



# USDA Restores Original Intent of SNAP: A Second Chance, Not A Way of Life

*With record low unemployment, USDA finalizes rule to promote work*

## Press Release

Release No. 0196.19

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**(Washington, D.C., December 4, 2019)** – At the direction of President Donald J. Trump, U.S. Secretary of Agriculture Sonny Perdue today announced a final rule to move more able-bodied recipients of the Supplemental Nutrition Assistance Program (SNAP) towards self-sufficiency and into employment. The rule restores the system to what Congress intended: assistance through difficult times, not a way of life.

“Americans are generous people who believe it is their responsibility to help their fellow citizens when they encounter a difficult stretch. Government can be a powerful force for good, but government dependency has never been the American dream. We need to encourage people by giving them a helping hand but not allowing it to become an indefinitely giving hand,” said Secretary Perdue. “Now, in the midst of the strongest economy in a generation, we need everyone who can work, to work. This rule lays the groundwork for the expectation that able-bodied Americans re-enter the workforce where there are currently more job openings than people to fill them.”

More from Secretary Perdue can be found in his *Arizona Daily Star* op-ed: [The dignity of work and the American Dream](#) .

## Background:

In 1996, when then President Bill Clinton signed welfare reform instituting the current work requirements for able-bodied adults without dependents (ABAWDs) he said, “First and foremost, it should be about moving people from welfare to work. It should impose time limits on welfare... It [work] gives structure, meaning and dignity to most of our lives.”

With a booming economy that has more jobs than workers to fill them and the lowest unemployment rate in more than 50 years, now is the time for every work-capable American to find employment. In fact, the latest U.S. Department of Labor (DOL) figures show the unemployment rate is 3.6% and there are 7.0 million job openings. The longer an individual is out of the workforce, the harder it is to re-enter. Now is the time for these individuals to enter, reenter, and remain in the workforce.

To put things in perspective, in 2000, the unemployment rate was 4% and the number of Americans receiving SNAP benefits was just over [17 million](#). In 2019, during the longest economic expansion in history, the unemployment rate is 3.6% and yet the number of Americans receiving SNAP is over [36 million](#).

The U.S. Department of Agriculture's (USDA) final rule promotes work for able-bodied adults between the ages of 18 and 49 without dependents and does not apply to children and their parents, those over 50 years old including the elderly, those with a disability, or pregnant women.

Long-standing SNAP statute limits these adults to three months of benefits in a three-year period – unless they work or participate in work training for at least 20 hours per week. The law allows states to apply for waivers of this time limit due to economic conditions, but prior to the rule, counties with an unemployment rate as low as 2.5% were included in waived areas. Under USDA's rule, states retain their statutory flexibility to waive the time-limit in areas of high unemployment and to exempt a percentage of their ABAWD caseload. Even when working, those who qualify from an income perspective, will still receive their SNAP benefits.

There are multiple ways for individuals to engage and maintain their SNAP benefits, from working, to preparing for work, and volunteering. States have a responsibility to assess individuals as work-capable and must renew their focus on helping SNAP participants to find a path to self-sufficiency. There are a number of tools to assist with challenges. For example, states are provided funding to operate Employment and Training programs, which can provide everything from job training to necessary work supports, such as boots, uniforms, and transit subsidies. States also have access to programs and services provided by other Federal agencies, state and county governments, and local service providers.

- [Secretary Perdue and Deputy Under Secretary's SNAP Reform Audio call](#) (MP3, 17.0 MB)
- [Employment for Work-Capable Adults Fact Sheet](#) (PDF, 356 KB)
- Final Rule: [Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults without Dependents](#)
- [2019 memo to states](#) (PDF, 204 KB) on SNAP employment and training resources available.
- Secretary Perdue's [2018 letter to states](#) (PDF, 109 KB) asking them to review their policy choices concerning when and where to request ABAWD waivers and to ensure their systems

are up-to-date to track ABAWDs.

- [November 2015 memo providing guidance](#) (PDF, 75 KB) to states in taking the balanced approach necessary to properly implement the SNAP time limit for ABAWDs.

USDA's FNS administers 15 [nutrition assistance programs](#) that leverage American's agricultural abundance to ensure children and low-income individuals and families have nutritious food to eat. FNS also co-develops the [Dietary Guidelines for Americans](#), which provide science-based nutrition recommendations and serve as the cornerstone of federal nutrition policy.

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# United States Senate

WASHINGTON, DC 20510

March 28, 2019

The Honorable Sonny Perdue  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, DC 20250

Dear Secretary Perdue:

We write to raise serious concerns about the Administration's recent proposed rule "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults without Dependents" (84 FR 980). Despite the Department's intent that this rule would "improve employment outcomes and economic independence," the proposed changes would take food assistance away from Americans struggling to find stable employment while doing nothing to help them to actually become permanently employed. This is contrary to Congressional intent, evidenced by the passage of the Agriculture Improvement Act of 2018 (P.L. 115-334), which rejected similar harmful changes to SNAP and passed Congress by a historic vote of 87-13 in the Senate and by 369-47 in the House of Representatives.

SNAP already has strict time limits that restrict access to food assistance to three months out of every three years for most working-aged adults. Acknowledging the strictness of these policies and understanding the unique needs of our states and our constituents, Congress sought to mitigate the impact by providing states discretion to request waivers of the time limit and to utilize monthly exemptions based on local workforce circumstances. Every state in the country but Delaware has utilized waivers when local conditions warranted. While the use of time limit waivers peaked for many states during the great recession, the percentage of the population eligible for waivers of time limits has dropped to pre-recession levels, resulting in many SNAP recipients losing access to food assistance under current rules. There is no evidence, however, that the re-imposition of the time limit in these areas has resulted in these individuals achieving self-sufficiency through new employment opportunities.

Since the waiver process was formally adopted during the George W. Bush Administration, efforts to modify waiver criteria have always originated in—and been rejected by—Congress, instead of through executive action. Most recently, Congress considered and chose to reject attempts to limit flexibility for states to request waivers for time limits in SNAP during both the 2014 and 2018 Farm Bills. Instead, Congress has focused on improving employment and training activities through innovative pilots, workforce partnerships, and state-based employment and training initiatives that strengthen an individual's ability to secure stable, long-term employment. These efforts recognize that many individuals face substantial barriers to employment that an arbitrary time limit or unemployment floor do nothing to address.

Noting that some states and regions experience a normal or near-normal unemployment rate, the proposed rule assumes that an average unemployment rate means every person seeking a job will be able to find one, and that wages from such employment would sustain a family. However, rates of unemployment for individuals without a high school diploma or a GED and individuals in the service sector are often as much as double the average rates of unemployment in a community. For example, in 2018, while the unemployment rate for workers with a bachelor's degree or more was 2.1 percent, the unemployment rate for those with less than a high school education was 5.6 percent, and 10.4 percent for African-American workers with less than a high school education.<sup>1</sup> In addition, in some areas with insufficient jobs, a declining unemployment rate may not only imply that more Americans have gotten jobs, but also that some Americans may be leaving the labor force.

Many rural areas have had slow employment growth since the end of the great recession, and the gap between employment rates in rural and urban areas has widened. In some rural and frontier regions, unemployment remains in the double digits. The economic, transportation, geographic, and other challenges that contribute to high unemployment rates in some large regions of our country are unlikely to change. It is unlikely, for example, that significant employment opportunities will come to regions that have very small populations, are unconnected by roads, and experience high energy costs.

Due to persistent discrimination in hiring practices, certain protected classes are also likely to be disparately impacted by this proposal, a fact that the proposed rule acknowledged, but did not resolve. For example, field studies have consistently shown that white applicants receive more callbacks for job interviews than otherwise identical applications from African-American or Latino applicants.<sup>2</sup> Assuming generalized employment figures are representative of the ABAWD population targeted by this rule ignores the employment realities that many of these individuals face. Early analysis also indicates that the proposed rule would have a disparate negative impact on American Indian and Alaska Native populations living in rural areas of the nation.

The proposed rule also is based on a faulty assumption that individuals that are receiving SNAP are choosing not to work. In fact, most SNAP participants are working. Many individuals that would lose access to food assistance because of this rule are employed, but have inconsistent hours or work in seasonal industries such as fishing and construction. The proposed rule asserts that 74% of ABAWDs are not working. That statistic is misleading and does not correctly represent the work status of most SNAP recipients. Recent studies show that less than 2% of participants aged 18-49 are consistently working less than 20 hours a week, and less than 2% are always unemployed. Instead, the majority of these individuals fluctuated over a two-year period between working at least 20 hours a week in a given month, to falling short of a consistent 20 hours per work week.<sup>3</sup> Even those individuals who successfully meet the work requirement may lose their food assistance if they fail to correctly document their hours or submit required

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<sup>1</sup> <https://www.bls.gov/cps/cpsaat07.htm>

<sup>2</sup> Quillian, L., Pager, D., Hexel, O., & Midtboen, A. H. (2017, September). Meta-analysis of field experiments shows no change in racial discrimination in hiring over time. *Proceedings of the National Academy of Sciences of the United States of America*. <https://www.pnas.org/content/early/2017/09/11/1706255114>.

<sup>3</sup> Bauer, L., Schanzenbach, D. W., & Shambaugh, J. (2018, October). Work Requirements and Safety Net Programs. *The Hamilton Project*. [http://www.hamiltonproject.org/assets/files/WorkRequirements\\_EA\\_web\\_1010\\_2.pdf](http://www.hamiltonproject.org/assets/files/WorkRequirements_EA_web_1010_2.pdf).

paperwork. Asserting individuals facing inconsistent or unstable work circumstances are not seeking self-sufficiency does a disservice to our shared goals of helping American families to find consistent, stable employment that allows them to feed their families.

The proposed rule also wrongly assumes that those who are not qualified for work available in their community, region, state, or elsewhere in the nation can easily obtain job training. In rural and frontier areas, job training is not available. In most cases, job training opportunities located in urban areas cannot absorb additional trainees. In addition, Congress has asked state and local Workforce Investment Boards to more closely align job training with actual job opportunities because it makes no sense to train someone for a job that does not exist.

We are also concerned about the impact these changes would have on state agencies. The proposed rule would require additional oversight of and paperwork from an expanded number of people not currently subject to work requirements. If finalized, states would be compelled to hire and train many additional caseworkers and in states with rural and remote regions, spend even more to provide on-the-ground oversight to ensure claimed work requirements were met.

Establishing an arbitrary unemployment floor would have a dramatic impact on participation. According to the proposed rule's estimates, establishing a 7% unemployment rate floor for waivers would affect 1.1 million SNAP participants, with nearly three-quarters of those participants, over 755,000 people, losing access to food assistance. This estimate is likely low as it is based on economic growth rates that are not feasible. This only clearly demonstrates that this proposed rule is not designed to help individuals gain stable employment. Instead, the outcome is simply more hunger.

In addition to being out of line with Congressional intent related to waivers, this rule also directly contradicts Congressional direction related to waiver submissions and carry-over exemptions included in the 2018 Farm Bill report. This report, written by Chairman Pat Roberts, Ranking Member Debbie Stabenow, Chairman Mike Conaway and Ranking Member Collin Peterson and approved by the 369 members of the House and 87 members of the Senate, explicitly directs the Department not to make the changes made in this rule. This unilateral Administrative action is in direct contradiction to the will of Congress.

The Agriculture Improvement Act of 2018 Conference Report (H. Rept. 115-1072) specifically states that it was the intent of Congress that states will "continue to accrue exemptions and retain carryover exemptions from previous years, consistent with current law." The proposed rule's elimination of unlimited carry-over exemptions blatantly disregards this direction from Congress.

Further, the Conference Report states that "The Managers intend to maintain the practice that bestows authority on the state agency responsible for administering SNAP to determine when and how waiver requests for ABAWDs are submitted.....It is not the Managers' intent that USDA undertake any new rulemaking in order to facilitate support for requests from State agencies, nor should the language result in any additional paperwork of administrative steps under the waiver process." Congress was clear that we do not wish to establish any new requirements regarding state agency waiver submissions.



Congress recognizes that one-size-fits-all rules for SNAP and employment practices actually end up fitting no one. While this Administration has promoted local control in many other sectors of federal policy, this proposed rule removes critical local input and flexibility.

This proposal ignores the intent of Congress, would worsen hunger in this country, and would do nothing to help increase stable, long-term employment or move individuals to self-sufficiency. We urge you to immediately withdraw this proposed rule.

