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September 23, 2019

SNAP Program Design Branch
Program Development Division
Food and Nutrition Service
United States Department of Agriculture
3101 Park Center Drive
Alexandria, VA 22302

Re: FNS-2018-0037, "Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)."

SNAP Program Design Branch:

I am writing on behalf of the Community Action Partnership (Partnership) to strongly oppose the Food and Nutrition Service's (FNS) proposed rule entitled "Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)," which was published in the Federal Register on July 24, 2019.¹

The Partnership is the national membership association and hub that links the nation's more than 1,000 Community Action Agencies (CAA).² Its mission is to "ensure that the causes and conditions of poverty are effectively addressed and to strengthen, promote, represent and serve its Network of member Agencies."³ CAAs cover 99% of counties in 50 states, the District of Columbia, and Puerto Rico, and touches the lives of 15 million low-income individuals, 6.2 million families, and 3.9 million children.⁴

Over 500 of our member agencies provide food assistance services that collectively aid more than 8 million people per year.⁵ Administering food assistance programs in over 500 communities gives us unique insight into the importance of the SNAP program generally, as well as the broad-based categorical eligibility (BBCE) provision that is the subject of this proposed rule.

¹ Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP), 84 Fed. Reg. 35570 (proposed July 24, 2019) (to be codified at 7 C.F.R. pt. 273).

² *About Us*, Community Action Partnership, <https://communityactionpartnership.com/about-us/> (last visited Sept. 16, 2019).

³ *Mission & Promise*, Community Action Partnership, <https://communityactionpartnership.com/mission-and-promise/> (last visited Sept. 16, 2019).

⁴ National Impact Report, Community Action Partnership at 5 (2019), available at https://communityactionpartnership.com/wp-content/uploads/2019/02/CAP-Report-2.26.19-revised_MOBILE.pdf.

⁵ *Id.* at 14.

I. Introduction

This public submission provides a brief background on the proposed rule, addresses the agency's stated justifications for the proposed rule, and outlines our serious concerns about those justifications as well as the rule's negative impact based on the significant experience of our agencies who work directly with the population that would be most affected.

II. Background

The SNAP program is the nation's largest food assistance program and provides benefits to over 40 million individuals per month.⁶ The program's statute sets minimum income and asset eligibility standards for households to participate in the SNAP program.⁷ Eligible households cannot have monthly net income higher than 100% of the federal poverty level (FPL) or monthly gross income higher than 130% of the FPL.⁸ Additionally, a household must have liquid assets below a particular threshold in order to qualify.⁹ In FY2019, a household of three people must have a monthly net income below \$1,732 and no more than \$2,250 in liquid assets to be considered eligible for SNAP benefits.^{10 11}

In 1985, however, the statute was amended to allow households where all members receive benefits through a state program funded by the Temporary Assistance for Needy Families (TANF) block grant to be categorically eligible for SNAP as well.^{12 13} Since 1996, states have been authorized to use TANF funds for both cash assistance and non-cash assistance, which can include other services and benefits.¹⁴ The flexibility of the TANF block grant coupled with categorical eligibility allows states to expand SNAP eligibility by raising the minimum eligibility standards for their respective TANF-funded programs. Additionally, most states have opted to institute BBCE, in which most or all individuals with incomes up to 200 % FPL are eligible for SNAP.¹⁵

The administration's proposed rule would limit the TANF-funded cash and non-cash benefits that trigger categorical eligibility for SNAP benefits.¹⁶ For both cash assistance and non-cash benefits, the benefit must be "ongoing and substantial," which the rule defines as being

⁶ Randy Alison Aussenberg, *The Supplemental Nutrition Assistance Program (SNAP): Categorical Eligibility*, Congressional Research Service (2019), available at <https://crsreports.congress.gov/product/pdf/R/R42054>.

⁷ 7 U.S.C. § 2014.

⁸ SNAP Eligibility, Food and Nutrition Service, U.S. Dept. of Agriculture, <https://www.fns.usda.gov/snap/recipient/eligibility#Am%20I%20eligible%20for%20SNAP?> (last visited Sept. 17, 2019).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Income and asset eligibility thresholds are higher for households with elderly or disabled members.

¹² The Food Security Act of 1985, Pub. L. 98-198 § 1570, 99 Stat. 1354, 1567-8 (1985).

