

## SHD Paraphrased Regulations - Food Stamps

### 320 ABAWD

#### 321-1

An individual who is not exempt under §63-410.3 shall be ineligible for FS if, during the 36-month period identified in §63-410.1, that individual received FS for three months or more without meeting the participation requirements of §63-410.2 or the exemption criteria of §63-410.3. Months in which FS benefits are received for part of the month shall be counted toward the three-month limit. Effective February 1, 2000, counties shall provide written information at application and recertification which outlines the requirements contained in this section. (§63-410, as revised effective February 1, 2000)

The 36-month period described above begins December 1, 1996 for FS recipients subject to the ABAWD requirement on that date. For all other individuals, the 36-month period begins on the first day of the first full calendar month such individuals become subject to the ABAWD work requirement. (In either case, the 36-month period is fixed. It continues uninterrupted regardless of whether the individual becomes exempt or leaves the FS program.) (§§63-410.11 and .12)

#### 321-1A

A person is considered to have received FS, for purposes of the ABAWD program, when the person receives coupons in the mail, or when Electronic Benefit Transfer benefits are credited to the person's account. In an over-the-counter system, the person's failure to pick up the coupons makes that month a month of non-receipt of FS benefits for ABAWD purposes. (All-County Information Notice No. I-76-00, July 26, 2000, Question 2-2C)

#### 321-2

The following individuals are exempt from the ABAWD work requirement:

1. Persons exempt from the work registration requirements in §63-407.21.
2. Persons who are under 18 or 50 years of age or over; or pregnant; or any adult living in a household (i.e., the FS household) that contains a dependent child.
3. Persons living in any portion of the state which has received Federal approval to waive application of the ABAWD work requirement.

(§§63-410.31, .32, and .33, modified November 6, 1997; and revised February 1, 2000; All-County Information Notice No. I-76-00, July 26, 2000, Question 14)

#### 321-2A

Individuals are exempt from the ABAWD work requirement if they live in an FS household which contains excluded household members under age 18. (All-County Information Notice No. I-04-02, January 11, 2002, Answer 1, referencing §63-410.323)

#### 321-2B REVISED 9/06

Prior to August 19, 2006 for a QR household, if an ABAWD's exemption ends mid-quarter due to a change in circumstances that must be reported (reduction in work effort to less than 20 hours per week, or 80 per month averaged monthly as well as other specified changes in §63-505.3), the ABAWD shall report the change on the next QR 7 and be considered exempt for the remainder of the quarter.

Prior to August 19, 2006 for a change reporting household, if an ABAWD is no longer eligible for an exemption due to a change that must be reported in accordance with §63-505.5, the

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individual shall report the change within ten days of occurrence and the exemption shall stop when the change is reported.

Prior to August 19, 2006 for an individual who no longer meets the ABAWD exemption criteria as a result of a change not subject to QR or change reporting requirements, the individual's exemption status shall be evaluated at recertification.

(§63-410.371-.373 repealed effective August 19, 2006)

### 321-3A

It is the CDSS position that notwithstanding the granting of ABAWD waivers by the federal government for certain portions of the state, it is up to each county with waiver authority to determine whether to "accept" the waiver and exempt individuals in the county from the ABAWD requirements in accord with §63-410.33. (All-County Letter No. 97-23, April 16, 1997, interpreting §63-410.33)

### 321-3B ADDED 3/08

Effective May 1, 2008, counties are eligible for an ABAWD waiver that lasts through April 2009.

A county can be approved for an ABAWD waiver if it has an unemployment rate above 10 percent for a recent 12-month period or if it does not have a sufficient number of jobs to provide employment for its ABAWD population. For purposes of an ABAWD waiver, an insufficient number of jobs exist if a county is designated as a Labor Surplus Area by the United States Department of Labor. An insufficient number of jobs also exist if the county has an average unemployment rate that was 20 percent above the national average for a recent period of 24 consecutive months.

All counties except Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura are eligible for the waiver.

Counties that are not eligible for the waiver or opt out of the waiver can exempt a portion of their ABAWDs using the 15% ABAWD exemption.

The ABAWD waiver takes effect as of May 1, 2008 unless the county notifies CDSS via letter from its county Board of Supervisors that it does not wish to waive the ABAWD work requirements. (ACIN I-07-08, February 4, 2008)

### 321-4

The ABAWD work requirement is fulfilled by:

1. Working 20 hours or more per week (averaged monthly). The CDSS has interpreted this regulation to require 80 hours of work in a month. (All-County Information Notice (ACIN) No. I-76-00, July 26, 2000, Question 4) Effective February 1, 2000, regulations require that the FS recipient shall submit documentation verifying the hours worked.
2. Participating in a workfare program as defined in 7 United States Code (USC) §2029 (FS Act §20) or in a comparable program. Effective February 1, 2000, this includes workfare job search as set forth in §63-407.841(b)(1)(A). It may also include a General Assistance workfare program. (ACIN No. I-76-00, Question 6)

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3. Participating in an allowable "work program" for 20 hours or more per week (averaged monthly). Such work program is a program under the JTPA; a program under 19 USC 2296 (Trade Act of 1974 §236); or a program of employment and training approved by a state agency, including the FSET program described in §63-407.8, and refugee employability services identified in 45 Code of Federal Regulations §400.154.