Sincerely,



Debbie Stabenow  
U.S. Senator



Lisa Murkowski  
U.S. Senator



Robert P. Casey, Jr.  
U.S. Senator



Susan M. Collins  
U.S. Senator



Doug Jones  
U.S. Senator



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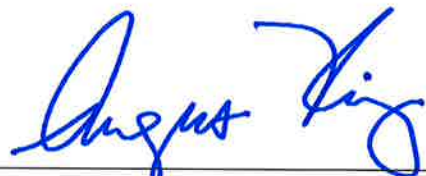
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Kirsten E. Gillibrand  
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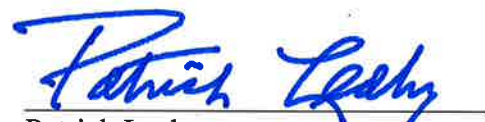
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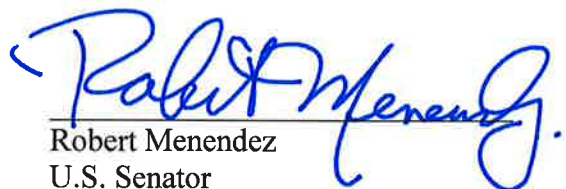
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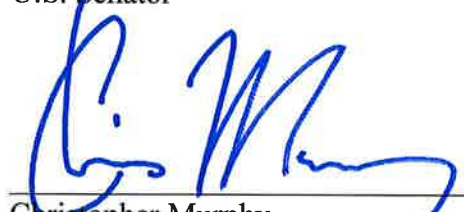
  
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Robert Menendez  
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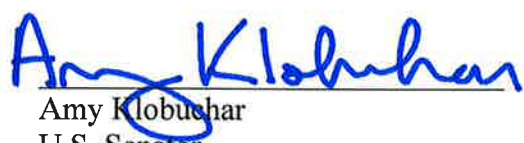
  
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Margaret Wood Hassan  
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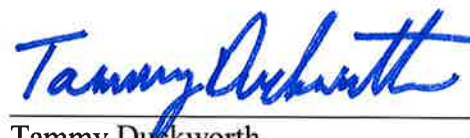
  
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Mark R. Warner  
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Jeanne Shaheen  
U.S. Senator

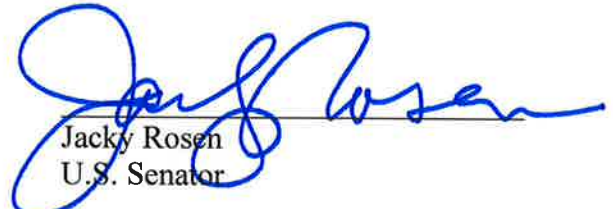
  
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Tammy Duckworth  
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Catherine Cortez Masto  
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Michael F. Bennet  
U.S. Senator

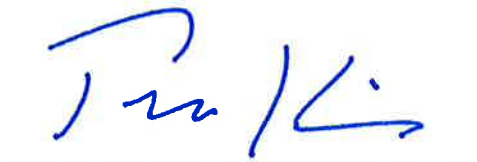
  
Mazie Hirono  
U.S. Senator

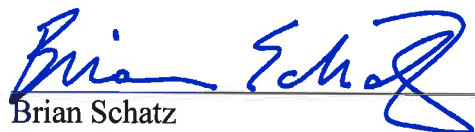
  
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Benjamin L. Cardin  
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Joe Manchin III  
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## NATIONAL CONFERENCE *of* STATE LEGISLATURES

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### SNAP Work Requirements Fact Sheet

As Congress debates reauthorization of the Agriculture and Nutrition Act of 2018, commonly referred to as the “farm bill,” some proposals are calling for stricter work requirements for the Supplemental Nutrition Assistance Program (SNAP). This fact sheet reviews what the federal SNAP program already requires, proposed changes, and current SNAP work requirements by state.

#### Federal Legislation on SNAP Work Requirements

Current federal law states that adults ages 18-59 receiving SNAP benefits are [required to work](#) part-time or agree to accept a job if offered one. Stricter rules apply to able-bodied adults without dependents (ABAWDs) that are 18-49, who are subject to a three-month limit of benefits in three years unless they meet a work requirement of 80 hours per month.

The federal regulatory minimum requires that ABAWDs between the ages of 18 and 49:

- Register for work.
- Participate in an employment and training (E&T) or workforce program, if assigned.
- Refrain from voluntarily quitting a job or reducing hours below 30 hours a week.

Failure to meet these requirements results in disqualification from SNAP for one month for the first instance, three months for the second, and six months for the third.

#### **What is the Farm Bill?**

The farm bill is the primary legislation passed by Congress every five years to address agriculture and nutrition programs at the federal level. This bill encompasses farm commodity supports, conservation, farm credit, trade, research, rural development, bioenergy, foreign food aid, and domestic nutrition assistance.

The Supplemental Nutrition Assistance Program (SNAP) accounts for 80 percent of farm bill spending. SNAP is the largest and most effective safety net for Americans facing financial instability and hardship. SNAP feeds about [42 million](#) Americans annually, at an average cost of [\\$1.86 per meal](#).

The last farm bill passed in 2014 and is set to expire on Sept. 30, 2018.

The debate over this year's farm bill ([H.R. 2](#)) centered on changes to SNAP, which accounts for 80 percent of farm bill spending. Under the 2018 farm bill, SNAP work requirements would be expanded to all adults capable of work, mandating that they either work or participate in work training for 20 hours per week. Seniors, pregnant women, caretakers of children younger than 6, and people with disabilities would remain exempt.

The 2018 farm bill also expands federal grants to states for SNAP E&T programs, increasing the budget from \$90 million to \$1 billion per year by 2021. This funding would target roughly 3 million ABAWDs, providing \$333 per person, per year for employment and training.

Proponents of the bill say SNAP recipients should work toward economic self-sufficiency, while opponents say adding work requirements doesn't address the fact that jobs are not available. On April 18, the 2018 farm bill was passed along party line votes in the House Agriculture Committee, with every Democrat on the committee opposed to the changes that added work requirements to SNAP. It must next get sufficient votes in the House of Representatives before moving to the Senate.

### **State Legislation on SNAP Work Requirements**

States can seek [SNAP work requirement waivers](#) from the U. S. Department of Agriculture (USDA) to temporarily suspend the three-month limit for individuals in areas with insufficient jobs. At some point since the [time limit's enactment in 1996](#), every state [except Delaware](#) has sought a waiver.

In addition, states may exempt up to [15 percent](#) of their SNAP caseload that is ineligible for benefits because of the time limit, extending eligibility to one ABAWD for one month.

The 2014 farm bill established [E&T pilot projects](#) to test new strategies and determine the most effective means of helping SNAP recipients gain and retain employment that leads to self-sufficiency. These pilot projects were implemented in 10 states, starting in 2016. Each pilot project must undergo an evaluation process that has yet to be completed.

In 2018 state legislative sessions so far, two states enacted legislation related to SNAP work requirements:

- West Virginia enacted legislation that will rescind SNAP work requirement waivers for all counties in 2020.
- Wisconsin enacted legislation that requires all ABAWDs to participate in the state's E&T program at the federal maximum: 120 hours per month.

An additional six states—Illinois, Iowa, Minnesota, Missouri, Oklahoma, and Louisiana—introduced legislation that would, in some form, eliminate SNAP work requirement waivers.

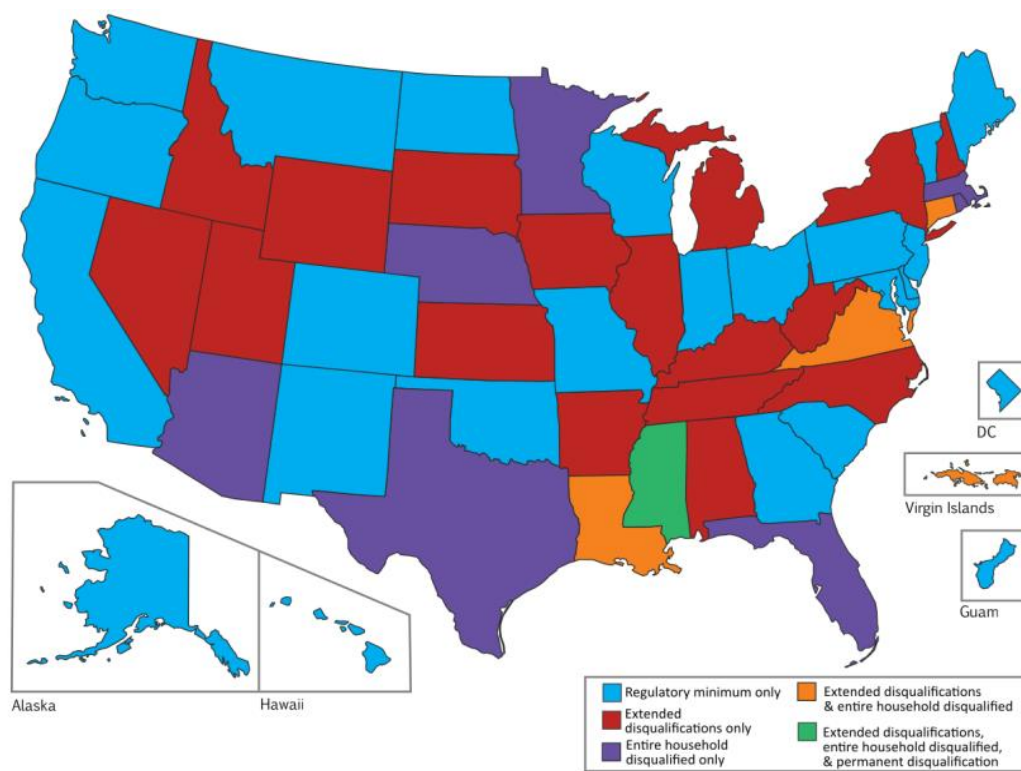
States also introduced legislation that would bring stricter governance to the work element of the SNAP program:

- Illinois introduced legislation that would require SNAP applicants to submit a plan for achieving employment and self-sufficiency to receive benefits.
- Michigan introduced legislation that, in addition to work requirements, would require a high school diploma or general education development (GED) equivalency to receive SNAP benefits.
- Missouri introduced legislation that would increase the disqualification periods for SNAP beneficiaries who fail to comply with work requirements.

### Current SNAP Work Requirements by State

While a majority of states follow the federal minimum disqualification periods (one month for the first instance, three months for the second, and six months for the third), a number of states limit SNAP benefits through extending their disqualification periods or otherwise adding harsher sanctions:

- DC, Guam and 22 states follow the federal regulatory minimum.
- Seventeen states have extended disqualification periods.
- Six states disqualify the entire family if the head of household fails to comply.
- Four states have both extended disqualification periods and disqualify the entire family.
- One state, Mississippi, has extended disqualification periods, disqualifies the entire family, and permanently disqualifies the recipient after the third noncompliance.



Map courtesy of the USDA FNS State Options Report, 2017.



States where beneficiaries are disqualified from SNAP benefits at the federal regulatory minimum:

Alaska	Indiana	Ohio
California	Maine	Oklahoma
Colorado	Maryland	Oregon
DC	Missouri	Pennsylvania
Delaware	Montana	South Carolina
Georgia	New Jersey	Vermont
Guam	New Mexico	Washington
Hawaii	North Dakota	Wisconsin

States with extended disqualification periods:

Alabama	Kentucky	South Dakota
Arkansas	Michigan	Tennessee
Idaho	Nevada	Utah
Illinois	New Hampshire	West Virginia
Iowa	New York	Wyoming
Kansas	North Carolina	

States with sanctions for the entire household if the head of household fails to comply:

Arizona  
Florida  
Massachusetts  
Minnesota  
Nebraska  
Rhode Island

States with extended disqualification periods and sanctions for the entire household if the head of household fails to comply:

Connecticut  
Louisiana  
Virginia  
Virgin Islands

States with extended disqualification, permanent disqualification, and entire household sanctions.  
After the third noncompliance, disqualification from SNAP is permanent:

Mississippi

## 2018 State Legislation Regarding Work Requirements

### Enacted

West Virginia	By October 2020, rescinds the state's ability to issue SNAP work requirement waivers. Until October 2020, the waiver remains in effect for counties that have a recent year average unemployment rate above 10 percent or a recent two-year average unemployment rate 20 percent above the national average; qualify for extended unemployment benefits; or are designated as a "labor surplus areas" ( <a href="#">HB4001</a> , enacted March 27, 2018).
Wisconsin	<p>Requires all ABAWDs to participate in the FoodShare employment and training program, with exceptions (<a href="#">AB2</a>, enacted on April 10, 2018).</p> <p>Requires that all ABAWDs participate in the FoodShare employment and training program at the federal maximum: 120 hours per month (<a href="#">AB1</a>, enacted April 10, 2018).</p>

### Introduced

Illinois	<p>Require all SNAP applicants and recipients to submit a personal plan for achieving employment and self-sufficiency when applying for or renewing benefits (<a href="#">HB5035</a>, pending).</p> <p>Require that the state not seek, renew, or extend any federal waiver of the 3-month time limit or work requirements for ABAWDs who apply for or receive SNAP benefits (<a href="#">HB5036</a>, pending).</p>
Iowa	Require that the state not seek, apply for, accept, or renew any waiver of SNAP work requirements and enforces SNAP E&T programs ( <a href="#">SF2370</a> , pending).
Michigan	Require, in addition to federal work requirements, a high school diploma or general education development (GED) equivalency to receive SNAP benefits ( <a href="#">HB5589</a> , pending).
Minnesota	Require a review of unemployment data for all regions of the state in which a SNAP waiver is in effect and terminate waivers in regions that no longer meet the waiver requirements ( <a href="#">HB3612</a> , pending).

