

May 13, 2016

Ms. Mary Rose Conroy
Chief of Program Design Branch Policy Design Division
USDA Food and Nutrition Service (FNS)
3101 Park Center Drive, Room 810
Alexandria, VA 22302

Re: Proposed Rule on Supplemental Nutrition Assistance Program (SNAP) Promotion, Docket RIN 0584-AE44

Dear Ms. Conroy:

On behalf of Children's HealthWatch please accept these comments on the United States Department of Agriculture's (USDA's) Food and Nutrition Service (FNS) Proposed Rule on SNAP Promotion. As pediatricians, public health researchers, and child health and policy experts, we write to express both support and concern on several aspects of the Proposed Rule.

I. Food insecurity in the United States

Food insecurity and poverty are alarmingly prevalent problems in the U.S. More than 48.1 million Americans – 15.3 million of them children -- lived in food insecure households in 2014, according to USDA's data.¹

Children's HealthWatch² is a nonpartisan network of pediatricians, public health researchers, and policy and child health experts committed to improving children's health in America. Every day, in urban hospitals across the country, we collect data on children ages zero to four many of whom are from families experiencing economic hardship. We analyze and release our findings to academics, legislators, and the public to inform public policies and practices that can give all children equal opportunities for healthy, successful lives.

This nation's youngest children are some of those most at risk for food insecurity. Children's HealthWatch data show that food insecurity is a prevalent problem for families with young children; in our dataset of over 60,000 children from five cities across the U.S., **almost a quarter (23%) of families with young children report being food insecure.**

II. SNAP Is Good Medicine

A strong and effective SNAP is crucial for ending hunger and improving health in America. Research shows that SNAP plays a critical role in alleviating poverty and food insecurity and in improving dietary intake, weight outcomes, and health, especially among the nation's most vulnerable children.³

Children's HealthWatch has demonstrated that SNAP is like a vaccine, particularly for young children in the critically important early years of development. It acts to protect them from health threats in both the short and long term. Our research has shown that compared to those whose families are likely eligible for but not receiving SNAP, **young children who receive SNAP are more likely to be child food secure, have a healthy height and weight for their age and less likely to be at risk for developmental delays.**⁴ Their families also do better; families with young children that participate in SNAP are more likely to be household food secure and report that they have not had to trade off the need for food, housing, or utilities with medical payments.

III. SNAP Outreach and Application Assistance Are Crucial for Connecting Needy Eligible People With Benefits

A. SNAP Participation and Benefits Gaps

SNAP is a vital support for many people in need, but barriers to access leave troubling gaps in coverage. While the national participation rate among people eligible for SNAP has improved, approximately one in six eligible people are still missing out on these basic benefits.⁵

Barriers to accessing SNAP benefits have health consequences for families with children. Research by Children's HealthWatch shows that young children in families who did not receive SNAP due to administrative and other barriers were more likely to be child food insecure and significantly underweight for their age (an indication of under nutrition). These young children were also more likely to live in households that were household food insecure and housing insecure.⁶

In addition, many participants are missing out on the full amount of SNAP benefits to which they are entitled. SNAP is structured to take into account a household's expenditures to meet basic needs such as shelter, utilities, dependent care, and (for elderly persons and persons with disabilities) excess medical costs. These funds are therefore not available for food. Nonetheless, SNAP benefits gaps exist as many applicants are unaware of the deductions that are available to them or how to navigate the process for verifying their expenses so they can claim those deductions. For example, only 8.0 percent of SNAP households with children claimed the dependent care deduction in FY 2014 (compared with 52.2 percent of households with children claiming the earned income deduction that year).

These SNAP participation and benefit gaps not only mean less nutrition for vulnerable people but also less economic activity for needy communities. Indeed, USDA research indicates that each dollar in federal SNAP benefits generates \$1.79 in economic activity.

