



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:

Thank you for the opportunity to comment on the United States Department of Agriculture (USDA)'s proposed rule, "Supplemental Nutrition Assistance Program (SNAP): Requirements for Able-Bodied Adults without Dependents (ABAWDs)." The Western Center on Law and Poverty is deeply concerned by attempts to restrict food assistance to the individuals whom we serve in California. We strongly support the goal of helping SNAP participants obtain and keep quality jobs that enable them to achieve economic security. However, we believe the restrictions suggested in the proposed rule would not achieve that. Instead, they will result in large numbers of out-of-work Californians and workers struggling to work full time or to prove that they work full time losing access to SNAP nutrition assistance, becoming increasingly food insecure, and losing the vitality necessary to seek work or advance their careers. We respectfully request that the Administration consider comments in our letter and the information in the attached appendices prior to issuing the rule final.

About the Western Center on Law and Poverty

For over five decades, the Western Center on Law and Poverty (Western Center) has advocated on behalf of individuals with low incomes in every branch of California government—from the courts to the Legislature. Through the lens of economic and racial justice, we litigate, educate and advocate around health care, housing, and public benefits policies and administration. Western Center staff have decades of experience in working with legislators and state policy makers to improve SNAP, known as CalFresh in California. We have published countless advocate guides, chaired advisory committees, supported federal and state legislation and, when necessary, filed litigation to protect the rights of SNAP recipients in California. Western Center staff is considered experts on the ABAWD time limit



within the state and nationally and we have served on the ABAWD workgroup convened by the California Department of Social Services (CDSS), which has worked for over two years to develop the California ABAWD Handbook. The Handbook provides County Welfare Departments (CWDs) and key stakeholders with consolidated policy guidance regarding the implementation and ongoing administration of the ABAWD time limit.¹

A Summary of the ABAWD Time Limit & Current Regulatory Protections in California

In 1996, through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),² Congress created a time limit in the Food Stamp Program, now known as SNAP, for unemployed childless adults between the ages of 18 and 49 years old, referred to as ABAWDs.³ Unless exempt,⁴ 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 the current SNAP regulations that have been in place for nearly two decades,⁵ 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.⁶ States request waivers for multiple reasons, including to ease administrative burden, implement more effective work programs, and exempt vulnerable individuals who likely will struggle to find work. In California, the state legislature passed and the Governor signed, legislation requiring that state administrators to apply annually for each area that is eligible.⁷

Using the criterion established in the implementing regulations,⁸ the USDA Secretary approved of ABAWD Time Limit waivers requested by almost every State over the past 10 years.⁹ Using this same criteria, California's request for a statewide waiver of the ABAWD time-limit until September of 2018 was also approved. After that, the state requested and, according to criteria set forth in the Code of Federal Regulations, received a waiver for all

¹ CalFresh ABAWD Handbook, Version 1.

<https://www.cdss.ca.gov/Portals/9/CalFreshResourceCenter/ACL%2018-08.pdf?ver=2018-06-26-162346-547>

² Public Law 104-193; <http://www.gpo.gov/fdsys/pkg/PLAW-104publ193/html/PLAW-104publ193.htm>

³ 7 U.S.C. § 2015 (o); 7 C.F.R. § 273.24; MPP § 63-410.

⁴ Appendix 1: CalFresh ABAWD Verifications Exemptions & Work Activities (WCLP, September 2018), https://wclp.org/wp-content/uploads/2018/09/ABAWD_Verification_Chart_Final_WCLP_9.28.18.pdf

⁵ The ABAWD Time Limit final rules were published in 2000 by the Clinton Administration.

⁶ 7 Code of Federal Regulation § 273.24 (b) & (f)

⁷ The Budget Act of 2017, implemented by All County Letter 18-08 January 26, 2018.

⁸ 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.

⁹ Using SNAP E&T to Offer Job-Driven Training for Able-Bodied Adults without Dependents (ABAWDs), (SNAP to Skills Policy Brief, 2016) https://fns-prod.azureedge.net/sites/default/files/snap/S2Sbrief2_OfferJobDrivenTrainingABAWDS.pdf



areas except Santa Clara, San Mateo and San Francisco Counties, which were no longer eligible pursuant to these provisions. As area waiver approvals come up for review each year, California has requested a waiver for all eligible areas which exclude the 3 counties which lost their area waivers in September of 2018 and 3 additional counties which are no longer eligible under the criteria, Alameda, Contra Costa and Marin Counties. As of March 2019, 6 states or territories had a full-state waiver, 29 joined California as having a partial state waiver and 17 had no waiver whatsoever.¹⁰

The current waiver process has offered California the consistency necessary for our state agency and county administrators to adequately prepare for and implement the policy. The USDA's claim that the proposed rule will allow "States to reasonably anticipate whether it would receive approval" ignores the reality that current waiver policy already accomplishes this goal.

The proposed rule would significantly weaken the flexibility that states, including California, and administering county agencies have relied upon, increasing uncertainty and administrative burden for states and county administering agencies as well as the hardship for low-income Californians who struggle to find work or whose employer fails to provide adequate, timely verification of work. What's more, contrary to the statement made by the USDA, the rule would disrupt the long-standing waiver implementation procedures, making preparation for waiver and waiver approvals more complicated, not less.

