

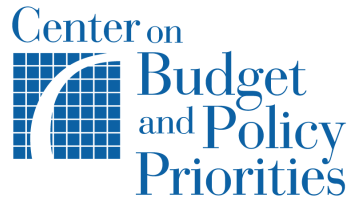
Appendix II. Comment from Center For Budget Policy and Priorities

OMB No. 0584-[NEW]

Assessing SNAP Participants' Fitness for Work

Project Officer: Eric Sean Williams

Office of Policy Support
SNAP Research and Analysis Division
Food and Nutrition Service
U.S. Department of Agriculture
1320 Braddock Place
Alexandria, VA 22314
703.305.2640
eric.williams@fns.usda.gov



1275 First Street NE, Suite 1200, Washington, DC 20002
202-408-1080 Fax: 202-408-1056 center@cbpp.org www.cbpp.org

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Eric Sean Williams
Food and Nutrition Service
U.S. Department of Agriculture
1320 Braddock Place, Alexandria, VA 22314

RE: Agency Information Collection Activities: Assessing Supplemental Nutrition Assistance Program (SNAP) Participants' Fitness for Work, FR Doc. 2021-15916

I write on behalf of the Center on Budget and Policy Priorities (CBPP) to provide comments on the proposed Agency Information Collection regarding fitness of work. CBPP strongly supports this effort and believes it will result in a deeper understanding of the strengths and challenges in state SNAP agencies properly assessing a SNAP participant's ability to engage in work-related activities.

CBPP is a nonpartisan research and policy institute. We pursue federal and state policies designed both to reduce poverty and inequality and to restore fiscal responsibility in equitable and effective ways. We apply our deep expertise in programs and policies that help low-income people to protect and strengthen programs that reduce poverty and inequality and increase opportunity for people trying to gain a foothold on the economic ladder. Our work on federal nutrition programs, including SNAP, is a core component of our organization's work. We have deep expertise on SNAP policy, including SNAP's work provisions and E&T program.

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.

This information collection, and the related study, are an important opportunity to collect and analyze data and develop insight into a critical component of SNAP operations -- ensuring that individuals who are not able to comply with SNAP's work-related requirements due to health conditions are properly exempted and thus able to continue to receive the benefits they need to help purchase food. Screening for "fitness for work" for those subject to work-related rules has long been a critical part of SNAP's enrollment process, but little is known about how states determine fitness and how they assess individuals for it. This study can provide critical insight that can drive improvements in SNAP.

SNAP law and regulations require state agencies to ensure that individuals who are physically or mentally unfit for work are identified by the agency and exempted from SNAP work requirements in a timely manner. The state must thoroughly and consistently screen individuals to identify those that are exempt. While some exemptions are straightforward (under 18 or over 59 years old, for example), others are not (such as being physically or mentally unfit for work). Administering these exemptions consistently and accurately is essential to ensure SNAP operates as intended and is available to those who are eligible because failure to properly exempt individuals will result in a sanction (i.e., loss of SNAP benefits.)

The determination of fitness for work necessitates an individual assessment by the state agency by obtaining and reviewing relevant information that may not be part of the SNAP application process (which focuses on income, household composition and other eligibility criteria). State agencies have flexibility to define fitness for work, what information can be used to determine whether an individual meets the definition and how this information is collected and verified. Some state practices can be problematic. For example, if state policy requires an individual with a mental health condition to request an exemption or to be assessed for fitness, that very condition could also make it difficult for the individual to understand his or her responsibility or to actually make the request, especially if the individual does not believe they have a condition or provide the required verification.

Screening for fitness must be individualized, thorough, consistent, and comprehensive (in the sense of assessing across a wide range of competencies and characteristics). FNS has acknowledged the importance of thoroughly screening individuals for their fitness for work under the three-month time limit for unemployed, non-elderly adults without children in their home (Able-Bodied Adults Without Dependents, or ABAWDs). Guidance issued on November 19, 2015, states that, “State agencies are responsible for assessing an individual’s fitness for work methodically and comprehensively. The certification and recertification interviews are critical in identifying fitness for work. Many individuals with physical or mental challenges are unfit for work and must be exempted from the time limit.”¹ While the standards used to assess fitness for work for ABAWDs differ slightly from those a state can use for screening in E&T, the purpose and importance of doing so is the same.

