September 20, 2019

Ms. Pam Miller, Administrator
Food and Nutrition Service
U.S. Department of Agriculture
3101 Park Center Drive, Room 812
Alexandria, Virginia 22302

RE: Docket Number: FNS-2018-0037
Revision of Categorial Eligibility in the Supplemental Nutrition Assistance Program (SNAP)

Dear Administrator Miller:

The Pennsylvania Department of Human Services (DHS) strives to improve the quality of life for Pennsylvanians by promoting opportunities for independence through services and supports while demonstrating accountability for taxpayer resources. The Pennsylvania Department of Education (PDE) works to ensure that every learner has access to a world-class education system that academically prepares children and adults to succeed as productive citizens. We thank you for the opportunity to issue comment on this Proposed Rule.

After reviewing the proposed rulemaking, DHS and PDE have multiple concerns about the impact that this rule, if adopted, would have on its most vulnerable citizens and find it to be at odds with other statements made by the current administration. DHS and PDE strongly oppose this proposed rulemaking in full for the reasons detailed below.

Rule Change in Pennsylvania

Existing federal rules (7 C.F.R. § 273.2(j)(2)) state," The State agency, at its option, may extend categorical eligibility to the following households ... Any household ... in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant, as set forth in Section 401 of P.L 104-193, and requires participants to have a gross monthly income at or below 200 percent of the Federal poverty level.”
The Commonwealth of Pennsylvania is one of many states which uses these provisions to offer food assistance to vulnerable populations at income levels above 130 percent of the Federal Poverty Level (FPL) if they are also provided a Temporary Assistance for Needy Families (TANF) funded service. Households that do not have any elderly or disabled members are eligible under Broad-Based Categorical Eligibility (BBCE) rules for SNAP if earning up to 160 percent of the FPL. Household with an elderly or disabled member (aged 60 or older) are eligible under BBCE rules for SNAP if earning up to 200 percent of FPL. Pennsylvania also uses BBCE rules to streamline benefit access because BBCE negates the need for a resource test.

For all SNAP applications, categorically eligible or not, income eligibility is always verified by commonwealth staff, contrary to statements and documents \(^1\) that have been released from U.S.D.A. related to this proposed rule.

This proposed rulemaking alters the current Broad-Based Categorical Eligibility rules by constricting the population to which it applies in several ways:

- For states to apply BBCE rules, a household must receive a TANF benefit valued at a minimum of $50 per month;
- The household must receive the benefit for at least six months; and
- For non-cash TANF to allow BBCE, the program must provide benefits or services that support work, such as subsidized employment or childcare.

The imposition of the proposed rule would revert food assistance income limits back to 130 percent for all household categories and reinstitute the resource test of $2,250 for households that do not have an elderly or disabled member and $3,500 for households with an elderly or disabled member. This will have a wide range of negative outcomes to residents of the commonwealth and programs operated by the commonwealth which are detailed, in full, below.

**Adverse Effects on Commonwealth Residents**

**Increased Food Insecurity**

New and emerging research\(^2\) describes SNAP as the nation’s most important anti-hunger program, and links SNAP with improved health outcomes and lower health care costs. SNAP is the primary source of nutrition assistance for many low-income people. It provides important nutritional support for low-wage working families, low-income seniors, and people with disabilities living on fixed incomes. While SNAP provides only a modest benefit (just $1.39 on average per person per meal in fiscal year


2018), it forms a critical foundation for the health and well-being of low-income Americans, lifting millions out of poverty and improving food security.

Food insecurity may influence health and development through its effects on nutrition and as a component of overall family stress. Families that struggle with limited resources to put enough food on the table may buy more affordable but less nutritious foods. The anxiety associated with unpredictable or intermittent meals may be a source of chronic stress that, if left unchecked, can contribute to an increased risk of chronic conditions. These conditions include high blood pressure, heart disease, obesity, and diabetes. SNAP helps low-income individuals and families who struggle to afford basic needs have enough to eat, enables them to afford healthier diets, and frees up resources that can be used on health-promoting activities and preventive health care.

