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**IMPLEMENTING THE INDIVIDUAL EXEMPTIONS FROM THE  
FOOD STAMP THREE MONTH TIME LIMIT**

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The 1996 welfare law imposed a three-month time limit on participation in the food stamp program for able-bodied childless adults aged 18 to 49 unless they work at least 20 hours per week, participate in an approved work or training program, or live in an area that has been waived from the time limit due to high unemployment or insufficient jobs. The Balanced Budget Act (BBA) of 1997 subsequently provided states with new authority to exempt a limited number of individuals from the time limit.<sup>1</sup> While USDA determines the total number of exemptions they can provide, states have complete discretion to decide to whom the exemptions should apply.

Other than the waiver authority for areas with high unemployment or insufficient jobs, the individual exemption authority is the simplest, least costly way for a state to assist men and women facing the food stamp time limit. USDA estimated that if fully implemented, 64,000 food stamp recipients could have been exempted from the time limit each month in FY 1998.

Many individuals among this population are highly disadvantaged. According to USDA,<sup>2</sup> 95 percent of the men and women who fall into this category have incomes below 75 percent of the poverty line; their average incomes are 24 percent of the poverty line. Over 40 percent do not have a high school diploma, and many live in rural areas and with limited access to transportation. Finally, some 42 percent are women and one-third are aged 41 or older.

At this time, not all states have implemented the exemption authority. Some states delayed making decisions on how to apply this provision until they had a better understanding of what requirements USDA would place on the new work slots monies made available under the Balanced Budget Act for this same population. Other states have suggested that managing and maintaining the total number of exemptions within the total allotted to the state would be too difficult.

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<sup>1</sup> Section 1001 of P.L. 105-217.

<sup>2</sup> USDA Report, "Characteristics of Childless Unemployed Adult and Legal Immigrant Food Stamp Participants: Fiscal Year 1995," February 13, 1997.

Recently, USDA has provided guidance to states on the new work funds,<sup>3</sup> as well as guidance to assist states with calculating the number of individuals who would be exempted under certain types of exemption criteria states may choose to use<sup>4</sup>. In light of this additional information, states may now be prepared to move ahead with providing exemptions to this particularly vulnerable and needy group. This paper is intended to provide a quick overview of some of the important elements of this exemption authority and various options for how states can tailor an exemption policy so it meets their needs and is relatively simple to administer. This paper is intended to serve as a companion piece to USDA's guidance to State Food Stamp Administrators.

## Highlights of the Exemption Authority

The authority to exempt men and women subject to the three-month food stamp time limit is similar in nature to the authority states have to exempt certain households from the federal TANF time limit. Based on the size of its caseload, each state has a certain number of discretionary exemptions it can provide to individuals subject to the time limit. *States have complete discretion in deciding to whom to extend the exemptions — no USDA approval is necessary.*

By establishing the exemptions, Congress recognized that a time-limit can be a blunt policy instrument causing some individuals unintended hardship. In addition, states may be better able to administer and to manage the time limit if given some discretion or "wobble room" to deal with issues that may arise locally or in certain types of cases.

There are some important and distinct characteristics about the food stamp exemption authority that are important to understand when assessing implementation options. In particular, the provision could protect many more people in the state than some may realize. In addition, USDA has avoided placing virtually any implementation barriers or requirements on states, making the provision easy to use.

- *The 15 percent Exemption Figure is a Misnomer — Many refer to the exemption authority as the "15 percent exemption authority," thinking the provision grants states the authority to exempt 15 percent of current food stamp recipients subject to the time limit who live in non-waived areas. This is an incorrect perception; the exemption is broader than that. The exemption authority gives states the authority to exempt 15 percent of those individuals subject to the time limit who would have been on the rolls were the time limit not in effect.*

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<sup>3</sup> USDA Memorandum, "Food Stamp Employment and Training (E&T) Implementation of the Provisions of the Balanced Budget Act of 1997," dated February 20, 1998, signed by Susan Gossman, Acting Deputy Administrator of the Food Stamp Program.

<sup>4</sup> USDA Memorandum, "Guidance for States on Use of Discretionary Food Stamp Program Time Limit Exemption," dated February 9, 1998, signed by Arthur T. Foley, Program Development Division Director.

