

Section 385.3 - Work Registration, Registration Exemptions, and Certain Eligibility Requirements for SNAP Applicants and Recipients

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Part A - The Regulations

a) Exemptions from food stamp work registration.

- 1) Each individual, including migrant/seasonal laborers, is required to register for employment at the time of application for food stamp benefits unless the individual is:
 - i) younger than 16 years of age, or is 60 years of age or older;
 - ii) physically or mentally unfit for employment;
 - iii) subject to and complying with any work requirement under title IV of the Social Security Act (SSA); provided, however, that an individual participating in a work experience program in accordance with the provisions of title IV-A of the SSA and of this Part may also be required to participate in work experience for the number of hours represented by the dollar value of the individual's food stamp benefit divided by the Federal or State minimum wage, whichever is higher.
 - iv) a parent or household member who is responsible for the physical care of a dependent child under the age of six or of an incapacitated person; provided, however, that an individual participating in a work experience program in accordance with the provisions of title IV-A of the SSA and of this Part may also be required to participate in work experience for the number of hours represented by the dollar value of the individual's food stamp benefit divided by the Federal or State minimum wage, whichever is higher.
 - v) a recipient of unemployment compensation. An applicant for unemployment compensation is exempt if he/she was required to register for work as part of the unemployment compensation application process;
 - vi) a regular participant in a drug or alcohol treatment and rehabilitation program; for the purposes of this subparagraph, a *regular participant* shall be defined as an individual who is determined unable to work and participating in treatment in accordance with the requirements of section 351.2(i) of this Title or otherwise engaged in drug or alcohol treatment to an extent that assignment to work activities is impractical;
 - vii) employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours. This provision includes migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days;
 - viii) a student enrolled at least half-time in any recognized school, training program or institution of higher education. A student enrolled at least half-time in an institution of higher education must have met the student eligibility criteria in section 387.1 of this Title. A student remains exempt during normal periods of attendance, vacation, and recess, unless there is a break in the student's enrollment status due to graduation, suspension, expulsion, or intent not to return to school;

- ix) an applicant for SSI and food stamps under the joint processing provisions until such time as the individual is:
 - (a) determined to be eligible for SSI and, thereby, exempt from work registration; or
 - (b) determined to be ineligible for SSI and a subsequent redetermination of his/her work registration status is made; or
- x) a person age 16 or 17 who is attending school or an employment training program on at least a half-time basis.

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- i) An individual who loses exempt status due to any change in circumstance subject to the reporting requirements of section 387.17(e) of this Title must be registered for work when the change is reported.
- ii) An individual who loses exempt status due to a change in circumstances not subject to the reporting requirements of section 387.17(e) of this Title must register for work at his/her household's next recertification.

3) Work registrants must be provided with a written statement of their rights and responsibilities and of the consequences of failure to comply. This statement must be provided at each registration and at recertification.

4) Each individual or household has a right to a fair hearing to appeal a denial, reduction or termination of benefits due to the social services official's determination of nonexempt status, or determination of failure to comply with work registration or with work requirements specified in this Part.

(b) Strikers who are eligible for food stamps under the criteria set forth in section 387.16 of this Title are subject to the employment requirements of this Part unless they are exempt under subdivision (a) of this section at the time of application.

c) Work registrant requirements.

Work registrants are required to:

- 1) participate in food stamp employment programs assigned in accordance with the provisions of this Part if so required by the local social services district. Such programs must be established pursuant to a State food stamp employment and training plan; and
- 2) respond to a request from the social services official or his/her designee for supplemental information regarding employment status or availability for work.

d) Food stamp eligibility requirements for able-bodied adults without dependents (ABAWDS).

- 1) No individual may participate in the food stamp program if, for at least three months within the most recent 36-month period, he/she participated in such program and did not:
 - i) work for at least 80 hours per month provided, however, that work means:

- (a) work in exchange for money;
 - (b) work in exchange for goods and services ("in-kind" work) or unpaid work (volunteer). For purposes of this subdivision there is no hourly wage requirement, but, the work performed may not violate any State or Federal law or regulation; or
 - ii) participate in, for at least 80 hours per month, and comply with the requirements of a work program assigned to such individual by the social services official in accordance with the requirement of this Part, or programs operated under title I of the Workforce Investment Act of 1998 or section 236 of the Federal Trade Act of 1974. Such programs may contain job search or job search training as a subsidiary component if hourly participation in job search or job search training comprises less than one-half of the total hours of participation in any month; or
 - iii) work and participate in work programs described in subparagraph (i) or (ii) of this paragraph for a combined total of at least 80 hours per month; or
 - iv) participate in and comply with the requirements of a program established by the commissioner in accordance with the provisions of section 20 of the Food Stamp Act of 1977 or a comparable program established by the commissioner in accordance with the requirements of this Part.
- 2) Countable months. For purposes of determining the months during which an individual received food stamp benefits without meeting the requirements of paragraph (1) of this subdivision, the following calendar months shall not be considered:
- i) a calendar month during which the individual did not receive food stamp benefits for the full month;
 - ii) a calendar month during which the individual is exempt from the ABAWD requirement in accordance with paragraph (5) of this subdivision for all or any part of the calendar month; and
 - iii) a calendar month during which the individual received food stamp benefits from or resided in an area of the State covered by a waiver of the ABAWD requirement in accordance with section 6(o) of the Food Stamp Act.
- 3) Good cause. If an individual would have worked 80 hours per month but failed to complete some or all of the hours of work, the individual shall be considered to have met the work requirement if the absence from work is with good cause, is temporary, and the individual retains his or her job. The social services official must consider the facts and circumstances of the absence from work in determining good cause. Good cause includes circumstances beyond the individual's control, such as, but not limited to, illness of the individual, illness of a household member that required the presence of the individual, or a household emergency.
- 4) Verification of work hours.
- i) An individual subject to the food stamp time limit established by paragraph (1) of this subdivision is required to verify work hours at certification and recertification if he or she is meeting the work requirement by working, combining work and work program

- participation, or by participating in a program that is not operated by the social services district.
- ii) An individual subject to the food stamp time limit established by paragraph (1) of this subdivision must report changes in work/work program hours that result in the individual working less than 80 hours per month.
- 5) The provisions of paragraph (1) of this subdivision do not apply to an individual who:
- i) is exempt from work registration in accordance with subdivision (a) of this section. However, an individual is exempt due to being physically or mentally unfit for employment if the individual:
 - (a) provides verification of receipt of temporary or permanent disability benefits issued by governmental or private sources; or
 - (b) is determined by the social services official to be unfit for employment. Where unfitness is not evident, the social services official may require documentation from medical personnel that the social services district determines appropriate. The social services official shall have sole discretion in determining whether any documentation provided by the individual or by medical personnel is sufficient evidence of the claimed impairment; or
 - ii) is not exempt from work registration but who is:
 - (a) under 18 years or 50 years of age or older; or
 - (b) pregnant; or
 - (c) a parent (birth, adoptive or step) or other adult residing in a household where a household member is under age 18.
- 6)
- i) An individual who is ineligible for food stamps because of the provisions of this section may establish eligibility, if otherwise eligible in accordance with the provisions of this Part, by working or participating in programs described in paragraph (1) of this subdivision within any consecutive 30-day period; provided, however, that work or participation in work programs must be performed for at least 80 hours in the 30-day period.
 - ii) For purposes of establishing eligibility in accordance with this paragraph, districts may allow applicant ABAWDs to reestablish eligibility by participating in a 30-day period of job search followed by a work experience placement if no job is obtained.
 - iii) For purposes of establishing eligibility in accordance with this paragraph, an individual may be determined eligible for benefits if he or she can verify to the satisfaction of the social services district that he or she will meet the requirements of subparagraph (i) or (ii) within the 30 days subsequent to application.
 - iv) Individuals regaining eligibility by working, participating in a work program, or combining hours worked and hours participating in a work program shall have benefits issued back to the date of application.
 - v) If an individual who has reestablished eligibility under this paragraph either loses a job or ceases to participate in a work program he/she will be eligible for food stamps

for up to one additional three consecutive month period in the 36-month period set forth in paragraph (1) of this subdivision, without working or participating in a work program starting on the date the individual first notifies the social services district that he/she is no longer fulfilling the work requirement; or, if meeting the work requirement by participating in a work or work experience program administered by the social services district, the date the district notifies the individual he/she is no longer meeting the work requirement.

- 7) Benefits received in error. Benefits received by an individual in error shall count as a month of benefits received for purposes of determining compliance with this subdivision unless they are repaid in full in accordance with section 387.19 of this Title.

Part B – Department Policy

Supplemental Nutrition Assistance Program (SNAP) Employment and Training

Work Registration

As a condition of eligibility for SNAP, certain household members must meet general work requirements. However, many household members are exempt from these work requirements for reasons such as age; fitness for work; childcare responsibilities; because they are already employed; or, because they are in school.