Pennsylvania utilizes categorical eligibility to offer SNAP to households which receive a TANF-funded service and have income at or below 160 percent of the FPL, modestly higher than the 130 percent standard used in the 20 states that have not used BBCE to raise income limits. Accordingly, the proposal would cause the overall number of SNAP recipients, as well as the number of SNAP work registrants, to drop by a greater degree in Pennsylvania than in those other states.

Eliminating BBCE would hurt some of the most vulnerable households with children. Eliminating BBCE would also disproportionately affect households with seniors or disabled individuals. Those households are already known to be struggling and having to choose between food, medication, and living expenses. Research has shown that increasing healthy food intake among seniors is directly correlated to reduced medical issues, shorter hospital stays, and less medical spending. Reducing the number of seniors and disabled individuals eligible for SNAP benefits or reducing the amount for which they are eligible will increase medical spending, most of which is covered by taxpayer dollars in the form of Medicare or Medicaid.

Medical researchers at Harvard Medical School and the University of California recently demonstrated that low-income Medicare beneficiaries who don’t receive SNAP incur $2,709 more in annual medical costs than those who do. For beneficiaries of other public insurance programs, like Medicaid, annual medical costs are $2,544 higher for non-SNAP recipients. For the disabled, that number rises to a staggering $3,958 more per year. The average SNAP recipient nationally received only $1,518 in SNAP benefits in FY 2018 — a modest $126.53 per month. The math and science are clear:

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ending BBCE would not save taxpayers a dime — it would simply shift even higher costs to other state and federal agencies, while making Americans sicker.

For Pennsylvania, the proposed rule change would potentially impact 120,521 SNAP households, with an estimated 83,789 of these SNAP households containing an elderly or disabled individual. Below is a chart showing the potential impact this proposed rulemaking would have on the current SNAP recipients in Pennsylvania.

<table>
<thead>
<tr>
<th></th>
<th>Currently Eligible</th>
<th>Over 130 percent FPL</th>
<th>Under 130 Percent FPL but Over the Asset Limit</th>
<th>Total Potentially Impacted by BBCE Elimination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Households</td>
<td>891,849</td>
<td>103,266</td>
<td>17,255</td>
<td>120,521</td>
</tr>
<tr>
<td>Households with an Elderly or Disabled Individual</td>
<td>478,351</td>
<td>72,048</td>
<td>11,741</td>
<td>83,789</td>
</tr>
<tr>
<td>Households with Children Under 18 Years Old</td>
<td>232,090⁶</td>
<td>18,613</td>
<td>3,975</td>
<td>22,588</td>
</tr>
<tr>
<td>All Other Households</td>
<td>181,408</td>
<td>12,605</td>
<td>1,539</td>
<td>14,144</td>
</tr>
</tbody>
</table>

The proposed rulemaking, by requiring states to reintroduce asset testing would punish families who save for the future by taking away SNAP benefits from those with even modest savings. The reintroduction of the asset test limits savings to $3,500 for households with an elderly or disabled member; or $2,250 for households without an elderly or disabled member. Emergency savings can help families, weather financial emergencies such as job loss, a broken furnace or other critical household needs, or unexpected medical bills without being pushed into, or deeper into, poverty.

Impact on Students and Schools

Healthy meals are an essential component to learning and growing. Every day, more than one million children and students in Pennsylvania receive nutritious meals through Federal School Nutrition Programs, which include the National School Lunch Program (NSLP), School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program. As a result of the proposed rulemaking, over 22,588 Pennsylvania households would not only lose SNAP benefits to purchase food for

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⁶ These numbers are unduplicated and listed in priority given to household composition. If a household had an elderly member and a child under 18, it was counted as an elderly/disabled household and not as a household with a child under 18.
children at home but could also lose access to those programs that provide nutritious meals for children at school, after school, and during the summer months. Resulting food insecurity could have a detrimental impact on student, classroom, and school performance.

Children in households that lose SNAP eligibility as a result of this rule will be affected not only by losing their food assistance but also by losing their direct certification for the NSLP and the School Breakfast Program (SBP). Thus, the rule would require low-income working parents to go through the process of applying for free and reduced-price school meals in-person, a process that will result in some children moving from free to reduced-price lunch, while many others lose eligibility altogether. Despite their need, households that are still eligible may fail to reenroll children due to lack of information and/or the nature of the application process. The loss of eligibility for free school meals for the formerly BBCE students and the loss of direct certification for these eligible households imposes an unnecessary burden for low-income students and families in need of nutritious school meals.

