

# Navigating the SNAP time limit for ABAWDs

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How organizations can play a role in mitigating the harm of the SNAP time limit for Able-bodied adults without dependents (ABAWDs).

November 22, 2019

# OVERVIEW: ABAWD TIME LIMIT

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## Able-Bodied Adults Without Dependents, or ABAWDs

- A person between the ages of 18 and 49
- No dependents
- No disability

## The Work Requirement

- Must work, or participate in a qualifying work / training activity, for at least 80 hours a month.

## The Time-Limit

- Those failing to meet the work requirement are limited to only 3 months of SNAP in a fixed 36-month period (3 in 36 rule).
- In Illinois, the 36-month period runs from Jan. 1, 2018 – Jan. 1, 2021.



# CHANGES TO WAIVER ELIGIBILITY IN 2020

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## Under current waiver eligibility standards:

- 100 counties qualify for a waiver
- NOT DuPage and Cook
- 50,000 – 60,000 ABAWDs impacted

## Under proposed waiver eligibility standards:

- 4 counties qualify for a waiver
- Alexander, Hardin, Johnson, Pulaski
- Well over 100,000 ABAWDs impacted



# Mitigating the harm through:

- Exemptions
- Appeals / Advocacy
- Compliance

# EXEMPTIONS

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- **Under age 18 or 50 years of age or older; or**
- **Unfit to work due to a physical or mental limitation; or**
- **Pregnant; or**
- **Living in a SNAP household with someone under age 18.**
- **Enrolled in a school of higher education or a training program at least half-time (must meet student eligibility rules).**
- **Caring for an incapacitated person; or**
- **Participating regularly in an alcohol or drug treatment program; or**
- **Receiving or applying for unemployment**
- **Earning wages at least equal to the Federal minimum wage x 30 hours; or**
- **Meeting work requirements for another program (TANF or unemployment compensation); or**

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# IN A SNAP HOUSEHOLD WITH SOMEONE UNDER AGE 18.

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## ABAWD in a household with someone under 18 is exempt.

- [7 CFR §273.24\(c\)\(4\)](#) – “The time limit does not apply to an individual if he or she is: (4) residing in a household where a household member is under age 18, even if the household member who is under 18 is not himself eligible for SNAP benefits
- [DHS Policy Memo 11/30/17](#) – “Note: Everyone who is age 18-49 is exempt if there are children under age 18 in the SNAP unit.”
- Example SNAP Household
  - Parents: 47yo and 46yo.
  - Children: 21yo, 19yo, and 17yo.
  - 17yo in household means none of the ABAWDs are subject to the time limit.
  - Once child turns 18, everyone in the household would be subject to the time limit. (assuming no other exemptions apply)

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- **Caring for an incapacitated person; or**
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# CARING FOR AN INCAPACITATED PERSON

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**“Dependents” means more than children. Can cover adult “dependents”**

- [7 CFR §273.7\(b\)\(1\)](#) – “the following persons are exempt from SNAP work requirements: (iv) a parent or other household member responsible for the care of . . . an incapacitated person.”
- [PM 03-15-02](#): A person is exempt from work provisions if they are: responsible for the care of . . . an incapacitated person (the child or the incapacitated person does not have to live in the home).

**Caretaking responsibilities for an adult that struggles with a disability that limits the ABAWDs ability to work 80 hours a month.**

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- Caring for an incapacitated person; or
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# STUDENTS ENROLLED IN SCHOOL OF HIGHER EDUCATION OR TRAINING PROGRAM

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Generally, college students are ineligible for SNAP unless they meet student eligibility requirements. [DHS MR #18.06: Clarifying Student of Higher Education Eligibility Requirements for SNAP](#)

**Some community college students are eligible for SNAP if they are:**

- Attending community college at least half-time; and
  - Enrolled in an employment and training program through the Perkins Career and Technical Education Improvement Program OR
  - Enrolled in a program limited to remedial courses, basic adult education, literacy, or ESL

**Note: Students 18 or over enrolled full-time in high school are complying**

# EXEMPTIONS

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- Pregnant; or
- Living in a SNAP household with someone under age 18.
- Enrolled in a school of higher education or a training program at least half-time (must meet student eligibility rules).
- Caring for an incapacitated person; or
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# UNFIT TO WORK DUE TO MENTAL OR PHYSICAL LIMITATION

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“Fitness” to work is a determination that allows DHS to consider a multitude of factors:

- Individual is medically certified as physically or mentally unfit for employment. [7 CFR 273.24\(c\)\(2\)](#)
- Chronic Homelessness. [Federal Guidance 11/19/15](#)
- Drug and Alcohol Addiction
- Experiencing of Escaping Domestic Violence. [DHS Policy Memo 11/30/17](#)

Verification Form - [DHS Form 2340](#)



State of Illinois  
Department of Human Services

### SNAP WORK REQUIREMENT REQUEST - MEDICAL-SERVICE PROVIDER UNFIT TO WORK DETERMINATION

#### Medical - Service Provider:

Please help us determine if the person named below is mentally or physically fit for employment. Please answer the questions in the appropriate section of this form for your profession and sign in the signature section. You do not need to provide medical records. We must have this form returned to us by \_\_\_\_\_ to determine this person's eligibility for benefits.

