



Food and  
Nutrition  
Service

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**DATE:** August 25, 2023

**SUBJECT:** Supplemental Nutrition Assistance Program (SNAP) – SNAP Provisions of the Fiscal Responsibility Act of 2023 – Questions and Answers – Set 2

**TO:** All SNAP State Agencies

The Food and Nutrition Service (FNS) is issuing this set of questions and answers in response to inquiries received from Supplemental Nutrition Assistance Program (SNAP) State agencies concerning implementation of Section 311(a), Section 311(b), and Section 312 of the Fiscal Responsibility Act (FRA) of 2023. For additional information please see the June 30, 2023, memorandum, "[Implementing SNAP Provisions of the Fiscal Responsibility Act of 2023.](#)"

This is the second set of questions and answers in response to the provisions of the FRA. FNS published the first set of question and answers, "[SNAP Provisions of the Fiscal Responsibility Act of 2023 – Questions and Answers #1.](#)" on July 27, 2023. This set of questions and answers provides further guidance on the modified exception criteria, applying the exception criteria, and the treatment of discretionary exemptions. State agencies with additional questions should contact your respective Regional Office representative. Thank you for your continued partnership in serving SNAP households.

Moira Johnston  
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Attachment

**Supplemental Nutrition Assistance Program (SNAP)  
Provisions of the Fiscal Responsibility Act of 2023 (FRA)  
Questions and Answers #2**

**New Able-Bodied Adults without Dependents (ABAWD) Time Limit Exceptions  
(Section 311(a) of FRA)**

**Question 1: Why is FNS using the term ABAWD time limit “exceptions”? Does this terminology change the way State agencies screen for and apply exemptions and exceptions?**

**Response:** While FNS has referred to criteria that exclude certain individuals from the ABAWD work requirements as “exemptions,” FNS is now referring to these as “exceptions” to align with Section 6(o)(3) of the Food and Nutrition Act of 2008 (FNA) and program rules at 7 CFR 273.24(c). FNS is continuing to refer to the discretionary exemptions under program rule at 7 CFR 273.24(g) as “exemptions,” and the criteria that exclude certain individuals from the general work requirement as “exemptions,” which aligns with Section 6(d)(2) of the FNA and 7 CFR 273.7(b). State agencies must first screen for exemptions to the general work requirement to determine if the individual is a work registrant and then screen for exceptions to the ABAWD time limit. State agencies may use different terms as long as the State agency applies the policy consistent with statute and regulations.

**Question 2: Can individuals who are in foster care on their 18th birthday and who remain in extended foster care program under Section 475(8)(B)(iii) of the Social Security Act meet the new exception?**

**Response:** Yes. Individuals who are in foster care when they reach 18 years of age fall under the exception, even if they elect to stay in foster care up to the State’s maximum age. For example, a 19-year-old who was in foster care at age 18 and who elects to remain in a State’s extended foster care program, such as living in a household that applies for SNAP or in an independent living program, could qualify for the exception.

**Question 3: Can an individual qualify for the exception if they leave foster care after turning 18 years but before reaching the maximum age of a State’s extended foster care program?**

**Response:** Yes. Those aged 18 to 24 years who are in foster care at the time they are 18 fall under the exception, regardless of whether the State operates an extended foster care program. For example, if an individual exits foster care at age 18, but the State elected to extend the foster care age to 20, the individual can still qualify for the exception because they were in foster care at the time they turned 18. The individual would continue to be eligible for the exception until their 25th birthday.

**Application of Modified Exception Criteria (Section 311(b) of FRA)**

**Question 4: Are State agencies required to apply a countable month if an individual's circumstances change in the middle of a month and they no longer meet an exception?**

**Response:** No. The State agency must not assign a countable month to individuals who meet an exception at any time during that month. These rules apply to all ABAWD exceptions. For example, if on September 4, the State agency receives verified and clear information that an individual no longer meets an exception from the ABAWD time limit (i.e., individual is no longer experiencing homelessness). Because the individual met an exception for part of the month, September is not a countable month. Per program rules at 7 CFR 273.24(b)(1)(i), a countable month is a full month during which the individual does not meet an exception.

**Question 5: If the State agency receives verified information that an individual's ABAWD exception status has changed (e.g., not at the time of the change in circumstance) is the State agency required to adjust countable months retrospectively to when the change occurred?**

**Response:** The action taken by the State agency depends on the type of exception and how the State has chosen to act on modified exceptions, as explained below. As a reminder, if during the certification period, the State agency receives information that indicates a household member no longer meets an exception, the State agency must assess whether the impact on the case is clear before taking action. Please refer to Question 8 of the July 27, 2023, memo "[SNAP Provisions of the Fiscal Responsibility Act of 2023 – Questions and Answers #1.](#)"

***Exceptions in place prior to the FRA:*** For the exceptions in place prior to the FRA, such as being pregnant or having a physical or mental limitation, the State agency must adjust countable months retroactively. This aligns with [prior guidance](#) released in 2013.

***Exceptions modified under the FRA:*** For modified exceptions established by the FRA, including homelessness, veteran status, and individuals aging out of foster care, the action depends on whether the State agency chooses to make changes during the certification period based on the modified exceptions or to make changes only at initial certification and recertification.

- If the State agency only makes changes based on the modified exceptions at initial certification or recertification, it must not adjust countable months retroactively based on the modified exceptions.
- If the State agency chooses to make changes based on the modified exceptions during the certification period, it must adjust countable months retroactively.

