



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

April 2, 2019

Submitted via www.regulations.gov

Certification Policy Branch, Program Development Division
Food and Nutrition Service
U.S. Department of Agriculture
3101 Park Center Drive
Alexandria, Virginia 22302.

RE: Proposed rule, “Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents,” RIN 0584–AE57

To Whom it May Concern,

The undersigned members of the Consortium for Citizens with Disabilities (CCD) submit the following comments on the U.S. Department of Agriculture (USDA) proposed rule, “Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents,” (RIN 0584–AE57, 84 Fed. Reg. 980, published February 1, 2019).

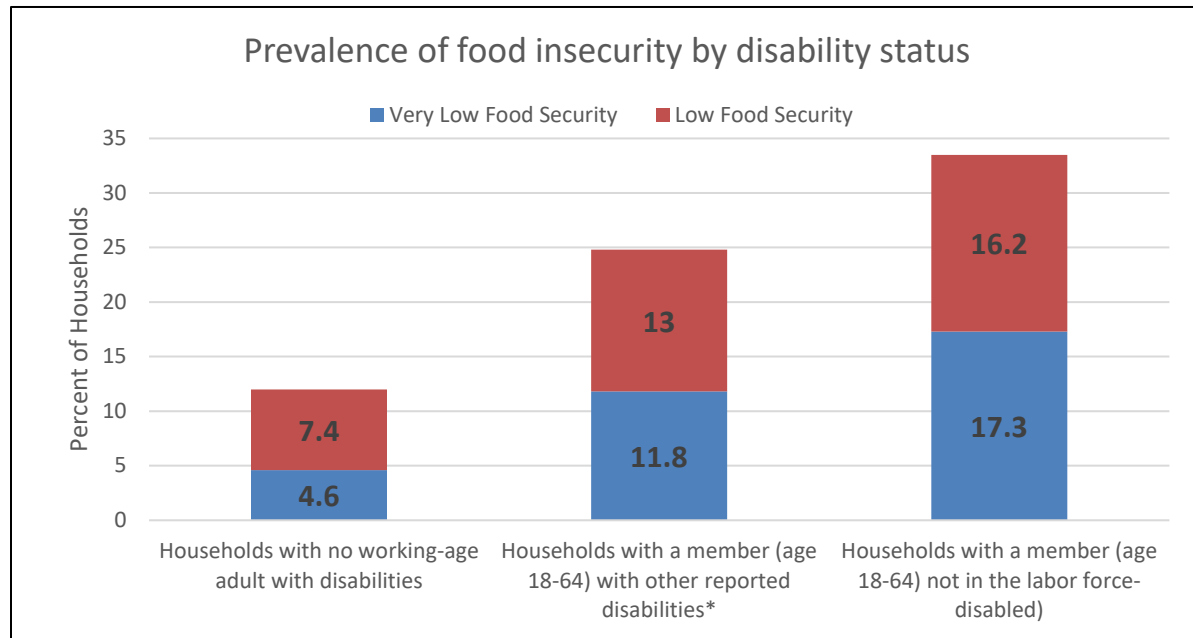
CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

In the United States, all too often food insecurity and disability go together. Compared to people without disabilities, people with disabilities and their families are significantly more likely to experience hunger and food insecurity. 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 18 to 64 with a disability who was not in the labor force, and 25 percent of households with adults age 18 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

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. Individuals with other reported disabilities are individuals “who had a disability but did not indicate they were out of the labor force due to disability.”

low food security” (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 18 to 64 with a disability and not in the labor force, and 12 percent of households with adults age 18 to 64 with other reported disabilities – compared to 5 percent of households with no adult with a disability.



* Working-age adults with *other reported disabilities* are those reported to have one or more of the following disabilities: hearing, vision, mental, physical, self-care, or going-outside-home disability, but no indication that their disability prevented them from working.

Source: USDA, Economic Research Service calculations based on 2009 and 2010 Current Population Survey Food Security Supplemental Data.

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

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 household 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.

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 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

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).

