



November 1, 2019

SNAP Program Design Branch
Program Development Division
Food and Nutrition Service, USDA
3101 Park Center Drive
Alexandria, VA 22302

Re: RIN 0584-AE62, Proposed rule Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP) - Additional Information for 14-day Comment Period

Dear SNAP Program Design Branch:

We are writing on behalf of the Western Center on Law and Poverty to comment on USDA's Notice of Proposed Rule Making (NPRM) on a "Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)."

On October 15, 2019, the Federal Register posted a new "Information Analysis" about the impact of the proposed changes to SNAP categorical eligibility on children, stating: "The agency is extending the comment period to provide the public an opportunity to review and provide comment on this document as part of the rulemaking record." As you know, this truncated 14-day comment period comes on the heels of the October 2, 2019, announcement of a third proposed SNAP policy change impacting some of the same families. The anti-hunger community has already participated in two prior comment periods and, each time, we have indicated that 60-days is not sufficient time to consider and comment the proposed rule changes.

On October 21, Western Center sent Secretary Sonny Perdue and Acting Undersecretary Brandon Lipps a request to extend this period, but we received no response. Therefore, we are submitting this letter with the limited time and information that we have. This letter supplements the prior comment we submitted on September 23, 2019 to respond to the NPRM. As per the instructions on the Federal Register, this letter is only responsive to the new information.

Nothing about the new information posted changes the fact that the proposed changes to categorical eligibility for SNAP benefits are deeply flawed and problematic, as they attempt



to restrict food assistance to the individuals whom we and our partners serve in California. Western Center strongly supports the twin goals of preventing hunger and supporting economic mobility, both of which are best achieved when states can account for high housing, child care and health care costs, and help SNAP participants save money to weather financial setbacks. We believe that the Administration's proposed changes to categorical eligibility will work in opposition to these goals. If the proposed rule goes into effect, it will cause an estimated 250,000 to 345,800 Californians,¹ who are already struggling to meet their basic needs, to lose their SNAP benefits. Based on your own estimates, it will also cause nearly 1 million children across the nation to lose free school lunch. Although we cannot be certain this estimate accounts for all those impacted, not to mention the reciprocal effects, because the limited 14-day comment period does not give us enough time to gather the data and information necessary to verify it.

Simply put, this rule will increase hunger and hunger does not help anyone exit poverty. In fact, hunger has been proven to do the opposite: to leave children and adults alike to experience long and short-term consequences of poor nutrition that undermines their well-being and economic security. We respectfully request that the Administration consider the comments in our letter and the information in the attached appendices, and that it withdraw the proposed rule from consideration.

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 policymakers 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.

Not Enough Information about Impacted SNAP Recipients to Adequately Comment

When analyzing the impact of implementing categorical eligibility, the California Legislature estimated an increase of approximately 170,000 children would benefit from federally-

¹ The California Department of Social Services has estimated 6% of the caseload to be impacted, currently approximately 250,000 people, based on the original analysis completed by the California State Legislature during their deliberation about the SNAP BBCE implementing legislation, Assembly Bill 191 (Fuentes, 2013). The number comes from the California State Assembly Appropriations Analysis found here: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201320140AB191. The higher number is from Mathematica Policy Inc. estimates as many as 345,800 people: <https://www.mathematica-mpr.com/news/new-research-analyzes-state-level-impact-of-usda-proposal-to-end-snap-broad-based-categorical>



funded school meals as a result of the direct certification for free school meals of children² in families who were eligible due to broad based categorical eligibility.³ We believe that this number would be much higher in 2018-2019 because there are more children residing in CalFresh recipient homes than there were when categorical eligibility was implemented.

Initially, the NPRM did not include information about the impact on families with children who will also lose school meal eligibility. The USDA put out an additional “Information Analysis,” posted on October 15, and re-opened the comment period for 14 days.⁴ It is not clear why this information was not available in the original NPRM Impact Statement or why the USDA decided to issue the information in the format it did and not in the Impact Statement. The USDA estimates that nearly one million children would no longer be directly certified for free school meals based on their families’ SNAP participation. According to the estimates, of those one million children, 40,000 would lose eligibility for free or reduced-price meals entirely; 445,000 would have to apply to maintain access for free school meals; and 497,000 would only qualify for reduced-price meals. This number is nearly double the USDA’s original estimate calculated for the purposes of analyzing the impact of the President’s budget proposal that sought the same policy change. This original estimate was shared with Members of Congress and their staff in a conversation about the rule that has been documented by the Chairperson of Education and Labor, Congressman Bobby Scott.⁵ These discrepancies in estimates raise questions that simply cannot be answered with the 14-day period that we have to respond.

