

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES
DIVISION

CHAPTER 684.1

FOOD STAMP WORK REQUIREMENTS

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-684.1-1 Purpose. The purpose of this chapter is to establish the requirements for work registration, participation of food stamp applicants and recipients in the food stamp employment and training (E&T) program and the sanctions for failure or refusal to participate. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-2 Definitions. For the purposes of this chapter:

"Able-bodied adult without dependents" or "ABAWD" means an adult age eighteen through forty-nine who is both physically and mentally fit to work and who does not have minor dependents living in the household.

"Covered individuals" means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph 2 of the Food Stamp Act of 1997, 7 U.S.C. §2015 (FSA), who:

- (1) Is not exempt from the work requirements under paragraph 3 of the FSA;
- (2) Does not reside in an area covered by a waiver granted under paragraph 4 of the FSA;
- (3) Is not fulfilling the work requirements of paragraph 2 of the FSA by working 20 hours a week averaged monthly, participating and complying with the requirements of a work program for 20 hours or more per week, participating in and complying with the requirements of a program under section 20 or a comparative program established by a State or political subdivision of a State;
- (4) Is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph 2 of the FSA; and
- (5) Is not receiving food stamp benefits under paragraph 5 of the FSA.

"Department designee" means a public or private agency with whom the department of human services has entered into a formal written agreement to perform employment and training activities as outlined in the agreement for a set period of time for a specified sum of money.

"Employment and Training" or "E&T" means the employment and training program that is composed of components or services that are designed to improve or increase a participant's employability and lead to gainful employment.

"E&T component" means a work experience, work training, educational or job search program that is designed to help food stamp recipients move promptly into unsubsidized employment.

"E&T mandatory participant" means a food stamp program applicant or recipient who is required to register for work and who the department determines should not be exempt from participation in an employment and training program.

"Gainful employment" means working for a minimum of thirty hours a week or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

"GED" means general educational development, which is equivalent to the conclusion of a high school education for which a diploma is given. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2, 273.1, 273.7)

§§17-684.1-3 to 17-684.1-5 Reserved

SUBCHAPTER 2

WORK PROVISIONS

§17-684.1-6 Work requirements. As a condition of eligibility for food stamps, each household member not exempt under section 17-684.1-7, shall comply with the following work requirements:

- (1) Register for work at the time of application and every twelve months after initial registration;
 - (A) A household member shall be considered to have registered when an identifiable work registration form is submitted to a branch office.
 - (B) The member required to register need not complete the registration form. Any household member or authorized representative may complete the registration form on behalf of the required member.
 - (C) If a household is eligible for expedited service, as specified in section 17-647-42, the applicant and those household members who must register for employment shall do so prior to being certified under the expedited service criteria; provided that the department shall postpone the registration of other household members if it cannot be accomplished within the expedited service time frame.

- (2) Participate in the E&T program if assigned by the department;
- (3) Respond to a request from the department or its designee for supplemental information regarding employment status and availability for work;
- (4) Report to an employer to whom the household member is referred by the department or department designee, provided the potential employment is not deemed unsuitable as defined in section 17-684.1-48;
- (5) Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage; and
- (6) Not reduce work effort or voluntarily quit gainful employment, in accordance with subchapter 4. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b))

§17-684.1-7 Exemptions from work registration requirement. (a) The department shall determine which household members are exempt from the work registration requirement at the time of:

- (1) Initial certification;
- (2) Recertification;
- (3) Change in employment status for change reporting households as defined in chapter 17-650; and
- (4) At the six month report for simplified reporting households as defined in chapter 17-650.

(b) The following general categories of individuals shall be exempt from the work registration requirement, as defined further in this subchapter:

- (1) Exemption based on age;
- (2) Caretaker;
- (3) Recipients of unemployment compensation;
- (4) Physically or mentally unfit persons;
- (5) Persons in drug or alcohol addiction treatment;

- (6) Students;
 - (7) Individuals fulfilling work requirements under any program under Title IV of the Social Security Act, 42 U.S.C. §§630-644, including First-to-Work (FTW);
 - (8) Employed persons; and
 - (9) Self-employed persons.
- [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b))

§17-684.1-8 Age exemption. (a) The following individuals shall be exempt from the work registration requirement based on age:

- (1) A person younger than sixteen years of age;
- (2) A person sixty years of age or older; and
- (3) A person age sixteen or seventeen who is considered a dependent in the household.

(b) A person age sixteen or seventeen who is not a dependent cannot claim this age exemption. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-9 Caretaker exemption. (a) A parent or other household member who is responsible for the care of a dependent child under six years of age, or an incapacitated person, shall be exempt from the work registration requirement. The exemption shall apply even if the child or incapacitated person:

- (1) Is not a household member for food stamp purposes; or
- (2) Does not live with the food stamp household.

(b) If a parent and another member of the household both claim to be responsible for the care of the same dependent child or incapacitated adult, the actual responsibility as caretaker shall be determined by the department from a discussion with the household members. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-10 Unemployment compensation exemption. (a) Persons receiving unemployment insurance benefits (UIB) shall be exempt from the work registration requirement.

