



Food and
Nutrition
Service

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Date: March 26, 2021

Subject: Supplemental Nutrition Assistance Program (SNAP) - Final Rule:
Employment and Training Opportunities in SNAP – Questions and
Answers

To: All SNAP State Agencies
All Regions

On January 5, 2021, the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) published the final rule *Employment and Training Opportunities in the Supplemental Nutrition Assistance Program* (RIN 0584-AE68). Many of the provisions in the rule implement changes made by section 4005 of the Agriculture Improvement Act of 2018 (the Act) to the Supplemental Nutrition Assistance Program (SNAP) pertaining to the Employment and Training (E&T) program and aspects of the work requirement for able-bodied adults without dependents (ABAWDs).

The enclosed Questions and Answers provide information on the recently published rule. As many provisions of the rule are already implemented, this document focuses on provisions that are significantly impacted by the final rule-making.

State agencies with questions should contact their respective Regional Office representatives.

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Enclosure

Enclosure

Issuing Agency/Office:	FNS/SNAP
Title of Document:	Questions and Answers on the Final Rule: Employment and Training Opportunities in SNAP
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Summary:	Question and answer document to facilitate State agency implementation of the final rule: <i>Employment and Training Opportunities in SNAP</i> .
Disclaimer:	The contents of this guidance document do not have the force and effect of law and are not meant to bind the public or FNS in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Pursuant to the Congressional Review Act and Executive Order 13891, the Office of Information and Regulatory Affairs has designated this document as not major and not significant.

A. Applicability

1. When do the new requirements in the final rule take affect?

Response: Many of the provisions in the final rule are already implemented (see the [Informational Memorandum](#) from March 6, 2019); however, all the provisions in the rule are effective March 8, 2021, with the following exceptions, which are applicable October 1, 2021:

1. The new reporting elements for the fourth quarter FNS-583 Report (see section O);
2. The processes associated with provider determinations (see section Q); and
3. The new consolidated work notice and oral explanation (see section R).

State agencies should work with their Employment and Training (E&T) providers and other necessary stakeholders to be ready to implement the three above provisions at the start of FY 2022 (October 1, 2021).

B. Definition of E&T

2. Has the definition of an E&T program changed?

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Response: Yes. All E&T programs must consist of both case management and at least one E&T component. All E&T participants must receive case management and at least one E&T component.

C. Workforce Development Board Consultation and Coordination with Title I of the Workforce Innovation and Opportunity Act (WIOA)

3. How should the State agency document it has consulted with the workforce development board or employers or employer organizations, if the State agency demonstrates that would be more effective or efficient?

Response: As indicated in 7 CFR 273.7(c)(6)(xii), the State agency must document its consultation in the annual E&T State plan. If the State agency consulted with private employers or employer organizations in lieu of the State workforce development board, it must document this consultation and explain the determination that doing so was more effective or efficient. The State agency must include in its E&T State plan a description of any outcomes from the consultation with the State workforce development board or private employers or employer organizations. The Food and Nutrition Service (FNS) will provide an updated E&T State plan template prompting State agencies for this information.

4. Does the State workforce development board have veto authority over the E&T State plan or other elements of the State's SNAP E&T program?

Response: No. While FNS encourages State agencies to use the consultation with the State workforce development board to gain new workforce knowledge, identify new partners, and make applicable program improvements, the State agency is still the responsible entity for the State E&T program. The State workforce development board cannot "veto" elements of the E&T State plan or require E&T program changes.

5. How should the State document it has coordinated with Title I of WIOA?

Response: As indicated in 7 CFR 273.7(c)(6)(xii), the State agency must address in the E&T State plan the extent to which E&T activities will be carried out in coordination with the activities under Title I of WIOA.

D. Supervised Job Search

6. Can supervised job search be conducted virtually?

Response: Yes. In accordance with 7 CFR 273.7(e)(2)(i), supervised job search must occur at State-approved locations. State-approved locations include any location deemed suitable by the State agency where the participant has access to the tools and materials they need to perform supervised job search. Tools used in the supervised job search

program may include virtual tools, including, but not limited to, websites, portals, or web applications to access supervised job search services. State agencies are encouraged to offer a variety of locations and formats to best meet participant needs, and to the extent practicable, allow participants to choose their preferred location.

7. Do State agencies need to provide options for both in-person and virtual supervised job search activities?

Response: As stated in 7 CFR 273.7(e)(2)(i), in determining the State-approved locations for supervised job search, State agencies are encouraged to provide options, including virtual locations. State agencies should consider the local barriers and opportunities faced by E&T participants engaged in supervised job search and provide State-approved locations that best meet participant's needs. To the extent practicable, State agencies should allow participants to choose their State-approved location for supervised job search.

8. What kind of supervision is the State agency required to provide to participants in supervised job search?

Response: As indicated in 7 CFR 273.7(e)(2)(i), supervision must be provided by skilled staff, either remotely or in-person, who provide meaningful guidance and support with at least monthly check-ins. Supervision must be provided in such a way so as to best support the participant and can include activities like job search coaching, review of job search activities, and guidance on how to best target participant job search activities. Supervision can occur synchronously or asynchronously with respect to the participant's job search activities.

