



Office of Temporary and Disability Assistance

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Informational Letter

Section 1

Transmittal:	20-INF-07
To:	Social Services District Commissioners
Issuing Division/Office:	Employment and Income Support Programs
Date:	March 17, 2020
Subject:	Exemption from Supplemental Nutrition Assistance Program (SNAP) Able-Bodied Adults Without Dependents (ABAWD) Requirements for Individuals who are Obviously Unfit for Employment
Suggested Distribution:	Employment Coordinators Temporary Assistance Directors SNAP Directors Staff Development Coordinators
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Attachments:

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
18-ADM-09 17-ADM-01 16-ADM-01 19-INF-05 16-INF-09		18 NYCRR 385.3		TA and SNAP Employment Policy Manual Section 3	7 CFR 273.24 GIS 19 TA/DC037 GIS 19 TA/DC014

Section 2

I. Purpose

The purpose of this directive is to provide social services districts (districts) with additional guidance regarding the exemption from the Supplemental Nutrition Assistance Program (SNAP) Able-Bodied Adults Without Dependents (ABAWD) time limit for individuals who are obviously unfit for employment.

II. Background

Individuals who meet the federal definition of an ABAWD are subject to the ABAWD time limit and are only eligible to receive SNAP benefits for three months in a 36-month period unless they meet certain special work requirements, are exempt from the ABAWD work requirements, live in an area

of the State covered by federal waiver, or is granted an exclusion from the ABAWD work requirements for the calendar month consistent with the exclusion policy established by the district.

- ABAWDs are individuals who are subject to SNAP work requirements (do not meet any of the exemptions from SNAP work requirements listed in 18 NYCRR §385.3) and who are NOT under the age of 18 or 50 years of age or older
- An adult member of a SNAP household that includes an individual under the age of 18
- Pregnant
- Determined by the district to be medically certified as physically or mentally unfit for employment.

Individuals are unfit for employment when a district deems them as obviously unfit. Where the unfitness is not obvious, the individuals are medically certified as physically or mentally unfit for employment when:

- They are receiving temporary or permanent disability benefits issued by governmental or private sources, or
- Such individuals provide a statement from a medical professional the district determines appropriate, that they are physically or mentally unfit for work.

An individual receiving SNAP benefits is exempt from the ABAWD requirements if they document that they are not able to work at least 80 hours per month, but may still be subject to SNAP work requirements, unless documentation is provided to confirm that they are exempt from SNAP work requirements consistent with 18 NYCRR §385.3.

III. Program Implications

Districts must ensure that workers are correctly evaluating each individual's SNAP employability and entering the appropriate SNAP employability and ABAWD status codes on WMS (myWorkspace or appropriate New York City system) as this information is used to identify which individuals are subject to the ABAWD work requirements on a monthly basis. Districts are also required to ensure that workers are updating an individual's SNAP employability and ABAWD status code on a timely basis when changes in either status are reported and documented. This evaluation is typically done through the certification and recertification interview.

Individuals who qualify for an exemption from the SNAP work requirements and are assigned an exempt SNAP employability code are exempt from both SNAP work requirements and exempt from the ABAWD work requirements. Individuals who do not qualify for an exemption from the SNAP work requirements and are assigned a non-exempt SNAP employability code must still be screened for an exemption from the ABAWD time limit. The entire list of ABAWD exemptions is listed above in the Background Section of this INF.

The purpose of this directive is to provide additional guidance for districts on the obviously unfit for employment exemption from the ABAWD time limit.

When an individual's unfitness for work is obvious to the eligibility worker, the district should exempt the individual from ABAWD work requirements without requiring a statement or verification from an appropriate medical professional. This will prevent an unnecessary documentation burden from being placed on individuals who are clearly unfit for work. If, however, the unfitness is not obvious, the individual must provide a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the district determines appropriate, stating that they are physically or mentally unfit for employment.

For the purposes of determining an exemption from the ABAWD time limit, obviously unfit for employment is based on the eligibility worker's observation/judgement. This determination requires a discussion with the individual about their fitness for employment and ability to work 80 hours a month. The ability to work 80 hours per month is key; even if a person is able to work, if they are physically, mentally, or emotionally unable to work 80 hours a month they should qualify for the exemption from ABAWD requirements.

Districts must have a consistent process in place for determining if a person is obviously unfit for employment regardless of whether the interview takes place in-person or over the phone. When the eligibility worker's judgment is the basis for determining that a person is obviously unfit for employment, the eligibility worker must clearly document the basis for such determination in the individual's case record. OTDA recommends that districts put in place a supervisory review in these instances to make certain consistency is maintained.