**This information will help us determine if your patient is unfit to participate in work requirements, per Section 6(o) of the Food and Nutrition Act of 2008. This form is voluntary.**

To be completed by SNAP Recipient:

I, (please print name) \_\_\_\_\_

living at (please print address) \_\_\_\_\_

request verification of my:

- |   |  |
|---|--|
| <input type="checkbox"/> physical or mental condition           | <input type="checkbox"/> participation in a drug and alcohol program |
| <input type="checkbox"/> participation in homelessness services | <input type="checkbox"/> participation in domestic violence services |

I hereby authorize the release of the medical information and/or rehabilitation participation requested to the Illinois Department of Human Services.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

To be completed by Healthcare Professional\*\*

Does this person have a temporary or permanent mental and/or physical condition which restricts his or her ability to:

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| - Work at a job 20 hours per week?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| - Participate in a work and training program activity for 80 hours per month? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

If yes, please indicate the duration of the patient's inability due to this illness/disability.

- |  |                                      |   |
|--|--------------------------------------|---|
| <input type="checkbox"/> less than 30 days | <input type="checkbox"/> 1-3 months  | <input type="checkbox"/> 3-6 months                         |
| <input type="checkbox"/> 6-9 months        | <input type="checkbox"/> 9-12 months | <input type="checkbox"/> more than 12 months, or indefinite |

Is this person pregnant? Yes  No

# MEDICALLY CERTIFIED AS PHYSICALLY OR MENTALLY UNFIT

## 7 CFR 273.24(c)(2) - Individual is medically certified as physically or mentally unfit for employment if he or she:

- Is receiving temporary or permanent disability benefits issued by governmental or private sources;
  - Does not require verification
- Is *obviously* mentally or physically unfit for employment as determined by the State agency; or
  - Does not require verification. [Federal Guidance 11/19/15](#)
- If the unfitness is not obvious, provides a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the State agency determines appropriate, that he or she is physically or mentally unfit for employment.
  - [DHS Form 2340](#) – “This form is optional. A customer is not required to use this form to verify their inability to work.” [DHS Policy Memo 11/30/17](#)

If the unfitness is not obvious and verification from a medical professional is unavailable, States should make every attempt to verify the unfitness using an acceptable collateral contact (e.g., medical personnel or social worker). [Federal Guidance 11/19/15](#)

# CHRONIC HOMELESSNESS

## 7 USC § 2012(I) “Homeless individual” means:

- (1) an individual who lacks a fixed and regular nighttime residence; or
- (2) an individual who has a primary nighttime residence that is—
  - (A) a supervised publicly or privately-operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;
  - (B) an institution that provides a temporary residence for individuals intended to be institutionalized;
  - (C) a temporary accommodation for not more than 90 days in the residence of another individual; or
  - (D) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**Doubling up** – According to [a report by Chicago Coalition for the Homeless](#), in 2015, 82% of people experiencing homelessness in Chicago were living doubled-up. 67,582 people.

- Not on the lease
- Living with family – shorter than 90 days – can be a factor for an exemption.

## **Verification** – [Form 2340](#) – [Homeless Status Certification Letter](#)

- “Verification may be accepted from . . . a social worker; a counselor or staff person at a drug and alcohol program, or a social worker or staff person at a homeless or domestic violence services provider or shelter.” [Policy Memo 11/30/17](#)

# DRUG AND ALCOHOL ADDICTION

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The following persons are exempt from SNAP work requirements: (vi) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program. [7 CFR 273.7\(b\)\(1\)\(vi\)](#)

- A counselor at a rehab program could use Form 2340 to verify on someone's behalf.
- Participation on its own is an exemption. No guidance on “regular”

Some state advocates assert that addiction – regardless of participation in treatment – should be a factor in the fitness determination. See. [CA – ABAWD Outreach Handbook pg. 14](#)

# EXPERIENCING OR ESCAPING DOMESTIC VIOLENCE

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DHS internal policy eludes to current experience with domestic violence as a potential factor in the fitness determination. [DHS Policy Memo 11/30/17](#)

[Form 2340](#) has space for staff/social worker at a Domestic Violence Services Provider or Shelter to verify reduced ability to work 80 hours a month.

