

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES  
BISMARCK, NORTH DAKOTA  
December 11, 2012**

**IM 5153**

**TO:** County Social Service Directors  
Economic Assistance Policy Regional Representatives  
Economic Assistance Policy Quality Control Reviewers

**FROM:** Carol Cartledge, Director, Economic Assistance Policy

**SUBJECT:** ABAWDS

**PROGRAMS:** SNAP

**EFFECTIVE:** Immediately

**RETENTION:** Until Manualized

**SECTIONS**

**AFFECTED:** 430-05-40-50 – Able-bodied Adults Without Dependents  
430-05-40-50-05 – Exemptions from Work Requirements  
430-05-40-50-07 – Loss of Exempt Status  
430-05-40-50-15 – 36 Month Time Frames  
430-05-40-50-20 – Three ABAWD Months  
430-05-40-50-25 – Extended Three Month Benefit Period  
430-05-40-50-30 – Exemptions  
430-05-40-50-35 – Regaining and Maintaining Eligibility  
430-05-40-50-40 – Review Periods  
430-05-40-50-45 – ABAWD Claims

This IM is being issued to incorporate changes to the ABAWD policy. The Simplified Reporting ABAWDS and Work Requirements hard card has been updated with a date of 12-2012 and is available on the County Intranet.

1. 430-05-40-50 – Able-bodied Adults Without Dependents (ABAWDS). This section was changed to include:
  - The definition of an ABAWD
  - Policy at 430-05-40-50-40 – Review Periods (this section will be rescinded)

- Policy at 430-05-40-50-45 – ABAWD Claims (this section will be rescinded)

## **Able-bodied Adults without Dependents (ABAWD) 430-05-40-50**

An ABAWD is an individual between the ages of 18 and 50 who is able to work and has no children under 18 years of age in their SNAP household. An individual is not considered an ABAWD until the month following their 18<sup>th</sup> birthday and is no longer considered an ABAWD the month they turn age 50. (TECS automatically codes all individuals under 18 or 50 and older with a code of NA on the ABRE screen.)

ABAWDS who are not exempt from the ABAWD provisions are only entitled to three months of benefits (consecutive or otherwise) during a 36 month period.

A household containing an individual who is not exempt from the ABAWD provisions must be assigned a 6-month review period, however, the individual is only eligible for a maximum of three ABAWD months or the extended three month benefit period. These households cannot be authorized through.

~~This is an additional program requirement for non-exempt able-bodied adults without dependents. An individual who is not ABAWD-exempt is entitled to benefits for three months (consecutive or otherwise) during a 36-month period.~~

~~Any zero, prorated, or suspended benefit~~ Prorated or zero benefit months will not count as an ABAWD month.

### **Exception:**

**If a household receives a full month's benefit that after recoupment results in a zero benefit, the month counts as an ABAWD month.**

When an ABAWD received NE or EE months in error and total overpayments are established, the months will continue to count as NE or EE months until the claim is paid in full. Once the claim is paid in full, the months must be manually changed.

Example:

Single individual applies for SNAP on March 15 and is not exempt from the ABAWD requirements. Application is approved for March as a prorated month and April, May and June as NE months. Case is close the end of June for failure to comply with ABAWD requirements.

In December, the worker discovers the household was employed at the time of application working 40 hours a week with income resulting in total overpayments. April, May and June continue to count as ABAWD months until the claim is paid in full. Once the claim is paid, the worker would change the months from NE to EX as this individual would have been exempt from the work requirements.

2. 430-05-40-50-05 – Exemptions from Work Requirements. The title of this section was changed to clarify this as ABAWD Work Requirements. This section was also changed to clarify ABAWD coding and the mandatory reportable change for ABAWDS.

## **Exemptions from ABAWDS Work Requirements 430-05-40-50-05**

An ABAWD who meets one of the following is exempt from the ABAWD provisions and not subject to limited benefits. Exemption criteria is determined prospectively. , the ABAWD months are determined on a prospective basis in the same manner that prospective eligibility is determined. An individual is exempt from the ABAWD work requirements if the individual meets one of the following exemptions. (TECS codes on the ABRE screen are listed.)

Verification of work hours is mandatory for items 5, 6 and 7. 6, 7 and 8. ~~In addition, an individual is required to report if their hours fall below 20 hours per week averaged monthly.~~

1. Exempt from the SNAP work requirements. (EX)

ABAWDS exempt from ABAWD provisions based on the SNAP work requirement exemption for working 30 hours or more per week are also coded (EX).