Missouri	<p>Eliminate the SNAP work requirement waiver and require the state to assign individuals receiving SNAP benefits to a work program (<a href="#">HB1846</a>, pending).</p> <p>Increase the disqualification periods if a SNAP beneficiary fails to comply with work requirements. The disqualification periods would change from one to three months for the first instance, three to six months for the second, and six months to two years for the third (<a href="#">HB1486</a>, pending).</p>
New Jersey	<p>Require the state to exempt veterans from the ABAWD benefits time limit (<a href="#">AB1276</a>; <a href="#">SB14</a>, pending).</p> <p>Require the state to pledge to ensure availability of job training or similar activities to certain SNAP recipients to prevent loss of benefits (<a href="#">AB3205</a>, pending).</p>
Oklahoma	<p>Require the state not seek, apply for, accept, or renew any SNAP work requirement waivers (<a href="#">HB3677</a>, pending).</p>
Louisiana	<p>Require legislative approval of any waiver of SNAP work requirements for ABAWDs and require nonexempt SNAP beneficiaries to participate in E&amp;T programs (<a href="#">HB128</a>, pending).</p>

Written by Rosa Rada, [Bill Emerson National Hunger Fellow](#) for the NCSL Hunger Partnership, May 2018. For more information, visit the [Hunger and Nutrition homepage](#) or contact Ann Morse, NCSL Hunger Partnership director.

# ANCHORAGE DAILY NEWS

Alaska News

## Dunleavy administration seeks to tighten work requirements for some food stamp recipients

✍ Author: Annie Zak ⓘ Updated: August 12, 2019 📅 Published August 11, 2019



(Tribune Content Agency)

Gov. Mike Dunleavy's administration is seeking to tighten rules about how much some low-income adults who receive federal food assistance in Alaska must work in order to receive such benefits, a spokesman for the governor said.

The change would implement a set of federal work requirements for recipients of Supplemental Nutrition Assistance Program benefits, also called food stamps, in a state that has long had a waiver from those rules.

The administration wants to make the change in order “to comply with the spirit and intent” of federal rules, said Dunleavy spokesman Matt Shuckerow.

“SNAP is a program that is a safety net for people in their time of need, but also is a program that is clearly about encouraging participation in the workforce and self-sufficiency,” he said.

The move has raised concern from the Food Bank of Alaska, which said the change will further impact food insecurity at a time when assistance services are already strained in the wake of Dunleavy’s recent vetoes to the state’s budget.

Alaska for years has had a statewide waiver that allows SNAP recipients to be exempt from federal requirements over how much able-bodied adults without dependents have to work or participate in an employment program to get that assistance. The federal government allows states to request that exception if all or parts of a state have an unemployment rate over 10% or if there aren’t enough jobs available, which is an issue in rural Alaska.

Without the waiver, adults ages 18 to 49 who fall into that category have to participate in employment, work training or an approved volunteer position at least 20 hours a week to get food stamps. If they don’t fulfill those work requirements, without the waiver, they are subject to a three-month limit of the benefits over three years.

The state has requested that the waiver be amended for areas of Alaska where the unemployment rate is lower than 10%. Able-bodied adults without dependents and in that age group would no longer be exempt from the work requirements in such areas come Oct. 1, Shuckerow said.

Those areas, encompassing much of the state’s population, include Anchorage, Matanuska-Susitna Borough, Kenai Peninsula Borough, Fairbanks North Star Borough, Juneau, Ketchikan Gateway Borough, Aleutians East Borough, Aleutians West Borough, Anchorage, Dillingham Census Area, Kodiak Island Borough, North Slope Borough, and Sitka, Shuckerow said in an email.

In Alaska, as many as 6,917 current food stamp recipients — about 7.9% of total SNAP recipients in the state — would have to meet the work requirements starting in October, Shuckerow said. About 9,745 Alaskans currently benefit from the waiver, according to the Food Bank of Alaska.

*[Providers say low-income children, families in Alaska will bear disproportionate weight of Dunleavy budget vetoes]*

“Given the variety of allowable work related activities, the department is not anticipating a large number of individuals will lose eligibility,” Shuckerow said via email.

Food Bank of Alaska representatives are concerned for people who use SNAP in communities where jobs are more scarce and they may not be able to fulfill work requirements.

“The waiver provides our state with an important tool to protect vulnerable citizens, and to ease the burden of administering this complicated rule in a state with unique challenges,” the food bank said in a written statement.

Revising the waiver would likely be another hit to populations that are impacted by Dunleavy’s budget cuts to other services, said Food Bank of Alaska spokeswoman Cara Durr.

“I think a lot of the same people that are going to be affected by the governor’s vetoes, homelessness and things like that, will also be affected by this,” she said. “It’s kind of compounding.”



In his vetoes to the state operating budget, Dunleavy has cut funding to other forms of assistance, such as homeless services and Medicaid. He wants to balance the state budget without raising taxes or reducing the Permanent Fund dividend.

This SNAP change “is not being treated as a direct cost-saving measure,” Shuckerow said in a phone interview.

The federal government funds 100% of the SNAP program, and the state pays half the cost of operating the program here, according to the Alaska Department of Health and Social Services website. These time limit work requirement rules for SNAP have been in place since 1996.

As of June, Alaska had 87,686 recipients of SNAP, which is administered by the U.S. Department of Agriculture.

Alaska has had the statewide waiver largely since 2004, and before that year had partial waivers in various parts of the state, according to the Food Bank of Alaska.

The state has submitted its request to the USDA’s Food and Nutrition Service, and anticipates a response from the agency within the next several weeks, Shuckerow said.

A similar change has also been introduced at the federal level. The USDA proposed a new rule that would “encourage broader application” of the work requirements. A comment period for that proposed rule ended in April, and it is now in the final stage of the rule-making process, according to the federal Office of Information and Regulatory Affairs website.

In March, Alaska Republican Sen. Lisa Murkowski co-led a charge with other lawmakers urging Secretary of Agriculture Sonny Perdue to withdraw that proposal.

“The proposed changes would take food assistance away from Americans struggling to find stable employment while doing nothing to help them to actually become permanently employed,” said a letter signed by Murkowski and more than 40 other senators.

#### **About this Author**

#### **Annie Zak**

Annie Zak was a business reporter for the ADN between 2015 and 2019.

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**Attorneys General of the District of Columbia, California, Connecticut,  
Guam, Hawaii, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan,  
Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon,  
Pennsylvania, Rhode Island, Vermont, and Washington**

April 2, 2019

**Via Federal eRulemaking Portal**

Certification Policy Branch  
Program Development Division  
Food & Nutrition Service  
3101 Park Center Drive  
Alexandria, Virginia 22302

Re: *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied  
Adults Without Dependents*, Notice of Proposed Rulemaking, 84 Fed. Reg. 980,  
FNS–2018–0004

We, the Attorneys General of the District of Columbia, California, Connecticut, Guam, Hawaii, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington (the “States”) submit these comments to oppose the Department of Agriculture’s Food & Nutrition Service (“FNS”) Proposed Rule: *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents*, Notice of Proposed Rulemaking, 84 Fed. Reg. 980, FNS–2018–0004 (published Feb. 1, 2019) (to be codified at 7 C.F.R. pt. 273) (“Proposed Rule”).

The Proposed Rule is an impermissible attempt to use the rulemaking process to flout the legislative process and implement draconian changes to the Supplemental Nutrition Assistance Program (“SNAP”) for able-bodied adults without dependents (“ABAWDs”) that were rejected by Congress in the 2018 Farm Bill. Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat 4490 (2018). Furthermore, it is inconsistent with—and indeed undermines—the fundamental purpose of the Food & Nutrition Act (“FNA” or “Act”), which is to “alleviate hunger and malnutrition” and “permit [recipient] low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power.” 7 U.S.C. § 2011. Instead, the Proposed Rule restricts the ability of States to address local job availability and labor market nuances in administering the program, as the FNA provides, without offering any evidence to support such dramatic changes to long-standing policy.

The Proposed Rule would severely restrict the ability of States to extend SNAP benefits to unemployed ABAWDs for more than three months in a thirty-six-month period despite insufficient local job availability. As States responsible for ensuring the welfare of our residents, we have a deeper, more nuanced understanding of our labor markets, including conditions that

lead to increased unemployment at the local level. The Proposed Rule spurns this knowledge in favor of concentrating nearly the entirety of the waiver application process within the federal executive branch. It constrains the flexibility that States have long possessed in crafting waiver requests, including determining which geographic areas should be included in such requests and the relevant data offered in support thereof. In doing so, the Department of Agriculture (“the Department” or “USDA”) has completely disregarded the costs associated with restricting this flexibility.

The Proposed Rule cannot become final. First, it is wholly inconsistent with the text and intent of the FNA and narrows the application of the Act without any authority for doing so. Second, the Proposed Rule is unlawful and runs afoul of the Administrative Procedure Act (“APA”), as it is arbitrary, capricious, unsupported by any evidence or legitimate rationale, and fails to consider the costs associated with its implementation, including downstream harm to the States’ economies. Finally, the Proposed Rule would disproportionately impact protected groups, as the Department itself has acknowledged while failing to explain how it will mitigate this impact.

## **I. Background**

SNAP, formerly known as the Food Stamp Program (“FSP”),<sup>1</sup> is the country’s most significant anti-hunger program. SNAP provides crucial non-cash nutritional support for millions of low-income individuals and families who meet financial eligibility tests for limited monthly income and liquid assets. SNAP gives people with limited incomes the opportunity to access nutritious food that they otherwise would not have. The authorizing legislation states that the program is intended to “alleviate . . . hunger and malnutrition” by “permit[ing] low-income households to obtain a more nutritious diet through normal channels of trade.” 7 U.S.C. § 2011. To do this, SNAP provides benefits redeemable for SNAP-eligible foods at SNAP-eligible retailers.

SNAP is a federal-state partnership.<sup>2</sup> While the federal government pays the full cost of SNAP benefits, it shares the costs of administering the program on a 50-50 basis with the States<sup>3</sup> and local governments, which operate the program. Each State designs its own process—based on federal guidelines—for how low-income people can apply for benefits, and States must track whether participants meet the requirements for the program on a monthly basis and adjust their benefits accordingly.

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<sup>1</sup> The FSP was authorized by the Food Stamp Act of 1977. The name of the program was changed to SNAP by the Food Conservation, and Energy Act of 2008, Pub. L. No. 110-246, which also changed the name of the Food Stamp Act to the Food and Nutrition Act. All references to the program prior to 2008 will use the FSP title, while references to the program after the 2008 change will use the SNAP title.

<sup>2</sup> References to a “State” herein include all jurisdictions that operate SNAP programs under federal law, including the 50 states, the District of Columbia, Guam, and the Virgin Islands. 7 U.S.C. § 2012(r).

<sup>3</sup> 7 U.S.C. §§ 2013(a), 2019, 2025(a); 7 C.F.R. §§ 277.1(b), 277.4.

A. Introduction of a Time Limit for ABAWDs and the Ability of States to Request that the Time Limit be Waived

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”) introduced new restrictions on who was eligible for benefits under the FSP. Among these restrictions was a provision that generally barred unemployed adults age 18 to 49 who are not disabled or raising minor children from receiving SNAP benefits for more than three months in any thirty-six-month period (hereinafter referred to as the “ABAWD time limit” or “time limit”). 7 U.S.C. § 2015(o);<sup>4</sup> *see also* 7 C.F.R. § 273.24(b) (“Individuals are not eligible to participate in the Food Stamp Program . . . if the individual received food stamps for more than three countable months during any three-year period.”). These participants are eligible to receive benefits beyond the time limit if they engage in work activities for at least 20 hours a week.<sup>5</sup>

Built into PRWORA was the option for States to request a waiver from the time limit if the State or an area within the State has an unemployment rate above 10 percent<sup>6</sup> or does not have a sufficient number of jobs to provide employment for the individuals. 7 U.S.C. § 2015(o). When the time limit was being debated in Congress, then-congressman and co-author of the provision John Kasich said, “It is only if you are able-bodied, if you are childless, and if you live in an area where you are getting food stamps and there are jobs available, then it applies.”<sup>7</sup> According to guidance from the FNS, the law provided for waivers based on an insufficient number of jobs because the Congress recognized that “the unemployment rate alone is an imperfect measure of the employment prospects of individuals with little work history and diminished opportunities.”<sup>8</sup>

B. USDA Guidance and Regulations Regarding Waivers of the ABAWD Time Limit

After PRWORA was enacted, the USDA issued guidance to the States regarding requests for waivers.<sup>9</sup> From the beginning, USDA’s guidance on how a State can qualify for a waiver due

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<sup>4</sup> Also exempt from the time limit are individuals who are pregnant and those who are otherwise exempt from the general SNAP work requirements under section 6(d)(2) of the Act. 7 U.S.C. § 2015(o).