The district is responsible for determining work registration status (exempt or non-exempt) for each individual who applies for SNAP. Given that a household member is at risk of losing SNAP benefits if they do not comply with SNAP work requirements it is extremely important that districts accurately determine whether a household member is exempt from the general SNAP work requirements. Eligibility workers must determine whether an individual meets one of the Federal exemptions from the work requirements at application, recertification, and if appropriate, when changes in the household's circumstances are reported. It is critical that eligibility workers understand these exemptions and that processes are in place to ensure that individuals are properly screened. The eligibility worker must explore whether the individual meets an exemption rather than place the burden solely on the individual to self-report. The interview is the most important tool for identifying whether an individual meets an exemption. When the interview is conducted over the phone rather than in person, identifying exemptions can be more challenging, so it is critical that eligibility workers have resources and follow appropriate processes to ensure applicants and recipients are properly screened.

OTDA has developed the LDSS-5062A *SNAP Employability Code/ABAWD Determination Desk Guide* as a tool to assist districts in determining the appropriate SNAP employability and Able-Bodied Adult Without Dependents (ABAWD) status codes for each SNAP applicant and recipient. The district should review work registration status if appropriate when changes in the household's circumstances are reported and at recertification. For SNAP purposes, an individual who claims to be exempt from work registration but does not cooperate with the work registration process (e.g., fails to submit requested documentation) becomes a work registrant (non-exempt).

Districts should carefully review work registration exemptions included in 18 NYCRR 385.3 (a)(1) and be aware that not all non-exempt Temporary Assistance (TA) recipients are required to work register for SNAP. For example, an individual responsible for the care of a dependent child under six or an individual required to register for work as part of the unemployment insurance compensation process is exempt from SNAP work registration, but not necessarily exempt from TA work requirements.

As described in GIS-19 TA/DC014, districts must consider all SNAP recipients who are regularly participating in a drug or alcohol treatment program as exempt from SNAP work requirements. Federal regulations at 7 CFR 273.7(b)(vi) state a regular participant in a drug addiction or alcohol treatment and rehabilitation program is exempt from the general SNAP work provisions. The federal regulations do not require an additional assessment as to whether or not the individual who is a regular participant in drug or alcohol treatment is fit for work. There is no minimum weekly amount of time that a person must be attending treatment. Individuals who attend Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), but do not attend a drug or alcohol treatment program, do not fall under this exemption.

As described in GIS 16 A/DC026, districts must also consider all SNAP recipients who have documented that they are enrolled in high school, as exempt from SNAP work requirements, regardless of their age.

All household members who do not fit the exemption criteria listed in 18 NYCRR 385.3 (a) (1) are considered non-exempt from the SNAP work requirements and must be work registered by the district (thereby becoming work registrants) at the time of application. Unless exempt from SNAP work requirements, an applicant or recipient of SNAP benefits is required to:

- provide information regarding the individual's employment status and availability for work;
- participate in work activities as assigned by the district;
- accept a job or a referral to a potential job opening; and
- not voluntarily quit a job or reduce his/her hours of paid work without good cause (See section 385.13 of the TA and SNAP Employment Policy Manual for more information.)

The SNAP work requirements listed above are commonly referred to as general SNAP work rules. A work registrant may be required to participate in an assessment for purposes of determining an appropriate work activity/employment assignment and necessary supportive services.

Informing SNAP Applicants and Recipients About Their Work Requirements

Districts must provide a written notice and oral explanation to all households where at least one member is subject to a work requirement describing the pertinent work requirements. For the purposes of this notification requirement SNAP work rules are divided into the following three categories:

1. **General SNAP Work Rules** — Individuals must accept job offers unless they have a good cause reason not to do so; clients with a job that pays more than the equivalent of 30 hours times the federal minimum wage (currently \$217.50 per week) should not reduce their work hours below that threshold or voluntarily quit their job without a good

cause reason (More information about the voluntary quit and voluntary reduction of work effort provisions for SNAP is found in Section 385.13 of this manual.); clients should disclose details about their employment status when asked; individuals should participate in SNAP E&T activities as required when assigned by the district.

2. Mandatory SNAP E&T — Clients, who are not otherwise exempt from SNAP work requirements as outlined in 18 NYCRR § 385.3, may be required to participate in supervised job search, job readiness activities, work experience, job skills training, vocational training, educational training, apprenticeships, subsidized employment, or other work activities for no more than 30 hours per week or 120 hours per month (More information about mandatory SNAP E&T requirements is found in the *SNAP Employment and Training* section below.)
3. ABAWD Rules — ABAWDs must participate in work (including in-kind or volunteer) or in a qualifying employment/education/training program/activity for at least 80 hours per month or comply with a Work Experience Program (WEP) assignment for the number of hours per month equal to the household's SNAP benefit divided by the higher of the federal or State minimum wage (More information about the ABAWD work requirements is found in the *Able-Bodied Adults Without Dependents (ABAWDs)* section below.)

The written notice and oral explanation of applicable SNAP work requirements must be provided to households where at least one member is subject to a work requirement at application, recertification, and at any time an exempt household member or new household member becomes subject to work requirements.

Districts must use one of the two notice options described below or a local equivalent approved by OTDA to comply with the requirement for written notification depending on the specific circumstances of the SNAP household:

- LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)* – This notice includes information regarding the general SNAP work requirements, mandatory SNAP E&T, and the ABAWD work requirements. It should be provided to all SNAP households where at least one household member is subject to the ABAWD work requirements.
- LDSS-5193A *Important Information about SNAP Work Rules (General and Mandatory E&T)* - This notice includes information regarding the general SNAP work requirements and mandatory SNAP E&T but does not explain the ABAWD work requirements. It should be provided to households where at least one household member is subject to the general SNAP work requirement or mandatory SNAP E&T but where no household member is subject to the ABAWD work requirements including households where all household members have been determined to be non-ABAWDs and households that reside in an area with an ABAWD waiver approved by the United States Department of Agriculture (USDA).

In addition to issuing the LDSS-5193 or the LDSS-5193A as described above, the district must also provide a comprehensive oral explanation to households of each applicable work requirement pertaining to household members. The LDSS-5193 and the LDSS-5193A are

designed to aid in the comprehensive oral explanation and include the following components which must be discussed with the household depending on its specific circumstances:

- An explanation of all applicable work requirements including:
 - For households that receive the LDSS-5193, the General SNAP Work Rules, Mandatory SNAP E&T, and ABAWD Rules;
 - For households that receive the LDSS-5193A, the General SNAP Work Rules and Mandatory SNAP E&T.
- Which household members are subject to each different category of work requirements;
- Exemptions, and how to request an exemption from the work requirement;
- Rights and responsibilities related to each applicable work requirement and what is required to maintain eligibility;
- Pertinent dates by which an individual must take any actions to remain in compliance;
- Consequences for failure to comply;
- An explanation of good cause including examples of good cause reasons and how to request good cause;
- The district's responsibility to pay or reimburse participants, including volunteers for the necessary and reasonable costs associated with participation in a SNAP E & T activity (i.e., transportation, childcare, personal safety items, other); and,
- USDA contact information and instructions for filing a program discrimination complaint.

Before providing the appropriate notice to SNAP households, districts are instructed to complete the first page of the notice including: Date, Case Number, and District Contact Number. In the applicable work requirements sections, districts should list all members of the household who are subject to each of the different types of requirements. In districts that do not mandate SNAP E&T for their NTA/SNAP population, a non-exempt adult in an NTA/SNAP household would be listed in the General SNAP Work Rules section but would not be listed in the Mandatory SNAP E&T section. During periods of a statewide ABAWD waiver districts should use the LDSS-5193A which does not explain the ABAWD requirements as during that time ABAWDs residing in all areas of New York State are not subject to the ABAWD requirements. Additionally, the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)*, which includes all relevant information about the ABAWD work rules, replaced the LDSS-5072 *Informational Letter Regarding Able-Bodied Adults Without Dependents (ABAWD) Requirements*. Districts must no longer use the LDSS-5072 which became obsolete with the implementation of the LDSS-5193.

Districts must retain copies of all LDSS-5193 and LDSS-5193A notices provided to the household in the case record. Districts must also document the case record through case notes/comments, in a timely manner, when the comprehensive oral explanations pertaining to SNAP work requirements occur at certification, recertification, and at any time an exempt household member or new household member becomes subject to work requirements.

These notices and related instructions are contained in Appendix C of this manual.

SNAP Employment and Training

SNAP Employment and Training (SNAP E&T) is a program implemented by New York State that assists household members in receipt of SNAP benefits in gaining skills, training, or work experience that will increase the individual's ability to obtain employment that leads to economic self-sufficiency. All social service districts in New York State must operate a SNAP E&T program that consists of case management and at least one E&T work activity component.

Mandatory vs. Voluntary SNAP Employment and Training

New York State operates a mandatory SNAP E&T Program. All non-exempt SNAP recipients in a TA/SNAP case, (including case type 32, SNAP-Mix household), are considered mandatory for assignment to SNAP work activities. Individuals who are TA/SNAP recipients and are a mandatory SNAP E&T participant, (are not exempt from the SNAP work requirements) are subject to conciliation and possible sanction for failure to comply with the work activity. (See section 385.11 for guidance on the SNAP conciliation process.)

