



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

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Submitted via www.regulations.gov

Sasha Gersten-Paal, Chief, Certification Policy Branch
SNAP Program Development Division
Food and Nutrition Service
U.S. Department of Agriculture
3101 Park Center Drive, Room 812
Alexandria, VA 22302

RE: Advanced Notice of Proposed Rulemaking, “Supplemental Nutrition Assistance Program: Requirements and Services for Able-Bodied Adults Without Dependents” (RIN 0584-AE57, 83 Fed. Reg. 8013, published February 23, 2018)

Dear Ms. Gersten-Paal,

The undersigned members of the Consortium for Citizens with Disabilities (CCD) submit the following comments on U.S. Department of Agriculture’s (USDA) Advanced Notice of Proposed Rulemaking “Supplemental Nutrition Assistance Program: Requirements and Services for Able-Bodied Adults Without Dependents” (RIN 0584–AE57, 83 Fed. Reg. 8013, published February 23, 2018).

CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

In the United States, all too often food insecurity and disability go together. People with disabilities and their families are significantly more likely to experience hunger and food insecurity, compared to people without disabilities. Similarly, people experiencing food insecurity have increased likelihood of chronic illness and disability. USDA’s own research provides evidence of these facts.

In 2013, USDA researchers documented food insecurity among 33 percent of households with an adult age 16 to 64 with a disability who was not in the labor force, and 25 percent of households with adults age 16 to 64 with other reported disabilities – compared to 12 percent of households with no adult with a disability.¹ The same study also found high rates of “very low food security”

¹ Coleman-Jensen, Alisha and Nord, Mark (2013). *Food Insecurity Among Households with Working-Age Adults with Disabilities*. U.S. Department of Agriculture, Economic Research Service.
https://www.ers.usda.gov/webdocs/publications/45038/34589_err_144.pdf?v=41284

(the most severe level of food insecurity) among households with non-elderly adults with disabilities.² Very low food security occurred in 17 percent of households with an adult age 16 to 64 with a disability and not in the labor force, and 12 percent of households with adults age 16 to 64 with other reported disabilities – compared to 5 percent of households with no adult with a disability.

In another recent USDA study looking at people with 10 chronic health conditions, across the board researchers saw a “...statistically significant increase in the prevalence of chronic health conditions as food security worsens.”³ Notably, the study found dramatically higher risk of chronic illness in households with very low food security:

*Adults in households with very low food security were 15.3 percentage points more likely to have any chronic illness than adults in households with high food security...This is a 40-percent increase in overall prevalence.*⁴

Studies have also consistently found high rates of food insecurity in households that include children with disabilities,⁵ and a robust literature has found that food insecurity and inadequate food intake can negatively affect children’s health and development.^{6,7} Older adults and seniors with disabilities are also much more likely to experience food insecurity, compared to their peers without disabilities.⁸

The Supplemental Nutrition Assistance Program (SNAP) is vitally important for people with disabilities and their families. By increasing access to adequate, nutritious food SNAP plays a key role in reducing hunger and helping people with disabilities across the United States to maximize their health and participate in their communities.

According to the Center on Budget and Policy Priorities (CBPP), 11 million people with disabilities of all ages received SNAP in 2015, representing roughly one in four SNAP

² The data analyzed by the USDA looked at “high food security,” “marginal food security,” “low food security,” and “very low food security.” “Very low food security” represented the most severe level of food insecurity, defined as “At times during the year, eating patterns of one or more house-hold members were disrupted and food intake reduced because the household lacked money and other resources for food.”

³ Page 8, Gregory, Christian A. and Coleman-Jensen, Alisha (2017). Food Insecurity, Chronic Disease, and Health Among Working-Age Adults with Disabilities. U.S. Department of Agriculture, Economic Research Service. <https://www.ers.usda.gov/webdocs/publications/84467/err-235.pdf?v=42942>

⁴ Ibid, Abstract.

⁵ Parish, Susan L. et al (2015). *Food Insecurity among US Children with Disabilities*. Presentation at the National Association for Welfare Research and Statistics Annual Workshop, Atlanta, GA. <http://nawrs.org/wp-content/uploads/2015/09/2C-Parish-Food-Insecurity.pdf>.

