



Office of Temporary and Disability Assistance

KATHY HOCHUL
Governor

BARBARA C. GUINN
Acting Commissioner

Administrative Directive Memorandum

Section 1

Transmittal:	23-ADM-08
To:	Social Services District Commissioners
Issuing Division/Office:	Employment and Income Support Programs
Date:	December 15, 2023
Subject:	Modifications of the Able-Bodied Adults Without Dependents (ABAWD) Time Limit Exemptions Mandated by the Fiscal Responsibility Act of 2023
Suggested Distribution:	Temporary Assistance Directors SNAP Directors Employment Coordinators Staff Development Coordinators WMS Coordinators Fair Hearing Staff
Contact Person(s):	Employment and Advancement Services Bureau at: (518) 486-6106 or EASBureau@otda.ny.gov
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
22-ADM-01 21-ADM-05 21-LCM-07 18-ADM-07 17 ADM-01 16 ADM-01 13 ADM-04		18 NYCRR 385.3	PRWORA of 1996 (P.L. 104-193) Sec. 6 of the Food Stamp Act Fiscal Responsibility Act of 2023	TA and SNAP Employment Policy Manual Section 385.3	7 CFR 273.7 7 CFR 273.24

Section 2

I. Summary

This Administrative Directive (ADM) informs social services districts (districts) of changes to the Able-Bodied Adults Without Dependents (ABAWD) exemptions that resulted from the Fiscal Responsibility Act of 2023 (FRA) signed into law on June 3, 2023. The FRA adds new exemptions to the ABAWD time limit for individuals experiencing homelessness, veterans, and individuals who are 24 years of age or younger and were in foster care on their 18th birthday or later. The FRA also gradually increases the age of those subject to the ABAWD time limit. Throughout this policy

directive the term “modified exemptions” is used to refer to the changes the FRA makes to the ABAWD exemption criteria.

II. Purpose

The purpose of this directive is to inform districts of the modified exemptions of the ABAWD time limit established by the FRA and to outline the implementation deadlines for the provisions of that Act.

III. Background

Consistent with federal regulations, districts are required to determine the employability status of each SNAP applicant and recipient. An individual’s SNAP employability status indicates if they are subject to the general SNAP work requirements. Further, ABAWDs are a subset of the larger SNAP population subject to the general SNAP work rules who are required to meet additional work requirements to receive SNAP benefits for more than three months in a 36-month period. The current 36-month period for New York State is a fixed period that started on January 1, 2022, and will expire on December 31, 2024. To retain their eligibility for SNAP, ABAWDs must work or participate in certain employment and training activities for a designated minimum number of hours per month, be granted an exclusion consistent with their district’s ABAWD exclusion policy or reside in an area with a waiver approved by the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS).

New York State currently has a statewide waiver of the ABAWD time limit in effect through February 28, 2025. Therefore, ABAWDs residing in all areas of New York State are not subject to the ABAWD requirements through February 28, 2025. However, districts are required to continue to screen SNAP applicants and recipients for an exemption from the general SNAP work requirements and an exemption from the ABAWD time limit and assign the proper SNAP employability and ABAWD status codes to each individual applying for or receiving SNAP benefits even while under a waiver.

IV. Program Implications

Districts are required to correctly determine the employability status and to document the appropriate ABAWD status of each individual applying for or receiving SNAP benefits, including those individuals who are concurrently applying for or receiving public assistance. This determination must be made for each individual at application, recertification, and if appropriate, when changes in the household’s circumstances are reported. Districts must ensure that the correct SNAP employability and ABAWD status codes are entered on the Welfare Management System (WMS) (or myWorkspace) even while under a waiver of the ABAWD time limit. The criteria that would render an individual exempt from the general SNAP work requirements and from the ABAWD time limit are listed in 18 NYCRR 385.3. 18 NYCRR 385.3 will be updated to incorporate the changes to the ABAWD time limit exemptions resulting from the enactment of the FRA.

ABAWD Time Limit Exemptions

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 work requirements, live in an area with a federally approved ABAWD waiver, or receive an exclusion from the requirements. All individuals who are exempt from the general SNAP work requirements are also exempt from the ABAWD time limit. However, an individual who is exempt from the ABAWD requirement is not necessarily exempt from the general SNAP work requirements, including participation in SNAP E&T. In addition to those individuals exempt from the general SNAP work requirements, other groups of individuals are also exempt from ABAWD requirements as discussed below.