~~2. An individual is exempt through the month of their 18th birthday and becomes exempt the month they turn age 50 (TECS automatically exempts any individual under 18 or 50 and older with a code of NA).~~

2. All adult household members are exempt any time there is a child under the age of 18 in the same SNAP household. (EX)

**Example:**

**A five-person SNAP household consists of mom, dad, child under the age of 18, an aunt to the child, and an unrelated adult. All four adults are exempt.**

3. State 15% exemption criteria. (SP)
4. A pregnant woman. Client statement is acceptable. (PG)
5. Working at least 20 hours per week averaged monthly (regardless of the hourly wage) but less than 30 hours or more per week. This includes volunteer and in-kind work where an individual is not paid. ~~An individual working less than 30 hours per week must comply with the regular work requirements.~~ (HR)

Volunteer work is when arrangements have been made with a school, hospital, public service agency, library, nursing home, church or other community organizations.

In-kind work is when an individual works in exchange for goods or services.

**Example:**

**An individual managing an apartment building in exchange for free or reduced rent.**

This **does not include** court ordered community services or work done for family members or friends when the individual is not paid.

~~If an individual was correctly determined eligible prospectively, and later in the month the job hours decreased to below 80 hours through no fault of the individual as long as the individual returns to the job, the month will not count as an ABAWD month.~~

### **Examples:**

~~Illness, illness of another household member requiring the presence of the member, a household emergency, unavailability of transportation, weather, employer changing schedule.~~

6. Participating in (and complying with) a work program of 20 hours or more per week averaged monthly. Work program means:
  - a. A program under the Workforce Investment Act of 1998 (WIA), this is administered by Job Services and can be verified by contacting that office. This includes the WIA administered by the Tribes as long as it meets the 20 hour or more per week averaged monthly requirement. (JT)
  - b. A program under Section 236 of the Trade Act of 1974 (Trade Adjustment Assistance Act Program). This is administered by Job Services and can be verified by contacting that office. (TA)
  - ~~c. A program of employment and training operated or supervised by a state or political subdivision of the state.~~

The BEST Program does not meet the definition of either of these programs. ~~this definition because it is job search and job search training, not employment training. Currently, there are no approved programs in North Dakota.~~

7. Any combination of paid, volunteer, in-kind work, or work programs that equals 20 hours per week averaged monthly.

~~8. Participating in a SNAP Workfare Program (none in North Dakota).~~

An ABAWD exempt from the ABAWD provisions for working an average of 20 hours or more per week is required to report if their hours fall below 20 hours per week. This includes ABAWDS exempt from the SNAP work requirement for working 30 hours or more per week.

If an individual is exempt from the ABAWD provisions at initial application or review for a reason other than working 20 hours or more

~~per week averaged monthly~~ per week, the individual remains exempt from the ABAWD provisions until the next review.

An individual exempt from the ABAWD provisions at initial application or review for working 20 hours or more per week averaged monthly but less than 30 hours per week is required to work register.

~~If an individual is exempt from the ABAWD provisions at initial application or review for working 20 hours per week averaged monthly but less than 30 hours per week averaged monthly, the individual is exempt from the ABAWD provisions, but is required to work register.~~

3. 430-05-40-50-07 – Loss of Exempt Status. This section was changed to clarify ABAWD coding and the mandatory reportable change for ABAWDS.

### **Loss of Exempt Status 430-05-40-50-07**

When an individual is identified as an ABAWD and the individual's eligibility is based on working 20 hours or more per week averaged monthly ~~an average of 20 hours weekly~~, the household must report if the ABAWD's hours decrease below ~~an average of~~ 20 hours weekly.

~~If~~ When an individual is exempt from the ABAWD provisions at initial application or review for working 20 hours or more per week averaged monthly, but less than 30 hours per week, the individual must be work registered.

If during the review period, the household reports the ABAWD's work hours have fallen below 20 hours per week ~~averaged monthly~~, because this is a mandatory reportable change, the F419 – Request for Verification – Simplified Reporting, must be sent to determine if the individual is exempt for another reason. If the household does not respond within 10-days or responds and reports the individual is not exempt for another reason, the ABAWD provisions apply and the individual is coded NE or EE on the ABRE screen. If the individual has used all of their NE and EE months, they are ineligible and their participation code must be changed to DI on SSDO. ~~becomes NE, EE or DI.~~

~~Since the individual was work registered at the time of initial application or review, the SFN 385 or SFN 353 is completed at the next review.~~

When an individual is exempt from the ABAWD provisions at initial application or review for working 30 hours or more per week, the individual is also exempt from the work requirements.

If during the review period, the household reports the ABAWD's the individual later reports work hours have fallen below 20 hours per week averaged monthly, because this is a mandatory reportable change, the F419 – Request for Verification – Simplified Reporting, must be sent to determine if the individual is exempt for another reason, along with the SFN 385 or SFN 353. If the individual does not respond within 10-days or responds and is not exempt for another reason, the ABAWD provisions apply and the individual is coded NE or EE on the ABRE screen. If the individual has used all of their NE and EE months, they are ineligible and their participation code must be changed to DI on SSDO. becomes NE, EE or DI.