Ensuring the screening is thorough without imposing burdensome requirements on the individual is important to make sure those who are unable to comply with a mandated work requirement are properly identified by the state agency and not sanctioned. The effectiveness of this important process is largely unknown in part because the failure to properly grant an exemption would often not be the subject of a quality control (QC) review because the “negative action” QC process does not involve a rigorous review of the individual’s circumstances. However, the loss of SNAP benefits for otherwise eligible individuals raises the risks of food insecurity, increases hardship, and may have long-term negative health impacts.

We are pleased to see the information collection proposes to include policies and practices for both the upfront screening for fitness to work as well as good cause should an individual fail to comply

¹ ABAWD Time Limit Policy and Program Access Memo November 19, 2015, <https://www.fns.usda.gov/snap/ABAWD/time-limit-policy-program-access-memo>.

with a requirement. SNAP regulations at 7 CFR 273.7(i) require states agencies to determine good cause for an individual's failure or refusal to fulfill a work requirement. Good cause applies to situations in which an individual would have normally met an E&T or work requirement but does not due to circumstances beyond the individual's control. Community partners frequently raise concerns that good cause is rarely determined before sanctioning an individual, too narrowly defined to capture all legitimate reasons someone could fail to comply and often not even communicated to SNAP participants.

Determining good cause requires the agency to consider the facts and circumstances involved, including information from the household member involved. However, as noted below, we are concerned that the expected respondents may fail to provide useful insight on the use of good cause.

Research on the characteristics of SNAP work registrants and E&T participants suggests that many individuals subjected to these requirements in fact have health issues that make it challenging to find work and comply. For example, in a survey of SNAP work registrants, the most common barrier to getting or keeping employment was health issues, identified by over a third of all respondents who reported facing a barrier of any kind.² Many of these may have met the state's standard for being unfit for work, yet were not exempted from the work registrant requirements; indeed, some of the comments from focus group participants in the study suggest that the individual should be exempt. Similarly, 3 in 10 E&T participants identified health issues as a barrier and may have been exempt. In the study's focus groups, it was unclear whether individuals who reported mental or physical health issues knew of, or sought, an exemption from E&T. This only illustrates the importance of examining and improving the process by which individuals' fitness for work is assessed and whether the criteria used to determine fitness actually identify all physical and mental conditions that prevent an individual from completing work-related activities. We suggest that the study specifically collect information from eligibility staff and E&T providers about individuals who are considered fit for work but have physical or mental challenges in successfully completing work registration and E&T requirements.

Changes to SNAP Employment and Training (E&T) program in the 2018 Farm Bill, and recently implemented through regulation show an increased interest in ensuring that SNAP's work-related provisions are applied in a fair and consistent way to those who could reasonably be expected to comply. For example, the new case management services now required would generally come after someone is assigned to E&T, indicating that Congress was thinking about providing more individualized services and supports to E&T participants. Ironically, someone who is sanctioned for non-compliance who should have been exempted doesn't have access to that case management service even though case management could help address the individual's challenges.

The new E&T rules also require individuals who are determined to be "ill-suited" for a particular training placement by the training provider to be referred back to the SNAP agency for reassessment. This acknowledges that individuals can either slip through the cracks due to an insufficient screening process or be inappropriately assessed due to the subjective nature of such assessments (assuming good intent by the agency in the process. It also can shed light on any

² USDA, Food and Nutrition Service, Office of Policy Support, "SNAP Employment and Training (E&T) Characteristics Study: Final Report," October 2017, pp. 29-31, <https://www.mathematica.org/publications/snap-employment-and-training-e-t-characteristics-study-final-report>.

discriminatory or ill-intentioned assessments when someone is assigned to an ill-suited activity). Although states are likely developing policy to implement this and educating E&T providers about it, the proposed information collection is a timely opportunity to include policies, procedures, and any data on the implementation of this provision.