One of the areas that neither the NPRM, nor the Information Analysis posted on October 15th fully consider is how the proposed rule change would impact children who currently qualify for the Community Eligibility Provision (CEP), which allows schools in high-poverty areas to serve free meals to all students. According to new research published by *The Urban Institute*, if the proposed rule is implemented, “[m]ore than one million students could see their schools lose full reimbursement for serving free school meals, potentially putting their CEP status at risk. This could cost those schools more than \$167 million in school lunch funding. Moreover, an additional 142,000 students could see their schools lose eligibility for CEP entirely.”⁶ This report also points out that schools that lose CEP eligibility would also

² See FRAC’s resource on the connection between SNAP and school meals: <http://www.frac.org/wp-content/uploads/snap-categorical-eligibility-and-school-meals.pdf>

³ Assembly Bill 191 (Fuentes, 2013) California State Assembly Appropriations Analysis: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201320140AB191

⁴ Found at: https://www.regulations.gov/document?D=FNS_FRDOC_0001-0707

⁵ A copy of the letter from Chairman Scott to Secretary Perdue citing the estimate of 500,000 missed meals provided to Congress in the July 22nd briefing and calling on the USDA to release their analysis is provided here: <https://edlabor.house.gov/download/chairman-scott-letter-to-usda-about-500000-losing-access-to-free-school-meals>

⁶ How Households with Children Are Affected by Restricting Broad-Based Categorical Eligibility for SNAP,” by Elaine Waxman and Nathan Joo, September 12, 2019



see increases in student meal debt, lunch shaming stigma, and poor educational outcomes for all students – not just those who live in families with low-incomes - that result when children in school do not have access to sufficient health food.

What's more, a previously published report by *Mathematica Policy Inc.* analyzed the impact of the proposed BBCE policy change and their research on children impacted showed that of the 1.9 million SNAP households slated to lose benefits that live in poverty, more than one-third have children.⁷ The *Urban Institute's* research also found that for more than two million participants in SNAP households with children, the resulting benefit loss of this policy change would be approximately \$240 per month per household, or about \$165 million annually.⁸ Again, the discrepancies between the USDA's estimates and both the number of impacted children provided to the U.S. House Committee on Education and Labor and the number potentially impacted children identified by expert researchers, suggest that the impact and scope of the impact the proposed rule change will have on children and school meal eligibility has not been adequately examined by the Administration and cannot be sufficiently considered in the short 14 day period provided.

The new analysis does not include information about the reciprocal impacts, including the fact that children who lose eligibility for free or reduced price school lunch may, in turn, lose other benefits or services at school and in the college application process. For example, the Standard Aptitude Test (SAT) is needed to enter most colleges and costs \$49.50 for a standard test or \$64.50 for the test with essay (required by many colleges). Additional fees can be charged for each college you send your SAT to. A fee waiver is available to a child who is eligible for the National School Lunch Program (NSLP).⁹ With nearly 1 million students losing a direct link or eligibility altogether for NSLP, some will most certainly also lose eligibility for the SAT fee waiver. Students that take advance placement classes may get a fee waiver for their Advanced Placement (AP) test as a result of their NSLP eligibility. If they can take and pass the test, they earn advance college credits, increasing the likelihood that they will attend and graduate from college.¹⁰ These students will also lose fee waivers available to them in the college application process, as many colleges charge a fee but waive it for students

<https://www.urban.org/research/publication/how-households-children-are-affected-restricting-broad-based-categorical-eligibility-snap>

⁷ State-by-State Impact of Proposed Changes to "Broad-Based Categorical Eligibility" in SNAP:

<https://www.mathematica.org/dataviz/impact-of-bbce-proposal-on-snap-caseloads>

⁸ "How Households with Children Are Affected by Restricting Broad-Based Categorical Eligibility for SNAP," by Elaine Waxman and Nathan Joo, September 12, 2019

<https://www.urban.org/research/publication/how-households-children-are-affected-restricting-broad-based-categorical-eligibility-snap>

⁹ See here for a brochure about SAT fee waivers: <https://collegereadiness.collegeboard.org/pdf/sat-fee-waiver-student-brochure.pdf>

¹⁰ See here for a description of the fee waiver that a student can receive for AP:

<https://professionals.collegeboard.org/testing/waivers>



who are eligible for NSLP.¹¹ However, the informational analysis did not consider this financial impact on children and families, and potentially harmful impact on the future earnings of children growing up low-income homes unable to take college preparatory tests or to submit college applications. Certainly, this negative impact would increase, not decrease, reliance on public benefit programs, and therefore run counter to the purported reason for the rule change.

In California, children who receive free school lunch can also qualify, through their NSLP eligibility, for fee waivers for school uniform fees, school transportation fees¹² and sports participation fees. Nothing in the NPRM, nor the additional information posted on October 15th discusses these potential negative impacts on children who, by losing these waivers, may not be able to fully participate in school, extracurricular activities that will help them advance their education and prevent dependency on public benefits in the future.

