



April 23, 2020

Honorable Sonny Perdue, Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

[Via Email \(agsec@usda.gov\)](mailto:agsec@usda.gov)

RE: USDA's SNAP Emergency Allotments Guidance

Dear Secretary Perdue:

We write on behalf of our clients, low-income recipients of Supplemental Nutrition Assistance Program (SNAP) benefits in California, to request that the Department rescind its March 20 and April 21, 2020 guidance implementing section 2302(a)(1) of the Families First Coronavirus Response Act regarding SNAP emergency allotments and apply section 2302(a)(1) in a manner consistent with Congressional intent. Section 2302(a)(1) was intended to provide emergency allotments of food assistance to eligible low-income households. These emergency allotments are crucial for California families impacted by the COVID-19 public health emergency and related stay-at-home orders, who face increased food expenses and loss of access to other sources of food assistance they would normally rely on. But the Department's guidance illegally denies emergency allotments to the poorest households. Relying on that guidance, the Department has prevented California from providing emergency allotments to the families that need them the most. If the Department does not rescind its guidance and begin applying the Act as Congress intended, we will take legal action to protect the rights of California's low-income SNAP recipients.

Section 2302(a)(1) provides that upon a request from a State agency that is sufficiently supported by data, the Department "shall" provide "emergency allotments" to SNAP households "to address temporary food needs" resulting from the COVID-19 public health emergency. The language of the statute makes clear that the emergency allotments it authorizes are additional allotments for temporary, emergency needs, distinct from the regular issuance monthly allotments provided for under SNAP. The statute also places a simple cap on the amount of these emergency allotments: they must not be "greater than the applicable maximum monthly allotment for the household size." Section



2302(a)(1) thus authorizes a separate allotment in an amount up to the maximum value of the regular issuance SNAP monthly allotment for the household size under the Food and Nutrition Act.

The Department's guidance illegally places a much smaller cap on emergency allotments. That guidance limits the value of a household's emergency allotment to the difference between the regular issuance allotment the household is entitled to receive without benefit of the Families First Act and the maximum regular issuance allotment for the household size. As a result, households with the lowest income, who already receive the maximum regular issuance allotment, are denied any emergency allotment. Other very low-income households, who receive a regular issuance allotment close to the maximum for their household size, are limited to minimal emergency allotments inadequate to meet their extra needs resulting from the crisis.

This result is contrary to the language and purpose of the Families First Act. Nothing in section 2302(a)(1) suggests that a household's emergency allotment, which is meant to address temporary needs during a crisis, should be reduced by the amount of its separate, regular issuance allotment, which is meant to address normal needs under non-crisis conditions. In enacting section 2302(a)(1), Congress intended to address additional food needs resulting from the COVID-19 public health emergency and related stay-at-home orders. Families with the lowest incomes face the greatest risk of additional hunger and food insecurity during the public health emergency. They are less likely to have the food reserves necessary to shelter in place on hand, and more likely to rely on food banks and other emergency channels for food distribution that are reporting that they are overtaxed and overextended during the public health emergency. Moreover, households that receive maximum regular issuance allotments are more likely to be elderly or disabled, or include young children. Even if these households could locate a food bank that had food to distribute, they are the least able to seek assistance at an emergency food site due to the increased danger of infection that they would face. Congress could not possibly have intended to leave the most vulnerable families without any emergency assistance, while providing the greatest assistance to households with (relatively) higher incomes. Yet that is what the Department's misinterpretation of the Families First Act does.

The Department's illegal guidance has denied essential emergency food assistance to our clients. In its initial application to provide emergency allotments, California made clear that it disagreed with that guidance and believed families already receiving the regular issuance maximum SNAP allotment should receive additional emergency aid. The state's initial proposal would have provided an emergency allotment to all California's SNAP households, without exceeding the aggregate emergency allotment amount permissible under the Department's guidance. The Department denied that proposal, insisting that the state submit a revised proposal that leaves the households most in need of emergency assistance without any.

We therefore request that, no later than April 29, 2020, you confirm that the Department's illegal guidance has been withdrawn and you will process California's past and future requests to provide emergency allotments in a manner consistent with the language and purpose of the Families First Act, as set forth in this letter. If not, we will take appropriate legal action seeking relief on behalf



of California individuals and families. If you have any questions or would like to discuss this request, please do not hesitate to contact me at (213) 235-2614 or [aprieto@wclp.org](mailto:aprieto@wclp.org).

Sincerely,

Alexander Prieto  
Senior Litigator  
Western Center on Law and Poverty

Lindsay Nako  
Director of Litigation & Training  
Impact Fund

CC: The Honorable Mitch McConnell, Majority Leader, U.S. Senate  
The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives  
The Honorable Charles Schumer, Minority Leader, U.S. Senate  
The Honorable Kevin McCarthy, Minority Leader, U.S. House of Representatives  
The Honorable Pat Roberts, Chairman, U.S. Senate Agriculture Committee  
The Honorable Debbie Stabenow, Ranking Member U.S. Senate Agriculture Committee  
The Honorable Collin Peterson, Chairman, U.S. House Committee Agriculture Committee  
The Honorable K. Michael Conaway, Ranking Member, U.S. House Agriculture Committee  
The Honorable Marcia Fudge, Chairwoman, U.S. House Committee on Agriculture, Nutrition  
Subcommittee  
The Honorable Gavin Newsom, Governor of California  
The Honorable Javier Becerra, California Attorney General