



## 2018 SNAP Position Paper

### *Oppose Weakening of Protections for People Subject to the SNAP 3-Month ABAWD Time Limit*

Following the President's Budget proposal<sup>i</sup> that would diminish the protections against hunger for people deemed Able-Bodied Adults Without Dependents (ABAWDs) in the Supplemental Nutrition Assistance Program (SNAP), in response to the United States' Department of Agriculture's (USDA) advanced notice of proposed rulemaking issued in February 2018,<sup>ii</sup> and in anticipation that the 2018 Farm Bill could include similar or related, it is essential that policy makers understand the impact that doing so would have on and low-income Californians, our economy and our communities. The Western Center on Law and Poverty represents California's poorest residents in policy and budget discussions affecting housing, health and public benefits and we join the California Secretary of Agriculture and the California Secretary of Health and Human Services in calling for an end to this rule altogether.<sup>iii</sup> If a repeal of the rule cannot be achieved, we urge lawmakers, at a minimum, not to allow for the weakening of the protections to the rule that have been long-established in federal law and guidance. Below, we provide background information about the rule and its impact on people who turn to the program to prevent hunger and to their communities.

#### ▪ *A Summary of the ABAWD Time Limit & Current Regulatory Protections*

In 1996, through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),<sup>iv</sup> Congress created a time limit in the Food Stamp Program, now known as Supplemental Nutrition Assistance Program (SNAP), for unemployed childless adults between the ages of 18 and 49 years old, referred to as ABAWDs. .<sup>v</sup> Unless exempt due to disability or pregnancy, an ABAWD is limited to receiving federal food benefits for just three months out of any thirty-six month period unless they satisfy the 20 hours-per-week work requirement associated with this time limit.

Under SNAP regulations, a state can qualify for a 12-month statewide ABAWD waiver if it demonstrates that it has a 24-month average unemployment rate 20 percent above the national average for the same 24-month period, using data from the U.S. Bureau of Labor Statistics.<sup>vi</sup> Using this criterion,<sup>vii</sup> the United States Department of Agriculture's Secretary has approved California's request for a waiver of the ABAWD time-limit until September of this year. After that, the state has requested and, according to criteria set forth in the Code of Federal Regulations,<sup>viii</sup> should receive a waiver for all areas except Santa Clara, San Mateo and San Francisco Counties, which are no longer eligible pursuant to these provisions. Area waiver approvals come up for review each year.

#### ▪ *ABAWD Time Limit Controversial Provision from the Beginning*

This provision was introduced into PRWORA without a single hearing via a floor amendment and President Bill Clinton and his Chief of Staff, Leon Panetta, did everything they could to

ensure protections for people who had barriers to work from going hungry. In fact, President Clinton called out this provision in his bill signing statement, saying it, “fails to provide Food Stamp support to childless adults who want to work, but cannot find a job or are not given the opportunity to participate in a work program.”<sup>ix</sup>

- ***California Unemployment Rate on the Decline, but Working Poverty Still High***

California’s recovery from the recession was slower than in other states because, according to economists, the state’s austerity measures resulted in higher than average cuts to government jobs and money circulated in the economy.<sup>x</sup> While two million new jobs have been created and unemployment has dropped in half since 2011, many Californians struggle with unemployment, underemployment and low-wages and, as a result, experience hunger or are forced to rely on programs in the social public safety net. Without support to improve their skills and work opportunity, these Californians will linger in poverty regardless of how hard they work. In fact, in 2015, nearly 80% of poor Californians had earnings from work.<sup>xi</sup>

- ***ABAWD Time Limit Punishes People Who are Looking For Work***

The ABAWD time limit is one of the most hardhearted and backward thinking of the policy changes implemented during federal welfare reform. The time limit denies food aid to both individuals with undiagnosed impairments who struggle to find work. States are not obliged to help these individuals find medical providers who can diagnose or treat their impairments. The time limit denies food aid to individuals without impairments who are actively looking for work and willing to accept any appropriate job or work program slot offered if they can get to the job and if an employer will hire them. Unlike work requirements in other public assistance programs, states have absolutely no obligation under the SNAP time limit rules to offer skills training, employment services or any transportation assistance to individuals before cutting them off food assistance.<sup>xii</sup> As a result, most of these individuals are denied food help and go hungry, making it more difficult to find work, not less.