With more than 20 years of support for the waiver policy currently in regulation, no new research that provides evidence to justify that the narrowing of waivers or that the policy change will result in a quantifiable increases in earnings or work, no transparent rationale that would suggest that the Administration is seeking these changes to improve the ability of the program to better achieve the intent of the underlying statute, the USDA has failed to explain why the particular policy is proposed and why alternative approaches are inadequate. Given that the agency estimates 755,000 people will lose benefits and provides no estimate for how many will gain employment, less harmful alternatives exist and the Department has an obligation to consider these alternatives.

Current ABAWD Regulations Longstanding & Consistent with Legislative Intent

With the passage of PRWORA and the ABAWD Amendment¹¹, Congress established that states could waive areas lacking jobs from the ABAWD Time Limit. During the Congressional

¹⁰ Supplemental Nutrition Assistance Program (SNAP): Status of State AbleBodied Adult without Dependents (ABAWD) Time Limit Waivers - Fiscal Year 2019 - 2nd Quarter <https://fns-prod.azureedge.net/sites/default/files/snap/FY19-Quarter2-ABAWD-Waiver-Status.pdf>

¹¹ H.Amdt. 1307 - 104th Congress <https://www.congress.gov/amendment/104th-congress/house-amendment/1307?s=a&r=2>



debate of PRWORA, the ABAWD time limit proponents claimed that the proposed rule was not intended to take effect in areas where jobs weren't available. In fact, the co-author of the PROWORA ABAWD time limit provision Congressman John Kasich said, "It is only if you are able-bodied, if you are childless, and if you live in an area where you are getting food stamps and there are jobs available, then it applies."¹²

The current ABAWD waiver criteria, designed to implement the intent of the law to permit states to seek waivers in areas where jobs aren't available, has been consistently used by the USDA since the late 1990s. The standards that define how a state may document "insufficient jobs" were first outlined in FNS guidance issued in December 1996.¹³ The criteria for ABAWD waivers were modified only slightly in USDA's final regulation waivers based on the experience learned during the waiver application and approval process (for example states were allowed to apply to more recent time periods the criteria the Labor Department uses to identify Labor Surplus Areas in order to determine if an area qualifies for a waiver.) The regulations were proposed by the Clinton Administration and fully codified in regulations under the Bush Administration in 2001. In doing so, the USDA adhered to long-time Labor Department standards to identify areas with labor-market weakness. To qualify for the insufficient jobs standard, a state must demonstrate that a geographic area (as defined by the state) meets specified criteria.

In the years since the 1996 USDA implementation PRWORA, they have not issued major policy changes to the criteria, and state waiver requests have consistently been evaluated according to these same criteria. In fact, the opposite is true, the USDA has reinforced the use of this criteria by over the years by providing guidance to states on how to prepare the required calculations and what information to attach in order to expedite approvals of waivers using this criteria.¹⁴

In the proposed rule, the USDA says is seeking the changes in order to "implement SNAP as Congress intended,"¹⁵ implying that waiver policy that was enacted following the passage of PRWORA and in place for two decades does not implement the intent of Congress. It also claims that the rule will "improve consistency across states,"¹⁶ but fails to define what the current inconsistency is or why the current standards are causing this inconsistency. What's more, it does not provide any evidence to support its claim of inconsistency, or explain why

¹² Congressional Record, 104th Congress, Welfare and Medicaid Reform Act of 1996 (House of Representatives - July 18, 1996), page H7905, <https://www.congress.gov/crec/1996/07/18/CREC-1996-07-18.pdf>.

¹³ "Guidance for States Seeking Waivers for Food Stamp Limits," FNS guidance to states, December 3, 1996.

¹⁴ For example, see: "SNAP - Guide to Supporting Requests to Waive the Time Limit for Able-Bodied Adults without Dependents (ABAWD)," <https://fns-prod.azureedge.net/sites/default/files/snap/SNAP-Guide-to-Supporting-Requests-to-Waive-the-Time-Limit-for-ABAWDs.pdf>.

¹⁵ 2019 NPRM, p. 8.

¹⁶ 2019 NPRM, p. 16.



and how it is a problem. Two possible interpretations of the “inconsistency” claim is that current waiver standards do not apply consistently to all states, or that the current standards produce inconsistent waived areas across states. Neither of these claims holds up to scrutiny, especially because the Congressional debate that predicated the passage of PRWORA emphasized giving state flexibility in implementing anti-poverty programs.

The few changes that the USDA has issued as guidance since the regulations were published, can only be qualified as refinements of the original criteria, not major additions or changes to waiver policy. These include FNS guidance issued in December 2004 revising the method for calculating average unemployment rates over 24-month periods¹⁷ and specific instructions issued for calculating unemployment rates for Native American reservations.¹⁸ FNS also offered states “the option of two-year waiver approvals” in a February 2006 memorandum; while this was an addition to waive policy at the time, it was not a major of waiver standards – the criteria for two-year waivers are more restrictive than those for shorter waivers.¹⁹

Proposed Rule Bypass Congressional Decision-making

Over the past two years, there have been several proposals to undermine these long-standing regulations which provide essential protections against hunger for people who are looking for work or are underemployed. These include proposals in the President’s Budget²⁰ and the House of Representative’s version of the 2018 Farm Bill.²¹ But neither of these proposals were adopted in either the budget appropriations legislation nor in the final Farm Bill, which passed with strong bi-partisan support. If Congress had meant to make changes to the ABAWD time limit waiver authority, it had ample opportunities to do that and it did not.