(b) A person who has applied for UIB, but who has not yet begun to receive UIB, shall be exempt from the work registration requirement if the individual was required to register for work with the state employment services. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-11 Physically or mentally unfit person exemption. (a) A person who is physically or mentally unfit for gainful employment, either permanently or temporarily, shall be exempt from the work registration requirement.

(b) A person receiving any of the following benefits shall be considered exempt as a physically or mentally unfit person:

- (1) Supplemental Security Income (SSI), Old Age Assistance (OAA), Aid to the Blind (AB), or Aid to the Permanently and Totally Disabled (APTD);
- (2) Disability payments under the Social Security Act, U.S.C. 42 §§630-644, Retirement, Survivors, and Disability Insurance; and
- (3) Worker's compensation.

(c) In the absence of physical evidence, an individual claiming an exemption as physically or mentally unfit shall provide verification which substantiates the unfitness, or documentary evidence which supports the claim of unfitness. Appropriate verification may include but is not limited to:

- (1) Documents showing the receipt of temporary or permanent disability benefits issued by a government or private source; or
- (2) A statement from a physician, or a licensed or certified psychologist.

(d) Adequate documentation shall appear in the case file to support the granting of this exemption.

[Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-12 Drug or alcohol addiction treatment exemption. (a) A participant in a drug or alcohol addiction treatment and rehabilitation program, either on a resident or nonresident basis, shall be exempt from the work registration requirement.

(b) Participation in a drug or alcohol addiction treatment and rehabilitation program shall be verified through the organization or institution operating the program. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-13 Student exemption. (a) A student enrolled at least half-time in any recognized school including a high school, training program, or institution of higher education shall be exempt from the work registration requirement, provided the student meets the eligibility conditions in section 17-663-53. The student remains exempt during normal periods of class attendance, vacation, and recess.

(b) A person not enrolled at least half-time or who experiences a break in enrollment status due to graduation, expulsion, suspension, or who drops out, or otherwise does not intend to return to school, shall not be considered a student for the purpose of qualifying for this exemption.

(c) When enrollment information is questionable, the department shall check with the institution or training program to determine if the student's hours meet the half-time requirement.

(d) A person enrolled in correspondence courses, where physical attendance is not regularly required, shall not be exempt from the work registration requirement. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-14 Fulfilling a work requirement under Title IV of the Social Security Act exemption. A household member subject to and complying with any work requirement under Title IV of the Social Security Act, 42 U.S.C. §§630-644, including referral to the First-to-Work (FTW) program, shall be exempt from the work registration requirement. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.7(b)(1), 273.7(k)(2))

§17-684.1-15 Employed person exemption. (a) A person who is employed and working a minimum of thirty hours weekly, or who receives weekly earnings equal to the federal minimum wage multiplied by thirty hours, shall be exempt from the work registration requirement.

(b) If a person claims to be exempt by reason of employment, verification of the amount of income received from employment, as set forth in chapter 17-676, shall be sufficient to establish the exemption. If, under the general conditions prevailing in the community, the amount of income is inconsistent with employment of thirty hours per week, and the individual still claims to be employed, the applicant shall be required to supply documentary evidence of:

- (1) The existence of an employee-employer relationship; and
- (2) The number of hours worked equivalent to thirty hours per week.

(c) In order to determine whether an individual is employed, the department shall consider whether:

- (1) The wage meets state, local, or federal minimum standards;
- (2) Deductions of required mandatory amounts for federal or state income taxes, or both, have been made by the employer; and
- (3) The employer pays unemployment insurance premiums on behalf of the employee.

(d) Persons engaged in hobbies or volunteer work shall not be considered exempt from the work registration requirement regardless of the amount of

time spent on the activity. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-16 Self-employed person exemption.

(a) A person who is self-employed, and who works a minimum of thirty hours per week, or who receives weekly gross earnings equal to the federal minimum wage multiplied by thirty hours, shall be exempt from the work registration requirement.

(b) Verification of self-employment shall be as follows:

- (1) If a person claims to be exempt by reason of self-employment, verification of the amount of income received from self-employment shall be sufficient to establish the exemption, provided the amount of income appears to be consistent with a conclusion of full-time (thirty hours per week) employment; and
- (2) If the reported income is not sufficient to establish an exemption, and the number of hours worked a week is questionable, the person shall cooperate with the department in establishing that the volume of work claimed justifies a determination that the self-employment enterprise is a full-time job for the purposes of this exemption. The household shall cooperate in providing adequate documentation to substantiate the claim. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684.1-17 Termination of work registration exemption.

(a) A person losing work registration exemption status due to any change in circumstances that is subject to change reporting as specified in section 17-650-25, shall register for employment when the change is reported. Changes in circumstances include, but are not limited to:

- (1) Loss of employment or loss of UIB; or

- (2) Departure from the household of the sole dependent child, or death or institutionalization of an incapacitated person.