The proposed rulemaking could also trigger the Community Eligibility Provision (CEP) ineligibility for whole districts which means not only students receiving SNAP, but some of the Commonwealth’s highest poverty schools and districts would no longer be eligible to serve meals at no cost to all enrolled students. Additionally, the proposed rulemaking would likely reduce low-income student access to the Summer Meals program as well as the Child and Adult Care Food Program (CACFP).

Given the disproportionate impact of the proposed rule on households with elderly and disabled members, it is likely that, among children, those being raised by grandfamilies will be hit the hardest by the loss of NSLP and SBP eligibility. Supporting grandfamilies is a national priority, as evidenced by the unanimous passage of Pennsylvania Senator Bob Casey, Jr.’s bill, S. 1091 (now Pub. L. 115-196). That law directed the establishment of an interagency Advisory Council to Support Grandparents Raising Grandchildren, charged with “ensuring the health, educational, nutritional, and other needs” of grandchildren being raised by their grandparents. To date, FNS is not a member of the Council despite administering our nation’s largest nutritional programs. Nor does the proposed rulemaking reflect any consultation with the Council on the disproportionate effect the rule would have on grandfamilies. DHS urges FNS to join the Council and determine how to mitigate adverse effects on grandfamilies before proceeding any further with this rulemaking.

Analysis of the impact on school aged children was not included with the proposed rulemaking even though FNS acknowledged that there would be an impact on the NSLP. Without this full analysis, Pennsylvania is not able to provide details on the direct impact on students in Pennsylvania and is requesting a delay of the proposed rule’s implementation.
Impacts on Efforts to Build Self-Sufficiency

BBCE is a long-standing policy supported by the United States Department of Agriculture (USDA) because BBCE was shown to have stabilized families and helped them move out of poverty faster. In a June 2016 paper published by USDA, it was found that SNAP households living in BBCE states were less likely to repeatedly enroll, become disqualified, and then reenroll on SNAP and also to have shorter instances of SNAP participation. Households were also more likely to have a bank account for emergency reserves.

The proposed rulemaking undermines innovative state efforts to promote self-sufficiency, thus violating the spirit of Executive Order 13828, Reducing Poverty in America by Promoting Opportunity and Economic Mobility, signed by President Trump in April 2018.

The proposed rulemaking would create a benefit cliff, punishing low-income workers for their career advancement. See example below:

<table>
<thead>
<tr>
<th>Current Rules:</th>
<th>Proposed Rule:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single mother of 2 school age children earning $13 per hour</td>
<td>Receive $300 in SNAP benefits</td>
</tr>
<tr>
<td></td>
<td>- Children receive free school lunch</td>
</tr>
<tr>
<td></td>
<td>- Childcare co-payment of $43</td>
</tr>
<tr>
<td>Raise received earning $15 per hour, earning additional $320 per month.</td>
<td>Receive $92 in SNAP</td>
</tr>
<tr>
<td></td>
<td>- Children receive free school lunch</td>
</tr>
<tr>
<td></td>
<td>- Childcare co-payment of $83</td>
</tr>
</tbody>
</table>

8 Assumes $164 SNAP standard deduction, the 20 percent earned income deduction, rent of $600, a heating Standard Utility Allowance of $588, a child care copayment of $43 per week (per PA’s Child Care Works Policy), and that the family lives four miles from the nearest child care center and drives there 20 times per month, round trip.
9 Calculated using Pennsylvania’s Child Care Works Policy.
Based on a study completed and released by Mathematica in 2014, BBCE households that would become income ineligible for SNAP if the USDA eliminated BBCE are more likely than other participating SNAP households to (1) have children, (2) have earned income, (3) have higher income, and (4) receive very low benefits. This proposed change to BBCE seems to have the direct opposite effect of promoting economic mobility and promoting employment.

