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SNAP Policy Update #1 17-18'

DATE: July 25, 2017

RE: Requirements for SNAP Time Limits for Able Bodied Adults Without Dependents (ABAWD)

This policy update highlights information provided by the Office of Temporary and Disability Assistance (OTDA) through [17 - ADM - 01](#). The OTDA policy directive provides information to SNAP offices concerning the policies and procedures for reinstating the federal requirements for the ABAWD Time Limit Rule that began in many counties on January 1, 2016.

This SNAP policy update provides the following information:

- ABAWD Time Limit Rule
- Waivers for Counties and Jurisdictions
- Who is Exempt from the Time Limit Rule
- Maintaining Eligibility for SNAP Participants Who Must Meet ABAWD Work Requirements
- ABAWD Exclusions (Individual Exclusions or 15% Exemptions)
- When a Month Does NOT Count Toward the 3 Month Time Limit
- Reporting Requirements Under the Time Limit Rule
- Failure to Meet the ABAWD Time Limit Rule and Notice Requirements
- Re-establishing SNAP Eligibility for ABAWDs
- ABAWD Grace Period
- Tools and Resources for Community Agencies Working With SNAP Recipients

ABAWD Time Limit Rule

On January 1, 2016, NYS reinstated a federal rule that restricts SNAP recipients, determined by the SNAP office to be an ABAWD, to three full months of SNAP benefits in a 36-month period ending December 31, 2018, unless they live in a waived area, meet an exemption, or engage in qualifying work activities.

An ABAWD is defined by federal regulations as a person who is:

- 18 to 49 years old
- Childless (no dependent children under 18)
- Unemployed/underemployed: Less than 20 hours a week working or in job training activity
- Non-disabled (no documented disability that would preclude employment)

Waivers for Counties and Jurisdictions

Areas of the state with high unemployment, or that are designated as labor surplus areas, can continue providing SNAP without reinstating the ABAWD time limit rule through a waiver. OTDA provides

information about available waivers to each local district on an annual basis and submits a waiver request to USDA for review and approval on behalf of any county or jurisdiction in the state that meets the waiver criteria.

Currently 22 counties in NYS, along with 13 jurisdictions (cities, towns, zip codes), continue to waive the ABAWD time limit rule in 2017. Twenty-eight counties in NYS implemented the ABAWD time limit rule countywide in 2017. See our [ABAWD Desk Guide](#) for a complete list of waived areas in NYS.

SNAP recipients who live in a waived county or jurisdiction are not subject to the ABAWD time limit rule. This includes any SNAP recipient who moves into a waived county or jurisdiction at any time. In these instances, the individual is no longer subject to the ABAWD rule beginning the month they move into the waived area. It is important to remember that these individuals may still be subject to SNAP Employment and Training (E&T) requirements that apply in their county.

SNAP offices approved to waive the ABAWD requirements for a jurisdictional area, but not the entire county, must evaluate each SNAP recipient's ABAWD status at application, recertification, and anytime a SNAP household reports a change that may affect an individual's ABAWD status.

Who is Exempt from the ABAWD Time Limit Rule?

Many people determined to be an ABAWD by the SNAP office are exempt from the time limit rule. This includes SNAP recipients who are not subject to the SNAP E&T requirements. For a full list of exemptions, see our [ABAWD Checklist](#).

The following is a list of those who do **NOT** meet the ABAWD criteria and definition, and therefore are exempt from the time limit rule. It also includes important things to note for each factor:

1. Under 18 years old
 - a. When turning 18, an individual continues to be exempt from the ABAWD rule during their birthday month, unless their birthday falls on the 1st day of the month.
 - b. All other adults in the household who were exempt from the ABAWD rule because there was a person under 18 in their SNAP case will become subject to the ABAWD rule the month after the birthday month, unless the person turned 18 on the 1st day of the month.
2. 50 years or older
 - a. An individual becomes exempt from the ABAWD rule the month that he/she turns 50 years of age.
 - b. This includes anyone who was determined ineligible for SNAP due to receiving 3 months of benefits in a 36-month period while not meeting the ABAWD requirements. In this case, the individual can now reapply or request to be added into an existing SNAP household because they are no longer considered an ABAWD starting the month of their 50th birthday. All other SNAP eligibility rules and procedures will apply.
3. Physically or mentally unfit for work

Many people categorized as an ABAWD by the SNAP office are not “able-bodied,” but the SNAP office may not be aware of this. An individual can be exempt from the three-month time limit if they have a physical or mental condition that limits their ability to work 20 hours a week. Being determined to be unfit for work has a much lower standard of unfitness than SSI or Social Security Disability and does not require a specific diagnosis or submission of medical testing results.