The Proposed Rule Increases the Burden and Cost to Program Administrators

The proposed limitations to categorical eligibility will also increase administrative costs and burden. As noted in our letter dated September 23, 2019, the NPRM did not offer any information about the costs of implementing the proposed rule or cost savings alternatives. Neither does the additional Informational Analysis posted on October 15. Nor does the new analysis consider the costs to program administrators who may have to end CEP programs and reinstitute for-purchase meal programs at schools. Doing so will include changing information on their websites, information sent to parents, their school lunch line processes and their staffing structure. The research also shows that school discipline and test scores are impacted by increases in hunger, but neither the NPRM Impact Statement, nor the additional information provided information about these implications of the proposed rule change. These administrators of school meals have relied on the current regulatory law to make decisions about their programs that would need to change if the rule is changed.

The Proposed Rule will increase Hunger Among Children Causing Permanent Harm

SNAP helps over 4 million Californians,¹³ 51% of whom are children,¹⁴ afford adequate healthy food, leaving them more money to pay their housing costs. But the proposed rule

¹¹ See here for a list of the colleges that waive application fees for students that receive NSLP: <https://collegereadiness.collegeboard.org/pdf/college-application-fee-waiver-directory.pdf>

¹² For a reference to how expensive these fees can be, see this example from Rancho Cordova, California: <https://www.fcusd.org/Page/2421>

¹³ California Budget and Policy Center. (2018). "CalFresh Reaches Millions of Californians and Reduces Poverty." Retrieved from: <https://calbudgetcenter.org/resources/calfresh-reaches-millions-californians-reduces-poverty/>

¹⁴ Sarah Lauffer, Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2016 (US Department of Agriculture: November 2017), Table B.14. The 7.2% figure was provided by Center on Budget and Policy Priorities analysis of the underlying US Department of Agriculture Supplemental Nutrition Assistance Program Quality Control administrative data (Federal Fiscal Year 2016). "People with disabilities" does not include children or adults age 60 or older.



would prevent states like California from providing this crucial aid to families burdened by high housing costs with gross incomes modestly above 130% of the poverty line, making it more likely they will suffer from the experience of hunger and be more likely to experience the trauma of homelessness. Hunger among children falls by one-third after families have been receiving SNAP benefits for about six months.¹⁵ SNAP is the nation's most important anti-hunger program and the program promotes improved long-term health and economic outcomes, especially for children who receive SNAP as children.¹⁶ Food insecurity, even at mild levels, is linked to adverse health effects for people of all ages^{17,18,19} and Children's HealthWatch conservatively estimates it resulted in \$178 billion in avoidable health, education, and lost work productive costs in 2014 alone.²⁰

SNAP, on the other hand, is associated with many positive health outcomes for children and adults of all ages beginning in the prenatal period and continuing through senior years.^{21,22,23,24,25,26} In addition to improving health, SNAP also effectively reduces health care costs

¹⁵ Council of Economic Advisors, Long-Term Benefits of the Supplemental Nutrition Assistance Program (Washington, DC: Executive Office of President of the United States, 2015), https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/SNAP_report_final_nembargo.pdf.

¹⁶ Center on Budget and Policy Priorities. (2018). "Chart Book: SNAP Helps Struggling Families Put Food on the Table." Retrieved from <https://www.cbpp.org/research/food-assistance/chart-book-snap-helps-struggling-families-put-food-on-the-table>

¹⁷ Shankar P, Chung R, Frank DA. Association of food insecurity with children's behavioral, emotional, and academic outcomes: A systematic review. *J Dev Behav Pediatr.* 2017;38:135-150.

¹⁸ Gundersen C, Ziliak JP. Food insecurity and health outcomes," *Health Affairs*, 2015;34(11):1830-1839. Available at: [http://gatonweb.uky.edu/Faculty/Ziliak/GZ_HealthAffairs_34\(11\)_2015.pdf](http://gatonweb.uky.edu/Faculty/Ziliak/GZ_HealthAffairs_34(11)_2015.pdf)

¹⁹ Laraia BA. Food insecurity and chronic disease. *Advances in Nutrition*, 2013;4(2):203-212. Available at: <http://advances.nutrition.org/content/4/2/203.full>

²⁰ Cook JT, Poblacion A. *Estimating the Health-Related Costs of Food Insecurity and Hunger*. In Bread for the World 2016 Hunger Report (www.hungerreport.org).

²¹ Almond D, Hoynes HW, Schanzenbach DW. Inside the war on poverty: The impact of food stamps on birth outcomes. *The Review of Economics and Statistics*. 2011;93(2):387-403.

