



December 2, 2019

Certification Policy Branch  
SNAP Program Development Division  
Food and Nutrition Service, USDA  
3101 Park Center Dr. Room 812  
Alexandria, VA 22302

**RE: Comments on Proposed Rule, Supplemental Nutrition Assistance Program (SNAP):  
Standardization of State Heating and Cooling Standard Utility Allowances  
RIN 0584-AE69**

Dear Certification Policy Branch:

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking, Supplemental Nutrition Assistance Program (SNAP): Standardization of State Heating and Cooling Standard Utility Allowances, published in the Federal Register on October 3, 2019. We are writing with concerns about the proposed rule and are asking that the proposed rule be withdrawn.

***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’s team of SNAP experts is very familiar with CalFresh and frequently offers trainings on the program for national, state and local audiences and is a go-to for technical assistance from both advocates and administrators of the program. Our work has made us experts with the way in which the CalFresh benefits are calculated and the role that Standard Utility Allowances (SUAs) play in that calculation. One of the tools Western Center uses to advise our advocacy statewide is our CalFresh Calculator, a pre-programmed spreadsheet which allows a person to calculate the actual benefits that one would likely receive in California based on their income, deductions, and family

size.<sup>1</sup> Western Center has maintained this calculator for 10 years to support and train legal services providers about CalFresh calculations and to ensure our clients have correctly calculated benefits.

Our staff's expertise spans several decades, as they have led the implementation of new SNAP laws and procedures, ranging from the switch from paper coupons to the Electronic Benefit Transfer (EBT),<sup>2</sup> the implementation of the 2008 Farm Bill changes to SNAP Employment and Training (E&T)<sup>3</sup>, and changes to the SNAP Program in the 2014 and 2018 Farm Bills. Our team has been intimately involved with implementing to SNAP utility deductions law and regulations over the years, including review and comment of proposed regulations related to the SUA,<sup>4</sup> the Limited Utility Allowance (LUA)<sup>5</sup>, and the Telephone Utility Allowance<sup>6</sup>, and the adoption of the SNAP.<sup>7</sup> Our comments are informed by this expertise.

### ***The Proposed Rule Will Increase Hunger and Cause Permanent Harm***

We disagree with the Food and Nutrition Services' (FNS') proposal to establish standard amounts for SUAs, which would reduce SNAP benefits for 25 percent of participating California households or about 572,000 households, according to FNS' own estimates.<sup>8</sup> In total, nationwide, FNS estimates the SNAP program would be cut by \$4.478 billion in the next five years. This drastic reduction in benefits would expose people who are living in poverty to more hunger, poorer health, fewer opportunities for economic mobility, and worst outcomes in the major determinants of a person's well-being.

SNAP helps over four million individual Californians afford adequate healthy food.<sup>9</sup> SNAP is associated with many positive health outcomes for children and adults of all ages beginning in the

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<sup>1</sup> Western Center on Law and Poverty, CalFresh Calculator, <https://wclp.org/resources/calfresh-calculator-ffy-2018-19-updated-october-2018/>.

<sup>2</sup> California Advocate Guide to Electronic Benefits Transfer (EBT), 2002, co-authored by Western Center's lead SNAP policy advocate, Jessica Bartholow can be found at <https://advocacy.consumerreports.org/wp-content/uploads/2013/04/EBT-report-1102.pdf>.

<sup>3</sup> "New Legislation Improves Access to Employment and Training Services for Low-Income Adult," by Western Center's lead SNAP policy advocate, Jessica Bartholow can be found at <http://www.insightcced.org/uploads/fset/EandT-Farm-Bill.pdf>.

<sup>4</sup> In California, the SUA is a fixed amount adjusted annually by the California Department of Social Services (CDSS) for households that have heating or cooling costs separate from their rent or mortgage payments and is codified in the Department's Manual of Policy and Procedures for the CalFresh program. See CDSS Manual of Policies and Procedures § 63-502.363(a)(1) and (b); 7 C.F.R. § 273.9(d)(6)(iii)(C). The SUA is not pro-rated for shared living situations or living with excluded household members. CDSS Manual of Policies & Procedures §§ 63-502.371 & 63-502.372. As of October 1, 2019, the SUA is \$432. CDSS All County Information Notice I-54-19.

