



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### FoodShare Work Requirements

Certain able individuals must fulfill a number of work hours to be eligible for food stamps, referred to in Wisconsin as the FoodShare program. Able-bodied adults without dependents who participate in FoodShare are subject to a federal time limit and work requirement. Each state is also required to operate its own food stamp employment and training program. Recent legislation enacted as part of the January 2018 Special Session on Welfare Reform expands the scope of Wisconsin's FoodShare Employment and Training Program (FSET) to generally require FSET participation for all able-bodied adults, including those with dependents ages six and older. This Information Memorandum provides a general overview of the current status of implementation of these work requirements.

#### **FEDERAL WORK REQUIREMENTS FOR ABLE-BODIED ADULTS WITHOUT DEPENDENTS**

##### ***FEDERAL REQUIREMENTS***

Federal law generally limits FoodShare eligibility for able-bodied adults without dependents (ABAWDs) to three months of benefits during any three-year period. After the three-month time limit is met, ABAWDs must fulfill a work requirement of 80 hours per month (or 20 hours per week) to remain eligible for FoodShare. [7 C.F.R. s. 273.24.]

An ABAWD is generally defined under federal law to mean an individual between ages 18 to 49 who is physically and mentally fit for employment, not pregnant, not a parent of or residing in a household with a child under 18, and not otherwise exempt under federal law. [7 C.F.R. s. 273.24 (c).]

The federal ABAWD work requirement can be met by working in exchange for money or goods, performing unpaid work that is verified by a state agency, or participating in a state or local workfare program. [7 C.F.R. 273.24 (a) (1).] An individual may temporarily miss some work for good cause, which includes circumstances beyond the person's control such as illness, a household emergency, or unavailability of transport. [7 C.F.R. s. 273.24 (b) (4).]

A state may waive the federal ABAWD time limit and work requirement if the state: (1) has an unemployment rate of over 10%; or (2) does not have a sufficient number of jobs to provide employment for the individuals. [7 CFR s. 273.24 (f).]<sup>1</sup>

### ***IMPLEMENTATION IN WISCONSIN***

From 2002 to 2013, Wisconsin waived the federal ABAWD time limit, and during that time ABAWDs were not required to work to remain eligible for FoodShare. The 2013-15 Biennial Budget Act authorized DHS to implement a policy that requires ABAWDs to fulfill the federal work requirements.<sup>2</sup> DHS implemented the federal requirements in Wisconsin as of April 1, 2015.

Wisconsin currently applies the federal ABAWD time limit to FoodShare recipients between the ages of 18 and 50 who are not: (1) physically or mentally unfit for employment; (2) a parent of a household member, or a person residing in a household with someone, under 18 years old; (3) pregnant; or (4) otherwise exempt under federal law. [s. 49.79 (1) (am) and (10), Stats.]

Such individuals who have met the three-month time limit must complete 80 hours of approved work per month to remain eligible for FoodShare. As of the date of this Memo, an individual can satisfy the 80 hours by: (1) working; (2) participating in FSET, Wisconsin Works (W-2), or another approved program; or (3) completing a combination of those activities.<sup>3</sup>

### **ADDITIONAL STATE WORK REQUIREMENTS UNDER FSET**

In addition to imposing work requirements for ABAWDs, federal law also requires each state to operate its own employment and training program for food stamp recipients. State programs are subject to review by Food and Nutrition Services (FNS), the federal agency that oversees state administration of food stamps. However, states have considerable flexibility in creating the terms under which the program operates, including the extent to which program participation is mandatory. [7 C.F.R. s. 273.7 (a) (1) (ii) and (c) (4) and (6).]

Participation in Wisconsin's FSET program has been voluntary since March 1, 2008,<sup>4</sup> but will likely become mandatory next year for a significant portion of FoodShare recipients as a result of legislation enacted as part of the January 2018 Special Session on Welfare Reform.