For non-exempt SNAP recipients in NTA/SNAP (case type 31) households, each district determines the extent to which non-exempt NTA/SNAP recipients are required to participate in SNAP E&T activities. Districts describe the SNAP E&T assignments they mandate for their non-exempt NTA/SNAP recipients in Section 5.2 of the biennial TA and SNAP Employment Plan. Districts that choose to mandate SNAP E&T for non-exempt NTA/SNAP recipients must do so consistently across the caseload and in accordance with the procedure described in Section 5.2 of the district's biennial employment plan.

Non-exempt NTA/SNAP recipients in districts that do not mandate SNAP E&T participation, and exempt SNAP recipients, who are engaged in a SNAP E&T work activity are treated as volunteers and are not subject to a SNAP sanction for failure to comply with a SNAP E&T work activity assignment.

Non-exempt NTA/SNAP recipients in districts that mandate SNAP E&T for NTA/SNAP recipients, who fail to comply with the mandatory SNAP E&T assignment, are subject to SNAP conciliation and possible SNAP sanction for failure to comply with the work activity. (See section 385.11 for guidance on the SNAP conciliation process.)

Districts are responsible for operating a SNAP E&T program that can accommodate all mandatory SNAP E&T participants. In situations where there is not an appropriate and available opening for a mandatory E&T participant in the E&T program, the district must determine that the participant has good cause for failure to comply with the mandatory E&T requirement. If the case manager at a contracted E&T provider determines there is not an appropriate and available opening, the case manager must inform the appropriate district staff, who can then determine if the participant has good cause. Good cause for a lack of an appropriate or available opening in an E&T program ends when the district identifies an appropriate and available opening and informs the participant.

Requirement to Provide Information Regarding the Available E&T Services

All districts must advise non-exempt SNAP individuals who are members of households containing at least one adult, with no elderly or disabled individuals, and with no earned income at their last certification or required report, of the availability of employment and training services within the district and/or region at the time of recertification. Employment and training services are not limited to SNAP employment and training. Such services include, but are not limited to, workforce services offered by the local Career Center, community-based organizations, and local education providers. The method of advising individuals of the available E&T services in the local area is left to the discretion of districts. However, as a minimum standard for meeting this requirement districts must provide the household a list of available employment and training services electronically (e.g. on a website or in an email) or in printed form. These examples may include flyers explaining local Career Center offerings, brochures on available local adult education and training resources, and contact information for local community organizations that provide employment and training services. Districts should ensure that all employment and training services information shared with individuals is updated regularly. Districts are also encouraged to frequently check the website of their local Workforce Development Boards to review any other employment and training services that may be available locally.

SNAP Employment and Training Work Activities

Districts may operate any work activity authorized under 18 NYCRR 385.9 that is included in a district's biennial Temporary Assistance and SNAP Employment Plan as part of the district's SNAP Employment and Training (SNAP E&T) program. A work registrant may be required to participate in SNAP E&T program activities for up to 30 hours weekly. The total hours of participation in an Employment & Training component for any household member individually in any month, together with any hours of participation in a work experience program, and any hours worked for compensation, must not exceed 120. A work registrant may not be required to participate in SNAP E&T work experience for more hours than the value derived from dividing the SNAP allotment by the higher of the federal or state minimum wage up to the 30-hour SNAP E&T maximum. However, individuals who are concurrently receiving TA and SNAP may be assigned to work activities up to 40 hours per week. It is important to note that SNAP recipients who participate in assigned work activities for at least 30 hours per week cannot be sanctioned for SNAP purposes but may be subject to a TA sanction in those instances where the district determines that the individual willfully and without good cause refused or failed to comply with the assigned work requirement (see Section 385.11 and 385.12 of this manual for more information).

Exceptions to Certain Exemptions (Simplified SNAP Plan)

Under a simplified SNAP plan provision, designed by the United States Department of Agriculture (USDA) to help states meet TANF participation rate requirements, New York State is authorized to include the SNAP benefit in the calculation of the maximum number of hours that a TANF recipient may participate in work experience. This authority affects TANF recipients assigned to work experience who are ordinarily exempt from SNAP work registration requirements because they are subject to and complying with TANF work requirements or because they are a caretaker of a child under the age of six years. Therefore, a SNAP caretaker of a child under the age of 6 who is also receiving TANF funded assistance and fails to comply with a work experience assignment willfully and without good cause may be subject to a SNAP sanction. This policy only applies to individuals actually assigned to TANF work experience.

Case Management

Districts must provide case management services to all non-exempt TA/SNAP recipients and NTA/SNAP recipients who are assigned by the district (in accordance with Section 5.2 of the district's biennial employment plan) to engage in a SNAP E&T work activity. Case management services include, but are not limited to, the completion of an employment assessment, the development of an employment plan, monitoring the individual's progress in the assigned SNAP E&T activity component, and coordination with service providers. Case management may be provided by district employment unit staff or contracted employment vendors. The case management services provided by the district must be documented in the case record through the completion of an employment assessment, the development of an employment plan, and maintaining detailed case notes to document the frequency of contact with the individual to monitor the individual's progress in the assigned SNAP E&T work activity.

Time spent participating in case management counts towards the time a participant spends in E&T. In addition, E&T is a way for ABAWDs to fulfill the ABAWD work requirement. As such, hours an E&T participant spends with a case manager must count towards the participant's mandatory E&T and ABAWD work requirement. Districts have flexibility to provide case management services in the mode that best meets the needs of the participant and is in line with the capacity of the district or provider. This flexibility includes offering case management services remotely and delivering services through virtual tools like web applications, as well as in-person services.

Supervised Job Search

Districts that offer job search as a SNAP E&T work activity component for TA/SNAP and NTA/SNAP applicant and recipient work registrants must offer a supervised job search in accordance with federal regulations at 7 CFR 273.7(e)(2)(i). Supervised job search programs are those that occur at district approved locations at which the activities of the participants are directly supervised, and the timing and activities of participants are tracked by the district or contracted provider. Approved locations may include the local Career Center, public library,

third-party provider, an individual's home, or any other location deemed suitable by the district where the participant has access to the tools and materials they need to perform supervised job search. Tools used in the supervised job search program may include virtual tools, such as websites, portals, or web applications to access supervised job search services. Districts are encouraged to offer a variety of locations and formats to best meet participant needs, and to the extent practicable, allow participants to choose their preferred location. Supervision must be provided by skilled staff, either remotely or in person, who provide meaningful guidance and support with at least monthly documented check-ins and must be provided in such a way to best support the participant. Supervised job search participants must have access to a case manager or other district/employment services provider worker for the participant to report on progress or seek additional guidance as needed before the next regularly scheduled contact.

Supervised job search activities must have a direct link to increasing the employment opportunities of individuals engaged in the activity. Districts may require an individual to participate in a supervised job search for a specific period of time that, in its estimation, will provide participants a reasonable opportunity to find suitable employment. However, the district should not establish a continuous, year-round supervised job search requirement. If a reasonable period of supervised job search does not result in employment, placing the individual in a training or education component to improve job skills will be more productive.

The number of contacts required of job search participants and the frequency of how often individuals are required to report job search outcomes and activities is determined by the district. Districts describe their local procedures for how the job search activity will be supervised and tracked, including the frequency of monitoring the participant's job search efforts, in Section 5 of the district's biennial TA and SNAP Employment Plan.

Please note: Job search that does not meet the definition of supervised job search as described in this section is allowed as a subsidiary activity of another E&T component, so long as the job search activity comprises less than half of the total time spent in the component.

Subsidized Employment

Subsidized employment is an allowable SNAP E&T program activity, and SNAP E&T funds may be expended on allowable costs associated with wages through a subsidized employment program, in accordance with applicable SNAP laws and regulations, as well as the federal cost principles in title 2 of the CFR. Districts and/or contracted providers who intend to use SNAP E&T funds to implement a subsidized employment program must have agreements in place with employers to provide actual training to SNAP participants, and a plan to move participants into unsubsidized employment as a result of the subsidized employment experience, with either the same employer or with another employer. Subsidized employment programs with the exception of registered apprenticeships should last six months or less to allow an individual to move promptly into regular employment and should be limited to once every twelve months per SNAP participant unless the participant had dropped out of the activity due to no fault of their own (e.g., because of illness or a provider determination). Districts that are interested in operating a program where wages are subsidized with SNAP E&T funds must submit a proposal to OTDA for review and approval prior to implementing such a program. The proposal must provide the

number of participants, the anticipated costs, partner organizations and their role (if applicable), a description of the training that will occur while the participant is engaged in the program and projected outcomes.

Subsidized employment positions may be full or part-time, but full-time positions are preferred. Income recipients earn from such subsidized placements is subject to the same consideration as other income for purposes of eligibility and benefit determination in accordance with 7 CFR 273.9. Therefore, districts and/or providers using SNAP E&T funds to support subsidized employment must be mindful that should the subsidized wages result in the household's ineligibility for SNAP, the district or provider will need to use another funding source to support the subsidized employment placement.