<sup>5</sup> The Limited Utility Allowance is adjusted annually by CDSS. It applies to households that are not eligible for the SUA but have expenses for at least two separate types of utilities (other than heating and cooling). CDSS Manual of Policies & Procedures § 63-502.363(d); 7 C.F.R. § 273.9(d)(6)(iii)(A). Utilities expenses for which the household can claim the LUA are telephone, water, sewerage, and trash collection. As of October 1, 2019, the LUA is \$135. CDSS All County Information Notice I-54-19.

<sup>6</sup> If a household that is not eligible for either the SUA or LUA but has telephone expenses, they can claim a telephone allowance of \$18 in California. CDSS Manual of Policies and Procedures MPP § 63-503.362(e).

<sup>7</sup> 2014 Farm Bill LIHEAP rules implementation memo: [https://fns-prod.azureedge.net/sites/default/files/LIHEAP\\_Implementation\\_Memo.pdf](https://fns-prod.azureedge.net/sites/default/files/LIHEAP_Implementation_Memo.pdf).

<sup>8</sup> As of August 2019, there were about 2,115,869 households in California receiving SNAP benefits.

<sup>9</sup> California Budget and Policy Center, CalFresh Reaches Millions of Californians and Reduces Poverty (2018), <https://calbudgetcenter.org/resources/calfresh-reaches-millions-californians-reduces-poverty/>.

prenatal period and continuing through senior years.<sup>10,11,12,13,14,15</sup> In addition to improving health, SNAP also effectively reduces health care costs nationally, which is critical to providers and health systems as we shift to value-based care models that incentivize population health.<sup>16,17</sup> The proposed rule would interfere with these positive outcomes. In California, SNAP's assistance has been particularly important in light of our housing affordability crisis. About half of Californian households with incomes below 200 percent of the Federal Poverty Level spend more than half their income on housing.<sup>18</sup> Any reduction in SNAP benefits would hit Californians hard, whose high housing cost burdens alone make it difficult to meet their nutritional and basic life needs.

The purpose of the utility allowances is directly tied to the cost of housing. This deduction serves to mitigate the impact that utility costs—as part of overall housing costs—can have on increasing food insecurity among low-income households. SNAP benefits are allotted based on the income that each household has available to purchase food after considering certain costs of living. Among deductions such as child care, medical expenses, and others, households are allowed an excess shelter deduction. Expenses counted toward the excess shelter deduction include the cost of utilities.

The estimates in the proposed rulemaking do not take into account the full range of harm caused by the proposed rules. While better and more recent data is needed to accurately estimate the rule's impact on California, it is clear that FNS' proposed cuts would nevertheless have harmful impacts on the health and wellbeing of Californians and exacerbate the existing struggles many low-income Californians face in paying for food and utilities.

### ***The Proposed Rule Will Disproportionately Harm Persons Who Are Elderly and Disabled***

Households, except for those with individuals who are disabled or elderly, have a cap on deductions. For this reason, the proposed rule would most negatively affect CalFresh households that have

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<sup>10</sup> 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.

<sup>11</sup> 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.

<sup>12</sup> 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., [http://childrenshealthwatch.org/wp-content/uploads/snapvaccine\\_report\\_feb12.pdf](http://childrenshealthwatch.org/wp-content/uploads/snapvaccine_report_feb12.pdf).

<sup>13</sup> 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.

<sup>14</sup> Mabli J, Worthington J. Supplemental Nutrition Assistance Program participation and child food security. *Pediatrics*. 2014;133(4):610-619.

<sup>15</sup> 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.

<sup>16</sup> Sonik RA. *Massachusetts Inpatient Medicaid Cost Response to Increased Supplemental Nutrition Assistance Program Benefits*. AJPH, 2016;106 (3):443-8, <https://www.ncbi.nlm.nih.gov/pubmed/26794167>.

<sup>17</sup> 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, <https://www.ncbi.nlm.nih.gov/pubmed/28973507>.