9. The rule states that supervision must be provided at least monthly by a skilled staff person. What does FNS mean by a skilled staff person?

Response: The intent of the regulation is to ensure that E&T participants in supervised job search are interacting with an individual who has the necessary knowledge and skills to guide and support the participant through a successful job search, obtain employment or better employment. FNS also notes that, as appropriate, case managers may also function as skilled staff supervising job search.

10. If an E&T participant conducts job search virtually does the State agency need to provide supervision remotely?

Response: State agencies are encouraged to craft supervised job search activities that are tailored to the needs of participants, and to the extent practicable, allow participants to choose where they participate in supervised job search. As such, State agencies should determine if supervision will happen in-person or remotely based on the needs of the participant, as well as the capacity of the State agency and providers.

11. May State agencies provide participant reimbursements for technology (e.g. Wi-Fi, laptops, tablets) for supervised job search?

Response: Yes. In accordance with 7 CFR 273.7(d)(4), State agencies must pay for or reimburse participants for expenses that are reasonably necessary and directly related to participation in the E&T program up to any State agency cap. Participant reimbursements would include any materials or tools reasonably necessary for participation in supervised job search including Wi-Fi access, laptops, and tablets.

12. May State agencies provide laptops to participants in supervised job search through a laptop loaner program?

Response: Yes. The State agency may loan laptops to participants if the participant needs such equipment in order to participate in SNAP E&T activities. In accordance with Federal cost principles, the cost must be reasonably necessary and directly related to the operation of or participation in the SNAP E&T program.

If the State agency intends to maintain a laptop loaner program for participants' use while participating in E&T services, the expenditure is considered an operational cost of the SNAP E&T program for which the State agency may use the direct 100 percent Federal E&T grant funds or 50 percent administrative funds.

13. Can a State agency put a cap on the value of electronic devices it provides as participant reimbursements?

Response: Yes. State agencies may set caps on the value of participant reimbursements that the State will reimburse. The sizes of these caps may vary by item or service. For instance, a State agency may cap the cost of a laptop at \$250 but set the cap for transportation reimbursements at \$100 a month. As with any participant reimbursement, if the amount the participant needs to participate in an E&T program exceeds the State agency cap, the State agency must exempt that individual from mandatory E&T.

14. How often must State agencies supervise participants in supervised job search?

Response: In accordance with 7 CFR 273.7(e)(2)(i), supervision in the supervised job search component must occur at least monthly and be conducted by skilled staff.

15. How should State agencies track the timing and activities of participants engaged in supervised job search?

Response: In accordance with 7 CFR 273.7(e)(2)(i), State agencies have flexibility in how they track the timing and activities of participants in supervised job search and should tailor tracking methods to the needs of participants and the capacity of the State agency and providers.

16. How does supervised job search in E&T impact ABAWDs?

Response: One way that ABAWDs can meet the ABAWD work requirement at 7 CFR 273.24 is through participation in an E&T program for at least 20 hours a week. In accordance with 7 CFR 273.7(e)(2) and 7 CFR 273.24(a)(3)(iii), supervised job search and job search training, when offered as components of an E&T program, are not qualifying activities relating to the participation requirements necessary to fulfill the ABAWD work requirement. However, job search, including supervised job search, or job search training programs/activities, when offered as part of other E&T program components, are acceptable as long as those activities comprise less than half the requirement (less than half the total required time spent in the components).

E. Eliminate job finding clubs

17. Can participants still engage in peer-learning activities?

Response: Yes. While job finding clubs are no longer an allowable activity, State agencies and their providers may still use peer-learning or peer-to-peer engagement activities to support job search.

F. Employability Assessments

18. Job skill assessments are replaced by employability assessments in the job search training component. What is the difference?

Response: Job skills assessments determine whether an individual has the skills appropriate for a specific job and may be one piece of an employability assessment. Employability assessments are broader and evaluate such things as general skills necessary for success in the labor market. Employability assessments may examine an individual's readiness for employment, assess crosscutting skills such as applied academic skills, interpersonal skills, critical thinking skills, and communication skills, as well as identify barriers to work and past work experience.

19. Are all E&T participants required to undergo an employability assessment?

Response: No. While not all E&T participants are required to undergo an employability assessment, FNS encourages employability assessments for individuals who have not undergone such an assessment in the recent past. Employability assessments can be administered as part of case management or as part of the job skills training component.

G. Work Activity

20. If an ABAWD participates in a work activity for the number of hours equal to the household SNAP benefit divided by the minimum wage, but those hours are less than 80 hours a month, should the ABAWD receive a countable month?

Response: The time spent by the members of a household collectively each month in an E&T work program (including, but not limited to E&T workfare and work experience components) combined with any hours worked that month in a workfare program under 7 CFR 273.7(m) must not exceed the number of hours equal to the household's allotment for that month divided by the higher of the applicable Federal or State minimum wage. The total hours of participation in an E&T program for any household member individually in any month, together with any hours worked in a workfare program under 7 CFR 273.7(m) and any hours worked for compensation (in cash or in kind), must not exceed 120. These limitations do not apply to voluntary E&T participants.