(b) The following procedures shall be followed for persons who lose exemption status due to any reported change in circumstances that is reported as specified in chapter 17-650:

- (1) If the change is reported in person by the household member required to register, the household member shall complete the work registration form at the time the change is reported. If it is not possible for the member to complete the work registration form at the time the change is reported, the household member shall return the form to the department within ten calendar days from the date the form was given to the household member.
- (2) If the change is reported in person by a household member other than the member required to register, the person reporting the change may complete the form at the time the change is being reported or deliver the form to the member required to register. The person shall inform the member required to register that the form shall be returned to the department within ten calendar days from the date the form was given to the person.
- (3) If the change is reported by phone or through the mail, the department shall provide the household member with a work registration form or the department may complete the work registration form with information provided by the household. The household member shall be responsible for returning the form to the department within ten calendar days from the date the department mailed the form.
- (4) If the household fails to return the form, the department shall issue a notice of

adverse action stating that the household is being terminated but that the household can avoid termination by returning the form.

(c) Persons subject to simplified reporting requirements as specified in section 17-650-12, who lose their exemption due to a change in circumstance that is not required to be reported, shall register for employment at the household's next recertification. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(2))

§17-684.1-18 Department responsibilities. (a) The department shall register for work each household member who is determined not exempt pursuant to sections 17-684.1-7 to 17-684.1-16.

(b) Upon determining that an applicant or a household member is required to register, the department shall:

- (1) Explain to the applicant:
 - (A) The pertinent work requirements;
 - (B) The rights and responsibilities of work registered household members; and
 - (C) The consequences of failure to comply;
- (2) Provide a written statement of the information specified in paragraph (1) to each work registrant in the household;
- (3) Provide a written statement of the information specified in paragraph (1) when a previously exempt or new household member becomes subject to a work requirement; and
- (4) Provide work registration forms for each household member required to register for employment and assist the household in completing the form for those members required to register.

(c) At the end of the twelve month registration period specified in section 17-684.1-6, the department shall re-register each household member who is not exempt by completing the appropriate registration form.

(d) Each registration shall be documented in a household's case file. At a minimum, the name of the household member and the date of registration shall be recorded. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(c))

§17-684.1-19 Failure to comply with work requirements. (a) A household member who refuses or fails without good cause to comply with the requirements of this chapter, shall be ineligible to participate in the food stamp program.

(b) For applicant households, the individual determined ineligible shall be denied food stamp eligibility and shall be disqualified as follows:

- (1) For the first violation, the individual shall be ineligible until the later of:
 - (A) The date the individual complies with the work requirement; or
 - (B) Thirty days from the date of application.
- (2) For the second violation, the individual shall be ineligible until the later of:
 - (A) The date the individual complies with the work requirement; or
 - (B) Ninety days from the date of application.
- (3) For the third or subsequent violation, the individual shall be ineligible until the later of:
 - (A) The date the individual complies with the work requirements; or
 - (B) One hundred eighty days from the date of application.

(c) For participating households, the individual determined ineligible shall be disqualified as follows:

- (1) For the first violation, the individual shall be ineligible until the later of:
 - (A) The date the individual complies with the work requirement; or
 - (B) One month.

- (2) For the second violation, the individual shall be ineligible until the later of:
 - (A) The date the individual complies with the work requirement; or
 - (B) Three months.
- (3) For the third or subsequent violation, the individual shall be ineligible until the later of:
 - (A) The date the individual complies with the work requirement; or
 - (B) Six months.

The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested.

(d) If the member who failed to comply joins another household, the individual shall continue to be ineligible in the new household for the remainder of their disqualification period as specified in subsections (b) or (c).

(e) The income and resources of a disqualified individual shall be handled in accordance with section 17-663-82.

(f) When the department determines that a work registrant failed to comply with a food stamp work requirement, the department shall provide the household with written notification. The notification shall include:

- (1) The particular act of noncompliance committed;
- (2) The proposed period of disqualification;
- (3) That the individual may reapply at the end of the disqualification period; and
- (4) The action that can be taken to end the disqualification.

(g) In order to determine the appropriate disqualification period, the individual's entire history of disqualifications for noncompliance with any work requirement specified in subchapters 2, 3, or 4 shall be considered. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(f))

§17-684.1-20 Failure to comply with a comparable work requirement under Title IV of the Social Security Act or unemployment compensation. (a) A household containing a member who was exempt from the work registration requirement in accordance with sections 17-684.1-10 and 17-684.1-14 because the individual was registered for work in any program under Title IV of the Social Security Act, 42 U.S.C. §§630-644, including the First-to-Work program (FTW), or unemployment compensation and who fails to comply with the Title IV or unemployment compensation requirement comparable to a food stamp work registration or employment and training requirement shall be treated as though the member failed to comply with the corresponding food stamp requirements.

(b) If the department learns that a household member has refused or failed without good cause to comply with the Title IV or unemployment compensation requirement, the department shall determine whether the requirement was comparable to the food stamp work requirement.

(c) If the household reports the loss or denial of AFDC or unemployment compensation, or if the department otherwise learns of the loss or denial, the department shall determine whether the loss or denial was caused by a determination by the administering agency that a household member refused or failed without good cause to comply with the work requirement and, if so, whether the requirement was comparable to the food stamp work registration or job search requirement. The Title IV or unemployment compensation requirement shall not be considered comparable if it places responsibilities on the household which exceed those imposed by the food stamp work requirements.