<sup>18</sup> Sara Kimberlin, California's Housing Affordability Crisis Hits Renters and Households With the Lowest Incomes the Hardest, 2019, California Budget & Policy Center, [https://calbudgetcenter.org/wp-content/uploads/2019/04/Report\\_California-Housing-Affordability-Crisis-Hits-Renters-and-Households-With-the-Lowest-Incomes-the-Hardest\\_04.2019.pdf](https://calbudgetcenter.org/wp-content/uploads/2019/04/Report_California-Housing-Affordability-Crisis-Hits-Renters-and-Households-With-the-Lowest-Incomes-the-Hardest_04.2019.pdf).

individuals who are elderly and disabled,<sup>19</sup> populations already experiencing significant rates of food insecurity. FNS acknowledges this disproportionate negative impact in its own Regulatory Impact Analysis. In California, 7.4 percent of elderly Californians experienced hunger in 2017.<sup>20</sup> People with disabilities, regardless of their age, are three times more likely to experience hunger than people without a disability.<sup>21</sup>

SNAP is the nation's most important anti-hunger program, promoting improved long-term health and economic outcomes especially for people who are elderly or who have disabilities.<sup>22, 23</sup> Food insecurity, even at mild levels, is linked to adverse health effects for people of all ages.<sup>24, 25, 26</sup> Hunger results in about \$178 billion yearly in avoidable costs related to health, education, and lost work productivity.<sup>27</sup> SNAP is associated with many positive health outcomes for children and adults of all ages beginning in the prenatal period and continuing through senior years. In addition to improving physical and mental health, SNAP reduces health care costs nationally, which is critical to providers and health systems as we shift to value-based care models that incentivize population health.

### ***The Proposed Rule to Standardize Utility Allowance Methodologies is Vague***

Since 2002, states have simplified how utility costs are determined by setting standard rates used statewide instead of reviewing each household's actual costs. FNS reviews and approves each state's methodology and rates annually as required under current rules.

Currently, states are able to set their own standards under 7 C.F.R. § 273.9(d)(6)(iii):

- (A) *With FNS approval, a State agency may develop standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction, including the Standard Utility Allowance (SUA), Limited Utility Allowance (LUA) and the Telephone Utility Allowance (TUA).*
- (B) *The State agency must review the standards annually and make adjustments to reflect changes in costs, rounded to the nearest dollar. State agencies must provide the amounts of standards to FNS when they are changed and submit methodologies used in*

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<sup>19</sup> CDSS Manual of Policy and Procedures § 63-502.36; 7 C.F.R. § 273.9(d)(6)(ii). While the current (effective October 2019 to September 2020) maximum shelter deduction is \$569 in California, households with an elderly or disabled member can deduct the full amount. See CDSS All County Information Notice I-54-19.

<sup>20</sup> "The State of Senior Hunger in America 2017: An Annual Report Prepared for Feeding America," May 14, 2019, by Professor James P. Ziliak Professor Craig Gundersen, [https://www.feedingamerica.org/sites/default/files/2019-06/The%20State%20of%20Senior%20Hunger%20in%202017\\_F2.pdf](https://www.feedingamerica.org/sites/default/files/2019-06/The%20State%20of%20Senior%20Hunger%20in%202017_F2.pdf).

<sup>21</sup> Deondre Jones, SNAP Matters for People With Disabilities, <https://frac.org/blog/snap-matters-people-disabilities>.

<sup>22</sup> For more information about how important SNAP is to people of advanced age, see: <https://www.aarp.org/content/dam/aarp/ppi/2018/04/snap-provides-benefits-for-millions-of-adults-ages-50-and-older.pdf>.

<sup>23</sup> For more information about how important SNAP is to people with disabilities, see: <https://www.cbpp.org/research/food-assistance/snap-provides-needed-food-assistance-to-millions-of-people-with>.

<sup>24</sup> 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.

<sup>25</sup> Gundersen C, Ziliak JP. Food insecurity and health outcomes," *Health Affairs*, 2015;34(11):1830-1839, [http://gattonweb.uky.edu/Faculty/Ziliak/GZ\\_HealthAffairs\\_34\(11\)\\_2015.pdf](http://gattonweb.uky.edu/Faculty/Ziliak/GZ_HealthAffairs_34(11)_2015.pdf).

<sup>26</sup> Laraia BA. Food insecurity and chronic disease. *Advances in Nutrition*, 2013;4(2):203-212, <http://advances.nutrition.org/content/4/2/203.full>.

