



Food and
Nutrition
Service

December 4, 2019

Park Office
Center

SUBJECT: Supplemental Nutrition Assistance Program (SNAP) – Final Rulemaking: Requirements for Able-Bodied Adults Without Dependents, Questions and Answers for States – December 4, 2019

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TO: State SNAP Directors
All Regions

On December 5, 2019, the U.S. Department of Agriculture Food and Nutrition Service's (FNS') final rule *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents* will publish in the [Federal Register](#). The rule revises the conditions under which FNS would waive, when requested by States, the able-bodied adult without dependents (ABAWD) time limit in areas that have an unemployment rate of over 10 percent or a lack of sufficient jobs. In addition, the rule limits the carryover of unused ABAWD discretionary exemptions.¹

FNS expects all SNAP State agencies (States) to read the final rule as published in the [Federal Register](#). As a supplement to the rule, FNS is providing these questions and answers, which are intended to provide States with clear answers on some of the practical policy and implementation questions that they may have. The Office of Management and Budget's Office of Information and Regulatory Affairs has designated this memorandum as not a major rule under the Congressional Review Act. FNS intends to issue additional questions and answers after States have had the opportunity to familiarize themselves with the rule. Please contact your respective FNS Regional Office with any questions about the rule or this guidance.

Sincerely,

Sasha Gersten-Paal

Sasha Gersten-Paal
Acting Director
Program Development Division

Enclosure

¹ Prior to FY 2020, these exemptions were typically referred to as "15 percent" exemptions. However, the Agriculture Improvement Act of 2018 reduced the allocation to 12 percent for FY 2020 and each subsequent fiscal year. Therefore, the FNS now refers to these exemptions as "discretionary exemptions." The regulations will be updated to reflect this change.

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1. Does the new rule change the 3 in 36-month time limit for ABAWDs, the work requirement, or the criteria for being exempt from the time limit?

No, the rule does not change the time limit, the work requirement, or the criteria that make an individual exempt from the time limit. Nothing has changed about the requirement that ABAWDs work and/or participate in a work program for 80 hours a month, or participate in workfare, in order to receive SNAP for more than 3 months in a 36-month (3-year) period. Nothing has changed about the requirement that States screen all household members to appropriately identify individuals subject to general work requirements and the ABAWD time limit, based on the exemption criteria at 7 CFR 273.7(b) and 273.24(c), respectively, and nothing has changed about the requirement that States track ABAWD participation.

2. In general, what does the rule change?

The new rule changes how the criteria to demonstrate “lack of sufficient jobs” and what constitutes an “area” are defined for the purposes of ABAWD time limit waiver requests and approvals. In addition, the new rule limits the number of unused exemptions that a State may carryover (retain) from one fiscal year to the next.

In terms of waivers, the new rule strengthens the data and evidence standards that requesting States must meet in order to receive FNS approval and sets new definitions on how States may define the waiver area. For more information, please see the text of the rule and the accompanying implementation memo. As a result of these changes to waiver standards, States that currently have ABAWD waivers in all or parts of their State will need to apply the time limit and work requirement to significantly more ABAWDs in their State.

Taken together, these changes mean more ABAWDs will be required to work, volunteer, and/or participate in a work program, or participate in workfare, in order to receive SNAP for more than 3 months in a 36-month (3-year) period. As such, States should focus on screening ABAWDs for fitness for work, tracking² ABAWDs, and providing ABAWDs with access all available Federal, State, and local work and workfare programs.

² Tracking ABAWDs means identifying household members who do not meet any exemptions from the time limit at 7 CFR 273.7 or 273.24(c), keeping accurate and timely records on whether or not ABAWDs subject to the time limit are meeting the work requirement in each month, and measuring the 3-year period. State agencies must track ABAWDs, even in currently waived areas, so that they will be ready to transition off the temporary waiver and reintroduce the time limit. Accurate tracking will ensure only those ABAWDs who meet the ABAWD work requirement receive benefits for more than 3 months in a 3-year period.

