



Food and
Nutrition
Service

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Subject: Policy Clarifications for Administering the Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) Programs

To: Regional Directors
Supplemental Nutrition Assistance Program All Regions

During management evaluation reviews and technical assistance efforts, the Food and Nutrition Service (FNS) has identified many compliance issues in States that operate mandatory E&T programs that cause concern. This memorandum identifies and clarifies several statutory and regulatory requirements that State agencies operating mandatory E&T programs must implement to ensure adequate protections for SNAP applicants and recipients as well as proper administration of the program. Please distribute this memorandum as written to all State agencies, whether or not they operate a mandatory E&T program.

Screening for and Identifying Exemptions from the General SNAP Work Requirements.

As a condition of eligibility for SNAP, certain household members must meet general work requirements. However, many household members are exempt from these work requirements for reasons such as age, fitness for work, childcare responsibilities, or because they are already employed or are in school. Among other requirements, non-exempt household members must register for work or be registered by the State and must participate in a SNAP E&T program or a workfare program if assigned by the State or they face disqualification. Given that a household member is at risk of losing SNAP benefits, it is extremely important that State agencies accurately determine whether a household member is exempt from the general work requirements.

Eligibility workers must determine whether an individual meets one of the Federal exemptions from the work requirements at application, recertification, and if appropriate, when changes in the household's circumstances are reported. It is critical that eligibility workers understand these exemptions and that processes are in place to ensure that individuals are properly screened. The eligibility worker must explore whether the individual meets an exemption rather than placing the burden solely on the individual to self-report. The interview is the most important tool for identifying whether an individual meets an exemption. When the interview is conducted over the phone rather than in person, identifying exemptions can be more challenging, so it is critical that eligibility workers have resources and follow appropriate processes to ensure applicants and recipients are properly screened.

Screening Individuals for Mandatory E&T Participation

If the eligibility worker determines that an individual is subject to the general work requirements, he or she must then screen the individual to determine whether or not it is appropriate, based on the State's criteria, to refer the individual to an E&T program, and if:

- 1) The general SNAP work requirements are provided at section 6(d)(I) of the Act and 7 CFR 273.7(a).
- 2) The exemptions from the general SNAP work requirements are provided at section 6(d)(2) of the Act and part 7 CFR 273.7(b).

Appropriate, refer the individual to an E&T program component (also referred to as "E&T activity"). This is a separate process from screening for and identifying exemptions from the general SNAP work requirements and from the additional able-bodied adults without dependents (ABAWD) rules.

As defined in 7 CFR 271.2, the E&T screening is an evaluation done by the eligibility worker to determine if an individual should or should not be referred to the E&T program based on the State's criteria. Again, it is incumbent upon the eligibility worker to thoroughly explore whether the individual meets the State's criteria for participation in E&T. It is not the client's responsibility to self-identify whether or not he should or should not be referred to an E&T program.

Screening for mandatory E&T participation is a certification function and can only be done by State SNAP agency merit system personnel. Procedures that rely on the E&T provider to determine whether an individual meets an exemption or other State criteria are not compliant with Federal regulations. If upon assessing an individual the E&T provider believes that the individual meets an exemption or is not an appropriate candidate for the services that are available, the provider can and should provide the State agency with any relevant information so it can make the proper determination.

Ineffective screening processes can result in incorrect referrals to E&T. Since exemptions by definition apply to individuals with significant barriers to participation in E&T, individuals who are ineffectively screened and incorrectly referred to E&T often do not show up for orientations or initial appointments , and are subsequently disqualified. High no-show rates create unnecessary administrative work for eligibility case workers who must contact the client, determine good cause and identify exemptions, or issue a notice of adverse action (NOAA).

Developing Exemptions from Mandatory E&T

States have broad discretion in developing criteria for who should and should not be required to participate in E&T. These criteria must include the regulatory exemptions from the general work requirements, but may also include criteria the State agency has identified in accordance with 7 CFR 273.7(c)(6).

For example, the State agency could develop exemptions based on categories of individuals (such as individuals over 50 or who live in certain geographic areas), characteristics of individuals (such as those who speak English as a second language or have low literacy), or significant access barriers (such as lack of transportation, dependent care or, in States that require online courses, no access to computers).

In developing exemptions a State agency should take into account its ability to provide reimbursements for those participants who have access barriers, such as transportation or child care, or who require other supports to participate in E&T. For example, if a State agency has a monthly cap of \$50 for transportation but an individual's anticipated transportation expenses would be \$150, the State agency's procedures should identify this at screening and the individual must be exempt from mandatory E&T participation until a suitable E&T component can be found. In fact, SNAP regulations at 7 CFR 273.7(d)(4)(v) require the State agency to inform all mandatory E&T participants that they may be exempt from E&T participation if their necessary monthly expenses directly related to participation in E&T exceed the allowable reimbursement amount. This includes expenses for dependent care, transportation, and other costs necessary and directly related to participation in the E&T program as required.

State agencies are required to implement E&T programs that are designed to increase the ability of participants in obtaining regular employment. For an E&T program to be effective, State agencies should consider whether or not the E&T activities they offer are appropriate for prospective E&T participants and develop exemptions and make referrals accordingly. For example, while job search can be useful for individuals who have recent attachment to employment, it may not be an appropriate activity for individuals who are not immediately job ready - those who have been out of work for a long time or who lack marketable skill. These individuals may require education or skills training in order for job search to be an effective strategy for moving them into employment. In this situation, State agencies should exempt such individuals from mandatory job search, or consider developing a job readiness component that will prepare individuals for successful job search activities.