¹³ The Food Security Act also grants categorical eligibility to authorized beneficiaries of Social Security Income (SSI) and state General Assistance (GA), but those categories are not affected by the proposed rule.

¹⁴ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193 § 103, 110 Stat. 2105, 2124 (1996) (codified as amended at 42 U.S.C. § 604 (2012)).

¹⁵ Aussenberg at 4.

¹⁶ Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP), 84 Fed. Reg. 35570 (proposed July 24, 2019) (to be codified at 7 C.F.R. pt. 273).

authorized or received for six months and valued at a minimum of \$50 per month.¹⁷ Additionally, the rule limits the non-cash benefits that may be used to trigger eligibility to subsidized employment, work supports, and childcare subsidies or vouchers.¹⁸

III. Challenges to the Stated Justification for the Proposed Rule

FNS has identified threats to the integrity of the SNAP program as the primary issue it is attempting to resolve through the proposed rule.¹⁹ Specifically, the agency has expressed concern that “TANF-funded programs may not conduct a robust eligibility determination and do not meaningfully move families toward self-sufficiency.”²⁰ Inherent in this concern is the notion that too many individuals and families who have not been means-tested are receiving SNAP benefits through categorical eligibility.²¹ Additionally, the agency cites increased program efficiency as a benefit of the proposed rule.²²

The concerns theorized by the agency do not constitute a compromise to the SNAP program. FNS argues that BBCE has compromised the SNAP program by misaligning TANF and SNAP eligibility thresholds and cites two instances where de minimis benefits resulted in BBCE.²³ We do not believe the agency makes a compelling case that the SNAP program has been compromised by BBCE.

The agency offers two examples as evidence to demonstrate decreased SNAP program integrity as a result of BBCE.²⁴ First, it references a General Accountability Office (GAO) report from 2012 that found that “in some cases” states granted BBCE to households that never received a benefit.²⁵ Second, it cites examples where states use TANF funds to print benefit applications and confer BBCE on all households that receive the application, regardless of income or assets.²⁶ We agree that these examples may warrant increased oversight or compliance, but do not believe they demonstrate system compromise or a need for regulatory reform. Indeed, the referenced GAO report found that over the 10 year period when 39 states adopted BBCE, the national payment error rate for the SNAP program decreased from 8.91% to 3.81%.²⁷

FNS believes that one purpose of categorical eligibility was to align TANF and SNAP eligibility thresholds and that the SNAP program’s integrity has been compromised due to most states expanding SNAP eligibility through BBCE.²⁸ Although SNAP and TANF eligibility criteria were more closely aligned when categorical eligibility was codified, recent legislative actions demonstrate Congress’s intent to preserve current BBCE provisions.²⁹ During passage of

¹⁷ *Id.* at 35581 (to be codified at 7 C.F.R. § 273.2(j)(2)(i)(A)-(B)).

¹⁸ *Id.* at 35581 (to be codified at 7 C.F.R. § 273.2(j)(2)(i)(B)(2)).

¹⁹ *Id.* at 35572.

²⁰ *Id.* at 35570.

²¹ *Id.* at 35572.

²² *Id.* at 35570.

²³ *Id.* at 35572.

²⁴ *Id.*

²⁵ *Id.* (citing Supplemental Nutrition Assistance Program, Improved Oversight of State Eligibility Expansions Needed, General Accountability Office (2012), available at <https://www.gao.gov/assets/600/593070.pdf>).

²⁶ *Id.*

²⁷ Supplemental Nutrition Assistance Program, Improved Oversight of State Eligibility Expansions Needed, General Accountability Office 32-33 (2012), available at <https://www.gao.gov/assets/600/593070.pdf>.

²⁸ *Id.*

²⁹ Aussenberg at 15-16.

the 2014 and 2018 farm bills, Congress considered eliminating and limiting BBCE, respectively, but ultimately declined to do so.³⁰ In fact, the House-passed version of the 2018 bill included provisions nearly identical to those in the proposed rule,³¹ but those provisions were ultimately rejected by Congress.³²

Finally, the percentage of total SNAP households represented by BBCE beneficiaries whose income and/or assets surpass SNAP eligibility is minimal. The USDA's Regulatory Impact Analysis (RIA) of the proposed rule found that 9% of households currently receiving SNAP benefits would lose eligibility.³³ Regardless of whether Congress initially intended TANF and SNAP eligibility criteria to be identical, we do not believe this percentage of BBCE beneficiaries compromises the integrity of the SNAP program overall.