A work activity is part of the work experience component, thus the ABAWD's hours for the purposes of mandatory E&T must not exceed the number of hours equal to the household's benefits divided by the higher of the applicable State or Federal minimum wage. However, ABAWDs must still meet the ABAWD work requirement in accordance with 7 CFR 273.24(a)(1). If the ABAWD did not work enough hours through E&T to meet the ABAWD work requirement, the ABAWD must identify other opportunities to fulfill the ABAWD work requirement. If the ABAWD does not fulfill the ABAWD work requirement, the ABAWD must receive a countable month.

H. Apprenticeships

21. Can State agencies provide apprenticeships in E&T?

Response: Yes. Apprenticeships were already an allowable activity in E&T and the final rule codifies their placement under work-based learning at 7 CFR 273.7(e)(2)(iv)(A)(2). Any State agency looking to offer apprenticeships in their E&T program, must receive approval in the E&T State plan.

Apprenticeships are a specific type of work-based learning authorized by the National Apprenticeship Act, which is administered by the U.S. Department of Labor (DOL) Employment and Training Administration. FNS strongly encourages apprenticeship programs using SNAP E&T funds to comply with CFR Title 29, Parts 29 and 30. Additional information about apprenticeships and an apprenticeship toolkit can be found on DOL's website (<https://www.dol.gov/apprenticeship/index.htm>).

I. Subsidized Employment

22. Can State agencies offer subsidized employment?

Response: Yes. Subsidized employment is an allowable activity under 7 CFR 273.7(e)(2)(iv)(A)(2). Any State agency looking to offer subsidized employment in their E&T program, must receive approval in the E&T State plan. State agencies choosing to use SNAP E&T funds for subsidized employment in FY 2021 must submit and receive approval from FNS of an E&T State plan amendment.

23. How will subsidized employment income affect SNAP eligibility?

Response: For purposes of SNAP eligibility and benefit determination, income from subsidized employment is subject to the same considerations as income from other sources in accordance with 7 CFR 273.9. FNS is not aware of any existing laws that would allow income from subsidized employment to be excluded when determining eligibility for SNAP.

24. What kinds of subsidized employment programs are allowable?

Response: Subsidized employment programs must have training objectives. Thus, SNAP E&T funded subsidized employment programs must be designed to improve participants' skills, increase their employability, and lead to regular employment that ultimately reduces the need for food assistance.

The work experience regulations at 7 CFR 273.7(e)(2)(iv) divide work experience into two categories: work activity and work-based learning. Subsidized employment is an allowable activity under work-based learning. As such, subsidized employment activities must comply with the requirements of both work experience and work-based learning.

All work experience activities must be designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. Work experience is a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate, and consistent with other laws such as the Fair Labor Standards Act (FLSA). Work experience may be arranged within the private for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience setting where an employee/employer relationship, as defined by the FLSA, exists.

A work experience program must not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program. A work experience program must provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

All work-based learning activities must be sustained interactions with industry or community professionals in real world settings to the extent practicable, or simulated environments at an educational institution that foster in-depth, firsthand engagement with the tasks required in a given career field, that are aligned to curriculum and instruction.

Work-based learning emphasizes employer engagement, including specific training objectives, and leads to regular employment. Work-based learning can include internships, pre-apprenticeships, apprenticeships, customized training, transitional jobs, incumbent worker training, and on-the-job training as defined under WIOA. Work-based learning can include both subsidized and unsubsidized employment models. Any State agency planning to implement subsidized employment activities must receive approval in the E&T State plan.

J. Job Retention Services - 30 Day Minimum

25. Are State agencies now required to offer job retention services?

Response: No. State agencies have flexibility regarding which E&T components to offer. However, if a State agency chooses to offer job retention services, the State agency must provide participants with job retention services for at least 30 days and no more than 90 days in accordance with 7 CFR 273.7(e)(2)(viii).

26. In some cases, participants may begin job retention services, but drop out after a few days or a couple of weeks. How must the State agency demonstrate that they have offered at least 30 days of job retention services?

Response: FNS expects State agencies to make a good faith effort to provide at least 30 days of job retention services to participants enrolled in the job retention component. State agencies and their providers can demonstrate a good faith effort in a number of ways including, making a reasonable number of attempts to contact a participant, discussing the 30 day minimum requirement with the participant at the outset, or outlining specific steps the provider or the participant will take over the next 30 days to maintain a job. As a best practice, State agencies should document that a reasonable effort was made for each job retention participant.

K. E&T Pilot Activities

27. When will State agencies know what E&T pilot activities have been approved as new E&T activities?

Response: The Act provided the Secretary with discretion to allow programs and activities from the E&T pilots authorized under the Agricultural Act of 2014 (Pub. L. 113-79) (2014 Farm Bill) as regular E&T components. The Act specified that this

determination must be based on the results from the independent evaluation of the 2014 Farm Bill E&T pilots, showing which programs and activities had the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance. The completed evaluation of the pilots is expected in late 2021, after which the Secretary will make a determination and notify States about which, if any, activities will become new E&T components.

