



CDSS

WILL LIGHTBOURNE
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

April 21, 2016

ALL COUNTY LETTER NO. 16-24

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALFRESH PROGRAM SPECIALISTS
ALL CONSORTIA REPRESENTATIVES
ALL QUALITY CONTROL COORDINATORS

SUBJECT: CALFRESH SUMMARY OF THE ABLE-BODIED ADULT
WITHOUT DEPENDENTS (ABAWD) TIME LIMIT

REFERENCES: 7 U.S.C. 2015 (o); 7 CFR SECTIONS 273.24, 273.24 (c), 273.24
(c)(2) and 273.7 (b); MPP SECTIONS 63-407 and 63-410;
SENATE BILL (SB) 43; ADMINISTRATIVE NOTICES 13-31, 14-45,
15-23, and 16-04; WELFARE AND INSTITUTIONS CODE (W&IC)
18926.5; [ACL 12-03 \(DATED JANUARY 9, 2012\)](#)

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

The purpose of this letter is to provide counties with a description of the ABAWD time limit. California has received federal approval for a statewide waiver of the ABAWD time limit for several years. California was recently approved for a two-year statewide waiver extension which began January 1, 2016 and will end December 31, 2017. Upon expiration of the waiver, it is likely that only certain geographic areas of California will qualify for a waiver; therefore, the California Department of Social Services (CDSS) is releasing this document to help prepare counties to implement the ABAWD time limit. Topics include the three month time limit, the ABAWD tracking system, exemptions, waivers, satisfying the ABAWD work rule, and the 15 percent exemption designed to assist at-risk ABAWDs.

Background

The ABAWD time limit was implemented in 1996 as part of federal welfare reform. An ABAWD is a non-assistance CalFresh recipient age 18 to 49 who is able bodied without dependent children (See ABAWD exemption section below and at 7 CFR 273.24 (c) for more information). An ABAWD's eligibility for CalFresh is time limited to three months

within a 36-month period unless he/she either 1) lives in a county or geographic area within a county with an ABAWD waiver, 2) satisfies the ABAWD work requirement, or 3) is granted the 15 percent exemption. The ABAWD work requirement is met through employment, workfare or various education and training activities, including some CalFresh Employment and Training (E&T) components.

Federal ABAWD requirements are defined in Section 6 (o) of the Food and Nutrition Act of 2008 [7 U.S.C. 2015 (o)] and in part 7 of the Code of Federal Regulations (CFR), section 273.24. State regulations governing the ABAWD time limit are contained in the CDSS Manual of Policies and Procedures (MPP), Division 63, Section 63-410. This All County Letter (ACL) contains updated ABAWD policy released subsequent to the implementation of existing state ABAWD regulations and policy instructions. This letter supersedes any previously issued CDSS correspondence or county policy directives which conflict with instructions contained in this ACL. A handbook that explains the ABAWD time limit and work requirement in greater detail will be released in early 2017. CalFresh Regulations will be amended for consistency with updated ABAWD policies.

The three out of 36 month time limit will be operative in all counties that do not qualify for an ABAWD waiver irrespective of whether they offer an E&T program. Because there are a variety of CalFresh E&T components that may be used to satisfy the work requirement, CDSS strongly urges more counties to participate in E&T. Counties that offer an E&T program are encouraged to include one or more component that ABAWDs may utilize in fulfilling the work requirement. Such activities include workfare, self-initiated workfare, work experience, education, and vocational training (see below).

ABAWD Exemptions

Consistent with 7 CFR 273.24 (c), CalFresh recipients are exempt from the ABAWD time limit if they meet one of the following criteria:

- Under age 18 or over age 49;
- Residing in a CalFresh household that includes a child under 18 years of age, even if the child is ineligible for CalFresh;
- Physically or mentally unfit for employment;
- Pregnant; or
- Exempt from CalFresh work registration.