Referral of Individuals (Provider Determinations)

Districts must 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 particular E&T component. Such determinations are referred to as provider determinations.

E&T providers know best the skills and qualifications that will likely enable an individual to be successful in their programs. As such, providers have flexibility to establish the criteria used to make a provider determination. The provider may use any information available to make the determination. Districts are encouraged to work with providers to understand the skills and qualifications needed for E&T participants to be successful in the E&T components, and to thoroughly screen individuals prior to referral, in order to reduce the number of participants referred by the district to components where they are not likely to be successful.

SNAP E&T 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. The notification must include the reason for the provider determination and may include input to the district on the most appropriate next step. If the provider is unable to provide the reason for the provider determination, the district should process the provider determination without the reason.

Districts are required to notify a mandatory or voluntary E&T participant with a provider determination within 10 days of receiving the notification from the E&T provider. Districts may make such notification either verbally or in writing, but must, at a minimum, document when the notification occurs in the participant's case file. The district must explain to the 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 contact information. In the case of either a mandatory or voluntary 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.

In the case of an ABAWD who has received a provider determination, districts implementing ABAWD requirements must also notify the ABAWD about the accrual of countable months. In particular, the district must notify the ABAWD that the ABAWD 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 work requirements in accordance with 7 CFR 273.24, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt. Districts should refer to 18-ADM-07 for guidance on the requirement for districts that do not have a federally approved ABAWD waiver for all residents of the district to offer and provide a qualifying work or training opportunity to all ABAWDs who are subject to the ABAWD requirements to maintain or reestablish eligibility for SNAP.

Districts must document the provider determination and notification to the participant in the participant's case record. No later than the date of the individual's recertification, the district must take the most suitable action from the following two options:

1. Refer the individual to an appropriate E&T program component. If selecting this option, districts must first perform a reassessment to determine an appropriate E&T program component to refer the individual to, considering the suitability of the individual for any available E&T components. Additionally, all E&T participants must receive case management services along with at least one E&T work 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 the general SNAP work requirements. Individuals who are determined to be mentally or physically unfit must be exempt from the work requirements. If the individual is found to be physically or mentally fit, and the district determines the individual is not otherwise exempt from the general SNAP work requirements, the district must follow the process described in option one to determine an appropriate E&T program component.

Provider determinations are not an exemption from the general SNAP work requirements or an exemption from mandatory SNAP E&T. Provider determinations are made by E&T providers based on criteria specific to that E&T provider about whether or not an E&T participant is a good fit for a particular E&T work 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 may also reassess an individual with a provider determination to determine if the individual should be exempt from the general SNAP work requirement or from mandatory SNAP E&T. The processes associated with receiving a provider determination apply to both voluntary and mandatory SNAP E&T participants. Districts are reminded of their oversight authority to ensure E&T providers are not making unfair provider determinations or using provider determinations to discriminate against protected classes.

Participant Reimbursements (Supportive Services)

Districts must provide supportive service payments to individuals participating in the SNAP E&T program, including applicants and volunteers, for expenses that are reasonably necessary and directly related to participation in the E&T program. Individuals who are subject to the ABAWD requirements and are participating in an ABAWD qualifying work activity that is a SNAP E&T work activity (either as a mandatory assignment or volunteer) are eligible to receive supportive service payments for expenses that are reasonably necessary and directly related to participation in the SNAP E&T and/or ABAWD activity. Reimbursable costs may include, but are not limited to: dependent care costs, transportation, or other work, training or education related expenses such as uniforms, personal safety items or necessary equipment and books or training manuals. If a district is unable to provide a participant with participant reimbursements, then the individual would be excused from mandatory participation in SNAP E&T and would not be subject to a SNAP sanction for failure to comply with the assigned SNAP E&T activity. Specific information regarding SNAP participant reimbursements is found in Section 385.4 of this manual.

Job Retention Services

The job retention component of SNAP E&T is meant to provide supportive services for a minimum of 30 days and a maximum of up to 90 days to individuals who have secured employment. Job retention services are designed to help individuals achieve satisfactory performance, retain employment, and to increase earnings over time. To qualify for SNAP E&T funded job retention services the recipient who is employed must have participated in another SNAP E&T activity within 90 days prior to starting employment. Districts may offer job retention services, such as case management, job coaching, dependent care assistance and transportation assistance, for up to 90 days to an individual who secured employment. Districts that offer job retention as a SNAP E&T component must make a good faith effort to provide job retention services for a minimum of 30 days. Good faith efforts may include informing participants receiving job retention services of the 30-day minimum requirement, developing a job retention case management plan that extends for at least 30 days, and continuing to conduct outreach to the individual for at least 30 days, but not more than 90 days following the date the employment started. As a best practice, districts should document that a reasonable effort was made for each job retention participant.

Able-Bodied Adults Without Dependents (ABAWDs)

Federal statute and regulations limit an ABAWD's eligibility for SNAP benefits to 3 months in a 36-month period, unless the individual resides in an area that has a federally approved ABAWD waiver; the ABAWD is granted an exclusion from the ABAWD requirement for the calendar month consistent with the exclusion policy established by the district; or, is meeting the ABAWD requirement each month.

Identifying ABAWDs

ABAWDs are individuals who are subject to general SNAP work requirements and meet certain additional criteria. All individuals who are exempt from general SNAP work requirements are also exempt from ABAWD requirements. 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.

ABAWDs are work registrants who are NOT:

- **under 18 or 50 years of age or older** – The district must track the continued SNAP eligibility of all ABAWDs through the certification period. The month in which an individual turns 18 is an exempt month for ABAWD requirements. When a household recertifies and the youngest member of the SNAP household will turn 18 before the next recertification date, the household must be informed of the ABAWD requirements. Similarly, an ABAWD who turns 50 during a certification period is no longer subject to ABAWD requirements from the date of the individual's 50th birthday;
- **any adult residing in a SNAP household (see definition at 18 NYCRR 387.1(w)) where a household member is under 18 years of age** – Any adult in the SNAP household, regardless of responsibility for a household member under the age of 18, is exempt from the ABAWD requirements;
- **pregnant**– A pregnant individual is exempt from the ABAWD requirements throughout the entire pregnancy;
- **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.

Individuals determined work-limited in either the type of work or the number of hours they can work, may be required to participate in employment programs as long as their limitations are accommodated. However, individuals whose limitations preclude them from working at least 80 hours monthly are always exempt from ABAWD requirements.

Districts must ensure that workers are correctly evaluating each individual's SNAP employability status 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 requirements on a monthly basis. Districts are also required to ensure that workers are updating an individual's SNAP employability and ABAWD status codes on a timely basis when changes in either status are reported and documented. This evaluation is typically done through the certification and recertification interview.

Informing SNAP Households of the ABAWD Requirements

Districts are required to notify all households where at least one household member is subject to SNAP work requirements including the ABAWD work rules of all work requirements applicable to each household member. This notification must be provided verbally and in writing. To comply with this requirement, districts must issue the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)* or an approved local equivalent to each household containing a member subject to SNAP work requirements including the ABAWD work rules and provide the household an oral explanation of all applicable work requirements. The written notice and oral explanation of pertinent work requirements including the ABAWD work rules must be provided to the household at application, recertification and when a previously exempt household member or a new household member becomes subject to work requirements. As the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)* includes all relevant information that must be provided to the household regarding the ABAWD work rules, it eliminated the need for issuing the LDSS-5072 *Informational Letter Regarding Able-Bodied Adults Without Dependents (ABAWD) Requirements*. Therefore, the LDSS-5072 is being discontinued with the implementation of the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)*. Districts must retain copies of all LDSS-5193 provided to the household in the case record. Districts must also document the case record through case notes/comments, in a timely manner, when the comprehensive oral explanation pertaining to SNAP work requirements including ABAWD work rules occurs at certification, recertification, and at any time an exempt household member or new household member becomes subject to work requirements.

Please note: During periods of a statewide ABAWD waiver districts should use the LDSS-5193A *Important Information about SNAP Work Rules (General and Mandatory E&T)*, which does not explain the ABAWD requirements as throughout the duration of a statewide waiver ABAWDs residing in all areas of New York are not subject to the ABAWD requirements.

Information explaining the ABAWD requirements including which individuals are subject to the ABAWD requirements, the consequences for refusing or failing to comply with the ABAWD requirement without good cause and the actions that may be taken by the ABAWD to maintain or re-establish eligibility for SNAP benefits for more than 3 months in the 36-month period is also provided to all SNAP households as part of the LDSS-4148A *What You Should Know About Your Rights* and is included in the SNAP opening and recertification letters that are generated through the Client Notices System (CNS).

ABAWD Requirements

In order for an ABAWD to remain eligible for SNAP benefits for more than three months in the fixed 36-month period, the individual must meet the ABAWD requirement through one of the following methods. The ABAWD must:

- work (including “in-kind” work and volunteer work) for a total of at least 80 hours per month; or
- participate in a qualifying work or training program approved by the social services district for at least 80 hours per month; or
- participate in an employment and training program for veterans operated by the Department of Labor or the Department of Veterans Affairs for at least 80 hours per month; or
- participate in a program under the Workforce Innovation and Opportunity Act (WIOA) or Trade Act which may include job search, job readiness, occupational skills training, and education activities for at least 80 hours per month; or
- participate in a combination of work or qualifying work programs for at least 80 hours per month; or
- participate in and comply with a work experience assignment for the number of hours per month equal to the household’s SNAP benefit divided by the higher of the Federal or State minimum wage.