- a. An individual becomes exempt from the ABAWD time limit from the date they document their inability to work 20 hours a week. An individual’s exemption under unfit for work continues in any month for which documentation verifies the person to be physically or mentally unfit for work.
- b. Allowable verification includes a statement from a medical or mental health provider. The statement should include the medical professional’s contact information, and can come from any of the following:
 - Doctor
 - Doctor’s assistant
 - Representative of a doctor’s office
 - Nurse or nurse practitioner
 - Licensed or certified psychologist
 - Social worker

See our [Medical Statement and FAQ for Health Care Providers](#) for a useful tool to document an individual’s inability to work 20 hours a week.

- c. If the SNAP worker identifies the individual as being obviously unfit for work due to a physical or mental health condition and medical documentation was requested, but is not available, then the worker must document the basis for exempting the individual in the case record. In this case, the individual’s work status must be reevaluated whenever a change is reported, and at recertification.
4. Receiving a disability benefit from a private or government source
Private benefits include, but are not limited to, Worker’s Comp, disability insurance, certain disability retirement pensions, or other sick pay benefits. Government disability benefits include, but are not limited to, Social Security, SSI, VA benefits based on a disability, and disability benefits provided by the NYS Department of Vocational Rehabilitation Services.
 - a. All individuals in receipt of a VA disability compensation, regardless of the percentage, are exempt. See [SNAP Policy Update 16-17 #2](#) for more information.
 - b. Individuals receiving worker’s compensation benefits at less than the full 100% benefit rate are **NOT** exempt from the time limit rule based on receiving a disability benefit, but may be exempt under “unfit for work” if they provide documentation of their inability to work 20 hours a week.
 5. Pregnant
Women at any stage of pregnancy are not subject to the ABAWD requirements.
 - a. An individual becomes exempt from the time limit rule the month in which documentation of the pregnancy is provided.

See our [Medical Statement and FAQ for Health Care Providers](#) - a useful tool for documenting pregnancy.

6. Living with a child under 18 who is part of the same SNAP household
 - a. This can be the individual's own child, sibling, or any child that is a member of the same SNAP household.
 - b. All adult members of a SNAP household that includes a child under 18 are exempt from the time limit rule.

It is important to remember that individuals who are exempt from the ABAWD time limit rule may still be subject to SNAP Employment and Training (E&T) requirements. Some of the above exclusions may serve to exempt the individual from both the ABAWD requirements and SNAP E&T requirements. For more information on SNAP E&T rules and exemptions, see pages 38 and 39 of our [SNAP Guide](#).

Maintaining Eligibility for SNAP Participants Who Must Meet ABAWD Work Requirements

Beginning on January 1, 2016, in order to remain eligible for SNAP for longer than 3 months in a 36-month period, any person determined to be an ABAWD and who does not meet an exemption or live in a waived area of NYS must complete and document a qualified work activity each month. Work activities can vary and include:

1. Work, volunteer activities, or "in-kind" work for at least 80 hours per month.
2. Participation in a qualifying work/training program approved by the SNAP office for at least 80 hours per month.
3. Participation in a program under the Workforce Investment Opportunity Act (WIOA) for at least 80 hours per month. Activities can include:
 - job search and job readiness activities
 - occupational skills training
 - adult education and literacy activities
4. Participation in a combination of the above listed work/training programs for at least 80 hours per month, OR
5. Complying with a Work Experience Program (WEP) assignment.
 - a. If an individual is currently volunteering at a public or non-profit organization, including faith-based organizations, public schools, food pantries, and local churches, these activities may count as a qualified work activity under this provision.
 - b. To calculate the number of hours that an individual would be required to complete each month, divide the amount of the SNAP benefit by the number of adult SNAP recipients in the household. Then divide by the minimum wage that is in effect for the correct area of the state:

New York City: \$11.00
Long Island and Westchester: \$10.00
Rest of State: \$9.70

- Example: a SNAP household in Albany County consisting of two adults receives \$328 in SNAP benefits each month. To come up with the number of hours needed each month under a WEP assignment or an approved volunteer activity for each adult, you would divide the full SNAP benefit of \$328 by 2 adults and then divide the \$164 by the state minimum wage (\$9.70) = 16.9 hours (rounded down to 16 hours).
- c. Those volunteering who do not meet the required number of hours, as determined above, may use their volunteer hours as hours of work (1) in combination with any other qualifying work activities (2 and 3) for at least 80 hours per month.