IV. Adverse Impact of the Proposed Rule

a. The Proposed Rule Will Disproportionately Impact Households Closest to Self-Sufficiency and Other Vulnerable Populations

Removing BBCE will have a negative impact on multiple vulnerable populations. The USDA found that the proposed rule would terminate benefits for 3.1 million individuals and predominantly affect households with incomes between 130% and 200% FPL.³⁴ Many of these households are hovering on the cusp of self-sufficiency and the removal of BBCE during that transition can cause irreparable harm, allowing individuals and families to slide back into poverty. It will also exacerbate the benefit cliff by creating a disincentive for households to increase earnings above 130% FPL for fear of losing SNAP benefits.³⁵ Within this affected population, certain groups will lose benefits at above-average rates. The RIA found that the proposed rule would result in termination of SNAP benefits for 13.2% of households with elderly members, 12.5% of households with earnings, and 10.1% of households without children.³⁶

Children in SNAP households are automatically eligible for free school meals without completing additional applications.³⁷ Under the proposed rule, children who receive those benefits as a result of BBCE would also be at risk of losing school meals.³⁸ FNS has stated that up to 500,000 children could have their school meal benefits terminated.³⁹ We are concerned

³⁰ See Agricultural Act of 2014, Pub. L. No. 113-79, 128 Stat. 649 (2014); Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490 (2018).

³¹ H.R. 2, 115th Cong. § 4006 (as passed by the House, June 21, 2018).

³² Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490 (2018).

³³ Regulatory Impact Analysis, 7 CFR Part 273, Revision of Categorical Eligibility in the Supplemental Assistance Program (SNAP) at 3, Food and Nutrition Service, U.S. Dept. of Agriculture, July 24, 2019, available at <https://www.regulations.gov/document?D=FNS-2018-0037-0002>.

³⁴ *Id.*

³⁵ Dottie Rosenbaum, SNAP's "Broad-Based Categorical Eligibility" Supports Working Families and Those Saving for the Future at 6, Center for Budget and Policy Priorities, July 30, 2019, available at <https://www.cbpp.org/sites/default/files/atoms/files/7-24-19fa.pdf>.

³⁶ Regulatory Impact Analysis at 16.

³⁷ Rosenbaum at 5.

³⁸ *Id.*

³⁹ Congressman Robert C. Scott, Chairman of the Committee on Education and Labor, letter to Sonny Perdue, Secretary of the U.S Dept. of Agriculture, regarding proposed rule changing categorical eligibility for SNAP, July

about the rule's predicted disproportionate impact on the elderly, working families, and children and do not believe those impacts are in line with program goals.

b. The Proposed Rule Will Prevent Asset Building

The importance of asset-building to anti-poverty efforts is well-documented.⁴⁰ BBCE permits states to raise asset limits on SNAP eligibility, creating opportunities for households to establish and increase assets. 4 in 10 Americans could not cover \$400 in an emergency⁴¹ and low-income households have even fewer assets.⁴² A majority of SNAP households have no assets and among those with assets, the median amount is \$250.⁴³ Removing BBCE will force many households to make an impossible choice between food assistance and building assets for emergencies such as unforeseen medical bills, job loss, or temporary disability.

Studies have shown that food insecurity and asset levels are interdependent.⁴⁴ Low assets lead to food insecurity because, without a cushion, an unexpected financial obligation monopolizes money a household would normally spend on food.⁴⁵ Conversely, obtaining SNAP benefits through BBCE leads to increased asset building among recipients.⁴⁶ Households receiving SNAP benefits in states that have raised asset eligibility levels are more likely to have at least \$500 in savings compared to their counterparts in states that have not raised asset limits.⁴⁷ Removing BBCE will have a detrimental effect on the ability of struggling families to build assets and reach their full potential.

c. The Proposed Rule Will Undermine Program Efficiency

One of the goals of categorical eligibility was to simplify the administration of the SNAP program.⁴⁸ When households have multiple applications to complete, it creates administrative

26, 2019, available at <https://assets.documentcloud.org/documents/6219685/Scott-Letter-to-Perdue-on-Food-Stamps.pdf>.

