

## **SNAP E&T Provider Determinations Questions and Answers for Districts and Providers**

### **Q1. What is a provider determination?**

A1. A provider determination is made when a SNAP E&T provider determines an individual is not a good fit for the SNAP E&T activity component in which the individual is participating. The SNAP E&T provider then informs the district of the provider determination, and the district must take an appropriate action to identify a program or service that may be a better fit for the individual. In all instances, the district must notify the individual of the provider determination within 10 calendar days of receiving the notification from the SNAP E&T provider.

### **Q2. What criteria must the SNAP E&T provider use to make a provider determination?**

A2. Only the SNAP E&T provider has the authority and responsibility to make a provider determination. Since SNAP E&T providers know their programs best, providers have flexibility to use their own judgment to determine if an individual is not a good fit for their program. Districts should review provider determinations to ensure SNAP E&T providers are making reasonable decisions about which individuals are not a good fit for their programs. SNAP E&T providers must not discriminate against protected classes when making provider determinations. Districts must ensure SNAP E&T providers adhere to all Civil Rights laws in this regard.

### **Q3. How long does the SNAP E&T provider have to inform the district of the provider determination?**

A3. As previously outlined in [21-ADM-05](#), the SNAP E&T provider has 10 calendar days from the date when the provider determination is made to inform the district that the participant is not a good fit for a particular SNAP E&T activity component. Since the abovementioned 10-day notification timeframe is mandated by federal regulations, districts are strongly encouraged to include it as a requirement in any contract supported with SNAP E&T funds.

### **Q4. How must the provider send and document the provider determination to the district? For example, is there a standard form that must be used?**

A4. There is no standard form for the SNAP E&T provider to use to send information about the provider determination to the district. However, districts outside of New York City can utilize the referral feedback function in WTCMS to thoroughly document the provider determination. Please note that districts that grant WTCMS access to their SNAP E&T providers may instruct provider staff to use this functionality to report provider determinations. Alternatively, districts that do not grant WTCMS access to their SNAP E&T provider staff generally receive provider feedback in some other format, for example, electronically or in printed form, and require district staff to enter the provider feedback information into WTCMS. Under either scenario, if using WTCMS to record information regarding a provider determination, provider staff/district staff should first locate the specific referral in WTCMS. To access a client's referrals, from the **Client Summary** page, under **WORK WITH THE CLIENT** section, the user must expand the **Actual Client Activity (Referral, Enrollment, Employment)** section. To open a referral record to provide feedback, the user must click the **REF** link in the **Type** column. When the **Update Referral Information** window displays, the user must scroll down to the

**FEEDBACK** section and select the **Result** radio button next to the option **Complied – Client not Accepted**. Once this option is selected, a reason must be chosen from the **Reason Not Completed** drop-down menu. To report that a provider determination has occurred provider/district staff should select the option **Client does not meet requirements (please specify in remarks)** and indicate the reason for the provider determination in the **Remarks** section. Provider/district staff should also use this section to enter input by the provider on the most appropriate next steps.

Districts should work with their SNAP E&T providers to determine the best mode to securely communicate, and document information related to the provider determination process. SNAP E&T providers in New York City (NYC) should collaborate with NYC Human Resources Administration (HRA) to establish a provider determination process consistent with federal regulations.

**Q5. How long does the district have to inform the participant of the provider determination?**

- A5. The district has 10 calendar days from the date the district receives notification of the provider determination to inform the participant of the provider determination. Districts may make such notification either verbally or in writing, but must, at a minimum, document the participant's case file when the notification occurs.

**Q6. What does the district have to tell the individual with the provider determination?**

- A6. The district must notify the individual of the provider determination, explain the next steps, and inform the client that a provider determination does not mean the individual is being sanctioned. The district must also provide the client with its contact information to ensure that the individual can contact the agency should they have any questions. In the case of an ABAWD who has received a provider determination, the district must notify the individual that they will accrue countable months toward their three-month participation time limit the next full benefit month after the month during which the district notifies the ABAWD of the provider determination, unless the ABAWD fulfills the ABAWD work requirements, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt.

