



MEMORANDUM

September 14, 2012

To: Office of the Majority Leader, Representative Eric Cantor
Attention: [REDACTED]

From: [REDACTED]
[REDACTED]

Subject: **FY2007-FY2012: Able-bodied Adults Without Dependents (ABAWD) Requirements, Statistics, and Waivers**

Below please find the information that you requested on the Supplemental Nutrition Assistance Program (SNAP) Work Requirement for Able-bodied Adults Without Dependents (ABAWD). While this information is being provided on a confidential basis, please note that portions of this memorandum may be used in other CRS products and/or be provided to other CRS clients.

This memo includes all of your requested elements for which data were available, and also includes certain background and contextual information. First, this memo provides a brief background on the “ABAWD Rule.” It then presents a preliminary population estimate of the number of SNAP participants in FY2007-2010 that were ABAWDs and related data analysis to capture earnings-related characteristics. Lastly, the memo discusses the American Recovery and Reinvestment Act’s suspension of the ABAWD Rule, the waivers of the rule that are available to states and the waivers that were requested by states, as well as the President’s Budget requests to continue the suspension of the ABAWD rule.

Please note that this memorandum’s use of “states” is a reference to jurisdictions that operate the SNAP program. Currently all 50 states, as well as the District of Columbia, Guam, and the Virgin Islands operate SNAP – a total of 53 SNAP state agencies.

Background on the ABAWD Rule

In addition to SNAP’s work registration and Employment and Training program requirements,¹ there is a special work requirement for able-bodied adults, aged 18 to 49 who are without dependents (ABAWDs). This requirement for ABAWDs – often referred to as the “ABAWD Rule” – was added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-193) and is located in Section 6(o) of the Food and Nutrition Act, codified at 7 U.S.C. 2015(o).

SNAP law limits ABAWDs to benefits for 3 months out of a 36-month period, unless the participant:

¹ For a summary of the work rules aside from the ABAWD Rule, please see CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*, pages 8-9.

- Works at least 20 hours per week;
- Participates in an employment and training program for at least 20 hours per week; or
- Participates in a SNAP “workfare” program for at least 20 hours per week.

States have the option, but are not required, to offer ABAWDs a slot in an employment and training program or a workfare program. Some states “pledge” to serve all ABAWDs in such programs, others do not. States that “pledge” to serve all ABAWDs in these programs receive extra federal funding for that purpose. If a state does not offer an ABAWD a slot in an employment and training or workfare program, benefits can be terminated for those without at least a half time job once the 3-month limit is reached, unless the individual is covered by an exemption or a “waiver” of the ABAWD requirement. (Waivers of the ABAWD rule, at a state’s request, were also included in PRWORA. These waivers will be discussed further in a subsequent section of this memorandum.)

Those disqualified under this rule are able to reenter the program if, during a 30-day period, they work 80 hours or more or participate in a work/training activity. ABAWDs who become employed, but then again lose their jobs can, under some circumstances, earn an additional 3 months of eligibility, bringing their maximum months of SNAP receipt without working at least 20 hours per week or being in an approved work or training program to 6 months in a 36-month period.

Section 101(e) of the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) suspended the ABAWD time limits for those who do not work at least 20 hours per week in a job. This suspension covered the period April 2009 through September 30, 2010; it will be discussed further in a subsequent section.

FY2007-2010: Population Estimates of ABAWD SNAP Participants

In FY2010 (the latest year for which data are available), an estimated monthly average of 3.869 million SNAP participants were (1) aged 18 to 49, (2) in households without children, and (3) not disabled. This is the population that corresponds to the ABAWDs. This represented 9.7% of all SNAP participants in that fiscal year.

Table 1 shows the estimated number of SNAP participants who are ABAWDs for FY2007 through FY2010. FY2007 represents the end of the economic expansion before the beginning of the 2007-2009 recession that began in December 2007. Over this period, the number of ABAWDs more than doubled, and increased more rapidly than the overall caseload. ABAWD SNAP participants grew from 6.6% to 9.7% of total SNAP participants.

