

April 9, 2018

Ms. Sasha Gersten-Paal
SNAP Program Development Division
Food and Nutrition Service
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

Dear Ms. Gersten-Paal:

Thank you for the opportunity to comment on USDA's Advanced Notice on requirements and services for Able-Bodied Adults Without Dependents (ABAWDs). The Legal Aid Society of the District of Columbia,¹ the oldest and largest general civil legal services organization in the nation's capital, serves many clients who rely on the Supplemental Nutrition Assistance Program (SNAP) as a vital safety net to prevent hunger and food insecurity. **We strongly oppose the Administration's proposal to repeal states' flexibility to exempt certain individuals and most high unemployment areas from SNAP's three-month time limit on receipt of SNAP by ABAWDs.** Adoption of this proposal would expose more people to this unnecessarily punitive policy and cut off food assistance for the most vulnerable residents in our community solely because they are unable to find a reliable 20-hour-a-week job. Legal Aid is particularly concerned about the effect the time limit has on children, individuals with disabilities, and individuals reentering the community from incarceration.

As you know, federal law limits SNAP eligibility for childless unemployed and underemployed adults, who are not otherwise exempt, ages 18-50 to just three months out of every three years unless they are able to obtain and maintain an average of 20 hours a week of employment. This rule harms vulnerable people by denying them food benefits at a time when they most need it, and it does not result in increased employment and earnings. The District of Columbia has been able to protect its vulnerable low-income population through a waiver of the three month-time limit based on the District's high unemployment rate, particularly in areas of highly concentrated poverty.² The elimination of this waiver authority would devastate the District's SNAP population.

¹ The mission of the Legal Aid Society of the District of Columbia is to make justice real for the District's low-income residents through individual and systemic advocacy.

² In December 2017, the District's overall unemployment rate was 6.0%. The unemployment rate in Wards 7 and 8—the District's neighborhoods with the highest concentration of residents living in poverty—was 9.6% and 12.4% respectively.

Therefore, Legal Aid not only opposes the rule as currently written but is very concerned that weakening the current exemptions will lead to greater food insecurity, strains on local charities and harm people with disabilities, children and youth, as well as formerly incarcerated individuals. In short, the implementation of this rule would cause more hunger, thus violating a central tenet of the SNAP program.

The SNAP ABAWD Time Limit Leads to Food Insecurity for Individuals and Strains Charities. At least 500,000 low-income individuals nationwide lost SNAP in 2016 due to the ABAWD time limit which put their food security at risk. Furthermore, the time limit has shifted the burden of providing food to these unemployed individuals from SNAP to local charities.

When people can't get their SNAP benefits, they turn to local food pantries and non-profits for assistance. In the District, we have seen a surge in individuals seeking food assistance as a result of problems with the District's SNAP program, not related to the ABAWD time limit. For instance, Bread for the City, a non-profit that provides food, clothing, medical care, legal and social services to low-income residents, saw an increase in demand for emergency food bags when the Department of Human Services began experiencing widespread problems administering SNAP. After the agency implemented a new computer system in October 2016, 38% more households across the District and 52% more households living in Wards 7 and 8 sought emergency food assistance from Bread for the City from October 2016 to May 2017 in comparison to the previous year. One can only imagine the burden that will be placed on these programs if the District were not allowed to provide the current level of assistance to ABAWDs.

The SNAP ABAWD Time Limit Disproportionately Impacts Individuals with Disabilities. The fact that individuals with disabilities are exempted from the time limit by federal law does not offer sufficient protection for these individuals. A mental illness, intellectual disability, or physical limitation—such as an injury that makes it hard for a person to stay on their feet—can prevent someone from being able to work 20 hours per month. However, even if the law requires states to exempt such individuals from the time limit, too often state agencies fail to help individuals prove they are exempt, even if they have difficulty obtaining the necessary records or verification from a doctor.

For example, the District's Department of Human Services (DHS) has a program in place that is intended to exempt individuals with disabilities from weekly Temporary Assistance for Needy Families (TANF) work requirements. Yet, DHS employees are still not properly trained to screen or identify individuals with disabilities who could qualify for the work requirement exemption. Then, even if screening is successful, the agency often fails to give individuals with disabilities clear instructions, or the required paperwork, so they can successfully apply for the exemption in a timely manner. This group of individuals is particularly disadvantaged because their physical or mental disabilities makes it difficult for them to advocate for themselves or make trips to DHS Service Centers related to their public benefits.