L. Case Management

28. What types of services can be included in case management?

Response: In accordance with 7 CFR 273.7(e)(1), the purpose of case management services is to guide a participant towards appropriate E&T components and activities based on the participant's needs and interests, support the participant in the E&T program, and provide activities and resources that help the participant achieve program goals. Case management services and activities must directly support an individual's participation in the E&T program. Case management services can include, but are not limited to, comprehensive intake assessments, individualized service plans, progress monitoring, or coordination with service providers. Case management may include referrals to activities and supports outside of the E&T program, but State agencies can only use E&T funds for allowable components, activities, and participant reimbursements.

For instance, a case manager may conduct an employability assessment and determine an individual likely struggles with substance use disorder. The case manager can identify helpful resources in the community and refer the individual to substance use disorder services as part of E&T case management, but State agencies cannot use E&T funds to pay for substance use disorder services, as substance use disorder services are not an allowable activity in the E&T program.

29. Can the time spent in case management count toward mandatory E&T requirement or ABAWD work requirement?

Response: Yes. Case management is part of the E&T program. Thus, the time a participant spends engaged in case management does count towards the mandatory E&T requirement and the ABAWD work requirement, as applicable. However, as explained in the question immediately above, for the time spent in case management to count as part of the E&T requirement, it must be limited to allowable E&T activities. For instance, if a case manager determines an individual could benefit from a parenting skills class, the case manager can identify resources in the community and refer the individual to parenting skills classes as part of E&T case management. However, the time an individual spends attending parenting skills classes is not an allowable E&T activity, and thus cannot count toward the mandatory E&T or ABAWD work requirements.

30. Can case management services be delivered remotely or virtually?

Response: State agencies have flexibility to provide case management services in the mode that best meets the needs of the participant and is in line with the capacity of the State agency or provider. This flexibility includes offering case management services remotely and delivering services through virtual tools like web applications, as well as in-person services.

31. Is a State agency required to pay for or reimburse participants for expenses associated with participating in case management?

Response: Case management is part of the E&T program. State agencies must pay for or reimburse participants for expenses that are necessary, reasonable, and directly related to participation in the E&T program, including participation in case management, up to any State imposed cap in accordance with 7 CFR 273.7(d)(4). If a State agency is unable to provide a participant with participant reimbursements, in the case of mandatory E&T, the State agency must exempt the individual from the requirement to participate in E&T.

32. How often must the State agency engage with an E&T participant through case management?

Response: In accordance with 7 CFR 273.7(e)(1), State agencies must provide all E&T participants with case management services. State agencies have flexibility regarding how often participants receive services. The purpose of case management services is to support the E&T participant in the completion of the E&T component; not to be an impediment to participation. As such, State agencies should be mindful of not creating inefficient processes, onerous expectations, and unnecessary meetings. FNS encourages State agencies to tailor the frequency of case management services to the needs of the participant, and to engage with the participant regarding the timing and frequency of case management meetings.

33. Can a mandatory participant be disqualified for failure to participate in case management?

Response: Yes. Case management is part of the E&T program. As a result, for a mandatory E&T participant, failure to participate in case management can result in a determination of failure to comply with the requirement to participate in E&T and lead to ineligibility for SNAP. As a reminder, in accordance with 7 CFR 273.7(c)(3), State agencies must first determine that non-compliance was without good cause before sending the notice of adverse action.

34. Does the State agency have discretion to determine if an individual has failed to comply with the requirement to participate in E&T, if the participant does not participate in case management?

Response: If an individual is required to participate in E&T, the individual must participate in case management. In addition, State agencies, in accordance with 7 CFR 273.7(a)(3), determine the procedures for establishing compliance with the work requirements and whether an individual is complying. As such, FNS encourages State agencies to use their flexibility to ensure case management services are tailored to the needs of the participant and to ensure that the case management services provided are necessary and supportive of the individual's progress through a component. For instance, if an E&T participant does not participate in a case management meeting and expresses a lack of interest in ongoing case management, but the individual is otherwise progressing through the E&T component, the State agency or the provider should consider suspending further case management meetings rather than determining the individual is ineligible for failure to comply.

35. What other responsibilities do case managers have?

Response: In accordance with 7 CFR 273.7(e)(1), case managers must inform the appropriate State agency staff if they believe an E&T participant likely has good cause or meets an exemption related to an E&T work requirement. The appropriate State agency staff must then make the determination regarding good cause or exemptions.

36. What information about case management must the State agency provide in the E&T State plan?

Response: In accordance with 7 CFR 273.7(c)(6)(ii), the E&T State plan must include:

- A description of the case management services and models;
- How participants will be referred to case management;
- How the participant's case will be managed;
- Who will provide case management services;
- How the service providers will coordinate with E&T providers, the State agency, and other community resources, as appropriate; and
- How the State agency will ensure E&T participants are provided with targeted case management services through an efficient administrative process.

