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either previously received project proposals or proposals received under a new solicitation.

[53 FR 26224, July 12, 1988]

§ 273.24 Time limit for able-bodied adults.

(a) *Definitions.* For purposes of the food stamp time limit, the terms below have the following meanings:

(1) *Fulfilling the work requirement* means:

(i) Working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours a week averaged monthly means 80 hours a month;

(ii) Participating in and complying with the requirements of a work program 20 hours per week, as determined by the State agency;

(iii) Any combination of working and participating in a work program for a total of 20 hours per week, as determined by the State agency; or

(iv) Participating in and complying with a workfare program;

(2) *Working* means:

(i) Work in exchange for money;

(ii) Work in exchange for goods or services (“in kind” work); or

(iii) Unpaid work, verified under standards established by the State agency.

(iv) Any combination of paragraphs (a)(2)(i), (a)(2)(ii) and (a)(2)(iii) of this section.

(3) *Work Program* means:

(i) A program under the Workforce Investment Act (Pub. L. 105-220);

(ii) A program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

(iii) An employment and training program, other than a job search or job search training program, operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under § 273.7(f). Such a program may contain job search or job search training as a subsidiary component as long as such component is less than half the requirement.

(4) *Workfare program* means:

(i) A program under § 273.22; or

(ii) A comparable program established by a State or political subdivision of a State.

(5) *Caseload* means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

(6) *Covered individual* means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph 6(o)(2) of the Food Stamp Act who:

(i) Is not exempt from the work requirements under paragraph 6(o)(3) of the Food Stamp Act,

(ii) Does not reside in an area covered by a waiver granted under paragraph 6(o)(4) of the Food Stamp Act,

(iii) Is not fulfilling the work requirements of 6(o)(2) of the Food Stamp Act by working 20 hours a week averaged monthly, participating and complying with the requirements of a work program for 20 hours or more per week, participating in and complying with the requirements of a program under section 20 or a comparative program established by a State or political subdivision of a State,

(iv) Is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph 6(o)(2) of the Food Stamp Act, and

(v) Is not receiving food stamp benefits under paragraph 6(o)(5) of the Food Stamp Act.

(b) *General Rule.* Individuals are not eligible to participate in the Food Stamp Program as a member of any household if the individual received food stamps for more than three countable months during any three-year period, except that individuals may be eligible for up to three additional countable months in accordance with paragraph (e) of this section.

(1) *Countable months.* Countable months are months during which an individual receives food stamps for the full benefit month while not:

(i) Exempt under paragraph (c) of this section;

(ii) Covered by a waiver under paragraph (f) of this section;

(iii) Fulfilling the work requirement as defined in paragraph (a)(1) of this section; or

(iv) Receiving benefits that are prorated in accordance with § 273.10.

(2) *Good cause.* As determined by the State agency, if an individual would have worked an average of 20 hours per

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week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains his or her job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

(3) *Measuring the three-year period.* The State agency may measure and track the three-year period as it deems appropriate. The State agency may use either a "fixed" or "rolling" clock. If the State agency chooses to switch tracking methods it must inform FNS in writing. With respect to a State, the three-year period:

(i) Shall be measured and tracked consistently so that individuals who are similarly situated are treated the same; and

(ii) Shall not include any period before the earlier of November 22, 1996, or the date the State notified food stamp recipients of the application of Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

(4) *Treatment of income and resources.* The income and resources of an individual made ineligible under this paragraph (b) shall be handled in accordance with §273.11(c)(2).

(5) *Benefits received erroneously.* If an individual subject to this section receives food stamp benefits erroneously, the State agency shall consider the benefits to have been received for purposes of this provision unless or until the individual pays it back in full.

(6) *Verification.* Verification shall be in accordance with §273.2(f)(1) and (f)(8).

(7) *Reporting.* A change in work hours below 20 hours per week, averaged monthly, is a reportable change in accordance with §273.12(a)(1)(viii). Regardless of the type of reporting system the State agency assigns to potential ABAWDs, the State agency must adhere to the statutory requirements of time-limited benefits for individuals who are subject to the work requirement. The State agency may opt to consider work performed in a job that

was not reported according to the requirements of §273.12 "work."

(8) *Applicability of Food Stamp Act.* Nothing in this paragraph (b) shall make an individual eligible for food stamp benefits if the individual is not otherwise eligible for benefits under the other provisions of these regulations and the Food Stamp Act of 1977, as amended.

(c) *Exemptions.* An individual is exempt from the time limit if he or she is;

(1) Under 18 or 50 years of age or older;

(2) Determined by the State agency to be medically certified as physically or mentally unfit for employment. An individual is medically certified as physically or mentally unfit for employment if he or she:

(i) Is receiving temporary or permanent disability benefits issued by governmental or private sources;

(ii) Is obviously mentally or physically unfit for employment as determined by the State agency; or

(iii) If the unfitness is not obvious, provides a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the State agency determines appropriate, that he or she is physically or mentally unfit for employment.