**Q7. What action must the district take to ensure the individual with a provider determination is connected to a program that is a better fit?**

- A7. The district must take one of the following two actions for an individual with a provider determination:
1. Refer the individual to an appropriate SNAP E&T activity component. If selecting this option, the district must first conduct a reassessment to determine an appropriate SNAP E&T activity component, considering the suitability of the individual for any available components. Additionally, all SNAP E&T participants must receive case management services along with at least one SNAP E&T activity component.
  2. Reevaluate the participant's physical and mental fitness. If selecting this option, the district must conduct a reassessment and screen the individual for any other exemptions from the work requirements. Individuals who are determined to be mentally or physically unfit must be exempt from work requirements for SNAP and TA if applicable. If the individual is found to be physically and mentally fit, and the district determines the individual is not otherwise exempt from the general work

requirements, the district must follow the process described under option one of this section to determine an appropriate SNAP E&T activity component.

**Q8. When must the district take one of the two actions above?**

A8. The district must take one of the two actions described in the response to the question above no later than the individual's next recertification. If an individual with a provider determination requests that the district take one of the two actions sooner, the district must act as soon as possible.

**Q9. Can an individual with a provider determination be sanctioned for failure to comply with mandatory SNAP E&T requirements?**

A9. Provider determinations are made by a SNAP E&T provider based on criteria specific to that SNAP E&T provider about whether or not a SNAP E&T participant is a good fit and is likely to be successful in a particular SNAP E&T activity component. Only SNAP E&T providers have the authority and responsibility to make provider determinations. Individuals with a provider determination cannot be found to have refused without good cause to participate in the assignment for which a provider determination has been made and cannot be sanctioned for failure to comply with the assignment in question until the district has initiated one of the two actions described above.

**Q10. How does a provider determination affect ABAWDs?**

A10. If an ABAWD is also a mandatory SNAP E&T participant, and a provider determination has been made for an assigned work activity, the ABAWD cannot be sanctioned for failure to comply with the mandatory SNAP E&T requirement. However, the ABAWD is still subject to the ABAWD work requirements unless the ABAWD has good cause, lives in a waived area, or is otherwise exempt. Individuals subject to the ABAWD work requirement who receive a provider determination must find another way to fulfill the ABAWD work requirement. ABAWDs who do not meet the ABAWD requirement will accrue countable months towards the three-month participation time limit the next full benefit month after the month during which the district notifies the ABAWD of the provider determination.

As a reminder, USDA has approved OTDA's request to waive the ABAWD time limit in all areas of the State for the period of October 1, 2022 through September 30, 2023. Therefore, ABAWDs residing in all areas of New York State are not subject to the ABAWD requirements through September 30, 2023.

**Q11. For what period of time may a provider make a provider determination?**

A11. The provider may make a provider determination from the time a SNAP E&T participant is referred to the activity component until completion of the SNAP E&T activity component.

**Q12. What information must the provider give to the district regarding a provider determination?**

A12. Within 10 calendar days of making the provider determination, the provider must inform the district and provide the reason for the provider determination (i.e., an individual's inability to complete certain training tasks, lack of adequate knowledge to successfully progress in an assigned educational program, or not meeting the prerequisite

requirements to be enrolled in a specific activity component). The provider may also provide input to the district on the most appropriate next step. If the SNAP E&T provider is unable to provide the reason for the provider determination, the district should process the provider determination without the reason. As a reminder, districts are responsible for monitoring their SNAP E&T providers to ensure provider determinations are fair and non-discriminatory.

**Q13. If a SNAP E&T provider determines that a SNAP E&T participant is not a good fit for the component the individual is referred to, but would be a good fit for another component offered by the provider, can the provider move the participant to the new component?**

A13. No. However, if a provider offers a different SNAP E&T activity component for which the individual appears to be better suited, the provider can recommend an enrollment in this component as part of the provider determination feedback to the district. The district may choose to follow the provider's recommendations and assign the client to the activity component considered to be a better fit by the provider if based on the client's employability assessment and plan, the client is likely to succeed in the activity component and it will lead to self-sufficiency. Alternatively, the district may decide that a different course of action is more appropriate for the client. It is important to note that the district is not required to follow a provider's recommendations for appropriate next steps if based on the client's employability assessment the district determines that a different course of action is more suitable for the individual.

**Q14. If a SNAP E&T participant receives a provider determination, and the participant disagrees with that determination can the participant appeal or request a fair hearing?**

A14. Since a provider determination is not a sanction or a determination of ineligibility, an appeal or request of a fair hearing in accordance with 7 CFR 273.7(f)(6), is not provided to address a participant's disagreement with a provider determination. Districts are encouraged to be responsive to a participant's concern by working with the participant and provider, as needed, to identify a successful approach for the SNAP E&T program and participant. As outlined in 18 NYCRR 385.6 and 385.7, if the client's preferences cannot be accommodated their employment plan must be updated to include the reasons. Any change to the plan must be discussed with the client and documented in writing.