Each individual who is determined to be an ABAWD must complete these work requirements each month to maintain eligibility for more than 3 months in the 36-month period, unless the individual has documented that he/she is exempt from the rule or lives in a waived area of the state.

SNAP offices are required to provide an ABAWD qualifying work or training opportunity to all individuals identified as an ABAWD and who request such placement in an activity in order to maintain or re-establish eligibility for SNAP benefits.

Unlike with SNAP E&T, SNAP offices are not required to provide support services to individuals who are participating in qualifying work activity in order to meet the time limit rule unless the SNAP office has assigned the individual to a required SNAP E&T or TA/SNAP work assignment.

ABAWD Exclusions (Individual Exclusions or 15% Exemptions)

USDA provides an allotment of ABAWD exclusions to each state by July 1 of each year. USDA calculates these exclusions by using 15% of a state's ABAWD caseload in non-waived areas. OTDA distributes NY's share of these exclusions to districts that do not have an approved district-wide ABAWD waiver. To determine the number of exclusions that each county/jurisdiction receives, OTDA uses the percent of the ABAWD population residing in that county/jurisdiction.

An ABAWD exclusion allows the SNAP office to exclude one individual from the time limit rule for one calendar month.

Each county SNAP office, and HRA in NYC, is responsible for establishing its own criteria for who is eligible to receive an exclusion in any given month.

The following rules apply:

- ✓ The total number of exclusions used by a SNAP office/HRA must not exceed the number approved for use by OTDA.
- ✓ SNAP offices/HRA have flexibility to establish a limit on the number of months that any individual may receive an exclusion from the ABAWD requirements.

- ✓ The criteria chosen by the SNAP office/HRA must be in alignment with the limited number of exclusions available to that district for the year.
- ✓ SNAP offices/HRA must monitor the use of their exclusions to ensure that they apply their exclusion policy consistently on a monthly basis. For example, if a district chooses to exclude people who are 49 years old, they must be able to exclude everyone fitting this criterion each month.

It is important to reach out to your SNAP office and become familiar with their exclusion policy. Some examples of the top exclusion criteria used by many SNAP offices include:

- ✓ individuals who are working, but do not meet the required number of hours to maintain eligibility under the time limit rule;
- ✓ individuals who have transportation barriers of an ongoing nature; and
- ✓ people who are 49 years old.

When a Month Does NOT Count Toward an Individual's 3 Month Time Limit

SNAP offices must keep track of each individual's three months of SNAP eligibility without meeting the ABAWD work requirements throughout the 36-month period ending December 31, 2018. A month does not count toward an individual's 3 months of SNAP eligibility under the following circumstances:

- ✓ Any calendar month in which the individual did not receive SNAP benefits for the full month, including the month of application (unless the application is filed on the 1st of the month);
- ✓ Any calendar month in which the individual documents that he/she is exempt for the ABAWD time limit rule;
- ✓ Any calendar month during which an individual resides in a waived area of the state;
- ✓ Any calendar month during which an individual is granted an ABAWD exclusion by the SNAP office or HRA center;
- ✓ Any calendar month during which an individual has good cause for missing work/work activities hours, as long as the absence is temporary and the individual retains his or her job or otherwise resumes participation in a qualifying work activity.
 - Good cause includes circumstances beyond the individual's control such as, but not limited to:
 - illness of the individual or another household member that requires the individual's presence, and
 - a household emergency.
 - An individual must report good cause in a timely manner and the SNAP office or HRA center may require documentation to support the good cause claim.

Reporting Requirements Under the Time Limit Rule

SNAP offices are required to track each individual's compliance with the ABAWD requirement on a monthly basis. They are required to take timely action in those instances where it is determined that an individual identified as an ABAWD has received SNAP benefits for 3 months in a 36-month period and, based on the information available in the case record, is not meeting the work requirement in order to continue his/her SNAP benefits past 3 months. This includes investigating and tracking any month in

which the individual may have received SNAP benefits in another county in NYS that would count toward the person's three months of SNAP eligibility without meeting the ABAWD work requirements.

OTDA recommends that districts limit SNAP certification periods for households that include an ABAWD to six months or less.

Individuals determined to be an ABAWD must follow specific requirements for reporting changes in employment and for documenting hours of participation in work and in "unpaid" work and training activities.

The following requirements apply to individuals participating in employment (including "in-kind" work and volunteering):

- ✓ Provide documentation of gross earned income and the hours of paid work at application, periodic report, recertification, and whenever the individual's hours of paid work fall below 80 hours in a month.
- ✓ Report when hours of paid employment fall below 80 hours in a month to the SNAP office by the 10th day of the following month.
- ✓ Provide documentation of participation in "in kind" or volunteer work activities on a monthly basis.
- ✓ Immediately notify the district of any reasons why the individual was not able to meet the ABAWD work requirement, or of changes in the individual's ability to work, or other changes that would exempt the individual from the time limit rule, and provide documentation of the change.