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<sup>1</sup> States commonly qualify for a waiver by showing: (1) an unemployment rate above 10% in the prior 12 or three months; (2) designation as a Labor Surplus Area by the Department of Labor; (3) qualification for extended unemployment benefits; or (4) an average unemployment rate of 20% above the national average over the prior 24 months. A list of current state waivers is available at: <https://www.fns.usda.gov/snap/abawd-waivers>.

<sup>2</sup> The terminology used in the statutes was subsequently modified to define and use the term "able-bodied adults without dependents," the group of individuals to whom the ABAWD work requirements apply remains the same. [2017 Wisconsin Act 59; s. 49.79 (1) (am) and (ap), Stats.]

<sup>3</sup> *Wisconsin FSET Handbook*, DHS, Release 17-2, ss. 6.3.2.2 and 10.5 Appendix E (October 30, 2017).

<sup>4</sup> State statutes have allowed, but not required, DHS to require FSET participation for able individuals between 18 and 60 years old who were not participants in a W-2 employment position, except: (1) caretakers of a child under

### ***FSET PARTICIPATION UNDER CURRENT LAW***

Wisconsin does not currently require FSET participation for any FoodShare recipients. There are two primary reasons why recipients would voluntarily choose to participate in FSET:

- ABAWDs who have met the three-month time limit can use FSET participation hours to satisfy the federal work requirement. ABAWDs may apply FSET participation hours towards all or a portion of their required 80 hours of work per month.
- Other FoodShare recipients (or non-ABAWDs) may choose to participate in FSET for the purpose of receiving job training or other services that the program offers. DHS currently requires non-ABAWDs who choose to participate in FSET to complete at least 12 hours of FSET activities per month.<sup>5</sup>

### ***ANTICIPATED CHANGES TO FSET PARTICIPATION REQUIREMENTS***

Pursuant to 2017 Wisconsin Acts 263 and 264, enacted on April 10, 2018, FSET participation will likely become mandatory for a significant portion of FoodShare recipients next year.

If the federal government approves, beginning on October 1, 2019, the Department of Health Services (DHS) will be required to generally make FSET participation mandatory for all FoodShare recipients (ABAWDs and non-ABAWDs) between ages 18 and 50 who are physically and mentally fit for employment, except as follows. DHS will not have to require FSET participation for: (1) pregnant women; (2) caretakers of dependents who are disabled or under the age of six; (3) persons who are already employed as determined by DHS; (4) students enrolled at least half-time or more in a qualifying education or training program; (5) persons receiving unemployment compensation; (6) persons who are subject to and complying with work requirements related to a state program that is funded through the Temporary Assistance for Needy Families (TANF) block grant; or (7) persons who regularly participate in a drug addiction or alcoholic treatment and rehabilitation program. [s. 49.79 (9) (a) 1g., Stats.; 7 C.F.R. s. 273.7 (b).]

The new legislation also requires that if FSET participation becomes mandatory under the conditions described above, participants will also have to complete a certain number of hours of FSET activities per month:

- ABAWDs will be required to participate in FSET for the maximum number of hours allowed by the federal government. It appears to be unclear whether federal law would limit FSET participation requirements for ABAWDs to 80 or 120 hours per month (or 20 or 30 hours per week). DHS will likely have to resolve this question with FNS.

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12 weeks; or (2) enrolled half-time or more in a qualifying education or training program. [s. 49.79 (9) (a) 1. through 3., Stats.]

<sup>5</sup> FSET Handbook, DHS, Release 17-02, ss. 6.3.1 through 6.3.2.3 (October 30, 2017).

- Non-ABAWDs participating in FSET will be required to complete the same number of participation hours as ABAWDs.

[s. 49.79 (9) (a) 1m., Stats.]

In summary, if the federal government approves, FoodShare recipients between ages 18 and 50 who are able to work will generally be required to participate in FSET for either 80 or 120 hours per month beginning on October 1, 2019, subject to the exceptions described above.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Andrea Brauer, Staff Attorney, on May 22, 2018.

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