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130.1 Purpose

This section describes the work requirements, exemptions from work requirements and the penalties for failure to comply.

130.2 General Policy

The Food Supplement Program (FSP) requires that each household member who is not exempt under 130.5 register for work and accept suitable work, with some exceptions.

130.3 Registration Procedure

A. The LDSS will:

1. Determine which household members must register for employment;
2. Register each individual who is not exempt under 130.5;
3. Explain and provide in writing to the applicant the work registration requirements, the rights and responsibilities of work registered household members and the consequences of failure to comply;
4. Complete the FSP Employment and Training section of the CARES WORK screen, for each household member required to register for employment; and
5. Register each person at initial certification and at every recertification as a condition of eligibility. Ensure that the CARES WORK screen is updated and correct for each individual at recertification.



B. It is not necessary for work registration to be done in person.

130.4 Determination of Exemption Status

A. Make the determination as to which household members do not have to be work registered at the time of initial certification and at each subsequent recertification.

Note: Individuals who lose an exemption but are not subject to reporting requirements will be work registered at their next redetermination.

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130.4 Determination of Exemption Status (continued)

- B. After applying the exemption criteria in 130.5, determine if there is a reason to grant an individual exemption based on the circumstances described in 130.6.

130.5 Statutory Exemptions from Work Registration

The following persons do not have to be work registered:



- A. **A child younger than age 16.** Individuals age 16 and 17 are exempt if they are not the head of household or if they are attending school or are enrolled in an employment training program at least half-time.

- B. **A person 60 years of age or older.**

- C. **A person physically or mentally unfit for employment.** Require verification of the mental or physical disability if the disability is not evident. Appropriate verification consists of receipt of temporary or permanent disability payments issued by public or private sources or a statement from a medical care provider.



- D. **A household member subject to, and complying with, any work requirement under Title IV of the Social Security Act.** This includes compliance with Temporary Cash Assistance work requirements.

Note: Some TCA customers are not subject to TCA work requirements (i.e. needy caretaker relative). If not exempt they are subject to FSET.

- E. **A parent or other household member who is responsible for the care of a dependent child under age 6 or an incapacitated individual.** If the child has his or her 6th birthday within a certification period, the individual responsible for the care of the child must fulfill the work registration requirement at the next scheduled certification period unless the individual qualifies for another exemption.



- F. **A person who is receiving unemployment compensation.** A person who has applied for, but has not yet begun to receive benefits is also exempt if that person was required to register for work as part of the unemployment compensation application process. If the exemption claimed is questionable, verify the exemption with the appropriate office of the Department of Labor, Licensing, and Regulation.

- G. **A regular participant in a drug addiction or alcoholic treatment program.**

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130.5 Statutory Exemptions from Work Registration (continued)

- H. **A person who is 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 includes migrant and seasonal farm workers who are under contract with an employer or crew chief to begin employment within 30 days.
- I. **A student enrolled at least half time with any recognized school, training program, or institution of higher education.**
1. A student enrolled at least halftime in a school of higher education must meet the requirements in Section 102.3 of the manual.
 2. The student remains exempt during normal periods of class attendance, vacations, and recesses, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).
 3. Persons who are not enrolled at least half time or experience a break in enrollment status due to graduation, expulsion or suspension, or who drop out or do not intend to return to school are not considered students for the purpose of qualifying for this exemption.



130.6 Individual Exemptions

- A. Household members who must be work registered may still be individually exempted from participation in the FSP Employment and Training (FSPET) program under certain circumstances.
- B. These conditions do not automatically cause an individual exemption. The situation must exist and the worker must decide that it makes participation in employment and training programs impractical.
- C. Determine individual exemptions on a case-by-case basis and review the exemption at the time of recertification.
- D. The individual exemptions include:
 1. Older individual – Registrant is age 55 or older with no formal skill training and has not been employed within the last 10 years and has less than a 10th grade education.

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130.6 Individual Exemptions (continued)

2. Multiple barriers – Registrant has multiple barriers to employment, such as but not limited to, alcohol or drug abuse, lack of a driver’s license (making transportation to the FSET program site difficult).
3. Childcare difficulties – Registrant is the caretaker relative of a child aged 12 years or under and cannot arrange adequate childcare.
4. Family problems – The registrant is experiencing domestic abuse and must attend counseling sessions that conflict with employment and training participation.
5. Homelessness – The registrant lacks adequate shelter or a permanent home and has one or more other limitations, such as but not limited to, a history of alcohol or drug abuse, lack of transportation, or inadequate clothing.
6. Temporary illness or disability – The registrant has a temporary illness or disability and is unable to work for at least 90 days.
7. Job related – The registrant has been laid off temporarily with the expectation of returning to the same employer within 3 months or less or a registrant who has a verifiable offer of employment to begin within 90 days.
8. Transitional living arrangement – The registrant is living in a temporary arrangement such as a shelter for battered women or other temporary housing during a family emergency.
9. Migrant or seasonal worker – The registrant who moves from one region to another to work or seek work in agriculture or a related seasonal industry, or a registrant who is under contract or has a similar agreement with an employer to begin work within 30 days.
10. Convicted offender – The registrant is performing unpaid work for a minimum of 30 hours weekly in lieu of sentencing.
11. Pregnancy – The registrant has begun the second or third trimester of pregnancy.
12. Transportation difficulties – The registrant has no access to any mode of transportation or lives too far away (i.e. a round trip to and from the FSET program site or potential employer exceeds two hours by reasonable public or private transportation).