(3) Is a parent (natural, adoptive, or step) of a household member under age 18, even if the household member who is under 18 is not himself eligible for food stamps;

(4) Is residing in a household where a household member is under age 18, even if the household member who is under 18 is not himself eligible for food stamps;

(5) Is otherwise exempt from work requirements under section 6(d)(2) of the Food Stamp Act, as implemented in regulations at §273.7(b); or

(6) Is pregnant.

(d) *Regaining eligibility.* (1) An individual denied eligibility under paragraph (b) of this section, or who did not reapply for benefits because he was not meeting the work requirements under paragraph (b) of this section, shall regain eligibility to participate in the

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Food Stamp Program if, as determined by the State agency, during any 30 consecutive days, he or she:

- (i) Worked 80 or more hours;
- (ii) Participated in and complied with the requirements of a work program for 80 or more hours;
- (iii) Any combination of work and participation in a work program for a total of 80 hours; or participated in and complied with a workfare program; or
- (iv) At State agency option, verifies that the he or she will meet one of the requirements in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), or (d)(1)(v) of this section, within the 30 days subsequent to application; or
- (v) Becomes exempt.

(2) An individual regaining eligibility under paragraph (d)(1) of this section shall have benefits calculated as follows:

- (i) For individuals regaining eligibility by working, participating in a work program, or combining hours worked and hours participating in a work program, the State agency may either prorate benefits from the day the 80 hours are completed or from the date of application, or
- (ii) For individuals regaining eligibility by participating in a workfare program, and the workfare obligation is based on an estimated monthly allotment prorated back to the date of application, then the allotment issued must be prorated back to this date.

(3) There is no limit on how many times an individual may regain eligibility and subsequently maintain eligibility by meeting the work requirement.

(e) *Additional three-month eligibility.* An individual who regained eligibility under paragraph (d) of this section and who is no longer fulfilling the work requirement as defined in paragraph (a) of this section is eligible for a period of three consecutive countable months (as defined in paragraph (b) of this section), starting on the date the individual first notifies the State agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work or workfare program, in which case the period starts on the date the State agency notifies the individual that he

or she is no longer meeting the work requirement. An individual shall not receive benefits under this paragraph (e) more than once in any three-year period.

(f) *Waivers.*

(1) *General.* On the request of a State agency, FNS may waive the time limit for a group of individuals in the State if we determine that the area in which the individuals reside:

- (i) Has an unemployment rate of over 10 percent; or
- (ii) Does not have a sufficient number of jobs to provide employment for the individuals.

(2) *Required data.* The State agency may submit whatever data it deems appropriate to support its request. However, to support waiver requests based on unemployment rates or labor force data, States must submit data that relies on standard Bureau of Labor Statistics (BLS) data or methods. A non-exhaustive list of the kinds of data a State agency may submit follows:

- (i) To support a claim of unemployment over 10 percent, a State agency may submit evidence that an area has a recent 12 month average unemployment rate over 10 percent; a recent three month average unemployment rate over 10 percent; or an historical seasonal unemployment rate over 10 percent; or

- (ii) To support a claim of lack of sufficient jobs, a State may submit evidence that an area: is designated as a Labor Surplus Area (LSA) by the Department of Labor's Employment and Training Administration (ETA); is determined by the Department of Labor's Unemployment Insurance Service as qualifying for extended unemployment benefits; has a low and declining employment-to-population ratio; has a lack of jobs in declining occupations or industries; is described in an academic study or other publications as an area where there are lack of jobs; has a 24-month average unemployment rate 20 percent above the national average for the same 24-month period. This 24-month period may not be any earlier than the same 24-month period the ETA uses to designate LSAs for the current fiscal year.

(3) *Waivers that are readily approvable.* FNS will approve State agency waivers where FNS confirms:

(i) Data from the BLS or the BLS cooperating agency that shows an area has a most recent 12 month average unemployment rate over 10 percent;

(ii) Evidence that the area has been designated a Labor Surplus Area by the ETA for the current fiscal year; or

(iii) Data from the BLS or the BLS cooperating agency that an area has a 24 month average unemployment rate that exceeds the national average by 20 percent for any 24-month period no earlier than the same period the ETA uses to designate LSAs for the current fiscal year.

(4) *Effective date of certain waivers.* In areas for which the State certifies that data from the BLS or the BLS cooperating agency show a most recent 12 month average unemployment rate over 10 percent; or the area has been designated as a Labor Surplus Area by the Department of Labor's Employment and Training Administration for the current fiscal year, the State may begin to operate the waiver at the time the waiver request is submitted. FNS will contact the State if the waiver must be modified.