B. Outreach Helps Address Gaps and Efficiencies

A 2008 FRAC (Food Research and Action Center) report synthesizing research literature found that among documented barriers to participation were “long applications; burdensome verification requirements; limited options for where, when and how to submit applications and complete interviews; the perceived stigma associated with public benefit receipt; requirements for frequent client reporting and recertifying; limited language access; many immigrants’ fears of impact on their legal status; and finger imaging requirements.”⁷

Improvements in state application processing systems and adoption of streamlining policy options together with outreach, education and application assistance efforts are important to improving client access and narrowing SNAP participation and benefits gaps.

Moreover, outreach and application assistance done well eases some burdens on eligibility workers and helps state agencies better respond to increased demand for assistance. Outreach workers can educate people about SNAP, program eligibility guidelines, and, perhaps most importantly, what to expect as part of the application process. Prescreening activities can help identify likely eligible households.

Disseminating accurate information about SNAP rules and procedures is critical to ensuring that households make informed decisions whether to apply for benefits. Moreover, making sure that households are informed about the rules and steps to apply increases efficiency and provides cost savings for SNAP offices. In other words, this is a win-win; good for food security and health and cost-saving for government.

Once trained to provide application assistance, outreach workers can deliver accurate, complete applications that are easier for SNAP offices to process. In addition, outreach workers who collect necessary documentation as part of application assistance can ensure that necessary proofs reach the SNAP office. They can help keep clients connected with SNAP by performing similar tasks when it is time for those clients to recertify for benefits. Submission of completed applications accompanied with needed documentation can reduce processing times, improve client satisfaction, and help often understaffed SNAP offices handle the higher volume of customers.

IV. Recommendations for the Final Rule

A. Final Rule Should Explicitly Incorporate “Informed Choice” Standard

We appreciate that the USDA recognized in the preamble to the proposed rule that the 2014 Farm Bill continues to allow department funds to support SNAP outreach, education and information activities.

Moreover, as the preamble states: “The regulations already define recruitment activities as activities that are designed to persuade an individual who has made an informed choice not to apply for SNAP benefits to change his or her decision and apply.” As discussed below, a review of the legislative history demonstrates that Congress expected that individuals would continue to be allowed to make an “informed choice” to apply or not apply for SNAP. **We recommend, therefore, that the Department’s final rule explicitly incorporate the long-standing “informed choice” standard of the SNAP outreach rules.**

1) Legislative History Shows Intent to Codify “Informed Choice” Rule Standard

As stated in the Manager’s Statement to the Conference Report, H.R. Rep. 113–333, “[t]he Managers do not intend to prohibit activities that provide basic program information including rights, program rules, client responsibilities, and benefits.” Moreover, during consideration of the conference report on the bill, several Members explained that the statute made no change with respect to the role of the potential client’s “informed choice” to apply or not with respect to permissible outreach.

--Manager Senator Debbie Stabenow stated, “Recruitment is trying to persuade or convince someone who has *made an informed decision not to apply* to change his or her mind. That hasn’t been a permissible activity, and *the bill simply codifies that practice.*” (emphasis added). (See Congressional Record, February 4, 2014 at p. S 733.)

--In a separate floor statement in the House, Conferee Representative Marcia Fudge concurred: “Recruitment is trying to persuade or convince someone who has *made an informed decision not to apply* to change his or her mind. That hasn’t been a permissible activity and *the bill simply codifies that practice.*” (emphasis added). (See Congressional Record, January 29, 2014 at p. H1490).

--On the Senate floor Senator Sherrod Brown stated, “We expect SNAP to continue to provide people with the information they need to *make informed decisions* about participation, while ensuring that all funds for public information are used responsibly and judiciously.” (emphasis added). (See Congressional Record, February 4, 2014 at p. S 717).

--Finally, Conferee Senator Tom Harkin explained, “In this bill, we have done nothing to change the education and application assistance activities that states and community groups can engage in. We have long prohibited ‘recruitment,’ which is trying to talk someone into applying if that person has *made an educated choice to not apply. In this bill we codify that definition.* But we fully expect that it will continue to be allowable for USDA, States, and other partners to share information about the program, the advantages of participation, how the rules work, and to assist people in applying for benefits. Such activities may change someone’s mind about applying, but it is acceptable to change your mind because you learned new, accurate information or because you understand what you have to do to apply. *That is not persuasion, but rather, is education, and is still completely appropriate under this bill.*” (emphasis added). (See Congressional Record, February 3, 2014 at p. S 683).

