the Bureau cannot apply FTCs. Thank you.

 24:03

If somebody's medium PATTERN scored for years, they become low pattern, do they get to immediately apply the credits that they earned as a medium the moment they become

 Jeremy Cooper 24:12

Good question. Yeah. In short, yes. Once you drop to a low pattern level during your FSA assessment and you meet all the other eligibility requirements, the FTCs will automatically be applied towards your early supervised release, and they will include all the credits that you've earned while you are a medium or a high pattern.

 24:31

Are the time credits that I've earned guaranteed? Or can I lose them?

 Jeremy Cooper 24:35

Yes, you can lose them. A sanction of loss of FTCs by the DHO [Disciplinary Hearing Officer] may be imposed when you have been found to have committed a prohibited act. Now there is a there is a form that you can actually fill out called restoration of FTCs that you can speak with your unit team about if you do incur that section.

 24:59

So my unit team is telling me my calculations correct, but I believe it's not what can I do to resolve that dispute like or what? What do I have to do?

 Dr. Jason Gabel 25:10

Yes, it's important for you to know that you can seek review of any FTC related issues through the administrative remedy process, and we would encourage you to do so.

 25:22

I was previously incarcerated, but never received my FTCs for that incarceration. I'm now back on unsupervised release. Violation. Can I still earn my FTCs for that incarceration?

D

Dr. Jason Gabel 25:36

No, If you return to prison, your eligibility to earn credit, recidivism, risk and needs assessment all start over time credits, which may or may not have been used do not carry over to future terms of incarceration, whether for supervised release, violation, new criminal conduct or both. Thank you. Thank you.



26:00

Yeah, my question is, if you lose your FTC credit because of disciplinary action, I read on two links that you could earn it back after two successful teams without a shot. Is that correct?

J

Jeremy Cooper 26:16

Yeah, you would have to apply for restoration of FTCs at that point. Is



26:19

it also correct that you could earn that time back if you are successful in getting your FTC restored.

J

Jeremy Cooper 26:27

Well, that would be the restoration part of it. Yes, that would, that would put that time back on there. Okay, would have earned



26:33

Thank you. Yeah, for inmates who qualify for FSA and there is no room or availability at the halfway house, why isn't the BOP sent him to home confinement through program statement states halfway house or home confinement?

J

Jeremy Cooper 26:47

Yes. So Everyone can be looked at for halfway house or home confinement, right? Not everyone is eligible to be placed on home confinement, so a couple of those that knock you out of home confinement consideration will be public safety factors. That's a big one that knocks a lot of people out of it. Okay, not having a plan, a release plan, that's another big one. If you don't have a home to go to, can't really put you on home confinement, right? So public safety factors

your security level and also your risk level as well. So if we're looking at you and you have a medium or high risk, we're probably not going to put you in for home confinement. The ultimate determination on home confinement versus roc, though, is up to the residential reentry manager.

 27:30

Thank you.

 27:32

My question is, when you hide medium racism levels, why is it they do not get their time applied when they were programming and doing everything they need to do? Why? That's why?

 Jeremy Cooper 27:44

Because that's how the law is written, okay,

 Dr. Jason Gabel 27:50

but, but remember, let me just add to that, sir, don't lose hope, right? Mr. Cooper and I have spoken with many, many adults in custody who, for whatever reason, often, because of, you know, high criminal history points, you can do the right thing, and you can demonstrate I've done everything I can possibly do to reduce my pattern score right. I've done it all. That's why there's that mechanism to apply to the warden, and by showing that you're doing the right thing, that's going to be taken into consideration and looked at,

 Jeremy Cooper 28:26

Let me add one more thing. So PATTERN is evaluated every single year on a yearly basis, around this time frame of the year, and for the past four years, not last year, but the previous three years, they have, it's essentially benefited you. Every time they've changed it, they've either raised those cut points to make it let or more points to become a low because it used to be 31 points, and now it's 39 points, or they change some of the categories on pattern and reduce the points in those categories. So to say that it's not going to change again, it's probably likely that it is that at some point it's going to change again.

 29:10

you mentioned earlier that you get 10 days off for every month, or 30 days for everybody. Is that everybody, or is that just people that qualify for FTC.