**Q15. Do provider determinations apply to all SNAP E&T providers (i.e., those that receive SNAP E&T 50 percent funding, WIOA partners, etc.)?**

A15. Yes. All providers that serve SNAP E&T clients and are under an agreement with a district to provide SNAP E&T services need to have a formal process in place with the district to make provider determinations.

**Q16. When must a district document that a provider determination happened?**

A16. The district should record in the case file when the district informed the participant of the provider determination and provided the participant with all required information. As a reminder, the SNAP E&T provider has 10 calendar days to inform the district that they have made a provider determination, and the district then has 10 calendar days to inform the participant of the provider determination.

**Q17. What are some examples of situations where a SNAP E&T provider should initiate the provider determination process?**

- A17. As explained in the response to Question 2 since individual SNAP E&T providers know the nature and scope of the programs they offer best, the decision whether a provider determination is necessary would be specific to each provider. The following are several scenarios that illustrate the application of the provider determination process in general.

**Scenario 1:** After completing an employability assessment at the district office a client with a High School Equivalency diploma who has expressed interest in continuing their education to pursue a career in healthcare is referred to a SNAP E&T provider to be enrolled in a Nursing Assistant Training. The district staff notifies the client that taking a Test of Adult Basic Education (TABE) is a prerequisite for enrollment in the program. Staff at the SNAP E&T provider location administers the TABE test; however, the client does not meet the required TABE score to be enrolled in the program they were initially referred to. The SNAP E&T provider staff discusses the outcome of the test with the individual and explains that at this time they cannot be enrolled in the training they are interested in. Within ten days, the provider notifies the district of the referral outcome. As part of the provider determination feedback, the provider indicates that the individual was determined not to be a good fit for the activity they were originally referred to due to their failure to meet the required TABE score. The provider also recommends that the individual be enrolled in a different program offered by the provider which does not require taking the TABE test and contains an element that will assist the client in improving their reading comprehension and math skills. Considering the client's assessment, the district decides that the next steps suggested by the provider are suitable for the individual and refers the client back to the same provider but enrolls them in a new activity component following the course of action recommended by the provider. The changes to the client's employment plan are discussed with the client and documented in writing.

**Scenario 2:** After completing an employability assessment at the district office a client with some college background who has indicated they are interested in exploring career opportunities in the field of Information Technology (IT) is referred to a SNAP E&T provider that offers specialized IT technician classes. The SNAP E&T provider staff completes an in-depth assessment and becomes aware the client does not meet the prerequisite requirements to be enrolled in the specific training program. The provider also determines they do not offer another activity that is appropriate for the individual. Within ten calendar days, the SNAP E&T provider initiates the provider determination process by reaching out to district staff to inform them of the referral outcome and provide the reasons for the provider determination. In turn, within 10 calendar days of the provider determination notification district staff contacts the individual to explain what a provider determination is, describe the next steps that will be taken as a result of the determination, and provide the client with contact information for the district. In the case of either a mandatory or voluntary SNAP E&T participant with a provider determination, the district must also notify the individual that they are not being sanctioned as a result of the provider determination. The district staff documents the provider determination and notification to the participant in the participant's case record. Under these circumstances, the district is required to take one of the two actions listed in the response to Question 7 as soon as possible but no later than the individual's next recertification. Any changes to the client's employment plan must be discussed with the client and documented in writing.

**Scenario 3:** After completing an employability assessment at the district office, an individual with limited work history who has not disclosed any limitations on their ability to work is referred to participate in a work experience assignment at a local food pantry. Upon arrival at the work experience site, the individual is introduced to the site supervisor who explains their responsibilities. The supervisor indicates the client will be assisting staff by lifting food boxes and carrying them from the storage area to the front counter. At that time the individual states they are not able to lift more than 15 pounds. The supervisor does not have an available opening to accommodate the individual's physical limitation and initiates the provider determination process. The supervisor contacts district staff within the required 10-day period to explain that the individual is not a good fit for the activity they were referred to and provides the reason for the provider determination. The supervisor recommends that the individual's physical fitness be reassessed as a next step. District staff reaches out to the individual with the required 10-day timeframe, provides them with information regarding the provider determination, and explains that the client is afforded the opportunity to present medical documentation to support their claimed work limitations. Any changes to the client's employment plan must be discussed with the client and documented in writing.