(d) If the department determines that the Title IV or unemployment compensation requirement is comparable to the food stamp work requirement, the individual shall be disqualified as follows:

- (1) The department shall provide the household with a notice of adverse action within ten days after learning of the household

member's noncompliance with the unemployment compensation or Title IV requirement;

- (2) The notice shall comply with the requirements of chapter 17-649; and
- (3) The noncomplying member shall not be disqualified from participation if the member meets one of the work registration exemptions provided in sections 17-684.1-7 to 17-684.1-16, other than the exemptions for recipients of unemployment compensation as specified in section 17-684.1-10 or individuals subject to work requirements under Title IV of the Social Security Act, 42 U.S.C. §§630-644, as specified in section 17-684.1-14.

(e) A household member who fails to comply with a comparable Title IV or unemployment compensation requirement shall lose their exemption under sections 17-684.1-10 and 17-684.1-14, and shall meet the work requirements as specified in section 17-684.1-6. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(f)(7); 42 U.S.C. §1305)

§17-684.1-21 Determining good cause. (a) The department shall determine whether good cause exists when a work registrant fails or refuses to comply with a food stamp work requirement in this subchapter.

(b) In determining whether or not good cause exists, the department shall consider the facts and circumstances, including information submitted by the household member involved and the household member's employer.

(c) Good cause shall include circumstances beyond the household member's control, including but not limited to:

- (1) Illness of the household member involved;
- (2) Illness of another household member requiring the presence of the member;
- (3) A household emergency, e.g., a death in the family;
- (4) The unavailability of transportation; or

- (5) The lack of adequate child care for children who have reached age six but are under age twelve. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(i))

§17-684.1-22 Ending disqualification. (a) After the applicable disqualification period for noncompliance with food stamp program work requirements has ended, participation may resume if the disqualified individual reapplies and is determined to be in compliance with work requirements.

(b) A disqualified individual may resume participation during the disqualification period if the individual becomes exempt from the work registration requirements during that period, and is otherwise eligible. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(g))

§§17-684.1.23 to 17-684.1-26 Reserved

Subchapter 3

EMPLOYMENT AND TRAINING (E&T) PROGRAM

§17-684.1-27 Employment and training (E&T) program. (a) The department shall administer and manage an employment and training (E&T) program which may consist of the following components:

- (1) Job search;
- (2) Job search skills training;
- (3) Basic education programs that will improve employability;
- (4) Other community E&T programs;
- (5) Work experience; and
- (6) Vocational training.

(b) Persons not exempt from the work registration requirement as specified in sections 17-684.1-7 through 17-684.1-16, shall be subject to E&T program requirements.

(c) If not all nonexempt registrants can be served because of insufficient funds, registrants will be randomly selected for referral up to the limit the funding can accommodate.

(d) E&T participants may be referred to one or more or a combination of the components listed in subsection (a).

(e) The department may designate a collateral agency to manage, coordinate, and monitor employment and training requirements established in this subchapter to which E&T participants shall be referred by the department. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-28 Intake. (a) Enrollees for the E&T program shall be selected from the E&T pool which contains all E&T participants referred by the food stamp program.

(b) Enrollees selected for the program shall be required to participate in the intake interview. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-29 Program orientation. (a) Enrollees shall be required to participate in an orientation session.

- (b) E&T orientation may provide information on:
- (1) Available program components, activities, and support services for which individuals in the program are eligible;
 - (2) Rights and responsibilities of enrollees and participants; and
 - (3) The department's obligations and responsibilities to enrollees and participants in the program. [Eff 1/17/08] Auth: HRS 346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-30 Assessment. (a) The department may require educational testing to determine the enrollee's need for basic education, general educational development (GED) or its equivalent, or remedial educational assistance.

(b) The department may conduct a health and psycho-social assessment of the enrollee and the family which shall include a review of the enrollee's personal and family circumstances, the needs of the children in the family, and child care and supportive services needs, and may include a barrier assessment if it is deemed appropriate.

(c) The department shall conduct an employability assessment of each enrollee in the program which shall include an assessment or evaluation of the enrollee's:

- (1) Educational level;
- (2) Past work history;
- (3) Prior work experiences;
- (4) Avocation, interest, and values;
- (5) Abilities, proficiencies, and skills deficiencies; and
- (6) Other factors which affect the enrollee's employability. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-31 Barrier reduction planning. (a) The department may engage in barrier reduction planning for each enrollee in the program. The barrier reduction plan may:

- (1) Be based on the health and psycho-social assessment of the enrollee and the family, the needs of children in the family, and child care and supportive services needs of the enrollee and the family;
- (2) Be developed in consultation with and be agreed to or approved by the enrollee;
- (3) Reflect the preferences of the enrollee to the maximum extent practicable;
- (4) Be responsive to the needs of the enrollee and family members;

- (5) Identify barriers that will interfere with the enrollee's participation in program activities;
- (6) Specify support services that will be provided by the department to address the removal of barriers;
- (7) Specify tasks to be performed by the enrollee; and
- (8) Specify time frames and schedules for accomplishing the tasks.

(b) An enrollee who enters into a barrier reduction plan shall be required to comply with all conditions set forth in the plan and shall be subject to section 17-684.1-39.