- ***Cutting SNAP After 3 Months Reduces Likelihood of Securing Work***

For low-income Californians, both those who work and those who do not or cannot, SNAP offers an essential support, preventing hunger and malnutrition. For people looking for work, this access to food is essential, as hunger can easily undermine employment goals. But that’s not all. For many SNAP recipients, receipt of hunger-fighting food benefits makes them eligible for the SNAP Employment and Training (E&T) program. SNAP ET can help recipients reduce barriers to work, find employment and even provides post-employment services to help workers be successful in a new job. However, the SNAP ET programs are limited, do not have slots that open up fast enough to correspond with the recipient’s time clock, and do not offer up front funds for transportation costs (it operates as a reimbursement). However, for SNAP recipients who can access these programs, the services can be a lifeline. Cutting recipients off of aid, cuts them from the opportunity to work.

- ***Significant Barriers Keep Many People From Full-Time Work***

The ABAWD population often faces the most significant barriers to work and could benefit from a county-administered employment and training placement and barrier removal support services that could come with it. According to the Center on Budget and Policy Priorities (CBPP), only about half of ABAWDs nationally have a high school diploma or the equivalent.<sup>xiii</sup> In Ohio,

where the ABAWD waiver was recently ended, advocates found that more than 34% of ABAWDs has a criminal record and, with no expungement services, they faced high barriers to employment.<sup>xiv</sup> This mirrors data published in a recent report showing that men with criminal records account for 34% of all nonworking men ages 25-54 and that the numbers of people with a criminal conviction on their record, especially men of color, has increased significantly since the failed war-on-drugs and during the prison boom.<sup>xv</sup>

- ***ABAWD Time Limit Doesn't Include Protections For Special Populations***

While federal law and guidance allows for states to exempt special populations, like veterans, former foster youth, Native Americans or people who lose their jobs as a result of racial discrimination or sexual harassment, from some of SNAP's other work requirements,<sup>xvi</sup> the ABAWD time limit does not provide special concessions for these populations. This is despite important evidence that these populations experience significant barriers to self-sustaining employment:

***Veterans:*** Despite their service to our country, and in too many cases, because of it, too many veterans face poverty.<sup>xvii</sup> California has about 1.8 million veterans, more than any other state. A recent study of Veterans in Los Angeles County found that nearly a quarter are earning an annual income at or below the U.S. poverty level, citing lack of job opportunities as a significant cause.<sup>xviii</sup> In fact, while state administrators are not required to track and report the number of veterans who apply for or receive SNAP, it is estimated that 1.7 billion veterans are protected from hunger by the program.<sup>xix</sup> There is no exemption from the ABAWD time limit for veterans.<sup>xx</sup>

***Native Americans:*** More than one in three American Indian and Alaska Native children live in poverty in the U.S., while 22 percent of American Indians and Alaska Natives ages 25 and older have not finished high school, the lowest of any racial/ethnic demographic group across all schools. Only 13 percent have completed a bachelor's degree or higher, compared to 29 percent of the U.S. population. In Fiscal Year 2016, 18,491 American Indians and Alaska Native households in California receive SNAP benefits.<sup>xxi</sup>

***Former Foster Youth:*** Former foster youth face significant barriers to achieving economic security in their adult years. In fact, national research reveals that approximately 20 percent of former foster youth become homeless.<sup>xxii</sup> In California, we have passed legislation requiring foster youth to be assisted in applying for SNAP upon emancipation (or their 18<sup>th</sup> birthday), but many struggle to remain on this aid<sup>xxiii</sup> and, as a population, they face high rates of unemployment. As such a significant number of former foster youth would be subject to an ABAWD time limit, leaving them not only without a family and without a job, but without food too.

***People Re-Entering the Community:*** People with prior convictions face significant barriers to employment. This is both due to the fact that they have spent significant time away from the workforce and because employers, in most states, are allowed to deny jobs to people who were arrested but never convicted of any crime.<sup>xxiv</sup> 37 states have laws permitting all employers and occupational licensing agencies to ask about and consider arrests that never led to conviction in making employment decisions and 29 states have no standards

governing the relevance of conviction records of applicants for occupational licenses, meaning occupational licensing agencies can deny licenses based on any criminal conviction, regardless of history, circumstance or business necessity.<sup>xxv</sup> With fewer options, and little protection against employer discrimination based on prior conviction, these workers have much higher unemployment rates and, in general, experience unemployment for longer periods than people who do not have a prior criminal conviction.