3. When do the rule changes take effect?

The changes to waivers will take effect as of April 1, 2020. The changes to discretionary exemptions will take effect as of October 1, 2020. As of April 1, 2020, State agencies must have received a new waiver approval under the new standards set at § 273.24(f) by this final rule in order to implement a waiver of the time limit. Waivers approved under the previous standards will not be in effect. For areas not waived, the State must appropriately administer the ABAWD time limit.

4. What will happen to States with current waivers?

Waivers that are currently in place will not be in effect beyond March 31, 2020, or their current expiration date, whichever occurs sooner.

Waivers requested to begin before April 1, 2020, will be evaluated under the pre-April 1, 2020 regulatory standards for waivers, but these waivers will not be approved beyond March 31, 2020. If a State chooses to submit a new waiver request after the publication of this rule, the new waiver request would need to meet the new standards in order to be approvable beyond March 31, 2020.

5. When should States submit new waivers?

States that qualify under the new standards and that wish to have waivers in place on or after April 1, 2020, should submit those waiver requests as soon as possible. FNS encourages States to submit these waiver requests no later than February 1, 2020, to ensure timely processing.

6. When will States need to notify impacted individuals of waiver changes?

At certification and recertification, States must inform ABAWD and potential ABAWD households of the time limit, exemption criteria (including exemptions from the general work requirements), and how to fulfill the ABAWD work requirement. This requirement applies to all areas of the State on an ongoing basis, regardless of an area's ABAWD waiver status. States can meet this requirement by orally explaining the ABAWD requirements (during the interview) or by providing the requirements in writing, but it is a best practice to do both. In addition, at least 30-days prior to a waiver ending in a given area, FNS strongly encourages States to notify ABAWDs that the waiver is ending and that they will therefore be required to meet the ABAWD work requirement in order to receive SNAP for more than 3 months in the State's 3-year period, unless they meet an exemption criterion at 7 CFR 273.7(b) and 273.24(c).

7. When will the changes to discretionary exemptions go into effect? Can States still use their available discretionary exemptions and for how long?

As noted above, the changes to discretionary exemptions go into effect October 1, 2020, and the Department will make its first exemptions adjustment at the next scheduled adjustment in Fiscal Year (FY) 2021. The Department has chosen to implement the discretionary exemptions changes in FY 2021 because implementing this change during this fiscal year, FY 2020, would make it difficult for States to properly plan their exemption use for this fiscal year and avoid potential liability status, as they have already begun using exemptions for FY 2020. States will not be adversely affected for actions taken before the provision is finalized on October 1, 2020, as the changes to carryover and exemptions adjustments will not go into effect until FY 2021.

States can still use their available discretionary exemptions, now and into the future. The new rule does not change States' option to use discretionary exemptions. Based on the new rule and its above described implementation requirements, States can use any or all of the discretionary exemptions they have available for FY 2020 for the remainder of FY 2020. FNS will provide additional guidance for States about how to proceed in FY 2021 in the coming months.

8. How do the changes in the new regulations impact the number of discretionary exemptions available to States?

The new rule will allow States to carryover a portion of unused exemptions, but the carryover amount will not exceed 12 percent of the covered individuals in the State estimated by FNS for the preceding fiscal year. For example, if FNS estimated and allocated a State with 3,000 new exemptions for FY 2020, the State's carryover amount for FY 2021 could not exceed 3,000. Otherwise, the new rule will not allow States to retain their existing accumulated discretionary exemptions past the end of FY 2020. FNS will provide additional guidance for States about how to proceed in FY 2021 in the coming months.

9. Does the new rule require States to provide SNAP E&T services to all ABAWDs?

No, the new regulations do not include any changes to SNAP E&T requirements. At the same time, the Department expects States to support ABAWDs in their efforts to find work and meet the work requirement by expanding access to work programs and other supportive services for ABAWDs. Work programs and workfare programs offer important opportunities for ABAWDs to meet the ABAWD work requirement, in addition to the other options to meet the work requirement through paid, unpaid, or in-kind work provided by the regulations at 7 CFR 273.24(a)(2). FNS strongly encourages all States to strengthen their efforts to serve ABAWDs through available Federal, State, and local work programs and workfare programs, and to partner with Federal, State, and local entities to invest in the expansion of such programs.