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.

most and do not result in increased employment and earnings.¹² At least 500,000 low-income individuals nationwide lost SNAP in 2016 due to this time limit.¹³

Many people with disabilities are already hurt by SNAP 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.”¹⁴ 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”.¹⁵ In another example, when Georgia reinstated the SNAP work requirement and time limits for “able-bodied adults without dependents” in 2016, the State found that 62 percent of nearly 12,000 individuals subjected to the requirement lost benefits after only three months.¹⁶ State officials acknowledged that hundreds of enrollees who should have been exempt due to their disability had been wrongly classified.¹⁷ 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. People with disabilities generally want to work but may need additional supports and services to obtain and keep jobs, in addition to facing discrimination and misconceptions about their ability to work. The proposal does not mandate that states help people prove they are exempt, even if they have difficulty obtaining the necessary records or verification from a doctor. In addition, the proposal does not require states to ensure that people with disabilities have access to the services they might need to work.

Evidence from other social programs with time limits and work requirements shows people with disabilities and chronic conditions are more likely than others to lose benefits due to

¹² Heather Hahn et al., *Work Requirements in Social Safety Net Programs: A Status Report of Work Requirements in TANF, SNAP Housing Assistance, and Medicaid*, 13 (2017), <https://www.urban.org/research/publication/work-requirements-social-safety-net-programs-status-report-work-requirements-tanf-snap-housing-assistance-and-medicaid>.

¹³ 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>

¹⁴ 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.”

¹⁵ 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.

¹⁶ *Correction: Benefits Dropped Story*, U.S. NEWS & WORLD REPORT, May 26, 2017, <https://www.usnews.com/news/best-states/georgia/articles/2017-05-25/work-requirements-drop-thousands-in-georgia-from-food-stamps>.

¹⁷ *Id.*

sanctions for noncompliance, despite exemption processes.¹⁸ Numerous studies of state Temporary Assistance for Needy Families (TANF) programs, for example, have documented this problem.¹⁹

SNAP area waivers and individual exemptions allow states to modestly ameliorate the harsh impact of arbitrary time limits. Federal law provides states with some flexibility to ameliorate the impact of arbitrary time limits on SNAP benefits. States can request a waiver of the time limit for areas within the state that have 10 percent or higher unemployment rates or, based on other economic indicators, have “insufficient jobs.” Moreover, states have discretion to exempt individuals from the time limit by using a pool of exemptions (referred to as “15 percent exemptions”). While the 2018 Farm Bill modified the number of exemptions that states can receive each year from 15 percent to 12 percent, it did not change their ability to carry over unused exemptions forward.

The proposed rule undermines these important state safety valves, and should be rejected.

The undersigned members of CCD strongly oppose the proposed rule because it would expose even more people to the arbitrary food cutoff policy, by limiting state flexibility regarding area waivers and individual exemptions. By the Administration’s own calculations, the proposed rule would take food away from 755,000 low-income Americans, cutting food benefits by \$15 billion over ten years. The Administration does not estimate any improvements in health or employment among the affected population. We strongly oppose any administrative action by USDA that would cut more people off SNAP or force more people to navigate harsh and unnecessary program rules, including people with disabilities and their families.

The proposed rule would put in place multiple harmful provisions. First, the proposed rule would make it harder for areas with elevated unemployment rates to qualify for waivers of the time limit by adding a 7 percent unemployment rate floor as a condition. The proposed rule would also make it harder for states to obtain and implement area waivers by dropping statewide waivers except when a state triggers extended benefits under Unemployment Insurance. It would unduly limit the economic factors considered in assessing an area’s

¹⁸ See, e.g., Andrew J. Cherlin et al., *Operating within the Rules: Welfare Recipients’ Experiences with Sanctions and Case Closings*, 76 SOC. SERV. REV. 387, 398 (2002) (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. REV. 199 (2008).