 29:22

 Jeremy Cooper 29:22

If you don't qualify for FTC, your time credits are not going to be calculated. Now, if by chance, say some one of your convictions that's knocking you out of FTC eligibility, say it gets overturned right. Then, and all that's left over is an FTC eligible offense. Well, at that point, you could get keyed as FTC eligible, and then it would go back to your original designated date. So the day that you were committed, it'll go back to that date. Does that make sense? Everyone earns it 10 until you go through two assessment periods as a low or a minimum. So 28 say you're say you're a low to start off with that first Team, you're a low so that 28 day mark, then you're a low for the next 180 days. If you continue to be a low after that next team or that assessment date, then you'll start earning at 15 but only if you're FTC qualified, but only if you're FTC eligible.

 30:18

Hi. I just want to make sure I understand exactly what you said upon hitting the low recidivism and after two assessments with my unit team with clear conduct, will my low recidivism days be retroactive to the original date I became a low recidivism? Does that make sense?

 Jeremy Cooper 30:34


That does make sense. And No, and I wish I had a whiteboard up here so your assessment periods don't exactly coincide with your team dates, right? So your first is everyone's first assessment period is 28 days. Your next assessment, depending if you have more than a year to serve, typically, your next assessment period is 180 and then it's 180 for every assessment. Unfortunately, teams, they have to get them done before that 180 day mark, or before the 28 day mark? So say you're coming up for a team, and you get a low, and two weeks later is when your assessment ends. So that low will not be effective until you're following assessment period. However, you will start applying credits immediately when you go to a low.

 31:23

Correct. So if I've already been getting the 10 days, the five days extra month over the course of the period of the year of or 180 months, or, excuse me, 180 days, is that correct? Yeah. So those wouldn't be retroactive. It would just be still 10 days a month until till

 Jeremy Cooper 31:41

That next assessment period starts, and then you'll start earning at 15. All right, yep, thank

 31:45
you. Yep.

 31:47

11

31:47

I'm Olav, and I'm still eligible for early release, same as the benefits under first step act under 18 USC 45 or 2g I'm eligible. How come I can't use the first step back credits to make me eligible for the other statute, and there's no restrictions on the eligibility as the first step back

D

Dr. Jason Gabel 32:09

old

J

Jeremy Cooper 32:10

law sentences are not eligible for time credits, but I'm eligible under

o

32:14

a tier 34502 (g), and I'm still eligible the benefits same as First Step Act, but it doesn't have all the preventative issues that would prevent me from first step back, but I'm eligible for the other statute. How come I can't use the first step back benefits to transition to the other statute to make me eligible?

J

Jeremy Cooper 32:37

The First Step Act does not apply to any old law, sentence, but

o

32:41

I'm still eligible for the under statute. Okay, could I use the you want to know,

J

Jeremy Cooper 32:45

we can. We can probably address that individual afterwards. Okay, you want to

o

32:50

So I heard you guys talking about detainers and RCC and earning RCC credits towards halfway house, and also, you know, Second Chance Act and stuff like that, being ineligible if you have a detainer. So my question is, is for the people that have detainers that can't get Second Chance Act because of a detainer and don't have RCC credits, are there any safety nets for people in that situation to where they don't be released at a disadvantage.

J

Jeremy Cooper 33:22

Unfortunately, if you do have a large detainer and you do not have any time credits towards halfway house, you will release to that detainer. Okay,

 33:32

But what I'm saying is, like, when you get the detainer taken care of, and let's say Second Chance Act says you only have, like, a month left of halfway house? Well, a month isn't enough for people to get on their feet. So is there any safety nets, as far as that is concerned, where?

 Jeremy Cooper 33:49

Yeah, there is, as long as you have a term of supervision, you can petition your usPo for Public Law placement, usually up to 180 days that would take a modification of your JandC [Judgment and Commitment] to do, but yes, you could do public law placement. That's a past, past your release date. Alright? Thank you.

 34:08

My question is, if your FTC out date puts you out before you're able to finish RDAP, right, with just that alone. Then, then what? Happens?

 Jeremy Cooper 34:22

Well, assuming you're going to finish RDAP, it would eat. It would either eat into your 3621(e) time, or it's going to you're not going to be able to apply all of your time credits.

 34:33

So they would take your first step credits away for you to finish RDAP, even if you don't have enough time to get the RDAP year, like, I won't get a single day of the RDAP year to be just on the FSA.

 Jeremy Cooper 34:44

That's up to you if you want. I mean, it's up to you if you want to continue with the RDAP program or not, right? Everyone has to make that individual choice. So if you withdraw from RDAP, you could potentially get time credits applied. But on the other hand, right now, a withdrawal code from RDAP is not affecting FTCS that could potentially change to where a withdraw or a failed code could impact your FTCS. In RDAP, you're required to do 120 days, right? So if you don't have enough time, it's usually you complete RDAP. You go to halfway house the next day, they calculate 120 days, and then the rest of it, you get 3621(e) or time credits to fill that gap in. If you don't have any gap to fill in, then you wouldn't benefit from time credits at all.