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130.7 Categorical Exemptions (Remote Areas)

Maryland exempts recipients of FSP benefits from participation in the Food Supplement Employment and Training Program FSET program in 6 counties. Job opportunities and public transportation in these counties are scarce and residents are isolated from areas that contain greater opportunities for employment. **Allegany, Garrett, Somerset, Washington, Wicomico and Worcester Counties** are designated as remote. (This designation may be lifted for those counties that wish to operate an FSET program.)

130.8 Local Department Responsibility

The LDSS will:

- A. Register for work each household member not exempt under the criteria listed in 130.5. Work register the individual by completing the FS Employment and Training section of the CARES Work screen.
- B. Upon determining that an applicant or household member is required to register for work, explain and provide in writing to the applicant:
 1. Pertinent work requirements;
 2. Rights and responsibilities of work registered household members; and
 3. Consequences of failure to comply.
- C. Permit the applicant to complete work registration for each household member required to register for employment.
- D. Screen each work registrant to determine if it is appropriate to refer the individual to an FSET component.
- E. If appropriate, refer the individual to an FSET component.
- F. Upon entry into each component advise the registrant, either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance.
- G. Initiate conciliation procedures as described in Section 130.12C upon determining that an individual has not complied with an FSET requirement.
- H. Issue a notice of adverse action no later than the last day of the conciliation period.

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130.8 Local Department Responsibility (continued)

- I. Cancel the notice of adverse action if it was issued prior to the end of the conciliation period and the case manager verifies that compliance was achieved by the end of the conciliation period.

130.9 Food Supplement Program Employment and Training Program Voluntary Participants

- A. If an individual is exempt under the criteria described in 130.5 and wishes to participate in the FS Employment and Training Program (FSET), the individual is considered a volunteer participant.
- B. Work Register the individual by completing the CARES WORK screen.
- C. Inform the volunteer what services the FSET program provides.
- D. Volunteers are not subject to sanctions for non-compliance with FSET requirements.

130.10 Food Supplement Program Employment and Training Program Requirements

- A. Work registrants must:
 1. Participate in the FSET component to which they are assigned. Requirements of the FSET program may vary for individual participants depending on their training needs, job readiness and availability of employment for which they may qualify.
 2. Provide any requested information regarding employment status or availability for work to the local department or FSET component program.
 3. Report to an employer when referred by the FSPET program if the employment is suitable as described in 130.15.
- B. FSET non-ABAWD program requirements include but are not limited to:
 1. Independent Job Search
 2. Group Job Search
 3. Remedial Education
 4. Vocational Training

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130.10 Food Supplement Program Employment and Training Program Requirements (continued)

5. Work Experience governed by the Fair Labor Standards Act (FLSA) requirements
 6. Part time employment
- C. FSET ABAWD program requirements refer to Sec. 130.24, ABAWD, of this manual.

130.11 Loss of Exemption Status

- A. Update the Food Supplement Employment and Training (FSET) section of the CARES WORK screen for any individual who loses exemption status due to any change in circumstances that is subject to reporting requirements, such as loss of employment or change in household composition, when the change is reported.
- B. Register individuals who lose their exemption status due to a change not subject to the reporting requirements at the household's next recertification.

130.12 Failure to Comply

- A. **Individuals** who are required to register for work are ineligible if they:
 1. Refuse without good cause to participate in an assigned employment and training component;
 2. Refuse without good cause to provide any requested information regarding employment status or availability for work;
 3. Refuse without good cause to accept an offer of suitable employment;
 4. Voluntarily and without good cause quit a job; or
 5. Voluntarily and without good cause reduce work effort and after the reduction work less than 30 hours per week.

Note: If the individual continues to earn at least 30 times the minimum wage he or she is exempt from the work requirements and is not subject to a work disqualification.

- B. An individual who fails to comply with work requirements is ineligible for the following periods of time:

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130.12 Failure to Comply (continued)

1. First violation - one month or the date of compliance, whichever is later.
2. Second violation - three months or the date of compliance, whichever is later.
3. Third or subsequent violation - six months or the date of compliance, whichever is later.

C. Conciliation Period.

The purpose of a conciliation period is to determine the reason/s the work registrant did not comply with an E&T requirement and to provide the non-complying individual with an opportunity to comply prior to the issuance of a Notice of Adverse Action.