- ***Red-Tape of the ABAWD Time Limit Makes People Fall Through Cracks***

The time limit includes protections for people who are disabled, but the red tape in establishing that a person is disabled or unfit for work can be burdensome and those with the most significant illnesses are at risk of being unable to comply with the verification rules. Additionally, many medical providers charge a service fee for providing proof of disability. After years of administrative advocacy, Western Center sponsored a bill in 2017 that would prevent Medi-Cal providers from charging this fee when it is needed to verify disability for the purposes of CalFresh (and other public aid),<sup>xxvi</sup> though other providers may still charge fees.

- ***Workers Challenged to Secure 80 Hours of Work Per Month - Even When They Want To***

Lacking job opportunities and with multiple barriers to work, these SNAP recipients may be able to find a low-paying service sector work, but those jobs are increasingly part-time and lack fair scheduling practices making it difficult to guarantee 20 hours a week on a regular basis.<sup>xxvii</sup> According to one study, 43 percent of part-time workers wished they had more hours and this involuntary part-time work has only grown over the course of the economic downturn, more than doubling between 2007 and 2012 from 3.6 to 7.8 percent among women in the workforce and from 2.4 to 5.9 percent among men.<sup>xxviii</sup> According to federal law, if a SNAP recipient who is subject to the time limit falls short of the 80 hours of work activity, the entire month must count toward the three month in a three year period time limit, regardless of the reasons for not meeting the requirement of the household's circumstances.

- ***Time Limit Unfair to People Who Work in Retail or at Restaurants & Their Managers***

According to a study of workers of all ages, about 17 percent of the workforce experiences unstable work schedules.<sup>xxix</sup> More than 40 percent of early career hourly workers (ages 26 to 32) receive one week or less advance notice of their job schedules. Half of these workers have no input into their schedules and three-quarters experience fluctuations in the number of hours they work, with hours varying by more than eight hours per week on average.<sup>xxx</sup> Some who work in hourly jobs receive hours that fluctuate by up to 40 percent.<sup>xxxi</sup> Most retailers and restaurants do not and have testified in the California state legislature that having unpredictable scheduling is necessary in their industry because customer traffic is also unpredictable. As a result, workers in the retail and restaurant industry who would like to work 20 hours per week or more, may not get those hours and will not know that they will miss the ABAWD Time Limit work goal with enough time to find additional employment. This not only disadvantages workers in these fields, it is also unfair to their managers who may need to cut hours of their workers to keep business costs down, but will also be burdened with the knowledge that by doing so, their employees could also go hungry.

- ***SNAP E&T Supports Work and Job Readiness in California***

In California, counties that wish to participate in SNAP E&T must submit an annual SNAP E&T Plan to CDSS for approval. This non-competitive proposal contains key elements of a proposed SNAP E&T program. DSS aggregates information from county SNAP E&T Plans into a California SNAP E&T Plan, which in turn is submitted to the USDA FNS for approval each year. Amendments to the plan may be submitted at the discretion of CDSS. Changes to the SNAP E&T Program made in 2013 (SB 1321, Chaptered laws of 2012), led County Human Services Agencies to improve their SNAP E&T Programs and, today, 33 Counties now participate in the SNAP E&T program. The United States Department of Agriculture Food and Nutrition Service has approved the DSS SNAP E&T plan for Federal Fiscal Year (FFY) 2017, pending final 2017 Federal Budget approval. This allocation includes 100 percent federal funds totaling \$10,335,573, Administrative federal “match” reimbursement funds totaling \$76,341,582 and Participant Reimbursement Transportation/Ancillary funds totaling \$17,139,956 for a grand total of \$103,817,111.<sup>xxxii</sup> Some of these federal “match” reimbursement funds are for third-parties (i.e. community colleges, non-profit employment and training centers, etc.).<sup>xxxiii</sup>

- ***Funding from 2014 Farm Bill to Support SNAP E&T Has Been Helpful***

In 2015, the USDA FNS created a Center of Excellence for SNAP E&T, known as SNAP to Skills, at the national level. The work of SNAP to Skills has been essential in the development of California’s SNAP E&T program to help support SNAP recipients to seek employment skills, transition into work or prepare to advance in their chosen field. Buoyed by this increase in county participation and recent federal funding supporting pilot programs like that offered by the Fresno Bridge Academy in Fresno, SNAP E&T Programs are finding success in helping families secure employment that allows them to leave the safety net altogether. California’s Congressional Caucus should support tested methods to connect SNAP recipients to work, not weaken protections from the ABAWD time limit, which shows no evidence that it results in people working more...only that they go hungry more. Additional support for voluntary SNAP E&T might include the provisions provided for in Congressman Costa’s H.R. 3577: Results Through Innovation Act.<sup>xxxiv</sup>