Table 1. Preliminary Estimates of the Number of ABAWD Participants: FY2007-FY2010

	ABAWD Participants (in millions)	Total SNAP Participants (in millions)	ABAWD Participants as a Percent of Total SNAP Participants
2007	1.705	25.926	6.6%
2008	1.906	27.791	6.9
2009	2.759	32.889	8.4
2010	3.869	39.759	9.7
Percentage Change: FY2007-FY2010	126.9%	53.4%	

Source: Congressional Research Service (CRS) estimates from the FY2007 through FY2010 Supplemental Nutrition Assistance Program (SNAP) Quality Control Data Files.

The numbers shown in **Table 1** are Congressional Research Service (CRS) preliminary estimates of the ABAWD population, derived from the SNAP Quality Control data files for FY2007 through FY2010. Estimates of the number of ABAWDs within the SNAP caseload are not available on a consistent basis for all years from FY2007 through FY2010, so CRS made its own estimates. We might consider some additional refinements to our estimating methods in the future.

They are estimates of *total* SNAP participants in households without children, age 18 to 49 who were determined not to be disabled.² They are not estimates of the number of SNAP participants who were, or would have been (absent waivers and suspensions), subject to the ABAWD time limit. The information on the employment status of SNAP participants, as reported by the states, is not of sufficient quality to make accurate estimates of those who faced or might have faced the ABAWD time limits. It is possible to show the number of SNAP ABAWDs who had any earnings, or lived in households with earnings. It is not possible to accurately show how many either worked or participated in a work activity for at least 20 hours per week.

Table 2 shows SNAP ABAWD participants by whether or not they reported earnings from employment or whether they or another household member had earnings. In FY2010, about one in five SNAP ABAWD participants had earnings from employment; about one in four SNAP ABAWD participants lived in households where either they or another SNAP participant had earnings. These shares were little changed over the FY2007 through FY2010 period.

² The SNAP Quality Control Data files do not directly identify a SNAP participant as disabled or not. Thus, the disability status of SNAP participants must be indirectly inferred from their receipt of other benefits (Supplemental Security Income, Veterans' Payments, and Social Security). That was done to produce this memorandum's estimates of the ABAWD population. Estimates of the ABAWD population will vary depending on the method used to infer the disability status of SNAP participants. For example, this memorandum's estimates differ slightly from those published in the *Characteristics of Supplemental Nutrition Assistance Programs Households: FY2010* published by the U.S. Department of Agriculture. The estimates in that report of the population were 3.857 million versus the CRS estimate of 3.869 million. The difference in the two estimates reflects differences in inferring the disability status of SNAP participants.

Table 2. Preliminary Estimates of SNAP ABAWD Participants And Earnings: FY2007-FY2010

	2007	2008	2009	2010
With Earnings (millions)	0.347	0.385	0.580	0.786
Without Earnings (millions)	1.357	1.521	2.179	3.082
With Earnings as a Percent of Total ABAWD Participants	20.4%	20.2%	21.0%	20.3%
With Household Earnings (millions)	0.429	0.473	0.725	1.005
Without Household Earnings (millions)	1.276	1.521	2.034	2.864
With Household Earnings as a Percent of Total ABAWD Participants	25.2%	23.7%	26.3%	26.0%

Source: Congressional Research Service (CRS) estimates from the FY2007 through FY2010 Supplemental Nutrition Assistance Program (SNAP) Quality Control Data Files.

Suspensions and Waivers of the ABAWD Rule

ARRA's Suspension of the ABAWD Rule

As discussed in the background section above, Section 101(e) of the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) suspended the "ABAWD Rule" from April 2009 until October 1, 2010. The time limits continued to apply for individuals who did not comply with a state offer to participate in a work or workfare program for at least 20 hours per week. As with the underlying ABAWD rule, states were not required to offer a slot to an ABAWD in a work or workfare program. During the period covered by the ARRA suspension, ABAWDs who were not working or offered a slot in a work or workfare program were not subject to the 3-month time limit. Section 101(e) also required that when the suspension ended in FY2011, an ABAWD's participation in the program during the suspension of the rule would not be included in the individual's 3-month time limit.