(c) Final approval of the barrier reduction plan shall rest with the department. [Eff 1/17/08] (Auth: HRS 346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-32 Employability plan. The department shall develop an employability plan for each enrollee who becomes a participant in the program. The employability plan may:

- (1) Be based on the employability assessment of the participant;
- (2) Be developed in consultation with the participant;
- (3) Be consistent with the participant's interests, values, and abilities;
- (4) Reflect the preferences of the participant, to the maximum extent practicable;
- (5) Identify the participant's employment objectives;
- (6) Use appropriate program resources and available local employment opportunities;
- (7) Specify tasks that will be conducted or coordinated by the department to assist the participant to achieve the employment objective;
- (8) Specify activities and tasks that will be undertaken by the participant to achieve an

- objective of universal engagement and, ultimately, employment; and
- (9) Specify time frames and schedules for accomplishing tasks and activities. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-33 Support services plan. (a) The department may develop a support services plan for each enrollee or participant in the E&T program if it is necessary to permit the enrollee or participant to:

- (1) Participate in an approved education or training activity under the E&T program consistent with criteria established by the department; or
- (2) Participate in other approved activities to prepare the individual for employment.

(b) The department may provide, pay for, or reimburse transportation, child care, as defined in the department's child care services rules, and education or training-related expenses which it determines are necessary to enable an individual to participate in approved E&T program activities.

(c) The department, at its discretion, may reduce or terminate support services, if the department determines that there are insufficient funds to pay the support services at current amounts through the end of the federal fiscal year. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(e))

§17-684.1-34 Review of E&T program requirements with participants. (a) The participant shall be informed about the E&T program requirements by the department. The information may include, but is not limited to, the following:

- (1) Purpose of the E&T program;
- (2) Length of participation in the program, including the number of hours of

participation per week and reporting requirements; and

- (3) Educational, training, and employment activities, and the support services, including child care, to be provided by the department.

(b) Each participant shall acknowledge that the participant received, reviewed, and understood the participant's participation requirements under the E&T program.

(c) Each participant shall be given assistance needed to review and understand the requirements.
[Eff 1/17/08] (Auth: HRS 346-14) (Imp: 7 C.F.R. §273.7(c))

§17-684.1-35 Case management services. The department may provide case management services to support and strengthen the individual's capacity to become economically self-sufficient by facilitating access to resources and opportunities. Case management activities may include, but are not limited to, the following:

- (1) Assisting the individual and the family to obtain services needed to assure compliance with program requirements;
- (2) Facilitating the individual's placement in appropriate activities or services and access to activities and programs through referrals to appropriate services;
- (3) Conducting assessments of the individual's use of services;
- (4) Facilitating communication between the individual and service providers;
- (5) Providing encouragement and support;
- (6) Monitoring and tracking the individual's progress to ensure receipt of required assistance in a timely and effective manner; and
- (7) Participating in administrative hearings involving E&T enrollees and participants pursuant to chapter 17-602.1. [Eff

1/17/08] (Auth: HRS §346-14) (Imp: 7
C.F.R. §273.7)

§17-684.1-36 E&T participation requirements.

(a) E&T participants shall comply with participation requirements including:

- (1) Intake;
- (2) Program orientation;
- (3) Case management, including:
 - (A) Assessments;
 - (B) Development and implementation of plans for barrier reduction, support services, and employment; and
- (4) Other requirements of this chapter.

(b) E&T participants shall complete the required hours of work activity as defined in this chapter.

The minimum number of hours for an E&T participant's employability plan shall be based on the following:

- (1) Twenty hours per week for E&T participants who meet the definition of ABAWD; and
- (2) Ten hours per week for all other E&T participants. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R §273.7(f))

§17-684.1-37 Voluntary participation. (a) The department shall, as it deems practicable, permit persons exempt from the work registration or E&T requirements to participate in any employment and training program the department offers.

(b) Voluntary participants in an E&T component shall not be disqualified for failure to comply with E&T requirements.

(c) The hours of participation or work of a volunteer shall not exceed the hours required of E&T participants as determined by the department or department designee. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R §273.7(f))

§17-684.1-38 Exemptions from E&T program participation. (a) The following shall be exempt from E&T program participation:

- (1) Persons who reside in counties or on islands where E&T components are not offered;
- (2) Pregnant women in the third month or more of pregnancy;
- (3) Persons residing in remote areas of Hawaii, Maui and Kauai counties.
 - (A) An area shall be considered remote if a round trip of more than two hours by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility, would be required for a normal work or training day.
 - (B) An area shall not be considered remote if the normal round trip commuting time in the area is more than two hours, and that is the generally accepted community standard.
- (4) Persons who consistently do not have public or private forms of transportation available to them to the extent that job seeking and placement become impracticable; and
- (5) Persons who are not currently working but are still considered as job-attached because they have a known or expected date of return to employment that is within ninety days from their last day of employment.

(b) Exempt status shall be reviewed upon recertification to determine if the exemption is still valid. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(e)(2))

§17-684.1-39 Conciliation. (a) The department shall establish a conciliation process to resolve disputes related to an individual's participation in the E&T program.

(b) The conciliation process shall involve attempts between the individual and the department or department designee to resolve disputes and may include but is not limited to revision of the employability and support services plans.

(1) Individuals who fail to comply with the requirements of this subchapter shall be subject to the conciliation process.