<sup>27</sup> Cook JT, Poblacion A., Estimating the Health-Related Costs of Food Insecurity and Hunger, 2016 Hunger Report, [www.hungerreport.org](http://www.hungerreport.org).

*developing and updating standards to FNS for approval when the methodologies are developed or changed.*

FNS now raises concern that allowing states to set their own utility allowances has resulted in a wide variation of deductions and benefits across states. These variations, according to FNS, indicate an inequity in the program, suggesting that some states' utility costs are overinflated and thus claim more benefits than should be allowed. FNS, however, fails to acknowledge that under existing rules, it reviews and approves each state's SUAs annually. If FNS had concerns about errors in calculations, it would have raised them during these reviews. For the past 40 years, FNS has not proposed a federal standard and states also have not requested one. We suspect FNS has other unstated rationales for these proposed changes but cannot comment on them because they are not disclosed in the proposed rulemaking.

The proposed rules would purportedly address FNS' concern about inequities in the program by removing state's ability to set their SUAs and by capping these deductions, changing the above paragraph (B) as follows (emphases added):

- (A) ***FNS will calculate the standards and caps . . . annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar. State agencies must provide the amounts of standards to FNS when they are changed annually and submit methodologies used in developing and updating standards to FNS for approval when the methodologies are developed or changed.***
- (1) *For the **HCSUA** described in paragraph (d)(6)(iii)(B)(2), standards will be calculated by FNS **based on the 80th percentile of low income households' utility costs in the State. FNS will use the best-available utility cost information from national Federal surveys, such as the American Community Survey (ACS) and the Residential Energy Consumption Survey (RECS).***
- (2) *For the **LUA** described in paragraph (d)(6)(iii)(B)(3), standards **will be capped at 70 percent of the State's HCSUA.***
- (3) *For the **individual utility expenses** described in paragraph (d)(6)(iii)(B)(2), standards **will be capped at 35 percent of the State's HCSUA**, with the exception of the telecommunications standard. The telecommunications standard will have a maximum amount for all states set annually by FNS. The telecommunications standard includes the cost of one telephone, basic internet service, or both.*

FNS relies on only one study to justify its proposal to standardize the HCSUA methodology (and other SUA methodologies).<sup>28</sup> It is unclear from the rulemaking, however, whether FNS will be required to use the data sets and formulas in the study to compute the HCSUA.<sup>29</sup> FNS states it proposes to use a "new standardized methodology" but does not require use of the methodology employed in the 2017 study or any particular methodology. Instead, the proposed rule would give FNS unrestricted discretion to use the "best-available" information from any federal survey and would give it authority to calculate the standards and caps for SUAs according to any methodology. FNS reasons it has not proposed to codify the use of specific sources of data "in order to maintain flexibility in the event better sources become available or these surveys cease to provide the

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<sup>28</sup> Chris Holleyman et al, Methods to Standardize State Standard Utility Allowances, prepared by Econometrica for the U.S. Department of Agriculture, FNS, Aug. 2017, <https://www.fns.usda.gov/snap/methods-standardize-state-standard-utility-allowances>.

<sup>29</sup> 84 Fed. Reg. 52809, 52810.

necessary information.”<sup>30</sup> Because FNS provides an incomplete explanation of this “new standardized methodology,” we cannot adequately comment on the methodology itself, and the finalization of this proposed standardization will be an arbitrary and capricious action.

### ***The Proposed Utility Standards are Arbitrary and Capricious and Contrary to Law***

The proposed rule to standardize SUA methodologies is inconsistent with Congressional intent to allow states to determine their own utility costs. The proposed caps for HCSUAs at the 80th percentile of costs for low income households would undercount the utility costs for households at the remaining 20th percentile. These households are those that have the highest utility costs and may include individuals who are disabled, elderly, or living in geographic regions that require more heating and cooling expenses. They are the most vulnerable of SNAP beneficiaries. Furthermore, for households claiming LUAs and individual utility allowances, they would be further capped at 70 percent and 35 percent of the HCSUA, respectively. Setting these caps without reasoned explanation is arbitrary and capricious; these policies should not be finalized.