During the requested period of interest, FY2007-FY2012, this suspension was the only time in which all states could suspend their enforcement of the ABAWD Rule.

Please note: during the ARRA suspension of the ABAWD rule, states were still able to *choose* to enforce the rule in the entire state or portions of the state.³ According to information provided by USDA-FNS, portions of Colorado, all of Delaware, portions of New York (New York City only), portions of South Dakota, and portions of Texas continued to enforce the ABAWD rule during the ARRA suspension. These areas all pledged to provide ABAWDs with employment and training or workfare programs.

³ See <http://www.fns.usda.gov/snap/rules/Memo/2009/040209.pdf>, Question 1.

Background on ABAWD Waivers for States

PRWORA's 1996 addition of the ABAWD rule also included the availability of waivers for the states' enforcement of the rule. The statute provides that the ABAWD rule can be waived (1) for areas with an unemployment rate of over 10% or (2) if an area "does not have a sufficient number of jobs to provide employment for the individuals."⁴ The USDA-FNS regulation (7 C.F.R. 273.24) specifies the criteria that can qualify a state or portion of a state for a waiver of the ABAWD rule:

- **10% unemployment rate:** States may request a waiver with evidence that an area has "a recent 12 month average unemployment rate over 10 percent; recent three month average unemployment rate over 10 percent; or an historical seasonal unemployment rate over 10 percent." (7 C.F.R. 273.24(f)(2)(i)).⁵
- **Lack of sufficient jobs:** To support this claim, regulation (7 C.F.R. 273.24(f)(2)(ii)) permits a state to submit any of the following as evidence, if an area:
 - "is designated as a Labor Surplus Area (LSA) by the Department of Labor's Employment and Training Administration (ETA)"⁵
 - "is determined by the Department of Labor's Unemployment Insurance Services 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."⁵

States' Uptake of ABAWD Waivers

As requested, **Table 3** indicates the number of statewide waivers (and, separately, waivers for portions of states) of the ABAWD rule.

In the FY2007-FY2012 period, two contemporaneous policy and program changes occurred that would affect the status of waivers.

First, as discussed above, during 7 months of FY2009 and the entire year of FY2010, ARRA had suspended the ABAWD rule so that states would have no need to apply for the other types of waivers.

Also, P.L.110-249 created extended unemployment insurance benefits; that law and subsequent unemployment extensions have provided the basis for most states to become automatically

⁴ Authority for these waivers is located in Section 6(o)(4) of the Food and Nutrition Act of 2008, codified at 7 U.S.C. 2015(o)(4). Also, the Balanced Budget Act of 1997 (P.L. 105-33) added 15% ABAWD exemptions for states (Section 6(o)(6) of the Food and Nutrition Act, codified at 7 U.S.C. 2015(o)(4)). The 15% exemptions are beyond the scope of this memorandum, but further details on the exemptions can be found on the USDA-FNS website: <http://www.fns.usda.gov/snap/rules/Memo/PRWORA/abawds/ABAWDsPage.htm>.

⁵ 7 C.F.R. 273.24(f)(3) indicates that certain data for each of these 3 measures will make a waiver application "readily approvable."

eligible for an ABAWD statewide waiver. USDA-FNS alerted regional offices to this unemployment insurance basis for statewide waivers in a January 2009 memo.⁶ Beginning with that January 2009 memo and during the fiscal years following the ARRA extension (FY2011, FY2012, FY2013), FNS sent annual policy memoranda to its regional offices listing the states that triggered onto extended unemployment benefits; those listed states need only to notify FNS that they will be waiving the ABAWD requirements.⁷ This means, as displayed in **Table 3**, that in FY2011 and FY2012, the vast majority of waivers were statewide and on the basis of extended unemployment insurance status.