1. The conciliation period will begin the day following the date the local department learns of the non-compliance with FSET requirements. The conciliation period will continue for a period not to exceed 30 calendar days.
2. Within the conciliation period, the LDSS will contact the non-complying household member to determine the reasons for non-compliance and determine if good cause exists as described in Section 130.13.
3. If good cause does not exist, inform the household member of:
 - (a) The pertinent FSET requirements;
 - (b) The consequences of failing to comply;
 - (c) The actions necessary for compliance; and
 - (d) The date by which compliance must be achieved to avoid the Notice of Adverse Action. This date may not exceed the end of the conciliation period.
4. To avoid the Notice of Adverse Action, the non-complying household member must perform a verifiable act of compliance, such as attending a job search training session or submitting a report of job contacts as required by the local department.
5. If it is apparent that the individual will not comply with the FSET requirement (i.e. the individual refuses to comply and does not have good cause), the case manager may end the conciliation period early and issue the Notice of Adverse Action. Document the refusal in the case record narration.

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130.12 Failure to Comply (continued)

6. If the work registrant does not comply during the conciliation period, issue a Notice of Adverse Action no later than the last day of the conciliation period. If the Notice of Adverse Action was issued prior to the end of the conciliation period and the case manager verifies that compliance was achieved by the end of the conciliation period, the case manager may cancel the notice of adverse action.

D. Refusal or Failure to Comply with Work Requirements other than FS Employment and Training Requirements.

1. If an individual refuses or fails to comply with any work requirements other than the FSET requirements, determine if good cause exists.
2. Within 10 days of a determination that noncompliance was without good cause, provide the household with a notice of adverse action.
3. The notice of adverse action must:
 - (a) Include the particular act of noncompliance committed;
 - (b) Include the proposed period of the disqualification;
 - (c) Specify that the individual may reapply at the end of the disqualification period; and
 - (d) Include on or with the notice a description of the action the customer may take to end or avoid the sanction and procedures for ending the disqualification.
4. Begin the disqualification period with the first month following the expiration of the adverse action period, unless a fair hearing is requested.

E. Fair Hearings/Appeals

1. Each individual or household has the right to request a fair hearing to appeal the denial, reduction or termination of FSP benefits due to a determination of nonexempt status, or a local department determination of failure to comply with work registration or FSET requirements.



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130.12 Failure to Comply (continued)

2. Individuals may also appeal the local department actions such as the determination of exemption status, the type of requirement imposed, or local department refusal to make a finding of good cause if the individual believes that a finding of failure to comply has resulted from improper decisions in these matters.

F. Failure to Comply with a Work Requirement under TCA or Unemployment Compensation.

1. Applicants or recipients who are exempt from FSP work requirements because they are subject to TCA work requirements or are receiving unemployment insurance (UI) benefit, but fail to comply with the work requirements of these programs, are treated as if they failed to comply with FSP work requirements. The disqualification periods are limited to a minimum of:
 - (a) First violation – one month
 - (b) Second violation – three months
 - (c) Third or subsequent violation – six months
2. The rule does not apply if the non-complying customer meets a FSP work registration exemption, other than the exemptions for complying with TCA or UI work requirement.

Note: Even if the penalty for not complying with a TCA work requirement closes the TCA case, only the non-complying member is removed from the food stamp case.

3. Provide the household with a Notice of Adverse Action within 10 days after learning of the household member's noncompliance with the unemployment compensation or TCA work requirement.
4. **Steps to Applying the Policy** - When the case manager learns about the loss or denial of UI, or a TCA denial, reduction or termination, the case manager must take the following steps:

Step 1 – Determine if the non-complying member was exempt from FSP work registration requirements solely due to receipt of unemployment benefits or TCA. **If the member is otherwise exempt from FSP work requirements, take no action.** If not exempt for another reason, go to Step 2.

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130.12 Failure to Comply (continued)

Example: Mrs. A failed to comply with a TCA work requirement and her TCA case was closed. She has a 4-year old son. Since she is exempt from FSP work requirements because she is responsible for the care of a dependent child under age 6, this household is not subject to the sanction.

Reminder: Even though Ms. A is not disqualified from the FSP case, she is subject to phantom income rules. The case manager would continue to count TCA income for the FSP case.

Step 2 – If the customer was exempt from FSP work requirements solely due to receipt of UI or TCA determine if he or she has good cause for failure to comply. (See FSP Manual Section 130.13 for good cause reasons) **If the customer had good cause for failure to comply, take no action.**

Step 3 – If the customer did not have good cause, he or she is removed from the FSP household.

Example: Mr. B is applying for FSP benefits. He lost his job and was getting UI. He failed to make the required job contacts so his UI ended. He has no other work exemption. He could not demonstrate good cause for failure to comply with UI work requirements. The case manager denies the FSP case because Mr. B is the only person in the household.

5. Ending a Disqualification - A disqualified person can resume participation during the disqualification period if he or she becomes exempt from FSP work requirements.

Example: Ms. C receives FSP benefits for herself and her 14-year old child. Ms. C's UI was terminated because she did not complete her work contacts. The case manager removes Ms. C from the FSP case effective November. In January, she reports that she broke her leg. She is exempt from FSP work requirements because of her temporary disability. Her case manager adds her to the case.

Note: Do not use phantom income when a customer's UI is terminated for failure to comply with UI work requirements. Unemployment insurance is not a means-tested public benefit.