There is limited but troubling data that raises serious concerns that SNAP's work-related requirements disproportionately penalize Black and Latino households. According to the 2017 report from USDA on the characteristics of SNAP E&T participants, racial discrepancies exist in the administration of the program. And since identifying individuals who should be exempt from work requirements because they are unfit for work is a key component of both E&T and the three-month time limit, collecting information on state implementation of screening for this exemption is critical.

Among SNAP work registrant, 60 percent were white while 30 percent were Black. But for E&T participants, 45 percent were white while 46 percent were Black, indicating the state agencies were placing Black participants into E&T at a higher rate than white participants. If these participants were receiving useful training and the support they needed to help them find and retain work, this discrepancy could reduce longstanding inequities in the low-wage labor market. But the study also found that E&T participants that identified as voluntary (and thus not subject to sanction for failure to comply) were much more likely to be white and those that identified as mandatory (and thus subject to sanction) were much more likely to be Black. Black E&T participants made up 57 percent of those that believed they were mandatory (in comparison, 38 percent were white). However, Black E&T participants made up only 39 percent of those that believed they were voluntary (in comparison, 50 percent were white). Because sanction rates for mandatory programs can exceed 50 percent (while the sanction rate for voluntary programs is zero percent), the high rate of Blacks assigned to mandatory activities raises concerns about the disparate impact of state agency decisions about these programs.

This concern about disparate impact is not limited to SNAP. Nearly every study comparing the race and ethnicity of sanctioned and non-sanctioned recipients of Temporary Assistance for Needy Families who are subject to work requirements finds that Black people are significantly more likely to be sanctioned than their white counterparts.³

Ways to enhance the quality, utility, and clarity of the information to be collected

In the Information Collection notice, FNS estimates a total of 408 respondents participating through a survey, interview, or observation. Of those 408, 378 are either state or local SNAP staff or E&T providers, with over half of all survey respondents being state agency directors or policy staff. The potential value of this study would be to get at variations in practices and processes related to the fitness for work determination and screening process that occurs at the local level. Rather than asking SNAP directors to designate up to 3 state policy staff to also respond to the survey, we suggest that local staff (administrators, supervisors, frontline staff) and E&T providers be

³ LaDonna Pavetti, "TANF Studies Show Work Requirement Proposal for Other Programs Would Harm Millions, Do Little to Increase Work," November 13, 2018, <https://www.cbpp.org/research/family-income-support/tanf-studies-show-work-requirement-proposals-for-other-programs>.

surveyed as well. The case study interviews can then be used to explore nuances, variations that emerge from the surveys.

Only 30 are SNAP applicants and none are current SNAP participants. We are concerned that the number and proportion of SNAP participants providing information in this process is inadequate. Given that determining fitness for work is performed by the SNAP agency, and is subjective to some degree, it is possible that inadequacies or challenges in this process will not be fully shared – or even recognized – by the majority of study participants. In other words, asking the SNAP agency how it assesses the fitness to work risks a self-assessment that misses shortcomings or flaws in the process. Relying on only 30 SNAP participants to provide the perspective of the individuals in the assessment process runs the risk of missing important weaknesses in a state’s assessment process.

In addition, only SNAP applicants are part of the target population, yet the goals of the study, as described in the summary include an assessment of the good cause process in states. The study should screen or filter for participants who have gone through the fitness for work determination or are subject to sanction. Good cause provisions are relevant only after an individual has been assessed for fitness, found non-exempt (or, fit for work), been assigned some sort of activity, and failed to comply. It’s not clear how this could be observed of SNAP applicants who may not yet have been assigned an activity. In addition, one of the concerns about the good cause process is that many individuals facing an adverse action like a sanction for failing to comply with an E&T requirement are unaware of, or unable to access, the good cause process. It is unclear how this study as designed will provide any insight into whether participants are aware of, understand, and can access the good cause protections that SNAP law provides, which is an important protection for SNAP applicants. We urge the Department to identify and prioritize SNAP participants who are required to participate in an E&T activity to be included in the information collection process to ensure that some insight into the good cause process is provided.

We believe this research is important, overdue and could help lead to a stronger, more equitable SNAP. Thank you for the opportunity to comment. Please let me know if you have any questions.

Sincerely,

Ed Bolen

Senior Policy Analyst