(§63-410.21 November 6, 1997, and revised effective February 1, 2000, per §63-032.1)

#### 321-4A

For purposes of meeting the ABAWD requirements, hours spent in job search or job search training activities as part of an employment and training program shall not count toward completion of the ABAWD work requirement. (§63-410.213(c)(1)) However, time spent in job search activities which are part of a workfare assignment under FS Act §20(e) or under the JTPA do count toward completion. (All-County Letter No. 97-08, February 19, 1997)

#### 321-4B

Prior to February 1, 2000, in determining whether the ABAWD work requirement of working 20 hours per week, averaged monthly, has been met, those hours worked in unsuitable employment, as defined in §63-407.711 and .712, shall not be counted. (§63-410.211(a)) The reference to "unsuitable employment" was deleted effective February 1, 2000, but effective that date the FS recipient was required to submit documentation verifying the number of hours worked.

"Hours worked for in-kind income shall count toward the 20-hour weekly minimum if the food stamp recipient provides documentation, such as pay stubs, verifying that the in-kind income being reported was an actual benefit received from the employer." (§63-410.211(b))

#### 321-4C ADDED 4/04

If an individual works an average of 80 hours per month but misses some scheduled work due to a circumstance beyond his/her control, and the absence is temporary and the individual retains his/her job, the individual shall have met the ABAWD work requirement for the month. Good cause for circumstances beyond the individual's control are defined in §63-407.5. (§63-410.22)

#### 321-4D ADDED 8/04

A food stamp recipient who is satisfying the ABAWD work requirement through employment must report within 10 days when hours of work drop below 80 per month or 20 per week. This is a mandatory recipient mid-quarter requirement. It does not apply to persons who are exempt from ABAWD per §63-410.3 or live in a county with an approved ABAWD waiver. Persons who are meeting the ABAWD requirement through a combination education/training and employment of less than 20 hours per week are not subject to the mid-quarter requirement when hours of employment are reduced. (§63-410.211(a))

#### 321-5

An individual denied eligibility for failing to satisfy the ABAWD work requirement may regain eligibility if, during a 30-day period, the individual works for 80 or more hours, or participates in a workfare assignment, or participates in an allowable work program as defined in §63-410.213 for at least 80 hours. (§63-410.51)

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#### 321-5A

Effective February 1, 2000 when an applicant regains eligibility by completing a workfare assignment during the 30-day application period, benefits shall be issued back to the date of application. (§63-410.512(a))

A workfare assignment need not require 20 hours weekly participation for the ABAWD requirement to be satisfied. Monthly hours of workfare participation are determined by dividing the household's FS allotment by the higher of the Federal or state minimum wage. If this division results in an average of fewer than 20 hours per week, the ABAWD requirement is still considered met if the recipient successfully participates for that number of hours in the workfare assignment. (All-County Letter No. 97-08, February 19, 1997)

#### 321-6

When, during the 36-month period specified in §63-410, an individual stops performing the ABAWD work requirement after regaining eligibility in accord with §63-410.5, that person shall remain eligible for a period of three consecutive months (on a one-time only basis), beginning on the date the individual notifies the county that he/she is not satisfying the ABAWD work requirement. (§63-410.52) The three-month period of eligibility in §63-410.52 is available to an individual only once during the 36-month period. (§36-410.521)

#### 321-6A

The three "free" consecutive months, referenced in §63-410.52, to which the recipient is entitled following a failure to satisfy the ABAWD work requirement, do not include months in which FS benefits are not transacted. (All-County Letter No. 97-08, February 19, 1997)

#### 321-6B

"A county shall issue food stamps when an individual identified in §63-410.521 begins satisfying the ABAWD work requirement. If the individual remains eligible, benefits shall be issued until the county learns that the ABAWD requirement is no longer being met." (§63-410.523)

The county should not delay issuance of FS benefits until after determining whether the ABAWD requirement has been met. Rather, benefits are to be issued prospectively until the county learns that the ABAWD work requirement is no longer being met. (Final Statement of Reasons, ORD #1296-48, December 8, 1997, explaining §63-410.523)

#### 321-7 REVISED 4/04

When the county determines that an individual has failed to meet the ABAWD work requirement for three months during the 36-month period specified in §63-410.1, the county shall issue a timely notice of action (NOA) in the third month to discontinue that individual's FS benefits. In addition to the requirements of §63-504.21, the NOA shall:

- (1) Identify the reason the individual's FS are being discontinued;
- (2) List those months the ABAWD work requirement was not satisfied;
- (3) Explain that the individual may present evidence to show that he/she met or was exempt from meeting the work requirement in any of those months in (2) above, or that good cause existed in accordance with §63-410.221 for not meeting the ABAWD requirement in a month; and

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(4) Explain how the individual may regain eligibility in accord with §63-410.5.

(§63-410.4 revised effective August 8, 2003)

If the ABAWD provides evidence that he should not lose food stamp eligibility, the county shall rescind the notice and restore any benefits that were inappropriately withheld. (§63-410.42)

321-8

Determinations of ineligibility for FS shall be made when the county becomes aware, during the three "free" months during which the individual has failed to meet the ABAWD work requirements, that the individual is neither fulfilling the work requirements, nor exempt from those requirements (§63-410.44)

321-9 ADDED 11/05

A county shall take a county-initiated mid-quarter action to discontinue a case whenever an ABAWD uses up three out of 36 months. A county-initiated action shall also be taken when an ABAWD's three consecutive-month period is completed and to an ABAWD who has regained eligibility and subsequently stops meeting the work requirement. (§63-410.61(QR))