⁴⁰ Guy Feldman, *Saving from poverty: A critical review of Individual Development Accounts*, Critical Social Policy, 38 Critical Social Policy 181 (2018); Gregory Mills and Joe Amick, "Can Savings Help Overcome Income Instability?", Urban Institute, December 2010, available at <https://www.urban.org/sites/default/files/publication/32771/412290-Can-Savings-Help-OvercomeIncome-Instability-.PDF>.

⁴¹ Report on the Economic Well-Being of U.S. Households in 2015, Board of Governors of the Federal Reserve System (May 2016), available at <https://www.federalreserve.gov/2015-report-economic-well-being-us-households201605.pdf>.

⁴² Rosenbaum at 8-9.

⁴³ Caroline Ratcliffe et al., "Asset Limits, SNAP Participation, and Financial Stability," Urban Institute, June 2016, available at <https://www.urban.org/sites/default/files/2000843-asset-limits-snap-participation-and-nancial-stability.pdf>.

⁴⁴ See Katie Fitzpatrick, "Bank Accounts, Nonbank Financial Transaction Products, and Food Insecurity among Households with Children," American Council on Consumer Interests, September 7, 2017, available at <https://onlinelibrary.wiley.com/doi/abs/10.1111/joca.12158>; Caroline Ratcliffe et al., "Asset Limits, SNAP Participation, and Financial Stability," Urban Institute, June 2016, available at <https://www.urban.org/sites/default/files/2000843-asset-limits-snap-participation-and-nancial-stability.pdf>;

⁴⁵ Rosenbaum at 9.

⁴⁶ Caroline Ratcliffe et al., "The Unintended Consequences of SNAP Asset Limits," Urban Institute, July 2016, available at <https://www.urban.org/sites/default/files/publication/82886/2000872-The-Unintended-Consequences-of-SNAPAsset-Limits.pdf>.

⁴⁷ "The Unintended Consequences of SNAP Asset Limits," at 2.

⁴⁸ H. Rep. No. 99-271, at 142 (1985).

burdens for both those households and the state programs administrating SNAP and TANF-funded benefits. By eliminating BBCE, the proposed rule would create substantial administrative and implementation obstacles for the states. The RIA found that the total cost of implementing BBCE repeal would be \$2.3 billion.⁴⁹ During a House Agriculture Committee hearing in June, 2019, one state official from Wisconsin testified that implementation of BBCE repeal could take up to 18 months.⁵⁰

After implementation, day-to-day administrative operations will also create burdens for households and states. Requiring families to complete separate applications for each program despite similar information requirements, will increase obstacles to receiving benefits and require more work hours, paperwork, and processes for state agencies. Additionally, BBCE extends the food assistance cut-off, mitigating the benefit cliff. Removing BBCE would create a starker benefit cliff and result in households near the cut-off constantly losing their benefits and reapplying, creating more administrative work for state and community agencies. The RIA found that additional administrative burdens for households that would maintain SNAP eligibility would cost the states and federal government \$5 million per year.⁵¹

V. Conclusion

BBCE provides a lifeline to households moving towards self-sufficiency, allows those households to build assets, and streamlines the administration of state and community services. For the reasons outlined above, the Partnership strongly opposes the changes to the BBCE provisions outlined in the proposed rule, and requests that the proposed rule be withdrawn.

Thank you for the opportunity to provide feedback on the proposed changes. Please feel free to contact us directly if we can provide any additional information or support for the process. We look forward to working with FNS and the Administration on this critical issue that affects the food security, well-being, and economic stability of millions of Americans.

Sincerely,



Denise L. Harlow, MSW, CCAP
Chief Executive Officer
Community Action Partnership

⁴⁹ Regulatory Impact Analysis at 3.

⁵⁰ The Potential Implications of Eliminating Broad-Based Categorical Eligibility for SNAP Households: Hearing Before the Subcomm. On Nutrition, Oversight, & Dep't Operations of H. Agriculture Comm., 116th Cong. (2019) (statement of Mandela Barnes, Lieutenant Governor, State of Wisconsin), available at <https://agriculture.house.gov/uploadedfiles/hhrg-116-ag03-wstate-barnesm-20190620.pdf>.

⁵¹ Regulatory Impact Analysis at 3-4.