⁶ American Academy of Pediatrics (2015). *Promoting Food Security for All Children*. Policy Statement, Council on Community Pediatrics, Committee on Nutrition. <http://pediatrics.aappublications.org/content/pediatrics/136/5/e1431.full.pdf>

⁷ Child Trends Data Bank (2016). *Food Insecurity: Indicators of Child and Youth Well-Being*. https://www.childtrends.org/wp-content/uploads/2016/12/117_Food_Insecurity-1.pdf

⁸ Strickhouser, Sara, Wright, James D., and Donley, Amy M. (2015) *Food Insecurity Among Older Adults*. AARP Foundation, Washington, DC. https://www.aarp.org/content/dam/aarp/aarp_foundation/2015-PDFs/AF-Food-Insecurity-2015Update-Final-Report.pdf. See Table 2, p. 28 for food security rates by disability status (employment-related).

participants.⁹ CBPP reviewed not only USDA administrative data, but also data from the National Health Interview Survey (NHIS). The NHIS looks at disability more inclusively than the relatively narrow SNAP program definitions of “disability” used by the USDA to identify non-elderly people with disabilities.¹⁰ In 2015, USDA administrative data identified 5.3 million or 13 percent of non-elderly SNAP recipients as having disabilities.¹¹

Existing SNAP time limits are already harsh, unfair, and harm many people with disabilities and their families by cutting off essential food assistance. Federal law limits SNAP eligibility for adults between the ages of 18 to 49 without dependents to just three months out of every three years – unless they can engage in work or job training activities at least half time, or qualify for an exemption. These provisions cut off food assistance at a time when people need it most and do not result in increased employment and earnings. At least 500,000 low-income individuals nationwide lost SNAP in 2016 due to this time limit.¹²

Many people with disabilities are already hurt by SNAP’s time limits, despite existing exemptions for people who receive governmental or private benefits on the basis of a disability or are able to document that they are “physically or mentally unfit for employment.”¹³ For example, in a study of SNAP participants subject to time limits referred to participate in work activities in Franklin County, Ohio, one-third of individuals reported a “physical or mental limitation”.¹⁴ It may seem simple to assert that “people with disabilities will be exempt,” but converting such a statement into an effective policy process is complicated, expensive, and fundamentally flawed. Under SNAP, states have no obligation to help people prove they are exempt, even if they have difficulty obtaining the necessary records or verification from a doctor. In addition, states are under no obligation to ensure that people with disabilities have access to the services they might need to work. People with disabilities often want to work, but need additional supports and services to obtain and keep jobs, in addition to facing discrimination and misconceptions about their ability to work.

Cutting off food assistance from SNAP would only make it harder for people – including people with disabilities – to work and increase their economic self-sufficiency. We strongly oppose any administrative action by USDA that would cut more people off SNAP or force more

⁹ Carlson, Steven, Keith-Jennings, Brynne, and Chaudhry, Raheem (2017). *SNAP Provides Needed Food Assistance to Millions of People with Disabilities*. Washington, DC: Center on Budget and Policy Priorities.

<https://www.cbpp.org/research/food-assistance/snap-provides-needed-food-assistance-to-millions-of-people-with->

¹⁰ See, 7 C.F.R. § 271.2, “Elderly or disabled member”.

¹¹ *Supra* note 9.

¹² Center on Budget and Policy Priorities (2018). *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*. <https://www.cbpp.org/research/policy-basics-the-supplemental-nutrition-assistance-program-snap>

¹³ 7 C.F.R. § 273.24(c)(2). For the purpose of these time limits and work requirements, SNAP provides exemptions for people in several categories, including people who are “(2) Determined by the State agency to be medically certified as physically or mentally unfit for employment. An individual is medically certified as physically or mentally unfit for employment if he or she: (i) Is receiving temporary or permanent disability benefits issued by governmental or private sources; (ii) Is obviously mentally or physically unfit for employment as determined by the State agency; or (iii) If the unfitness is not obvious, provides a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the State agency determines appropriate, that he or she is physically or mentally unfit for employment.”

¹⁴ Ohio Association of Foodbanks. (2015). *Work Experience Program, Franklin County Comprehensive Report: Able-Bodied Adults Without Dependents 2014-2015*.

http://admin.ohiofoodbanks.org/uploads/news/ABAWD_Report_2014-2015-v3.pdf.

people to navigate harsh and unnecessary program rules, including people with disabilities and their families.

We are deeply concerned that **Question 1 of the Notice** signals the Administration’s intent to do just that, by expanding the scope of the cutoff and eliminating the little flexibility states possess to limit the damage of the rule. Under current law, states have the flexibility to waive time limits in geographic areas within the state that have insufficient jobs or elevated unemployment. The rules governing areas’ eligibility for waivers have been in place for nearly 20 years and every state except Delaware has availed themselves of waivers at some point since the time limit became law. The waiver rules are reasonable, transparent, and manageable for states to operationalize. Any change that would restrict, impede, or add uncertainty to a state’s current ability to waive these limits and requirements for areas with elevated unemployment must not be pursued.