In accordance with federal regulations at 7 CFR 273.24, a standalone supervised job search program is not a qualifying E&T activity relating to the participation requirements necessary to maintain SNAP eligibility for ABAWDs unless the hours of participation are limited to less than half of the total number of hours that the individual is participating in ABAWD qualifying activities each month. However, a job search program, supervised or otherwise, when operated under title I of WIOA, under section 236 of the Trade Act, or a program of employment and training for veterans operated by the Department of Labor or the Department of Veterans Affairs, is considered a qualifying activity as related to the participation requirements necessary to maintain SNAP eligibility for ABAWDs.

As long as an ABAWD meets the ABAWD requirement through one of these methods, the ABAWD remains eligible to receive SNAP benefits if otherwise eligible. An ABAWD is not allowed to participate on behalf of another ABAWD in the SNAP case, thus relieving that second individual of the responsibility of maintaining their eligibility. Two ABAWDs in a household can maintain their eligibility by participating in work experience for a total of the maximum hours allowed by their (individual) grant amount even if it is less than twenty hours per week. To allow an ABAWD to meet the eligibility requirement, districts should apportion hours of work

experience among household members as needed. This does not preclude districts from assigning individuals to additional SNAP E&T activities if appropriate.

Requirement to Offer and Provide an ABAWD Qualifying Work Activity or Training Opportunity

Districts that do not have an approved ABAWD waiver for all residents of the district are required to offer and provide an ABAWD qualifying work activity or training opportunity to all ABAWDs who are subject to the ABAWD work requirements using the LDSS-5127 *Able-Bodied Adults Without Dependents (ABAWD) Work Activity Letter*, or a locally developed equivalent approved by OTDA. The LDSS-5127 *Able-Bodied Adults Without Dependents (ABAWD) Work Activity Letter* must be provided to each ABAWD in the following situations:

- At the time of application/certification and recertification;
- Anytime during the certification period when an individual's status changes and the individual becomes subject to the ABAWD time limit. For example, an individual is exempt from the ABAWD time limit solely because of a child under the age of 18 in the SNAP household, and during the certification period the youngest child turns 18;
- When an ABAWD previously engaged in work or a work activity and meeting the ABAWD requirement is no longer engaged at least 20 hours week/80 hours monthly.

The LDSS-5127 *Able-Bodied Adults Without Dependents (ABAWD) Work Activity Letter* provides the ABAWD with an appointment with a district staff member or contracted employment vendor to receive the offer of enrollment in a qualifying ABAWD work activity assignment. Districts may provide the ABAWD qualifying work activity or training opportunity through the SNAP E&T program or other local work, educational or training program for which the individual is eligible that will assist them in meeting the ABAWD requirement.

A copy of the completed LDSS-5127 *Able-Bodied Adults Without Dependents (ABAWD) Work Activity Letter* must be retained in the case record, along with an entry in case notes, to document that the agency offered the ABAWD the opportunity to meet with the district for assignment to an ABAWD qualifying work activity. The ABAWD's compliance with the work activity appointment is not mandatory, as a matter of eligibility, and failure to appear will not result in conciliation or imposition of a SNAP sanction. The appointment for the offer of engagement in an ABAWD qualifying work activity is separate and apart from any other mandatory work activity appointments or assignments given as part of the individual's TA work assignment or SNAP E&T work assignment.

Additional information about the LDSS-5127 *Able-Bodied Adults Without Dependents (ABAWD) Work Activity Letter*, may be found in 18-ADM-07.

The 36-Month Period

New York State uses a fixed 36-month time period or “clock” for all ABAWDs. Having a fixed clock means all ABAWDs are subject to the same 36-month period or clock regardless of when they began to receive SNAP benefits. An ABAWD must work or participate in qualifying work programs to remain eligible for SNAP for more than three months during the fixed 36-month period.

Countable Months

Districts are responsible for monitoring compliance with the ABAWD work requirement by monitoring countable tracked months in the ABAWD Tracking Screen (WTRK31) in the Welfare Management System (WMS).

For purposes of tracking an ABAWD’s three months of eligibility, a month does not count as one of the three months in the 36-month period under the following circumstances:

- A calendar month during which an individual did not receive SNAP benefits for the full month, including the month of application. It should be noted that if the household applies on or after the 16th of the month and receives expedited SNAP benefits for the balance of the application month and the next calendar month, the full month of SNAP benefits would be tracked towards the 3-month limit, unless the ABAWD met the ABAWD requirement for the month, lived in a waived area during the month or was granted an ABAWD exclusion for the month;
- A calendar month during which an individual is exempt from the ABAWD requirement for all or any part of the month;
- A calendar month during which an individual resided in or received SNAP benefits from an area of the state covered by a waiver of the ABAWD requirement (see Waivers/ Exclusions section below). An individual who moves from a waived area (or from a county that excluded the individual) does not become subject to the ABAWD requirements until the individual applies for SNAP benefits in the new county; and
- A calendar month during which an individual had good cause for missing some or all work/work assignment hours, as long as the absence is temporary, and the individual retains his or her job or otherwise resumes participation in an ABAWD qualifying activity. Good cause includes circumstances beyond the individual’s control, such as, but not limited to, illness of the individual, illness of a household member that required the presence of the individual, or a household emergency.

When determining the number of months of SNAP benefits an ABAWD has used during the fixed 36-month period, districts are required to investigate whether an ABAWD has received SNAP in other states or any other districts within New York State. This information should be

collected as part of the SNAP eligibility interview. The ABAWD tracking information on the WTRK31 screen which is available through the Employment Tracking Inquiry (Selection 17 in WMS), FS ABAWD Tracking, may be used to identify tracked months in other districts in New York State. If the SNAP applicant is subject to the ABAWD requirements, and has received SNAP benefits in another state during the current 36-month fixed period, the district must:

- obtain from the SNAP applicant the name of the State(s) in which each person on the SNAP application has applied for, is receiving, or has received SNAP benefits;
- use the *National Directory of Human Services* (available in Centraport) and follow the directions for contacting each State that the ABAWD indicated they have received SNAP benefits in to verify if the individual has countable ABAWD months in that State; and
- process an override in the Welfare Management System (WMS) using WTRK43 – FS ABAWD OVERRIDE INPUT screen (selection R) on the Employment Tracking Inquiry, (accessed via the Time Limit Tracking Menu, Upstate WMS Menu Selection 17/NYC WMS Menu Selection 11) for individuals with countable ABAWD months in another State. Districts adding a countable ABAWD month in WMS should use an override reason code “S” (Out of State) (see Section 385.16 of this manual for the list of ABAWD override reason codes).

When determining countable months in another State, districts must recognize that different states can have different trackers (i.e., fixed clock vs. rolling clock), or tracking start dates, which may make reconciling the number of countable months that would follow an ABAWD from one state to another complex. Since New York State is using a fixed 36-month period, districts must only consider countable months from another State that fall within the New York State 36-month period.

Waivers/Exclusions

Some districts or areas within a district may be eligible for a waiver from the ABAWD requirement based on their rate of unemployment or their designation as a labor surplus area consistent with the requirements of 7 CFR 273.24(f). Information regarding eligibility for a waiver is provided to districts on an annual basis, subject to USDA review and approval of the waiver request submitted by OTDA. ABAWD waivers are granted for a period of 12 months following the federal fiscal year which runs from October 1 to September 30. Districts and areas within a district with an ABAWD waiver approved by USDA are listed on the OTDA website at: <http://otda.ny.gov/programs/snap/qanda.asp>. Districts approved to waive the ABAWD requirement for a jurisdictional area, but not the balance of the district, must enter an ABAWD code “W” on WMS (or myWorkspace) for ABAWDs who live in a jurisdictional area with an approved ABAWD waiver. Use of this ABAWD code is necessary to ensure that ABAWDs who reside in a waived jurisdictional area are removed from the ABAWD selection process that is used by OTDA to identify which ABAWDs are trackable for each calendar month. Districts must evaluate an individual’s ABAWD status and update the ABAWD status code on WMS/myWorkspace accordingly at application,

recertification, and at any time when a change in address or other change that may impact an individual's ABAWD status is reported and documented.

Districts with a full county waiver are required to use an ABAWD code of "N" for non-ABAWDs but have the option of using an ABAWD code "A" or "W" for ABAWDs during the period covered by the full county ABAWD waiver. Use of an ABAWD code "A" for an ABAWD in a district with a full county ABAWD waiver will alleviate the district from having to update the ABAWD code from "W" to "A" if the district loses the full county ABAWD waiver in the future. An ABAWD who resides in a district with a full county waiver is removed from the ABAWD selection process used by OTDA regardless of whether the ABAWD code for the ABAWD is "W" or "A".