¹⁹ See, e.g., Yeheskel Hasenfeld et al., Univ. of Pennsylvania School of Social Pol. and Practice *The Logic of Sanctioning Welfare Recipients: An Empirical Assessment* (2004), http://repository.upenn.edu/cgi/viewcontent.cgi?article=1028&context=spp_papers; MaryBeth Musumeci & Julia Zur, Kaiser Family Found., *Medicaid Enrollees and Work Requirements: Lessons From the TANF Experience* (Aug. 18, 2017), <https://www.kff.org/medicaid/issue-brief/medicaid-enrollees-and-work-requirements-lessons-from-the-tanf-experience/>; Mathematica Pol. Research, *Assisting TANF Recipients Living with Disabilities to Obtain and Maintain Employment: Conducting In-Depth Assessments* (2008) https://www.acf.hhs.gov/sites/default/files/opre/conducting_in_depth.pdf; Pamela Loprest, Urban Inst., *Disconnected Welfare Leavers Face Serious Risks* (2002), <http://www.urban.org/sites/default/files/publication/59036/310839-Disconnected-Welfare-Leavers-Face-Serious-Risks.PDF>; Denise F. Polit et al., Manpower Demonstration Research Corporation, *The Health of Poor Urban Women: Findings from the Project on Devolution and Urban Change*, iii (2001), <https://www.mdrc.org/publication/health-poor-urban-women/file-full>.

eligibility for a waiver (e.g., by no longer allowing employment to population ratios that demonstrate economic weakness to qualify areas for waivers). It would undermine efficient state implementation of area waivers by limiting their duration to 12 months and delaying their start dates until after USDA processes the request. Finally, the proposed rule would remove states' ability to use exemptions accumulated prior to the rule's implementation as well limit the time states' have to use exemptions they receive in the future.

USDA provides little analysis to explain its conclusions about how the proposed changes would impact individuals and population groups. USDA merely asserts that two-thirds of people made newly subject to the time limit "...would not meet the requirements for failure to engage meaningfully in work or work training." Moreover, while in the "Civil Rights Impact Analysis" section,²⁰ USDA concedes that the proposed changes "...have the potential for disparately impacting certain protected groups due to factors affecting rates of employment of these groups...", it also asserts that "...implementation of mitigation strategies and monitoring by the Civil Rights Division of FNS will lessen these impacts." **As organizations representing people with disabilities, we are alarmed that the proposed rule offers no further information on the Civil Rights Impact Analysis and no explanation of the proposed and of such impact.**

Furthermore, we do not believe that any mitigation strategies will adequately alleviate the harm to people with disabilities. By cutting off SNAP food assistance, the proposed rule would only make it harder for people – including many people with disabilities – to work and increase their economic self-sufficiency.

Also, the Administration's proposed rule represents an end run around Congress, which just concluded a review and bipartisan reauthorization of SNAP in the 2018 Farm Bill that specifically examined waivers and exemptions and chose to maintain SNAP as it is aside reducing the exemptions percentage from 15 percent to 12 percent. The rules governing areas' eligibility for waivers and individual exemptions have been in place for nearly 20 years. In that time, the waiver rules have proven to be reasonable, transparent, and manageable for states to operationalize.

In closing, there is simply no justification for weakening current SNAP waiver rules and exposing more people to the SNAP eligibility cutoff. The undersigned CCD members strongly oppose the proposed rule, and urge USDA to withdraw it.

Sincerely,

ACCSES
American Association of People with Disabilities
American Dance Therapy Association
Autism Society of America
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Brain Injury Association of America

²⁰ Required under USDA Department Regulation 4300-4, "Civil Rights Impact Analysis", available at <https://www.ocio.usda.gov/sites/default/files/docs/2012/CRIA%20DR%204300-004-final.htm>.

Center for Public Representation
Children and Adults with Attention-Deficit Hyperactivity Disorder
Council for Learning Disabilities
Disability Rights Education & Defense Fund (DREDF)
Justice in Aging
Learning Disabilities Association of America
National Alliance on Mental Illness
National Association of Councils on Developmental Disabilities
National Association of State Head Injury Administrators
National Center for Learning Disabilities
National Council for Behavioral Health
National Council on Independent Living
National Disability Institute
National Disability Rights Network
National Health Law Program
National Organization of Social Security Claimants' Representatives
RespectAbility
SPAN Parent Advocacy Network (SPAN)
Special Needs Alliance
TASH
The Advocacy Institute
The Arc of the United States
United Spinal Association