



14 Computer Drive East
Albany, NY 12205
518-436-8757 PH
518-458-6068 FAX
HungerSolutionsNY.org

April 1, 2019

Certification Policy Branch
SNAP Program Development Division
Food and Nutrition Service, USDA
3101 Park Center Drive
Alexandria, Virginia 22302

RE: Proposed Rule: Supplemental Nutrition Assistance Program (SNAP): Requirements for Able-Bodied Adults without Dependents RIN 0584-AE57

Dear Certification Policy Branch:

On behalf of the Hunger Solutions New York, please accept these comments on the United States Department of Agriculture's (USDA's) Food and Nutrition Service (FNS) Proposed Rulemaking on Requirements for Able-Bodied Adults Without Dependents (ABAWDs).

Hunger Solutions New York is a statewide non-profit organization dedicated to alleviating hunger. We promote awareness of hunger, participation in federal nutrition assistance programs for all who are eligible, and public policies that contribute to ending hunger. We gain our expertise through the operation of the largest SNAP outreach program in New York State, the Nutrition Outreach and Education Program (NOEP). The goal of NOEP is to increase participation in SNAP by disseminating up-to-date information about the program, providing eligibility information, conducting targeted outreach, prescreening services, application and recertification assistance, and referrals to other programs such as WIC, food pantries, HEAP, child and senior nutrition programs, and health insurance. NOEP also aims to promote a positive perception of SNAP by informing members of the general public and potential applicants the value of SNAP as a resource to reduce hunger and food insecurity.

Hunger Solution New York pays very close attention to the Supplemental Nutrition Assistance Program (SNAP) because it plays a critical role in addressing hunger and food insecurity in our communities and is the first line of defense against hunger for low-income people in our state. We are concerned about the three-month time limit as this policy has cut off food assistance to so many who are in need just because they are unable to find a reliable 20-hour-a-week job. Hunger Solutions New York has been educating and assisting community organizations around the ABAWD time limit rule since the fall of 2015. We have created and distributed resources for community organizations serving this population to ensure that eligible SNAP recipients in New York State are not wrongly cut off SNAP due to the time limit.

SNAP Matters

SNAP plays a critical role in addressing hunger and food insecurity in our community. It is the first line of defense against hunger for low-income residents.

Hunger and food insecurity affect far too many Americans. In New York State, the number of households receiving SNAP benefits has remained relatively consistent over the past three years, providing evidence that the economic recovery has reached the lowest-income New Yorkers much more slowly than it has others. In 2018, 2,766,204 residents received SNAP benefits¹. In New York, just over 1 in 10 New York households (10.9%) experience food insecurity, down from 12.5% in the previous report².

SNAP is a vital support for many low-income people, and is crucial for ending hunger and improving health in America. Research shows that SNAP plays a critical role in alleviating poverty and food insecurity and in improving dietary intake, weight outcomes, and health, especially among the nation's most vulnerable children³.

Based on USDA Economic Research Service analysis, it is estimated that each \$1 in federal SNAP benefits generates \$1.79 in economic activity. Those dollars help many food retailers operating on thin margins to remain in business; something that improves food access for all residents.

In NYS, local farmers' markets receive revenue from SNAP purchases and many of those markets also participate in NYS incentive programs that provide SNAP shoppers with bonuses for purchasing fruits and vegetables. In 2017, New York processed \$3.4 million in EBT transactions through 221,051 transactions at 243 farmer's market sites, providing healthy, nutritious food to nearly 60,000 New York households⁴.

Area Waivers and Individual Exemptions Provide Ways to Modestly Ameliorate the Harsh Impact of Arbitrary Time Limits

Federal law limits SNAP eligibility for childless unemployed and underemployed adults age 18-50 (except for those who are exempt) to just three months out of every three years unless they are able to obtain and maintain an average of 20 hours a week of employment. This rule is harsh and unfair. It harms vulnerable people by denying them food benefits at a time when they most need it and it does not result in increased employment and earnings. By time-limiting food assistance to this group, federal law has shifted the burden of providing food to these unemployed individuals from SNAP to states, cities, and local charities.

Under the law, states have some flexibility to ameliorate the impact of the cutoff. They can request a waiver of the time limit for areas within the state that have 10 percent or higher unemployment rates or, based on other economic indicators, have "insufficient jobs." Moreover, states have discretion to exempt individuals from the time limit by utilizing a pool of exemptions (referred to as "15 percent exemptions"). While the 2018 Farm Bill modified the number of exemptions that states can receive each year from 15 percent to 12 percent, it did not change their ability to carry over unused exemptions forward.

¹ <http://otda.ny.gov/resources/caseload/2018/2018-12-stats.pdf>

² [USDA-"Household Food Security in the United States 2017" Published Sept 2018](#)

³ https://www.whitehouse.gov/sites/whitehouse.gov/files/documents/SNAP_report_final_nonembargo.pdf

⁴ <https://www.governor.ny.gov/news/governor-cuomo-calls-usda-protect-snap-recipients-access-farmers-markets>

For the calendar year 2019, USDA approved the following waivers for NYS; 37 counties (34 counties outside of NYC and 3 counties in NYC), 6 jurisdictions, and 6 community districts in Manhattan and Queens. If the proposed rule was to be put into effect NYS would lose an estimated 89% of their current waivers, newly subjecting at least 107,000 people to the time limit in areas of our state that have been determined by the state and the county to not have sufficient jobs, job placement opportunities, or that have transportation barriers and other difficulties that make meeting the 20 hour work requirement impossible.