Districts should consider an exemption from the ABAWD time limit for individuals who display a physical health or mental health condition that makes them unable to work at least 80 hours per month as noted above. Some examples to consider as factors depending on the totality of the circumstances present, might include, but are not limited to, the following:

- A client having a walking boot, neck cast, or a cast on a leg or arm,
- A client using an oxygen tank,
- A client struggling to walk or stand, or
- A client demonstrating an intellectual disability.

Homelessness does not automatically qualify an individual for an exemption from the ABAWD time limit, but homelessness could be a factor that contributes to a person's unfitness for employment. The individual's undomiciled status must impact their ability to get ready to go to work, keep a job, or engage in work or work activities for 80 hours each month.

The following scenarios illustrate circumstances that could lead to the determination that a person is obviously unfit for employment and is exempt from the ABAWD time limit.

1. During the application interview, the eligibility worker discovers that the client has had many jobs but repeatedly lost them. Through the conversation, the eligibility worker discovers the person has a history of getting fired quickly or quitting due to uncontrollable outbursts of anger with the employer or coworkers. This may be an untreated mental health issue that currently makes the person mentally unfit for employment. The eligibility worker should document the case record to indicate that based on the individual's employment history the worker has determined that the client is physically or mentally unfit for employment due to anger issues explained by the client during the eligibility interview and therefore exempt from the ABAWD time limit.
2. While interviewing a person, the eligibility worker discovers that the client has been in and out of various substance abuse treatment programs for several months. Even if the client is not currently engaged in a treatment program, these circumstances and issues may make the client physically or mentally unfit for employment. The eligibility worker must document in the case record the client's frequency in and out of various substance abuse treatment programs as the reason for an obviously unfit for work exemption from the ABAWD time limit.
3. At application, the client states they are homeless and undomiciled. The client explains they have no fixed and regular nighttime residence and stays wherever they are able, including various shelters. The client states they do not have consistent access to laundry or shower facilities. Based on the eligibility worker's conversation with the client, the worker determines the client is chronically homeless. This determination may support the client's unfitness for employment. The eligibility worker must document in the case record the client's lack of

consistent access to laundry or shower facilities due to homelessness as the reason for the obviously unfit for work exemption from the ABAWD time limit.

4. During an in-person interview, the eligibility worker observes the client to have dental and personal hygiene issues. These issues may make the client physically or mentally unfit for employment. The eligibility worker must document in the case record the individual's dental and personal hygiene issues as the reason for the obviously unfit for work exemption from the ABAWD time limit.
5. During an in-person interview, the eligibility worker observes the client to have a broken leg set in a cast. The individual indicates they are unable to drive as a result of the injury and do not have access to public transportation. This issue may make the client physically unfit for employment. The eligibility worker must document in the case record the worker observation of the client's broken leg set in a cast as the reason for the obviously unfit for work exemption from the ABAWD time limit.
6. A SNAP applicant participating in a telephone interview has been identified as an ABAWD. While conducting the interview, the eligibility worker notes that the individual is incoherent and having trouble following and answering questions being asked. The eligibility worker thoroughly documents the conversation in the case notes. The eligibility worker determines that this individual is obviously mentally or physically unfit for work via the telephone interview and is therefore exempt from the ABAWD time limit.
7. A SNAP recipient participating in a telephone recertification interview discloses they suffered a recent traumatic life event and has been experiencing anxiety, insomnia and the inability to perform daily life functions. The eligibility worker thoroughly documents the conversation in the case notes. The eligibility worker determines that this individual is obviously mentally or physically unfit for work due to recent traumatic events and is therefore exempt from the ABAWD time limit.

The determination that a person is obviously unfit for employment and is exempt from the ABAWD time limit does not constitute an exemption from the SNAP work requirements (or TA work requirements in those instances where an individual is concurrently receiving TA and SNAP) unless documentation is provided by the individual to confirm that they are exempt from SNAP work requirements consistent with 18 NYCRR §385.3. Districts must continue to correctly evaluate each individual's SNAP employability and assign the appropriate SNAP employability and ABAWD status code. When an individual is assigned a non-exempt SNAP employability code but qualifies for an exemption from the ABAWD requirements, (including when an individual may be determined obviously unfit for employment), an ABAWD status code of "N" (Non-ABAWD) must be assigned.

The determination that a person is obviously unfit for employment and is exempt from the ABAWD time limit must be reviewed at recertification and the basis used to determine that the individual continues to be obviously unfit for employment must be clearly documented in the case record, if the district continues to exempt the individual from the ABAWD time limit under this criteria.

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