If the individual household responds and indicates the ABAWD is exempt from the ABAWD provisions, but not exempt from the work requirements and does not return the SFN 385 or SFN 353, their participation code must be changed to DW and a 10-day advance notice (F432 or F730) must be sent stating that the individual is ineligible and that ineligibility can be avoided by returning the form.

4. 430-05-40-50-20 – Three ABAWD Months. This section was changed to include information on the ABAWD alert and correct the examples.

### **Three ABAWD Months 430-05-40-50-20**

An individual who is not ABAWD exempt is entitled to benefits for three months (consecutive or otherwise) during a 36 month period. The 36-month period starts with the receipt of the first ABAWD month.

The worker must enter the code of NE (not exempt) on the ABRE screen in TECS for each of the three ABAWD months received. The worker will receive an alert on the first working day of the third 'NE' month as a reminder to send an advance notice to close the case or change the ABAWD's participation code to DI on SSDO.

The worker is not required to determine if an individual received ABAWD months in another state unless the worker becomes aware of a potential benefit history in another state. A worker may become aware of potential benefit history through the application, interview, or when contacting another state. If so, the worker must verify the benefit history with the

previous state to determine if the applicant is eligible in North Dakota.

ABAWD months received in another state are countable months in North Dakota using the rolling 36-month period. These months cannot be entered into TECS and must be documented on the on-line narrative ~~in TECS.~~

If during the three ABAWD months an individual becomes exempt, the change must be made for the next benefit month as exemption criteria is determined prospectively.

### **Examples:**

- 1. An individual applies and is not exempt from the ABAWD work requirements on November 1st. The individual is approved and certified through ~~April~~ ~~October~~. On January 5 the individual reports and verifies employment of 20 hours per week that started on December 20. The individual received their first paycheck on January 3. November, December and January are counted as an ABAWD months. The individual is exempt for February.**
- 2. In an ongoing case an individual reports and verifies work of 20 hours per week averaged monthly. When wage verifications are received it is learned that the individual did not work 20 hours per week averaged (due to illness, weather, not scheduled to work 20 hours for one week, etc.). If the individual is regularly scheduled to work an average of 20 hours per week, the individual is considered working an average of 20 hours per week and the month is an exempt ABAWD month.**
- 3. An individual applies and is exempt from the ABAWD work requirements on November 1st as the individual is working 20 hours per week. The individual is approved and certified through ~~April~~ ~~October~~. On December 5 the individual reports and verifies November earnings. The number of hours worked is less than 20 hours per week averaged. If the individual is regularly scheduled to work an average of 20 hours per week, the individual is considered working an average of 20 hours per week and the month is an exempt ABAWD month.**



Non-mandatory reportable changes do not affect ABAWD count months.

**Example:**

**An individual is exempt from work requirements as physically unable to work. At the time of review, a doctor's statement is obtained as the incapacity is no longer evident to the worker. The doctor's statement indicates that the individual is not able to work for an additional six months. Since this individual is exempt at review, the individual remains exempt until the next review. A six month review period is assigned to the case, July through December.**

**At review in December, the individual reports they were medically able to return to work in October but have not found employment. Since this is not a mandatory reportable change, months November and December do not count as ABAWD months and the worker would determine continuing eligibility.**

5. 430-05-40-50-23 – Regaining and Maintaining Eligibility. This section was rewritten and moved for clarification. Regaining and Maintaining Eligibility at 430-05-40-50-35 will be rescinded.

## **Regaining and Maintaining Eligibility 430-05-40-50-23**

Regaining eligibility applies to ABAWDS who:

- Received the three NE months; and
- Were closed or denied for failure to comply with the ABAWD work requirements (including failure to file an application for review).

Regaining eligibility does not apply to an individual exempt from the ABAWD provisions for a reason other than working 20 hours or more per week averaged monthly.

There is no limit to the number of times an ABAWD may regain eligibility. In order to regain eligibility, these individuals must verify they are meeting **ALL** of the following requirements.

- Worked 80 hours in a 30 consecutive day period. (If an individual reapplies prior to the completion of working 80 hours in a 30-day

period, benefits are prorated from the date the 80 hours are completed.)

- Be working at least 20 hours per week averaged monthly (regardless of the hourly wage). This includes volunteer and in-kind work where an individual is not paid.

Volunteer work is when arrangements have been made with a school, hospital, public service agency, library, nursing home, church or other community organizations.

In-kind work is when an individual works in exchange for goods or services.

**Example:**

**An individual managing an apartment building in exchange for free or reduced rent.**

This does not include court ordered community services or work done for family members or friends when the individual is not paid.

- If working 20 hours or more per week but less than 30 hours, comply with work registration or BEST if not otherwise exempt.