<sup>5</sup> To meet the work requirement, these individuals must (1) work a minimum of 20 hours a week or 80 hours a month, (2) participate in a qualifying state employment and training (“E&T”) program for 20 hours a week, or (3) do public service through a state workfare program—a program that provides work in a public service capacity in exchange for public benefits. 7 U.S.C. § 2015(o)(2). Individuals who lose eligibility under the ABAWD time limit could regain eligibility by working or participating in work programs for 80 hours in a 30-day period, or complying with a workfare program for 30 days. 7 C.F.R. § 273.24(d)(1)(i)-(iii).

<sup>6</sup> Waivers based on an unemployment rate above 10 percent can be based on a 12-month period, a 3-month period, or a seasonal unemployment rate. 7 C.F.R. § 273.24(f)(2)(ii).

<sup>7</sup> Cong. Record, 104th Congress, Welfare and Medicaid Reform Act of 1996 (House of Representatives – July 18, 1996), page H7905, <https://www.congress.gov/crec/1996/07/18/CREC-1996-07-18.pdf>.

<sup>8</sup> *See* U.S. Gen. Accounting Off., “Food Stamp Program: How States are Using Federal Waivers of the Work Requirement,” Report to the Chairman, Committee on the Budget, House of Representatives (Oct. 1999), at 4 (hereinafter “GAO Report”).

<sup>9</sup> *See* Michael Leachman & Charles Sheketoff, “Helping Rural Oregonians Avoid Hunger: Eliminating the Three Month Food Stamp Time Limit in 30 Oregon Counties,” Oregon Center for Public Policy (Feb. 23, 2000) at 2, <https://www.ocpp.org/2000/rpt20000223.pdf> (describing the December 3, 1996 USDA guidance to the States regarding waiver requests).

to a lack of “a sufficient number of jobs” has been the same:<sup>10</sup> States or area(s) within a State may qualify for a waiver of the ABAWD time limit if the State can demonstrate that:

- the area has been designated a Labor Surplus Area (“LSA”) for the current fiscal year by the Department of Labor (“DOL”);
- the DOL’s Department of Unemployment Insurance Service has qualified the State for extended unemployment benefits;
- the area has a low and declining employment-to-population ratio;
- the area has declining occupations or industries;
- the area is described in an academic study or other publication as an area where there are a lack of jobs; or
- the area has a 24-month average unemployment rate that is 20 percent above the national average for the same period (the 24-month period must begin no earlier than the date DOL uses to designate LSAs for the fiscal year) (“20 percent standard”).

States have always had some degree of flexibility in the data they can submit to support a waiver request.<sup>11</sup> Waivers are readily approvable when the waiver request is supported by unemployment data from the DOL Bureau of Labor Statistics (“BLS”) or evidence that the area has been designated as an LSA by DOL’s Employment and Training Administration (“ETA”).<sup>12</sup> But States can also submit other data to support their waiver requests. Recognizing that the lack of “sufficient jobs” can only be defined by reference to local labor market conditions, the Department has always allowed the States to define the areas to be covered by waivers based on data and analyses that correspond to the defined area.<sup>13</sup>

Because waiver requests based on data from the BLS or a BLS-cooperating agency or an ETA designation of an area as an LSA are readily approvable, States can begin implementing the waiver at the time that the waiver request is submitted.<sup>14</sup> The Department typically grants ABAWD time limit waivers for a 1-year period, but a State or area may qualify for a longer waiver if there are compelling reasons.<sup>15</sup>

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<sup>10</sup> See, e.g., *Food Stamp Program: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Notice of Proposed Rulemaking, 64 Fed. Reg. 70,920, 70,944-46 (Dec. 17, 1999) (noting that the proposed rule did not substantially change the policies expressed in the Department’s December 3, 1996 guidance regarding waivers); *Food Stamp Program: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Final Rule, 66 Fed. Reg. 4,438, 4,462 (Jan. 17, 2001) (incorporating the “most pertinent aspects of the [December 3, 1996] guidance into the regulation.”).

<sup>11</sup> 7 C.F.R. § 273.24(f)(2) (States “may submit whatever data it deems appropriate to support its request.”).

<sup>12</sup> 7 C.F.R. § 273.24(f)(3). For territories that the BLS does not study, FNS accepts unemployment data generated by a State cooperating agency that relies on BLS methods. But States have also been permitted to submit data from the Census Bureau and other sources to support their waiver requests.

<sup>13</sup> 7 C.F.R. § 273.24(f)(6).

<sup>14</sup> 7 C.F.R. § 273.24(f)(4).

<sup>15</sup> 7 C.F.R. § 273.24(f)(5).



States are not required to request a waiver of the ABAWD time limit, nor are they required to implement a waiver that has been granted by the Department. In the first year, 43 States applied for and received approval from FNS to waive some or all of the State from the ABAWD time limit.<sup>16</sup> Since PRWORA was enacted, several States that would have qualified for waivers did not request them,<sup>17</sup> and some States that requested waivers did not implement them.<sup>18</sup>

Under these rules, 6 States currently have statewide waivers, while 30 States have partial waivers for specific areas.<sup>19</sup> 17 States do not have any ABAWD time limit waivers. All States, with the exception of Delaware, have had waivers at some point since PRWORA was enacted.<sup>20</sup>

### C. Introduction of Exemptions from the Time Limit for ABAWDs

In addition to the abovementioned flexibility through waivers, in the Balanced Budget Act of 1997 (“BBA”), Pub. L. No. 105-33, Congress gave additional flexibility to the States to exempt up to “15-percent” of the State’s “covered individuals” from the ABAWD time limit.<sup>21</sup> The “15-percent” exemption rule is an imprecise name for a statutory allowance that States have to extend benefits for ABAWDs who do not reside in a waived area and would otherwise be ineligible for SNAP benefits because of the ABAWD time limit. The USDA allocates exemptions to the States based on 15 percent of the estimated ABAWD population who would otherwise be ineligible for benefits.<sup>22</sup> Under the statute, States can use one exemption to provide one additional month of SNAP benefits to an individual ABAWD who would otherwise be ineligible for SNAP benefits because of the time limit.<sup>23</sup>

In addition, the statute provides that the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency to the extent that the average monthly number of exemptions used in the State for the preceding fiscal year is different than the average monthly number of exemptions estimated for the preceding fiscal year.<sup>24</sup> Therefore, if a State does not use its allocated exemptions by the end of the fiscal year, the State may carry over the balance. If more exemptions are used than authorized in a fiscal year, the State’s allocation for the next year will be reduced.

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<sup>16</sup> Vivian Gabor & Christopher Botsko, “State Food Stamp Policy Choices Under Welfare Reform: Findings of 1997 50-State Survey,” (May 1998) at 12.

<sup>17</sup> GAO Report, supra n. 8 at 6, 8-9.

<sup>18</sup> Gabor & Botsko, supra n.16 at 12 (noting that 7 of the 43 States that had approved waivers did not apply the waiver in some or all of their approved local jurisdictions); GAO Report, supra n. 8 at 9.

<sup>19</sup> U.S. Dep’t of Agric., *Supplemental Nutrition Assistance Program (SNAP): Status of Able Bodied Adult Without Dependents (ABAWD) Time Limit Waivers – Fiscal Year 2019 – 2<sup>nd</sup> Quarter* (Mar. 13, 2019), <https://fns-prod.azureedge.net/sites/default/files/snap/FY19-Quarter2-ABAWD-Waiver-Status.pdf>.

<sup>20</sup> Ed Bolen & Stacy Dean, “Waivers Add Key State Flexibility to SNAP’s Three-Month Time Limit,” Center on Budget & Policy Priorities (2017), <https://www.cbpp.org/research/food-assistance/waivers-add-key-state-flexibility-to-snaps-three-month-time-limit>.

<sup>21</sup> “Covered individuals” are those ABAWDs who are not excepted, covered by a waiver, complying with the work requirement, or in their first or second three months of eligibility. 7 U.S.C. § 2015(o)(6)(A)(ii).

<sup>22</sup> See 7 U.S.C. § 2015(o)(6).

<sup>23</sup> *Id.*

<sup>24</sup> 7 U.S.C. § 2015(o)(6)(G)

While the USDA determines the total number of exemptions a State can provide in a given year based on the Department's own formula, States have "maximum flexibility to apply the exemptions as they deem appropriate."<sup>25</sup>

#### D. The 2014 Farm Bill and the Examination of the Effectiveness of Work Requirements

The work requirements for SNAP benefits have been the subject of long-running debates,<sup>26</sup> but there is no research evidence that simply setting work requirements, and specifically the requirements for ABAWDs, are effective at helping individuals gain employment, increase their incomes, reduce their dependence on SNAP benefits, and move people out of poverty.<sup>27</sup> Indeed, there is very little research available about how to help ABAWDs subject to the time limit attain self-sufficiency.<sup>28</sup> The lack of research evidence on the effectiveness of work requirements for SNAP benefits spurred Congress to authorize funding to study the matter. In the Agricultural Act of 2014 ("2014 Farm Bill"), Pub. L. No. 113-79, Congress authorized \$200 million in funding to the USDA for three-year employment & training ("E&T") pilot projects in ten States to rigorously evaluate new approaches to move SNAP participants into work or higher paying jobs. In March 2015, the USDA awarded grants to California, Delaware, Georgia, Illinois, Kansas, Kentucky, Mississippi, Vermont, Virginia, and Washington. These pilots were fully operational beginning in Fiscal Year ("FY") 2017. The pilot projects will be evaluated, but research findings are not yet available. A final report is due to Congress in 2021.<sup>29</sup>

#### E. Executive Order Directing USDA to Examine Waivers

On April 10, 2018, President Trump signed an Executive Order ("EO") on Reducing Poverty in America by Promoting Opportunity and Economic Mobility. Exec. Order No. 13,828, 83 Fed. Reg. 15,941 (Apr. 10, 2018). The EO outlines guiding principles for public assistance programs that primarily focus on enforcing work requirements. The EO directed the USDA and other federal agencies to review their public assistance programs and determine whether (i) implementing or enforcing work requirements and (ii) existing waivers are consistent with federal laws and the principles outlined in the executive order. *Id.* § 3.

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<sup>25</sup> U.S. Dep't of Agric., Food & Nutrition Serv., "Guide to Serving ABAWDs Subject to Time-limited Participation," at 8 (2015).

<sup>26</sup> See, e.g., Cong. Research Serv., "SNAP and Related Nutrition Provisions of the 2014 Farm Bill (P.L. 13-79)," R43332 (Apr. 24, 2014) at 9 (noting that "policy makers debated whether to require more SNAP participants to be working in addition to or instead of receiving food assistance."), 12-13 (noting that the House proposed to repeal the USDA's authority to grant area waivers from the ABAWD time limit based on local labor market conditions, but the change was not enacted in the 2014 Farm Bill).

<sup>27</sup> See Cong. Research Serv., "Research Evidence on the Impact of Work Requirements in Need-Tested Programs," R45317 at 1 (Sept. 20, 2018) ("As Congress debates work requirements in SNAP, . . . there is no large accumulated research base to draw from.").

<sup>28</sup> See Steven Carlson et al., "Who Are the Low-Income Childless Adults Facing the Loss of SNAP in 2016?" Center on Budget and Policy Priorities (Feb. 8, 2016), at 1, <https://www.cbpp.org/research/food-assistance/who-are-the-low-income-childless-adults-facing-the-loss-of-snap-in-2016> ("the research is surprisingly limited").

<sup>29</sup> See U.S. Dep't of Agric., *Evaluation of SNAP Employment and Training Pilots: Fiscal Year 2017 Annual Report to Congress* at 34.

The EO also emphasized the need “to empower State, local, and tribal governments and private-sector entities to effectively administer and manage public assistance programs.” *Id.* § 2(d). The EO noted that “Federal policies should allow local entities to develop and implement programs and strategies that are best for their respective communities.” *Id.*

F. Congress Rejects Stricter Requirements for Waivers and Exemptions in the Agriculture Improvement Act of 2018

The 115<sup>th</sup> Congress considered limiting the ability of States to request waivers and use exemptions in the 2018 Farm Bill. The version of the bill that passed the House would have eliminated the statutory language regarding a lack of “sufficient number of jobs,” and replaced it with a much stricter version of the USDA’s rule regarding waivers. H.R. 2 retained the ability of States to request waivers if an area is designated as an LSA by DOL’s ETA, but would not permit waivers based the 20 percent standard unless the area’s unemployment rate was at least 7 percent.<sup>30</sup> The House version of the bill also would have limited the data on which States can rely in their waiver requests, and would have permitted State agencies to request waivers only with the approval of the chief executive officer of the State. It also would have limited the ability of States to combine individual jurisdictions in a waiver request unless the jurisdictions were designated as a Labor Market Area (“LMA”) by DOL. Finally, it made changes to the “15-percent” exemption criteria, did not permit carryover exemptions, and decreased the number of exemptions starting in FY 2026.

The Senate version of the bill did not make any changes to the work requirements but consolidated the ABAWD work requirement into the general work requirements of the law.<sup>31</sup> The Senate version did not make any changes to the waiver or exemption provisions. It did provide additional funding for additional pilot projects to study how to assist individuals with significant barriers to employment.