The number of exemptions available in each state is calculated and provided by USDA to the states at the beginning of each federal fiscal year.<sup>5</sup> For most states, the exemption number is larger than 15 percent of those who currently are on the rolls and subject to the time limit. For example, USDA's guidance indicates if the time limit had not been in effect, an average of 11,002 individuals who meet the time-limit criteria would be receiving food stamps in an average month of FY 1998 in non-waived areas of Alabama. The state's 1,650 exemptions are based on this estimate (11,002 x 15% = 1,650). However, since the time limit *is* in effect, Alabama has many fewer than 11,002 individuals subject to the time limit participating in the program during their three-month window of eligibility. Therefore, the state is able to exempt substantially more than 15 percent of the current caseload subject to the time limit. (If, hypothetically, Alabama currently had 6,000 individuals on the rolls in non-waived areas who were subject to the time limit, it would be able to exempt 27 percent of those people with its 1,650 exemptions.)<sup>6</sup> If used, these exemptions would substantially ease the harsh impact of the three-month cut-off provision

One advantage of USDA's method of calculating the number of exemptions is that it is administratively simple for states since they do not have to keep track of how many individuals currently on the rolls are subject to the time limit. States simply develop their individual exemption policies using the exemption figure USDA has allotted them. In addition, USDA has added to the ease of administering the exemptions by issuing a single exemption number to each state for the federal fiscal year. Changes in the figure within a fiscal year would occur only if the state's caseload changed by more than 10 percent.<sup>7</sup>

- *States Face No Penalty for Exceeding their Exemption Allotment* — Some state administrators may be reluctant to grant exemptions to individuals subject to the time limit for fear of providing more exemptions than USDA has allotted to the state. They may be concerned about selecting a particular exemption criteria, such as age or level of education, out of concern that their estimates of the number of individuals who fall into this category are imprecise. Fortunately, states need

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<sup>5</sup> USDA Memorandum, "Fiscal Year 1998 (FY98) Employment and Training (E&T) Allocations and Able-Bodied Adults Without Dependents (ABAWDs) Exemptions," dated October 27, 1997, signed by Bonny O'Neil, Acting Deputy Administrator.

<sup>6</sup> There will be some unemployed childless adults participating in the food stamp program who are not subject to the time limit. For example, the disabled or those working more than 20 hours per week. When calculating the percentage of the population protected by the waivers, it is important not to include those individuals who are *not* subject to the time limit.

<sup>7</sup> It is possible that USDA would update a state's exemption figure within a fiscal year if the state makes a significant change in its waiver policy, i.e. it decided to waive a dramatically smaller or larger number of areas from the time limit. That has not yet occurred. USDA has not formally stated whether or not and when it would adjust a state's exemptions under such circumstances. The state would likely receive sufficient advance notice from USDA.

not worry about this. The sole "penalty" a state faces for exceeding its annual exemption allotment is an offsetting reduction in the subsequent year's allotment. For example, if a state's exceeds its exemption allotment by 500 exemptions, USDA simply will reduce its allotment for the following fiscal year by 500; no fiscal or QC sanctions apply and no QC errors will be established. (Similarly, the state's allotment will be *increased* in future fiscal years by the amount of exemptions it did not provide in prior years.) The number of exemptions allotted to each state, therefore, is really more of a guidepost than a ceiling or a limitation. Each state is reasonably expected to manage its exemption policy to stay within the guidepost, but is free to experiment without concern of any reprisal from USDA if it exceeds the number in a given year.

To elaborate on the point concerning quality control issues, states will *not* receive a quality control error either for providing an exemption when the state has already used its full exemption allotment, nor will it receive a quality control error if a worker provides an individual exemption to someone outside the state's exemption policy. Thus, if a state decides to exempt 45 to 49 year olds and a 42-year-old is granted an exemption, that will *not* be considered an error, since states are free to exempt whomever they want. Similarly, a state will not be considered to have committed an error if it does *not* provide an exemption to someone who meets the state's criteria for exemptions.

Finally, a state will not be looked upon as poorly managed by USDA if it exceeds its exemption authority. Clearly if a state consistently over-uses its exemptions year-in and year-out as a result of persistent, deliberate indifference to its allocation, USDA would be forced to take some form of corrective action. This situation, however, is highly unlikely and will not result from a state overshooting its exemption quota in the first year or two as it refines its exemption policies to match its exemption allotment. Even if a state overshoots its allotment by a small amount each year, it would not necessarily be cause for USDA to intervene. It would just mean that the state's subsequent year's allotment would be decreased until it went to zero at some point in the future.