Please note that the waivers related to states triggering onto extended unemployment insurance benefits still require states to communicate to USDA-FNS. Per FNS policy memoranda, the states listed on an extended unemployment insurance trigger notice, “may lift the ABAWD restrictions without requesting an FNS approved waiver in advance, although States must notify their FNS regional office of the statewide implementation.” Based on states’ decisions, certain states and portions of the states in FY2011 and FY2012 either did not qualify for the extended unemployment insurance statewide waiver or chose not to utilize it. USDA-FNS has provided the list of jurisdictions that still enforced the ABAWD rule in FY2011⁸ and in FY2012.⁹

⁶ See Policy Memorandum from Arthur T. Foley, *SNAP - ABAWD Statewide Waivers - new Criteria for Unemployment Insurance Extended Benefits Trigger*, USDA Food and Nutrition Service, January 8, 2009, <http://www.fns.usda.gov/snap/rules/Memo/2009/010809.pdf>.

⁷ Policy Memorandum from Arthur T. Foley, *Supplemental Nutrition Assistance Program (SNAP) - Able Bodied Adults Without Dependents Waivers for Fiscal Year 2011*, USDA Food and Nutrition Service, January 29, 2010, http://www.fns.usda.gov/snap/rules/Memo/PRWORA/abawds/waivers_2011.pdf; Policy Memorandum from Lizbeth Silbermann, *Supplemental Nutrition Assistance program (SNAP) - Able Bodied Adults Without Dependents Waivers for Fiscal Year 2012*, USDA Food and Nutrition Service, May 3, 2011, http://www.fns.usda.gov/snap/rules/Memo/PRWORA/abawds/waivers_2012.pdf.

⁸ New York City, Delaware, 6 counties in West Virginia, 3 counties in Colorado, and the portions of Nebraska, North Dakota, South Dakota, and Texas that did not suspend the ABAWD rule.

⁹ New York City, Delaware, 5 counties in Colorado, and the portions of Nebraska, North Dakota, South Dakota, and Texas that did not suspend the ABAWD rule.

Table 3. Snapshot of States' ABAWD Waivers
Fiscal Years 2007-2012, as of September 2012

FISCAL YEAR	Number of States With ABAWD Waiver due to Extended Unemployment Insurance	Other Labor Market Related ABAWD Waivers		Additional Notes
		Number of States with Statewide Waivers	States with Waivers for Portions of States	
FY2007 ^a	2	6	39	
FY2008 ^a	0	8	38	
FY2009 ^{a,b}	4	8	35	ARRA suspended the ABAWD rule for April 2009 through September 30, 2009.
FY2010 ^c	Not Applicable	Not Applicable	Not Applicable	ARRA (P.L. 111-5) suspended the ABAWD Rule for this entire fiscal year.
FY2011	47 ^d	0	5	49 states had the option to ask USDA for a waiver based on extended unemployment insurance ^e
FY2012	47 ^f	0	5	46 states had the option to ask USDA for a waiver based on extended unemployment insurance ^g

Source: CRS table based on information provided by USDA-FNS.

Notes: Because ABAWD waivers do not necessarily fall cleanly within a fiscal year, a state is counted here if it has been granted a waiver for any portion of the noted fiscal year. Also, "portions of states" include Indian reservations.

