



**Closing the food stamp
loophole that allows
50-year-olds to avoid work**

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KEY FINDINGS

1

A CLINTON-ERA FOOD STAMP RULE CONFLICTS WITH THE PLAIN MEANING OF THE FOOD STAMP STATUTE.



2

AS A RESULT OF THIS BROKEN RULE, 50-YEAR-OLD ABLE-BODIED ADULTS ARE EXEMPT FROM WORK REQUIREMENTS.



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MORE THAN 69 PERCENT OF 50-YEAR-OLD ABLE-BODIED ADULTS ON FOOD STAMPS DO NOT WORK AT ALL.



4

WORK REQUIREMENTS WOULD HELP MOVE THESE ABLE-BODIED ADULTS TO SELF-SUFFICIENCY.



5

IF THE RULE IS REALIGNED WITH FEDERAL STATUTE, TENS OF THOUSANDS OF CHILDLESS ADULTS COULD MOVE FROM WELFARE TO WORK, SAVING TAXPAYERS UP TO \$340 MILLION PER YEAR.



BOTTOM LINE:

THE TRUMP ADMINISTRATION CAN HELP AMERICANS MOVE OFF WELFARE BY CLOSING THE LOOPHOLE THAT ALLOWS 50-YEAR-OLDS TO AVOID WORK.

Able-bodied adults without dependents are generally required to work, train, or volunteer at least part-time to maintain eligibility for the food stamp program.¹ However, bureaucratic manipulation of federal regulations has expanded exemptions and increased dependency.²

Able-bodied adults are automatically exempt from the work requirement if they are “over” 50 years old, meaning individuals 51 years of age and older. This interpretation changed when, three days before leaving office, the Clinton administration issued regulations to change the meaning of “over,” interpreting the exemption to include all individuals “50 years of age or older.”³ Practically speaking, this expanded the work requirement exemption to 50-year-old able-bodied adults nationwide.

Not only did this move expand dependency, the Clinton-era regulations—which have remained in place since—conflict with the statutory language in the federal code, conflict with Congressional intent, conflict with prior interpretation by state agencies, and conflict with the U.S. Department of Agriculture’s own interpretation of the same terms in other contexts within the food stamp program.

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Clinton-era rules conflict with the plain meaning of the food stamp statute

The food stamp statute provides that able-bodied adults who are “under 18 or over 50 years of age” shall be exempt from the work requirement.⁴ The Clinton-era rule interpreted the phrase “over 50” in the statute to include individuals who are 50 years old, thereby wrapping them into the work requirement exemption.⁵ This interpretation conflicts with the plain meaning of the term “over” in the English language, the structure of other federal statutes, and Supreme Court precedent.

The term “over” is typically defined as “higher than,” “more than,” “above,” or “beyond” a specific number, not inclusive of that number.⁶⁻⁹ This suggests that a plain reading of the term “over” in this context would not include 50-year-olds, making them subject to the work requirement.

Moreover, elsewhere in federal law, Congress has been careful to indicate when a specific age should be included. In Medicare, for example, Congress used the phrase “age 65 or over” when it intended to include 65-year-olds.¹⁰ Likewise, Congress used the phrases “65 years of age or over” and “65 years of age or older” when it intended to include 65-year-olds in various Medicaid eligibility categories.¹¹

It is instructive that Congress used the term “65 or over” in these statutes, rather than “over 65.” If Congress intended to include 50-year-olds in the work requirement exemption, it knew how: it could have used the phrase “50 years of age and over,” similar to other statutes. The fact that Congress did not use this type of construction suggests that 50-year-olds were not intended to be included in the work requirement exemption.

The U.S. Supreme Court has also been careful to use precise language when defining age groups. When interpreting the Age Discrimination in Employment Act, a unanimous Supreme Court ruling used the phrase “40 or older” to describe a group that includes 40-year-olds.¹² Similarly, the Court used the phrase “18 years of age or over” when it intended to include 18-year-olds in a specific category.¹³ This construction is specific and clearly includes 18-year-olds in the given age group. This type of construction is also notably absent from the food stamp statute.

Conversely, when the Supreme Court used the phrase “over the age of 17” —roughly mirroring the language in the food stamp statute—it did so to specifically exclude 17-year-olds and refer only to individuals aged 18 or older.¹⁴ Other courts have used similar phrases in this manner.¹⁵⁻¹⁹ Applying this same interpretation to the food stamp statute suggests that 50-year-olds should be excluded from the work requirement exemption and therefore subject to the work requirement.

By interpreting the exemption to include 50-year-olds—and thereby excluding them from the work requirement—the Clinton administration ignored the plain meaning of the English language, construction of other federal statutes, and construction of Supreme Court rulings.