- ***There Are Other Work Requirements in the Program - Despite the Rhetoric***

Maintaining the protections in the ABAWD time limit, or even removing the time limit altogether, would not remove all work requirements in the program, contrary to what many people think. This is because the SNAP program has several work requirements already. According to federal law, all non-exempt SNAP recipients are required to register for work and, depending on state law, may be required to participate in mandatory work programs. This is true even during periods of high unemployment. Through 2013, even as the ABAWD time limit was waived due to high unemployment caused by the recession, California continued to require work registrants to participate in job search and other work programs in order to continue receiving SNAP. Many states employ these mandatory requirements of all non-exempt adults at all times. There is also a requirement that non-exempt college students, participating in college for more than half time are required to work 20 hours a week or more. Recipients of the Temporary Aid to Needy Families (TANF) are sanctioned in SNAP if their non-compliance with work in the TANF program resulted in a sanction. Finally, applicants and recipients are not allowed to voluntarily quit a job or else they are subject to a period of ineligibility of 3 months. It simply isn’t true that SNAP doesn’t have a work requirement.

▪ ***Congress Should Not Punish People With Hunger – It is Cruel***

There has been a lot of rhetoric surrounding the intersection of work and public benefits in recent years. Some of it has been without merit and un-substantiated by facts about who is working, who is not working and who needs help in order to find work. Regardless of opinions of people who are not working, cannot work, or are underemployed, punishing people with hunger because they are in an unpopular minority is cruel and defeats its state’s purpose of connecting people to work. Any statement to the contrary is disingenuous. Congress should continue to support innovative SNAP E&T programs if they want to improve the likelihood of employment and self-sufficiency among low-income Californians, not reduce protections from hunger.

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**Endnotes:**

<sup>i</sup> 2018 Federal Budget Proposal, “A New Foundation For American Greatness

Fiscal Year 2018,” page 10 <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/budget.pdf>

<sup>ii</sup> “Supplemental Nutrition Assistance Program: Requirements and Services for Able-Bodied Adults Without Dependents; Advance Notice of Proposed Rulemaking,” found at:

<https://www.federalregister.gov/documents/2018/02/23/2018-03752/supplemental-nutrition-assistance-program-requirements-and-services-for-able-bodied-adults-without-dependents>. For further context, the USDA Announcement can be found at <https://www.usda.gov/media/press-releases/2018/02/22/usda-seeks-ideas-help-snap-participants-become-independent>.

<sup>iii</sup> Joint letter detailing Farm Bill priorities: [https://www.cdffa.ca.gov/farm\\_bill/pdfs/2018FarmBillPriorities.pdf](https://www.cdffa.ca.gov/farm_bill/pdfs/2018FarmBillPriorities.pdf)

<sup>iv</sup> Public Law 104-193: <http://www.gpo.gov/fdsys/pkg/PLAW-104publ193/html/PLAW-104publ193.htm>

<sup>v</sup> 7 U.S.C. § 2015 (o); 7 C.F.R. § 273.24; MPP § 63-410.

<sup>vi</sup> 7 Code of Federal Regulation § 273.24 (b) & (f)

<sup>vii</sup> Criteria is found in Unemployment Compensation Extension Act of 2008 (Public Law 110-449) based on DOL’s Notice No. 2013-49 issued on December 22, 2013.

<sup>viii</sup> The ABAWD Time Limit final rules were published in 2000 by the Clinton Administration.

<sup>ix</sup> President Clinton’s PRWORA Bill Signing Statement: <http://www.presidency.ucsb.edu/ws/?pid=53219>

<sup>x</sup> Citation about austerity in California.

<sup>xi</sup> According to the Public Policy Institute of California. [http://www.ppic.org/main/publication\\_show.asp?i=261](http://www.ppic.org/main/publication_show.asp?i=261)

<sup>xii</sup> [H.R. 1276 \(Rep. Adams, Alma S. \[D-NC-12\] + 89 Co-sponsors\)](#) would require that a job opportunity be provided before a person could have their benefits cut as a result of the time limit.