Work registration exemptions are listed in 7 CFR 273.7 (b) and include unfitness for employment, caring for a child under six years of age or an incapacitated person, participation in a California Work Opportunity and Responsibility to Kids (CaWORKs) or unemployment compensation work requirement, regular participation in a drug or alcohol treatment program, half-time school attendance, and working 30 hours or more per week.

Note: The ABAWD unfitness exemption at 7 CFR 273.24 (c)(2) has been significantly expanded by the Food and Nutrition Service (FNS) and differs from the more limited

unfitness exemption established for CalFresh work registrants (See Administrative Notice 16-04 dated November 19, 2015). The ABAWD unfitness exemption requires far less verification than the work registrant exemption and includes persons who are homeless. Detailed policy instructions explaining and distinguishing between the work registrant and ABAWD unfitness exemption will be released in subsequent correspondence. Data tracking systems will be programed to clearly differentiate between the two exemptions.

ABAWD Waivers

A county, geographic area within a county, multi-county region, or an entire state can be approved to waive the ABAWD work requirement if it meets federally established criteria regarding high unemployment rates or a lack of sufficient jobs. For example, a geographic area may be approved for a waiver if it has a recent 12-month average unemployment rate above ten percent or is designated as a Labor Surplus Area by the U.S. Department of Labor. ABAWDs living in an area approved for a waiver must continue to satisfy all other CalFresh eligibility requirements in order to remain eligible for benefits.

Following expiration of the statewide waiver, several counties will remain eligible for county ABAWD waivers. Once a determination is made as to which counties or other geographic regions qualify, CDSS will submit a waiver request to the Food and Nutrition Service. When federal approval is obtained, CDSS will publish correspondence identifying those counties or portions of the state that are eligible for an ABAWD waiver.

Satisfying The ABAWD Work Requirement

The ABAWD work requirement is met by performing one of the following:

- Working at least 20 hours per week (or 80 hours per month) in paid or volunteer employment;
- Participating at least 20 hours per week (or 80 hours per month) in an allowable work activity such as vocational training or education programs;
- Combining hours worked with time spent in training or education for a total of 20 hours per week (or 80 hours per month); or
- Participating in workfare (i.e., community service) or work experience activities.

Allowable education and training activities which satisfy the ABAWD work rule include those offered under the Workforce Innovation and Opportunity Act (WIOA) and the CalFresh E&T program. Hours spent in job search that are offered in combination with another E&T component, count toward the 20 hour per week requirement, provided time spent in job search constitutes less than half of the combined total. E&T stand-alone job search activities of 20 hours per week which are delivered through WIOA satisfy the 20 hour ABAWD work requirement.

For E&T workfare and work experience components, the number of hours of participation is determined by dividing the CalFresh allotment by the state or federal minimum wage, whichever is higher. Workfare and work experience activities can also include comparable non-E&T activities with similar participation requirements that are administered or overseen by the county.

The Fifteen Percent Exemption

When a county or other geographic region does not qualify for an ABAWD waiver, it may temporarily excuse some individuals or populations from meeting the work rule using what is called the 15 percent exemption. FNS determines the annual number of exemptions that are allocated to each state. CDSS distributes California's exemption allotment among those counties that do not qualify for an ABAWD waiver. The exemptions are distributed based on the size of each county's non-assistance CalFresh caseload.

Counties determine the number of months an ABAWD will receive the 15 percent exemption. Each 15 percent exemption represents one month of CalFresh eligibility for an ABAWD. Counties can exempt larger numbers of ABAWDs for shorter periods or they can apply the exemptions to fewer ABAWDs for longer periods. Counties also develop the criteria which individuals must meet to qualify for the 15 percent exemption. These include such things as remoteness, lack of transportation, illiteracy, language barriers, and medical limitations.

Losing and Regaining CalFresh Eligibility

Persons who lose eligibility due to failure to meet the ABAWD work requirement may subsequently regain eligibility if, during a 30-day period, they work or participate in an allowable work activity for 80 hours, or participate in workfare for the required number of hours. Those who regain eligibility may be eligible to receive CalFresh for an additional three consecutive month period which is available only once during the 36-month clock. Following the three consecutive months, ABAWDs must satisfy the work requirement for every month CalFresh is requested unless they are exempt, moved to a waiver county, or receive the 15 percent exemption.