M. Good Cause

37. What should a State agency do if there is not an appropriate and available opening in an E&T program?

Response: In accordance with 7 CFR 273.7(i)(4), if the State agency determines there is not an appropriate and available opening in an E&T program, the State agency must provide good cause to the mandatory E&T participant. If an E&T case manager determines there is not an appropriate and available opening, the case manager must inform the appropriate State agency staff who can then determine if the participant has good cause.

38. When does good cause end for a participant who received good cause because of a lack of an appropriate and available slot in E&T?

Response: In accordance with 7 CFR 273.7(i)(4), good cause for a lack of an appropriate or available opening in an E&T program ends when the State agency identifies an appropriate and available opening and informs the participant.

39. Must an ABAWD who received good cause for failure to comply with mandatory E&T also receive good cause for failure to meet the ABAWD work requirement?

Response: In most cases, yes. In accordance with 7 CFR 273.24(b)(2), an ABAWD who receives good cause for failure to comply with the mandatory E&T requirement, must also receive good cause for failure to comply with the ABAWD work requirement, with one exception. An ABAWD may receive good cause for a lack of an appropriate and available opening in E&T for the mandatory E&T requirement, but this form of good cause does not extend to the ABAWD work requirement. This is because the ABAWD has other ways to meet the ABAWD work requirement outside of E&T. It is expected the ABAWD will seek out other opportunities even if there is not an appropriate and available opening in E&T. State agencies that receive additional allocations to serve every at-risk ABAWD (Pledge States) must still offer a slot in a qualifying component in order to permit ABAWDs to remain eligible beyond the three-month limit.

40. Can ABAWDs participating in other work programs or workfare receive good cause for failing to comply with the ABAWD work requirement?

Response: Yes. In accordance with 7 CFR 273.24(b)(2), an ABAWD who would have fulfilled the work requirement through working (paid or unpaid), participating in a work program, a combination of working and participating in a work program, or through a workfare program, but missed some hours for good cause, would be considered to have fulfilled the work requirement if the absence from work, the work program, or the workfare program is temporary. Good cause includes circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

N. Workforce Partnerships

41. Are workforce partnerships part of the E&T program?

Response: No. Workforce partnerships are not an E&T component and are not part of the E&T program. Workforce partnerships, as described in 7 CFR 273.7(n), are a particular opportunity available to State agencies to provide skills and training to SNAP recipients, and may provide one additional way for SNAP recipients to meet their work requirement (i.e. mandatory E&T or the ABAWD work requirement).

42. Can E&T funds be used to support workforce partnerships?

Response: No. The Act explicitly prohibits any Food and Nutrition Act of 2008 funding (including SNAP E&T funds) from being used for workforce partnerships. As a result, FNS added this restriction to the regulations at 7 CFR 273.7(n)(4)(iii) and 7 CFR 273.7(n)(6).

43. Can participation in a workforce partnership count for the mandatory E&T requirement or the ABAWD work requirement?

Response: Yes. The Act added workforce partnerships to the list of work programs through which an ABAWD may fulfill the ABAWD work requirement, and workforce partnerships may be a way for mandatory E&T participants to meet their E&T requirement. FNS codified this element at 7 CFR 273.7(n)(6)(i) and 7 CFR 273.7(n)(8).

However, while workforce partnerships can meet these work requirements, participation in a workforce partnership must be voluntary. That is, State agencies can inform SNAP participants about the availability of workforce partnerships but cannot require SNAP participants to participate in a workforce partnership. State agencies must also provide robust information to potential participants in a workforce partnership in accordance with 7 CFR 273.7(n)(10), so that individuals can make an informed choice about participation in a workforce partnership.

44. What are the certification requirements for a workforce partnership?

Response: The Act established specific requirements for certification of workforce partnerships and FNS included these requirements at 7 CFR 273.7(n)(4). The Department encourages any State agency interested in certifying a workforce partnership to reach out to the Department for technical assistance on specific questions regarding the certification requirements.

45. What does the State agency have to tell SNAP participants about workforce partnerships?

Response: State agencies must maintain a list of workforce partnerships. State agencies must also inform any SNAP participant whom the State agency has determined is likely to benefit from participation in a workforce partnership of the availability of workforce partnerships and provide the participant with all available pertinent information regarding the workforce partnership. As participation in a workforce partnership must be voluntary, this information is to enable the participant to make an informed choice about participation. This information must include, if available:

- Contact information for the workforce partnership;
- The types of activities the participant would be engaged in through the workforce partnership;
- Screening criteria used by the workforce partnership to select individuals;

- The location of the workforce partnership;
- The work schedule or schedules;
- Any special skills required to participate; and
- Wage and benefit information, if applicable.

46. Do States agencies have to develop and implement workforce partnerships?

Response: No. State agencies may develop and implement workforce partnerships in accordance with 7 CFR 273.7(n), but there is no requirement that States must have workforce partnerships.