Prior to the enactment of the FRA, the ABAWD time limit did not apply to an individual if they are:

- Under the age of 18 or 50 years of age or older;
- An adult residing in a SNAP household where a household member is under 18 years of age;
- Pregnant – A pregnant individual is exempt from the ABAWD requirements throughout the entire pregnancy;
- An individual determined by the district to be medically certified as physically or mentally unfit for employment. 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 including participation in SNAP E&T, unless documentation is provided to confirm they are exempt consistent with 18 NYCRR 385.3. Additionally, for ABAWD purposes, an individual is medically certified as physically or mentally unfit for employment if they:
 - Are receiving temporary or permanent disability benefits issued by governmental or private sources;
 - Are receiving Veterans Affairs (VA) disability compensation;
 - Are obviously mentally or physically unfit for employment as determined by the district; or
 - If the unfitness is not obvious, provide a statement from a medical professional the district determines appropriate, that they are physically or mentally unfit for work.

Modifications of ABAWD Time Limit Exemptions Mandated by the FRA

The FRA adds new groups of individuals who are exempt from the ABAWD time limit and gradually increases the age of those subject to ABAWD time limit. The new exemption criteria and the changes to the age-based exemptions from the ABAWD work requirements are explained below. Please note that the modifications to the ABAWD exemption criteria mandated by the FRA sunset on October 1, 2030, barring any federal action to extend them.

New Exemption Definitions

The FRA adds new exemptions from the ABAWD time limit for individuals experiencing homelessness, veterans, and individuals who are 24 years of age or younger and were in foster care on their 18th birthday or later. The USDA-FNS defines these new exemptions as follows:

- “A **homeless individual**,” as defined in Section 3 of the Food and Nutrition Act (FNA) of 2008 and at 7 CFR 271.2, means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:
 - A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);
 - A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;
 - A temporary accommodation for not more than 90 days in the residence of another individual; or
 - A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby, or similar places).
- “A **veteran**,” as defined in Section 5126(f)(13)(F) of the James M. Inhofe National Defense Authorization Act of 2023, means an individual who served in the United States Armed Forces (such as Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, and National Guard), including an individual who served in a reserve component of the Armed Forces, and who was discharged or released therefrom, regardless of the conditions of such discharge or release. Please note that OTDA has interpreted “veteran” to be inclusive of those in receipt of VA disability compensation.

- “An **individual who is 24 years of age or younger and in foster care on their 18th birthday**. This includes any individual who was in a foster care program run by the State, District, Territory, or Indian Tribal Organization as of their 18th birthday or later and who is under 25 years of age.

Changes to Age-Based ABAWD Time Limit Exemptions

The FRA also changes the age-based exemptions. Previously, individuals aged 18 to 49 were subject to the ABAWD time limit. The FRA gradually increases the age of those subject to the ABAWD time limit as follows:

- September 1, 2023: the age of those subject to the ABAWD time limit increases to age 50;
- October 1, 2023: the age of those subject to the ABAWD time limit increases to age 52;
- October 1, 2024: the age of those subject to the ABAWD time limit increases to age 54.

Verification Requirements for the Modified ABAWD Time Limit Exemptions

Districts must follow the SNAP verification requirements at 7 CFR 273.2(f) for the modified exemptions. There are no new verification requirements for the modified exemptions from the ABAWD time limit. Districts are expected to only require verification of information that they determine is questionable. Districts must follow established guidelines for what is considered questionable. Districts must support households in obtaining verification, provided the household is cooperating, and must accept any reasonable documentary evidence provided by the household. If documentary evidence cannot be obtained or is insufficient, the eligibility worker may use collateral contacts or home visits.

If the information is questionable, examples of verification that districts can use to confirm the modified exemptions include, but are not limited to:

- Homeless individuals - Collateral contact with a homeless shelter, person the homeless individual is staying with, or any other individual aware of the household’s circumstances.
- Veterans - Service department records, such as a DD Form 214, Certificate of Release or Discharge from Active Duty, original Certificate of Discharge, Report of Transfer or Discharge, military ID card indicating service in the armed forces; correspondence or contact from the Department of Veterans Affairs including benefit payment or award letter or VA ID Card; correspondence or contact from the Department of Veterans Affairs indicating service in the armed forces, or driver's license indicating veteran status.
- Youth aging out of foster care – Authorized data sharing and/or collateral contact from other social service workers or agencies, such as the agency administering the foster care program or Medicaid.

As a reminder, if verification is required districts may accept multiple forms of documentary evidence. Homeless households are specifically exempt from the requirement to verify residency.

V. Required Action

As directed in [GIS 23DC063](#), districts were required to begin screening for and applying the modified ABAWD exemption criteria to all initial applications and recertification applications received beginning September 1, 2023, with the exception of the new age-based exemption. Effective immediately, districts must implement the age-based exemptions as they are now deployed in the system.