In its proposal, the USDA also fails to address the adverse effects on innovative state efforts to promote self-sufficiency and alleviate the cliff effect. Denying states the flexibility to gradually reduce SNAP benefits that a working poor household is eligible for as its income approaches the limit to qualify, while constricting access to dynamic training programs, will only make it harder for low-income Pennsylvanians to escape poverty.

One of these programs is Pennsylvania’s SNAP E&T 50/50 partnerships. These are non-profit, third-party partners that receive federally funded reimbursement for 50 percent of their administrative costs, as well as the cost of providing crucial case management, vocational training, job search training, job retention, and supportive services to participants.

Some of these 50/50 partners offer paid work experience to SNAP recipients, including reentrants, during a short transitional jobs period. Pennsylvania counts transitional wages when determining eligibility and does not use E&T funds to pay the wages. In some cases, these wages cause household income to increase to between 130 percent FPL and 160 percent FPL. These participating clients, without current state flexibility offered by BBCE rules, would be over the income limit, ineligible for SNAP, and ineligible for the training provider to draw down 50 percent reimbursement for training costs. Participants in other types of SNAP 50/50s could also lose access to vital training programs due to modest wages they or other household members receive.

The impact of these 50/50 partnerships is profound – participants obtain jobs and reentrant recidivism rates plummet. One Pennsylvania 50/50 partner recently spoke about their nationally-recognized Bankwork® training program to a panel of distinguished guests, including Deputy Undersecretary Brandon Lipps. Another partner, which operates paid work experience programs for reentrants, was feted by MDRC for providing net societal benefits of over $4,900 per participant and about $8,300 in net taxpayer benefits for every recently-released reentrant they serve. Moreover, SNAP E&T funding is vital to this work; per one 50/50 partner’s director, “If it wasn’t for SNAP 50/50, we wouldn’t be able to do what we’re doing.” Jeopardizing that funding by

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limiting the number of individuals these programs can serve — or even worse, undercutting their entire model of paid work experience — is short-sighted and inconsistent with Executive Order 13828.

The reintroduction of the asset test for elderly households and households with children will have a negative impact on self-sufficiency as well. Many elderly households have accumulated modest assets as a result of past employment and these assets are generally understood to be spent-down over the rest of that person’s life. For working families these minimal assets are crucial for managing circumstantial challenges that arise such as an automobile break-down or necessary relocation. In 2017, research showed that despite this need, the half of all Americans, many of greater means than the population being served by SNAP under current BBCE rules, do not have the funds saved to manage a one-time emergency expenditure of more than $1,000.12 Having this minimal savings is necessary for SNAP clients to avoid complete destitution in old age or even when employed and caring for children.

**Adverse Effects on Commonwealth Programs**

**Employment and Training Programs**

Annually, $103.9 million in SNAP Employment and Training (E&T) 100 percent funds is divided among states based on how many work registrants live in each state. Pennsylvania currently uses E&T 100 percent funds chiefly to fund the SNAP Work Ready and Keystone Education Yields Success (KEYS) programs; the latter was called “one of the best welfare-to-work education programs in the country”13 by the Pennsylvania Capital-Star. By disproportionally reducing the number of work registrants in Pennsylvania, the proposed rulemaking would slash Pennsylvania’s share of E&T 100 percent funds, thus undermining efforts to help all SNAP recipients — most of whom qualify without BBCE — become self-sufficient. By reducing this funding, FNS will force Pennsylvania to either cut funding to programs which spur self-sufficiency or substitute state funds, thus creating an unfunded mandate.

The proposal would cause some E&T participants to lose eligibility for SNAP immediately simply because they signed up for such an E&T program which offered a paid work experience component that pushes them over 130 percent FPL. Non-profit partners would no longer be able to claim 50 percent reimbursement through SNAP E&T for these participants. Valuable services could be curtailed, plunging potential E&T participants deeper into poverty rather than lifting them towards self-sufficiency.