6. A disqualification for failure to comply with TCA or UI work requirements will end before the end of mandatory FSP disqualification period if the customer complies with the TCA or UI requirement.

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130.12 Failure to Comply (continued)

Example: Ms. D received TCA for herself and child. She failed to comply with her TCA work requirement. This was her first instance of failure to comply with the TCA work requirements. Her TCA case is closed effective November 1. She is removed from the FSP household and TCA phantom income is included in the FSP benefit calculation. In December, Ms. D complies with the TCA work requirement. The case manager opens the TCA case, adds her to the FSP case and removes the phantom income.

7. At the end of the disqualification period, the customer may resume participation if the person reapplies and is determined to be in compliance with work requirements.

130.13 Good Cause for Failure to Comply with FSET

- A. The case manager is responsible for determining good cause in instances where the household member has failed to comply with the work registration, FSET program, and voluntary quit requirements. Consider the facts and circumstances, including information submitted by the FSET program, the household member and any employer involved.
- B. Good cause includes circumstances beyond the household member's control such as, but not limited to (see also 130.21):
 1. Illness;
 2. Illness of a household member requiring the presence of the registrant;
 3. A household emergency;
 4. The unavailability of transportation;
 5. Lack of adequate child care for children who have reached the age of six but who are age 12 or under; or
 6. Problems caused by inability of a work registrant to speak or write English.

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130.14 Ending a Disqualification

- A. Following the end of the disqualification period for noncompliance with work requirements, participation may resume if a disqualified individual applies again and is determined eligible.
- B. Eligibility may be established during a disqualification period if the disqualified household member becomes exempt from the work requirements.

130.15 Suitable Employment

Employment is considered suitable if the following conditions exist:

A. Earnings

- 1. The wages offered are equal to or more than the federal minimum wage;
- 2. The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably expect to earn is equal to or more than the federal minimum wage.

B. Union Membership

The household member, as a condition of employment, or continuing employment, is not required to join, resign from, or refrain from joining any legitimate labor organization.

C. Strikes

The work offered is not at a site subject to a strike or lockout at the time of the offer, unless the strike has been enjoined under §208 of the Labor-Management Relations Act (29 U.S.C. 78 commonly known as the Taft-Hartley Act), or unless an injunction has been issued under § 10 of the Railway Labor Act (45 U.S.C. 160).

130.16 Registrant Proof of Unsuitability

Employment is considered suitable unless the household member can demonstrate, or the case manager becomes aware that:

- A. The degree of risk to health and safety is unreasonable;

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130.16 Registrant Proof of Unsuitability

- B. The member is physically or mentally unfit to perform the employment, as established by documentary medical evidence or reliable information obtained from other sources;
- C. The employment offered within the first 30 days of registration is not in the member's major field of experience; or
- D. The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment is not considered suitable if:
 - 1. Daily commuting exceeds 2 hours per day, not including transporting children to and from day care facilities; or
 - 2. The distance to employment prohibits walking and neither public nor private transportation is available to transport the member to the job site; or
- E. The working hours or nature of the employment interferes with the member's religious observances, convictions or beliefs.

130.17 Participation of Strikers

Strikers whose households are eligible under Section 101 are subject to work registration requirements unless exempt under 130.5.

130.18 Voluntary Quit and Reduction of Work Effort

- A. An individual is ineligible if, without good cause, the individual:
 - 1. Voluntarily quit a job of 30 hours per week or more; or
 - 2. Reduces his or her work effort voluntarily and without good cause and, after the reduction, is working less than 30 hours per week.
- B. To be considered a voluntary quit the following conditions must exist:
 - 1. The job was 30 hours or more per week or provided weekly earnings at least equivalent to the federal minimum wage multiplied by 30 hours;
 - 2. The quit happened within 30 days prior to application or anytime thereafter; and

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130.18 Voluntary Quit and Reduction of Work Effort (continued)

3. The quit was without good cause.
- C. The reduction of work effort applies if:
1. Before the reduction, the individual was employed 30 hours or more per week,
 2. The reduction occurred within 30 days prior to the date the application was filed or any time thereafter; and
 3. The reduction was voluntary and without good cause.

130.19 Determination of Voluntary Quit

- A. When a household files an application or when a participating household loses a source of income, determine if any currently unemployed household member quit his or her job under the conditions described in Section 130.18. Do not delay benefits pending this determination.
- B. An employee of the federal, state or local government who participates in a strike against the government and is dismissed from his or her job because of participating in the strike is considered to have voluntarily quit the job without good cause.
- C. The following situations are not considered a voluntary quit:
 1. If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of his own, loses the new job, the earlier quit will not form the basis for disqualification.
 2. Changes in employment status resulting from an employer initiated reduction in hours of employment, termination of a self-employment enterprise, or a resignation from a job at the demand of the employer are not considered voluntary quit.
 3. Quitting a job that paid less than 30 times the hourly federal minimum wage.

