
**FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)**

**FNS 245 Able-Bodied Adults Without Dependents (ABAWDs)
Change #4-2009
July 1, 2009**

245.00 ABLE-BODIED ADULTS WITHOUT DEPENDENTS (ABAWDs)

Physically and mentally fit individuals from the ages of 18 through 49, included in a Food and Nutrition Services (FNS) unit that does not include a person under age 18, are considered able-bodied adults without dependents (ABAWDs). This applies even if the individual is neither the parent of the child nor responsible for the child **and** applies even if the child is ineligible (such as an ineligible alien). ABAWD policy does not replace any other eligibility requirement, nor does it create eligibility where it does not otherwise exist.

An ABAWD is restricted to receiving FNS benefits for a period of three months within the set 36-month period, unless:

- The individual is exempt from the ABAWD policy as described in 245.01 or
- Complies with the requirements listed in 245.02

Do not count a prorated month as one of the three non-compliant (free) months. Effective January 2003, the 36-month period was established at three year intervals. The current period is January 2009 through December 2011. Use ABAWD tracking chart ([Figure 245-1](#)) to track the 36-month periods. Check the FSIS screen and documentation in the case file before authorizing benefits.

Previous periods were:

- Januay 2003 through December 2005
- January 2006 through December 2008

EXAMPLE: A client applies July 2nd; do not count July as one of the non-compliant (free) months.

EXAMPLE: A client applies July 1st; count July as one of the non-compliant (free) months.

EXAMPLE: An ABAWD applies for FNS benefits on September 25, 2006 and receives three full months benefits for October, November, and December 2006. The ABAWD is eligible to receive benefits again effective January 2009, provided all eligibility requirements are met.

NOTE: ABAWDs living in counties with an ABAWD waiver are exempt from the three months in a 36-month period when a waiver request has been approved by USDA. ABAWDs living in these counties are still required to register for work. Refer to ([Figure 245-2](#)) which list the counties currently under an ABAWD waiver. Indicate the waiver dates on the ABAWD tracking chart.

245.01 EXEMPTIONS FROM THE ABAWD PROVISIONS

- A. An individual is exempt from the ABAWD provisions if the individual is:
1. Exempt from work requirements described in Section 240.02.

**FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)**

2. Under the age of 18 or has reached the age of 50. ABAWD provisions begin the month after the 18th birthday for ongoing cases. ABAWD provisions end the month of the individual's 50th birthday for ongoing households. For applicant households the ABAWD provisions for the 18th birthday are based on the member's age on the date of application.
3. Medically-certified as physically or mentally unfit for employment.

Confirm by a doctor's statement if not obvious. Accept a signed medical statement from a nurse, nurse practitioner, designated representative at a doctor's office, or other appropriate medical personnel.
4. Pregnant.

There is no minimum length of pregnancy to meet the exemption. A medical statement verifying pregnancy may be necessary if the pregnancy is not obvious. If the individual receives Medicaid for Pregnant Women (MPW), accept receipt of MPW as verification of the pregnancy.
5. Is part of an FNS unit containing a member who is under age 18.

This exemption applies even if the individual does not have parental control of the dependent child under age 18. This also applies if the child is an ineligible FNS unit member, such as (but not limited to) an ineligible alien.
6. Living in a county that is exempt from the ABAWD provisions.

B. If an individual is exempt for any part of the month, the individual is exempt for the entire month. However, for applicant households, ABAWD provisions for the 18th birthday are based on the member's age on the date of application.

NOTE: All FNS unit members between the ages of 18 and 59 continue to be subject to Work Registration requirements described in Section 240, regardless of whether or not they are subject to or exempt from the ABAWD provisions. If a member is disqualified for failing to comply with work requirements described in Section 240, the member must comply with the work requirement violation.

245.02 ABAWD REQUIREMENTS

An ABAWD is defined as a FNS unit member fit for employment, age 18 through age 49, who is part of an FNS unit that does not include a person under age 18.

A "potential" ABAWD is defined as a FNS unit member who will turn 18 during the certification period. Households containing a "potential" ABAWD may be assigned a certification period that ensures the ABAWD does not receive FNS benefits beyond the non-compliant (free) months. The certification period can be up to six months.

EXAMPLE: An applicant applies on June 1; FNS unit members are mom 17 year old (not working and not in school); the 17 year old's 18th birthday will be September 16. If eligible, the household may be certified through September or through November. If certified through November, code October and November as non-compliant (free) months on the ABAWD tracking form.

Provide ABAWDs and "potential" ABAWDs with the DSS-8640, Work Requirement responsibilities, which explains ABAWD work requirements.

FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)

- A. For ongoing households subjectivity to ABAWD provisions and requirements begin the month after the 18th birthday and ends the month of the 50th birthday.