If USDA wishes to explore “meaningful opportunities” for SNAP participants to increase self-sufficiency through employment, as described in **Question 2 of the Notice**, we recommend that the agency await the results of the 2014 Farm Bill Employment & Training pilot projects.¹⁵ The 2014 Farm Bill authorized \$200 million for 10 state pilots seeking to increase employment among SNAP participants and required a rigorous evaluation of state efforts. USDA awarded pilot grants in 2015, all 10 state programs are operational, and evaluation activities will operate through 2021. Already, a number of pilot states have cited multiple barriers faced by participants, including “health issues.”¹⁶ It will be important for USDA and the evaluators to carefully explore the experiences and outcomes of people with disabilities and their families in these pilot programs. USDA should await the final pilot evaluations before considering any changes in the areas contemplated under Questions 2 of the Notice – and should solicit additional public input as part of any future process.

Finally, we reject USDA’s suggestion in **Question 3 of the Notice** that potential changes to other aspects of the time limit policy, such as the individual exemption policy, would justify cutting people off SNAP by weakening states’ flexibility to waive the time limit in areas with elevated unemployment. This logic is unfounded. State’s current ability to exempt certain individuals from the rule is important but wholly insufficient and could never make up for having to apply the time limit in areas with elevated unemployment.

SNAP time limits and work requirements are a punitive condition on eligibility that deprive people of adequate food and fail to accommodate the needs of individual SNAP beneficiaries – with and without disabilities. In other programs that have implemented work requirements, participants with physical and mental health issues were more likely to be sanctioned for not completing the work requirement.¹⁷ Even when there is an explicit exemption for people unable

¹⁵ See, <https://www.fns.usda.gov/2014-ET-Pilots>.

¹⁶ U.S. Department of Agriculture, *Evaluation of SNAP Employment and Training Pilots: Fiscal Year 2017 Annual Report to Congress*. <https://fns-prod.azureedge.net/sites/default/files/snap/SNAP-E-and-T-Report-Congress-FY2017.pdf>.

¹⁷ See, e.g., Hasenfeld, Yeheskel et al. (2004). *The Logic of Sanctioning Welfare Recipients: An Empirical Assessment* Departmental Paper, University of Pennsylvania School of Social Policy and Practice, http://repository.upenn.edu/spp_papers/88.

to comply due to health conditions, those exemption processes have failed in practice, leaving people with disabilities more likely than other participants to lose benefits.¹⁸

Time limits and work requirements provide few if any additional services or resources to create new job opportunities, improve access to affordable child care, or increase funding for job training, employer accommodations, or other employment supports. The Notice makes clear that any added supports will be left entirely to states. The underfunded workforce system and SNAP employment and training programs are not designed or well suited to meet the job training requirements envisioned in this advanced notice of proposed rulemaking. Inevitably, the added verification red tape will lead to coverage losses for people with disabilities and their families.

In closing, there is simply no justification for weakening current SNAP waiver rules and exposing more people to this SNAP eligibility cutoff. **The only action we encourage USDA to take with respect to SNAP time limits is to propose their elimination.** Restoring SNAP's ability to provide food assistance to people when they need it would be a powerful policy improvement that would reduce food insecurity across the United States.

Sincerely,

CCD members:

ACCSES

American Association of People with Disabilities

American Association on Health and Disability

American Civil Liberties Union

American Diabetes Association

American Physical Therapy Association

American Psychological Association

Association of University Centers on Disabilities (AUCD)

Bazelon Center for Mental Health Law

Center for Public Representation

Community Legal Services of Philadelphia

Disability Rights Education & Defense Fund

Easterseals

Epilepsy Foundation

Institute for Educational Leadership

Justice in Aging

Lutheran Services in America Disability Network

National Alliance on Mental Illness

National Association of Councils on Developmental Disabilities

National Association of State Directors of Special Education (NASDSE)

National Committee to Preserve Social Security and Medicare

National Disability Institute

National Down Syndrome Congress

National Health Law Program

¹⁸ See, e.g., Cherlin, Andrew J. et. al. (2008). *Operating within the Rules: Welfare Recipients' Experiences with Sanctions and Case Closings*, 76 Soc. Serv. Rev. 387, 398 (finding that individuals in "poor" or "fair" health were more likely to lose TANF benefits than those in "good," "very good," or "excellent health"); Vicki Lens, *Welfare and Work Sanctions: Examining Discretion on the Front Lines*, 82 Soc. Serv. Review 199.

National Organization of Social Security Claimants' Representatives (NOSSCR)
School Social Work Association of America
Special Needs Alliance
The Arc of the United States
United Spinal Association

Joined by:

Lakeshore Foundation
National Low Income Housing Coalition