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130.19 Determination of Voluntary Quit (continued)

- D. For an applicant household, determine whether any unemployed household member who is required to register for work or who is exempt because the individual is working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours, has voluntarily quit a job within the last 30 days. If the case manager learns that a household member has lost a source of income after the date of application but before the household is certified, the case manager must determine whether a voluntary quit occurred.
- E. Determine if any household member voluntarily quit a job while participating in the FSP within 30 days prior to application, or in the time between application and certification. If the household member is already participating when a quit that occurred prior to certification is discovered, consider the individual as participating in the FSP for the purpose of imposing the penalty.
- F. Applicant Households.
1. In the case of an applicant, upon a determination that an individual voluntarily quit employment, determine if the voluntary quit was with good cause as defined at 130.20. If the voluntary quit was not for good cause, the individual is ineligible for the following periods of time from the date of the quit:
 - (a) First violation - one month or the date of compliance, whichever is later.
 - (b) Second violation - three months or the date of compliance, whichever is later.
 - (c) Third or subsequent violation - 6 months or the date of compliance, whichever is later.
 2. Advise the household of :
 - (a) The reason for the denial of benefits for the individual;
 - (b) The length of the disqualification;
 - (c) The individual's right to reapply at the end of the disqualification period; and
 - (d) The individual's right to a fair hearing.

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130.19 Determination of Voluntary Quit (continued)

G. Participating Households.

1. If an individual in a participating household is found to have voluntarily quit a job without good cause, provide a notice of adverse action within 10 days after determination of the quit. The notice shall:
 - (a) Contain the particular act of non-compliance;
 - (b) Contain the proposed period of ineligibility;
 - (c) Contain the actions that may be taken to end or avoid the disqualification; and
 - (d) Specify that the individual may reapply at the end of the disqualification period.

2. Voluntary Quit at the end of a Certification Period.

- (a) If a voluntary quit occurred in the last month of a certification period or is determined in the last 30 days of the certification period, do not include the individual for the appropriate period of time beginning with the day after the last certification period ends.

Example: Mr. A's certification period ends April 30. He reapplies for recertification on April 15 for himself and two children. At that time the case manager finds that he voluntarily quit his job on April 3. Since this is his second work requirement sanction, he is ineligible for three months or until the date of compliance whichever is later.

- (b) If the household does not apply for FSP benefits by the end of the certification period, establish a claim for the FSP benefits received by the household for the length of the penalty, as described in section 130.12 B, beginning the first of the month after the month in which the quit occurred.

Example: On May 15 the case manager discovered that Mr. B quit a job on March 4th. This is his second violation. Mr. B's certification period ended May 31 and he did not reapply. The case manager establishes a claim for the FSP benefits received in April and May. Mr. B is not eligible until the later of July 1 or until he complies with the work requirements.

- #### H. Each household has a right to a fair hearing to appeal a denial or termination of FSP benefits due to a determination that an individual quit a job without good cause.

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130.19 Determination of Voluntary Quit (continued)

If the participating household's FSP benefits continue pending a fair hearing FSP benefits do not extend past the end of the certification period and the local department determination is upheld, the disqualification period begins the first of the month after the hearing decision is rendered.

- I. The individual disqualified for quitting a job will remain ineligible for the length of the disqualification period even if the individual joins a new household.
- J. If an application for FSP benefits is filed in the last month of the disqualification period, use the same application for denial of FSP benefits in the remaining month of the disqualification and certification for any subsequent eligible months.

130.20 Exemptions from Voluntary Quit Provisions

Voluntary quit provisions do not apply to persons who are exempt from the work registration as described in 130.5 at the time of the quit.

Exception: The provisions **do** apply when the individual is exempt because the person is working a minimum of 30 hours per week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

130.21 Good Cause for Voluntary Quit

Good cause for leaving employment includes the good cause provisions found in 130.13 and resigning from a job that does not meet the suitability criteria in Section 130.15. Good cause for leaving employment also includes:

- A. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs.
- B. Work demands or conditions that make continued employment unreasonable, such as working without being paid on schedule.
- C. Acceptance of employment, or enrollment of at least half time in any recognized school, training program, or institution of higher education, that requires the individual to leave employment.
- D. Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program, or institution of higher education in another jurisdiction which requires the household to move and therefore the individual to leave employment.

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130.21 Good Cause for Voluntary Quit (continued)

- E. Resignations by persons under the age of 60 which are recognized by the employer as retirements.
- F. Employment that becomes unsuitable by not meeting the criteria specified in 130.15 after acceptance of the employment.
- G. Acceptance of a bona fide offer of employment of more than 30 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 30 hours which, because of circumstances beyond the control of the wage earner, either does not materialize or results in employment of less than 30 hours a week or weekly earnings of less than the federal minimum wage multiplied by 30 hours.
- H. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for FSP benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, leaving the previous employment is considered good cause if it is a part of the pattern of that type of employment.

130.22 Verification

- A. When the information given by the household is questionable, request verification of the household's statements.
- B. The household has the primary responsibility for providing the verification. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, offer assistance to the household to obtain the verification.
- C. Acceptable sources of verification include, but are not limited to, the previous employer, employer associations, union representatives, and grievance committees or organizations. Whenever documentary evidence cannot be obtained, substitute a collateral contact. The local department is responsible for obtaining verification from acceptable collateral contacts provided by the household.
- D. Do not deny FSP eligibility, if a quit resulted from circumstances that cannot be verified such as discrimination or for unreasonable work demands.