The following requirements apply to individuals participating in unpaid qualifying work activities:

- ✓ Provide written documentation of the number of hours of participation each month by the 10th of the following month.
 - For example, submit documentation of actual hours of participation for the month of March by April 10th.
- ✓ SNAP offices should provide attendance sheets to be completed by the work site/activity supervisor each month.
- ✓ SNAP offices can, in many instances, arrange to receive the required information directly from the work site.
- ✓ Hours of participation must comply with the number of hours needed as defined by each specific work activity.

Failure to Meet the ABAWD Time Limit Rule and Notice Requirements

Any individual determined to be an ABAWD is only eligible for SNAP benefits for 3 months in the 36-month period ending December 31, 2018 unless they:

- ✓ document they are meeting the ABAWD work requirement;
- ✓ are granted an exclusion for the month;
- ✓ reside in an area that has an approved waiver from the ABAWD time limit rule; or
- ✓ document that they are exempt from the time limit rule.

SNAP offices must track each individual's compliance on a monthly basis and take appropriate and timely action when it is determined that an individual subject to the ABAWD work requirements has received SNAP benefits for three full months in the 36-month period without meeting the ABAWD work requirement. The SNAP case for this individual should be closed (or the individual in a multi-person SNAP case made ineligible) before the end of the 3rd month to prevent the issuance of the fourth month of benefits. An overpayment may need to be established for any SNAP benefits received beyond the 3 months while the individual is subject to, but not meeting, the ABAWD time limit rule.

The United States Department of Agriculture (USDA) has provided clarification to NYS. This clarification directs SNAP offices to issue a Notice of Adverse Action (NOAA) within the third month when an individual subject to ABAWD requirements has received SNAP benefits for 3 months in a 36-month period and, based on the information available, is not meeting the ABAWD work requirement. The SNAP office must issue the NOAA in time to stop the unauthorized issuance of a 4th month of benefits per USDA's direction. This provision must be in place in each county by May 10, 2017.

Re-establishing SNAP Eligibility for ABAWDs

When a person determined to be an ABAWD does not meet ABAWD work requirements for three months in the 36-month period that started January 1, 2016, they will lose their SNAP benefits. These individuals can have their SNAP benefits restored at any time by re-establishing their eligibility through one of the methods below:

1. For applicants – complying with the work requirements within the 30-day period from the date of application
 - a. An applicant can re-establish eligibility if they can verify to the SNAP office that they will meet the ABAWD work requirement within the 30 calendar days following application.
 - Example: an individual, who lost eligibility due to failing to meet the time limit rule, has started a new job and applies for SNAP benefits. Eligibility is re-established as long as the individual can verify that they will work enough hours within the consecutive 30-day period following application to fulfill the 80 hours a month requirement.
 - b. SNAP benefits are issued from the date of application when an individual has demonstrated that they have re-established their SNAP eligibility by meeting the ABAWD requirement.
 - c. The individual must continue to work/participate in ABAWD qualifying activities for 80 hours a month to maintain SNAP benefits going forward.
2. 80 hours of participation in ABAWD qualifying work activities in a 30-day period
 - a. An individual may re-establish eligibility by participating in a qualifying activity for at least 80 hours within any consecutive 30-day period since losing eligibility due to not meeting the ABAWD work requirement.
 - b. The consecutive 30-day period does not need to be in the same calendar month.
 - c. The consecutive 30-day period does not have to immediately precede the date of application.