Faced with these conflicting bills, the Conference Committee retained the general work requirements and ABAWD work requirements from the prior law, struck the House’s modifications to the criteria that States may use to request a geographic waiver of the ABAWD time limit, and struck the changes to the “15-percent” exemption criteria. The Conference adopted language that specified that a State’s waiver request have the support of the State’s chief executive officer and decreased the “15-percent” exemption to 12 percent starting in FY 2020. The Conference also increased funding for E&T, including by allowing funds to be reallocated to fund pilot projects “that have the most demonstrable impact on the ability of participants to find and retain employment,” with a particular focus on individuals who have significant barriers to employment. *Id.*

President Trump signed the Agriculture Improvement Act of 2018 on December 20, 2018, as Pub. L. No. 115-334.

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<sup>30</sup> The version of the bill that was introduced in the House set the unemployment floor at 6 percent, but the version that passed the House in mid-2018 raised the unemployment floor rate to 7 percent.

<sup>31</sup> S. 3042, 115th Cong. § 4103 (as reported by S. Comm. on Agric., Nutrition, & Forestry, June 18, 2018).

### G. The Proposed Rule

On the same day that President Trump signed the 2018 Farm Bill, and at the direction of President Trump, the Secretary of Agriculture announced a proposed rule “intended to move more able-bodied recipients of [SNAP] benefits to self-sufficiency through the dignity of work.”<sup>32</sup> Rather than creating a program that would actually help ABAWDs overcome barriers and gain stable employment, the Proposed Rule would simply impose many of the features of the House version of the 2018 Farm Bill that were rejected by the Conference and that did not pass Congress. The Proposed Rule in fact goes even further than the House version of the bill did.

The proposed rule substantially limits the ability of States to request waivers of the ABAWD time limit by:

- Setting an unemployment rate floor for States that seek waivers because an area’s unemployment rate is 20 percent or more above the national average. Under the Proposed Rule, a State or portion thereof would not be eligible for a waiver under the 20 percent standard unless the unemployment rate is 7 percent or more, 84 Fed. Reg. 983-84;<sup>33</sup>
- Eliminating the ability of a State to qualify for a waiver if it is designated as a Labor Surplus Area by DOL’s ETA, 84 Fed. Reg. 987;
- Limiting the availability of statewide waivers if there is data available from the Bureau of Labor Statistics at the substate level, 84 Fed. Reg. 985;
- Restricting States from combining data to group substate areas unless the areas are considered a Labor Market Area by DOL, 84 Fed. Reg. 985-86;
- Limiting the data on which States can rely for their waiver requests, requiring States to rely on data from BLS or BLS-cooperating agencies, 84 Fed. Reg. 986-87;
- Eliminating “a historical seasonal unemployment rate over 10 percent,” as a basis for a waiver, 84 Fed. Reg. 987;
- Limiting the duration of waiver approval to *up to* one year, but no longer than one year, 84 Fed. Reg. 986;
- Eliminating the ability of States to carry exemptions over from year to year, 84 Fed. Reg. 987-99;
- Requiring the “endorsement” of the Governor, 84 Fed. Reg. 983; and
- Prohibiting States from implementing waivers prior to receiving approval from FNS, 84 Fed. Reg. 987.

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<sup>32</sup> Press Release, “USDA to Restore Original Intent of SNAP: A Second Chance, Not A Way of Life,” U.S. Dep’t of Agriculture (Dec. 20, 2018), <https://www.fns.usda.gov/pressrelease/2018/027718>.

<sup>33</sup> The USDA actually requests public comment on whether 7 percent or another rate floor – 6 percent or 10 percent – would be appropriate, which is discussed *infra*.

## **II. The Proposed Rule Conflicts with the Purpose of the FNA and the Clear Intent of Congress.**

The Proposed Rule is contrary to the purpose of SNAP. In the FNA, Congress declared that its policy is “to safeguard the health and well-being of the Nation’s population by raising levels of nutrition among low-income households.” 7 U.S.C. § 2011. Yet, by the Department’s own calculations, under the Proposed Rule more than three-quarters of a million people will lose their ability to obtain an adequate level of nutrition in FY 2020 alone. 84 Fed. Reg. 989.

Moreover, the Proposed Rule is contrary to the clear intent of Congress when it passed the 2018 Farm Bill. In the drafting and negotiations process of the 2018 Farm Bill, the House of Representatives included language regarding waivers and exemptions almost identical to the language that the Department now proposes. Congress removed the provisions from the final legislation and passed the 2018 Farm Bill on December 20, 2018, without the new restrictions on waivers and exemptions. The Department announced the Proposed Rule the same day with language virtually identical to that stricken from the 2018 Farm Bill. While Congress explicitly chose not to strengthen work requirements for SNAP by ensuring that more ABAWDs are subject to the time limit, the Department states that this is the express goal of the Proposed Rule. 84 Fed. Reg. 985, 987. Indeed, the Department says that its “proposal aligns with the proposal in . . . H.R. 2, as passed by the House June 21, 2018,” while failing to acknowledge that the proposal in the House failed to pass Congress. 84 Fed. Reg. 984. By proposing this rule, the Department now seeks to make an end-run around the legislative process and implement requirements that Congress refused to adopt through legislation.

It is abundantly clear—from both its actions and its explicit statements—that Congress believed that congressional action would be required to accomplish the changes to SNAP waivers and exemptions that FNS seeks to make in the Proposed Rule. Congress refused to make these statutory changes and intended for SNAP waivers and exemptions to continue to operate as they have since they were introduced in the law more than 20 years ago. By attempting to amend the statute through rulemaking, the Department has clearly overstepped its authority.

### **A. Waivers**

In its draft of the 2018 Farm Bill, the House sought to remove a lack of “sufficient jobs” as a standard for waivers, including eliminating States’ ability to seek a waiver based on a showing of declining employment to population ratio or a lack of jobs in a declining industry. Instead, the House would have adopted the 20 percent standard with a 7 percent unemployment baseline.<sup>34</sup> The House also sought to virtually eliminate States’ ability to combine areas for purposes of waiver.<sup>35</sup> Congress intentionally excluded all of this language in its final 2018 Farm Bill.<sup>36</sup> Finally, the House also attempted to require the “approval” of the State’s chief executive officer before a State administering agency could request a waiver.<sup>37</sup>

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<sup>34</sup> H.R. 2 (115<sup>th</sup>) § 4015.

<sup>35</sup> H.R. 2 (115<sup>th</sup>) § 4015.

<sup>36</sup> Pub. L. No. 115-334 (2018).

<sup>37</sup> H.R. 2 (115<sup>th</sup>) § 4015.

By contrast, Congress in its final bill explicitly maintained the States’ discretion on ABAWD time limit waivers. It rejected using *any* unemployment floor for waiver requests based on an unemployment rate of 20 percent or more above the national unemployment rate. Moreover, in explaining their decision to make no changes to the waiver requirements by statute, the Conference Report stated that the conference managers from the House and Senate “intend to maintain the practice that bestows authority on the State agency responsible for administering SNAP to determine when and how waiver requests for ABAWDs are submitted.”<sup>38</sup> Congress thus intended to allow States to continue to use their discretion in what data to use and how to group regions together for the purposes of obtaining a waiver. Congress also rejected the requirement that a State agency’s waiver request have the “approval” of the State’s chief executive officer because Congress understood that the State agencies need to have the authority to respond to sudden changes in their local economies by seeking waivers. The Conference Committee added language to the statute to encourage communication between State agencies and their chief executive officers, but made clear that it was not Congress’s “intent that USDA undertake any new rulemaking in order to facilitate support for requests from State agencies, nor should the language result in additional paperwork or administrative steps under the waiver process.”<sup>39</sup>

But the Department adopts a 7 percent floor for waiver requests based on the 20 percent standard in the Proposed Rule—the same *exact* floor that was passed by the House but rejected by the Conference. And the Proposed Rule severely restricts when areas can be combined in a State’s waiver request—grouping of contiguous areas is not permitted under the Proposed Rule unless the areas are considered an LMA by DOL, ignoring the fact that LMAs are not limited to regions within a State, and can cross State lines.<sup>40</sup> The Department also expressly adopts new regulatory language requiring “the Governor’s endorsement,” 84 Fed. Reg. 983, 992, despite congressional direction that no such rulemaking was necessary to implement the new language in the law. Finally, the Proposed Rule goes further than even the House version of the 2018 Farm Bill in proposing to eliminate an area’s designation as an LSA by DOL’s ETA as a basis for a waiver request. The Department now attempts to do what Congress explicitly refused to do by statute, usurping Congress’s lawmaking authority to make these policy decisions.

## B. Exemptions

In 1997<sup>41</sup> Congress provided States with the flexibility to provide one-month exemptions to up to 15 percent of the estimated ABAWD population who would otherwise be ineligible for food stamps and allowed for the States to carry over their allotted exemptions (“caseload exemptions”).<sup>42</sup> In 2018, Congress made substantial changes to the law by reducing the exemption rates from 15 percent to 12 percent beginning in FY 2020. However, Congress did not change the statutory language that permits States to carry over exemptions from year to year, and

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<sup>38</sup> H. Conf. Rpt. on H.R. 2 (115-1072) at 616.

<sup>39</sup> *Id.* at 617.

<sup>40</sup> See Bur. of Labor Statistics, “Local Area Unemployment Statistics,” (Mar. 15, 2019), <https://www.bls.gov/lau/laugeo.htm#geolma> (noting that because “these areas are based on the degree of economic integration as measured by commuting flows without regard to state boundaries, interstate LMAs exist”).

<sup>41</sup> Pub. L. No. 105-33 (1997).

<sup>42</sup> See 7 U.S.C. § 2015(o)(6).

maintained State authority in determining the use of exemptions. The 2018 Farm Bill Conference report makes clear that under the statute, States will “continue to accrue exemptions and retain any carryover exemptions from previous years, consistent with current law.”<sup>43</sup> By proposing to eliminate the ability of States to carry exemptions over, the Proposed Rule is inconsistent with and contrary to the law.

### **III. The Proposed Rule is Arbitrary and Capricious and Therefore Violates the APA.**

Not only does the Proposed Rule flout the text and intent of the FNA, but it also violates the Administrative Procedure Act (“APA”). Under the APA, agencies are required to act reasonably, providing a reasoned explanation for their actions and observing the procedure required by law. *Schurz Commc’ns v. FCC*, 982 F.2d 1043, 1049 (7th Cir. 1992); *see also Motor Vehicle Mfrs. Ass’n of United States v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983) (agency must show that it “examine[d] the relevant data and articulate[d] a satisfactory explanation for its action.”); *American Ass’n of Cosmetology Schools v. DeVos*, 258 F. Supp. 3d 50, 71 (D.D.C. 2017) (the “touchstone of arbitrary-and-capricious review is reasoned decisionmaking.”). When an agency action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, it will be held invalid and vacated. 5 U.S.C. § 706(2)(A).

The Proposed Rule is arbitrary and capricious, and therefore cannot withstand scrutiny under the APA, on several grounds: first, it conflicts with numerous longstanding policies of the USDA governing time limit waiver requests; second, the USDA provides no reasoned explanation for the proposed changes; third, the changes are not supported by available evidence; and fourth, the Proposed Rule does not consider the costs associated with its implementation.

#### **A. The Proposed Rule Conflicts with the Longstanding Policy of the USDA.**

The changes to time limit waiver requests in the Proposed Rule are inconsistent with more than two decades of USDA guidance on waivers. Because the Proposed Rule contradicts the USDA’s own longstanding position without reasoned support, this change would be arbitrary and capricious under the APA. *See Perez v. Mortgage Bankers Ass’n*, 135 S. Ct. 1199, 1209 (2015) (explaining that “the APA requires an agency to provide more substantial justification when ‘its new policy rests upon factual findings that contradict those which underlay its prior policy’”) (quoting *F.C.C. v. Fox Tel. Stations, Inc.*, 556 U.S. 502, 515 (2009)); *see also Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 57 (1983).

The Proposed Rule reverses a variety of longstanding policies. First, relying on agency guidance to States regarding requests for waivers of the ABAWD time limit from December 1996, the USDA implemented a Final Rule in 2001 that set the standards for the current regulations. Among these standards was the ability of States to use a Labor Surplus Area (“LSA”) designation as a criterion for receiving a waiver. In fact, according to the 2001 Rule and guidance from as recently as 2016, “[i]f the area is designated as an LSA for the current fiscal

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<sup>43</sup> H. Conf. Rpt. on H.R. 2 (115-1072) at 616.



year, FNS will approve the waiver readily and the State may begin to operate the waiver at the time the request is submitted.”<sup>44</sup>

Second, the Proposed Rule would eliminate States’ discretion in defining geographic scope of the area to be covered by a waiver. Not only have States long been permitted to submit requests for statewide waivers, but they were given “complete discretion to define the geographic areas covered by waivers so long as they provide data for the corresponding area.” 66 Fed. Reg. 4463. The Department’s 2016 guidance permitted the States “discretion to define the group of areas to be combined, provided that the areas are contiguous or can be considered to be part of an economic region.”<sup>45</sup> The Proposed Rule, however, essentially eliminates statewide waivers and severely restricts States’ discretion in defining the geographic scope of the area for the waiver.