(2) The department or department designee shall initiate the conciliation process and work with the individual to resolve disputes.

(3) The department shall make two attempts to contact the individual within five calendar days of the dispute which shall include a written notice and one of the following:

(A) Contact by telephone at the last known phone contact reported by the participant;

(B) Face-to-face contact during any scheduled or unscheduled visit; or

(C) Any other method of communication that would allow the department to expedite resolution of the dispute.

(4) The individual shall have up to ten calendar days from the date of the written notice to provide verification of good cause for non-compliance.

(5) The conciliation process shall end when:

(A) The department has made a determination of good cause and the individual agrees to participate in the program; or

(B) The individual is referred to the Food Stamp program for sanction because:

(i) The department has made a determination that there is no good cause;

(ii) The individual chooses to waive the right to conciliation; or

(iii) Ten calendar days from the date of notice has elapsed.

(c) The individual shall not have the right to request an administrative hearing, as provided under

chapter 17-602.1, during the conciliation process.
[Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R.
§273.7(c)(6))

§17-684.1-40 to 17-684.1-44 Reserved

Subchapter 4

VOLUNTARY QUIT AND REDUCTION OF WORK EFFORT

§17-684.1-45 Ineligible to participate. (a) A household member who is required to register for work or who is exempt pursuant to sections 17-684.1-10 or 17-684.1-14, shall be ineligible to participate in the food stamp program if within sixty days prior to the date of application or anytime thereafter, the individual voluntarily and without good cause:

- (1) Quits a job that met the definition of gainful employment; or
- (2) Reduces his or her work effort and, after the reduction, is working less than thirty hours per week.
 - (A) The reduction in work effort provision shall only apply if the individual was employed thirty hours or more per week before the reduction; and
 - (B) The minimum wage equivalency used to determine gainful employment, when employment hours are less than thirty hours per week, shall not apply when determining a reduction in work effort.

(b) Terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered a voluntary quit for purposes of subsection (a).

(c) An employee of the Federal government, or of a state or local government, who participates in a strike against the government and is dismissed from his or her job because of participation in the strike,

shall be considered to have voluntarily quit his or her job without good cause.

(d) If an individual quits a job, but subsequently secures new employment at comparable wages or hours and is then laid off or loses the new job through no fault of the individual, the earlier quit will not form the basis of a disqualification.

(f) A household member determined to have quit a job or reduced work effort without good cause shall be ineligible to participate in the food stamp program and shall be disqualified as specified in sections 17-684.1-50 and 17-684.1-51. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(j))

§17-684.1-46 Exemptions from voluntary quit and reduction of work effort provisions. A person who is exempt from the work registration requirements in sections 17-684.1-7 to 17-684.1-16 at the time of the voluntary quit or reduced work effort, shall be exempt from the voluntary quit and reduced work effort provisions specified in this subchapter, with the exception of those exempted by sections 17-684.1- 10 and 17-684.1-14. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(j))

§17-684.1-47 Good cause for voluntary quit.
Good cause for voluntarily quitting employment includes:

- (1) The good cause provisions found in section 17-684.1-21;
- (2) Resigning from a job that is considered unsuitable as specified in section 17-684.1-48;
- (3) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;
- (4) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

- (5) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the household to move and thereby requires the household member to leave employment;
- (6) Resignation by a person under the age of sixty that is recognized by the employer as retirement;
- (7) Acceptance of a bona fide offer of employment of more than thirty hours a week, or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by thirty hours that, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than thirty hours a week, or weekly earnings of less than the Federal minimum wage multiplied by thirty hours;
- (8) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work;
- (9) When the job contract period ends and the individual or the employer chooses not to renew the contract; and
- (10) When the individual's resignation is requested by the employer. [Eff 1/17/08]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(i))

§17-684.1-48 Unsuitable employment. (a)

Employment shall be considered suitable unless:

- (1) The wage offered is less than the highest of:
 - (A) The applicable federal minimum wage;
 - (B) The applicable state minimum wage;

- (C) Eighty per cent of the federal minimum wage, if neither the federal nor the state minimum wage is applicable;
- (2) The employment offered is on a piece-rate basis and the average hourly yield the employee may reasonably be expected to earn is less than the applicable hourly wage specified above;
- (3) As a condition of employment or continuing employment, the employee is required to join, resign from, or refrain from joining any legitimate labor organization;
- (4) The work offered is at a site subject to a strike or a lockout at the time of the offer unless the strike has been enjoined under section 208 of the Labor-Management Relations Act, 29 U.S.C. §178, or an injunction has been issued under section 10 of the Railway Labor Act, 45 U.S.C. §160;
- (5) The household member involved can demonstrate, or the department otherwise becomes aware that:
 - (A) The degree of risk to health and safety is unreasonable;
 - (B) The household member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources;
 - (C) The employment offered within the first thirty days of registration is not in the household member's major field of experience;
 - (D) The distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of commuting. Daily commuting time shall not exceed two hours per day, not including the transportation of a child to and from a child care facility. Nor shall employment be considered suitable if

- the distance to the place of employment prohibits walking, and both public and private transportation are unavailable to use in getting to the job site; or
- (E) The working hours or nature of the employment interferes with the household member's religious observances, convictions, or beliefs.
- [Eff 1/17/08] (Auth: HRS §346-14)
(Imp: 7 C.F.R. §273.7(h))

§17-684.1-49 Verification of voluntary quit. (a) The department shall request verification of the reason for a voluntary quit if the statements provided by the household are vague or unclear or inconsistent with other information provided by the household.