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SNAP-Ed

Another program which will be impacted is the SNAP-Ed program in Pennsylvania. SNAP-Ed funding is based on SNAP enrollment numbers. With the decrease in individuals eligible to receive SNAP due to the change in BBCE, SNAP-Ed funding will also decrease. This decrease in funding would impact the most vulnerable by decreasing funding for a needed and valuable program specifically designed to educate SNAP recipients in how to make healthy food choices within a limited budget. Pennsylvania’s SNAP-Ed program has continued to grow over the years and has been recognized and looked at by many states as leaders in innovative SNAP-Ed programming. With a decrease in funding, Pennsylvania would have to possibly eliminate much needed nutritional programs across the state.

Rule Change Implementation Challenges

Administrative Impacts

FNS states that this change to BBCE is being made due to program integrity concerns. However, fraud in the SNAP program is lower than every other human service program\(^\text{14}\). FNS’ own recent data\(^\text{15}\) shows that the fraud rate in the SNAP program is only 1 percent.

The change to BBCE will also have a direct impact on SNAP administration costs in Pennsylvania. BBCE reduces the complexity of the SNAP application process for administration of the program and for households. It also lowers “churn” — when SNAP households that stop participating in SNAP reapply within a very short period. Churn creates added work and creates a gap in benefits for SNAP households. The rule will increase churn because more information and verification are required during the application processes from the household. This causes additional requests and reviews by State staff to determine SNAP eligibility. Many households will not follow through with the additional verification request causing their application to be rejected and in turn reapplying within a short amount of time.

From May 2012 through September 2014, Pennsylvania re-instituted an asset test for individuals applying for or receiving SNAP. Pennsylvania chose the limit of $5,500 for most households and $9,000 for households with a member 60 or older or with a disabled household member. During that time, a total of 5,133 cases were closed and 6,466 applications rejected due to resources, which is only approximately one percent of all applications received.


Additionally, a program office review of these cases consistently demonstrates a 35 to 40 percent rate of error, mainly due to errors in reviewing excluded resources such as retirement accounts, excluded nonresident property, and tuition accounts.

DHS review shows that the asset test disproportionately impacts elderly and disabled households. Of the 156 SNAP cases that were closed due to excess assets in the final month of the asset test (September 2014), only 59 did not contain an elderly or disabled household member. This is consistently reflected in the data going back to May 2012. The number of closed households that contain a blind/disabled or elderly member was 75 percent of all cases closed while the same population comprised less than 45 percent of the total SNAP population.

Federal regulations at 7 C.F.R. § 273.8 define the rules for countable and excluded assets. The complexity of the regulations regarding assets results in many eligible households being denied benefits due to the misapplication of the asset policy.

Errors that result from confusion regarding countable assets cause applications to be incorrectly rejected and recipient households to be incorrectly closed. These rejections and closings result in an increased number of appeal hearings that must be addressed. While some of these cases are later authorized and benefits are restored, these eligible individuals receive their benefits late. These errors could subject the State to penalties from FNS as well as lawsuits and appeals from aggrieved parties.

While SNAP benefits are 100 percent federally funded, the cost of administration of the program is split between 50 percent federal funds and 50 percent state funds. While federal dollars coming into the state were reduced due to closures and rejection of applications, the cost of administration to the state increased by a projected $2,280,270 for federal FY 2014 when the asset test was in place for Pa. This increased administrative cost would continue from year to year as the increase is based solely on the amount of extra time that DHS staff must spend on processing applications or renewals and does not even consider any additional system costs that may be incurred as a result of the proposed rule. An increase in errors could have resulted in federal sanctions for the state.

Pennsylvania has had experience both with and without an asset test and has had time to analyze the impact it had on recipients in the state. It is clear based on the experience Pennsylvania has had that not having an asset test simplifies the administration of SNAP, improves customer service, increases client access to benefits, and causes less caseworker error.
Inflexible Design

The $50 minimum benefit amount suggested in the proposed rule is not always reasonable. Households receiving TANF cash assistance in any amount should remain categorically eligible. In being determined eligible for TANF, those households have already had their income and resources evaluated and have met the stricter income and resource limits for the TANF benefit. Imposing a $50 minimum benefit on these households is an unnecessary burden. There are other ongoing benefits funded by the TANF block grant that may be received in an amount less than $50 but should still confer categorical eligibility such as work expense reimbursements (WER), TANF special allowances, and child care.