Third, agency guidance for the last twenty years has also permitted States to buttress their requests for waivers using a variety of data sources in addition to BLS data. These data sources included a low and declining employment-to-population ratio, a lack of jobs in declining occupations or industries, and academic studies or other credible publications that document a lack of jobs in an area.<sup>46</sup> Nevertheless, the Proposed Rule seeks to undercut States’ more nuanced understandings of local job markets, and whether those conditions are accurately reflected in the data sources submitted with their waiver requests, by strictly limiting the data for evaluation to BLS data.

Other policies that have been in place for the last two decades that would be eliminated under the Proposed Rule include the ability of States to immediately implement waivers in extreme circumstances and the ability for some waivers to extend beyond a year.

As discussed in further detail in the subsequent sections, the USDA has provided no reasoning behind drastically changing course after following essentially the same guidance for more than two decades. Because the USDA has provided no support for these contradictory policies, the Proposed Rule is arbitrary and capricious.

#### B. The Proposed Rule is Not Supported by a Legitimate Rationale.

The Proposed Rule fails to provide a reasoned explanation for its radical departure from the Department’s longstanding policy. Indeed, the Proposed Rule abandons decades-old policy without any support whatsoever. This alone makes the Proposed Rule arbitrary and capricious. *See Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016) (federal agency has a

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<sup>44</sup> U.S. Dep’t of Agric., Food & Nutrition Serv., “Supplemental Nutrition Assistance Program – Guide to Supporting Requests to Waive the Time Limit for Able-Bodied Adults without Dependents (ABAWD),” at 3 (Dec. 2, 2016) (hereinafter “USDA SNAP Guide”).

<sup>45</sup> *Id.* at 10.; *see also* 66 Fed Reg. 4462 (“States may submit evidence of a lack of sufficient jobs by submitting data that the area: (1) Was designated as a Labor Surplus Area by the Department of Labor’s employment and Training Administration (ETA); (2) was determined by the Department of Labor’s Unemployment Insurance Service as qualifying for extended unemployment benefits; (3) has a low and declining employment-to-population ratio; (4) has a lack of jobs in declining occupations or industries; or (5) has a 24 month average unemployment rate 20 percent above the national average for the same period.”).

<sup>46</sup> USDA SNAP Guide, *supra* n. 44 at 16-17.

“duty to explain why it deemed it necessary to overrule its previous position” and when “the agency has failed to provide even that minimal level of analysis, its action is arbitrary and capricious and so cannot carry the force of law.”); *Massachusetts v. EPA*, 549 U.S. 497 534 (2007).

*1. The Department Provides No Grounds for Establishing a Floor Unemployment Rate for the 20 Percent Standard.*

In attempting to establish an unemployment rate floor for the 20 percent standard,<sup>47</sup> the Proposed Rule is arbitrary and capricious because it is not based on any legitimate rationale. The USDA primarily refers to unsupported assertions that there has been “excessive use of ABAWD time limit waivers to date,” without considering whether the use of waivers has been appropriate or necessary, and relies on “operational experience” without providing data or concrete examples to support its assertions that States have exploited time limit waivers. 84 Fed. Reg. 984. Rather, the USDA points to decreases in the percentage of the ABAWD population that will live in waiver eligible areas, noting that the current 44 percent of ABAWDs living in a waived area would decrease to 11 percent under the Proposed Rule. *Id.* However, the Department does not explain why the size of the waived areas or the number of ABAWDs who reside in waived areas somehow demonstrate that waivers have been exploited or abused.

The Department does not need to impose an unemployment rate floor if the sole purpose is to reduce the number of ABAWDs living in waived areas. This reduction has already occurred naturally after the economy stabilized following the economic downturn: the number of States and areas in which the time limit is waived has been steadily declining for the past four years, and the number of ABAWDs who reside in waived areas has been declining as well. 84 Fed. Reg. 982. Just reducing the number of ABAWDs residing in waived areas on its own is not a reasonable explanation for making it more difficult for States to qualify for waivers when their unemployment rates are 20 percent or more above the national unemployment rate. Moreover, simply reducing the size and proportion of waived areas, and thus decreasing the number of ABAWDs who live in waived areas, does not somehow mean that those individuals newly subjected to the time limit will more easily find employment.

The only other reason for the unemployment rate floor offered by the USDA is “so that areas do not qualify for waivers when their unemployment rates are generally considered to be normal or low.” 84 Fed. Reg. 984. The USDA raises concerns that local unemployment rates that are lower than the “natural” rate could lead to “inflationary pressure on prices.” *Id.* First, the USDA cites to no study that explains the “natural rate of unemployment” or its effect on inflation, nor does it cite to data demonstrating that the current “natural rate of unemployment” is approximately 5 or 6 percent, as the USDA claims it is. In fact, the current natural rate of unemployment may be as low as 4.0-4.6 percent.<sup>48</sup> Second, concerns about inflation do not

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<sup>47</sup> The 20 percent standard is a criterion used for evaluating qualification for a time limit waiver. The standard is that an area has a 24-month average unemployment rate that is 20 percent above the national average for the same period. The 24-month period must begin no earlier than the date DOL uses to designate LSAs for the fiscal year. There has never been an unemployment rate floor for the 20 percent standard.

<sup>48</sup> Fed. Res., *What is the lowest level of unemployment that the U.S. economy can sustain?*, last updated March 20, 2019, [https://www.federalreserve.gov/faqs/economy\\_14424.htm](https://www.federalreserve.gov/faqs/economy_14424.htm).

necessarily correlate with the Proposed Rule's stated goal to increase self-sufficiency and employment. As such, the "natural rate of unemployment" is not a legitimate rationale for implementing an unemployment rate floor.<sup>49</sup>

The USDA's request for "evidence-based and data-driven feedback on the appropriate threshold for the floor" further underscores its failure to ground its rationale in research. *See* 84 Fed. Reg. 984. The proposed unemployment rate floor is a slipshod attempt to make a blanket reduction in the number of ABAWDs living in waived areas. That strategy ignores unique conditions in these areas indicating significant barriers to employment for ABAWDs and, more broadly, the congressionally expressed purpose to make appropriate exceptions where such barriers exist.

## *2. The Proposed Rule Unreasonably Restricts the Geographic Scope of Waiver Areas.*

The Proposed Rule's attempt to restrict States' ability to define the geographic scope of requested waivers is also arbitrary and capricious. The Proposed Rule limits States' flexibility to define the geographic scope of waivers in two primary ways: 1) eliminating statewide waivers when substate data is available through BLS,<sup>50</sup> and 2) prohibiting the grouping of substate areas unless the federal government itself has grouped those areas. As with many of the other changes included in the Proposed Rule, the USDA provides no legitimate reasoning for either of these changes.

The only reasoning provided for eliminating statewide waivers is "so that waivers of the ABAWD time limit are more appropriately targeted to those particular areas in which unemployment rates are high." 84 Fed. Reg. 985. However, State agencies typically have a better understanding of economic conditions within a State that may cross substate areas in such a way that a statewide waiver would be warranted. The BLS substate data may not accurately convey such conditions. Additionally, States may not have the resources to track ABAWDs within the BLS-defined substate groups, and determining which substate areas should be included in waiver requests may impose a significant burden on already over-taxed State agencies.

Moreover, the BLS substate data may not accurately depict a substate economic market area, which may encompass several jurisdictions. Furthermore, the BLS data does not portray more nuanced aspects of employment statistics, such as the types of jobs available, the qualifications needed for such jobs, and whether affordable transportation options are available for those who need it.

The USDA attempts to justify the elimination of most statewide waivers by suggesting that it aligns with the Department's goal to subject more individuals "to the ABAWD time limit and work requirement, which can be met through working or participating in a work program or

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<sup>49</sup> Further undermining the Department's reliance on the "natural" rate of unemployment is the growing criticism about this unproven economic theory. *See* Mike Konczal, *How low can employment go? Economists keep getting the answer wrong*, VOX, May 5, 2018, <https://www.vox.com/the-big-idea/2018/5/4/17320188/jobs-report-natural-rate-unemployment-inflation-economics-april>.

<sup>50</sup> The exception to this change in the Proposed Rule would be statewide waivers "based upon a State's qualification for extended unemployment benefits as determined by DOL's Unemployment Insurance Service." 84 Fed. Reg. 985.

workfare program, consistent with the intent of the Act.” 84 Fed. Reg. 985. The intent of the waiver provisions of the FNA, however, was to ensure that nutrition assistance would be provided to those individuals who had insufficient opportunities to obtain employment. Eliminating most statewide waivers undercuts State agencies’ ability to determine which areas most appropriately qualify for time limit waivers. Barriers to employment may exist statewide, rather than just in one substate area. States should have the flexibility to determine whether it is more appropriate to seek a statewide waiver rather than waivers for substate areas.

The USDA’s only rationale for prohibiting States’ grouping of substate areas for waiver requests is that “in practice, the Department has learned that its standards for combining areas provide too much flexibility for State agencies and are often ineffective at ensuring that States are only grouping areas that are economically tied.” 84 Fed. Reg. 986. This rationale contradicts the facts. Current regulations in fact provide some restriction on how States can group substate areas for waiver requests. The USDA itself acknowledges that under current regulations, “States can only group areas and support approval based on qualifying unemployment data” and that grouped areas must be “contiguous and/or share the same Federal- or State-recognized economic region.” *Id.* at 985. Moreover, even according to the Proposed Rule itself, the amount of waivers sought by States and the population covered by waivers has fallen precipitously since its peak in 2013. *Id.* at 982. FNS states that ABAWD waivers covered 45 States and territories in full in 2013. By comparison, only 8 waivers currently apply to entire States or territories today. *Id.* This demonstrates that States are in fact using their discretion judiciously and in accordance with appropriate standards under the law and the current rule.

Nevertheless, the USDA accuses States of using their ability to group substate areas in order to omit areas of low unemployment and skew data to support waiver requests. However, such a practice is actually in accord with the USDA’s stated intent because rather than “maximize” the waived area, as the USDA contends, it narrows the areas covered by waivers to those with higher unemployment rates. Further, as previously mentioned, States have a better understanding of which regions are economically tied and what employment conditions are actually like in those regions.

The USDA proposes to use Labor Market Areas (“LMAs”) as a mechanism to group substate areas. However, grouping by LMAs is not only ineffective, but it infringes on State sovereignty. Metropolitan areas near State borders tend to fall within LMAs that extend into multiple States.<sup>51</sup> State agencies, however, can only provide benefits to those individuals residing within their borders. In determining whether to apply for a waiver, then, these State agencies would have to take into account job conditions in another State or multiple other States, which is beyond the reach of their authority. Furthermore, these multistate LMAs may not reflect the job conditions in a particular substate area that falls within its confines.

Not allowing States to define the geographic scope of the requested waivers, whether by prohibiting grouping outright or by limiting grouping to LMAs as defined by the federal

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<sup>51</sup> Examples of these LMAs include Philadelphia (PA, NJ, DE, and MD), Washington, DC (DC, VA, MD, and WV), New York City (NY, NJ, and PA), and Memphis (TN, MS, and AR). See <https://www.bls.gov/lau/lmadir2015.xlsx>.

government, undermines States' abilities to effectively administer benefits to those individuals who need them and for whom the application of waivers is appropriate.

### C. The Proposed Rule is Not Supported by the Available Evidence.

There is no evidence cited to support the effective elimination of waivers for most of the country. Nor is there evidence that the Proposed Rule will “restore the dignity of work,” as the Department claims it will. Rather, all the available evidence shows that the group of people who will be subject to the ABAWD time limit under the Proposed Rule will likely simply lose the limited nutrition assistance that SNAP provides and become more food insecure, and will continue to be unemployed because they will continue to face barriers to employment in the local labor market.

The evidence available to the Department demonstrates that the population that will be most directly affected by the time limit face many barriers to employment and self-sufficiency that cannot be solved simply by stripping them of limited but essential nutrition assistance. In 1997, the USDA published a report demonstrating that 95 percent of the men and women in this group had incomes below 75 percent of the poverty line with average incomes of 24 percent of the poverty line.<sup>52</sup> More than 40 percent did not have a high school diploma, and many lived in rural areas and with limited access to transportation. 42 percent were women and one-third were aged 41 or older. The limited research done in the intervening years shows that the ABAWD population remains very poor and has a number of barriers to employment.

In 1998, the Department issued a report on “The Effect of Welfare Reform on Able-Bodied Food Stamp Recipients.” Michael Stavrianos & Lucia Nixon, U.S. Dep’t of Agric. (July 23, 1998). That report noted that only 3.6 percent of all FSP participants were subject to the ABAWD time limit. *Id.* at xi. The report noted that the employment prospects for this group were “not promising,” because “job opportunities for less-educated job seekers are severely limited, especially for nonwhites and in urban areas,” *id.* at xiii.<sup>53</sup> The report also noted that the job prospects for ABAWDs depends significantly on the prevailing conditions in their local area, including the demand for low-skill workers. *Id.* at xiv.