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130.23 Ending a Voluntary Quit Disqualification

- A. Following the end of the disqualification period an individual may begin participation in the FSP if the individual applies again and is determined eligible.
- B. The individual may re-establish eligibility during a disqualification period if the violator becomes exempt from work registration except for reasons of TCA work registration or receipt of unemployment compensation.

130.24 Able-Bodied Adults without Dependents (ABAWDs)

Please note: The ABAWD policy is suspended until further notice.

- A. Able-bodied adults without dependents, between the age of 18-47 (age was reduced from age 50 following the FNS 15% statewide exemption) are ineligible for FSP benefits unless they meet special work requirements. These individuals can only receive FSP benefits for three months (consecutive or otherwise) in a 36 month period unless they meet the following requirements:
 1. Work at least 20 hours per week (averaged monthly 80 hours per month);
 2. Participate in and comply with a Workforce Investment Act program, Trade Adjustment Assistance Act program, or Employment and Training program (other than job search or job search training program) for 20 hours per week;
 3. Participate in remedial education for 20 hours per week;

130.24 Able-Bodied Adults without Dependents (ABAWDs) (continued)

4. Participate in vocational training for 20 hours per week;
5. Participate in a work experience program governed by the Fair Labor Standards Act (FLSA) requirements; or
6. Combine work and participation in a work program for a total of 20 hours per week averaged monthly.

Note: The 36-month period **is fixed** for the entire caseload. **The current 36-month period began November 1, 2008 and ends October 31, 2011.**

The 36-month period for all cases began November 1, 2008 and ended October 31, 2011. The second 36-month period began November 1, 1999 and ended October 31, 2002. The third 36-month period began November 1, 2002 and ended October 31, 2005. The fourth 36-month period began November 1, 2005 and ends October 31, 2008.

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**130.24 Able-Bodied Adults without Dependents (ABAWDs)
(continued)**

B. An individual is exempt from this requirement if :

1. Under 18 years of age or age 47 and older;
2. Is obviously physically or mentally unfit for employment as observed by the case manager; or has provided a statement from a health provider if the disability is not obvious; or
3. Is receiving temporary or permanent disability benefits from a public or private source;
4. Is residing in a household where a household member is a dependent child. A dependent child is an individual who is age 17 or younger;
5. Is the natural, adoptive or a stepparent of a household member age 17 or younger; (The exemption from the time limit applies even if the child under age 18 is not eligible for food stamps.)
6. Pregnant;
7. Otherwise exempt from FSP statutory work requirements (the categorical and individual exemptions do not apply) as described in 130.5.

C. Anyone denied eligibility under this work rule can regain eligibility, if during a 30-day period the individual:

1. Worked an average of 80 hours or more;
2. Participated in and complied with a qualifying work program for 80 or more hours;
3. Combined work and participation in a work program for a total of 80 hours; or
4. Participated in a workfare program.

D. If the employment or participation in a work program ends, participation can continue for up to 3 consecutive months beginning from the date the local department is notified of the change. At the end of the second 3-months of eligibility, the only cure during the 36-month period will be to comply with the work requirement as described in 130.24A or to become exempt as described in 130.24B.

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**130.24 Able-Bodied Adults without Dependents (ABAWDs)
(continued)**

E. FSP benefits received do not count toward the 3-month limit if:

1. The individual is exempt from this requirement; or
2. The individual lives in an area that the Food and Nutrition Service has given a waiver due to a high unemployment rate, designation as a labor surplus area, insufficient employment opportunities, or part of the FNS 15% exemption.
 - (a) The following jurisdictions are exempt due to their designation as a labor surplus area:
 - Baltimore City
 - Somerset County
 - Worcester County
 - Dorchester
 - (b) ABAWDS in the following jurisdictions are exempt under the 15 percent exemption:
 - Allegany County
 - Garrett County
3. The individual is receiving the second three months of FSP benefits after regaining eligibility because employment or participation in a work program ended;
4. The individual is fulfilling the work requirement if he or she is:
 - (a) Working 80 hours per month (average 20 hrs. per week);
 - (b) Participating and complying with a Workforce Investment Act program, Trade Adjustment Assistance Act program or Employment and Training program (other than job search or job search training) for 20 hours per week;
 - (c) Participating in a work program and working for a total combination of 20 hours per week;
 - (d) Participating in a work experience program governed by the Fair Labor Standards Act (FLSA) requirements; or
5. The individual received a prorated FSP benefit. Any month in which the individual receives less than the full month's allotment is not considered when determining the three months of FSP benefits within a 36-month period.

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130.24 Able-Bodied Adults without Dependents (ABAWDs) (continued)

F. Good cause for non-compliance

1. If an individual would have worked an average of 20 hours per week, but missed some time for good cause, we will consider the individual to have met the work requirement if the absence from work is temporary and the individual keeps the job.
2. Good cause includes circumstances beyond the customer's control such as but not limited to:
 - (a) Illness;
 - (b) Illness of another household member requiring the presence of the "ABAWD" member;
 - (c) A household emergency;
 - (d) The unavailability of transportation.