An individual who moves into a jurisdictional area with an approved ABAWD waiver is no longer required to meet the ABAWD work requirement to maintain SNAP eligibility beginning the month the individual moves to the waived area. ABAWDs who are not subject to the ABAWD requirement due to living in a waived area must still be assigned the appropriate SNAP employability and ABAWD status codes for reporting purposes and remain subject to general SNAP work requirements and SNAP E&T requirements if assigned by the district, unless the SNAP household documents that the individual is exempt from SNAP work requirements consistent with 18 NYCRR §385.3.

Regardless of eligibility for a waiver, all districts have the option to exclude a portion of non-waived ABAWDs from the ABAWD requirement. Federal law and regulations provide an allotment of ABAWD exclusions to each state based on twelve percent of a state's ABAWD caseload in non-waived areas as of July 1st of each year. States do not earn ABAWD exclusions in areas that are covered by an ABAWD waiver. OTDA distributes the ABAWD exclusions allotted to New York, if any, to districts that do not have an approved district-wide ABAWD waiver.

An ABAWD exclusion allows a district to exclude one ABAWD from the ABAWD requirement for one calendar month. Districts that do not have an approved district-wide ABAWD waiver have the option to exclude a portion of non-waived ABAWDs from the ABAWD requirement to the extent that the district has a sufficient number of available ABAWD exclusions. The total number of exclusions used by a district must not exceed the number approved for use by OTDA.

The availability of exclusions provides districts with a great deal of flexibility. Each district is responsible for establishing its own exclusion criteria. For example, a district may wish to exclude ABAWDs who are working, but do not meet the required number of hours to maintain eligibility under the ABAWD provisions, or ABAWDs who have transportation barriers of an ongoing nature. Districts also have the flexibility to establish a limit on the number of months that an ABAWD will be excluded from the ABAWD requirement. The criteria chosen by the district must account for the limit on the number of exclusions that are available to the district for the 12-month period.

Each district is required to monitor the use of ABAWD exclusions to ensure that the ABAWD exclusion policy is applied consistently on a monthly basis and that the district does not exceed the number of ABAWD exclusions made available to the district by OTDA for the 12-month period. Districts must also ensure that the use of an ABAWD exclusion is reported to OTDA. An ABAWD code "X" - ABAWD/excluded should be entered on screen 4 of the Welfare Management System (WMS) [Individual Inquiry Screen NQIN2A for NYC WMS] or Individuals Tab on myWorkspace for each month that an ABAWD has been granted an ABAWD exclusion by the district. The use of the ABAWD exclusion must also be documented in the case record.

Districts are also responsible for updating the ABAWD code on WMS (or myWorkspace) in a timely manner when an ABAWD no longer qualifies for an ABAWD exclusion. Failure to update the ABAWD code in the same calendar month that an individual's status changes (no longer qualifies for an ABAWD exclusion) may require the processing of an ABAWD related override transaction.

ABAWD Related Override Transactions

Districts must process an override transaction when an adjustment needs to be made to an ABAWD's tracking record. The following adjustments to data elements that are used as part of the ABAWD tracking process may be made through the ABAWD override process:

- Add or delete a calendar month from the ABAWD counter (Total Number of Months Non-Participating);
- Add or delete a calendar month that involved an ABAWD exclusion;
- Add or delete a calendar month that involved an ABAWD grace period month; or,
- Add a re-establish date when an ABAWD who had previously become ineligible for SNAP benefits because they had received SNAP benefits (either individually or as part of a multi-person SNAP household) for 3 months without meeting the ABAWD requirement re-establishes eligibility for SNAP by meeting the ABAWD requirement.

ABAWD related overrides are processed using the WTRK43-FS ABAWD OVERRIDE INPUT screen (selection R) on the Employment Tracking Inquiry, (accessed via the Time Limit Tracking Menu, Upstate WMS Menu Selection 17/NYC WMS Menu Selection 11). ABAWD related overrides can only be made by a designated staff member using the instructions provided in Section 385.16 of this manual.

The district may need to process a separate "add" override transaction following the completion of a "deletion" override transaction to add a countable calendar month or to report the use of an ABAWD exclusion. Districts are encouraged to review Section 385.16 of this manual for additional information.

Districts may add a month for which an ABAWD exclusion should have been applied or delete a month for which an ABAWD exclusion was applied, at any time during the federal fiscal year

(FFY). OTDA is responsible for accurately reporting the number of exclusions applied by districts each month to the USDA on a quarterly basis. For this reason, districts must maintain procedures to process override transactions involving exclusions by the 30th of the month following the end of the quarter. Overrides that are processed after the quarter ends, but still within the FFY should be kept to a minimum. For example, override transactions to add or delete an ABAWD exclusion for April, May, or June should be completed before July 30th. This limit is necessary to ensure that the number of exclusions used each month during the quarter is accurately reported to USDA.

Tracking an Individual's Compliance with the ABAWD Requirement

Districts are required to monitor compliance with the ABAWD requirement on a monthly basis and take timely action in those instances where the district has determined that the ABAWD has received SNAP benefits for 3 months in a 36-month period, is otherwise subject to the ABAWD requirement and, based on the information available to the district at the time when the case record is reviewed, is not meeting the ABAWD requirement. Districts must monitor and track an individual's compliance with the ABAWD requirement and issue an NOAA before the end of the 3rd month of SNAP benefits to inform the SNAP household that an ABAWD is ineligible for SNAP benefits because they are subject to, but not meeting the ABAWD requirement. Districts should use the ABAWD Tracking Report, which can be accessed through Cognos, to track the number of months an ABAWD did not meet the ABAWD requirement while receiving SNAP benefits in a 36-month period. Additional information regarding the ABAWD Tracking Report can be found in 16 GIS TA/DC030.

OTDA recommends that districts limit SNAP certification periods for households that include an ABAWD to no more than six months. Districts must verify hours of work for ABAWDs at certification, recertification, and as needed if a change is reported. ABAWDs are required to tell the district if their work hours go below 20 hours weekly/80 hours monthly within 10 days after the end of that month. Districts must establish procedures for monitoring an ABAWD's ongoing participation in work activities, such as education and training and work experience, or the combination of work and work activities.

In accordance with 7 CFR 273.24(b)(2), an ABAWD who receives good cause for failure to comply with the mandatory E&T requirement, must also receive good cause for failure to comply with the ABAWD requirement, with one exception. An ABAWD may receive good cause for a lack of an appropriate and available opening in E&T for the mandatory E&T requirement, but this form of good cause does not extend to the ABAWD requirement. This is because the ABAWD has other ways to meet the ABAWD requirement outside of E&T. It is expected the ABAWD will seek out other opportunities even if there is not an appropriate and available opening in E&T. Districts implementing ABAWD requirements that receive an additional allocation of federal pledge funds to serve ABAWDs must still offer a slot in a qualifying ABAWD work activity to permit ABAWDs to remain eligible beyond the three-month time limit.

An ABAWD who would have met the ABAWD work requirement through working (paid or unpaid), participating in a work program, a combination of working and participating in a work

program, or through a work experience program, but missed some hours for good cause, would be considered to have fulfilled the work requirement if the absence from work, the work program, or the work experience program is temporary. Good cause includes circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

Failure to Meet the ABAWD Requirement

An ABAWD is only eligible for SNAP benefits for 3 months in the 36-month period unless the ABAWD documents that the ABAWD is meeting the ABAWD requirement for the calendar month, has been granted an ABAWD exclusion for the calendar month, resides in an area that has an approved ABAWD waiver during the calendar month or has documented an exemption from the ABAWD requirement. Districts are required to monitor compliance with the ABAWD requirement on a monthly basis and to take appropriate and timely action when the district has determined that an individual subject to ABAWD requirements has received SNAP benefits (either individually or as part of a multi-person SNAP household) for three months in a 36-month period and based on the information available to the district is not meeting the ABAWD requirement, is not excluded or living in an area with an approved waiver.

If, based on the information available to the district, the district concludes that the ABAWD is not expected to participate in ABAWD qualifying work activities for a sufficient number of hours in the month to meet the ABAWD requirement, the SNAP case for a SNAP household of one individual should be closed (or the individual in a multi-person SNAP case made ineligible) before the end of the third month to prevent the issuance of a fourth month of SNAP benefits. WMS individual reason code F94 (ABAWD Ineligible) would be used when processing a reduction in or discontinuance of SNAP benefits when an ABAWD has become ineligible for SNAP benefits due to not meeting the ABAWD requirement. The NOAA should be issued in time to preclude the issuance of a fourth month of SNAP benefits. Any SNAP benefits received beyond the 3-month time limit while the ABAWD is subject to, but not meeting the ABAWD requirement, are subject to recoupment. Districts should refer to 05-ADM-15 and 04-ADM-01 for the relevant threshold amounts for the fourth month benefit.

Districts must also ensure that a timely and adequate notice is given when reducing or discontinuing SNAP benefits other than at the time of application or recertification, which require the issuance of an adequate notice.

