



# Office of Temporary and Disability Assistance

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## Informational Letter

### Section 1

<b>Transmittal:</b>	22-INF-11
<b>To:</b>	Social Services District Commissioners
<b>Issuing Division/Office:</b>	Employment and Income Support Programs
<b>Date:</b>	December 16, 2022
<b>Subject:</b>	Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) Provider Determinations
<b>Suggested Distribution:</b>	Employment Coordinators, Temporary Assistance Directors, SNAP Directors, Staff Development Coordinators
<b>Contact Person(s):</b>	OTDA Employment Services Advisor or Employment and Advancement Services Bureau at: (518) 486-6106 or <a href="mailto:otda.sm.eisp.eas@otda.ny.gov">otda.sm.eisp.eas@otda.ny.gov</a>
<b>Attachments:</b>	<a href="#">Attachment 1 - SNAP E&amp;T Provider Determinations - Questions and Answers for Districts and Providers</a>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
21-ADM-05		18 NYCRR 385.3		TA and SNAP Employment Policy Manual Section 385.3	7 CFR 273.7(c)(18) 7 CFR 273.24(b)(1)

### Section 2

#### I. Purpose

The purpose of this informational letter (INF) is to provide social services districts (districts) with an overview of the requirement to develop provider determination processes previously outlined in [21-ADM-05](#) and to supply a set of questions and answers designed to assist districts in the provider determination implementation process which is included as Attachment 1.

#### II. Background

Districts were previously notified in [21-ADM-05](#) of the addition of a referral requirement for any Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) participant who is determined not to be a good fit to participate in a particular SNAP E&T activity component by the provider. Districts were also advised of the requirement to inform their local SNAP E&T providers of the providers' authority and responsibility to determine if an individual is not a good fit for a specific SNAP E&T activity component and to put in place processes associated with such

determinations. These determinations are referred to as provider determinations. Processes associated with provider determinations must be established in compliance with federal requirements which were also previously outlined in 21-ADM-05. This INF includes an overview of the guidelines to put in place a provider determination process and provides a set of questions and answers developed to assist districts with implementation.

SNAP E&T assists SNAP household members in gaining skills, training, or work experience that will increase their ability to obtain and maintain employment. All non-exempt Temporary Assistance (TA)/SNAP applicant and recipient work registrants, also referred to as mandatory SNAP E&T participants, are subject to mandatory SNAP E&T rules and are required to participate in a SNAP E&T activity as assigned by the district. The assigned work activity for these individuals is generally a combined TA and SNAP work requirement and willful refusal or failure to comply without good cause may result in a TA and/or SNAP employment sanction in accordance with 18 NYCRR 385.12. For non-Temporary Assistance (NTA)/SNAP participants, each district determines the extent to which non-exempt NTA/SNAP applicant and recipient work registrants are required to participate in SNAP E&T activities. District specific policies regarding SNAP E&T are outlined in each district's biennial TA and SNAP Employment Plan. Please note that the processes associated with provider determinations should be applied to individuals who are required by the district to participate in a SNAP E&T activity component (mandatory participants) as well as those who participate on a voluntary basis (voluntary participants). Districts must inform a mandatory or voluntary SNAP E&T participant of a provider determination within 10 calendar days of receiving the notification from the SNAP E&T provider and must take an appropriate action as explained below no later than the individual's next recertification.

### **III. Program Implications**

As previously indicated, changes in federal laws and regulations that are intended to strengthen and improve SNAP E&T programs require districts to inform their SNAP E&T providers of the providers' authority and responsibility to determine if an individual is not a good fit for a particular SNAP E&T activity component.

Providers know best the skills and qualifications that will likely enable an individual to be successful in their programs. As such, they have flexibility to establish the criteria used to make a provider determination. The provider may use any information available to make the determination. Providers are encouraged to work with districts to explain the skills and qualifications needed for SNAP E&T participants to be successful in the SNAP E&T activity component(s) they offer. This approach is intended to reduce the number of participants referred by the district to SNAP E&T activity components where those participants are not likely to succeed. It is important to note that individuals with a provider determination are not subject to disqualification for failure to comply with mandatory SNAP E&T requirements as a result of the provider determination.