EXAMPLE: An ongoing household is certified February to July. FNS unit members are mom (working 30 hours per week) and 17 year old (not working and not in school). A review for change is generated in March, making the county aware that the only child in the household has an 18th birthday. April is the first month the ABAWD provisions apply to the 18 year old. Record April, May, and June as the first non-compliant (free) months. Technically, the ABAWD was ineligible to receive July benefits; however, because this change is not considered a reportable change a claim cannot be established against the FNS unit.

For applicant households, the ABAWD provisions for the 18th birthday are based on the member's age on the date of application.

EXAMPLE: An applicant applies on March 31; the applicant is an ABAWD and turned 18 on March 14. The ABAWD provisions begin the month of application as the member was 18 on the date of application. April is the first non-compliant (free) month because prorated months are not counted as a non-compliant (free) month.

EXAMPLE: An applicant applies on June 1; the applicant's 18th birthday is on June 16. July is the first month the ABAWD provisions apply to the applicant. If eligible, July is the first non-compliant (free) month.

Use ABAWD tracking chart ([Figure 245-1](#)) to code the non-compliant (free) months.

- B. An ABAWD is eligible to receive FNS benefits when the individual:

1. Works an average of 20 hours per week (80 hours per month); **or**
 - a. Work may be paid employment for an average of 20 or more hours per week or 80 hours per month, regardless of earnings. Request verification of hours worked. ABAWDs are required to report when their number of hours fall below 20 hours per week.
EXAMPLE: A real estate agent may work 20 hours weekly, yet realize no earnings until a house is sold.
 - b. Work may be self-employment of an average of 20 or more hours per week or 80 hours per month, regardless of earnings. Request the client's statement of hours worked per month if the individual is self-employed.
 - c. Work may be volunteer work at **recognized public or private agencies**. Request written or verbal verification that the number of hours volunteered equal at least 80 hours per month.
 - d. Work may be in-kind (for rent) or community service ordered by the court. Request written or verbal verification that the number of hours equal at least 80 hours per month.

NOTE: Consider an ABAWD to have met the 80 hours per month rule when the hours worked are greater than 79 hours. (i.e., 79 hours, 15 minutes; 79 hours, 30 minutes, etc.)

**FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)**

2. Actively works in a Workfare Program for the required number of hours based on the FNS allotment (allotment divided by the minimum wage); or

3. Participates in and complies with a work program at least 20 hours per week; **or**

Work programs include programs under the Workforce Investment Act (WIA, not job search), the Trade Adjustment Assistance Act Program (TAAA), or E&T at a community college.

NOTE: Contact your local Workforce Development Board to determine if a program is operating under the Workforce Investment Act.

4. Works and participates in a work program for a combined total of at least 20 hours per week.

EXAMPLE: An ABAWD works ten hours a week at a local grocery store and attends GED classes ten hours a week under the E&T Program at the local community college. The ABAWD is complying with the ABAWD provisions because the combined total of work and participation in a work program is at least 20 hours per week.

C. Explain the ABAWD provisions and requirements to all applicants and recipients even if the individual is exempt at the time of application, recertification, or change.

245.03 ELIGIBILITY LIMITS FOR ABAWDS

A. Benefits for ABAWDS are limited to any three non-compliant (free) months during the established 36-month period if the ABAWD does not meet the ABAWD requirements defined in 245.02 and is not exempt from the FNS work requirements described in Section 240.02. The first two periods were January 2003 through December 2005 and January 2006 through December 2008. The third and current period is January 2009 through December 2011. Do not count prorated months as one of the three non-compliant (free) or bonus months.

1. The 3-month **period** begins the first nonprorated month an ABAWD fails to meet the work requirements or is not exempt from work requirements described in Section 240.02 (This is his first non-compliant (free) month.)

2. The 36 **months** run continuously without a break, regardless of whether the individual receives FNS benefits.

3. The three "free" months are cumulative and can be used any time during the set 36-month period. At application, change in situation, and recertification review the non-compliant (free) months. Recode if:

a. The individual is exempt from the ABAWD policy as described in 245.01 or

b. Complies with the requirements listed in 245.02

**FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)**

B. Individuals qualify to receive three consecutive countable bonus months (following the three non-compliant (free) nonprorated months) one time within the set 36-month period once the individual works 80 hours in **any** 30-day period after the three non-compliant months have been used. Do not use bonus months until all three non-compliant (free) months have been used. Bonus months are consecutive countable months. Countable months occur when an individual receives FNS benefits for the full benefit month while not exempt, covered by a waiver, fulfilling work requirements, or receiving prorated benefits. Do not count prorated months. Households should be certified to receive three bonus months and should actually receive the benefits. This means that there are times when it would be appropriate to certify the case for four months instead of three.

1. A period of ineligibility is not required in order to gain bonus months.
2. Do not count bonus months retroactively. Do not recode bonus months.

EXAMPLE: An ABAWD receives three non-compliant (free) months in December, January, and March. In March, the ABAWD starts a job working 20 hours a week but does not have 80 hours at the end of March. The worker issues a Notice of Adverse Action in March and closes the case on March 31. On April 15, the ABAWD reapplies for benefits and has worked 80 hours within 30 days. The case is certified. At the end of April, the ABAWD is laid off from work. The ABAWD is eligible to receive three bonus months for May, June, and July.