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Clinton-era rules are internally inconsistent

The Clinton administration’s interpretation that 50-year-olds are exempt from the work requirement is also inconsistent with its interpretation of the same terms in other areas of the food stamp program.

As noted, the statute says able-bodied adults who are “over” 50 years old are exempt from the work requirement.²⁰ In another provision, the statute says individuals become subject to work registrant rules if they are “over” the age of 15.²¹ But USDA has interpreted the word “over” in these two provisions in different and conflicting ways.²²

In the regulations concerning work registration, the agency interpreted “over the age of 15” to mean 16 years old or older, consistent with the plain meaning and common understanding of the term.²³ But the agency interpreted “over” in a completely different way when it comes to the exemption for adults “over 50 years of age,” which it interprets to mean 50 years old or older.²⁴

Auditors from the Office of Inspector General at USDA have warned that these conflicting interpretations of the same word “do not seem reasonable.”²⁵ Indeed, federal officials in the Obama administration admitted to auditors that the department “made a conscious decision to interpret the statute in this manner” to reduce the number of able-bodied adults subject to the requirements.²⁶

50-year-old able-bodied adults were not always exempt from the work requirement

Before USDA adopted the January 2001 regulations, states defined the exemption policy and several required 50-year-olds to meet the work requirement.

New Hampshire, for example, set the exemption to include individuals “age 51 or older,” consistent with the plain meaning of the statute, until it was forced to exempt 50-year-olds under the new federal regulations.²⁷⁻²⁸ Several other states similarly interpreted the exemption, with states in three of seven FNS regions defining the exemption to apply to individuals on or after their 51st birthday.²⁹

Clinton-era rules conflicted with an earlier agency interpretation

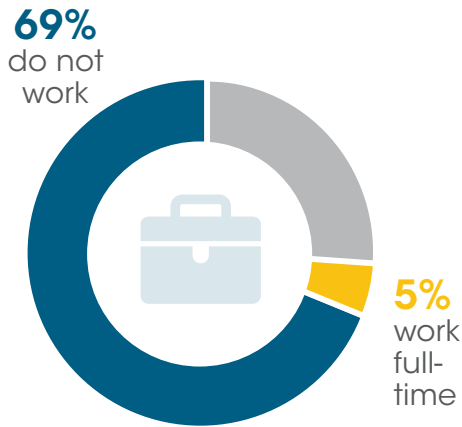
States were not alone in interpreting the exemption to apply to individuals who were at least 51 years old. Early reports about the work requirement prepared for USDA frequently assumed the exemption would not take place until the enrollee’s 51st birthday.

In one report, USDA researchers repeatedly used the phrase “able-bodied adults ages 18-50” when referring to the population subject to the work requirement.³⁰ In another report, USDA researchers modeled the impact of the work requirement by assuming that “a person was not considered to be age-exempt until he or she reached aged 51.”³¹

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MORE THAN 69 PERCENT OF ABLE-BODIED 50-YEAR-OLD CHILDLESS ADULTS DO NOT WORK AT ALL, WHILE JUST FIVE PERCENT WORK FULL-TIME

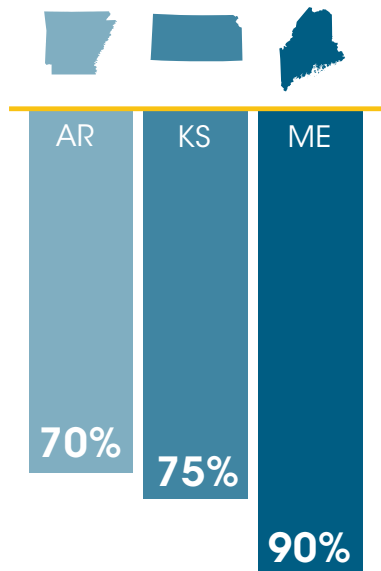


Dependency is growing among 50-year-old able-bodied adults

With no work requirement in place, the number of able-bodied 50-year-olds on food stamps has skyrocketed in recent years. Today, more than 200,000 able-bodied, 50-year-old childless adults are on the program—nearly five times as many as in 2000.³²⁻³⁴ This enrollment surge now costs taxpayers roughly \$400 million per year.³⁵

With no real work requirement or time limit, few of these middle-age able-bodied adults on food stamps actually work. According to federal data, more than 69 percent of able-bodied 50-year-old childless adults do not work at all, while just five percent work full-time.³⁶