Proposed Rules Will Undermine Work – Not Support It

Contrary to the underlying assumptions in the proposed rule, work rates among SNAP recipients are high. Among SNAP participants who can work, most do. In households with at least one working-age, non-disabled adult, 58 percent were employed while on SNAP, and 82 percent were employed prior to or after receiving SNAP. Individuals are more likely to

¹⁷ “ABAWD Waivers – New Method for Calculating Average Unemployment Rates,” FNS Northeastern Region Food Stamp Regional Letter, April 28, 2004.

¹⁸ “SNAP – Guide to Supporting Requests to Waive the Time Limit for Able-Bodied Adults without Dependents (ABAWD),” FNS guidance issued December 2, 2016, <https://fns-prod.azureedge.net/sites/default/files/snap/SNAP-Guide-to-Supporting-Requests-to-Waive-the-Time-Limit-for-ABAWDs.pdf>.

¹⁹ “FSP – 2-Year Approval of Waivers of the Work Requirements for ABAWDs under 7 CFR 273.24,” FNS memorandum issued February 3, 2006.

²⁰ i 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>

²¹ H. Rept. 115-1072 - AGRICULTURE IMPROVEMENT ACT OF 2018 <https://www.congress.gov/congressional-report/115th-congress/house-report/1072/1>



participate in SNAP when they are out of work and, for many non-disabled adults, receipt of SNAP is short-term. Those with barriers, including caretaking responsibilities, lack of education, and health issues are more likely to be consistently out of work. Nothing about the proposed rule addresses these barriers to employment.

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.²² While two million new jobs have been created and unemployment has dropped in half since 2011, many Californians still 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. In fact, in 2015, nearly 80% of poor Californians had earnings from work.²³ What's more, unemployment and underemployment is uneven in California, impacting ethnic minorities, women, people with disabilities, people who are homeless, people fleeing domestic abuse, former foster youth and people who are re-entering the community after a period of incarceration more than others. Without ability to meet their basic needs or support to improve their skills and work opportunity, these Californians will linger in poverty regardless of how hard they work and there is no evidence that cutting them off of federal food assistance will change that. In fact, the opposite is true. The SNAP program has been shown to support work²⁴, stimulate economic growth,²⁵ improve academic outcomes for children²⁶, and improve health outcomes for recipients.²⁷ All of which contribute to more stable and consistent work schedules. By reducing access to SNAP, the proposed rules will undermine work, not increase the numbers of ABAWDs participating in work and their hours of participation.

What's more, California's food system economy is one of our most important. According to the California Employment Development Department, food retail workers account for 2.6% of our state's total employment, and about 3.2% of California's private sector employment.

²² Appendix 2: <https://www.latimes.com/business/hiltzik/la-fi-mh-austerity-destroys-economic-growth-20150609-column.html>

²³ Appendix 3: According to the Public Policy Institute of California.

http://www.ppic.org/main/publication_show.asp?i=261

²⁴ Appendix 4: Dottie Rosenbaum, "The Facts on SNAP, Part 2: SNAP Supports Work," *Center on Budget and Policy Priorities*, May 2013, <https://www.cbpp.org/blog/the-facts-on-snap-part-2-snap-supports-work>.

²⁵ Appendix 5: Nune Phillips, *SNAP Contributes to a Strong Economy*, Center for Law and Social Policy, August 2017, <https://www.clasp.org/sites/default/files/SNAP-Contributes-to-a-Strong-Economy.pdf>.

²⁶ Appendix 6: Nisha Beharie, Micaela Mercado, and Mary McKay, "A Protective Association between SNAP Participation and Educational Outcomes Among Children of Economically Strained Households," *Journal of hunger & environmental nutrition* vol. 12,2 (2016): 181-192, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5513186/>.

²⁷ Appendix 7: Steven Carlson and Brynne Keith-Jennings, *SNAP Is Linked with Improved Nutritional Outcomes and Lower Health Care Costs*, Center on Budget and Policy Priorities, January 2018, <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>.



To the extent that the proposed rule reduces, in any way, food benefits available to be spent in California grocery stores it will harm our state's economy. Not only will gross sales decline in one of our most important industries, but the workers in that industry will face increased job insecurity. Research shows that food retail workers at California companies rely on the SNAP program.²⁸ In fact, it was reported in 2014 that, 1 in 3 grocery workers is on some form of public assistance and that nearly 1 in 5 workers has cut back on meals because he or she couldn't afford to buy food.²⁹ 43.4% of grocery store workers being Latino and so a negative impact for this workforce will only increase racial wealth gaps in our state.³⁰ Reduced SNAP benefit utilization at California food retailers will not support work or increased earnings, but rather increase unemployment or under-employment and could actually increase SNAP utilization.

