

7 CFR Parts 271, 272, and 273 (FNS 2015-0038)

RIN 0584-AE41

Sec. 4009. ENDING SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS FOR LOTTERY OR GAMBLING WINNERS.

The financial and administrative burden of cross referencing gambling and lottery winnings against SNAP recipients and the subsequent litigation will put additional burden on state agencies.

Gross vs. Net winnings

I agree with the American Public Human Service Association, Empire Justice Center and the Louisiana Department of Children and Family Services that the threshold should be based on NET winnings. The concern is that after taxes, state and federal withholdings, the take home amount may not be a 'significant lifestyle change'.

State interception of lottery winnings vary but are prevalent. For example, New York State can intercept up to 50% of any lottery prize of \$600 or more. This interception is not only for taxes and unpaid child support, but also requires lotto recipients who received public assistance to repay any public assistance received in the past 10 years. <http://www.wnyc.com/resources/regs/part396.htm>. This interception of lottery winnings has been effective. According to the New York Post, \$35.9 million in state lotto winnings have been taken back between 2007 and 2015. (<http://nypost.com/2015/11/20/lottery-winner-who-received-public-assistance-can-keep-all-his-cash/>) There have also been litigation with respect to interceptions. It would be advisable the Department create a distinction between public assistance and state-subsidized jobs which may come into question with implementing this legislation. (<http://nypost.com/2015/11/20/lottery-winner-who-received-public-assistance-can-keep-all-his-cash/>)

Suggestion: Please read "upon receipt of winnings" as net winnings. Receipt is when the winner finally collects what is remaining of their winnings after state and tax withholdings. This will lower the number of SNAP recipients being removed that will need to immediately reapply because their take home winnings are insignificant.

Substantial winnings

I agree with the Texas Health and Human Services Commission that there needs to be a static threshold to reduce the administrative burden of recalculating this threshold each year.

I question if \$25,000 is substantial, especially if it is calculated pretax. According to USA Today (2016), the average credit card debt is \$16,048. This does not calculate any investments (house, car, education) the SNAP recipient will use with any remaining winnings. I would suggest \$50,000 after tax and withholdings is more likely to create "significant lifestyle change". This higher amount will also reduce the burden on the cooperative agreements between the state and gambling regulators.

Cooperative Agreements

Data Security

I agree with the Center for Budget and Policy Priorities and Empire Justice Center that data security concerns must be addressed and outlined to protect personal privacy in the data collection and transfer between the gaming industry and the agencies. The Empire Justice Center makes a good point to clarify

that the data received by the agency is used to notify recipients, rather than immediately removing them from the rolls. This will ensure the SNAP recipients due process rights are upheld, and will not result in litigation.

Efficiency and Costs

According to the provided projected initial costs to initiate, develop, and maintain a data exchange system with the cooperative private gaming industry is \$23,078.80 per private business gaming entity. And only \$295.35 for each State's Public Agency Gaming Entity to enhance their reporting system. These amounts are small unless the plan is to upload unsecured XML files to the cloud.

Transparency

As Washington State points out, a state could have hundreds of private gaming business. However, the rules and regulation outlined here only assume a cooperative agreement with 3 private businesses. How will these 3 businesses be chosen? Is there conflict of interest? Will these 3 business be "compensated" unfairly in exchange for their \$23,000 investment in initial overhead?

I recommend the agency use the SNAP recipient's self-reporting, IRS yearly tax reports and the media to identify SNAP recipients winners.

Lottery vs. Gambling

Gambling is when people willingly relinquishing funds to feel excitement in heuristic sport run by private organizations. Gambling winnings are cash prizes won and distributed by non-government, nor government paid agencies.

Lottery, on the other hand, is a state funded voluntary and regressive tax. Ironically, those who disproportionately pay this tax are the exact recipients our legislators are preventing from receiving a refund of their contributions. The withholding of winnings and removal of benefits for SNAP gambling winners and SNAP lottery winners should be distinguished.

Thoughts and conclusion

Having grown up in a household that used the food stamp program, I have issue with the societal demonizing of welfare recipients. Perhaps we should not penalize them for their good luck, heuristic knowledge or the act of God providing them with security.

I question the legislator's motivations as they appear to only be pandering to those who do not feel hunger pains, nor fear for the wellbeing and survival of their families. Perhaps they are only jealous that someone other than themselves was blessed.

Perhaps, instead of "earmarking" the .34 cents of profit from the state sponsored lottery industry for "education" or any other state fund, the money is managed by the state's Department of Health and Human Services, or a third party non-profit who specializes in providing services for low-income families. This way the government does not have to carry the burden of pretending they care about welfare recipients and the legislatures can fain interest in another topic, like campaign finance.

Below I have provided suggestions on rewording the proposed rules.

Therefore, “Substantial lottery or gambling winnings would be defined as a cash prize won in a single game equal to or greater than \$25,000 before taxes or other amounts are withheld.”

Can be:

“Substantial gambling winnings would be defined as a cash prize won in a single game equal to or greater than \$50,000 after taxes or other amounts are withheld.”

“Substantial lottery winnings would be defined as a state refund won in a single game equal to or greater than \$50,000 after taxes or other amounts are withheld.”

“These substantial lottery and gambling winning amounts can be increased with inflation at the discretion of the Secretary, but not decreased without further legislative amending.”

Therefore, “Section 4009 requires that households disqualified by this provision shall remain ineligible for SNAP until that household meets the allowable financial resources and income eligibility requirements under subsections....”

Can be:

“Section 4009 requires that households disqualified by this provision shall remain ineligible for SNAP until that household meets the allowable financial resources and income eligibility requirements under subsections....”

“To Assist state refunded lottery winners from returning to SNAP eligibility, states will provide information and access to state and non-government agency resources to encourage household food security.”