(b) Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives, and grievance committees or organizations.

(c) The household shall have primary responsibility for providing verification of questionable information.

(d) The department shall offer assistance to obtain needed verification if it is difficult or impossible for the household to obtain documentary evidence in a timely manner.

(e) Whenever documentary evidence cannot be obtained, the department shall substitute a collateral contact. The department shall be responsible for obtaining verification from acceptable collateral contacts provided by the household.

(f) If the household and department are unable to obtain requested verification from an acceptable source because the quit resulted from alleged discrimination or unreasonable demands by an employer, or because the employer cannot be located, the household shall not be denied access to the program.

[Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.7(i) and 273.7(j))

§17-684.1-50 Disqualifications for voluntary quit or reduction in work effort. (a) If the department determines that a household member has voluntarily and without good cause quit a job or reduced work effort as specified in section 17-684.1-45, that individual shall be ineligible to participate in the food stamp program.

(b) In the case of an applicant household, the household member that quit a job or reduced work effort without good cause shall be denied and a disqualification imposed as follows:

- (1) For the first violation, the individual shall be ineligible until the later of:
 - (A) The date the individual secures new gainful employment; or
 - (B) Thirty days from the date of quit or reduction of work effort.
- (2) For the second violation, the individual shall be ineligible until the later of:
 - (A) The date the individual secures new gainful employment; or
 - (B) Ninety days from date of quit or reduction of work effort.
- (3) For the third or subsequent violation, the individual shall be ineligible until the later of:
 - (A) The date the individual secures new gainful employment; or
 - (B) One hundred eighty days from the date of quit or reduction of work effort.

(c) The department shall provide an applicant household with a notice of denial when it is determined that a household member quit a job or reduced work effort. The notice shall inform the household of:

- (1) The proposed period of disqualification;
- (2) The right to reapply at the end of the disqualification period; and
- (3) The right to a hearing.

(d) In the case of a participating household, the household member that quit a job or reduced work

effort without good cause shall be disqualified as follows:

- (1) For the first violation, the individual shall be ineligible until the later of:
 - (A) The date the individual secures gainful employment; or
 - (B) One month.
- (2) For the second violation, the individual shall be ineligible until the later of:
 - (A) The date the individual secures gainful employment; or
 - (B) Three months.
- (3) For the third or subsequent violation, the individual shall be ineligible until the later of:
 - (A) The date the individual secures gainful employment; or
 - (B) Six months.

(e) The department shall provide a participating household with a notice of adverse action within ten days after a determination is made that a household member quit a job or reduced work effort without good cause. The notice shall inform the household of:

- (1) The particular act of noncompliance committed;
- (2) The proposed period of disqualification;
- (3) The actions which may be taken to end or avoid the disqualification;
- (4) The right to reapply at the end of the disqualification period; and
- (5) The right to a hearing.
- (6) If a participating household's benefits are continued pending a hearing and the department determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered.

(f) If the member who voluntarily quit or reduced work effort joins another household, the individual shall continue to be ineligible in the new household for the remainder of their disqualification period as specified in subsection (b) or (d).

(g) The income and resources of an individual made ineligible shall be handled in accordance with section 17-663-82.

(h) In order to determine the appropriate disqualification period, the individual's entire history of disqualifications for noncompliance with any work requirement specified in subchapters 2, 3, or 4 shall be considered. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7)

§17-684.1-51 Ending a voluntary quit or reduction in work effort disqualification. (a) Following the end of the disqualification period for voluntarily quitting a job or reducing work effort without good cause, a household member may begin participation in the program if the household member applies again and is determined eligible.

(b) Eligibility may be re-established during a disqualification period and the household member shall be permitted to resume participation, if the household member becomes exempt from the work registration requirements and is otherwise eligible. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(j))

§§17-684.1-52 to 17-684.1-57 Reserved

Subchapter 5

TIME LIMIT FOR ABLE-BODIED ADULTS WITHOUT DEPENDENTS (ABAWDs)

§17-684.1-58 Definitions. For the purpose of this subchapter:

"Fulfilling the work requirement" means:

- (1) Working twenty hours per week, averaged monthly; for purposes of this provision, twenty hours a week averaged monthly means eighty hours a month;

- (2) Participating in and complying with the requirements of a work program twenty hours per week, as determined by the department; or
- (3) Any combination of working and participating in a work program for a total of twenty hours per week, as determined by the department.

"Working" means:

- (1) Work in exchange for money;
- (2) Work in exchange for goods or services ("in kind" work);
- (3) Unpaid work, verified under standards established by the department; or
- (4) Any combination of paragraphs (1), (2) and (3).

"Work program" means:

- (1) A program under the Workforce Investment Act of 1998, 29 U.S.C. §2801 et seq.;
- (2) A program under section 236 of the Trade Act of 1974, 19 U.S.C. §2296; or
- (3) An employment and training program, other than a job search or job search training program, operated or supervised by the department, which may include a job search or job search training component as long as that component is less than half the requirement of the employment and training program. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-59 Time limit for able-bodied adults.