Finally, due to decreased unemployment rates after the Great Recession, waivers from the time limits expired across the states and people have lost access to food assistance with virtually no evidence of increased self-sufficiency. One estimate suggests that as many as 500,000 people lost nutrition assistance nationwide in 2016.⁵ There is little evidence that the time limit led to increased employment for these people.⁶ Therefore, waiving fewer areas is not likely to lead to the intended purpose of helping ABAWDs find meaningful employment.

Hunger Solutions New York strongly oppose any administrative action by USDA that would expose more people to this cutoff policy. Under the law, New York and other states have the flexibility to waive areas within their state that have experienced elevated unemployment. The rules governing areas' eligibility for waivers have been in place for nearly 20 years and New York along with every state, except Delaware, has availed themselves of waivers at some point since the time limit became law. The waiver rules are reasonable, transparent, and manageable for states to operationalize. These waivers are critical in New York, as our state is large and includes diverse communities and challenges that affect our many counties, cities, and towns. Any change that would restrict, impede, or add uncertainty to New York's current ability to waive areas with elevated unemployment must not be pursued.

Proposed Rule Undermining Law's Safety Valves Should Be Rejected

By the Administration's own calculations, the proposed rule would take food away from 755,000 low-income Americans, cutting food benefits by \$15 billion over ten years. The Administration does not estimate any improvements in health or employment among the affected population.

The proposed rule would make it harder for areas with elevated unemployment rates to qualify for waivers of the time limit by adding a 7 percent unemployment rate floor as a condition. The proposed rule's justification for applying the limit – low overall unemployment levels – are imprecise measures of job opportunities for ABAWDs in a state. Unemployment rates for people without any college education – a category that includes most ABAWDs - usually hover well above the general unemployment rate. Nationally, the unemployment rate for people with less than a high school diploma was 5.6 percent in 2018 while the unemployment rate for people with some college or an associate's degree was 3.7 percent.⁷ In individual states and areas, the differences can be even starker.

The proposed rule would also make it harder for states to obtain and implement area waivers by dropping statewide waivers except when a state triggers extended benefits under Unemployment Insurance. It would unduly limit the economic factors considered in assessing an area's eligibility for a

⁵ <https://www.cbpp.org/research/food-assistance/snap-caseload-and-spending-declines-accelerated-in-2016>

⁶ <https://www.cbpp.org/research/food-assistance/snap-reports-present-misleading-findings-on-impact-of-three-month-time>

⁷ <https://www.bls.gov/emp/tables/unemployment-earnings-education.htm> (as of March 1, 2019)

waiver (e.g., by no longer allowing employment to population ratios that demonstrate economic weakness to qualify areas for waivers). It would undermine efficient state implementation of area waivers by limiting their duration to 12 months and delaying their start dates until after USDA processes the request. In addition, the proposed rule would remove states' ability to use exemptions accumulated prior to the rule's implementation as well limit the time states' have to use exemptions they receive in the future.

In NYS, our exemptions have allowed areas of our state without waivers to exempt people as they see fit. This includes victims of domestic violence, people who were just short of the 20 hours due to no fault of their own, veterans, and homeless people, to name a few. Each county must send the state an annual list of those who will be exempted using the 15% exemptions. Exemptions in NYS are based on the # of ABAWD's in any given county that does not have a waiver. This spreads the number of exemptions out across the state in a fair way and leaves room for any special circumstances like a large company closing in a certain area of the state. NY uses its exemptions carefully and continues to carry over its exemptions to keep the formula it uses to disperse the exemptions working.

The Department provides little analysis to explain its conclusions about the impacts the changes would have on individuals and population groups nor of realistic plans to avert harm from those changes. USDA merely asserts its expectation that two-thirds of those individuals made newly subject to the time limit "would not meet the requirements for failure to engage meaningfully in work or work training." Moreover, while the Department concedes that the proposed changes "have the potential for disparately impacting certain protected groups due to factors affecting rates of employment of these groups, [it] find[s] that implementation of mitigation strategies and monitoring by the Civil Rights Division of FNS will lessen these impacts." However, no explanation of the mitigation strategies and monitoring is provided, so there is no opportunity for us to comment on whether the acknowledged disparate impact will in fact be mitigated.

The Administration proposed rule seeks to end run Congress, which just concluded a review and reauthorization of SNAP in the 2018 Farm Bill and did not make the changes proposed. The rules governing areas' eligibility for waivers and individual exemptions have been in place for nearly 20 years. In that time, the waiver rules have proven to be reasonable, transparent, and manageable for states to operationalize.

The only action we encourage USDA to take with respect to this time limit rule that impacts ABAWDs is to propose its elimination. Restoring SNAP's ability to provide food assistance to impoverished unemployed people would be a powerful policy improvement that would reduce food insecurity among those seeking work.

Thank you for the opportunity to respond to USDA's Notice of Proposed Rulemaking on Supplemental Nutrition Assistance Program Requirements for Able-Bodied Adults Without Dependents. We appreciate your consideration of these comments.

Sincerely,
Sherry Tomasky
Director, Public Affairs
Hunger Solutions New York