Proposed Rule Doesn't Consider Impact on Workers With Unpredictable Work Hours

Even when SNAP recipient is working, securing 80 hours per month of employment can be difficult, if not impossible, for low-wage workers.³¹ 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.³² 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.³³

Unpredictable work schedules especially impact low-income workers, women, workers of color and young workers. One report that evaluated access to dependable work schedules for young workers in college in Los Angeles, California, found that young workers juggle

²⁸ Appendix 8: "The High Public Cost of Low Wages," UC Berkeley Labor Center:

<http://laborcenter.berkeley.edu/the-high-public-cost-of-low-wages/>

²⁹ Appendix 9: San Francisco Chronicle: <https://www.sfgate.com/politics/joegarofoli/article/Grocery-workers-in-California-see-wages-shrink-5536515.php>

³⁰ Appendix 10: <http://laborcenter.berkeley.edu/pdf/2014/Food-Retail-Report.pdf>

³¹ Appendix 11: Butcher, Kristin F. and Diane Whitmore Schanzenbach. "Most Workers in Low-Wage Labor Market Work Substantial Hours, in Volatile Jobs." Center on Budget and Policy Priorities, July 24, 2018. Available at: <https://www.cbpp.org/research/poverty-and-inequality/most-workers-in-low-wage-labor-market-work-substantial-hours-in>.

³² Appendix 12: 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>

³³ Appendix 13: 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>



volatile schedules, cannot predict when they are working, and get their hours cut without a say.³⁴ Among other findings, the report concludes:

- The vast majority (96%) of young workers experience at least one challenging scheduling practice—on-call work, lack of advance notice, or fluctuating schedules—and more than a third (38%) experience all three.
- Only 4% of young workers have reliable hours.
- Among young workers, 88% receive less than two weeks' notice of schedules; more than 40% receive less than one week's notice.
- 93% of young workers lack input regarding their schedule. Young workers state that they can't talk or negotiate with their bosses/employers about their schedules.
- Nearly 40% have their hours reduced without their input or consent.
- 60% of workers work part time, a majority of whom (79%) would like to work more hours.

Other research conducted in California's Silicon Valley, found that hourly workers have increased rates of schedule unpredictability. It found that underemployment is widespread in San Jose and, specifically, among the estimated 162,000 people employed in hourly jobs in San Jose, the portion who have part-time or variable schedules at their main job has grown in the last ten years, from 26 percent to 43 percent, meaning more than four out of every ten hourly workers do not have full-time work at their primary job. Of these workers, the report found that the overwhelming majority (65%) of hourly part-time workers are women and 69% are people of color.³⁵

This research indicates that, even if low-income workers want to work longer hours or would like schedules that would allow them to verify 80 hours per month for the purposes of qualifying under the ABAWD time limit, they increasingly are not able to. 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. By expanding the number of people to whom the time limit applies to and reducing the ability of states and county administering agencies to use individual exemptions to protect them from harm, the proposed rule will harm workers who are trying to find 20 hours or more of employment a week but whose employers will not schedule them for those hours.

³⁴ Appendix 14: "Juggling Time: Young Workers and Scheduling Practices in the Los Angeles Service Sector," Ben-Ishai, Koonse, Marquez-Avila, Orellana, Quiroz, Shaddock-Hernandez and Waheed, (2016):

<https://www.labor.ucla.edu/publication/juggling-time-young-workers-and-scheduling-practices-in-the-los-angeles-service-sector/>

³⁵ "Appendix 15: A HIDDEN CRISIS: underemployment in silicon valley's hourly workforce,"

https://populardemocracy.org/sites/default/files/A%20Hidden%20Crisis_revised_160420.4.pdf



Proposed Rule Didn't Consider Significant Barriers That Keep Many 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.³⁶ Because the proposed rule removes state flexibility, it will expose people with higher rates of unemployment to the time limit and to hunger and hardship as a result:

Veterans: Despite their service to our country, and in too many cases, because of it, too many veterans face poverty.³⁷ 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.³⁸ 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.³⁹ In California, veterans are exempt from mandatory Employment and Training,⁴⁰ but there is no exemption from the ABAWD time limit for veterans.

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.⁴¹

³⁶Appendix 16: 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>

³⁷ https://www.va.gov/vetdata/docs/SpecialReports/Profile_of_Veterans_2016.pdf

³⁸ Appendix 17: <https://www.scpr.org/news/2014/09/30/47006/survey-finds-many-la-veterans-unemployed-or-earnin/>

³⁹ Appendix 18: <https://www.cbpp.org/research/snap-helps-roughly-17-million-struggling-veterans-including-thousands-in-every-state>

⁴⁰ 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 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.