²² Ettinger de Cuba S, Bovell-Ammon A, Cook JT, Coleman S, Black MM, Chilton MM, et al. Association of SNAP participation with the health of young children and family food security and health care access. *Am J of Prev Med*. 2019.

²³ Ettinger de Cuba S, Weiss I, Pasquariello J, Schiffmiller A, Frank DA, Coleman S, Breen A, Cook J. The SNAP Vaccine: Boosting Children's Health. Children's HealthWatch, February 2012. Available at: http://childrenshealthwatch.org/wp-content/uploads/snapvaccine_report_feb12.pdf

²⁴ Kreider B, Pepper JV, Gunderson C, Jolliffe D. Identifying the effects of SNAP (food stamps) on child health outcomes when participation is endogenous and misreported. *Journal of the American Statistical Association*. 2012;107(499):958-975.

²⁵ Mabli J, Worthington J. Supplemental Nutrition Assistance Program participation and child food security. *Pediatrics*. 2014;133(4):610-619. doi: 10.1542/peds.2013-2823 [doi].

²⁶ Mabli J, Ohls J. Supplemental Nutrition Assistance Program participation is associated with an increase in household food security in a national evaluation. *J Nutr*. 2015;145(2):344-351. doi: 10.3945/jn.114.198697 [doi].



nationally, which is critical to providers and health systems as we shift to value-based care models that incentivize population health.^{27,28}

The impacts of these proposed cuts to NSLP eligibility will extend beyond individual families who will be cut off aid. Childhood hunger has an immediate impact on educational success and classroom environments at schools with a high-density of children living in poverty. But the Administration's analysis didn't estimate how many children would be impacted by increases in food insecurity within their classroom, and so experienced a reduced quality of learning even if they, themselves, were directly impacted.

According to the Center for Disease Control, "Most US children attend school for six hours a day and consume as much as half of their daily calories at school. Kids who eat healthy foods at school learn better lifelong eating habits and are readier to learn."²⁹ Over the long term, it also reduces the strength and capacity of our future workforce.³⁰ The cost of not protecting children and families from the impact of hunger are steep, and researchers estimate that child poverty currently costs the United States around \$800 billion and \$1.1 trillion a year, including poor health among adults who historically experienced poverty as children.³¹ The Administration's analysis did not estimate the long-term cost to our economy resulting from an increase in hunger among children.

Western Center Strongly Opposes the Proposed Rule Request it be Withdrawn

Because Californians are burdened with some of the highest cost of living in the country, categorical eligibility is essential to helping fight hunger in the state. The proposed rule exceeds the Department's authority under the statute, and if implemented, would severely limit California's SNAP program's ability to help low-income individuals and families, especially households with earnings from work and people with high housing costs. The proposed rule would cost these families not only their SNAP benefits, but also result in a loss of free school meals and access to a wide variety of benefits connected to SNAP eligibility,

²⁷ Sonik RA. *Massachusetts Inpatient Medicaid Cost Response to Increased Supplemental Nutrition Assistance Program Benefits*. *AJPH*, 2016;106 (3):443-8. Available at:

<https://www.ncbi.nlm.nih.gov/pubmed/26794167>

²⁸ Berkowitz S, Seligman H, Rigdon J. *Supplemental Nutrition Assistance Program (SNAP) Participation and Health Care Expenditures Among Low-Income Adults*. *JAMA*, 2017; 177(11):1642-1649. Available at:

<https://www.ncbi.nlm.nih.gov/pubmed/28973507>

²⁹ <https://www.cdc.gov/features/school-lunch-week/index.html>

³⁰ The Long Reach of Poverty

http://inequality.stanford.edu/sites/default/files/PathwaysWinter11_Duncan.pdf

Consequences of Poverty

<https://www.brookings.edu/research/in-a-land-of-dollars-deep-poverty-and-its-consequences/>

Long-Term Consequences of Growing Up Poor

http://www.nccp.org/publications/pub_909.html

³¹ <https://www.npr.org/2019/02/28/698617021/report-child-poverty-could-be-cut-in-half-over-10-years-at-a-hefty-price>



impacts not considered in the NPRM. The stated rationale for changing existing regulations is unclear, confusing, and poorly reasoned. It does not provide adequate justification for departing from long-standing regulations that are consistent with the statute and Congressional intent. The additional information provided about the impact on children who currently receive free or reduced priced meals at school as a result of the existing administrative law only confuses the issue with numbers that are inconsistent with prior Department estimates and appear incomplete based on published research from reputable think tanks. Even more importantly, nothing in the additional information changes the fact that the Department does not have the authority to make the proposed change. For all of the reasons stated above, we oppose the proposed rule and call on the Department to withdraw it from consideration.

Sincerely,

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