G. Counting Income and Assets

1. When the ABAWD is eligible and included in a household with other eligible members include all income and assets as available to the household.

Example 1: Mr. John aged 32 lives with two friends and purchases and prepares his food with them. The three receive FSP benefits. Mr. John was fired from his job and cannot receive unemployment benefits. He has \$500 in a savings account that he saved before he lost his job. His sister sends him \$50 per month. Count the money from Mr. John's sister as unearned income and the \$500 in the bank as an asset/resource to the household.

2. If the ABAWD is ineligible for FSP benefits, but is in a household with other eligible members, prorate the ABAWD's share of the income and count it as available to the household.

Example 2: Ms. M aged 24 lives with her boyfriend and another friend. Ms. M reduced her hours at work to 5 hours per week because she wanted to be home. She had been working 22 hours per week and the reduction is determined to not be with good cause. The household receives FSP benefits. Ms. M receives alimony from her ex-husband of \$30 per month and she has \$400 in a savings account. Count the \$30 per month to the household as unearned income and the \$400 as an asset/resource because Ms. M is disqualified from the FSP for one month for voluntarily quitting her job. Ms. M is not responsible for any of the shelter costs.

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130.24 Able-Bodied Adults without Dependents (ABAWDs) (continued)

At the end of the month's disqualification, Ms. M is added back to the household and receives 3 months of FSP benefits. She is now ineligible to continue to receive benefits under ABAWD requirements.

Because Ms. M is now ineligible her income is prorated and made available to the house. Divide Ms. M's income (\$30 alimony) by the number of household members (3) and exclude only the portion that would be considered hers.

$\$30/3 = \10 (the portion that is Ms. M's). \$20 is countable unearned income to the household.

- Count the full amount of the ABAWD's assets as available to the household.

Note: The case manager must remember to narrate the case record thoroughly to explain what income/assets were used and why.

H. Reporting Changes

- ABAWDs are included in simplified reporting. (See Section 420 of the FSP manual)
- ABAWDs must also report changes in work hours below 20 hours per week averaged monthly (80 hours per month)

130.25 ABAWD Policy Examples **ABAWD policy is suspended until further notice.**

A. Eligibility

- Unless otherwise exempt, an ABAWD may receive a maximum of "3 free months" 2 times in a 36 month period.
- After receipt of the "**1st free 3 months**" (which do not have to be consecutive) the case manager must terminate the individual because of the ABAWD policy. The individual must "regain eligibility" in order to receive the "**2nd free 3 months**" (which must be consecutive).

Reminder: To regain eligibility, the individual must complete at least 80 hours of work in 30 days or participate in and comply with the requirements of a work program for 80 or more hours or participate in a workfare program or become exempt.

- The case manager must issue timely notice to ensure an individual receives only 3 months of non-exempt FSP benefits.

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130.25 ABAWD Policy Examples (continued)

B. Subsequent eligibility

1. Regaining Eligibility

Example 1: Mr. A is not exempt from the ABAWD requirement. He received his “1st free 3 months” FSP benefits in 3/99, 4/99 and 5/99. He was terminated effective 6/1/99 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a construction job on 7/6/99 working 40 hours per week. He was laid off on 7/31/99. On 8/4/99 he applies for FSP benefits. Since he was terminated because of the ABAWD requirement **and** he met the requirement to regain eligibility (worked 80 hours in 30 days) and he meets all other FSP eligibility requirements, he is certified to receive the “**2nd free 3 months**” for the period 8/4/99 through 10/31/99

2. Maintaining Eligibility

Example 2: Mr. B (not exempt) received his “1st free 3 months” FSP benefits in 11/00, 12/00 and 01/01. He was terminated effective 6/1/01 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a job as a mechanic on 8/11/01 working 25 hours per week. On 10/13/01 Mr. B applies for FSP benefits. At the time of application, the case manager verifies that he is still working at least 20 hours per week. Since Mr. B worked 80 hours in 30 days he regained his eligibility to maintain his eligibility. Mr. B meets all other FSP eligibility requirements and is certified to receive ongoing FSP benefits.

NOTE: Even though Mr. B had to “regain eligibility,” the months he is working 20 hours per week averaged monthly, DO NOT count against the “2nd free 3 months.”

REMEMBER: “Regain to maintain” means the individual was terminated or denied from the Food Supplement Program because of the ABAWD requirement and has subsequently worked the “80 in 30” and continues to work at least 20 hours per week averaged monthly. There is no limit to the number of times an individual may “Regain to maintain” in a 36-month period.