Among the most in-depth studies on the men and women affected by the time limit comes from the Work Experience Program in Franklin County, Ohio, a partnership between the Ohio Association of Foodbanks and the Franklin County Department of Job and Family Services.<sup>54</sup> Data from the assessments of affected recipients in the 2015 Ohio study showed a group of men and women who face a combination of barriers to work, with low levels of education and training and high incidences of health problems. Many in this group have no high

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<sup>52</sup> U.S. Dep’t of Agric., “Characteristics of Childless Unemployed Adult and Legal Immigrant Food Stamp Participants: Fiscal Year 1995” (Feb. 13, 1997).

<sup>53</sup> See also John L. Czajka, et al., “Imposing a Time Limit on Food Stamp Receipt: Implementation of the Provisions and Effects on Food Stamp Participation,” Vol. I (Sept. 2, 2001) at xix (finding that ABAWDs were a mere 2.5 percent of FSP participants, and many of them faced “significant barriers to both work and participation in qualifying work activities.”).

<sup>54</sup> See Franklin County Dep’t of Job & Family Servs. & Ohio Ass’n of Foodbanks, *A Comprehensive Assessment of Able-Bodied Adults Without Dependents and Their Participation in the Work Experience Program in Franklin County, Ohio: Report 2015*, <http://ohiofoodbanks.org/wep/WEP-2013-2015-report.pdf>

school diploma or GED, and very few have college degrees. Many of these affected individuals have mental or physical limitations that make gaining and maintaining work difficult but did not meet the high threshold for disability benefits. More than a third of affected individuals have felony convictions or gaps in employment records, which deter employers and make it difficult to pass background checks. Individuals in this group also have undiagnosed intellectual disabilities, have only short-term housing or are experiencing homelessness, lack access to reliable public or private transportation, and are responsible for caring for another person, like a parent or other relative. All of these factors weigh in favor of maintaining the status quo, as States are in the best position to assess whether jobs are available for their ABAWD populations.

As the Department noted in 1998, the ability of this population to secure stable employment depends on the local labor market and the availability of jobs for workers with limited education and work histories. The Department cites no evidence showing that this has changed. Instead of relying on the evidence, the Department repeatedly reiterates its reliance on the low *nationwide* unemployment rate in issuing the proposed rule. 84 Fed. Reg. 981. The nationwide unemployment rate is an unreliable indicator of local availability of jobs for the ABAWD population. The FNA and the Department's guidance have long recognized that States are in the best position to assess the local labor market conditions, and the need for flexibility to waive the time limit for ABAWDs within their borders, either by way of a waiver request or the use of exemptions. But the Proposed Rule expressly seeks to remove this flexibility that Congress provided without any supporting evidence of a need for change. Rather than "restoring the dignity of work" for this population, the Proposed Rule will simply lead to more hungry poor people who still cannot secure stable employment in the local labor market where they reside.

Moreover, recognizing that there is limited evidence about the effectiveness of work requirements for SNAP, Congress authorized substantial funding for pilot projects to study the best ways to secure employment for SNAP participants, and increase their incomes and self-sufficiency.<sup>55</sup> It would undermine the intent of Congress, and simply waste hundreds of millions of taxpayer dollars for the Department to implement a rule that tightens work requirements for more than three-quarters of a million people before the results of the pilot projects are reported to Congress in 2021.

D. The Department Failed to Consider the Costs of Drastically Slashing SNAP Benefits for the ABAWD Population.

Because the Department failed to adequately consider the costs of its Proposed Rule, the agency's action is arbitrary and capricious. To the extent that the USDA conducted any assessment of the burden of the Proposed Rule, the agency found that there would not be "any new costs," but rather, the Proposed Rule would result in "a reduction of burden hours since State agencies are no longer able to group areas together for waiver approval." 84 Fed. Reg. 990. The USDA has estimated that the Proposed Rule would result in a collective savings of \$12,092 for State agencies. *Id.* However, the Department fails to account for the harms to the States' economies or the burden on State agencies that must implement the time limit. As demonstrated

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<sup>55</sup> Agricultural Act of 2014, Pub. L. No. 113-79, § 4022, 128 Stat. 805 (2014) (allocating up to \$200 million for pilot studies of effectiveness of work requirements).



below, the Proposed Rule would have significant costs that were not considered by the Department.

The Proposed Rule fails to account for the harm to the local and national economies that will occur when unemployed ABAWDs are subject to the time limit and are no longer eligible for SNAP benefits. SNAP is a highly efficient program that produces benefits to businesses and to individuals who do not participate in the program. Because SNAP benefits are provided to low-income individuals with immediate spending needs, SNAP boosts local economies by increasing consumer demand, injecting money directly into the economy, creating jobs, and supporting national and local retailers and the food industry generally.<sup>56</sup> During strong economic times, \$1 in redeemed SNAP benefits means more than \$1.20 in the local economy.<sup>57</sup> During a recession, \$1 in redeemed SNAP benefits generates more than \$1.70 in economic activity.<sup>58</sup>

SNAP generates revenue for grocery stores both large and small. SNAP expenditures make up about 10 percent of all grocery expenditures nationwide,<sup>59</sup> and an even higher percentage in low-income areas where SNAP benefits are used for a greater portion of sales.<sup>60</sup> SNAP helps many food retailers operating on thin margins to remain in business, which improves food access for all residents. SNAP also creates jobs in rural areas and small towns, where it created and bolstered about 567,000 jobs in 2017, including almost 50,000 in agriculture.<sup>61</sup> Non-grocery businesses also receive a boost from SNAP expenditures because individuals who use SNAP to purchase food then have greater purchasing power to buy other types of goods as well.<sup>62</sup> This greater purchasing power also benefits State governments, which

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<sup>56</sup> See generally Mark M. Zandi, Assessing the Macro Economic Impact of Fiscal Stimulus 2008, (Jan. 2008) <https://www.economy.com/markzandi/documents/Stimulus-Impact-2008.pdf>; Kenneth Hanson, “The Food Assistance National Input-Output Multiplier (FANIOM) Model and Stimulus Effects of SNAP,” U.S. Dep’t of Agric. (Oct. 2010), [https://www.ers.usda.gov/webdocs/publications/44748/7996\\_err103\\_1\\_.pdf?v=41056](https://www.ers.usda.gov/webdocs/publications/44748/7996_err103_1_.pdf?v=41056); “The Benefits of Increasing the Supplemental Nutrition Assistance Program Participation in Your State,” U.S. Dep’t of Agric. (Dec. 2011), [https://www.fns.usda.gov/sites/default/files/bc\\_facts.pdf](https://www.fns.usda.gov/sites/default/files/bc_facts.pdf); “Chart Book: SNAP Helps Struggling Families Put Food on the Table,” Center on Budget and Policy Priorities, (Mar. 2017), <https://www.cbpp.org/research/food-assistance/chart-book-snap-helps-struggling-families-put-food-on-the-table#part8>.

<sup>57</sup> Alan S. Blinder & Mark Zandi, “The Financial Crisis: Lessons for the Next One,” Center for Budget and Policy Priorities (Oct. 15, 2015), <https://www.cbpp.org/research/economy/the-financial-crisis-lessons-for-the-next-one>.

<sup>58</sup> *Id.* (showing that at the height of the last recession, in 2009, \$50 billion in SNAP benefits translated into \$85 billion in local economies); Kenneth Hanson, “The Food Assistance National Input-Output Multiplier (FANIOM) Model and Stimulus Effects of SNAP: Executive Summary,” U.S. Dep’t of Agric., Economic Research Serv. (Oct. 2010), [https://www.ers.usda.gov/webdocs/publications/44748/8003\\_err103\\_reportsummary\\_1\\_.pdf?v=0](https://www.ers.usda.gov/webdocs/publications/44748/8003_err103_reportsummary_1_.pdf?v=0) (finding that an additional \$1 billion in SNAP expenditures was estimated to increase economic activity (GDP) by \$1.79 billion. “In other words, every \$5 in new SNAP benefits generates as much as \$9 of economic activity.”).

<sup>59</sup> Elizabeth Wolkomir, “SNAP Boosts Retailers and Local Economies,” Center on Budget and Policy Priorities (Apr. 6, 2018), <https://www.cbpp.org/research/food-assistance/snap-boosts-retailers-and-local-economies>.

<sup>60</sup> Sarah Reinhardt, “SNAP is a Boon to Urban and Rural Economies—and Small-Town Stores May Not Survive Cuts.” Union of Concerned Scientists (May 14, 2018), <https://blog.ucsusa.org/sarah-reinhardt/snap-is-a-boon-to-urban-and-rural-economies-and-small-town-stores-may-not-survive-cuts>.

<sup>61</sup> *Id.*

<sup>62</sup> Wolkmoir, *supra* n.59.



see increased revenue from additional sales tax when more people are eligible for SNAP benefits.<sup>63</sup>

The Proposed Rule threatens to harm the economy by terminating SNAP benefits for people who currently live in waived areas or who receive one of the “15-percent” exemptions. By the Administration’s own calculations, the Proposed Rule would take food away from at least 755,000 low-income Americans, resulting in a loss of at least \$15 billion in SNAP benefits over 10 years. As the Department itself notes, though, the number of individuals who stand to lose benefits under the Proposed Rule could be more than 850,000.<sup>64</sup> These cuts will have negative ripple effects throughout the nation’s economy, and will be particularly harmful should the economy enter a recession, as many economists predict will occur in the next two years.<sup>65</sup> Historically, SNAP has helped to shorten recessions and dampen the effects of an economic downturn. Carryover exemptions, in particular, permit States to accumulate exemptions when the economy is strong, and provide them with flexibility to extend SNAP benefits when there is a sudden economic downturn. Without the mitigating effects of SNAP benefits for ABAWDs who reside in waived areas or are eligible for an exemption, the impact of the next recession will escalate. In addition to inhibiting States’ ability to rapidly respond to changing economic conditions with waivers and exemptions from the ABAWD time limit, the Proposed Rule’s impact on the economy will affect all job seekers.

The substantial diminution in States’ ability to seek waivers would also impose a heavy burden on States to find alternatives for nutrition. Without the flexibility permitted through the exemptions, States would find themselves in a difficult position when dealing with sudden economic downturns in a particular area or the loss of a certain industry. States’ medical, disability, and other systems will be further burdened when individuals who lose SNAP benefits due to the Proposed Rule are malnourished.<sup>66</sup> The Proposed Rule completely fails to account for these harms, and is thus arbitrary and capricious, in violation of the APA.

#### **IV. The Proposed Rule Would Disproportionately Burden People of Color with No Justification.**

The Proposed Rule is also arbitrary and capricious because the Department acknowledges that the changes would bear most heavily on protected classes – including racial minorities – with no justification. The USDA notes that while the proposed changes “have the potential for

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<sup>63</sup> Scott Graves, “State Policymakers Could Be On the Verge of Boosting Basic Supports for Low-Income Seniors and People with Disabilities,” California Budget and Policy Center (May 23, 2018), <https://calbudgetcenter.org/blog/state-policymakers-could-be-on-the-verge-of-boosting-basic-support-for-low-income-seniors-and-people-with-disabilities/> (finding that a proposal to expand SNAP eligibility in California could boost the state’s revenue with \$3.5 million in additional sales tax).

<sup>64</sup> *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents, Regulatory Impact Analysis* at 26, <https://www.regulations.gov/contentStreamer?documentId=FNS-2018-0004-6000&contentType=pdf>.

<sup>65</sup> See Taylor Telford, “Majority of economists think the U.S. will enter a recession by 2021, survey finds,” WASH. POST (Feb. 25, 2019), <https://www.washingtonpost.com/business/2019/02/25/most-economists-predict-us-recession-by-survey-finds/>.

<sup>66</sup> See, e.g., Berkowitz S., Seligman H, Rigdon J., et al., “Supplemental Nutrition Assistance Program (SNAP) Participation and Health Care Expenditures Among Low-Income Adults,” JAMA INTERNAL MEDICINE (2017; 177(11):1642-49)

disparately impacting certain protected groups due to factors affecting rates of employment of these groups, [it] find[s] that implementation of mitigation strategies and monitoring by the Civil Rights Division of FNS will lessen these impacts.” 84 Fed. Reg. 990. However, the USDA sheds no light on the mitigation strategies and monitoring that it will use. *See Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 932 (D.C. Cir. 2017) (agencies must “adequately analyze . . . the consequences” of their actions). Furthermore, given the deep-rooted employment issues already faced by protected groups, no mitigation strategy can adequately alleviate the greater likelihood of food insecurity and poverty that stricter time limit waiver requirements will have on protected classes.