#### **1. The proposed change to the SUA methodology is inconsistent with Congressional intent to give state agencies the discretion to calculate the costs of utilities in their own states.**

The current methodology to calculate SUAs traces back to a final rule that went into effect in 1978.<sup>31</sup> Each state has developed its own methodology and Congress, throughout its numerous re-authorizations of SNAP, has not deviated from the discretion afforded each state to calculate their own SUAs. As a result, each state agency has been implementing SNAP for the past 40 years with an understanding that they have the authority to calculate their own SUAs and developed programs based on their own methodologies. Congress could have instructed FNS to set a federal standard for calculating SUAs throughout these 40 years—but it did not. Since the Food Stamp Act of 1977 and numerous program rule changes, the methodology for calculating SUAs has remained untouched.

The 1978 Final Rule set forth the SUA regulations, as we know them today, to “afford State agencies *great flexibility* in developing utility standards.”<sup>32</sup> At the same time, the program built in a check and balance which required “State agencies . . . [to] demonstrate to FNS that the general standard or individual utility standards accurately reflect actual costs to food stamp households before FNS approval will be given.”<sup>33</sup> During the proposed rulemaking for the 1978 Final Rule, some states requested FNS to develop a national standard.<sup>34</sup> FNS did not adopt this suggestion and Congress never revisited this proposal in future program re-authorizations. This division of state discretion and federal oversight of SUA methodologies remains the current rule:

*The State agency must review the standards annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar. State agencies must provide the amounts of standards to FNS when they are changed and submit methodologies used in*

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<sup>30</sup> 84 Fed. Reg. 52809, 52811.

<sup>31</sup> Implementing the Food Stamp Act of 1977, 43 Fed. Reg. 47846 (Oct. 17, 1978); *see also* FNS Notice 79-47, Food Stamp Program Standard Utility Allowances Requirements and Methodologies (Oct. 1, 1979) (requiring states agencies “to develop and implement an FNS approved standard utility allowance”).

<sup>32</sup> 43 Fed. Reg. 47846, 47866.

<sup>33</sup> 43 Fed. Reg. 47846, 47866 (emphasis added).

<sup>34</sup> 43 Fed. Reg. 47856, 47865.

*developing and updating standards to FNS for approval when the methodologies are developed or changed.*<sup>35</sup>

FNS again highlighted the subject of state discretion in 1979 in a notice issued to all state agencies about implementing SUA methodologies.<sup>36</sup> FNS acknowledged states agencies have “considerable latitude in establishing the methodology for determining the standard,” and in an explanation of the various ways to estimate utility costs, FNS wrote, “there is no ‘right way’ or ‘wrong way’ to establish a standard.”<sup>37</sup> In the proposed rulemaking at hand, FNS’ singular methodology to calculate SUAs contradicts its longstanding policy to allow states to use many methodologies. FNS’ proposed change also noticeably lacks any measure of accountability, or checks and balances, that would ensure its rates accurately reflect states’ utility costs.

Congress has continued to reject standardizing SUA rates to this day. This rulemaking proposes changes that were similarly introduced in the 2019 President’s Budget to standardize state HCSUA levels based on the 80th percentile of low income households’ utility costs in each state. Congress declined to adopt this proposal during debate of the 2018 Farm Bill. By attempting to pass this through the administrative regulatory process, the Administration is sidestepping Congressional intent, making the proposed rules unconstitutional and contrary to law.

## **2. FNS offers insufficient reasons for departure from prior policy in removing states’ ability to set their own SUAs and in capping the SUAs under its proposed methodology.**

FNS offers no reasoned explanation for capping each state’s HCSUA at the 80th percentile of costs for low income households, LUAs at 70 percent of the HCUSA, and individual utility allowances at 35 percent of the HCSUA. This is a significant departure from FNS’ policy which allows states to set their SUAs at any rate so long as they are reasonably accurate. FNS provides no information as to suggest there is an evidence-based or best practice that sets statewide utility costs at the 80th percentile to achieve program “equity” and “integrity”—terms, too, that are undefined in the proposed rulemaking. The 80th percentile proposal is also inconsistent with FNS’ own recommendation in the 1979 Notice which used Texas’s methodology setting SUAs at the 95th percentile of costs as a model for other states to follow. Without reasoned explanation, FNS cannot implement these arbitrary caps.