⁴¹ According to the Native Farm Bill Coalition. For more information visit the Coalition website:

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



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.⁴² In California, we have passed legislation requiring foster youth to be assisted in applying for SNAP upon emancipation (or their 18th birthday), but many struggle to remain on this aid⁴³ and, as a population, they face high rates of unemployment. According to the most comprehensive survey of former foster youth, about half of youth who aged out of foster care were currently employed at age 23 or 24, compared to three-quarters of similarly situated youth who had not aged out of foster care.⁴⁴ A shocking 30 percent of youth who had aged out were looking for employment.⁴⁵ Over 20 percent of California youth interviewed for, “Voices from the Street: A survey of homeless youth by their peers,” had regular employment and 18 percent reported income from temporary or odd jobs. Ten percent brought in \$20 or less in a week, around 25 percent received between \$20 and \$100 a week, and close to 20 percent got between \$100 and \$500 a week. For these young adults, who face many barriers to employment, SNAP is an essential lifeline that supports work.

People Re-Entering the Community from Jail or Prison: 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.⁴⁶ 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.⁴⁷ One study found that one year after being released from prison or jail, nearly 60 percent of people with criminal records are not employed in the formal labor market.⁴⁸ This is also

⁴² Appendix 19: <http://cahomelessyouth.library.ca.gov/docs/pdf/a-quickoverview-of-hy-inca.pdf>

⁴³ Appendix 20: <https://chronicleofsocialchange.org/research-news/many-california-foster-youth-struggle-to-remain-in-transitional-housing-placements>

⁴⁴ Appendix 21: Courtney, Mark E. et al. “Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Ages 23 and 24.” Chapin Hall, 2010, p. 27. Available at: <https://www.chapinhall.org/wp-content/uploads/Midwest-Eval-Outcomes-at-Age-23-and-24.pdf>.

⁴⁵ Appendix 22: Hook, J. L. & Courtney, M. E. (2010). Employment of Former Foster Youth as Young Adults: Evidence from the Midwest Study. Chicago: Chapin Hall at the University of Chicago. Available at: <https://www.chapinhall.org/research/coordinated-systems-key-to-employment-for-youth-formerly-in-state-care/>.

⁴⁶ Appendix 23: 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

⁴⁷ Ibid.

⁴⁸ Appendix 24: Summary in Wilson, Valerie and Janelle Jones. “Working Harder or Finding it Harder to Work: Demographic trends in annual work hours show an increasingly fractured workforce.” Economic Policy Institute,



true here in California, where we have the 2nd largest jail population in the country and where racial disparities in the criminal justice system are still significant.⁴⁹ What's more, research has found that incarcerated people had a median annual income of \$19,185 prior to their incarceration, which is 41% less than non-incarcerated people of similar ages.⁵⁰ Research suggests that SNAP recipients who fall into the ABAWD category may be more likely to have a history of criminal justice involvement. An analysis of SNAP ABAWDs in Franklin County (Columbus), Ohio found that over 35 percent had a felony conviction, and close to 13 percent were currently on probation or parole.⁵¹ 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.⁵² 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. This is why it should be no surprise that California corrections and human services agencies have been working to support rehabilitation goals for this community by ensuring quick access to SNAP following release from prison.⁵³

Survivors of Domestic Abuse: According to the California Women's Health Survey (CWHHS), approximately 40% of California women experience physical intimate partner violence in their lifetimes. Of those experiencing physical intimate partner violence, 75% of victims had children under the age of 18 years at home.⁵⁴ On just one day in 2017, 5,724

February 22, 2018. Available at: <https://www.epi.org/publication/trends-in-work-hours-and-labor-market-disconnection/>

⁴⁹ Appendix 25: As reported in the San Francisco Chronicle, "Researchers for the nonpartisan Public Policy Institute of California found that African Americans are highly overrepresented in arrests, accounting for 16.3 percent of those taken into custody in 2016 while making up just 5.7 percent of the overall population. White people made up 36 percent of arrests and 38.1 percent of the population, and Latinos represented 39 percent of the population and 41 percent of arrests." <https://www.sfchronicle.com/crime/article/California-arrest-rates-at-historic-lows-racial-13440702.php>

⁵⁰ Appendix 26: <https://www.prisonpolicy.org/reports/income.html>

⁵¹ Appendix 27: Franklin County, Work Experience Program. Comprehensive Report, Able-Bodied Adults Without Dependents, 2014-2015." Available at: http://admin.ohiofoodbanks.org/uploads/news/ABAWD_Report_2014-2015-v3.pdf.

⁵² Appendix 28: 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>

⁵³ Appendix 29: "Realignment: the policy opportunity for a CalFresh pre-enrollment program," Ecaterina Berkeley (Oct, 2016) <https://wclp.org/wp-content/uploads/2016/10/Reducing-Hunger-Recidivism-by-Pre-Enrolling-Into-CalFresh.pdf>

⁵⁴ Appendix 30: Weinbaum, Z., Stratton, T., Roberson, S., Takahashi, E., & Fatheree, M. (2006). Women experiencing intimate partner violence, California, 1998-2002. In Weinbaum, Z. & Thorfinnson, T. (eds.) Women's Health: Findings



victims and their children received services at domestic violence programs in the state.⁵⁵ Some studies have found that over half of the women receiving public assistance have reported being victims of domestic violence.⁵⁶ Women living in poverty experience domestic violence at twice the rate of those who do not, and the violence perpetrated against them can make it impossible to climb out of poverty. While significant numbers of low-income women are abused or assaulted, abuse can also result in victims who were not previously considered low-income falling into poverty. A study from the Centers for Disease Control and Prevention found people “who experienced food insecurity in a 12-month period had a significantly higher prevalence of rape, physical violence, or stalking by an intimate partner in that same time period, as compared to women and men who did not,” highlighted the relationship between food insecurity and vulnerability to violence.⁵⁷ Of those victimized by an intimate partner, 85% are women and 15% are men. In other words, women are 5 to 8 times more likely than men to be victimized by an intimate partner.⁵⁸