**Examples:**

1. **A single individual who is not exempt from the ABAWD requirements applies on June 25 and is certified for six months. The case is closed for non-compliance with ABAWD requirements September 30 (third NE month as June was a prorated month).**

**On December 5, the individual reapplies. The individual verifies they worked 80 hours between November 1 and December 1 and also verifies they are currently working 40 hours per week. The individual is eligible and certified for six months.**

**On January 10, the individual reports they were laid off. Since they were not work registered at the time of application, after completing the work registration form, the individual receives their three**

EE months in February, March and April. The case is closed the end of April as the individual is not exempt from the ABAWD requirements for another reason.

In order to regain eligibility, the individual:

- Must work 80 hours in a 30 consecutive day period, and
- Be exempt based on working 20 hours or more per week averaged monthly; unless
- They are exempt for another reason.

2. A single individual received their three NE and three EE months. The individual reapplies on August 5, verifies they worked 80 hours between July 1 and July 31 and that they are currently working 20 hours per week. The individual is work registered and certified for six months.

On September 15, the household reports they were fired. The individual is not exempt from the ABAWD requirements for another reason so the case is closed the end of September. Since the case closed for failure to comply with the ABAWD work requirements, in order to regain eligibility, the individual must:

- Work 80 hours in a 30 consecutive day period, and
- Be exempt based on working 20 hours or more per week averaged monthly; unless
- They are exempt for another reason.

6. 430-05-40-50-27 – Extended Three Month Benefit Period. This section was rewritten for clarification. Extended Three Month Benefit Period at 430-05-40-50-25 will be rescinded.

### **Extended Three Month Benefit Period 430-05-40-50-27**

Once an ABAWD has received the three ABAWD months and the case is closed or denied for **failure to comply with the ABAWD work requirements or the individual failed to file a review**, extended benefits may be granted for **three full consecutive months** if the individual meets all of the following:

1. Has not voluntarily quit a job without good cause within 30 days of applying.
2. Worked 80 hours or more in any 30 consecutive day period.

Work can include volunteer or in-kind work.

Volunteer work is when arrangements have been made with a school, hospital, public service agency, library, nursing home, church or other community organizations.

In-kind work is when an individual works in exchange for goods or services.

**Example:**

**An individual managing an apartment building in exchange for free or reduced rent.**

This **does not include** court ordered community services or work done for family members or friends when the individual is not paid.

3. Participated in and complied with the requirements of a work program for 80 hours or more in any 30 consecutive day period. Work program means:
  - a. A program under the Workforce Investment Act of 1998 (WIA), this is administered by Job Services and can be verified by contacting that office. This includes the WIA administered by the Tribes as long as it meets the 20 hour or more per week averaged monthly requirement. (JT)
  - b. A program under Section 236 of the Trade Act of 1974 (Trade Adjustment Assistance Act Program). This is administered by Job Services and can be verified by contacting that office. (TA)

The BEST Program does not meet the definition of either of these programs.

4. Any combination of paid, volunteer, in-kind work, or work programs for 80 hours or more in any 30 day consecutive period.

A 30-day period means any 30 consecutive days since the individual was closed or denied for failure to comply with the ABAWD requirements or failed to file a review. It does not have to be a calendar month - it may be a combination of two months.

To receive the extended months, the worker must enter the code of EE (exemption extension) on the ABRE screen in TECS.

The extended three month benefit period can only be approved once in a 36-month period. The three months run consecutively. Once approved, the individual has received the extension regardless of whether they receive benefits for all three months. Case closings, disqualifications or zero benefits will not stop the three month count.

### **Examples:**

1. An individual received the three ABAWD months in April, May and June and the case closed June 30 for failure to comply with the ABAWD work requirements. On August 16, the individual reapplies and verifies having worked 80 hours in a consecutive 30 days and lost the employment through no fault of their own. This individual is eligible for the extended three-month benefit period, September, October, and November. August does not count as one of the three months due to proration.
2. An individual received the three ABAWD months in April, May and June and closed June 30 for failure to comply with the ABAWD work requirements. On August 16, the individual reapplies and verifies having worked 80 hours in 30 days and lost the employment through no fault of their own. This individual is eligible for the extended three-month benefit period, September, October, and November.

On September 10 the individual reports new employment and income that exceeds the GIL, they expect the income to continue and their case closed September 30 for excess income. Even though the individual is no longer receiving benefits, the extended three month benefit period continues through the month of November. This individual would not be eligible for an additional

extended ABAWD three-month benefit period during this individual's 36-month period.

3. A single individual who is not exempt from the ABAWD requirements applies and is certified for six months. The case is closed for non-compliance with ABAWD requirements at the end of the third NE month. The individual reapplies after starting a job working an average of 20 hours per week and regaining eligibility (meeting the 80 hours of work in a 30 day period). Sometime later during the review period, the individual is laid off by the employer. This individual can receive the three EE months before case closure.