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January 30, 2017

Ms. Sasha Gersten-Paal, Branch Chief,  
Certification Policy Branch, Program Development Division  
Food and Nutrition Service  
3101 Park Center Drive  
Alexandria, VA 22302

Re: Proposed Regulations: Supplemental Nutrition Assistance Program:  
Student Eligibility, Convicted Felons, Lottery and Gambling, and State  
Verification Provisions of the Agricultural Act of 2014. RIN 0584-AE41

Dear Ms. Gersten-Paal:

We are writing to comment on the proposed rule published on December 1, 2016, *Student Eligibility, Convicted Felons, Lottery and Gambling, and State Verification Provisions of the Agricultural Act of 2014* (RIN 0584-AE41).

## **1. Section 4007: Student Eligibility Disqualifications**

In order to restrict the ability for middle class college students who are temporarily poor from receiving SNAP while enrolled in college, SNAP has rules that substantially restrict the eligibility of most college students from receiving SNAP. Because the original prohibition had the unfortunate effect of denying SNAP to many low-income individuals who were attending community colleges and other institutions but were otherwise eligible for SNAP, exemptions were provided to ensure that these students were not excluded under the general rule. SNAP participants who are enrolled in a SNAP Employment and Training (E&T) program that provides programming through community colleges and other higher education institutions can also be “college students.” Section 4007 of the 2014 Farm Bill provides more details on the types of educational services provided via employment and training that justify an exemption from the ban on student eligibility.

Specifically, Section 4007 clarified that the exemption for students in institutions of higher learning is limited to those who are enrolled in a course or program of study that is part of a program of career and technical education (as defined in Section 3 of the Carl D. Perkins Career and Technical Education Act of 2006)(the Perkins Act) that may be completed in not more than 4 years at an institution of higher education, or enrolled in courses for remedial education, basic adult education, literacy, or English as a second

language. The purpose of this exemption is to maintain SNAP eligibility for low-income individuals enrolled in programs that will lead to employment and economic self-sufficiency.

The Perkins Act provides a general definition of the term “career and technical education.” In addition to adopting the basic definition, state agencies have some flexibility to define career and technical education. Because of the states have some discretion in identifying which programs meet the general definition, the regulations allow state agencies to determine what course or programs of study are parts of a program that meets the definition of career and technical education under the Perkins Act for SNAP. We agree with this determination, as long as it is clear that all state agencies must at least adopt the basic definition, and then have state-specific criteria. Also, the clarification that the program does not have to receive Perkins funding also helps with the state’s ability to define career and technical education.

The proposed rule will also allow students participating in qualifying courses or programs of study that are designed to be completed in up to four years, but actually take longer than four years to complete, to remain eligible for SNAP. This reflects the reality in many community colleges where Perkins Act programs are not limited to a specific time period and the reality that many low-income students take more than four years to finish their course of study due to family commitments and other responsibilities.

## **2. Section 4008: Eligibility Disqualifications for Certain Convicted Felons**

Section 4008 prohibits anyone convicted of certain sexual crimes, child abuse, or murder who is also not in compliance with the terms of his or her sentence, is in violation of parole or probation, or who is fleeing from receiving SNAP. People who have paid their debt to society through our legal and criminal systems deserve basic support, to help reduce chances of recidivism and give them a second chance. We support the Department’s proposed regulation to implement this provision.

Attestation -- The proposed rule requires an applicant to attest to whether any household member is a convicted felon not complying with the terms of their sentence. To fulfill the attestation requirement, state agencies will have to update their application (and recertification) processes. This can be done either by adding the attestation to the application for benefits, or by updating the state interview process to include the attestation.

We agree with the Department that states should not impose a requirement that applicants will have to come into the office solely to complete the attestation. Requiring individuals to make a trip to the SNAP agency solely to meet the attestation requirement prior to completing an application would have a negative impact on efficient business processes. Since the vast majority of applicants have not been convicted of any of these crimes, this will be primarily a ministerial function so the process must be seamless to minimize the burden on working families and seniors as well as the taxpayer. It would be both costly and inefficient to require millions of households to provide paperwork on an issue that is not pertinent to their situation. We urge the Department to prohibit states from requiring such visits solely to complete an attestation. This would be a poor use of federal matching funds for administrative expenses.