35:38

So I don't, so I don't I qualify for the year upper RDAP, but I don't have enough time to get even one day of that, and so my out date is going to be before I graduate RDAP. So if I sign out of RDAP like I already told them, I didn't have enough time, so they put me in opt out, and they took all my FSA away, so I came into RDAP, and now they give me my FSA back, but my FSA date is gonna fly in RDAP, uh, initially,



Jeremy Cooper 36:07

yeah, yeah. So a decline code will take you out of time credit application,



36:12

right? But now I'm getting it right, and my outdate for FSA is before my graduation date, and that's without halfway house that's without



Jeremy Cooper 36:21

so they so I would speak to psychology or speak to your gap coordinator on that, because there is another code that they can utilize to show that you don't have enough time to finish the program.



36:33

Okay, that would be RDAP, incomplete, and that's not going to go against my FSA, no, not. Thank you.



36:41

Hi. I know you guys touched on this briefly, but I was looking for some clarification. So the FSA with, with looking at your halfway house state, is it 17 to 18 months before your projected FSA release date? Or with where you're currently at with your FSA?



Jeremy Cooper 37:00

This is one of the hardest things for case managers to do right now. So we don't currently have a projected or a calculator in there for case manager to see how much time credit you're going to earn towards halfway house. So yes, the 17 to 19 month, that's a Second Chance Act requirement, right? So typically, without the FSA, it would be off of the release date. No matter if it's that release date or the FSA release date or a conditional release date, it's all based on any one of those. Okay, now 17 to 19 months, you might actually, if you've earned enough time credits, they're going to evaluate you well before 17 to 19 months.

 37:39

Okay, thank you.

 37:41

So can a person's with the two point gun enhancement still have their FSA days applied. So like, I had a gun charge, felon in possession of a gun fell in possession of a gun. Yeah, I'm not sure what the codes are, okay? And then so that was dismissed, and I still had the two point enhancement applied.

 Jeremy Cooper 38:09

The enhancement has nothing to do with a gun charge, unless you got an 841, charge with

 38:17


So, yes, I have a drug charge with that.

 Jeremy Cooper 38:19

Okay, so that's a very specific case, and you can see me afterwards. We can talk about it.

 38:24


All right, thank you.

 Speaker 38:27

My question, I'm not listed as FTC eligible because I have a 924(c) so how would the Second Chance Act apply towards my halfway house?

 Jeremy Cooper 38:38

How would second Yeah, like,

 Speaker 38:39

how does my halfway house get configured without that.

J Jeremy Cooper 38:41

So they're going to look at the five factor criteria based on Second Chance Act. That's something you'd have to talk with your unit team about. So that'd be your Case Manager or your unit manager, and they look at everybody on an individual basis to see what your needs would be.

U 38:55

The 2018 FSA program has an entire section on Productive Activities. My question is, Are you considering giving credit for church services as far as Productive Activities?

J Jeremy Cooper 39:14

So what kind of credit are you asking about?

U 39:18

Well, FSA, good time credits, obviously, everybody,

J Jeremy Cooper 39:21

yeah. So like we said earlier, it doesn't matter how many classes you complete or what classes you complete, time credits are earned on a net on a 30 day basis, as long as you haven't declined anything. Okay, so in essence, I can't really answer your question because it doesn't actually apply to FTCs.

U 39:43

Okay, but church services are considered a Productive Activity, according to the FSA.

J Jeremy Cooper 39:49

I don't believe that's accurate. But I'll look at it. I'll take a look.

D Dr. Jason Gabel 39:55

You know? I think that does bring up the point. Remember, think about it as that light switch for eligibility, right? So we went through them. You need your 13 assessments done. Boom, FRP compliant. Boom, staying out of trouble and not refusing programming, and that light switch is

on and will stay on, right, declining recommended FSA programming is what will turn off your eligibility. And I believe we have another question.

 40:30

If I'm not eligible right now for a first step Act, is it pointless to do like the VT [Vocational Training] little job program and any type of first step act credit things like, will it roll over? Is it just no light at the end of the tunnel?

 Dr. Jason Gabel 40:42

So what I heard you say is, I'm not eligible for the first step act. Remember that everyone in this room is eligible for the vast majority of incentives under the first step act. Were you meaning to say I'm not federal time credit eligible? Okay? And then you're asking, because I'm not time credit eligible. Is it worth me doing programming?