Finally, State agencies should also consider the capacity of their E&T providers to serve E&T participants. For example, if the E&T provider is at capacity for that month, the State agency should not refer mandatory participants to the provider.

Referring Individuals to Mandatory E&T

Referring mandatory participants to an E&T program is a certification function and can only be performed by State SNAP agency merit system personnel. Eligibility workers must not refer individuals to mandatory E&T who are exempt in accordance with the criteria set forth by the State. Referring individuals to mandatory E&T who should otherwise be exempt can cause undue harm to SNAP applicants and recipients and increase the administrative burden on State agencies.

Determining Good Cause

The State agency must determine whether an individual subject to mandatory participation in E&T has good cause for refusal or failure to comply. Regulations at 7 CFR 273.7(f)(1)(i) provide that the State agency must determine whether good cause exists as soon as it learns of a noncompliance. Within 10 days of establishing that the noncompliance was without good cause, the State agency must then provide the individual with a Notice of Adverse Action (NOAA) as specified in 7 CFR 273.13. Regulations at 7 CFR 273.7(f)(1)(i) further stipulate that if the State agency offers a conciliation process as part of its E&T program, it must issue the NOAA no later than the end of the conciliation period. The good cause determination is a standalone activity that cannot be blended into the conciliation process or the NOAA. FNS has found instances where State agencies combine the process of determining good cause and issuing a NOAA, which gives the individual 10 days to report good cause to the State agency. Combining good cause determination and the NOAA together would presume that the individual's noncompliance was without good cause. This is not in compliance with Federal regulations.

Responsibility for Good Cause Determination

Regulations at 7 CFR 273.7(i) provide that the State agency is responsible for determining good cause when a SNAP participant fails or refuses to comply with SNAP work requirements. In determining good cause, the State agency must take into account the facts and circumstances, including information submitted by the employer and by the household member involved, in determining whether good cause exists. This means that a State agency cannot act on noncompliance with work requirements based solely on information from an employer or an E&T provider without first attempting to obtain information from the SNAP participant.

The determination of good cause is a certification function and must be performed by State SNAP agency merit system personnel. An E&T provider, who is likely to have more regular contact with an E&T participant, may collect information on the circumstances for why an individual did not comply with the E&T activity and make a recommendation on good cause to the State agency. However, it is the State agency's responsibility for making the final determination of good cause before issuing the NOAA. E&T providers must notify the State agency within 10 days of the noncompliance, as provided in 7 CFR 273.7(c)(4).

Definition of Good Cause

As provided in 7 CFR 273.7(i)(2), good cause includes circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate dependent care for children who have reached age six but are under age 12. Good cause is appropriate for instances where the lack of transportation or dependent care is a short-term or temporary event. For example, the bus was behind schedule or the car broke down. Transportation, dependent care or other necessary participation expenses that are a more chronic issue may be reason to exempt an individual from mandatory E&T participation.

Moreover, the State agency has discretion to find that a good cause determination under 273.7(i) also constitutes good cause under 273.24(b)(2) as explained in FNS' November 19, 2015 memo regarding *ABAWD Time Limit Policy and Program Access*.

Notice of Adverse Action

If a State agency determines that an individual has failed or refused to comply with mandatory E&T requirements without good cause, it must send a NOAA in accordance with 7 CFR 273 .13. In addition and in accordance with E&T regulations at 7 CFR 271.7(f), the NOAA must:

- Contain the particular act of non-compliance;
- The proposed period of disqualification ;
- The action the individual can take to avoid the disqualification before the disqualification period begins; and
- That the individual may, if appropriate, reapply at the end of the disqualification period.

Again, 7 CFR 273.7(f)(1)(i) is clear that a State can only issue a NOAA after determining that the noncompliance was without good cause.

Promising Practices and Resources

FNS has developed a variety of resources that States may find useful in refining their practices and procedures and developing thriving E&T programs. Additional resources include:

- SNAP to Skills Website: <http://www.fns.usda.gov/snap-skills>
- E&T Plan Handbook: <http://www.fns.usda.gov/snap/et-state-plan-handbook>
- E&T Toolkit: https://www.fns.usda.gov/sites/default/files/ET_Toolkit_2013.pdf
- E&T Policy and Guidance: <http://www.fns.usda.gov/ET-policy-guidance>
- ABAWD Policy and Guidance: <https://www.fns.usda.gov/snap/able-bodied-adults-without-dependents-abawds-without-dependents-abawds>
- SNAP Employment and Training Best Practices Study: <https://www.fns.usda.gov/snap/snap-employment-and-training-et-best-practices-study-final-report-study-final-report>

The purpose of the SNAP E&T program is to assist household members in gaining the skills, training, work or experience that will increase their ability to obtain regular employment. While State agencies have the option to mandate participation in E&T, they must abide by the rules and regulations governing the administration of the program. In addition, FNS encourages State agencies to develop programs that are meaningful and appropriate for the target population and that provide supports that will help mandatory E&T participants succeed and move towards self-sufficiency.

FNS will continue to work with all State agencies in developing robust E&T programs that are also in compliance with SNAP policy and regulations. In the meantime, if you have questions concerning this memorandum, please contact Jackie Windfeldt at Jackie.windfeldt@fns.usda.gov or at (703) 305-2390.

Sincerely,



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