Also, a state agencies that updates the application to collect the required information must ensure that the question be clear that this disqualification only applies to those with a state or federal felony conviction and is out of compliance with the terms of their sentence. A poorly worded or broadly constructed question will be confusing to many applicants and could result in an eligible applicant believing that they are not eligible and forgo applying. Congress took great care to exclude ex-offenders who have complied with the terms of their sentence and are working to reintegrate into society. State bureaucracies must not undermine successful rehabilitation efforts by jeopardizing an ex-offenders access to needed food assistance.

State Verification Requirement – We strongly agree with the Department that it is the state’s responsibility to verify a household member attestation that there is a convicted felon in the household who is not complying with the terms of their sentence. The state agency, not the individual, is better positioned to investigate this information. Information available from other agencies is more reliable than needing to seek clarifying statements from individuals when information is questionable or unclear. It’s also more efficient coming from a trusted government source for overburdened state agencies.

### **3. Section 4009: Lottery and Gambling Winners**

The 2014 Farm Bill prohibited households with substantial winning from the lottery from being eligible for SNAP until they meet the income and resource limits of the program. The Department was tasked with defining “substantial winnings” for the regulations. The Department proposes to define “substantial winnings” as “a cash prize won in a single game equal or greater than \$25,000 before taxes or other amounts are withheld.” We agree with this definition since it sets a reasonable threshold that will make ineligible those rare households that end up with a windfall, while allowing households with a modest one-time winning that does not substantially change their economic picture to remain eligible for SNAP.

We are pleased to see the regulations make clear that the cooperative agreements would solely allow the gaming entities to transmit information to the state agencies; appropriately, state agencies will be prohibited from sharing any information about SNAP households with gaming entities. The match is critical, as it is more effective to use independent existing information to determine whether individuals have excessive lottery or gaming winnings. So long as the data is accurate and up-to-date, it is also more efficient to use existing databases than placing the burden on SNAP recipients who may, in fact, not know the pre-tax total of their winnings.

We agree with the decision to not require a question about lottery winnings on the initial application. The application process already contains an extensive focus on identifying income. The Department proposes to add substantial lottery winnings by a household member to the period report submitted between recertifications. We believe routine state SNAP agencies matching with state and local lotteries will be a much more accurate and timely match. Moreover, households are already required to report when income exceeds the eligibility threshold – a substantial winnings would almost certainly do this. And, states are now required to match lottery and gaming winners to their SNAP caseload, identifying

any household that did win a substantial amount. Simplified reporting and the periodic report it requires is the reporting system preferred by most states because it eliminates much unnecessary reporting between certification periods. Adding a reporting requirement that is irrelevant to the vast majority of household undermines the purpose of simplified reporting.

#### **4. Section 4015: Mandating Certain Verification Systems**

Section 4015 of the 2014 Farm Bill provides that a state agency must use an immigration status verification system established under section 1137 of the Social Security Act (SSA) as well as an income and eligibility verification system. Prior to passage of the Farm Bill, the use of these systems were optional, and common, for state agencies. The proposed rule will require States to use the Systematic Alien Verification for Entitlements (SAVE) Program to verify the immigration status of public benefit applicants.

We agree with the proposed regulations. SAVE is a tested system for verifying immigration status already used in all states. By requiring states to use SAVE in order to comply with section 4015 of the 2014 Farm Bill, the Department is ensuring compliance with the requirement to verify immigration status for all SNAP applicant households without imposing new burdens and costs on states. Since every state currently chooses to use SAVE, the impact of this proposed regulation should be minimal.

To further clarify existing requirements, the proposed regulation states that the State agency must verify the immigration status of all non-citizens applying for SNAP. This makes clear that the state is responsible for verifying an applicant's status with USCIS, even when the applicant provides documentation of their status. It is appropriate to require the state agency to verify immigration status with DHS, since the SNAP agency may not be able to confirm the validity of an applicant's documents. While we do not raise issue with that addition, we ask the Department to clarify that the use of SAVE (or other immigration status verification system) is limited to verifying the status of any non-citizen household member *applying* for SNAP, but not any *non-applicant* household members, including individuals applying on behalf of a household.

In addition to requiring the use of SAVE, the Farm Bill also requires that state agencies use an income and eligibility verification system (IEVS), which was also option prior to the 2014 Farm Bill. The proposed regulation simply mandates the use of an IEVS, without any additional changes to current requirements. We have no comments on this provision.

We believe these regulations, properly implemented, will improve SNAP. Thank you for the opportunity to submit comments.

Sincerely,

Ed Bolen  
Senior Policy Analyst