<sup>xiii</sup> Ed Bolen, “Approximately 1 Million Unemployed Childless Adults Will Lose SNAP Benefits in 2016 as State Waivers Expire Affected Individuals Are Very Poor; Few Qualify for Other Help,” (Jan. 2015)

<http://www.cbpp.org/cms/?fa=view&id=5251>

<sup>xiv</sup> A Comprehensive Assessment of ABAWDs and their Participation in Work Programs in Franklin County:

<http://admin.ohiofoodbanks.org/uploads/news/WEP-2013-2014-report.pdf>

<sup>xv</sup> Binyamin Applebaum, “Out of Trouble But Criminal Records Keep Men Out of Work,” New York Times, March 1, 2015 <http://mobile.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keep-men-out-of-work.html?referrer=&r=0>

<sup>xvi</sup> California has exempted Veterans and Victims of Domestic Abuse from mandatory employment programs in SNAP.

<sup>xvii</sup> [https://www.va.gov/vetdata/docs/SpecialReports/Profile\\_of\\_Veterans\\_2016.pdf](https://www.va.gov/vetdata/docs/SpecialReports/Profile_of_Veterans_2016.pdf)

<sup>xviii</sup> <https://www.scp.org/news/2014/09/30/47006/survey-finds-many-la-veterans-unemployed-or-earnin/>

<sup>xix</sup> <https://www.cbpp.org/research/snap-helps-roughly-17-million-struggling-veterans-including-thousands-in-every-state>

<sup>xx</sup> California has maximized the protection for this population with the passage of SB 134 (Hueso, 2013). This bill protects out-of-work military veterans and improves their likelihood of gaining employment by blocking the County Human

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Services Agencies from denying military veterans SNAP when they do not participate in the County's Employment & Training Program and requires Counties to refer out-of-work veterans to the County Veterans Services Offices where they are more likely to receive federally funded re-employment support more adequate to meet the special needs of veterans.

<sup>xxi</sup> According to the Native Farm Bill Coalition. For more information visit the Coalition website:

<http://seedsofnativehealth.org/native-farm-bill-coalition/>

<sup>xxii</sup> <http://cahomelesseyouth.library.ca.gov/docs/pdf/a-quickoverview-of-hy-inca.pdf>

<sup>xxiii</sup> <https://chronicleofsocialchange.org/research-news/many-california-foster-youth-struggle-to-remain-in-transitional-housing-placements>

<sup>xxiv</sup> 37 states have laws permitting all employers and occupational licensing agencies to ask about and consider arrests that never led to conviction in making employment decisions. Source: [http://lac.org/roadblocks-to-reentry/upload/lacreport/LAC\\_PrintReport.pdf](http://lac.org/roadblocks-to-reentry/upload/lacreport/LAC_PrintReport.pdf)

<sup>xxv</sup> Ibid.

<sup>xxvi</sup> Senate Bill 575 (Leyva) signed by the Governor in October of 2017, to have free access to their medical records when applying for CalFresh.

<sup>xxvii</sup> Charlotte Alexander and Anna Haley-Lock, "Not Enough Hours in the Day: Work-Hour Insecurity and a New Approach to Wage and Hour Regulation," (Dec. 2013) <http://www.irp.wisc.edu/publications/dps/pdfs/dp141713.pdf>

<sup>xxviii</sup> Rebecca Glauber, "Wanting More Working Getting Less: Involuntary Part-Time Employment and Economic Vulnerability," (July 2013) <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1198&context=carsey>

<sup>xxix</sup> Lonnie Golden, *Irregular Work Scheduling and Its Consequences*, Economic Policy Institute, April 9, 2015, <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>. The author believes this is likely a low estimate.

<sup>xxx</sup> Susan J. Lambert, Peter J. Fugiel, and Julia R. Henly, *Schedule Unpredictability among Early Career Workers in the US Labor Market: A National Snapshot*, EINet, July 17, 2014, [https://ssascholars.uchicago.edu/sites/default/files/einet/files/lambert.fugiel.henly\\_executive\\_summary.b\\_0.pdf](https://ssascholars.uchicago.edu/sites/default/files/einet/files/lambert.fugiel.henly_executive_summary.b_0.pdf).

<sup>xxxi</sup> Lambert et al., *Schedule Unpredictability*

<sup>xxxii</sup> Source: [http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/cfl/2016-17/16-17\\_48.pdf](http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/cfl/2016-17/16-17_48.pdf)

<sup>xxxiii</sup> Effective with the December 2016 quarter, PC 364 SNAP E&T Third Party Match is available for claiming third party reimbursements to the SNAP E&T 50 percent allocation. Counties may utilize this code separately and/or concurrently with the PC 464 (SNAP E&T Administrative Activities). Please see CFL NO. 16/17-44 for additional information.

<sup>xxxiv</sup> [HR 3557 \(Rep. Costa, Jim \[D-CA-16\]\)](#), introduced 07/28/2017.