People who are Homeless: People who are homeless have impacted sleep for many reasons. If they sleep in a shelter, they often share their sleeping place with dozens of people and sometimes share bunk beds too. Sleep deprivation of people who are homeless impacts their ability to perform meaningful tasks,⁵⁹ and so would likely impact ability to successfully apply for a job or complete job tasks. Dr. Brian Little explains, "People have difficulty concentrating, especially when insufficient sleep becomes chronic. They have psychological manifestations. People become irritable; they don't necessarily think clearly; their judgment becomes altered as well."⁶⁰ What's more, without regular sleep or access to

from the California Women's Health Survey, 1997-2003. California Department of Health Services, Office of Women's Health. Sacramento, California, May 2006. Chapter 12. http://www.cpedv.org/sites/main/files/file-attachments/ca_dv_fact_sheet_2_2015.pdf.pdf

⁵⁵ Appendix 31: National Network to End Domestic Violence (NNEDV). (2018 June). Domestic Violence Counts 2017: A 24-hour census of domestic violence shelters and services across the United States. Washington, DC. Available at <https://nnedv.org/mdocs-posts/2017-california/>

⁵⁶ Appendix 32: Taryn Lindhorst, Marcia Meyers, and Erin Casey, Screening for Domestic Violence in Public Welfare Offices, 14 Violence Against Women 5-28 (2008); Stephanie Riger, Susan L. Staggs, and Paul Schewe, Intimate Partner Violence as an Obstacle to Employment Among Mothers Affected by Welfare Reform, 60 Journal of Social Issues 801-818 (2004). <https://vawnet.org/sites/default/files/materials/files/2016-08/NotEnoughTANF-FVReportonly.pdf>

⁵⁷ Appendix 33: Breiding, M.J., Chen J., & Black, M.C. (2014). Intimate Partner Violence in the United States – 2010. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf

⁵⁸ Appendix 34: Lawrence A. Greenfeld et al. (1998). [Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends](#). Bureau of Justice Statistics Factbook. Washington DC: U.S. Department of Justice. NCJ #167237. Available from [National Criminal Justice Reference Service](#).

⁵⁹ Appendix 35: <https://www.theatlantic.com/health/archive/2014/08/homelessness-and-the-impossibility-of-a-good-nights-sleep/375671/>

⁶⁰ Appendix 36: "Sleepless on the Sidewalk: In shelters, parks and vehicles, homeless people contend with fragmented, unhealthy sleep," Lisa Esposito, U.S. News and World Reports Staff Writer (Aug. 8, 2018).



restrooms or shower facilities, people who are homeless also struggle to maintain personal hygiene. One homeless woman, Monica Diaz, told a *Washington Post* reporter that her personal hygiene started to suffer from sleep deprivation she struggles with as a result of homelessness and that makes her worried that she will lose her job.⁶¹ Meanwhile, while people who are homeless report workplace discrimination due to their lack of housing, there are no federal, state or municipal laws that protect homeless Californians from being treated differently at work, including not being hired, given fewer hours or being fired from employment. In California, homelessness disproportionately impacts people who are Black⁶² and Latino.⁶³ One study by the University of California San Francisco found that, “Across America, a disproportionate 43 percent of homeless people are black, a number reflected in the Bay Area. In contrast, just 13 percent of the national population is black.”⁶⁴

People with Untreated Health or Mental Health Barrier to Work: The time limit includes protections for people who are disabled, and nothing in the proposed rule would change that. But the proposed rule also assumes that none of the hundreds of thousands of people it anticipates would lose SNAP benefits as a result of the rule would be people with disabilities is simply untrue and out of touch with the population served by SNAP. As most of the people who receive SNAP and would be determined to be an ABAWD live with very small incomes. Many of them are disconnected from health care systems or face significant red tape in establishing that they are disabled or unfit for work. This is true even for those with the most significant illnesses or mental health disabilities. 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),⁶⁵ though other providers may still charge fees. Even when there is no fee, some healthcare systems are extraordinarily burdensome and securing evidence of a disability can be complicated. This is especially true of the Veteran’s Administration health system. Because the proposed rule limits the ability of states and administering county agencies to use individual exemptions,

⁶¹ Appendix 37: https://m.sfgate.com/news/article/Homeless-living-in-a-tent-blocks-from-the-US-13709194.php?fbclid=IwAR2T0bq0-8_kp4oPiDq_q8JJBZYdINcBWITa71yMwWf3VCulnoEihmJNwyI

⁶² Appendix 38: As reported in the Courthouse News, “Black residents make up 9 percent of the population of LA County, but accounted for more than 40 percent of the region’s homeless population in 2017 according to the Los Angeles Homeless Services Authority, which said in its study that racism and homelessness are deeply intertwined.” <https://www.courthousenews.com/study-black-la-residents-disproportionately-homeless/>

⁶³ Appendix 39: <https://www.latimes.com/local/california/la-me-latino-homeless-20170618-story.html>

⁶⁴ Appendix 40: <https://www.sfchronicle.com/bayarea/article/Aging-onto-the-street-Nearly-half-of-older-13668900.php>

⁶⁵ California State Senate Bill 575 (Leyva) signed by the Governor in October of 2017, to have free access to their medical records when applying for Calfresh.



the ability to provide protections from hunger for this population of people pending determinations of disability will also be limited.

