



Food and
Nutrition
Service

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Date: May 11, 2020

Subject: Supplemental Nutrition Assistance Program –*Requirements for Able-Bodied Adults Without Dependents* Final Rule Injunction

To: All State Agency Directors
Supplemental Nutrition Assistance Program (SNAP)

On December 5, 2019, the Food and Nutrition Service (FNS) published the final rule, *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents* (84 FR 66782). The final rule revises the conditions under which FNS would approve requests from States to waive 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 final rule limits the carryover of unused ABAWD discretionary exemptions.

The final rule's changes to waiver standards were scheduled to take effect as of April 1, 2020. FNS notified States that, in order to implement a waiver of the time limit, as of April 1, 2020, State agencies must have requested and received a new waiver approval under the new standards set at 7 CFR 273.24(f) by the final rule.

However, the final rule is currently in litigation in the United States District Court for the District of Columbia. On March 13, 2020, the Court granted the plaintiffs' motion for a preliminary injunction and a stay pending judicial review of the provisions related to waivers. The Court denied the plaintiffs' motion for a preliminary injunction and a stay pending judicial review as to the discretionary exemption portions of the final rule. The final rule's provisions regarding ABAWD discretionary exemptions were not affected by the injunction, and those provisions are still scheduled to become effective October 1, 2020.

In addition, Section 2301 of the recently-enacted Families First Coronavirus Response Act (FFCRA), which was signed by President Donald J. Trump on March 18, 2020, temporarily and partially suspends the ABAWD time limit. This provision applies during the period of April 1, 2020, through the month subsequent to the month in which the public health emergency declaration by the Secretary of Health and Human Services based on an outbreak of COVID-19 is lifted. More information on this is included in the [FNS Memo Supplemental Nutrition Assistance Program – Families First Coronavirus Response Act and Impact on Time Limit for Able Bodied Adults Without Dependents \(ABAWDs\)](#).

As a result of the preliminary injunction of the final rule's provisions related to waivers, States are not currently required to meet those waiver standards in order to implement a waiver of the time limit. Instead, while the injunction is in place, the previous waiver criteria published in the [January 17, 2001, final rule, Food Stamp Program: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#) (66 FR 4438), will be used as the basis for any waiver approvals.

FNS recognizes that States may experience challenges in adjusting to the change in waiver standards and developing additional waiver requests. In light of this, FNS is permitting States that had waivers in effect in March 2020 to continue to implement those waivers up to 12 months from the respective waiver's initial implementation date, or until new waiver standards become effective, whichever occurs sooner. This policy applies regardless of the expiration date listed on the waiver approval, since some approvals were shortened in anticipation of the scheduled April 1, 2020, effective date of the final rule now subject to preliminary injunction, such as those waivers approved from January 1, 2020, through March 30, 2020. This policy also applies to States that received waiver approvals prior to the publication of the December 5, 2019, final rule and for which the waiver approval period was not shortened in the waiver approval. For example, if a State had a waiver in effect in March 2020 and that waiver was approved from October 1, 2019, through September 30, 2020, the State could continue that waiver until September 30, 2020, or until new waiver standards are made effective, whichever occurs earlier.

States that decide to continue the waiver they had in effect in March 2020 should simply confirm this to their respective FNS regional office via email. States that wish to request a new waiver of areas based on the waiver standards published in the January 17, 2001, final rule linked above may submit those requests to their respective FNS regional office and copy snapcpbwaivers@usda.gov.

Please be advised that the contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

State agencies should contact their respective FNS Regional Offices with any questions.

Sincerely,

Jessica Shahin
Associate Administrator
Supplemental Nutrition Assistance Program (SNAP)