The SNAP ABAWD Time Limit Harms Children and Youth. Children living in poverty often depend on pooled resources (including SNAP benefits) from extended family members who do not claim them as dependents. Studies have shown that low-income non-custodial parents (who do not have primary custody of children) rely on supplemental income through SNAP and other

forms of assistance, such as the Earned Income Tax Credit, to provide for their children through court-ordered child support and other payments. For example, one Legal Aid client whose SNAP benefits were cut without notice was unable to make complete rent payments for two months because she needed to use income from her part-time job to pay for food for her children when she had visitation with them over the weekends. Without SNAP, she had to choose between feeding her children and putting her housing at risk. Therefore, additional burdensome restrictions on SNAP eligibility for ABAWDs would translate into fewer resources available to support the health and wellbeing of those children.

Furthermore, youth aging out of foster care experience high rates of unemployment and poverty. This population already faces barriers to accessing SNAP due to existing ABAWD time limits in states and localities without waivers. Any efforts to implement shortened time-limits or eliminate state exemptions from these requirements would be particularly harmful to the population aging out of foster care.

The SNAP ABAWD Time Limit Harms Formerly Incarcerated Individuals. SNAP is a critical source of food assistance for formerly incarcerated individuals reentering society and individuals with criminal histories. Individuals who have been incarcerated face steep barriers to employment. Such individuals are more likely than the general population to have experienced poverty, unemployment, homelessness, and poor health. And these struggles often continue after release. Furthermore, merely having a criminal record reduces the likelihood that a job seeking individual would receive a callback or job offer; one study found that it was nearly 50% less likely. A national survey found that more than 92% of employers in the U.S. perform criminal background checks for some or all positions. Of those employers that did background checks, 73% said that even a nonviolent misdemeanor or conviction would be “somewhat” or “very influential” in their hiring decision.³ Among employable returning citizens entering supervision in the District during 2015, 71% reported they were unemployed.⁴ SNAP is essential for these individuals who have inadequate income as they seek employment.

Further, many formerly incarcerated individuals may have competing parole requirements—such as meetings with parole officers, curfews and required substance use disorder programs—that can hinder opportunities to work for 20 hours per week. And finally, given all of these employment barriers, a formerly incarcerated individual who successfully seeks and obtains and keeps a 20 hour per week job is unlikely to be able to do so within three months of starting their job search.

³ In the District of Columbia, one in 22 residents is “under some form of correctional control on any given day,” and the disproportionate impact of criminal records on communities of color is even greater here than elsewhere. Although fewer than 50 percent of all District residents are black, “more than 96 percent of D.C. Code offenders incarcerated at BOP facilities are black.” Council for Court Excellence, *Beyond Second Chances* 4, 7 (Dec. 2016), available at <http://www.courtexcellence.org/uploads/File/BSC-FINAL-web.pdf>.

⁴ *Id.* at 43.

For all of these reasons, Legal Aid strongly opposes any administrative action by USDA that would expose more people to this cutoff policy. Under current law, states have the flexibility to request waivers of the ABAWD time limit for areas within the jurisdiction that have experienced 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 these 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 areas with elevated unemployment must not be pursued.

While this request for comment asks for suggestions on how to improve the time limit we are concerned that the Administration seeks only to make the rule worse: to expand the scope of the cutoff and to eliminate the little flexibility states have to limit the damage of the rule. We believe this in part because the Department's stance on the time limit is not one that our organization shares. The Secretary of Agriculture has suggested that the Department need to "[remove those waivers for able-bodied adults without dependents.](#)" because "it's become a lifestyle for some people." SNAP is an essential support for people who would otherwise be hungry, not a lifestyle.

The request for comment also seems to suggest that potential improvements to other aspects of the time limit policy, such as individual exemption policy, would justify weakening states' flexibility to waive the time limit in areas with elevated unemployment. This logic is unfounded. The District's current ability to exempt certain individuals from the rule is important, however such flexibility is wholly insufficient and could never make up for having to apply the time limit in areas with elevated unemployment. And, the underfunded workforce system and SNAP employment and training programs are not designed or well-suited to meet the job training requirements under this rule. Put simply, there is no justification for weakening current waiver rules and exposing more vulnerable people to this SNAP eligibility cutoff.

The only action we encourage USDA to take with respect to this time limit rule that impacts Able-Bodied Adults Without Dependents is to propose its elimination. Restoring SNAP's ability to provide food assistance to impoverished unemployed people would be a powerful policy improvement that would reduce food insecurity among those seeking work.

Sincerely,

Carolyn Rumer

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Legal Aid Society of the District of Columbia