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130.25 ABAWD Policy Examples (continued)

3. Regained Eligibility

Example 3: Mr. C. (not exempt) received his “1st free 3 months” FSP benefits in 11/99, 12/99 and 1/00. He was terminated effective 6/1/00 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a job as a mechanic on 8/11/00 working 25 hours per week. On 10/13/00 Mr. C applies for FSP benefits. At the time of application the case manager verifies that he is working at least 20 hours per week. Since Mr. C worked 80 hours in 30 days, he regained his eligibility to maintain his eligibility. Mr. C meets all other FSP eligibility requirements and is certified to receive ongoing benefits. Mr. C continues to work and receive FSP benefits. On 1/20/01 Mr. C reports that he lost his job on 1/16/01 because the company went out of business. Mr. C is now eligible for his “2nd free 3 months” of FSP benefits. The change in his allotment is effective for 2/01. His FSP benefits are terminated at the end of 4/01. The months of 2/01, 3/01 and 4/01 are Mr. C’s “2nd free 3 months.”

REMEMBER: Mr. C is not eligible to receive FSP benefits for the remainder of the 36-month period unless he becomes exempt from the ABAWD work requirement (by working to “regain and maintain” or being otherwise exempt).

4. There may be situations when an individual has “Regained Eligibility” for the “2nd free 3 months” but at the time of application is not eligible for FSP benefits.

Example 4: Ms. D. (not exempt) received her “1st free 3 months” FSP benefits in 3/00, 4/00 and 5/00. She was terminated effective 6/1/00 because she was not working and was not otherwise exempt from the ABAWD requirements. She got a job on 7/6/00 working 40 hours per week. She was laid off on 8/31/00. On 9/4/00 she applies for FSP benefits. At the time of application she has a savings account with a balance of \$2100.00. The case manager denied her application because of excess resources.

REMEMBER: Nothing in the ABAWD provision makes an individual eligible for benefits if the individual is not otherwise eligible for FSP benefits under FSP policy.

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130.25 ABAWD Policy Examples (continued)

5. REGAINED ELIGIBILITY - "WINDOW OF OPPORTUNITY"

An individual who regained eligibility remains eligible for a consecutive 3-month period, beginning on the date that individual first notifies the local department. This is the "window of opportunity" for receipt of the 2nd free 3 months.

Example 5: Mr. E (not exempt) received his "1st free 3 months" FSP benefits in 3/00, 4/00 and 5/00. He was terminated effective 6/1/00 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a job on 7/6/00 working 40 hours per week. He was laid off on 8/31/00. On 9/4/00 he applies for FSP benefits. At the time of application he has a savings account with a balance of \$2100.00. The case manager denied his application because of excess resources. On 10/5/00 he completes an application for FSP benefits. He now has only \$1100.00 in his savings account and is otherwise eligible. Since Mr. E became "ABAWD eligible" on 9/4, the "window of opportunity" opened at that time. Because he applied and is eligible during the three month "window", he is authorized for FSP benefits for the months of October and November (the remaining 2 months of the 2nd free 3 months).

NOTE: When Mr. E was terminated from the FSP effective 6/1/00 because of the ABAWD policy, he immediately qualified for the "2nd free 3 months." He becomes eligible to receive those FSP benefits only after he does what is required to regain eligibility. Mr. E did what was required to regain eligibility for the "2nd free 3 months," but was not eligible for FSP benefits at the time he applied on 9/4/00. However, because Mr. E was terminated because of the ABAWD policy and subsequently did what was required to regain eligibility, the "window of opportunity" opened on 9/4/00 for the 2nd free 3 months.

REMEMBER: The "window of opportunity" opens beginning on the date the customer first tells the local department he no longer is:

- (a) working 20 hours per week averaged monthly, or
- (b) participating in and complying with the requirements of a work program for 20 hours or more per week, or participating in and complying with the requirements of a workfare program.

The "window of opportunity" remains open for 3 consecutive months.

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130.25 Able Bodied Adults without Dependents (ABAWDs) Policy Examples (continued)

6. Regained Eligibility - "WINDOW OF OPPORTUNITY" CLOSES

The "window of opportunity" for receipt of the "2nd free 3 months" closes at the end of the third consecutive month.

Example 6: Ms. F (not exempt) received her "1st free 3 months" FSP benefits in 3/00, 4/00 and 5/00. She was terminated from the Food Supplement Program effective 6/1/00 because she was not working and was not otherwise exempt from the ABAWD requirements. She got a job on 7/6/00 working 40 hours per week. She was laid off on 8/31/00. On 9/4/00 she applies for FSP benefits. At the time of application she has a savings account with a balance of \$2100.00. The case manager denied her application because of excess resources. On 1/3/01 Ms. F applies again for FSP benefits. Her savings account has a balance of \$300. Ms. F has not worked since she was laid off on 8/31/00. The case manager denies the application of 1/3/01.

NOTE: Even though the "window" opened on 9/4/00, Ms. F did not apply during the remainder of the 3-month "window" and the "window" closed on 11/30/00. Once the "window" closes, in order for Ms. F to become eligible for food stamps she must again "regain" her eligibility. Since Ms. F. has done nothing to regain her eligibility subsequent to 11/30/00, the application of 1/3/01 is denied because of the ABAWD work requirements.

REMEMBER: The policy says an individual will regain eligibility to participate in the Food Supplement Program for a single three consecutive month period. Since Ms. F did not "participate" for a "2nd free 3 months" she still has the opportunity to receive those FSP benefits once she does what is required to regain eligibility.