Re-establishing Eligibility

An individual who becomes ineligible for SNAP after failing to meet the ABAWD requirements during 3 months in the fixed 36-month period may restore eligibility in one of the following ways:

- **Applicant Prospective Compliance** - Eligibility is reestablished if an applicant ABAWD can verify to the satisfaction of the district that they will meet the ABAWD requirement within the 30 days following the date of application. For example, an individual who lost

eligibility due to failing to meet the ABAWD requirements has just started a new job and applies for SNAP. As long as the individual can verify that they will work enough hours within the 30 days following the date of application to satisfy the ABAWD requirement (80 hours), eligibility is reestablished. The ABAWD must continue to work the required number of hours each month to maintain eligibility;

- **80 Hours of Participation** - Eligibility may be reestablished by participating in a qualifying activity for at least 80 hours within any consecutive 30-day period, not necessarily a calendar month. The consecutive 30-day period does not have to immediately precede the date of application. For example, an individual who lost eligibility some time ago but has now been working 80 hours per month for the past six months was recently laid off and now applies for SNAP. Eligibility may be reestablished if the individual provides verification that they have worked 80 hours in a consecutive 30-day period. The individual would then have to get a job or be placed in a work program or work experience in order to maintain eligibility;
- **30-Day Job Search/Work Experience** - Districts have the option to allow ABAWDs the opportunity to reestablish eligibility after having exhausted the three-month time limit by participating in a 30-day period of supervised job search followed by a work experience placement if the individual does not find a job by the end of the 30-day period. An applicant ABAWD who, except for having exhausted the time limit, is eligible for SNAP, may be assigned to 30 days of supervised job search followed by work experience. The ABAWD is required to perform supervised job search for a minimum of 12 hours in the 30-day period to reestablish eligibility. Districts have the discretion to require more than 12 hours of supervised job search during the 30-day period. If the ABAWD satisfies the job search requirement, thereby reestablishing eligibility, but does not find an adequate job, they must be placed in a work experience assignment in the next month. No other SNAP E&T activity may substitute for work experience if this method is used to reestablish eligibility for an ABAWD;
- **Recipient Prospective Compliance** - A recipient who has not met the ABAWD requirements for three countable months, but who is able to provide proof **before the effective date** of an adverse action notice that they will meet the ABAWD requirement in the next benefit month (i.e., has obtained employment which will provide at least 80 hours per month, enrolled in a district approved work program which will provide 80 hours or more of participation per month, or enrolled in work experience, without regard to the number of hours as long as the individual is participating the maximum number of hours based on their benefit), should continue to receive SNAP until it is determined that the employment, work activity, or work experience will not meet the ABAWD requirement. In instances in which the district has already issued an adverse action notice, the notice must be rescinded based on verification of the prospective compliance for the next benefit month.

Whenever a district authorizes continued receipt of SNAP based on prospective compliance, the district must document the reason for continued authorization of benefits clearly in the case record or face a potential quality control error. Even if eligibility is granted based on a verbal assurance of prospective compliance, this should be noted in the case record.

As long as the district has documentation to support the continued eligibility based on prospective compliance, the decision to authorize SNAP benefits should not be subject to a quality control error for this reason. However, districts should use discretion when determining whether or not to consider the documentation of prospective compliance as sufficient. For example, a district may determine that an individual's statement regarding prospective compliance is not sufficient based on previous acts of noncompliance. This is a local district decision.

Once an individual's SNAP case is closed, they must file a new application to begin receiving SNAP again. This requirement applies to TA/SNAP recipients where the TA case remains open, but the SNAP case has been closed as well as NTA/SNAP recipients whose SNAP case has been closed. By law, a SNAP application must be accepted whenever it is submitted. The normal eligibility rules apply, and SNAP should be issued back to the date of application after the individual has reestablished eligibility through one of the previously mentioned methods and is otherwise eligible for SNAP. For applications screened as eligible for expedited processing, an ABAWD who indicates that they meet one of the following conditions, but does not have documentation at the time of application for SNAP benefits must have such documentation pended and receive SNAP benefits under the expedited processing timeframes, provided that the SNAP household is otherwise eligible for expedited SNAP benefits, and:

- has or will re-establish eligibility by meeting the ABAWD requirement through one of the designated methods since being determined ineligible for SNAP benefits due to noncompliance with the ABAWD requirement;
- has become exempt from the general SNAP work requirements or the ABAWD requirements; or
- resides in an area with a federally approved ABAWD waiver.

Districts should assist the household to obtain such documentation, if necessary, but cannot delay the issuance of expedited SNAP benefits if the pended documentation is not received before the end of the expedited processing period. In those instances, where documentation is pended, the district should include one of the following statements based on case circumstances on the SNAP approval notice with documentation pended (Q21 or Q22) that is provided to the household under expedited processing rules:

- Documentation that an ABAWD has met/will meet the able-bodied adult without dependents (ABAWD) requirement within 30 consecutive days since receiving the ABAWD ineligible letter;
- Documentation that an able-bodied adult without dependents (ABAWD) is currently exempt from the ABAWD requirement; or
- Documentation that an able-bodied adult without dependents (ABAWD) currently resides in an area with a federally approved ABAWD waiver.

Districts cannot issue ongoing SNAP benefits until the pended documentation has been received and the district has determined that all household members, including the ABAWD, are eligible for SNAP. If documentation that was pended is not received in the required timeframe, the ABAWD is not eligible for ongoing SNAP benefits. The district must still determine SNAP eligibility for any other household members provided all other documentation necessary to determining the remaining household members' eligibility for ongoing SNAP benefits has been provided. Additionally, if the documentation that was pended is not provided and the individual reapplies, documentation of compliance with or exemption from the ABAWD requirements or residence in a waived area cannot be pended again. The applicant would need to provide the pended documentation, unless the district determines that the pended documentation is no longer required.

If an ABAWD who was previously determined ineligible for SNAP benefits because of noncompliance with the ABAWD requirement reapplies for SNAP benefits and does not indicate or otherwise provide documentation that they have met/will meet the ABAWD requirement through one of designated methods or that they have become exempt from the general SNAP work requirements or the ABAWD requirements, the ABAWD is not eligible for SNAP benefits, including expedited SNAP benefits until the ABAWD documents that the ABAWD has met the ABAWD requirement, is exempt from the general SNAP work requirements or the ABAWD requirements, or resides in an area with a federally approved ABAWD waiver.

For households greater than one, when a member of a SNAP household is removed from the case for failing to meet the ABAWD requirement, the household must request that the member be added back to the case and the individual must meet all other eligibility requirements. In this instance, the household member should be added to the household effective in the month following the month the change was reported.

Additional 3-Month Grace Period

An ABAWD who lost eligibility due to failure to meet the ABAWD requirements, who reestablished eligibility through compliance during a 30-day period as described above, and subsequently lost a job or work assignment is eligible to receive SNAP for an additional 3-month period during which the ABAWD does not work or participate in a work program. This additional period of eligibility is referred to as the "grace period." The 3-month grace period begins the month following the month the individual first notifies the district that they are no longer fulfilling the ABAWD requirement. In cases where the individual has been satisfying the ABAWD

requirement by participating in a program administered by the district, the 3-month grace period begins the month following the month the district notifies the individual that they no longer meeting the ABAWD requirement. An individual is eligible for this 3-month grace period only **one** time in the fixed 36-month period. The months in the grace period must be used consecutively, unlike the months in the initial 3-month period of time limited participation.

The ABAWD requirements are complex. As such, the program is subject to Quality Control review. District staff responsible for implementation of this eligibility requirement should contact their OTDA Employment Services Advisor if they have **any** questions.

Months Not Receiving SNAP

Any break in assistance is not counted toward an individual's initial 3-month time limit when the individual receives benefits without meeting the ABAWD requirement. This includes sanction periods. The 36-month fixed period can include months of non-assistance, which cannot be counted as months of noncompliance with the ABAWD requirement.

Benefits Received in Error

SNAP benefits received by an ABAWD who is not eligible for SNAP benefits count as a month of benefits received for purposes of determining compliance with ABAWD requirements unless and until the individual repays them in full in accordance with 18 NYCRR 387.19. Any SNAP benefits received beyond the 3-month time limit while the ABAWD is subject to, but not meeting the ABAWD requirement are subject to recoupment. Districts should refer to 05-ADM-15 and 04-ADM-01 for the relevant threshold amounts for the fourth month benefit.

ABAWD Tracking

The ABAWD tracking screens can be found on the WMS menu (Upstate WMS Menu Selection 17—Time Limit Tracking and NYC WMS Menu Selection 11). Districts can use the screen data to review an individual's ABAWD status. Districts are required to monitor ABAWD compliance on a monthly basis.

Data displayed on the WTRK43 screen is based on case information maintained by districts, including ABAWD related tracking information reported by NYC Human Resources Administration. In addition to demographic information, such as an individual's name and CIN, the WTRK43 screen displays the ABAWD counter which is a list of the calendar months during which the ABAWD did not meet the ABAWD requirements within the current 36-month fixed period and any additions/deletions made to the individual's ABAWD tracking record.