Illinois has [Family Violence Exclusions](#) for TANF work requirements, which may provide a legal basis to allow exemption from SNAP work requirements for people experiencing domestic violence. See. [7 CFR §273.7\(b\)\(1\)\(ii\)](#)

# HOW CAN ORGANIZATIONS HELP ABAWDs WHO SHOULD BE EXEMPT?

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## Notify & Educate:

- Community materials are being developed
- Facilitate connection to DHS - [DHS.FCS.ABAWDs@illinois.gov](mailto:DHS.FCS.ABAWDs@illinois.gov)

## Attest to exemption, or provide verifications:

- Form 2340 – Medical / Service Provider Unfit to Work Determination
  - Health providers
  - Mental Health service providers
  - Homeless shelters / advocacy groups
  - Domestic violence shelters / advocacy groups
- Form 2341 – Request for Exemption

# QUESTIONS?

# ADMINISTRATIVE APPEALS

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If clients have been terminated as a result of the time limit – or have incorrectly been charged one of their countable months – they may be able to file an administrative appeal.

For free legal services in Cook County contact [Legal Aid Chicago](#)

Appeals can sometimes be avoided through direct advocacy with local office leadership - [DHS.FCS.ABAWDs@illinois.gov](mailto:DHS.FCS.ABAWDs@illinois.gov)

- Recommendation: Pursue parallel to appeal.

# ADMINISTRATIVE APPEALS: BASIC INFORMATION

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## Who Can Appeal?

- An appeal may be filed by any person (or their representative) who has applied for or receives benefits from DHS.
- Appeal Request Form – [Form 103](#); Authorized Representative for Appeals – [Form 960](#).

## What Can be Appealed?

- Any local DHS office or central office:
  - actions,
  - inactions,
  - decisions,
  - determinations,
  - response to a report form,
  - or any issue of policy that a person disagrees with may be appealed.

## When to Appeal?

- For SNAP – within 90 days from the action / decision being appealed (postmark on notice)
- If not within 90 days, your appeal will be **dismissed**.
- Exception: Appeal for delay or failure to make a SNAP decision = NO time limit

# WHEN SHOULD AN ABAWD APPEAL?

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## Cut-off SNAP or charged a countable month when:

- Should be exempt
- Complying
- Non-exempt, but good cause for non-compliance.

**7 CFR §273.24(b)(2)**

# HAVE A QUESTION?

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- Nolan Downey, Shriver Center on Poverty Law, [nolandowney@povertylaw.org](mailto:nolandowney@povertylaw.org)
- Amy Marinacci, Legal Aid Chicago, [amarinacci@legalaidchicago.org](mailto:amarinacci@legalaidchicago.org)
- HelpHub - <http://helphub.povertylaw.org/>



# HOW TO COMPLY WITH ABAWD WORK REQUIREMENTS

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**Able-bodied SNAP recipients ages 18 - 49 who do not have dependent children (ABAWDs), can meet the work requirement if they:**

- work 80 hours per month; or
- participate in a qualifying education or training activity, including certain SNAP Employment and Training programs for 80 hours a month; or
- take part in an approved workfare program of a local governmental unit for 80 hours a month; or
- do community service at agencies, churches, or organizations in your community for 80 hours a month; Must be verified – use [DHS Form 3675](#); or
- \*\*ABAWDs may do a combination of any of the above for a total of 80 hours a month (e.g. 40 hours work + 40 hours community service in a month).

# RESOURCES

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Employment & Training Liaisons at DHS Offices – Find your closest Family Community Resource Center using [DHS Office Locator](#)

American Job Centers – Find an org. close by at [careeronestop.org](#)

Agencies in Cook County through the Chicago Cook Workforce Partnership - Find an org. close by at [chicookworks.org](#)

# ONE-TIME ADDITIONAL THREE COUNTABLE MONTHS

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“An individual who has lost SNAP eligibility by exhausting their 3-month ABAWD Time-Limited Benefits may regain eligibility at any time.” [DHS Policy Memo](#)  
[11/30/17](#)

To regain eligibility, an ABAWD must work 80 hours – or participate in a qualifying activity for 80 hours – during any consecutive 30-day period.

An ABAWD who regains eligibility but later stops meeting the work requirement, is eligible for an additional 3 countable months. These additional three countable months must be consecutive and are only given once within the fixed 3-year period.

# QUESTIONS?