- a. FY2007, FY2008, and FY2009 based on USDA-FNS Waiver Status Reports dated March 7, 2007, August 31, 2007, September 16, 2008, and January 8, 2009. *January 2009 ABAWD Waiver Status Report* available at <http://www.fns.usda.gov/snap/rules/memo/PRWORA/abawds/abawds.pdf>.
- b. Waiver status based on January 8, 2009 report, but as noted above, ARRA suspended the rule effective April 2009.
- c. USDA-FNS information shows that some states may have had waivers approved for all or part of FY2010, but those waivers had been submitted and approved in advance of ARRA.
- d. Based on information provided by USDA-FNS, included in this count are 3 states that did not suspend the rule throughout the entire state: Colorado (statewide suspension except for 3 counties); New York (statewide suspension except for New York City); West Virginia (statewide suspension except for 6 counties).
- e. Policy Memorandum from Arthur T. Foley, *Supplemental Nutrition Assistance Program (SNAP) - Able Bodied Adults Without Dependents Waivers for Fiscal Year 2011*, USDA Food and Nutrition Service, January 29, 2010, http://www.fns.usda.gov/snap/rules/Memo/PRWORA/abawds/waivers_2011.pdf.
- f. Based on information provided by USDA-FNS, included in this count are 2 states that did not suspend the rule throughout the entire state: New York (statewide suspension except for New York City); Colorado (statewide suspension except for 5 counties).
- g. Policy Memorandum from Lizbeth Silbermann, *Supplemental Nutrition Assistance program (SNAP) - Able Bodied Adults Without Dependents Waivers for Fiscal Year 2012*, USDA Food and Nutrition Service, May 3, 2011, http://www.fns.usda.gov/snap/rules/Memo/PRWORA/abawds/waivers_2012.pdf. Per CRS communication with FNS, though not listed on this memo, the Virgin Islands was included on the Department of Labor trigger notice 2011-11 dated March 27, 2011.

FY2007-2012: President's Budget Requests to Suspend the ABAWD Rule

ARRA's across the board suspension of the rule – without regard to individual states' or portions of states' labor market indicators – was in effect from April 1, 2009 through September 30, 2010. This suspension was never extended.

As requested, **Table 4** summarizes the President's Budget Requests from FY2007 through FY2013 (submitted in February 2012) on the issue of suspension of the ABAWD Rule. The Administration's Budget Requests for FY2011, FY2012, and FY2013 included proposals to suspend the ABAWD rule for each of these fiscal years.¹⁰ In all 3 requests, the Administration cited similar justifications; for example, the rationale in the FY2011 Budget proposal:¹¹

“Extending ARRA’s ABAWD provision would improve ABAWDs’ access to nutritious food because they will not be subject to time restraints. The extension would also improve the administration of the program by reducing waiver workload. With high levels of unemployment, large areas of the country would qualify for geographic ABAWD waivers. Reinstating ABAWD policy would require the States to apply for waivers, and FNS to approve those waivers, using valuable resources that are best used on administering the program during this time of caseload growth. Since FNS expects many States to qualify for geographic ABAWD waivers, extending ARRA’s ABAWD provision will not significantly change the implementation of the program. States would continue to have the ability to disqualify ABAWDs from SNAP if they fail to comply with an Employment and Training Program.”

Table 4. President's Budget Requests for Suspension of the ABAWD Rule

Requests for FY2007 through FY2013

Year of President's Budget	Did the President's Budget request a suspension of the ABAWD Rule?	Did Congress provide a suspension of the ABAWD Rule?
FY2007	No	No
FY2008	No	No
FY2009 ^a	No	ARRA, P.L. 111-5.
FY2010	No	ARRA, P.L. 111-5.
FY2011	Yes	No
FY2012	Yes	No
FY2013	Yes	No, as of the date of this memo.

Source: U.S. Department of Agriculture's Budget Explanatory Notes for Committee of Appropriations as produced and distributed by the USDA's Office of Budget and Program Analysis.

Notes:

- a. This fiscal year included the January 2009 Inauguration of President Obama. The FY2009 Budget Request was prepared by the Administration of President George W. Bush.

¹⁰ See USDA-FNS's FY2013 Budget Justification, <http://www.obpa.usda.gov/30fns2013notes.pdf>, p. 30-85.

¹¹ Quoted from USDA-FNS's FY2011 Budget Justification, <http://www.obpa.usda.gov/30fns2011notes.pdf>, p. 30-57. The Administration provides close to identical rationales for FY2012 (<http://www.obpa.usda.gov/30fns2011notes.pdf>, p. 30-52) and for FY2013 (<http://www.obpa.usda.gov/30fns2013notes.pdf>, p. 30-85).