ABAWD related override transactions are processed using the WTRK43 – FS ABAWD OVERRIDE INPUT screen (selection R) on the Employment Tracking Inquiry, accessed via the Time Limit Tracking Menu (Upstate WMS Menu Selection 17/NYC WMS Menu Selection 11). Only staff designated by the district should process ABAWD related override transactions. Districts must ensure that the reason for the override is clearly documented in the case record. More information on ABAWD tracking and processing ABAWD override transactions may be found in may be found in Section 385.16 of this manual.

In addition to the tracking screens in WMS described above districts should utilize the following reports available through COGNOS to monitor the accuracy of the data entered in the system and to track the number of months an ABAWD did not meet the ABAWD requirement while receiving SNAP.

The ABAWD Tracking Report available through COGNOS is the official tracking report that displays ABAWD tracking information. This is a monthly report which is usually available for the report month on or after the 18th of the month following.

The SNAP E&T Adult 16+ Report lists all adults receiving SNAP, their age, address, TA employability code, SNAP employability code, ABAWD status code, earned income source, type and amount, SSI/SSDI and other disability income. Please note that due to the complexity of this report, users running it frequently experience delays in retrieving the results.

The ABAWD Indicator Code Exception Report is another report available through COGNOS that assists districts in maintaining correct coding. In addition to its other applications, this report can be used to identify those individuals who are 18-49 years old and are assigned an exempt SNAP employability code but do not have an ABAWD code "N".

The SNAP Employability Code Exception Report identifies some common miscoding issues related to the age of SNAP participants. One report type for this report identifies individuals who are coded 35 but are older than age 17. This represents a common coding error.

Part C - Questions and Answers

ABAWDs

Q.1 Are all adults in a household that contains a child under 18 years of age exempt from the ABAWD requirements?

A.1 Yes. All adults in a SNAP household that includes a child under 18 years of age are exempt from the ABAWD requirements. (The definition of a SNAP household can be found at 18 NYCRR 387.1(w)). Districts must determine how ABAWD requirements affect individuals who reside in the same dwelling unit but receive SNAP benefits separately. For example, if a dwelling unit contains a SNAP household consisting of four persons (including a child under 18 years of age), and a separate SNAP household consisting of a single able-bodied adult, all adults in the four-person SNAP household would be exempt from ABAWD requirements based on the presence of the child under 18 years of age. The adult in the other SNAP household is considered an ABAWD and is subject to ABAWD requirements.

Q.2 Are districts required to assign ABAWDs to work programs to maintain eligibility for SNAP?

A.2 Yes. Districts that do not have an approved ABAWD waiver for all residents of the district are required to offer and provide an ABAWD qualifying work or training opportunity to all ABAWDs who are subject to the ABAWD requirements to maintain or re-establish eligibility for SNAP benefits. The offer of a qualifying work or training opportunity must be provided at certification, recertification, and anytime during the certification period when an individual's status changes and the individual is subject to the ABAWD time limit.

Q.3 Is an ABAWD who lost a job or work assignment eligible for an additional 3 months of SNAP benefits (grace period)?

A.3 No. Only an individual who has regained eligibility following ABAWD noncompliance and subsequently loses a job or work assignment may be eligible for the additional 3-month grace period.

Q.4 Are individuals who are determined to be ABAWDs allowed three "free" months of SNAP benefits before becoming subject to the ABAWD requirements?

A.4 No. Individuals who are determined to be ABAWDs are allowed only three months of SNAP benefits during the fixed 36-month period if not meeting the ABAWD requirement. Districts must inform these individuals of the SNAP work requirements they are subject to, including the ABAWD work rules by issuing the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)* to the household and providing them with an oral explanation of the pertinent work requirements. The written notice and the oral explanation must be provided to the household at application, recertification, and when a previously exempt household member or a new household member becomes subject to work requirements including the ABAWD work rules. There are no "free" months of SNAP benefits for individuals designated as ABAWDs. Districts without a waiver of the ABAWD

requirements must offer and provide a qualifying work activity to all ABAWDs. Additionally, because all ABAWDs are work registrants, all general SNAP work requirements apply to them.

SNAP Employment and Training (E&T)

Q.5 What does it mean exactly when you say that an individual must “work register?”

A.5 In the past, a non-exempt applicant for SNAP was required to go to the local DOL office and fill out an application for work. This constituted “registering for work.” This process is no longer required. When the district reviews an individual’s SNAP application now, the district must screen all household members for an exemption from the general SNAP work requirements and determine whether the person is exempt or non-exempt from SNAP work requirements. The person is determined to be a work registrant if the individual does not qualify for any of the exemptions from the general SNAP work requirements. The district then assigns the SNAP employability code for the individual as appropriate. This completes the work registration process.

Q.6 Can an individual fail to comply with “work registration?”

A.6 An individual cannot fail to work register. The process of determining work registrant status (exempt or non-exempt) is a district responsibility. There is no State requirement to complete and/or sign any work registration form. An individual’s failure or refusal to sign a form delineating rights and responsibilities related to participation in work activities does not constitute failure to comply with work registration or work activities. Districts must inform individuals of the SNAP work requirements they are subject to by issuing the LDSS-5193 *Important Information about SNAP Work Rules (General, Mandatory E&T, and ABAWD)* or the LDSS-5193A *Important Information about SNAP Work Rules (General and Mandatory E&T)* to the household and providing an oral explanation of the pertinent work requirements including rights and responsibilities related to each requirement. The written notice and the oral explanation must be provided to each household where at least one household member is subject to a work requirement at application, recertification, and when a previously exempt household member or a new household member becomes subject to work requirements. Districts must screen individuals for an exemption from the SNAP work requirements during the eligibility interview. After an individual is determined to be a work registrant (non-exempt), they may be required to meet the requirements of a work registrant including participation in a work activity assignment or acceptance of a job. Failure to comply without good cause may result in a durational sanction of the individual who failed to comply in accordance with 18 NYCRR 385.12(e).

Should an individual, who claims an exemption from the general SNAP work requirements, fail to submit requested documentation to support the claimed exemption, (i.e., a medical statement or verification of receipt of UIB), the individual becomes a work registrant (non-exempt), and may be required to meet the requirements of a work registrant including participation in a work activity assignment. Districts are advised, when making an assignment, to make accommodations for the alleged limitation. Failure to comply with the

assigned work activity may result in a durational sanction of the individual who failed to comply in accordance with 18 NYCRR 385.12 (e).

Q.7 Can SNAP recipients who would normally be exempt from work requirements because they are complying with a TANF work activity assignment or are the caretaker of a child under six be sanctioned for failure to comply with a SNAP work requirement?

A.7 SNAP recipients are normally exempt from SNAP work requirements by virtue of participating in a TANF activity or due to being the caretaker of a child under six. (An individual who is exempt from SNAP work requirements solely due to TANF participation may be sanctioned for SNAP if they fail to comply with TANF work requirements. See Section 385.12(b)(6)). However, NYS operates a Simplified SNAP Program. This allows the value of the SNAP benefit to be added to the value of the TA grant when determining the maximum number of hours a TANF funded recipient may be assigned to work experience. Therefore, noncompliance by a TANF recipient assigned to work experience may result in SNAP sanction even if the individual is a caretaker of a child under six. This is only applicable to work experience and no other work activities and is only for individuals receiving TANF funded assistance.

TANF funded TA non-exempt recipients, who are exempt from SNAP work requirements as a caretaker of a child under the age of six, (SNAP employability code 29), who fail to comply with a TA work experience assignment, willfully and without good cause, may be subject to a durational sanction for both TA and SNAP.

Safety-Net Families TA non-exempt recipients, who are exempt from SNAP work requirements as a caretaker of a child under the age of six, (SNAP employability code 29) who fail to comply with a TA work experience assignment are NOT subject to a sanction for SNAP.

Q.8 Is there a limit to the number of hours of work experience to which a non-exempt SNAP recipient may be assigned?

A.8 The maximum number of hours of work experience assigned to a non-exempt individual each month is determined by dividing the household's SNAP benefit allotment (plus the TA benefit amount, if applicable) by the higher of the federal or state minimum wage. Non-exempt SNAP recipients may be assigned to work experience for up to 30 hours per week or, with the recipient's consent, more than 30 hours in one week as long as the total hours for the month do not exceed 120. A TA recipient may be assigned additional hours, based on their receipt of a TA benefit, not to exceed 40 hours total weekly.

Q.9 Can SNAP E&T 100% federal funding be used to support the same SNAP E&T related costs as 50% federal funding?

A.9 Yes. Both the 100% and 50% federal SNAP E&T funding allocations may be used to support any eligible administrative or program cost associated with serving work registrants through the SNAP E&T program. Districts should refer to reimbursement guidelines established by the Office of Temporary and Disability Assistance to determine which costs

are eligible for SNAP E&T reimbursement. For more information on allowable SNAP E&T activities and claiming instructions please refer to federal SNAP regulations at 7 CFR 273.7(d)(1)(ii) and 273.7(e)(1) and to the New York State Fiscal Reference Manual, Volume 3, Chapter 10.