 41:03

Will it roll over, you know, saying, or will I have to do it again when I'm if I'm ever applicable?

 41:08

Oh, like, if

 Dr. Jason Gabel 41:10

I so, if you become eligible.

 41:13

Like, I got a 924(c) that's not applicable for the first of that good time. But

 Dr. Jason Gabel 41:17

you're saying, hypothetically, let's say that it becomes eligible. Great question, great question. And we've seen this go both ways. There have been cases where the eligibility went from ineligible to eligible. What the computer is going to do, it's going to look all the way back to your records, and it's going to see, did you finish all 13 of your needs assessment? Were you FRP compliant? Were you not in trouble, and were you not refusing programming? Now, if you met all four of those criteria for the entire time, you would retroactively get all those time credits, and we have seen that happen. We've also seen cases unfortunately where people went from ineligible to eligible, but they didn't have their assessments done, or they weren't FRP compliant, or they weren't staying out of chute, and unfortunately, because they didn't

meet the eligibility requirement, they didn't get the time credit. So I would absolutely 100% encourage you to take advantage of any programming opportunity, not to refuse anything. And you know, there are benefits to programming outside of FTCs as well, right? You know, building skills, etc. Thanks. I wish you luck.

 42:30

So earlier, you both brought up VT courses, Ace courses and work as part of programming to earn FSA and FTCs. Is there any incentive for those with correspondence courses or outside college work?

 Jeremy Cooper 42:54


Neither those ones don't count towards PATTERN. Okay, so I believe I'll check on that, but I'm fairly certain that the outside college correspondence, there's an education code that gets plugged into there. And I mean, really though you wouldn't be, you wouldn't have an education need. If you're enrolling college, you're not going to have an education need on your assessment. And the only way it would go, it would go towards an assessment. Because, I mean,

 43:19

right, I was just wondering if that would then give you credit for points towards lowering your recidivism or anything else towards release.

 Jeremy Cooper 43:29

No, those are still just those specific courses, Ace courses, drug Ed, sofp, parenting. Those are the specific courses on PATTERN. Okay?

 Speaker 43:41

Thank you, yep,


 43:42


yes, right. Okay, I currently have a life sentence. I'm in the courts. Have a one point PATTERN score, 30 years clear conduct. Now, when they give me a date, does my time credit start from the time the law was passed, or not the whole 30 years the time the law was passed?


 Jeremy Cooper 44:04


No, it'll start from december 2018 forward. As you're, you're eligible and you're, I mean, you'll


see them if you're eligible, but then they won't be applied unless you're a lower minimum. But if you have a one point pattern score, then yes, they would be applied, alright? Thank


 **Speaker** 44:19
you. Yep,


 44:20
there's a large community of military coded inmates serving time in the fbop. You stated that military coded inmates aren't eligible for FSA. Is there going to be any change to that that you know of the

 **Jeremy Cooper** 44:33
only change I know of right now to the different sentencing structures is with DC inmates, and DC is working on legislation to mirror the first step act. Right now, I have not gotten any news about military doing the same thing

 44:47
if we're not eligible for FSA credit. Is non participation in FSA going to hinder us? If it doesn't help us? Is it going to hurt us when we go to our clemency and parole boards.

 **Jeremy Cooper** 44:59
If you're not, if you're refusing to participate in programs, an FSA program, or any programs, right? I believe that. I believe that would be up to the clemency board, but that would be notated on your progress report that we've generated prior to your clemency board, and they're going to see that you either declined to refuse the whole bunch of programming. So I'm fairly certain that would negatively impact your clemency board hearing.

 45:19
Are there any FSA incentives currently that you know that do benefit military coded inmates?

 **Jeremy Cooper** 45:26
I mean, right now you're getting free phone minutes, right?

 45:29

Those are nice.



45:33

So all this is called the First Step Act, correct? So the first step suggests that there's going to be a second second step sometime in the future. So is there going to be a second step act



Jeremy Cooper 45:45

that you might need to write to your congressman about? Okay?



Dr. Jason Gabel 45:55

You know, let me just thank you for being a part of this. Obviously, we have a lot of work to do, and again, the whole point of it is to put out education about what the FSA is or not. Those of you that agreed to be a part of this, thank you. Thank you. Thank you. We can't thank you enough. The whole reason we are here is because we need everyone to be on the same page so everyone can reach the maximum benefits of the FSA as it's written today. Thank you. Have a wonderful day.