(a) Individuals are not eligible to participate in the food stamp program as a member of any household if the individual received food stamps for more than three countable months during any thirty six month period; provided that individuals may be eligible for up to three additional countable months in accordance with section 17-684.1-63.

(b) Countable months are months during which an individual receives food stamps for the full benefit month while not:

- (1) Exempt as specified in section 17-684.1-62;
- (2) Covered by a waiver granted under the Food Stamp Act, 7 U.S.C. §2011, et seq.;
- (3) Fulfilling the work requirement as defined in section 17-684.1-58; or
- (4) Receiving benefits that are prorated in accordance with section 17-680-27.

(c) If an individual subject to the time limit specified in subsection (a) receives food stamp benefits erroneously, the department shall consider the benefits to have been received for purposes of the time limit, unless an overpayment claim has been established in accordance with chapter 17-683.

(d) The income and resources of an individual who becomes ineligible due to the time limit for able-bodied adults shall be handled in accordance with section 17-663-82.1. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-60 Good cause. (a) If an individual would have worked an average of twenty hours per week, but missed some work for good cause, as determined by the department, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains his or her job.

(b) Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the individual, a household emergency, or the unavailability of transportation. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-61 Reporting requirements. (a) An able-bodied adult subject to the provisions of this subchapter shall report the following changes within ten days of the date the change becomes known to the household:

- (1) When work or training hours decrease below twenty hours per week, averaged monthly; and
- (2) When employment or training is terminated.

(b) The reporting requirement specified in subsection (a) shall be adhered to regardless of the type of reporting system specified in chapter 17-650 that the department has assigned to the household.
[Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-62 Exemption from the time limit. An individual is exempt from the time limit specified in section 17-684.1-59, if the individual is:

- (1) Under eighteen or over fifty years of age;
- (2) Determined by the department to be medically certified as physically or mentally unfit for gainful employment. An individual is medically certified as physically or mentally unfit for gainful employment if the individual:
 - (A) Is receiving temporary or permanent disability benefits issued by a government or private source;
 - (B) Is obviously mentally or physically unfit for gainful employment as determined by the department; or
 - (C) Provides a statement from a physician or a licensed or certified psychologist, that he or she is physically or mentally unfit for gainful employment.
- (3) A parent (natural, adoptive, or step) of a household member under age eighteen, even if the household member who is under eighteen is not eligible for food stamps;

- (4) Residing in a household where a household member is under age eighteen, even if the household member who is under eighteen is not eligible for food stamps;
- (5) Otherwise exempt from work requirements under sections 17-684.1-7 to 17-684.1-16;
- (6) Pregnant; or
- (7) Residing in an area covered by a waiver granted under Section 17 of the Food Stamp Act, 7 U.S.C. §2011, et seq. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-63 Regaining eligibility. (a) An individual denied eligibility as an able-bodied adult due to the time limit specified in section 17-684.1-59, or who did not reapply for benefits because he or she was not fulfilling the work requirement as defined in section 17-684.1-58, shall regain eligibility to participate in the food stamp program if, as determined by the department, during any thirty consecutive days, he or she:

- (1) Worked eighty or more hours;
- (2) Participated in and complied with the requirements of a work program for eighty or more hours;
- (3) Completed any combination of work and participation in a work program for a total of eighty hours; or
- (4) Becomes exempt.

(b) An individual regaining eligibility under paragraphs (a)(1) through (3), shall have benefits prorated from the day the eighty hours are completed.

(c) There is no limit to how many times an individual may regain eligibility and subsequently maintain eligibility by fulfilling the work requirement. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-64 Additional three-month eligibility. (a) An individual who regained eligibility as specified in section 17-684.1-63, and who is no longer fulfilling the work requirement, is eligible for an additional period of three consecutive countable months, as defined in section 17-684.1-58. The eligible period shall start as follows:

- (1) On the date the individual first notifies the department that the individual is no longer fulfilling the work requirement; or
- (2) If the individual has been satisfying the work requirement by participating in a work program, on the date the department notifies the individual that the individual is no longer meeting the work requirement. An individual shall not receive benefits under this section more than once in any three-year period. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24)

§17-684.1-65 Fifteen per cent ABAWD exemption. (a) The department may exempt specified ABAWD recipients from ABAWD time-limits, pursuant to section 1001 of the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 215. The average monthly number of exemptions granted pursuant to this section shall not exceed fifteen per cent of the number of covered individuals during the federal fiscal year.

- (b) The ABAWD population that may be eligible for the exemption may include but is not limited to:
- (1) Individuals who have completed a prescribed amount of job search;
 - (2) Individuals who are working less than twenty hours per week;
 - (3) Individuals enrolled in General Educational Development (GED) or English as a Second Language (ESL) classes for less than twenty hours per week;
 - (4) Non-English speakers; or
 - (5) Any other group the department determines eligible for the exemption.

§17-684.1-65

(c) ABAWD recipients who are eligible for the exemption shall remain subject to the work requirements of this chapter. [Eff 1/17/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.24(g))

§§17-684.1-66 to 17-684.1-69 Reserved