



April 2, 2019

Certification Policy Branch
 Program Development Division, FNS
 3101 Park Center Drive
 Alexandria, Virginia 22302

Submitted electronically via regulations.gov

Re: Supplemental Nutrition Assistance Program Notice of Proposed Rulemaking: Requirements for Able-Bodied Adults Without Dependents

Dear Certification Policy Branch:

Thank you for the opportunity to submit comments in response to the proposed changes to the state waiver request process for the Supplemental Nutrition Assistance Program's (SNAP) work requirements for Able-Bodied Adults Without Dependents (ABAWDs), otherwise known as and hereafter referred to as the "SNAP ABAWD time limit." We are a national, non-profit advocacy organization dedicated to quality affordable health care for all, particularly for those who are most deeply impacted by the social and economic determinants affecting our health. Given our mission, we write to express our concern with the Department of Agriculture's (the Department) interest in limiting states' ability to waive the SNAP ABAWD time limit in areas of high unemployment or with a demonstrated lack of sufficient jobs. **While we support the goal of helping SNAP participants obtain and keep quality jobs that enable them to achieve economic security, we believe limiting the ability of states to exempt individuals in these areas will undermine, rather than further, this goal.**

Access to SNAP is linked with reduced health care costs because it reduces food insecurity, which in turn supports overall health. For example, research shows that adults who received food stamps as young children are more likely to graduate from high school and less likely to suffer long-term health problems such as obesity and heart disease.¹ Additionally, access to nutritious food supports good oral health, which contributes to a person's general health and wellbeing. As consumer health care advocates, we are concerned that limiting access to SNAP by restricting states' ability to request ABAWD time-limit waivers will worsen individual health and wellbeing. Below are our comments and recommendations in response to the Department's proposals.

The proposed rule usurps state autonomy and flexibility

The proposed rule restricts the ability of states to request and receive a SNAP ABAWD time-limit waiver in several ways, including: 1) limiting states' ability to group different geographic areas together when

¹ Steven Carlson, Dottie Rosenbaum, Brynne Keith-Jennings and Catlin Nchako, *SNAP Works for America's Children*, Center on Budget and Policy Priorities, September 2016, <https://www.cbpp.org/research/food-assistance/snap-works-for-americas-children>

applying for a waiver, 2) limiting the length of an ABAWD time limit waiver to one year, and 3) limiting the types of data states can use to request a waiver, as well as in other ways discussed below. Overall, these proposals take control and authority away from states and transition them over to the federal government, who will inevitably have less knowledge about the economic climate and employment prospects of states.

We believe states are best positioned to determine whether, how, in what areas of the state and for how long they need to waive the ABAWD time limit, and we believe they should maintain the authority to do so. Overall, we support the current federal policy that allows states to request a waiver from the ABAWD time limit for a specified area with an unemployment rate of over 10 percent or an area with an insufficient number of jobs to provide employment opportunities. We also support the policy of providing states with the flexibility to define the area(s) in which it requests to waive the time limit, as well as the criteria and data submitted to the Food and Nutrition Service (FNS) to determine whether the specified area has an unemployment rate of 10 percent or a lack of sufficient jobs.² Therefore, we believe the Department should not restrict the current waiver application process.

Reducing SNAP enrollment will not achieve the Department’s goal of saving taxpayer money

By the Department’s own estimates, the proposal would cause 755,000 individuals to lose SNAP benefits as a result of not meeting the ABAWD time limit work requirement and a \$15 billion reduction in spending over ten years. While reducing program enrollment will inevitably reduce spending on the program itself, it will increase costs and necessitate spending by federal and state governments in other ways. For example, hunger and food insecurity drove up health care costs by \$160 billion in a single year due to their role in contributing to hospitalizations, lost productivity, and poorer physical and mental health.³ To the extent that these consequences will contribute to increased uncompensated care costs or increased safety net program spending, restricting the ability of individuals to receive SNAP benefits is unlikely to achieve the Department’s goal of “saving taxpayers’ money.”

Work requirements do not increase or incentivize employment

The Department states that it is “confident that these changes would encourage more ABAWDs to engage in work or work activities if they wish to continue to receive SNAP benefits.” However, work requirements have historically been shown to not help individuals gain or maintain employment. For example, work requirements in the TANF program have not been successful. The percentage of TANF recipients who were working in 2013 was the same as it had been in 1996 - 63 percent.⁴ Additionally, Medicaid work requirements implemented in Arkansas last year have caused over 18,000 individuals to lose coverage⁵, while only a very small percentage of individuals have reported newly working as a result