ENROLLMENT DROPS AFTER WORK REQUIREMENTS WERE IMPLEMENTED FOR ABLE-BODIED ADULTS ON FOOD STAMPS



Work requirements would help move able-bodied adults to self-sufficiency

Work requirements are a proven, highly effective way to not only reduce caseloads but also increase incomes. After Kansas implemented work requirements for able-bodied adults on food stamps, caseloads dropped by 75 percent, and individuals who left welfare saw their wages more than double within a year.³⁷ When Maine implemented the same work requirement, it saw similar impressive results: incomes of former enrollees more than doubled, and caseloads declined by 90 percent.³⁸ And in Arkansas, enrollment dropped by 70 percent and wages more than tripled in the two years after these able-bodied adults left welfare.³⁹

Getting middle-age able-bodied adults back into the labor force as quickly as possible is critical to returning them to a path of self-sufficiency. Research shows that re-entering the workforce becomes harder for able-bodied adults the longer they spend on welfare and the longer they spend not working.⁴⁰ Extended periods of worklessness also contribute to deteriorating health, especially among middle-age workers, which could push many of these unemployed able-bodied adults to apply for disability programs, trapping them in a lifetime of dependency and increasing costs to taxpayers.⁴¹

The Trump administration should move able-bodied adults from welfare to work

The lack of work in today's food stamp program is alarming in an era of record-low unemployment. With more than seven million open jobs across the country, employers are desperate for workers. If today's booming economy is not enough to move able-bodied adults off the sidelines, more policy changes are needed to ensure they move from welfare to work.

The Clinton administration unilaterally created the exemption for able-bodied 50-year-olds through regulation and sub-regulatory guidance.⁴² The current regulation conflicts with the plain meaning of the food stamp statute, Congressional intent, and even the agency's interpretation of the same terms in other contexts. When first adopted, these rules overrode state interpretations of the exemption policy, reversed prior agency interpretations, and were ultimately inconsistent with the agency's own interpretation of other provisions with the same terms. As such, the Trump administration can roll back the exemption loophole—without Congressional approval—and restore the exemption policy to its statutory limit.

If the rule is reversed and realigned with federal statute, tens of thousands of able-bodied adults could move from welfare to work, saving taxpayers up to \$340 million per year.⁴³

Even with a divided Congress, the Trump administration can help restore program integrity and work-first policies, helping more able-bodied adults find self-sufficiency and protecting resources for the truly needy.

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APPENDIX

CLOSING THE EXEMPTION LOOPHOLE FOR 50-YEAR-OLD ABLE-BODIED ADULTS WOULD SAVE TAXPAYERS UP TO \$340 MILLION PER YEAR

STATE	POTENTIAL ENROLLMENT DECLINE	POTENTIAL SAVINGS
Alabama	2,500	\$4,810,000
Alaska	300	\$760,000
Arizona	1,600	\$3,380,000
Arkansas	2,300	\$4,210,000
California	26,000	\$54,430,000
Colorado	1,100	\$2,670,000
Connecticut	2,200	\$5,180,000
Delaware	800	\$1,340,000
District of Columbia	600	\$1,230,000
Florida	15,100	\$33,110,000
Georgia	2,500	\$4,910,000
Hawaii	700	\$2,820,000
Idaho	100	\$330,000
Illinois	13,500	\$26,100,000
Indiana	5,100	\$10,920,000
Iowa	2,200	\$4,150,000
Kansas	700	\$1,580,000
Kentucky	1,800	\$3,970,000
Louisiana	3,600	\$8,000,000
Maine	500	\$970,000
Maryland	1,700	\$3,810,000
Massachusetts	2,700	\$6,290,000
Michigan	3,600	\$7,910,000
Minnesota	1,600	\$3,390,000
Mississippi	2,700	\$5,060,000

APPENDIX (CONTINUED)

STATE	POTENTIAL ENROLLMENT DECLINE	POTENTIAL SAVINGS
Missouri	2,400	\$4,310,000
Montana	200	\$380,000
Nebraska	300	\$750,000
Nevada	2,500	\$5,910,000
New Hampshire	300	\$580,000
New Jersey	2,500	\$5,620,000
New Mexico	2,300	\$5,080,000
New York	9,500	\$21,030,000
North Carolina	6,100	\$14,240,000
North Dakota	100	\$120,000
Ohio	6,900	\$14,200,000
Oklahoma	2,300	\$5,200,000
Oregon	1,400	\$2,310,000
Pennsylvania	9,800	\$20,360,000
Rhode Island	400	\$790,000
South Carolina	2,800	\$5,740,000
South Dakota	100	\$260,000
Tennessee	5,900	\$10,800,000
Texas	1,200	\$2,870,000
Utah	400	\$790,000
Vermont	200	\$520,000
Virginia	1,500	\$3,560,000
Washington	1,600	\$3,520,000
West Virginia	1,900	\$4,370,000
Wisconsin	3,200	\$6,360,000
Wyoming	100	\$200,000
TOTAL	161,700	\$341,190,000

Source: Author's calculations

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