- *A State's Exemption Level Should Be Thought of in Terms of An Annual Number* — Alabama was issued an FY 1998 average monthly exemption level of 1,650 individuals. Put another way, the state's annual allotment is 19,800 case months (1,650 x 12 = 19,800). The annual level is the governing number and the one against which USDA will measure a state's exemptions. The state reports the number of exempt recipients on the food stamp rolls each month, but this figure is simply deducted from the state's annual exemption level. For example, if Alabama did not begin to implement its exemption policy until midway through the year, it would be able to exempt twice the number of individuals — or 3,300 men and women each month — for the rest of the fiscal year. If it exempted an average of 1,650 individuals for the last six months of the year, it will carry forward a balance

of 9,900 exemption months into the next fiscal year (1,650 unused exemptions x 6 months = 9,900).

If a state has been exempting fewer people each month than its monthly average, it should consider changing its policies in an effort to exempt more individuals. While the state may choose not to grant all its previously unused exemption to men and women during the latter part of the year, at a minimum it could expand its exemption criteria to ensure that each month it exempts men and women equal to its monthly average. The unused exemptions could be considered a "bank" in case the expansion exempts more than the monthly average.

- *A State Cannot Provide New Exemptions Each Month Equal to the Monthly Average* — If granted an exemption, an individual may use the exemption for more than one month. Therefore, the state cannot grant *new* exemptions each month equal to its average monthly exemption number. A state doing so would quickly exceed its monthly and then annual level. For example, suppose Alabama exempted 1,650 men and women in October and all of these individuals remained on the program in November. If the state granted 1,650 new exemptions in November, it would exceed its monthly average by 100 percent in that month. A state must craft an exemption policy that factors in these caseload dynamics.

Fortunately, USDA's February 9, 1998 guidance provides states with ample assistance in calculating these kinds of dynamics. According to the guidance, USDA estimates that the average individual subject to the time limit would have remained on the program for 5.66 months — or 2.66 months longer than the time limit — were the time limit not in effect. Using USDA's estimate of an average exemption lasting 2.66 months, Alabama can provide 620 *new* exemptions each month. If it does so, it will have 1,650 exemptions in use in an average month ( $1,650/2.66 = 620$ ). The guidance provides an estimate of the number of new exemptions each state may provide each month, as well as the monthly number of new exemptions a state may provide if it chooses to limit exemptions to three or six months duration.

Because the USDA caseload dynamics information is based on a national average, it will not be perfect for each state. It may be the best available information, however, and can safely be used as a starting place for developing a state's exemption policy. Since states face no penalties for exceeding their exemption allowance, it would be reasonable for a state to implement an exemption policy this year based on the USDA guidance and then adjust the policy for the next fiscal year based on actual experience in the state. States that have not yet implemented an exemption policy or that have used a very conservative approach face even less risk of exceeding their allotment because of all their unused exemptions from the first half of this year.

The individual exemption authority provides states with an excellent opportunity to protect vulnerable individuals from the three-month food stamp time limit. The number of exemptions available to states may enable a state to assist more individuals than the state had previously thought it could help. In addition, USDA has made implementation of the provision fairly simple, with no penalties attached.

### **Formulating an Exemption Policy – Who Should the State Exempt?**

States have essentially taken two approaches toward determining to whom to provide an exemption from the time limit. Some states have opted to grant individual caseworkers the discretion to grant exemptions, while other states have elected to provide an exemption to anyone who meets certain state-developed exemption criteria such as age, level of education, etc. The latter method is preferable and is more likely to result in exemptions being utilized.

- Without specific state criteria detailing who is eligible for an exemption from the time limit and who is not, caseworkers will find it difficult to determine to whom they should grant an exemption. Identifying those 18-to-49-year olds for whom the time limits are likely to cause the most severe hardship on a case-by-case basis would require information many eligibility workers are unlikely to have. For example, it is difficult to ascertain without a careful skills assessment which recipients face the greatest barriers to employment, and even then it would be almost impossible to assess which have the best prospects of getting food assistance from family members or being taken in by friends.
- Granting exemptions on a case-by-case basis would likely lead to an uneven application of exemptions, potentially causing the policy to be inequitable and difficult for a state to manage. If one eligibility worker routinely refuses to grant exemptions to persons subject to the time limit while another endeavors to provide exemptions to persons facing hardship, food stamp recipients will not be treated equally. Such a situation may provoke the ire of state program operators and advocates who generally seek for food stamp recipients to be treated with parity. In addition, state administrators will have a difficult time budgeting for and keeping track of exemptions if they are applied unequally throughout the state with no systematic approach.