Districts must apply the modified exemptions based on the date the application is received, not based on the benefit month or date the district processes the application. For example:

- If the district receives a late recertification application in September 2023, from a household with a certification period expiring August 31, 2023, it must apply the modified exceptions.

Note: Please see the *Systems Implications* Section of the ADM for specific information related to the implementation of the age-based modified exemption.

Districts must screen for and apply the modified exemptions to a household during the certification period starting September 1, 2023. Districts must follow existing rules for acting on changes at 7 CFR 273.12(c), including rules about unclear information. These rules limit district authority to require information from households during the certification period, although households may report and verify information voluntarily. Districts must ensure they have all the information they need to determine whether household members are subject to the ABAWD time limit before changing their exemption status, including screening for other exemptions. For example:

- If a household reports a change during the certification period that a household member is a veteran and the information is clear, the district may exempt the individual from the ABAWD time limit.
- If the district is aware that an individual is now 50 years old, but it is unclear whether they meet another exemption, the district may not apply the ABAWD time limit to such individual until the next certification action or periodic report.

Note: Please see [LDSS-4908](#) *SNAP Change Reporting Desk Aid* for details regarding change reporting requirements.

Even though New York State has a statewide waiver of the ABAWD time limit through February 28, 2025, all districts are still required to screen SNAP applicants and recipients for an exemption from SNAP work requirements and an exemption from the ABAWD time limit. Districts must correctly assign the SNAP employability code and appropriately document the ABAWD status to each individual applying for or receiving SNAP benefits. Districts must ensure that the correct SNAP employability and ABAWD status codes are entered on the WMS (or myWorkspace) at the time of opening and recertification for SNAP benefits even while under a waiver. The SNAP employability and ABAWD status codes must also be updated as appropriate, when changes in the household's circumstances are reported.

Districts must continue to enter the ABAWD status code "N" (Non-ABAWD) in the designated fields in WMS (or myWorkspace) for individuals who are exempt from the ABAWD time limit including those who qualify for an exemption based on one of the modified exemption criteria.

In addition, districts must also adhere to the guidance outlined in [22-ADM-01](#) to provide a written notice and a comprehensive oral explanation of the SNAP work requirements to all households where at least one member is subject to a work requirement. At this time during the statewide waiver of the ABAWD requirements (currently in effect through February 28, 2025) districts should use the [LDSS-5193A](#) *Important Information about SNAP Work Rules (General and Mandatory E&T)* for all households including those containing individuals who are assigned an ABAWD status code "A". As a reminder, during the period of the statewide ABAWD waiver, only ABAWD status codes "A" and "N" should be entered into the system. The ABAWD status code "A" should be assigned to individuals who are identified as ABAWDs, and "N" should be assigned to those who are identified as non-ABAWDs. ABAWD status codes "X" (Excluded, based on the district exclusion policy) and "W" (Waiver granted from OTDA to the district from ABAWD work requirements) should not be utilized throughout the duration of the statewide waiver. The LDSS-5193A which does not explain the ABAWD requirements should be used throughout the duration of the statewide ABAWD waiver as during that period ABAWDs residing in all areas of New York State are not subject to the ABAWD requirements. OTDA is in the process of revising the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)* as well as other documents and public-facing notices which contain ABAWD-related information including the *LDSS-5062A SNAP*

Employability/ABAWD Code Desk Guide to incorporate the modified exemptions. Further guidance will be released to notify districts of the revisions when they are complete.

VI. Systems Implications

OTDA has implemented the necessary systems changes to allow the entry of the ABAWD status code “A” for individuals over the age of 50 based on the modified age-based exemption. To accommodate the increase to the age of those subject to the ABAWD time limit to 52, OTDA modified a systems edit in WMS that was in place to prevent districts from entering the ABAWD status code “A” for individuals over the age of 49. The change now allows users to enter an ABAWD status code “A” in the designated fields on NYC WMS for individuals up to the appropriate age based on the age limit increase schedule outlined in the *Program Implications* Section of this ADM. Systems changes have also been implemented for upstate WMS (or myWorkspace) to allow users to enter an ABAWD status code “A” in the designated fields for individuals up to the age of 54.

VII. Effective Date

Effective immediately, districts must implement the age-based exemption from the ABAWD time limit described above. All other provisions within this ADM were effective September 1, 2023, as outlined in [GIS 23DC063](#).

Issued By:

Name: Valerie T. Figueroa

Title: Deputy Commissioner

Division/Office: Employment and Income Support Programs/Office of Temporary and Disability Assistance