O. Reporting

47. What are the new reporting elements in the FNS-583?

Response: In accordance with 7 CFR 273.7(c)(11)(iii) and (iv), in addition to the current reporting elements in the SNAP E&T Program Activity Report (FNS-583), each State agency must report on the fourth quarter FNS-583 the following new data elements: the number of SNAP applicants and participants required to participate in E&T by the State agency, and of those the number who begin participation in an E&T program and the number who begin participation in an E&T component. In addition, the State agency must report the number of mandatory E&T participants who were determined ineligible for failure to comply with E&T requirements.

48. When must State agencies start reporting the new data elements on the FNS-583?

Response: FNS will add four reporting elements to the fourth quarter FNS-583 form, which State agencies must submit by November 15th (see provisions in 7 CFR 273.7(c)(11)(iii) and (iv)). The new data elements must be collected starting in FY 2022, beginning October 1, 2021. This means that new data elements will be reported in the FY 22 fourth quarter FNS-583 report due to FNS by November 15, 2022.

49. What is the difference between the number of individuals who started an E&T component and the number of individuals who started an E&T program?

Response: An E&T participant begins to participate in an E&T program when the participant commences at least one part of an E&T program including an orientation, assessment, case management, or a component. An E&T participant begins to participate in an E&T component when the participant commences the first activity in the E&T component.

50. Do the new requirements at 7 CFR 273.7(c)(11)(iii) and (iv) apply to voluntary participants?

Response: No. Reporting elements outlined in paragraphs 7 CFR 273.7(c)(11)(iii) and (iv) only apply to mandatory E&T participants.

P. E&T Reallocated 100 Percent Funding

51. What are the new prioritized areas for reallocated 100 percent funds?

Response: In accordance with changes made by the Act, unobligated or unexpended 100 percent funds will be reallocated according to the following formula:

- Not less than 50 percent shall be reallocated to State agencies requesting funding to conduct employment and training programs and activities for which the State agency had previously received funding under the pilots authorized by the Agricultural Act of 2014 (Pub. L. 113-79) that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance.
- Not less than 30 percent shall be reallocated to State agencies requesting funding for E&T programs and activities that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance, including activities targeted to highly-barriered populations.
- Any remaining funds shall be reallocated to State agencies requesting such funds for E&T programs and activities that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance.

52. When must a State agency request reallocated funds?

Response: In accordance with 7 CFR 273.7(c)(6)(xix), State agencies requesting additional funds must submit those requests when their E&T State Plan is submitted for the upcoming Federal fiscal year. E&T State Plans are due to FNS on August 15th.

53. What information must the State agency submit with its request?

Response: As a best practice, the Department has always encouraged State agencies to consider during the development of their annual E&T State Plan their need for additional funds. The addition of a new paragraph at 7 CFR 273.7(c)(6)(xix) formalizes this best practice. In addition, paragraph 7 CFR 273.7(c)(6)(xix) makes explicit that, while requests for additional funds are included with the annual E&T State Plan, the request for additional funds must include a budget and narrative, separate from the general budget for the upcoming fiscal year, which explains how the State agency intends to use the reallocated funds.

State agencies submitting a request should include the following:

- The specific amount requested;

- Indicate if the request is to conduct E&T programs and activities authorized as part of the requesting State's 2014 Farm Bill pilot;
- Indicate if the request is to target a highly-barriered population and state the targeted population including any specific characteristic of the individuals to be targeted, such as disabled veterans;
- A detailed plan for the use of the additional funds that includes:
 - New or existing services or initiatives the funds will support;
 - Cost of these services;
 - Partners involved;
 - The location where the services will be provided;
 - Specific components or activities that will be provided and the estimated number of participants to be served in each component;
 - How the proposed plan enhances existing services or builds new opportunities for participants to gain access to employment and training services;
 - Information the State agency has on how the use of additional funds will support E&T programs and activities that have a demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance; and
 - Any other useful details to better explain the proposed plan for the use of the additional funds.

54. How will FNS approve or deny requests for reallocated funds?

Response: Approval or denial of the request for additional funds will occur separately from the E&T State Plan approval or denial. 7 CFR 273.7(d)(1)(iii)(E) adds that FNS will determine the total amount of funds available for reallocation, in accordance with the prioritized reallocation provisions, after State agencies have submitted fourth quarter expenditure reports. When determining which State agencies will receive reallocated funds, FNS will consider various factors such as, but not limited to: the size of the request relative to the level of the State agency's E&T spending in prior years; the specificity of the State agency's plan for spending the reallocated funds; and the quality of the program and scope of impact for the State's E&T program.

55. When will FNS approve or deny requests for additional funds?

Response: Consideration for awarding re-allocated funds generally occurs in January. FNS will award re-allocated funds with sufficient time to allow State agencies at least 270 days to fully expend those funds.

Q. Provider Determinations

56. What is a provider determination?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(A), a provider determination is a determination by an E&T provider that an E&T participant is not a good fit (i.e. ill-suited) for a particular E&T component.

57. Who makes a provider determination?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(A), E&T providers have the authority and responsibility to make provider determinations.