2) Application of Informed Choice Standard

We appreciate the proposed rule preamble's recognition of the importance of individuals' having access to correct information so they can make appropriate choices about whether to apply for SNAP or not and the role application assisters can play for individual clients in dispelling myths and factual misstatements. For example, some families believe that because someone is employed they are automatically ineligible.⁸

Follow-up questions to potential clients, however, often are needed to help identify whether a perceived lack of interest in applying is based on myths or other incorrect facts about SNAP. Allowing outreach workers to correct misconceptions after an individual expresses "disinterest in learning more" is not equivalent to coercing an individual to apply. **Rather, by providing an individual with accurate information, the outreach worker is empowering that individual to make an informed decision for him/herself. The final rule should make clear that such a follow-up inquiry by itself does not constitute undue "persuasion."**

3) Final Rule "Informed Choice" Standard

Accordingly, we recommend that the final rule maintain the following language from current rule section 277.4(b)(4): "who has made an informed choice not to apply for SNAP benefits to change his or her decision and apply." Therefore, the final rule section 277.4(b)(5) would read: "(i) Recruitment activities designed to persuade an individual to apply for SNAP benefits through the use of persuasive practices. Persuasive practices constitute coercing or pressuring an individual who has made an informed choice not to apply for SNAP benefits to change his or her decision and apply, or providing incentives to fill out an application for SNAP benefits. Communicating factual information pertaining to SNAP is not a recruitment activity designed to persuade an individual to apply for SNAP benefits."

B. Activities and Services, Including to Vulnerable Groups

Pointing to the Manager's Statement to the Conference Report, H.R. Rep. 113-333, the preamble to the proposed rule appropriately explains "that the changes in Section 4018 of the Agricultural Act of 2014 do not preclude specialized services for eligible SNAP applicants, including application assistance for vulnerable populations. Specialized services are particularly important for vulnerable populations *including* the elderly, homeless, and individuals with disabilities to ensure they receive the food assistance they need. Consequently, the proposed rule would not prohibit activities that provide vulnerable populations with application assistance or basic program information, including information about rights, program rules, client responsibilities, and benefits." (emphasis added).

1. Importance of Specialized Services

Specialized activities and services are important not only to close SNAP gaps in participation but also to close SNAP gaps in the amounts of benefits to which eligible people are entitled. Navigating eligibility requirements and claiming deductions for basic expenses that households have can be confusing and

burdensome. Trained outreach and application workers and volunteers using prescreening and other technology tools can help eligible people submit applications that are complete and have required documentation.

2. Specialized Services Are Not Limited to Vulnerable Groups

We support the proposed rule acknowledgement that the Act does not prohibit providing application assistance to vulnerable populations. Additionally, the Manager’s Statement in the Conference Report, H.R. Rep. 113-333 also correctly identifies that application assistance and other specialized services may be particularly important for vulnerable populations. However, neither the Act nor the Manager’s Statement in the Conference Report, H.R. Rep. 113-333, limit application assistance and specialized services to vulnerable populations only. **Therefore, we recommend that the Department clarify that application assistance and specialized services can be provided to all individuals, not just so-called vulnerable populations cited in the preamble.**

For example, people fleeing domestic violence and those who speak English as a second language may need help specialized to their particular situation (e.g. need for secrecy regarding their address) or language needs (interpretation or services in their native language to ensure they are fully informed).

3. Targeted Outreach Is Permissible

As stated in section 272.5(b), state agencies and their partners have the option to conduct informational activities designed to inform low-income households about the availability, eligibility requirements, application procedures, and benefits of SNAP. One highly effective informational activity conducted by states is targeted outreach to low-income households who are likely eligible but not enrolled in SNAP. Targeted outreach represents an efficient way for states to invite low-income households to learn more about SNAP in order to make an informed decision about whether to apply. We encourage FNS to affirm that targeted outreach that provides factual information is a permissible informational activity, so long as it complies with the prohibition on persuasive practices defined in section 277.4(b)(5)(i).

