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POLICY TRANSMITTAL NO. 04-27	DATE: MAY 27, 2004
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-5-64.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

**SUMMARY:** The purpose of the proposed rule is to comply with the provisions of a Food Stamp Program waiver that is effective June 1, 2004. The United States Department of Agriculture (USDA) has approved a waiver allowing certain Oklahoma counties with an unemployment rate at least 20% above the national average to not require certain clients to meet the work requirements.

340:50-5-64 is revised to exempt clients in 19 counties from having to meet the work requirement.

Original signed on 4-27-04

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Mary Stalnaker, Director  
Family Support Services Division

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Marilynn Knott, Administrator  
Office of Planning, Policy & Research

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WF # 04-07 (NAP)

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## **INSTRUCTIONS FOR FILING MANUAL MATERIAL**

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

### **REMOVE**

340:50-5-64

### **INSERT**

340:50-5-64, pages 1-4, revised 6-1-04

## PART 7. RELATED PROVISIONS

### 340:50-5-64. Work requirements

(a) **Able-bodied adults without dependents (ABAWDs).** ABAWDs who are members of eligible food stamp households must be exempt from or comply with work requirements to be eligible to participate as a member of any food stamp household for longer than three months, consecutive or otherwise, during any 36-month period. It is the worker's responsibility to explain to the applicant the household member's work requirements and responsibility. At each application the worker must establish that each household member:

(1) is working continuously 20 hours or more per week averaged monthly;

(2) participates in and complies with:

(A) Workforce Investment Act (WIA) Program assignment;

(B) Trade Adjustment Assistance Act Program assignment; or

(C) Employment and Training, not including Job Search; or

(3) is exempt from the work requirements listed in (b) of this Section.

(b) **Exemptions from the work requirements.** An individual is exempt from the work requirement provision of the Food Stamp Program if the individual is:

(1) younger than 18 or older than 50 years of age;

(2) medically certified as physically or mentally unfit for employment.

(A) Persons who are physically or mentally incapable of gainful employment either on a permanent or temporary basis or participating in federal or state programs based on disability are considered exempt. ■ 1

(B) Persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate the medical exemption. ■ 2

(C) Persons claiming temporary exemption are required to comply when they are released by their medically qualified source to return to work;

- (3) a parent or other member of a household with responsibility for care of a dependent child younger than 18 years or an incapacitated person of any age; ■ 3
- (4) pregnant;
- (5) receiving or has applied for unemployment insurance benefits; ■ 4
- (6) a regular participant receiving treatment for drug or alcohol addiction in a rehabilitative program on a resident or non-resident basis; ■ 5
- (7) an eligible student enrolled at least half-time in any recognized school, training program, or institution of higher education; ■ 6
- (8) a household member registered for or participating in the Temporary Assistance for Needy Families (TANF) Work;
- (9) employed a minimum of 30 hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended, multiplied by 30 hours; or ■ 7
- (10) a resident living in a county approved for exemption of the work requirements by the United States Department of Agriculture (USDA). ■ 8

(c) **Participation without time limits.** Food Stamp participation without time limits applies to an individual who:

- (1) is exempt;
- (2) works continuously 20 hours or more per week, averaged monthly; or ■ 9
- (3) participates in and complies with:
  - (A) WIA Program assignment;
  - (B) Trade Adjustment Assistance Act Program assignment; or
  - (C) Employment and Training, not including Job Search.

(d) **Participation with time limits.** Individuals who are not exempt or fail to comply with work participation requirements are eligible for only three months, consecutive or otherwise, during any 36-month period. Once the three-month eligibility limit has been

reached, eligibility can be regained for at least an additional three consecutive months if the individual: ■ 10

(1) works 80 hours or more in any 30-day period; or ■ 11

(2) participates for 80 hours or more in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance Act Program assignment; or

(C) Employment and Training, not including Job Search.

(e) **Individuals who regain eligibility.** An individual can regain eligibility only one time for an additional three consecutive months during the 36-month period by meeting the requirements of (1) or (2) of subsection (d). An individual who regains eligibility maintains eligibility by complying with the requirements of subsection (c). If eligibility is subsequently lost, the individual may receive food stamp benefits only if one of the exemptions listed in subsection (b) is met or the 36-month period has expired. ■ 12

### **INSTRUCTIONS TO STAFF**

**1. Examples of federal and state programs based on disability are:**

**(1) Vocational Rehabilitation;**

**(2) Veterans Administration disability compensation;**

**(3) Social Security disability benefits; and**

**(4) Supplemental Security Income (SSI).**

**2. A doctor's statement giving a diagnosis is best, but if the client is unable to obtain a doctor's statement, a statement from another qualified source is sufficient.**

**(1) Other medically qualified sources include, but are not limited to: therapists, counselors, and medical social workers.**

**(2) The statement does not need to state the person cannot work, but does need to give information indicating a physical or mental problem that may limit the individual's ability to work.**

3. More than one household member may be exempt as caretaker for the same person, as long as they share caretaker responsibility.
4. This exemption includes individuals who are involved in the unemployment insurance benefits (UIB) appeals process.
5. Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings qualify if they are a part of the treatment plan.
6. See OAC 340:50-5-45 to determine student eligibility.
7. An individual working 30 or more hours per week automatically qualifies as exempt regardless of the amount earned or how the individual is paid, such as work performed in exchange for rent or other goods and services. How much an individual earns is relevant in determining exempt status only when the employed or self-employed person works less than 30 hours per week. An individual who works less than 30 hours per week must earn weekly wages at least equal to the federal minimum wage times 30 hours in order to qualify as exempt. Volunteer work or court-ordered community service is not considered.
8. Effective June 1, 2004, the United States Department of Agriculture (USDA), has exempted these counties from the work requirement: Adair, Atoka, Choctaw, Coal, Haskell, Hughes, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Nowata, Okfuskee, Okmulgee, Ottawa, Pittsburg, Pushmataha, Seminole, and Woods.
9. The individual may receive in-kind income or cash earnings for the work, but there must be actual work performed. Volunteer work or court-ordered community service is not considered.
10. The 36-month period begins with the first month benefits are received and the individual is not meeting the work requirement or not considered exempt.
11. Eligibility can be regained only after the individual has received the initial three months of benefits without being exempt or meeting the work requirement.
12. The additional three months must be consecutive. If the individual receives less than three months, they are not entitled to receive the additional month(s) at a later date.