² United States Department of Agriculture, *Letter to SNAP Regional Directors re: Supplemental Nutrition Assistance Program - Guide to Supporting Requests to Waive the Time Limit for Able-Bodied Adults without Dependents (ABAWD)*, December 2016, <https://fns-prod.azureedge.net/sites/default/files/snap/SNAP-Guide-to-Supporting-Requests-to-Waive-the-Time-Limit-for-ABAWDs.pdf>

³ John T. Cook, Ana Paula Poblacion, *2016 Hunger Report, Appendix 2: Estimating the Health-Related Costs of Food Insecurity and Hunger*, Bread for the World, http://www.bread.org/sites/default/files/downloads/cost_of_hunger_study.pdf

⁴ Center on Budget and Policy Priorities, *Policy Basics: An Introduction to TANF*, June 2015, <https://www.cbpp.org/research/policy-basics-an-introduction-to-tanf>

⁵ Benjamin Hardy, *Over 18,000 lost coverage in 2018 due to Medicaid work rule, but only fraction have re-applied*, Arkansas Times, January 15, 2019, <https://www.arktimes.com/ArkansasBlog/archives/2019/01/15/over-18000-lost-coverage-in-2018-due-to-medicaid-work-rule-but-only-fraction-have-reapplied>

of the work requirement.⁶ Rather than help low-income individuals find work, work requirements merely place barriers between individuals and their health-related social needs. We believe state residents should be allowed access to food benefits while experiencing an economic downturn or period of unemployment so that they can stay healthy and able to work if and when these circumstances improve.

By helping individuals access healthy food, SNAP also aids in maintaining good oral health, which in turn helps individuals find and maintain employment. Almost a third of low-income adults report that the condition of their mouth and teeth affects their ability to interview for a job and about 25 percent indicate that it causes them to take time off work.⁷ Dental caries, the disease that causes cavities, is more prevalent in areas with diets high in sugar and carbohydrates as a result of inadequate access to nutritious foods. Additionally, periodontal disease (or gum disease) and gingivitis are associated with malnutrition, particularly inadequate levels of calcium, vitamin C, and folic acid.⁸ Relatedly, poor oral health can cause pain, tooth loss and other oral health problems that can make it difficult to chew and eat, compromising nutrition and health.⁹ Because SNAP is such an important part of our nation's efforts to help families avoid hunger and afford nutritious foods, it is also an integral program for supporting oral health, which can improve employment and save healthcare costs.

The proposal to introduce a minimum unemployment rate into the “20 percent standard” criteria is unreasonable

The current ABAWD time-limit waiver policy considers states to have a “lack of sufficient jobs” if states prove that certain areas of the state (or the entire state) have an unemployment rate that is 20 percent or more above the national average. The Department notes that despite a significant decline in the national employment rate since the Great Recession, many states continue to apply for and implement a SNAP ABAWD time limit waiver. The Department is troubled by the fact that “regardless of how strong the economy is, the criteria are written in such a way that areas will continue to qualify even with objectively low unemployment rates.” For these reasons, the Department proposes to set a floor equal to the “*natural rate of unemployment*” rather than the national average, and also seeks comments on whether the “*natural rate of unemployment*” should be designated as 6 percent, 7 percent or 10 percent. Introducing this floor would mean that an area with an unemployment rate 20 percent above the national average, but less than the designated minimum percentage, would not qualify for a waiver.

Setting a floor for unemployment rates is unreasonable for several reasons. First, simply because an area has an unemployment rate below 6, 7 or 10 percent does not automatically indicate it does not have a lack of sufficient jobs. It is also unclear why the Department is assuming that a “*natural rate of unemployment*” is more objective than the “*national rate of unemployment*,” since both can fluctuate or change over time. The Department also offers no evidence showing that using this floor would be a more accurate measure of whether an area has a lack of sufficient jobs; it simply cites data showing that significantly fewer individuals would live in areas subject to a waiver. It is clear from the information

⁶ Robin Rudowitz, MaryBeth Musumeci, Cornelia Hall, *January State Data for Medicaid Work Requirements in Arkansas*, Kaiser Family Foundation, February 25, 2019, <https://www.kff.org/medicaid/issue-brief/state-data-for-medicaid-work-requirements-in-arkansas/>

⁷ American Dental Association's Health Policy Institute, *Oral health and well-being in the United States* (2015), <https://www.ada.org/~media/ADA/Science%20and%20Research/HPI/OralHealthWell-Being-StateFacts/US-Oral-Health-Well-Being.pdf?la=en>

⁸ G.A. Scardina, P. Messina, *Good oral health and diet*. *Journal of Biomedicine and Biotechnology*, (2012) <https://www.ncbi.nlm.nih.gov/pubmed/22363174>

⁹ American Dietetic Association, *Position of the American Dietetic Association: oral health and nutrition*, (2007). *J Am Diet Assoc*, 107, 1418-1428, <https://www.ncbi.nlm.nih.gov/pubmed/17712930>

provided, therefore, that the Department wishes to establish a floor solely for the purpose of limiting the number of individuals exempt from the SNAP ABAWD time limit requirements.