The most sensible approach would be for the state to select a set of criteria by which to exempt individuals from the time limit and apply that criteria equally throughout the state or in select areas of the state. This approach is the easiest for individual eligibility workers and the simplest for the state to manage. If the number of exemptions being granted is too low or too high relative to the exemption allotment available to the state, the state food stamp office can simply adjust the exemption criteria uniformly across the state.

It is not clear that there is one particular subgroup of the men and women subject to the time limit who are uniformly more disadvantaged across all states. States will want to select categories of individuals that face the greatest need in their state or for which the state feels it is best able to administer the exemptions. Because there are no limitations on whom a state may provide an exemption, a variety of options are available to states. They can elect to exempt categories of individuals; they can exempt individuals who live in specific areas of the state; or they can grant an extension of the time limit for one month or a specified number of months to everyone.

- *Persons who face significant barriers to employment.* All individuals subject to the food stamp time limit are poor, and many are likely to face hardship when terminated from the food stamp program. Some individuals, however, may have a relatively more difficult time coping with the loss in benefits because they face serious barriers to employment. For unskilled workers, age, lack of education, or lack of transportation can be adverse factors in finding employment quickly. The state may want to consider exempting one or more of the following groups: persons without high school diplomas; persons who lack transportation; persons in rural areas with limited numbers of jobs; or older persons. USDA's guidance provides estimates for these populations. Nebraska, for example, is exempting individuals age 46 to 49 and some individuals in rural areas without transportation.

Others for whom USDA has not provided estimates, but who may be worthwhile considering, are homeless individuals or migrant farm-workers.

- *All persons in specific geographic areas.* Some states might wish to use exemptions to supplement a waiver that covers only part of a county. States such as Washington and Illinois have found this approach attractive because it permits them to have waived areas consistent with their district office boundaries, thereby making it simpler to determine who is and is not subject to the time limit. Other states may want to exempt all time-limited individuals in certain remote counties as an alternative to operating work programs there. Through a combination of area waivers and exemptions, Illinois will ensure that no ABAWDs are cut-off from the food stamp program due to the three month time limit in 1999.
- *Granting additional months to all persons reaching the time limits.* Although this approach does not purport to target exemptions, it may be administratively attractive to states. A state could build in the additional months available under its exemption policy when it determines the length of a certification period. As noted above, USDA's guidance details how to calculate the number of time-limited extensions a state may grant and still remain within its annual exemption limit. For example, a state may be able to use its exemptions to essentially convert the 3-month time limit to a 4 or 5-month time limit. Missouri has elected to extend the time limit to 4 months by using exemptions.

- *Granting additional months to all persons that have completed a prescribed amount of job search.* Some states may feel more comfortable awarding additional months of food stamps to persons who have proven their good faith by complying with an active work requirement. Several states have expressed frustration that they are not permitted to provide job search as an allowable activity to individuals subject to the time limit and instead must provide more costly work programs. Using the exemption authority, the states provide job search and continue eligibility for those individuals who comply with that requirement.

### **Using USDA's Guidance to Estimate the Size of a Hypothetical Exemption Policy**

One step in designing an exemption policy is shaping a policy that fits within the state's exemption allotment. Not all states will readily have the capability to estimate how many 18-49 year olds subject to the time limit will meet a proposed exemption criterion. The February 9 guidance provides very useful detailed information to assist states in developing these estimates, based on 1996 food stamp quality control data. In particular, the guidance helps states translate how many new exemptions they can provide to individuals each month and still stay within their allotment.

The biggest shortcoming of the guidance is that all of the estimates are based on information regarding this population when it participated in the program prior to implementation of the time limit. Clearly, the universe has changed for this group. Most notably, there are many fewer of these individuals participating in the program than there once were. Consider USDA's Table D included in the February 9 guidance, which is entitled "Estimated Number Able Bodied Adults Without Dependents (ABAWDs) per 1,000 FSP Cases by Category." The table states that for every 1,000 food stamp participants in Alabama, approximately 35 are ABAWDs. Since this is based on 1996 data, it included individuals who had participated in the program for longer than three months. These individuals have since been removed from the rolls, so the number of ABAWDs per 1,000 participants is now much lower, perhaps as much as 70 percent lower. As a result, USDA's estimates regarding the numbers of men and women subject to the time limit who are participating in the program in the states should be viewed as gross over-estimates. At the same time, the *proportion* of ABAWDs that fall into certain categories within the total ABAWD population probably has not changed dramatically.