FNS recommends State agencies choose to make changes during the certification period based on the modified exceptions to ensure consistency across the different ABAWD exceptions and to reduce and prevent unnecessary churn for individuals who are eligible for a new exception.

**Question 6: If the State agency must adjust countable months retrospectively, should the adjustment result in an overpayment?**

**Response:** If the State agency retrospectively adjusts countable months and it results in a potential overpayment, the State agency may only establish an overpayment claim if the household was required to report the change.

The following examples assume the State agency will apply the modified exceptions during the certification period:

*Example 1:* At recertification, the State agency learns that an ABAWD began experiencing homelessness during the certification period. The State agency had not been aware of this change prior. The State agency must remove any countable months the individual accumulated since they began experiencing homeless. This includes months in which the individual was homeless for part of the month.

*Example 2:* At recertification, the State agency learns that an ABAWD who they had previously identified as experiencing homelessness obtained housing during the certification period. The State agency had not been aware of this change prior. The State agency must assess whether the individual should have received countable months (including whether the individual met another exception or was meeting the work requirement) since they became subject to the time limit and assign countable months accordingly. If the State agency finds that the individual received more than three countable months (i.e., the individual is not otherwise exempt, meeting the work requirement, or living in an area with an ABAWD waiver), the individual must be disqualified based on the time limit. The State agency may not establish a claim since the individual was not required to report the change.

**Question 7: What best practices should State agencies implement to avoid needing to assign countable months retrospectively?**

**Response:** State agencies have a few options to avoid needing to retrospectively assign countable months. The State agency should consider the following best practices:

- Assigning shorter certification periods, such as four-month certification periods, to households with ABAWDs or members that the State agency anticipates may become ABAWDs.

- Determining at initial certification or recertification whether each household member may become an ABAWD during the certification period, including screening against the new exceptions in the FRA. State agencies should inform such households of the time limit rules, ways to fulfill the ABAWD work requirement, the exceptions and emphasize that the household should contact its eligibility worker if a household member starts fulfilling the ABAWD work requirement or experiences a change that would exempt them from the time limit.
- Granting discretionary exemptions to individuals in a particular age range or that become subject to the time limit during the certification period.

*Screening for Modified Exceptions:*

**Question 8: When applying the modified age-based exception criteria to ongoing households, what should the State agency do if it is unable to reach the household to provide the oral explanation of the work requirements?**

**Response:** State agencies are required to provide an oral and written explanation of the general and ABAWD work requirements any time a previously exempt or newly added household member becomes subject to the general or ABAWD work requirements according to 7 CFR 273.7(c)(1)(ii). If during the certification period, the State agency has verified and clear information that an individual's exception status has changed, and they are newly subject to the ABAWD time limit, the State agency must contact the household to provide the oral explanation of the general and ABAWD work requirements. If the State agency is not able to reach the household, they must be able to demonstrate to FNS that they made a good faith effort and document those efforts in the case file. The State agency must still send the written notice to the household.

**Question 9: Can State agencies require individuals to report information on the modified exception criteria?**

**Response:** No. State agencies cannot require recipients to report changes in exception status outside of their reporting requirement system. Individuals are only required to report changes in circumstances outlined in 7 CFR 273.12(a)(1)(i) through (a)(1)(viii). This includes the requirement for ABAWDs to report a change in work hours that brings them below 20 hours per week, averaged monthly. State agencies are encouraged to share information about the modified exceptions with external partners to increase awareness of the new exception criteria. If an individual voluntarily provides information about the modified exceptions on the periodic report, State agencies should follow program rules at 7 CFR 273.12(c) for acting on changes, including unclear information.

**Question 10: Can State agencies add additional screening questions about the modified exceptions to the periodic report?**

**Response:** Yes. State agencies may add additional screening questions about the modified exceptions to the periodic report; however, the household’s response is voluntary. The State must not terminate a household for failure to respond to the additional screening questions. Individuals are only required to report on changes in circumstances outlined in 7 CFR 273.12(a)(1)(i) through (a)(1)(viii).

**REMINDER:** State agencies must incorporate additional screening questions (as soon as possible) into their applications and recertification processes to collect information on the modified FRA exceptions.

**Modification of ABAWD Discretionary Exemptions (Section 312 of FRA)**

**Question 11: Can State agencies use discretionary exemptions to exempt all ABAWDs subject to the new age provision (e.g., all 50–52-year-olds)?**

**Response:** Yes. State agencies may use discretionary exemptions to ease the transition into the new age criteria without violating program rules at 7 CFR 273.24(g)(4). FNS encourages State agencies to consider using their available discretionary exemptions when transitioning between the different modified age-based criteria.

**Question 12: If a State agency uses discretionary exemptions to exempt individuals experiencing homelessness, veterans, or individuals aging out of foster care from the ABAWD time limit, can it use that information to exempt individuals under the new exceptions rather than use a discretionary exemption?**

**Response:** Yes. If the State agency is using their discretionary exemptions to exempt individuals that would otherwise meet an exception under the modified exception criteria set forth in the FRA they may apply the exception criteria, rather than use one of their discretionary exemptions. If the State agency already collects information on these populations, FNS encourages the State agency to use that information to identify household members that may meet one of the new exceptions. However, the State agency must assess whether the information they have on these populations aligns with the FRA definitions before applying an exception and must consider the current circumstance of each case. Please refer to the definitions provided in the June 30, 2023, memo, [“Implementing SNAP Provisions in the Fiscal Responsibility Act of 2023.”](#) The State agency must also follow program rules related to verifying questionable information and acting on unclear information.