Limiting the length of waivers to one-year is unduly restrictive

The Department seeks to limit the duration of waivers to one year or less, rather than continuing to allow approvals of longer waivers in certain circumstances as is permitted under the current rules. The justification it provides is that “a one year waiver term allows sufficient predictability for States to plan and implement the waiver; at the same time, a one-year waiver term ensures that the waiver request reflects current economic conditions.” However, periods of economic downturns can often take longer than one year to significantly improve. Therefore, requiring states to re-submit a waiver request when there has been no significant increase in unemployment rates or improvements in the state or local economy only adds unnecessary bureaucratic red tape.

The timeline for implementing the final rule is unreasonable

The Department proposes that the rule will take effect on October 1, 2019, regardless of when it is finalized, and that all waivers currently in effect will be terminated on October 1 if they do not meet the rule’s new standards. This timeline gives states little-to-no time to analyze and understand the final rule, evaluate whether or how they will need to amend their current waivers to comply with the final rule, and submit an amended request if needed before their current waiver is terminated. For an Administration that allegedly values state sovereignty and flexibility,¹⁰ this proposal puts states on a harsh and unreasonable timeline that undermines their sovereignty and ability to enact policies that best suit their needs.

Only using federal data in the waiver eligibility determination process is unduly restrictive

The Department proposes to only allow states to use data from the Bureau of Labor Statistics (BLS) when assessing whether certain (or all) areas of the state have a “lack of sufficient jobs,” and in doing so, eliminates the ability of states to use any state or locally-based alternative data, including: 1) a low and declining employment-to-population ratio; 2) a lack of jobs in declining occupations or industries; and 3) an academic study or other publications(s) that describes an area’s lack of jobs, as allowed under the current rules. Additionally, the Department proposes to only allow states to group geographic areas together when applying for a waiver if they are designated as a Labor Market Area by the federal government. The proposed rule further seeks to only allow states to rely on alternative data sources for areas with limited data or evidence only when BLS or a BLS-cooperating agency’s data is limited or unavailable. Since states more closely and frequently track data relevant to their own economic conditions, only allowing the use and submission of federal data will likely force states to use data that is more outdated or less comprehensive than what the state itself uses. Therefore, restricting data to only federal sources will make waiver eligibility determinations less reliable and accurate, and once again will hinder state flexibility.

Lastly, the proposal seeks to prohibit the criterion of a historical seasonal unemployment rate over 10 percent because “historical seasonal unemployment does not demonstrate a prolonged lack of sufficient number of jobs to provide employment to individuals.” However, since the Department is proposing to limit the length of ABAWD time-limit waivers to one year, seasonal unemployment data become

¹⁰ “We believe that states are best positioned to design local solutions to these challenges, free of one-size-fits-all regulations from Washington that impair flexibility.” Centers for Medicare & Medicaid Services, *Speech: Remarks by Administrator Seema Verma at the 2019 CMS Quality Conference*, January 29, 2019, <https://www.cms.gov/newsroom/press-releases/speech-remarks-administrator-seema-verma-2019-cms-quality-conference>

significantly more relevant within that timeframe. Therefore, if the Department moves forward with restricting waivers to one-year, historical seasonal employment data should continue to be a relevant factor.

Requiring Governors to endorse waiver requests will add unnecessary red tape to the waiver process

The Department proposes to require all waiver requests to have a state Governor's endorsement "to ensure that such a critical request is supported at the highest levels of State government." The Department provides no justification for why these waivers need this level and amount of approval, likely because there is no reason to require this type of approval other than to add another level of bureaucratic red tape that will thwart the ability of states to apply for and receive these types of waivers. All Governors appoint department directors and/or cabinet members for the explicit purpose of delegating control and granting jurisdiction over certain areas of government. Requiring Governors to become involved in something as detailed and specific as SNAP ABAWD time limit waiver requests interferes with the ability of state governments to function efficiently and productively, and will only serve to hinder the ability of states to submit waiver requests to the Department.

The proposed rule violates Congressional intent

The Department claims that it is "committed to enforcing the work requirements established by Congress" and "implementing SNAP as Congress intended." However, Congress recently reauthorized SNAP in the 2018 Farm Bill and did not make any of the changes proposed by the Department. Therefore, by drastically changing the core standards by which states can apply for and receive waivers, the Department is proposing an arbitrary and capricious rule that violates the intent of Congress.

Overall, because the proposed rule unreasonably restricts state sovereignty and flexibility, will not help the Department achieve its intended goals and violates Congressional intent, we urge the Department not to finalize the rule as proposed and instead keep the current rules in place.

Thank you for your consideration.

Respectfully submitted,



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