- Example: Nine months ago an individual lost eligibility due to failing to meet the ABAWD work requirements. For the last 6 months, the individual has been working at least 80 hours a month. This person was recently been laid off, and is now applying for SNAP. Eligibility for SNAP may be re-established if the individual provides verification that they worked 80 hours a month in a consecutive 30-day period since becoming ineligible for SNAP.
 - d. SNAP benefits are issued from the date of application when an individual has demonstrated that they have re-established their SNAP eligibility by meeting the ABAWD requirement.
 - e. To maintain SNAP eligibility the individual would need to comply with the ABAWD work requirements going forward.
3. 30-day job search followed by a WEP assignment
 - a. SNAP offices have the option to allow an applicant who is determined to be an ABAWD the opportunity to re-establish eligibility after having exhausted the three-month time limit by participating in a 30-day period of job search followed by a WEP assignment if the individual does not find a job by the end of the 30 days.
 - b. The individual must perform job search for a minimum of 12 hours in the 30-day period to re-establish their SNAP eligibility. SNAP offices have the discretion to require additional hours of job search during the 30-day period.
 - c. Individuals who do not find a job after the 30-days of job search are placed in a WEP assignment in the next month. SNAP offices cannot substitute any other qualifying work/training activity.
 - d. In this instance, SNAP benefits will be issued from the date the individual re-establishes their eligibility by participating in 30 days of job search for the required number of hours.
 4. For current recipients – complying with the work requirements in the following 30-day period
 - a. Eligibility may be continued for an individual not meeting the ABAWD work requirements for 3 months, if the individual provides proof, before the end of the month in which an adverse action takes effect, that they will meet the ABAWD work requirement in the following month.
 - b. The SNAP office must rescind any notices of adverse action based on verification that the individual will participate in an ABAWD qualifying activity in the next benefit month.
 5. Documenting an exemption from the ABAWD requirement or living in an area with an approved ABAWD waiver
 - a. Individuals who lose their SNAP eligibility due to not complying with the ABAWD work requirements and who subsequently become exempt or move into an area with an approved ABAWD waiver can have their SNAP eligibility restored.

Other things to note about regaining eligibility:

- ✓ Once an individual's case is closed, they may be required to submit a new application to begin receiving SNAP benefits again, unless the person meets the case reactivation requirements described in our [SNAP Guide](#) on pages 69 and 70.
- ✓ In the instance that the individual was a member of a SNAP household and was removed from the SNAP budget for failing to meet the ABAWD work requirement, then it is the household who must request to have the member returned to the SNAP budget. The individual must meet all other eligibility requirements. If eligible, the individual will be added back into the SNAP household effective the following month after the change was reported.

ABAWD Grace Period

An individual determined to be an ABAWD, who re-establishes their eligibility through one of the methods above during a consecutive 30-day period and then loses a job or is otherwise not meeting the work requirement, will be granted an additional one-time consecutive three-month period of eligibility referred to as the grace period.

This grace period will occur during the same 36-month period as the initial three-month period granted to all ABAWDs. The 36-month period started January 1, 2016 and ends December 31, 2018. An individual is eligible for this 3-month grace period only one time in any 36-month period. The grace period begins in the month that an ABAWD, who has re-established their eligibility for SNAP, is no longer meeting the work requirement. The three months granted for the grace period must be used consecutively, unlike the initial three months of eligibility granted to all ABAWDs. Once started, the grace period continues for three full months, whether or not the individual starts to comply with the work requirements again or is no longer receiving SNAP.

This is not true for individuals who regain eligibility due to becoming exempt from the time limit rules or moving into a waived area of the state. These individuals are not eligible for the one-time grace period.

Tools and Resources for Community Agencies Working With SNAP Recipients

For more information on this rule and for tools that community agencies can use when helping this population, please see our [SNAP ABAWD Time Limit Webpage](#). It is important that community agencies help individuals identified by the SNAP office as an ABAWD to understand this rule, including who is exempt from it, so that eligible people do not lose their SNAP benefits.

Attachments and Links

- [17 - ADM - 01](#) – Requirements for ABAWDs

Hunger Solution New York's Tools and Resources

- [SNAP ABAWD Time Limit Webpage](#)
- [SNAP in NYS: An Eligibility Prescreening Guide](#)
- [SNAP Policy Update 16-17 #2](#) - SNAP Recipients Receiving VA Disability Are Exempt from ABAWD Time Limits

Help for Your Clients

There are Nutrition Outreach and Education Program (NOEP) Coordinators in many communities across NYS. NOEP Coordinators are available to help potentially eligible individuals and families apply for SNAP benefits by:

- conducting confidential pre-screenings to see if a family may be eligible for SNAP,
- assisting with completing the application, including the online version,
- answering any questions, and/or
- working with current recipients on recertification or other issues with their SNAP case.

NOEP Coordinators can also come to your community site to help your clients.

To find out if there is a NOEP Coordinator in your community, go to: <http://www.foodhelpny.org>.

Visit <http://otda.ny.gov/workingfamilies/dss.asp> for a listing of SNAP offices and contact information outside of NYC or call 1-800-342-3009.

Visit http://www.nyc.gov/html/hra/html/services/snap_centers.shtml for a listing of SNAP offices in New York City or call 311.

For More Information

If you have, any questions about this SNAP update or SNAP in general, please contact Dawn Secor via phone at (518) 436-8757 ext. 112, or by e-mailing dawn.secor@hungersolutionsny.org.