58. For what period of time may a provider make a provider determination?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(A), the E&T provider may make a provider determination from the time a participant is referred to the component until completion of the component.

59. What criteria must be used to determine if an E&T participant qualifies for a provider determination?

Response: E&T providers know best the skills and qualifications that will likely enable an individual to be successful in their programs. As such, providers have flexibility to establish the criteria used to make a provider determination. The provider may use any information available to the provider to make the determination.

FNS encourages State agencies to work with providers to understand the skills and qualifications needed for E&T participants to be successful in the E&T components, and to thoroughly screen individuals prior to referral, in order to reduce the number of participants referred by the State agency to components where they are not likely to be successful. FNS also reminds State agencies of their oversight authority to ensure E&T providers are not making unfair provider determinations or using provider determinations to discriminate against protected classes.

60. What information must the provider give to the State agency regarding a provider determination?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(A), within 10 days of making the provider determination, the provider must inform the State agency and provide the reason for the provider determination. The provider may also provide input to the State agency on the most appropriate next step. If the provider is unable to provide the reason for the provider determination, the State agency should process the provider determination without the reason.

61. If an E&T provider determines that an E&T participant is not a good fit for the component the individual is referred to, but would be a good fit for another component offered by the provider, can the provider just move the participant to the new component?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(A), at State agency option, a provider can move an E&T participant from the initial component to another component where the individual is likely better suited without the State agency needing to act on the provider determination. In these instances, the provider must inform the State agency of the participant's enrollment in a new component.

62. What information must the State agency provide to an individual with a provider determination? When must the State agency provide that information?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(A), the State agency must notify a mandatory or voluntary E&T participant with a provider determination within 10 days of receiving notification from the E&T provider. The State agency must explain, as applicable, what a provider determination is, the next steps the State agency will take as a result of the provider determination, and contact information for the State agency.

In the case of either a mandatory or voluntary E&T participant with a provider determination, the State agency must also notify the individual that they are not being sanctioned as a result of the provider determination.

In the case of an ABAWD who has received a provider determination, the State agency must also notify the ABAWD about the accrual of countable months. In particular, the State must notify the ABAWD that ABAWDs will accrue countable months toward their three-month participation time limit the next full benefit month after the month during which the State agency notifies the ABAWD of the provider determination, unless the ABAWD fulfills the work requirements in accordance with 7 CFR 273.24, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt.

The State agency may make such notification either verbally or in writing, but must, at a minimum, document when the notification occurs in the participant's case file.

63. What next step must the State agency take for an individual with a provider determination?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(B), no later than the date of the individual's recertification, the State agency must take the most suitable action from among the following four options:

1. Refer the individual to an appropriate E&T program component;
2. Refer the individual to an appropriate workforce partnership;
3. Re-assess the participant's physical and mental fitness; or
4. Coordinate, to the maximum extent practicable, with other Federal, State, or local workforce or assistance programs to identify work opportunities or assistance for the individual.

64. Does a State agency need to reassess everyone who receives a provider determination for an exemption?

Response: The State agency must perform a reassessment if it chooses option 1 or option 3, as referenced in question 63. If the State agency chooses option 3, to reassess the physical and mental fitness of the individual with a provider determination, the State agency may also at this time screen the individual for any other exemptions from the work requirement in accordance with 7 CFR 273.7(b) and 7 CFR 273.24(c), including any exemptions from mandatory E&T. The State agency may then decide to refer the individual to one of the other listed options, if appropriate. If it is found that an individual is exempt from work registration or does not meet State criteria for mandatory E&T, the State must exempt the individual from mandatory E&T.

If the State agency chooses option 1, to refer to an E&T component, the State agency must screen the individual for participation in the E&T program and determine that it is appropriate to refer the individual to an E&T component, considering the suitability of the individual for any available E&T components, before making the referral.

In addition, please note that if the State agency chooses option 4, to coordinate with other Federal, State, or local workforce or assistance programs, the State agency must exempt the individual from mandatory E&T.

65. Are provider determinations the same thing as an exemption from the general work requirement or an exemption from mandatory E&T?

Response: No. Provider determinations are made by E&T providers based on criteria specific to that E&T provider about whether or not an E&T participant is a good fit for a particular E&T component. Providers may share a reason for the provider determination with the State agency and suggest a next step for the individual, and the State agency may use that information in determining which of the four actions, discussed above in question 63, the State agency will take with the individual. As discussed in question 64, State agencies may also reassess an individual with a provider determination to determine if the individual should be exempt from the general work requirement or from mandatory E&T. Only State eligibility staff have the ability to exempt an individual from a SNAP work requirement.

66. If a State agency decides that the best option for an individual with a provider determination is to coordinate with other Federal, State, or local workforce agencies, what must the State agency do to implement that option?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(B)(4), the State agency must coordinate with these other programs and make the appropriate referral. Any individual who receives this option must be exempted from mandatory E&T.