Providers have 10 days from the date of a provider determination to notify the district that a participant is not a good fit for a program or an activity component. The notification must include the reason(s) for the provider determination and may include the provider's input to the district on the most appropriate next steps for the individual with a provider determination. If the district is unable to obtain the reason(s) for the provider determination from the SNAP E&T provider, the district must continue to act on the provider determination without the reason(s).

The district's responsibilities in the provider determination process are as follows:

- The district must notify a mandatory or voluntary SNAP E&T participant of a provider determination within 10 calendar days of receiving the notification from the provider. The district may make such notification either verbally or in writing, but must, at a minimum, document in the participant's case file when the client was informed of the provider determination.

- The district must explain to the SNAP E&T participant, as applicable, what a provider determination is, the next steps the district will take as a result of the provider determination and provide the district's contact information. 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 must document the provider determination and the notification to the participant in the participant's case record.
- No later than the date of the individual's next recertification, the district must take the most suitable action from the following two options:
  1. Refer the individual to an appropriate SNAP E&T activity component. If selecting this option, districts must first conduct a reassessment to determine an appropriate SNAP E&T activity component, considering the suitability of the individual for any available SNAP E&T activity components. Additionally, all SNAP E&T participants must receive case management services along with at least one SNAP E&T activity component.
  2. Re-assess the participant's physical and mental fitness. If selecting this option, districts must perform a reassessment and screen the individual for any other exemptions from 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 in option one of this section to determine an appropriate SNAP E&T activity component.

Note: TA applicants and recipients who claim to be unable to work or have limitations on their ability to participate in work activities may be required to provide documentation or participate in an evaluation of their ability to work in accordance with 18 NYCRR 385.2. Failure to participate in the employability/disability determination process without good cause, as required by State regulations, may result in TA application denial or case closure in accordance with 18 NYCRR Part 351. SNAP applicants and recipients who claim an exemption but do not provide documentation of a claimed exemption from SNAP work requirements must be assigned appropriate SNAP employability and ABAWD codes and remain subject to SNAP employment and ABAWD requirements in accordance with 18 NYCRR 385.3. Districts should refer to 18 NYCRR 385.11 and 385.12 for guidance on failure to comply with employment requirements including an employment assessment appointment for TA and SNAP.

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 for a particular SNAP E&T activity component. Providers may share a reason for the provider determination with the district and suggest a next step for the individual, and the district may use that information in determining which of the two actions, identified above, the district will take with the individual.

Districts and providers are strongly encouraged to work together to design effective provider determination processes. Districts should also develop a written policy to delineate the provider determination processes established as a result of this collaboration. Additionally, districts are reminded of their oversight authority to ensure SNAP E&T providers are not making unfair provider determinations or using provider determinations to discriminate against protected classes. Providers must have procedures in place to prevent discriminatory practices and ensure provider determinations are fair.

It is important to note that providers may make a provider determination from the time a SNAP E&T participant is referred to the SNAP E&T activity component until the completion of the activity component. Additionally, if a provider determines that a SNAP E&T participant is not a good fit for

the activity component the individual is referred to but would be a good fit for another activity component offered by the provider, 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. If the district does not follow the provider's recommendation to enroll the client in another more appropriate component offered by the same provider, the district must continue processing the provider determination as described above and select the more suitable action of the aforementioned two options. Districts are also reminded that any changes to the client's employment plan must be discussed with the client and documented in writing.

The information provided through the attached set of questions and answers should be used as guidance to ensure that district provider determination processes are implemented in compliance with federal requirements and should be shared with district staff and SNAP E&T providers who serve individuals participating in SNAP E&T on mandatory or voluntary basis. Districts that have questions regarding policy and procedures related to processes associated with provider determinations should contact their assigned Employment Services Advisor.

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**Issued By:**

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