Black and Latino Workers: In 2015, SNAP helped approximately 2.1 million African American, including 1 million children, out of poverty.⁶⁶ In California, 14% of all CalFresh (SNAP) recipients are Black and in Los Angeles County, 18% are Black.⁶⁷ Due to persisting racial economic disparities and discrimination in hiring practices, average hourly wages for Black workers are substantially lower than their white counterparts. In 2017, for adults age 18-64, the poverty rate of the general population is 11%. That percentage is significantly higher for Black Americans who have a poverty rate of 18%. This makes it more likely that Black and Hispanic individuals will benefit from programs that support work by helping them access nutritious food. Studies show that racial discrimination remains a key force in the labor market. In a 2004 study, “Are Emily and Greg more employable than Lakisha and Jamal: A Field Experiment on Labor Market Discrimination,” researchers randomly assigned names and quality to resumes and sent them to over 1,300 employment advertisements.⁶⁸ Their results revealed significant differences in the number of callbacks each resume received based on whether the name sounded white or African American. More recent research indicates that this bias persists. A study from 2013 submitted fake resumes of nonexistent recent college graduates through online job applications for positions based in Atlanta, Baltimore, Portland, Oregon, Los Angeles, Boston, and Minneapolis. African-Americans were 16% less likely to get called in for an interview.⁶⁹ Similarly, a 2017 meta-analysis of field experiments on employment discrimination since 1989 found that white Americans applying for jobs receive on average 36% more callbacks than African Americans and 24% more callbacks than Latinos. Employment outcomes also vary between immigrant groups from different regions. A 2007 study found that immigrants from Latin America and the Caribbean earned an average hourly wage rate of \$14, compared to \$24 among other immigrants, and \$20.4 for non-immigrants.⁷⁰ According to Bureau of Labor Statistics data,⁷¹ Blacks are twice as likely as Whites to have searched for work in the previous year

⁶⁶ Appendix 41: Source: <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-african-americans>

⁶⁷ Percentage of households receiving CalFresh benefits, by race/ethnicity of household contact (e.g., in 2015, 1% of California households receiving CalFresh benefits had a multiracial household contact). Data Source: California Dept. of Social Services, CalFresh Data Files (Oct. 2015). Note: Data presented are for households participating in CalFresh during the month of July.

⁶⁸ Appendix 42: Source: http://www2.econ.iastate.edu/classes/econ321/Orazem/bertrand_emily.pdf

⁶⁹ Appendix 43: Source: <http://fortune.com/2014/11/04/hiring-racial-bias/>

⁷⁰ Appendix 44: Source:

https://www.researchgate.net/publication/4997293_How_Do_Migrants_from_Latin_America_and_the_Caribbean_Fare_in_the_US_Labour_Market

⁷¹ Appendix 45: “Labor Force Characteristics by Race and Ethnicity, 2017,” U.S. Bureau of Labor Statistics, August 2018, <https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm>.



but not in the past 4 weeks, and Latinos are 66 percent more likely than Whites to work part-time for economic reasons. Women are 38 percent more likely than men to work part-time for economic reasons. In a research brief published in 2017, *Ready to Work, Uprooting Inequity: Black Workers in California*,⁷² the experience of the Black community in California through a labor and employment lens is explored and found that black workers with a high school or less education experience unemployment at almost double the rate as white workers at the same education level. It also found that, whether working full or part time, Black workers earn only three-quarters of what white workers earn. For Black women, the wage gap is even more severe. These and other data points suggest that the proposed core standard for determining lack of sufficient jobs, unemployment data, disproportionately impacts protected classes and the proposed rules will only exacerbate those disproportionate impacts. The study did not find that if you make low-income workers of color hungrier and more desperate, that they will be able to overcome these systemic barriers to unemployment.

The proposed rules will make it difficult for these populations of Californians, who are disproportionately members of a protected class, to be served by SNAP. We strongly oppose further restrictions to time limit waivers due to their disproportionate impact on protected classes including women, communities of color, and people with disabilities. The Department notes that while 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.” But no explanation of the mitigation strategies and monitoring is provided, and we do not believe that mitigation strategies can be significant enough to fully address the disproportionate impact of increased food insecurity and poverty on protected classes.

Proposed Rule Would Reduce Ability to Prepare for Work or to Secure 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 is not all that SNAP offers. 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.