67. Who in the State agency is allowed to take one of the four actions at 7 CFR 273.7(c)(18)(i)(B)?

Response: Eligibility workers are required to take one of the four options at 7 CFR 273.7(c)(18)(i)(B). Eligibility workers have this responsibility because only eligibility

workers may screen participants for participation in E&T and make a referral to E&T, if appropriate, in accordance with 7 CFR 273.7(c)(2) and 7 CFR 273.7(d)(1)(ii)(A). In other words, only eligibility workers are capable of taking all four options. The Department therefore did not find it logistically or administratively feasible to split the decision-making authority at 7 CFR 273.7(c)(18)(i)(B) between eligibility and non-eligibility staff. Eligibility workers, however, may consult with the E&T provider and the participant's case manager for additional information that would assist in making the most suitable choice.

68. What is an eligibility worker?

Response: Eligibility staff refers to the workers who make eligibility determinations for SNAP benefits (including determining exemptions from the work requirements and referring individuals to E&T) as specified in section 11(e)(6) of the Food and Nutrition Act of 2008. This is different from State E&T staff, who evaluate participants' suitability for certain E&T activities and otherwise coordinate activities within the E&T program.

69. When must the State agency take one of the four actions at 7 CFR 273.7(c)(18)(i)(B)?

Response: In accordance with 7 CFR 273.7(c)(18)(i)(B), the State agency must take one of the four actions no later than the participant's next recertification. However, if a participant requests that the State agency take one of the actions sooner, the State agency should take one of the actions as soon as possible.

70. If a mandatory E&T participant receives a provider determination, how does that affect the requirement to participate in E&T?

Response: In accordance with 7 CFR 273.7(c)(18)(ii), from the time an E&T provider determines an individual is ill-suited for an E&T component until after the State agency takes one of the four actions in 7 CFR 273.7(c)(18)(i)(B), the individual shall not be found to have refused without good cause to participate in mandatory E&T.

71. If an ABAWD receives a provider determination, how does that affect the ABAWD work requirement?

Response: In accordance with 7 CFR 273.7(c)(18)(ii) and 7 CFR 273.24(b)(1)(v), ABAWDs who receive a provider determination and are subject to the ABAWD time limit in 7 CFR 273.24 will accrue countable months toward their three-month participation time limit the next full benefit month after the month during which the State agency notifies the ABAWD of the provider determination, unless the ABAWD fulfills the work requirements in accordance with 7 CFR 273.24, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt.

For instance, if an ABAWD is notified by the State agency on February 1 that the ABAWD has a provider determination, the ABAWD will accrue a countable month in

March unless the ABAWD fulfills the work requirements in accordance with 7 CFR 273.24, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt. February would not be a countable month.

72. Do the new processes associated with receiving a provider determination apply to voluntary E&T participants?

Response: Yes. The processes associated with receiving a provider determination apply to both voluntary and mandatory E&T participants.

R. Consolidated Work Notice and Oral Explanation

73. What is the new consolidated work notice and oral explanation?

Response: In order to improve communication with SNAP participants subject to a work requirement, the final rule at 7 CFR 273.7(c)(1)(i) and (ii) instituted a new requirement to provide a consolidated work notice and oral explanation to all households where at least one member is subject to a work requirement describing the pertinent work requirements. For the purposes of this notice, the work requirements are the general work requirement, mandatory E&T, and the ABAWD work requirement.

74. What information must be conveyed in the notice?

Response: In accordance with 7 CFR 273.7(c)(1)(iii), the consolidated written notice must include all pertinent information related to each of the applicable work requirements, including:

- An explanation of each applicable work requirement;
- Which individuals are subject to which work requirement;
- Exemptions from each applicable work requirement;
- An explanation of the process to request an exemption (including contact information to request an exemption);
- The rights and responsibilities of each applicable work requirement;
- What is required to maintain eligibility under each applicable work requirement;
- Pertinent dates by which an individual must take any actions to remain in compliance with each applicable work requirement;
- The consequences for failure to comply with each applicable work requirement;
- An explanation of the process for requesting good cause (including examples of good cause circumstances and contact information to initiate a good cause request); and
- Any other information the State agency believes would assist the household members with compliance.

If an individual is subject to mandatory E&T, the written notice must also explain the individual's right to receive participant reimbursements for allowable expenses related to participation in E&T, up to any applicable State cap, and the responsibility of the State

agency to exempt the individual from the requirement to participate in E&T if the individual's allowable expenses exceed what the State agency will reimburse.

75. What information must be provided in the oral explanation?

Response: In addition to the consolidated written notice, the State agency must provide a comprehensive oral explanation to the household of each applicable work requirement pertaining to individuals in the household.

76. When must the State agency send the notice and oral explanation?

Response: In accordance with 7 CFR 273.7(c)(1)(ii), the written notice and oral explanation must be provided to the household during the certification process, when a previously exempt household member or new household member becomes subject to these work requirements, and at recertification.

77. By what date must State agencies be ready to implement the requirement to send a consolidated written notice and provide an oral explanation?

Response: State agencies must implement the new requirement by October 1, 2021.

78. What technical assistance is available to help State agencies develop the notice?

Response: FNS is working to create a model consolidated work notice for State agency use. The model notice should be available later in 2021.