

Summary of Final Rule: SNAP Requirements for Able-Bodied Adults Without Dependents

Key Points – What does the Final Rule Do?

- ✓ Tightens the criteria states can use to exempt geographic areas from mandatory work requirements for Able-Bodied Adults Without Dependents (ABAWDs) by demonstrating a lack of sufficient jobs in the area
- ✓ Requires states to use Labor Market Areas (LMAs) when defining geographic areas that can be considered for an exemption to the ABAWD rule, with limited exceptions
- ✓ Limits carryover of unused discretionary ABAWD waivers to 12% of covered individuals in the State for the preceding fiscal year
- ✓ Limits duration of ABAWD waivers for geographic areas to a maximum of one year and requires FNS approves waivers before they can go into effect
- ✓ Establishes an implementation date for updated rules as of April 1, 2020 and terminates all existing ABAWD waivers by no later than March 31, 2020
- ✓ The rule does not make any changes to the ABAWD rule limiting ABAWDs to receiving SNAP benefits to 3 months within a 36-month time limit unless the individual meets certain work requirements; rather, the rule changes the criteria that can be used to waive ABAWDs from the work requirements

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Core Standards for Considering Waiver Requests

Retains Current Rules Allowing Waivers Based on a 12-Month Unemployment Rate Over 10%

The final rule maintains the current criterion allowing an area to qualify for a waiver when it has a recent 12-month average unemployment rate over 10%.

Establishes a 6% Unemployment Rate Floor to Demonstrate a Lack of Sufficient Jobs

The final rule amends criteria for waiving a geographic area based on a demonstrated lack of sufficient jobs. Under current guidance, areas with an unemployment rate 20% above the national average for a recent 24-month period can qualify for an ABAWD waiver. The final rule amends this guidance by adding a minimum unemployment rate floor of 6% in addition to requiring qualifying geographic areas to have an unemployment rate 20% above the national average.

For example, if the national unemployment rate is 4% and a geographic area has an unemployment rate of 5%, it will no longer qualify for a waiver because although the unemployment rate is more than 20% above the national average, it does not meet the added requirement of a 6% floor.

Limits the 24-Month Period Used to Support Waiver Requests Based on a Lack of Sufficient Jobs

Waiver requests using the 20% standard to demonstrate a lack of sufficient jobs will be required to use 24-month data in which the last month of the 24-month data period through the last month of the waiver does not exceed 21 months.

⇒ *Example 1:* State requests a 12-month waiver for October 2020 through September 2021. The State provides a 24-month data period from June 2018 through May 2020 showing the requested area meets the 20% standard. The waiver is approved as requested since the time between May 2020 and September 2021 is 16 months and does not exceed the 21-month limit.

⇒ *Example 2:* State requests a 6-month waiver for June 2020 through December 2020. The State provides a 24-month data period from April 2017 through March 2019 showing the requested area meets the 20% standard. The waiver is approved as requested since the time between March 2019 and December 2020 is 21 months and does not exceed the 21-month limit.

Removes Allowance for Statewide Waivers

The final rule goes beyond what was included in the proposed rule by eliminating the allowance for states to request statewide waivers if the state qualifies for extended unemployment benefits, as determined by DOL’s Unemployment Insurance Service. The rule also restricts states from submitting statewide waiver requests by grouping sub-states together when sub-state data are available.

Excludes Additional Criteria Currently Permissible to Waive ABAWD Time Limits

The final rule removes several criteria currently permissible for states to use as justification to waive ABAWD time limit requirements for areas.

- ⇒ *Designation as a Labor Surplus Area* – USDA will now only consider Labor Market Areas (LMAs) for waiver requests.
- ⇒ *Low and Declining Employment-to-Population Ratio* – States will no longer be allowed to consider this metric, which captures information on individuals who are employable but have not looked for a job in more than a year.
- ⇒ *Lack of Jobs in Declining Occupations or Industries* – States will no longer be allowed to consider this metric, which considers potential impacts of specific industry changes (e.g. manufacturing plant closures) within local labor markets.
- ⇒ *Academic Studies and Other Publications Describing Lack of Jobs* – States will no longer be allowed to consider this metric, which may provide supplemental information on specific employment barriers for ABAWDs and/or low-income households.
- ⇒ *Seasonable Unemployment Rates* – States will no longer be allowed to consider this metric, which considers historical seasonal unemployment rates over 10%.