C. Incentives

Under the proposed rule “providing incentives to fill out an application for SNAP benefits” would be impermissible. The preamble provided the following illustrative example: “A worker funded by SNAP funds at a community-based organization is giving a presentation on SNAP eligibility requirements to a group of likely eligible SNAP applicants. The worker explains that every person who applies that day will be allowed to stay for a free parenting class. This would be prohibited if only those who fill out the SNAP application are allowed to attend the parenting class because the parenting class is offered as an incentive to fill-out the application. The activity would be allowable if everyone is allowed to stay for the parenting class, regardless of whether or not they fill out an application.”

This is similar to the Department's longstanding state outreach plan guidance, regarding reimbursement of outreach reinforcement items. It long has allowed reimbursement for purchase of appropriate outreach reinforcement items but not those items "*intended as rewards* for pre-screening or completing an application;" (emphasis).⁹

In contrast to such impermissible incentives, providing information about the ancillary benefits of participating in SNAP and offering outreach reinforcement items that are not dependent on the recipient submitting a SNAP application should remain permissible reimbursable outreach activities. We encourage the Department to clarify that in the final rule.

D. Advertising

We appreciate the Department's explanation that the proposed rule's bar on reimbursement for recruitment activities designed to persuade individuals to apply for SNAP benefits or to television, radio, or billboard advertisements promoting SNAP does not impact such activities paid for with funds other than federal SNAP appropriations.

We also appreciate the Department's treatment of the use of social media. The preamble to the proposed rule explains, "The Agricultural Act of 2014 provision does not address the use of social media in promotion activities. As a result, the use of social media like Twitter, Facebook, YouTube, or other internet sites would not be prohibited, so long as the content is not recruitment activity designed to persuade an individual to apply for SNAP benefits through coercion, pressure, or incentives."

We agree with the Department in not barring promotion of SNAP on social media. Many colleagues have found Facebook to be a valuable tool for distributing factual information about the program to likely eligible individuals.

The preamble explains, "For purposes of this proposed rule, billboards are large formal advertising displays intended for viewing from extended distances of more than 50 feet." We recommend that the Department consider the context in which the billboard is used. For example, the final rule should allow use of larger signs at locations where people are seeking benefits services or events where SNAP application assisters are located, such as at health fairs, health centers or hospitals.

E. Outreach Worker Compensation

We support the proposed rule's prohibition on compensating individual SNAP outreach workers based on the number of SNAP applications they facilitate. We recommend, however, that the Department clarify that the final rule does not restrict state agencies and partnering outreach programs from setting outreach and application goals as part of state outreach plan contracts. State agencies should be able to hold outreach partners accountable for effective use of state and federal resources and tracking

submitted applications that result from educational activities should continue to play a critical role in monitoring.

This is in keeping with legislative intent. As Conferee Senator Harkin explained during debate on the Conference Report, “And while it is inappropriate for anybody to receive their pay as a ‘bounty’ per application, it is fine to be tracking how many people a group assists in applying and the outcome of the application process. That is just a common, responsible practice for assessing whether the group successfully is achieving its goals. Section 16(a) already prohibits tying anyone’s pay to the number of people disqualified from SNAP and we have extended that principle to application assistance.” (See Congressional Record, February 3, 2014 at p. S 683).

Thank you for your consideration of our recommendations. Ensuring that potential SNAP participants have all the information necessary to make an informed decision is an evidence-based practice. There is a strong evidence base for the recommendations outlined above, which ultimately can help to sustain and improve health and development among children from birth through adolescence.

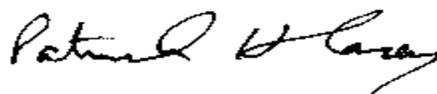
We support the need for outreach, application assistance, specialized services for a variety of populations, and reaching people where they already are, such as on the internet, in order to provide all eligible families with the resources necessary to remain food secure.

For additional information, please contact Stephanie Ettinger de Cuba, Research and Policy Director for Children’s HealthWatch at sedc@bu.edu or 617-638-5850.

Sincerely,



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References

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