In the 1979 Notice, FNS offers examples of different methodologies to calculate SUAs, “giv[ing] information on data gathering techniques and data sources” and without favoring one methodology over another.<sup>38</sup> Over the course of 40 years, under its own authority to review and approve each state’s SUA, FNS could have corrected any over- and underestimations of SUAs and assisted states in re-calculating their SUAs. FNS did not do that and now suggests the SUAs are not reasonably accurate. We believe there may be other reasons for FNS’ attempt to suddenly change the SUA methodologies but cannot comment on them because they have not been disclosed.

FNS offers insufficient explanation as to why the current methodologies used by states are not reasonably accurate. FNS does not examine each state’s current methodology but instead measures

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<sup>35</sup> 7 C.F.R. § 273.9(d)(6)(iii)(B).

<sup>36</sup> FNS Notice 79-47.

<sup>37</sup> FNS Notice 79-47, at 1.

<sup>38</sup> FNS Notice 79-47, at 4.

their current SUAs against a different methodology used in the 2017 study. The study does not suggest it is more accurate than the methodologies used by each state, just *different*. Moreover, the proposed rule would not even require FNS to use the methodology proposed in the 2017 study. The proposed rule remains vague about the methodology FNS would be required to use. Without more information about each state's methodology, which we could not reasonably acquire within this comment period, and without clearer explanation of the methodology FNS would use, we cannot adequately comment on this proposed change.

State agencies have relied on setting their own SUAs for the past 40 years. It will be burdensome for them to prepare for and adjust to a new and vague methodology. State agencies should not have to make these changes, as they have been able to justify their rates with review and approval by FNS annually. Yet FNS now suggests there is a better methodology to use, without any precision or clarity as to which state-based methodology has not been accurate. State programs, such as their electronic applications for SNAP, automated eligibility calculations, state regulations, consumer outreach materials, SNAP enrollers, and beneficiaries themselves have all been operating with an understanding of how their state's utility costs have been calculated and would continue to be calculated.

### ***We Support the Creation of a New Telecommunications Standard***

FNS proposes to replace the current telephone standard with the cost of one telephone line and basic internet access. FNS estimates this new telecommunications standard would be \$55. We agree with including the cost of basic internet service as a utility expense which is now common to most American households. We encourage FNS, however, to develop this proposal in a separate rulemaking apart from SUAs because it warrants a more thorough discussion and research from FNS. At this time, we do not have enough information about the internet carriers and terms of service in California and all states to provide adequate comments about FNS' proposal.

### ***We Oppose Other Changes in the Proposed Rule***

FNS attempts to reach even further in standardizing SUA methodologies by applying them to all states regardless of their regional or localized differences in utility costs. We oppose eliminating this option given regional and localized variations in utility costs, where, for example, desert regions tend to have higher cooling costs than mountain areas, or where households have fewer affordable housing options and live with more people. FNS explains it is eliminating this because of "the low number of States taking these options" and offers no other reason for why it wants to eliminate it. This is a vague and incomplete explanation which does not allow us to adequately comment.

We also oppose eliminating the state option to include a cooling expense in the electricity utility allowance where cooling expenses are minimal. Minimal costs are still costs and should be included in the calculation. If these costs are not included, then changes in cooling costs which should be considered year to year may not be identified. FNS offers insufficient reasons for this change and departure from prior policy.

Finally, we oppose eliminating the option for states to include the excess heating and cooling costs of public housing residents in the LUA if they wish to offer the lower standard to such households. States should retain the ability to choose whether they want to use this option. FNS offers insufficient reasons for this change and departure from prior policy.

***Conclusion***

In this ambitious overhaul of centralizing SUA methodologies and reducing SNAP benefits, FNS provides no specific methodology under which it will make these calculations. FNS also proposes no accountability in ensuring their calculations would reasonably reflect household utility costs and provide adequate benefits to all eligible households. The proposed rulemaking is based on a simplistic observation that there are currently differences in utility allowances across states. FNS, however, proposes an ill-fitting solution that is arbitrary in theory and application. We are unable to comment on most of FNS' proposed changes due to insufficient information and evidence. For the reasons stated in this letter, we are calling on the Administration to withdraw this proposed rule change.

Sincerely yours,

  
Jessica Bartholow  
Policy Advocate

  
Helen Tran  
Staff Attorney