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October 31, 2019

SNAP Program Design Branch,
Program Development Division
Food and Nutrition Service
3101 Park Center Drive
U.S. Department of Agriculture
Alexandria, VA 22302

Re: Notice of Proposed Rule Making -- Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP); Reopening of Comment Period RIN 0584-AE62

Dear SNAP Program Design Branch:

On behalf of Hunger Solutions New York, we appreciate the opportunity to comment on USDA's Notice of Proposed Rule Making on a Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP) during the reopening of the comment period.

Hunger Solutions New York is a statewide anti-hunger organization dedicated to alleviating hunger for all New Yorkers. Our organization's primary approach to addressing hunger is to maximize participation in the federally-funded nutrition assistance programs including the School Breakfast Program and National School Lunch Program, the Supplemental Nutrition Assistance Program (SNAP), the Summer Food Service Program, Child and Adult Care Food Program, and WIC. We do this by providing consult and resources to non-profit organizations, schools and other agencies to improve access to nutrition assistance programs, and to help make their anti-hunger efforts more efficient and effective. We also manage one of the largest SNAP outreach and application assistance programs in the country, the Nutrition Outreach and Education Program (NOEP).

The proposed rule would strip states' Broad-based Categorical Eligibility ("Cat El") options to eliminate SNAP asset tests and use a higher income test to serve more working households that have significant expenses for shelter and child care. According to USDA's initial Regulatory Impact Analysis, the proposed rule would eliminate SNAP benefits for 3.1 million households nationally.

The Department's most recent analysis of the proposed rule's impact on access to the School Breakfast and National School Lunch Program further highlights the serious harm the proposed changes would cause to New York State students. It

indicates that the proposed rule would jeopardize free school meals for 1 million children nationally. New York State students will be disproportionately impacted as our state has much higher costs for housing and dependent care than most other states in the country.

The SNAP administrative office in New York State, Office of Temporary and Disability Assistance, estimates that 39,000 New York State children will lose automatic eligibility for free school meals. This estimate only reflects the children who will be impacted by the proposed changes to the income test. We expect that even more children will be lose automatic eligibility for free school meals under the proposed re-imposition of the asset test.

The Department has not provided sufficient analysis or time for assessing the full extent of the proposed rule's impact on access to school meals as well as for those impacted to develop comments. The Department also has not adequately explained why it omitted analysis of the impact on school meals from the Regulatory Impact Analysis it posted during the initial 60-day comment period. The proposed rule clearly would harm the health and well-being of many school children. It should be withdrawn.

Children's achievement, well-being and behavior are intimately tied to their nutrition. Reliable access to consistently good nutrition each morning is not a reality for the one in five New York State children who start their school day hungry, and thus less equipped to learn. Research shows that children from food-insecure households are more likely to be apathetic, withdrawn, non-responsive, and more likely to struggle with mental health issues.ⁱ

Access to good nutrition, including access to the School Breakfast Program and the National School Lunch Program, is a key strategy to support positive development and behavior among students facing food insecurity. Research has demonstrated strong connections between food insecurity and children's behavior. It has also shown the critical role school meals play when addressing issues like physical and mental health, as well as students' ability to learn and attend school. Participation in the school meal programs is linked to numerous health and educational benefits, including reduced food insecurity, improved dietary intake, better test scores, calmer classrooms, stronger attendance and graduation rates, and improved student health.ⁱⁱ

Furthermore, food insecurity has a lifetime impact on children that translates to economic consequences for our nation. Studies show that food insecurity is estimated to cost at least \$167.5 billion due to the combination of lost productivity per year, more expensive public education because of the rising costs of poor education outcomes, avoidable health care costs, and the cost of charity to keep families fed. This estimate does not include the cost of federal nutrition programs, but does identify charity costs (up from \$13.2 billion in 2007), \$130.5 billion from costs of physical and mental/psychosocial illness (up from \$98.4

billion in 2007), and \$19.2 billion (up from \$13.9 billion in 2007) from poor educational outcomes and lower lifetime earnings.ⁱⁱⁱ

According to the newly released USDA analysis, the proposed rule will jeopardize nearly one million children's access to free school meals. Even assuming that their families could navigate the school meals application process successfully, the majority would no longer qualify for free school meals: 497,000 children would qualify only for reduced-price school meals and another 40,000 children would receive school meals only by paying regular price.