(5) *Duration of waiver.* In general, waivers will be approved for one year. The duration of a waiver should bear some relationship to the documentation provided in support of the waiver request. FNS will consider approving waivers for up to one year based on documentation covering a shorter period, but the State agency must show that the basis for the waiver is not a seasonal or short term aberration. We reserve the right to approve waivers for a shorter period at the State agency's request or if the data is insufficient. We reserve the right to approve a waiver for a longer period if the reasons are compelling.

(6) *Areas covered by waivers.* States may define areas to be covered by waivers. We encourage State agencies to submit data and analyses that correspond to the defined area. If corresponding data does not exist, State agencies should submit data that corresponds as closely to the area as possible.

(g) *15 percent exemptions.* Subject to paragraphs (c) through (e) of this section, a State agency may provide an exemption from the time limits of paragraph 6(o)(2) of the Food Stamp Act for covered individuals. Exemptions do not count towards a State's allocation if they are provided to an individual who is otherwise exempt from the time limit during that month.

(1) *Fiscal year 1998.* A State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during FY 1998 does not exceed 15 percent of the number of covered individuals in the State in FY 1998, as estimated by FNS, based on FY 1996 quality control data, and other factors FNS deems appropriate.

(2) *Subsequent fiscal years.* For FY 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by FNS, and adjusted by FNS to reflect changes in:

(i) The State's caseload, and

(ii) FNS' estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph 6(o)(4) of the Food Stamp Act.

(h) *Adjustments* will be made as follows:

(1) *Caseload adjustments.* FNS shall adjust the number of covered individuals estimated for a State under paragraphs (c) and (d) of this section during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent, as estimated by FNS.

(2) *Exemption adjustments.* During FY 1999 and each subsequent fiscal year, FNS shall adjust the number of exemptions allocated to a State agency based on the number of exemptions in effect in the State for the preceding fiscal year.

(i) If the State agency does not use all of its exemptions by the end of the fiscal year, FNS shall increase the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the remaining balance.

(ii) If the State agency exceeds its exemptions by the end of the fiscal

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year, FNS shall reduce the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the corresponding number.

(i) *Reporting requirement.* The State agency shall track the number of exemptions used each month and report this number to the regional office on a quarterly basis as an addendum to the quarterly employment and training report (Form FNS-583) required by § 273.7(c)(6).

(j) *Other Program rules.* Nothing in this section shall make an individual eligible for benefits under the Food Stamp Act if the individual is not otherwise eligible for benefits under the other provisions of the Food Stamp Act.

[Amdt. 379, 64 FR 48257, Sept. 3, 1999, as amended at 66 FR 4469, Jan. 17, 2001]

§ 273.25 Simplified Food Stamp Program.

(a) *Definitions.* For purposes of this section:

(1) Simplified Food Stamp Program (SFSP) means a program authorized under 7 U.S.C. 2035.

(2) Temporary Assistance for Needy Families (TANF) means a State program of family assistance operated by an eligible State under its TANF plan as defined at 45 CFR 260.30.

(3) Pure-TANF household means a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*).

(4) Mixed-TANF household means a household in which 1 or more members, but not all members, receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*).

(5) Assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) means "assistance" as defined in regulations at 45 CFR 260.31.

(b) *Limit on benefit reduction for mixed-TANF households under the SFSP.* If a State agency chooses to operate an SFSP and includes mixed-TANF households in its program, the following requirements apply in addition to the statutory requirements governing the SFSP.

(1) If a State's SFSP reduces benefits for mixed-TANF households, then no more than 5 percent of these participating households can have benefits reduced by 10 percent of the amount they are eligible to receive under the regular FSP and no mixed-TANF household can have benefits reduced by 25 percent or more of the amount it is eligible to receive under the regular FSP. Reductions of \$10 or less will be disregarded when applying this requirement.

(2) The State must include in its State SFSP plan an analysis showing the impact its program has on benefit levels for mixed-TANF households by comparing the allotment amount such households would receive using the rules and procedures of the State's SFSP with the allotment amount these households would receive if certified under regular Food Stamp Program rules and showing the number of households whose allotment amount would be reduced by 9.99 percent or less, by 10 to 24.99 percent, and by 25 percent or more, excluding those households with reductions of \$10 or less. In order for FNS to accurately evaluate the program's impact, States must describe in detail the methodology used as the basis for this analysis.

(3) To ensure compliance with the benefit reduction requirement once an SFSP is operational, States must describe in their plan and have approved by FNS a methodology for measuring benefit reductions for mixed-TANF households on an on-going basis throughout the duration of the SFSP. In addition, States must report to FNS on a periodic basis the amount of benefit loss experienced by mixed-TANF households participating in the State's SFSP. The frequency of such reports will be determined by FNS taking into consideration such factors as the number of mixed-TANF households participating in the SFSP and the amount of benefit loss attributed to these households through initial or on-going analyses.

(c) *Application processing standards.* Under statutory requirements, a household is not eligible to participate in an SFSP unless it is receiving TANF assistance. If a household is not receiving TANF assistance (payments have not