The six-month time frame is not reasonable in Pennsylvania as there are TANF programs that are not exclusively on a six-month time period. Pennsylvania has a TANF-Diversion program which is a one-time lump sum TANF payment to applicants of either one, two, or three months of the family size allowance. The diversion period covers a short period of time and is intended to divert the household from immediate crisis and the need for ongoing TANF benefits.

Another program shorter than six months is the Transitional Cash Assistance program which is a benefit that provides a transitional or supplemental cash benefit to families who are no longer eligible for TANF due to excess income, have earned income, are meeting the federal work participation rate, and have a child in the budget. This temporary benefit is designed as an incentive for TANF recipients to move from public assistance to employment. This benefit also uses TANF funds and is currently available for up to three months. As the proposed rule is currently written, these additional TANF benefits would not be eligible to confer BBCE because they are not received over a six-month time period.

The proposed rule also implies repeatedly that states do not perform any type of eligibility determination when conferring BBCE, but even when a household is determined to be categorically eligible for SNAP benefits, they are still evaluated for SNAP benefits using SNAP income eligibility rules. No households are automatically eligible for SNAP benefits and further, in addition to having an income limit for all SNAP households regardless of categorical eligibility, every household’s income is considered in determining the actual amount of SNAP benefits that are received.

The TANF program is a block grant and governed under rules set by Congress and enacted through the Department of Health and Human Services. By restricting the types of programs that confer categorical eligibility, this proposed rule is indirectly governing TANF block fund usage.
**Social and Economic Impacts**

**Industry Impact**

This proposed rulemaking will have a direct impact on the grocery and food-related industries. The loss in SNAP benefits to the state would be immediate and not gradual over time which means this would impact large supermarket chains, smaller grocers, and farmers markets directly as well as the commonwealth’s economy as a whole. It is estimated\(^\text{16}\) that each $1 billion cut from SNAP eliminates 12,748 jobs in grocery and other food related industries. In Pennsylvania, the estimated reduction in SNAP benefits is $100,501,068 per year. This means that Pennsylvania would see an estimated loss of 1,275 jobs per year based on this rule. This loss of jobs potentially impacts the working families who may be the first to lose their SNAP benefits and then subsequently lose their job, creating a bigger cliff for individuals.

**Congressional Intent**

Finally, Pennsylvania also believes that USDA does not have authority to change the BBCE provisions via rulemaking. Congress has already had the opportunity to make changes and did not do so with the previous two Farm Bills. Neither the Agriculture Act of 2014 (“2014 Farm Bill,” P.L. 113-79) nor the Agriculture Improvement Act of 2018 (“2018 Farm Bill,” P.L. 115-334) made changes to BBCE eligibility rules.

In the 113th Congress, the initial House-passed version of the 2014 law would have eliminated broad-based categorical eligibility, but that change was not included in the conference agreement. While the House of Representatives included the elimination of BBCE as a part of its initial Farm Bill proposal in 2018, it was wholly rejected when the Farm Bill went through reconciliation between the House and the Senate. The Farm Bill that was passed maintains BBCE as is, which shows that the majority of Congress, the government body responsible for passing legislation governing these programs, does not support the elimination of BBCE. Congress has spoken on this issue by making household in which all members are either eligible for or receive TANF benefits automatically eligible for SNAP. See 7 U.S.C. § 2014(a). For the USDA to circumvent Congress’ authority in this manner is a clear violation of the Administrative Procedure Act (Pub.L. 79-404).

In summary, DHS and PDE oppose this proposed rulemaking in its entirety, and respectfully requests that the USDA rescind its proposed rulemaking on BBCE. The restrictions being proposed for BBCE would severely hinder multiple parts of the SNAP program and the services provided to low-income households, including employment and training activities and SNAP education activities. Additionally, it would punish low-income households trying to lift themselves out of poverty by expanding the current benefits cliff that already exists for these households. It will also result in greater

poverty, more food insecurity, and poor education and health outcomes, making it bad public policy.

Thank you for your consideration of these comments.

Sincerely,

Teresa D. Miller  
Secretary of Human Services

Pedro A. Rivera II  
Secretary of Education