C. It is possible for individuals to receive more than three non-compliant (free) months. There are three possible situations for this to occur. An overissuance is not created under the following situations.

1. If a change is reported or discovered that requires a Notice of Adverse Action and there is not a sufficient amount of time to decrease or terminate benefits prior to the next issuance.

EXAMPLE: A complying ABAWD reports that he lost his job on April 29. The ABAWD had previously received three non-compliant (free) months in September, October, and November of the previous year. The agency is required to issue a Notice of Adverse Action, but because of the ten-workday advance notice period the agency is unable to close the case prior to May 1.

2. If a non-reportable change is reported or discovered.

EXAMPLE: An 18-year old is in high school at the November recertification. During the May recertification, the household reports that the 18 year old quit school in January. The caseworker recodes the ABAWD has received his three non-compliant (free) months during February, March, and April. Technically, the ABAWD was ineligible to receive May benefits; however, because this change is not considered a reportable change a claim cannot be established against the FNS unit. Refer to appropriate sections for reportable changes.

3. If a client resides in a county that has been granted an ABAWD waiver.

D. When an ABAWD becomes ineligible to participate in the Food and Nutrition Services Program, count all of the ineligible ABAWD's resources and a prorata share of income toward the FNS unit's budget.

**FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)**

- E. Pend a reapplication when an ABAWD has received three non-compliant (free) months at the time of a reapplication and claims a disability or until the ABAWD provides verification of the disability, unless the disability is obvious. If verification of the disability is received within 30 days, approve the reapplication back to the original date of application even if the onset of the disability is after the date of application. The ABAWD is not eligible for emergency service unless the disability is obvious or verification is provided on the date of application.
- F. Pend a reapplication when an ABAWD has received three non-compliant (free) months at the time of a reapplication and has the potential to earn 80 hours within the 30-day processing period. If the ABAWD earns 80 hours within the processing time frame, and all other eligibility requirements are met, approve the reapplication from the original date of application. If the ABAWD does not earn 80 hours within the 30-day processing period, deny the application.

245.04 TRACKING ABAWD ELIGIBILITY

The county must manually track ABAWD eligibility for all ABAWDS within a FNS unit.

- A. Document the following information in the case file for each ABAWD member:
 - 1. The 36 month period.
 - 2. Non-compliant (free) months;
 - 3. Bonus months;
 - 4. Months in which the ABAWD complies with the work requirements (compliant months); **and**
 - 5. Months in which the ABAWD fails to comply with the work requirements (non-compliant months).
 - 6. Months county operates under a waiver.
- B. Assess previously coded ABAWD months when a change in situation is discovered. The FNS unit member's ABAWD status may change with a change in situation. If the ABAWD temporarily fails to meet the work requirement (with good cause), do not count as a non-compliant month. For example, he maintains current employment, but the plant closes temporarily.

EXAMPLE: An ABAWD's employer closes down the business for one week due to a holiday. Count as a compliant month.

EXAMPLE: A client reports on May 21 that he started receiving disability on May 15. May had previously been coded as a non-compliant (free) month. The month of May is recoded as an exempt month.

EXAMPLE: The agency discovers on March 28 that a client started working on February 5. The client is contacted and it is determined that the client worked 80 hours in the months of February and March. February and March are recoded as compliant months.

EXAMPLE: The month of April was previously coded as an exempt month because the ABAWD was working 80 hours per month. The caseworker later discovers that the individual did not work 80 hours during the month of April. The month of April is then recoded from a compliant month to a non-compliant (free) month.

**FOOD and NUTRITION SERVICES CERTIFICATION
ELIGIBILITY REQUIREMENTS
Able-Bodied Adults Without Dependents (ABAWDs)**

- C. Track ABAWDS that move from another county by contacting the previous agency. If the agency is aware that an ABAWD has moved from another state to North Carolina, the agency should act on the known information and contact the other state.
- D. Do not count a prorated month as one of the non-compliant (free) or bonus months.

245.05 ABAWD WORK REGISTRATION CODES

Enter the one-digit numerical code in the work registration field (80E) and alpha code Z (80K) on the DSS-8590 for Able-bodied Adults only. The one-digit alpha work registration codes continue to be valid for all other members of the household. Outlined below are the work registration codes and their definition.

Code	Definition
<u>0</u>	Works 20 hours or more per week, but less than 30 hours a week, averaged monthly; also includes ABAWDs participating in an ABAWD Employment Services Program (refer to Section 246)
<u>1</u>	Participates in and complies with the Able-bodied Adult requirements of the County Workfare Program (Workfare Counties Only)
<u>3</u>	Resides in Waiver Counties
<u>4</u>	Three non-compliant (free) months and prorated month
<u>5</u>	Bonus months and prorated month