USDA recognizes this problem. In the guidance, it states:

"Much of the data predate the passage of welfare reform; it is likely that many participants who were ABAWD at that time have since lost their eligibility, and that the estimates generated with the data in Table D may overstate the current number of ABAWDs in an area."

In addition, as noted above, many states have not yet implemented the exemption policy or have done so in a very conservative manner, leaving them ample exemptions for this year.

These unused 1998 exemptions provide states with the perfect safety factor to experiment with an exemption policy. Moreover, even if a state finds it has exempted too many individuals under a new policy, it can address this issue fairly quickly and need not exceed its monthly exemption level for very long. This population cycles through the food stamp program quickly, enabling the state quickly to regain control of the exemption level by natural attrition in the unlikely event that too many exemptions have been granted under a new policy.

*Example Number 1 – Exempting a Category*

The table below uses the USDA data from the February 9 guidance for Oregon in this example. All other numbers used for Oregon are hypothetical.

Oregon’s Exemption Level		Number of Individuals Who Can Be Exempted Each Month If Exemptions Are:		
Average Monthly	Annual	Not Time Limited	Limited to 6 Months	Limited to 3 Months
1,319	15,828	496	640	935

Assume that based on state administrative data, Oregon knows in 1998 it has approximately 4,500 individuals subject to the time limit participating in the food stamp program and that 2,000 of these individuals live in waived areas. The average monthly participation figure of individuals subject to the time limit thus is 2,500. In this example, the state is not interested in a geographically based waiver. It prefers to exempt individuals based on their age. Using Table D of USDA’s February 9, 1998 guidance, the state estimates that 28 percent of its ABAWDs are over the age of 40 (15 ABAWDs over age 40 per 1,000 food stamp recipients/53 total ABAWDs per 1,000 food stamp recipients = 28%). Thus, 700 of the men and women subject to the time limit are estimated to be over the age of 40 (.28 x 2,500 = 700). Since 700 is greater than the 640 to whom the state could provide a three-month exemption and less than the 935 individuals to whom it could provide a six-month exemption (see table above), the state elects to grant all individuals over the age of 40 a five-month extension thinking that this will be approximately 700 individuals.

*Example Number 2 – Geographically based Exemptions*

The table below uses the USDA generated data for Illinois in this example. All other numbers used for Illinois are hypothetical.

Illinois' Exemption Quota		Number of Individuals Who Can Be Exempted Each Month If Exemptions Are:		
Average Monthly	Annual	Not Time Limited	Limited to 6 Months	Limited to 3 Months
2,922	35,064	1,098	1,418	2,072

USDA estimates that before the time limit went into effect, Illinois had 43 individuals subject to the time limit for every 1,000 food stamp participants. Assume Illinois believes this figure is closer to 13 individuals per 1,000 food stamp recipients today in non-waived areas since it hypothetically knows that more than two-thirds of those subject to the time limits have been removed from the program in the non-waived areas. This means Illinois could exempt all ABAWDs in an area that has no more than 84,000 food stamp recipients. (If there are 13 ABAWDs per 1,000 recipients, then multiplying 13 times 84 yields an estimate of the total number of ABAWDs in the area in question. Thirteen times 84 equals 1,098, the number of exemptions the chart shows Illinois can grant without placing a limit on the duration of the exemptions.) The state elects to provide exemptions to all individuals who live in the non-waived portion of a county with a partial county waiver. The total food stamp caseload in the non-waived area is about 78,000, so the state has room to provide a blanket exemption in this area. Since the part of the county that is waived is the main employment center for the whole county, the state determines that individuals living in the non-waived portion of the county will have trouble finding a job. The state also finds it simpler administratively to have the three-month provision suspended for the county as a whole.

One could devise multiple permutations of these examples. The most important component to remember is that the ABAWD caseload has changed since the time period on which the USDA data were generated. States should feel comfortable adjusting the figures to reflect more accurate state-data available to them on current ABAWD caseload levels.

## Conclusion

The new authority to exempt individuals from the food stamp time limit is an important tool that can protect these vulnerable individuals from losing food stamps unnecessarily. States may be surprised to learn how significant a proportion of individuals currently on the rolls they can protect from the three-month cut-off through this exemption authority. Moreover, the exemption authority poses few administrative burdens to states, and states face no downside risk from granting exemptions. Finally, USDA has recently issued informational guidance to make it easier for states to develop various exemption policies within their annual exemption allotment. States can avert hardship among tens of thousands of individuals nationwide by implementing this proposal.