Permits States to Submit Data Other than the Core Standards If Exceptional Circumstances are Demonstrated

The final rule permits states to submit data other than those established through the core standards that demonstrate an exceptional circumstance, which may be considered for approval on a case-by-case basis. Data used to support waiver requests based on an exceptional circumstance need not conform to core standards requirements that there are not enough jobs for individuals in an area.

Criteria for Establishing Geographic Areas for Consideration for ABWD Waivers

Limits States to Use of Labor Market Areas (LMAs) for Waiver Requests

The final rule goes beyond what was included in the proposed rule by limiting state requests for ABAWD waivers to entire LMAs, as defined by the Department of Labor. Individual jurisdictions or counties within an LMA that have a lack of sufficient jobs or high unemployment rate will not qualify for an ABAWD waiver if the LMA they reside within do not meet the threshold for a waiver.

Restricts Unemployment Statistics that can be Considered for ABAWD Waiver Criteria

The final rule requires states to use data from the Bureau of Labor Statistics (BLS) or a BLS-cooperating agency when presenting unemployment statistics for consideration for a waiver under the new core standards established.

Establishes that Intrastate Parts of Interstate LMAs Must Qualify Based on the Entire LMA

The final rule clarifies that if an LMA crosses multiple states, each state's waiver submissions must be based on data for the entire interstate LMA.

Exempts Indian Reservation Areas and U.S. Territories from LMA Requirements

The final rule adopts, as proposed, an exclusion for Indian reservation areas and U.S. Territories from the strict definition of a waiver area. While other individual jurisdictions and counties that are part of a larger LMA cannot be waived unless the entire LMA they are located in are waived, Indian reservation areas can be individually exempted. Additionally, since U.S. Territories do not have LMAs and would have no basis for qualifying for a waiver under the stricter criteria, they are also exempt. While Indian reservation areas can be exempted independently of an LMA, they may also be waived as part of one or more LMAs they are geographically located within. In the case these jurisdictions submit waiver requests independently, USDA will consider other recent data that corresponds to the area, including criteria now deleted from the core standards.

Additional Implementation Requirements

Limits the Carryover of ABAWD Discretionary Exemptions

The final rule amends language in the proposed rule to end carryover of discretionary ABAWD exemptions. States will be limited to carry over one-year's worth of exemptions from previous years (12% of covered individuals in the State). This revision will go into effect on October 1, 2020.

Requires Waivers be Approved Prior to Implementation

The final rule eliminates the ability for states to implement waivers prior to approval by USDA.

Requires Waiver Requests be Supported by the Chief Executive Officer of the State

The final rule amends language in the proposed rule regarding requirements for waiver requests to be supported by the Chief Executive Officer of the State. States will be required to indicate in submissions that the Chief Executive Officer supports the waiver request; however, a signature from the Officer is not required.

Sets an Effective Date of the Final Rule for April 1, 2020 and Sunsets Current Waivers by March 31, 2020

Except for provisions otherwise specified, the final rule will go into effect on April 1, 2020. All new waiver requests for the time period on or after the effective date will be subject to the updated waiver criteria. All existing waiver requests beginning before April 1, 2020 will be evaluated under the existing regulatory standards for waivers; however, these waivers will not be approved beyond March 31, 2020.

Limits the Time Limit for Waivers to No More than One Year

The final rule limits the duration of state waiver requests to no more than one year. States may submit waiver requests for periods shorter than one year if specified. States may have an incentive to submit shorter waiver requests for areas in which this is necessary to comply with time limits when 24-month data is used to meet the 20% standard (see Example 2 above).