Given the current serious issues in many school districts with low-income working families struggling to pay for school meals even at reduced prices, the proposed rule would likely exacerbate the incidences of "lunch shaming" (occurring when families accumulate school meal debt and children are not provided the regular school meal) and/or cause the children to forgo getting the school meal entirely. Indeed, already one in four school districts are dealing with unpaid school meals fees.

Numerous barriers—including literacy and language barriers--would keep some of the children that the proposed rule causes to lose direct certification from being certified for free or reduced-price school meals. In New York State, children in SNAP households have been directly certified for free school meals through the state electronic direct certification process since 2012. This means that through the collaboration of our SNAP administrative office (Office of Temporary and Disability Assistance (OTDA), the New York State Education Department, and local school districts, children are automatically certified for free school meals each school year without families needing to submit paperwork to their child's school. This shift will present a significant struggle for families whose children could lose access to free meals because of a lack of understand of a new arduous process.

Not only would this shift from direct certification to individual application processing create barriers to free or reduced-price school meals for children, schools would have to process many more school meal applications. The proposed rule creates a significant administrative cost for schools, which the new analysis fails to adequately address. We have found through our work with school districts across the New York State that many schools struggle to get families to submit free and reduced-price school meal applications. The USDA has also acknowledged this barrier in schools across the country. Often schools are forced to invest staff time and funding to collect applications to get an accurate representation of the student's household incomes.

In addition, the shift away from automatic eligibility for free school meals will have a negative impact on community eligibility, which allows high poverty schools to offer free breakfast and lunch to all students. Community eligibility uses the number of children directly certified for free school meals, primarily due to participation in SNAP, to determine if a school is eligible to implement

community eligible and to set the federal funding for school breakfast and lunch that a community eligibility school will receive.

Many New York State schools will find that they no longer qualify for community eligibility or that it is no longer financially viable. Our work includes one-on-one technical assistance to eligible school districts across the state to evaluate the financial viability of community eligibility in their schools. Many of the small rural schools in New York State adopt CEP at a lower end of the ISP qualifying percentage. Any shift in the number of children directly certified through SNAP would threaten the financial viability and in some cases their eligibility to adopt community eligibility. Community eligibility is particularly important to rural schools who have higher expenses – high transportation costs, the cost of food, etc.—and cannot benefit from the economy of scale like larger districts.

In this regard, the proposed rule also would take free school meals away from additional children since the new analysis fails to consider the impacts of the proposed rule on community eligibility.

The Department waited more than 75 days after it published the proposed rule and 16 days after the initial 60-day comment period had closed to release its analysis of the impact on access to school meals, yet has provided the public only 14 days to review and assess the Department’s analysis.

The lack of the original Regulatory Impact Analysis to include information on the proposed rule’s estimated impact on access to the School Breakfast Program and the National School Lunch Program is especially concerning given that the Congressional Budget Office (CBO) has included analyses of impacts on access when it has provided cost estimates to Congress regarding proposed legislative changes to SNAP Cat El. Indeed, such CBO estimates were before Members of Congress when they were considering changes to Cat El in the 2018 Farm Bill. Congress rejected efforts to weaken Cat El during its consideration of the 2018 Farm Bill. This USDA rulemaking is an attempt to sidestep Congress and is outside USDA’s authority.

We strongly oppose the proposed rule that would jeopardize our students’ access to free school meals, while at the same time reducing the amount of food available to them at home.

Sincerely,

A handwritten signature in blue ink that reads "Sherry Tomasky". The signature is written in a cursive, flowing style.

Sherry Tomasky
Director, Communications and Public Affairs
Hunger Solutions New York

ⁱ Food Research and Action Center, “Research Brief - The Connections Between Food Insecurity, the Federal Nutrition Programs, and Student Behavior” <https://www.frac.org/wp-content/uploads/breakfast-for-behavior.pdf>

ⁱⁱ Food Research and Action Center, “Research Brief – Breakfast for Learning” <http://frac.org/wp-content/uploads/breakfastforlearning-1.pdf>.

Food Research and Action Center, “Research Brief -Breakfast for Health” <https://frac.org/wp-content/uploads/breakfastforhealth-1.pdf>

ⁱⁱⁱ Current and Prospective Scope of Hunger and Food Security in America: A Review of Current Research (July 2014)https://www.rti.org/sites/default/files/resources/full_hunger_report_final_07-24-14.pdf