⁷² Appendix 46: Source: <https://www.labor.ucla.edu/publication/ready-to-work-uprooting-inequity-black-workers-in-los-angeles-county/>



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 \$103,817,111.⁷³ Some of these federal “match” reimbursement funds are for third-parties (i.e. community colleges, non-profit E&T centers, etc.).⁷⁴

The SNAP ET programs are limited often don't have slots that open up fast enough to be helpful to a recipient seeking to comply with their 3-month-time-limit work obligations. However, for SNAP recipients who can access these program are proven to increase work preparedness, employment and future earnings. Cutting recipients off of aid only removes the opportunity to participate in SNAP E&T and an opportunity to work. What's more, we are concerned that, should the proposed rule become permanent, California counties will be forced to divert their attention away from the important work of helping low-income SNAP recipients who need help up-skilling and searching for work and towards monitoring a time limit that does nothing to connect SNAP recipients to work. In fact, research shows that voluntary SNAP E&T programs such as those pursued by California that do not subject individuals to sanctions or increase food insecurity can significantly increase employment.⁷⁵

Lessons learned from TANF, SNAP, and other programs demonstrate that work reporting requirements are not effective in connecting people to living-wage jobs and do little to impact overall employment.⁷⁶ As laid out by the Center on Budget and Policy Priorities in a review of rigorous evaluations, research shows that employment increases among individuals subject to work reporting requirements were modest and faded overtime. In nearly all of the

⁷³ Appendix 47: Source: http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/cfl/2016-17/16-17_48.pdf

⁷⁴ 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). See CFL NO. 16/17-44 for more information.

⁷⁵ *Food Stamp Employment and Training Program: Better Data Needed to Understand Who Is Served and What The Program Achieves*, U.S. Government Accountability Office, March 2003, <https://www.gao.gov/assets/240/237571.pdf>.

⁷⁶ Appendix 48: Ladonna Pavetti, *Work Requirements Don't Cut Poverty, Evidence Shows*, Center on Budget and Policy Priorities, June 2016, <https://www.cbpp.org/research/poverty-and-inequality/work-requirements-dont-cut-poverty-evidence-shows>.

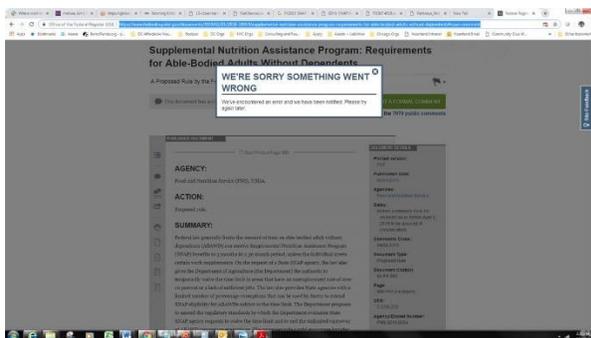


approximately dozen programs evaluated, employment among individuals *not* subject to work reporting requirements was the same as or higher than employment among individuals subject to work reporting requirements within five years.

What's more, in the development of their state SNAP Plan, California and the counties have been relying on a SNAP E&T best practices report⁷⁷ that was commissioned by the USDA with objective providing "Congress, FNS, and individual States with information that can be used to shape the services provided by the SNAP E&T program and thereby improve the employability, self-sufficiency, and well-being of individuals receiving nutrition support from SNAP."⁷⁸ These are the very same goals as the stated intention and justification of the proposed rule, and yet the SNAP E&T best practices report does not mention taking SNAP benefits away from individuals who are unable to meet work requirements as an effective strategy. The report includes an annotated bibliography of 160 relevant studies from the literature review. None of them suggest that cutting people off food aid will increase employability, employment or wages. As such, the position of the USDA that the proposed rule will do that is unfounded. What's more, the proposed rule doesn't even include a requirement that the changes made would need to be evaluated to prove that they did, indeed, achieve that goal.

Not Adequate Time to Comment and the Technology Used to Accept Comments Was Flawed

The 60 days allowed for public comment was inadequate to fully identify all of the issues and information that should be considered by the Department. What's more, several organizations, including the California Association of Food Banks and the California Youth Homeless Connection, reported that they received an error message several times when trying to submit comments using the <https://www.federalregister.gov/> website. Below are some screenshots of the error messages these organizations were receiving:



⁷⁷ Appendix 49: Deborah Kogan *et al.*, "Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) Best Practices Study: Final Report," prepared by Social Policy Research Associates for the U.S. Department of Agriculture, Food and Nutrition Service, November 2016, <https://www.fns.usda.gov/snap/snap-employment-and-training-et-best-practices-study-final-report>.

⁷⁸ *Ibid*, p. ES-1.



While people we heard from were redirected to submit their comments on the <http://www.regulations.gov> site, we are concerned that not everyone knew to do this and may have been deterred, or prevented altogether, from submitting comments. Because the comment period was very short to begin with, the problem with the letter submission process is especially concerning.

Forcing People to go Without Food Doesn't Get People a Job - It Just Makes them Hungry

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 stated purpose of connecting people to work. Any statement to the contrary is disingenuous. For these reasons, we oppose the proposed rule and urge the Administration not to adopt them.

Sincerely,


Jessica Bartholow
Policy Advocate


Antionette Dozier
Senior Attorney