The Thirty-Six Month Clock

The 36-month period within which an ABAWD must satisfy the work requirement is a fixed period having a definite start and stop date. Once begun, an ABAWD's 36-month clock continues uninterrupted regardless of whether he/she satisfies the ABAWD work requirement, qualifies for an exemption, lives in a county or geographic area within a county where the requirement is waived, is granted the 15 percent exemption, or loses eligibility. The 36-month clock continues even when other penalties such as voluntary quit sanctions are imposed.

The State can choose from several options when setting up the 36-month clock. The CDSS, in consultation with counties, advocates and other stakeholders, has chosen a

new option for the 36-month clock. The new option is referred to as a fixed statewide clock. The CDSS believes that this option will both reduce confusion and lessen county workload. In California, the ABAWD 36-month clock previously began with the first full month an individual was determined to be subject to the ABAWD work rule.

A fixed statewide clock has the same beginning and ending date in all 58 counties. When the statewide clock ends a new clock will begin the following day. ABAWDs may become subject to the work requirement for the first time at various points within the fixed statewide clock depending on whether they qualify for an exemption, live in a waiver county, or are subject to the work rule when the clock starts. However, the statewide clock will always end on the same date. When the statewide clock ends, persons who are ineligible based on failure to meet the ABAWD work requirement will have their eligibility restored and again be subject to the time limit described above.

Tracking ABAWDs

The mechanism for tracking and storing ABAWD data is the Medi-Cal Eligibility Data System (MEDS) in conjunction with the Statewide Automated Welfare System (SAWS). Counties track ABAWDs using various indicator codes which are processed through SAWS and stored in MEDS. These tracking codes indicate a CalFresh recipient's status as it relates to the ABAWD time limit. A CalFresh recipient may be coded as exempt from the work requirement, living in an area approved for a waiver, having satisfied the work requirement, receiving the 15 percent exemption, having used one of the three countable months without meeting the work rule, etc. All consortia shall be prepared to launch the new tracking system effective January 1, 2018.

Clarification Regarding Senate Bill (SB) 43 in relation to the ABAWD Work Rule

SB 43 (chaptered October 6, 2011 and codified in Section 18926.5 of the Welfare and Institutions Code) contains modifications to CalFresh E&T requirements. One of the provisions of SB 43 was the addition of new E&T deferrals. Deferrals are criteria which temporarily excuse a CalFresh participant from mandatory E&T participation. In addition to the temporary E&T deferrals listed at MPP Section 63-407.811, CalFresh recipients are now deferred if they are under 18 or over 49 years of age, live in a Labor Surplus Area, reside in a household with a child under 18 years of age, or are pregnant. These new deferrals are the same as some of the federally established ABAWD exemptions. Counties currently do not use deferrals as all E&T components are voluntary.

It is important to clarify that the requirements of SB 43 refer only to the CalFresh E&T program. They are not established specifically for the ABAWD work rule. Other E&T deferral criteria listed in MPP Section 63-407.811 do not serve as both E&T deferrals and ABAWD exemptions. For example, an individual is deferred from E&T participation if he/she lacks public or private transportation, but this does not qualify as an ABAWD exemption. The implementing policies for SB 43 defined in ACL No. 12-03, dated January 9, 2012, apply strictly to CalFresh E&T.

In addition to issuing a detailed policy handbook, CDSS will also conduct an ABAWD webinar and distribute other materials and notices needed to implement the ABAWD time limit. In the meantime, counties should examine all desk guides and policy manuals to ensure that they are consistent with the policies described in this ACL.

If you have any questions regarding this letter, please contact your CalFresh county consultant or call the CalFresh Policy Bureau at (916) 654-1896.

Sincerely,

Original Document Signed By:

TODD BLAND
Deputy Director
Welfare to Work Division