Current employment statistics already underscore the disproportionate employment opportunities available to protected groups, especially racial minority groups. For example, the national unemployment rate in the first quarter of 2018 was 7.2 percent for Black or African American workers and 5.1 percent for Hispanic workers, compared to 3.4 percent for white workers.<sup>67</sup> In fourteen States and the District of Columbia, the unemployment rate for African Americans was more than double the unemployment rate for white workers.<sup>68</sup>

Discriminatory hiring practices impede these individuals from being able to find adequate employment to fulfill the work requirement.<sup>69</sup> For those individuals who can find work, they are disproportionately forced into part-time work. A report from the Economic Policy Institute found that Hispanic and Black workers “are relatively much more likely to be involuntarily part-time (6.8 percent and 6.3 percent, respectively) than white workers, of whom just 3.7 percent work part time involuntarily.”<sup>70</sup> Hispanic and Black workers also represent a disproportionate amount of involuntary part-time workers, constituting 41.1 percent of all involuntary part-time workers.<sup>71</sup> The greater amount of involuntary part-time employment among Black and Hispanic workers is due to their both having a greater inability to find full-time work and facing more work conditions where hours are variable and can be reduced without notice.<sup>72</sup>

In addition, the unemployment rate as calculated by BLS in the monthly employment situation report fails to account for other measures of under-employment by Black and Hispanic workers as compared to white workers, such as workers who have searched for work in the past year but not in the past four weeks (known as “marginally attached” to the labor force). According to BLS data, Black workers “made up 13 percent of the civilian labor force, but 22 percent of people marginally attached to the labor force,”<sup>73</sup> whereas white workers represented

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<sup>67</sup> Janelle Jones, “In 14 states and DC, the African American unemployment rate is at least twice the white unemployment rate,” ECONOMIC POLICY INST., (May 17, 2018) <https://www.epi.org/publication/state-race-unemployment-2018q1/>.

<sup>68</sup> *Id.*

<sup>69</sup> See Lincoln Quillian, et al. “Hiring Discrimination Against Black Americans Hasn’t Declined in 25 Years.” HARVARD BUS. REV. (Oct. 11, 2017), <https://hbr.org/2017/10/hiring-discrimination-against-blackamericans-hasnt-declined-in-25-years> (discussing a study that found that “[s]ince 1990 white applicants received, on average, 36% more callbacks than black applicants and 24% more callbacks than Latino applicants with identical résumés”).

<sup>70</sup> Lonnie Golden, “Still Falling Short on Hours and Pay,” ECONOMIC POLICY INST. (Dec. 2016), <http://www.epi.org/publication/still-falling-short-on-hours-and-pay-part-time-work-becoming-new-normal/>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

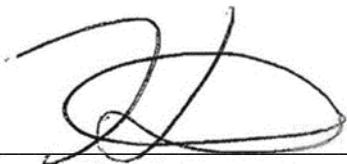
<sup>73</sup> Bureau of Labor Statistics, “Labor force characteristics by race and ethnicity, 2017,” (Aug. 2018)

“78 percent of the labor force versus 67 percent of the marginally attached.”<sup>74</sup> The exclusion of marginally attached workers, involuntary part-time workers, and other data points from the unemployment rate suggests that the proposed core standard for determining lack of sufficient jobs—unemployment data—disproportionately impacts protected classes. Waivers should not be determined predominantly by the unemployment rate.

## V. Conclusion

We urge you to reconsider the Proposed Rule as it is plainly contrary to the law and the intent of Congress. Moreover, the Department does not present any facts that justify the need to dramatically decrease ABAWD SNAP participants; rather available evidence suggests the contrary. At no point does the Department demonstrate that it considered the multitude of costs and harms this rulemaking would have on the States or protected groups. To the contrary, the evidence presented in the rule itself militates against its adoption. For all of the above reasons, we urge the Department to withdraw the Proposed Rule in its entirety.

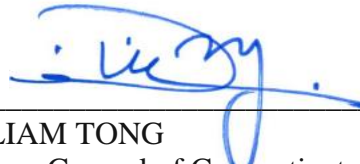
Sincerely,



KARL A. RACINE  
Attorney General for the District of Columbia



XAVIER BECERRA  
Attorney General of California



WILLIAM TONG  
Attorney General of Connecticut



LEEVIN TAITANO CAMACHO  
Attorney General of Guam

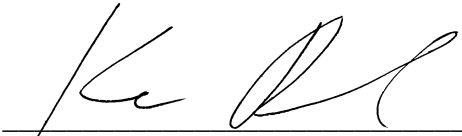


CLARE E. CONNORS  
Attorney General of Hawaii

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<https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm>.

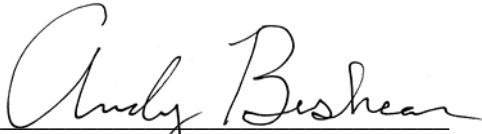
<sup>74</sup> *Id.*



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Attorney General of Washington

# Feds to change food assistance rules, providers worry more Alaskans will go hungry

By Kirsten Swann, Alaska Public Media - Anchorage - December 5, 2019



*A sign outside of a store in midtown Anchorage announcing that they accept EBT Cards, the distribution method for SNAP benefits. (Photo by Anne Hillman/Alaska Public Media)*

The U.S. Department of Agriculture is finalizing a new rule that could ultimately reduce the number of Alaskans receiving assistance through the Supplemental Nutrition Assistance Program, or SNAP — the federal program formerly known as food stamps.

Announced Wednesday morning, the rule affects states' abilities to receive waivers for SNAP work requirements. As of Wednesday afternoon, officials with the Alaska Department of Health and Social Services said they were still waiting on guidance from the USDA. But local food providers say they're already concerned.

"We know many, many people are going to lose benefits because of this," said Cara Durr, Director of Public Engagement at the Food Bank of Alaska.

Durr said it's one of several recent changes that could reduce food assistance to Alaskans in need. It concerns people designated "Able-Bodied Adults Without Dependents," — people aged 18-49 for whom food assistance through SNAP is generally capped at 3 months within a 3-year period. That is, unless they meet certain work requirements.

States with high unemployment rates or a lack of jobs could apply for waivers to those work requirements. The new rule revises the conditions under which states can receive waivers.

"We need to encourage people by giving them a helping hand but not allowing it to become an indefinitely giving hand," said U.S. Secretary of Agriculture Sonny Perdue in a written statement. "Now, in the midst of the strongest economy in a generation, we need everyone who can work, to work."

Those affected by the changes could include Alaskans living in rural communities with weak cash economies and few jobs, and people experiencing homelessness, mental illnesses, substance abuse disorders and more. Durr called the term "able-bodied" misleading.

"You know it's not people that are just job-ready, just choosing to sit on their couches — it's a really complex population to serve," she said. "Certainly taking food assistance away from someone who is unable to work, or is trying to work but just can't connect with a job...I mean, that's not going to leave anybody better off."

It's still too early to know exactly how many Alaskans will lose benefits because of the latest change. Another program change implemented in October expanded SNAP work requirements to a dozen regions around the state, according to DHSS. The impact of that expansion has yet to be fully realized, Durr said.

But Food Bank outreach workers are already fielding questions from confused SNAP recipients around the state, she said. The nonprofit works with the Division of Public Assistance to offer statewide SNAP outreach and application assistance, and Durr said it sees the effects of the changes firsthand.

Approximately 84,707 Alaskans — more than 1 in 10 — were in the state's SNAP program in October, according to preliminary numbers from DHSS. Cuts to the food program have a ripple effect throughout Alaska communities, Durr said.

"It's an important resource for our clients," she said. "And if there are cuts to that, or changes to benefit levels, things like that, we're going to ultimately see those clients, because they're going to have to turn somewhere else to get their food."

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**Kirsten Swann, Alaska Public Media - Anchorage**

Kirsten Swann is a producer and reporter for Alaska Public Media.



# ANCHORAGE DAILY NEWS

Alaska News

## Alaska prepares for changes in food stamps program that will reduce number of recipients

✍ Author: Becky Bohrer, Associated Press   ⌚ Updated: 1 day ago   📅 Published 1 day ago



*A sign indicates a store that accepts the Supplemental Nutritional Assistance Program or SNAP, the official name of the food stamp program. [File photo]*

JUNEAU - About 5,000 Alaskans could lose food stamp benefits under new federal rules set to take effect April 1, a state public assistance official said.

Shawnda O'Brien, director of the state Division of Public Assistance, said an estimated 80,000 people in Alaska received food assistance under the Supplemental Nutrition Assistance Program as of January.

Currently, work-eligible, able-bodied adults between the ages of 18 and 49 who have no dependents can receive only three months of food stamps in a three-year period if they don't meet work or work program requirements or fall within an exception, such as being pregnant or medically certified as unfit for employment.

States have been able to seek waivers in areas with high unemployment or limited jobs. Alaska, until October, had a statewide waiver, O'Brien said.

The U.S. Department of Agriculture, in explaining the federal rules change, said states had taken advantage of "weaknesses" in regulations to seek waivers. The new rules tighten standards for states seeking waivers.

The Trump administration sees the planned changes as encouraging more people to work. But Eve Van Dommelen, policy and advocacy manager with the Food Bank of Alaska and manager of the Alaska Food Coalition, said the plans don't help people when they lose benefits and worries the change could further strain food banks already facing high demands in parts of Alaska.

"Implementing this rule doesn't help people get jobs. It just means that when they lose those food benefits, rather than being able to spend time looking for a job, they're spending time looking for food now," she said.

New standards for waivers include labor data showing an unemployment rate of more than 10% over a year or unemployment of no less than 6% over two years. O'Brien said Alaska proposed working under the latter and chose a time-frame of November 2017 to November 2019.

O'Brien said the federal government on Monday approved Alaska's request for a waiver that would exempt 21 of the state's 29 boroughs or census areas from the new rules. Prominent population centers, including Anchorage, the Matanuska-Susitna Borough, Juneau and the Fairbanks North Star Borough, would not be exempt, she said.

Van Dommelen said a period could have been chosen that would have included Anchorage and the Matanuska-Susitna Borough. O'Brien said the state tried to be as equitable as possible while putting forward a plan that exempted more areas than had been since October.

Last year, anticipating a change in the rules, the state sought a waiver it thought would be comparable to the new rules, to prepare people, O'Brien said. Under that approach, 17 boroughs or census areas were exempted, she said.

There still may be general work requirements that individuals in this group have to meet, such as registering for work.

#### **About this Author**

**Becky Bohrer, Associated Press**

Becky Bohrer is a reporter for the Associated Press based in Juneau.

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**Comments**



## **Supplemental Nutrition Assistance Program (SNAP): Status of State Able-Bodied Adult without Dependents (ABAWD) Time Limit Waivers – Fiscal Year 2020 – 1st Quarter**

### **States and Territories approved for Statewide ABAWD time limit waivers—(4)**

Waivers apply to the entire State, District, or Territory as of the date of this update.

District of Columbia  
Virgin Islands

Louisiana

New Mexico

### **States approved for partial ABAWD time limit waivers—(32)**

Waivers apply to certain areas of the State as of the date of this update.

Alaska  
Arizona  
California  
Colorado  
Connecticut  
Georgia  
Hawaii  
Idaho  
Illinois  
Kentucky  
Maine

Maryland  
Massachusetts  
Michigan  
Minnesota  
Montana  
Nevada  
New Jersey  
New York  
North Dakota  
Ohio  
Oregon

Pennsylvania  
Rhode Island  
South Dakota  
Tennessee  
Utah  
Vermont  
Virginia  
Washington  
West Virginia  
Wisconsin

### **States without ABAWD time limit waivers—(17)**

Alabama  
Arkansas  
Delaware  
Florida  
Guam  
Indiana

Iowa  
Kansas  
Mississippi  
Missouri  
Nebraska  
New Hampshire

North Carolina  
Oklahoma  
South Carolina  
Texas  
Wyoming

Waivers are generally approved for a period of 12 months. Implementation and expiration dates are not required to concur with the Federal fiscal year or quarter, and State agencies have the authority to discontinue an ABAWD time limit waiver prior to its expiration date. This document is updated each fiscal quarter, based upon active waiver approvals and status reports from State agencies.



## **Supplemental Nutrition Assistance Program (SNAP): Status of State Able-Bodied Adult without Dependents (ABAWD) Time Limit Waivers – Fiscal Year 2019 – 4th Quarter**

### **States and Territories approved for Statewide ABAWD time limit waivers—(6)**

Waivers apply to the entire State, District, or Territory as of the date of this update.

Alaska	Guam	New Mexico
District of Columbia	Louisiana	Virgin Islands

### **States approved for partial ABAWD time limit waivers—(30)**

Waivers apply to certain areas of the State as of the date of this update.

Arizona	Massachusetts	Oregon
California	Michigan	Pennsylvania
Colorado	Minnesota	Rhode Island
Connecticut	Montana	South Dakota
Georgia	Nevada	Tennessee
Hawaii	New Hampshire	Utah
Idaho	New Jersey	Vermont
Illinois	New York	Virginia
Kentucky	North Dakota	Washington
Maryland	Ohio	West Virginia

### **States without ABAWD time limit waivers—(17)**

Alabama	Kansas	Oklahoma
Arkansas	Maine	South Carolina
Delaware	Mississippi	Texas
Florida	Missouri	Wisconsin
Indiana	Nebraska	Wyoming
Iowa	North Carolina	

Waivers are generally approved for a period of 12 months. Implementation and expiration dates are not required to concur with the Federal fiscal year or quarter, and State agencies have the authority to discontinue an ABAWD time limit waiver prior to its expiration date. This document is updated each fiscal quarter, based upon active waiver approvals and status reports from State agencies.

USDA is an equal opportunity provider, employer and lender.

Updated August 12, 2019