



July 15, 2021

Submitted via Federal Rulemaking Portal

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Office of Intergovernmental and External Affairs
U.S. Department of Agriculture

Re: Comments on Request for Information: Docket ID. FSA-2021-0006, Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA

The [Center for Community Solutions](#) (Community Solutions) welcomes this opportunity to comment on the United States Department of Agriculture's (USDA) request for information to identify barriers in USDA programs and services in order to advance racial justice and equity for underserved communities. Community Solutions strongly supports [Executive Order 13985](#), Advancing Racial Equity and Support for Underserved Communities through the Federal Government, and appreciates the urgency with which USDA is pursuing its goals.

Community Solutions is a nonpartisan, nonprofit think tank focused on solutions to health, social, and economic issues throughout Ohio. Community Solutions contributes nonpartisan research, policy analysis, communications and advocacy to improve the wellbeing of Ohioans. Community Solutions has unique expertise in the implementation of the Supplemental Nutrition Assistance Program (SNAP) in Ohio and works closely with state and county SNAP administrators, along with many community-based service providers.

SNAP is the backbone of our country's anti-hunger effort and is the largest program overseen by the USDA, serving over 42 million people in April 2021. SNAP is a highly effective and efficient program that automatically expands to meet rising need and shrinks when economic conditions improve, ensuring food assistance is always available to those who qualify. Even so, SNAP does not reach all eligible individuals – especially in communities of color – who are discouraged from participating in SNAP due to restrictive and stigmatizing policies and procedures. Community Solutions respectfully requests that FNS consider the following recommendations to address long-standing structural barriers to work towards equal access to SNAP, regardless of race, ethnicity, or English-language proficiency.

Discriminatory Implementation of State Options

Because SNAP is administered directly by state agencies and was designed by Congress to allow for significant state flexibility on a range of policies and procedures, SNAP state options have been used by some states to explicitly exclude or deter certain groups from participating in SNAP. One egregious

example of this in Ohio occurred in 2014 when Ohio's Governor decided to exercise the state option to waive time-limits for Able-Bodied Adults without Dependents (ABAWDs) in some eligible counties in Ohio, but not others. A 2018 [analysis](#) of counties benefiting from the ABAWD time-limit waiver had a population that was overwhelmingly white, compared to non-waived counties (primarily large metropolitan areas) where a much larger percentage of Black residents lived. Non-waived counties had unemployment rates as high or higher than waived counties and all could have qualified for a waiver of the ABAWD time-limit, but the Governor chose to only grant relief on the majority white counties.

In August 2014, the Legal Aid Society of Columbus filed a Civil Rights complaint with the USDA's Office of Civil Rights. Although USDA sent a team to Ohio to investigate the complaint, no action from USDA was ever taken, despite many follow up attempts from the Legal Aid Society of Columbus. To avoid such failures of USDA's Office of Civil Rights in the future, we strongly recommend that the Office be properly staffed and empowered to intervene with state and/or county agencies administering SNAP in cases of clear or perceived racial discrimination.

Since 2002, USDA FNS has released annual state options reports permitting the public to compare which waivers, statutes and regulations each state is utilizing and to what extent. The last report analyzed data from May 2018, well over three years ago. It's crucial that USDA not only routinely and systematically publish state options through this report; USDA must also independently evaluate state options for discriminatory patterns and use all available administrative authority to require states to ensure equal access to USDA programs. Without such evaluation and intervention, USDA should expect to continue to see large disparities in access to SNAP on a state-by-state basis.

According to [Pew Research Center](#), 56 percent of Black Americans live in the South which includes Mississippi and Georgia where well over a third of the population identifies as Black, and Texas which has the highest number of Black Americans in the country. When looking at which states take advantage of which options from the 2018 report, it's easy to notice the regionalization of some waiver options. For example, of the four states with lifetime Drug Felony Disqualifications, three of them are in the south. This policy disproportionately impacts Black Americans who are more likely to be affected by the country's racially-discriminatory drug enforcement and incarceration policies.

Unequal Barriers to SNAP Enrollment and Retention

Even before the COVID-19 pandemic resulted in a spike in demand for assistance from SNAP from working-class Americans, access barriers to SNAP were significant in many parts of the country. In some areas of the country, call center wait times are often 2-3 hours long, with families facing equally long wait times to receive in-person assistance. In 2019, one state reported a statewide call center answer rate of 20% - meaning 80% of calls go unanswered. Applications from eligible families were routinely denied for small paperwork or procedural errors, and rates of enrollment "churn" – when eligible households bounce in and out of SNAP for purely administrative reasons – are high, which negatively impacts individuals and agencies alike.

These well-known and documented barriers to SNAP enrollment and retention have a disproportionate impact on those most at risk of hunger, including people who are homeless, individuals with disabilities, and communities of color. For example, in Ohio, call center wait times are significantly longer in the large metropolitan counties where a higher concentration of Black and Latinx residents live, resulting in high rates of application denials for missed interviews. Unlike the ABAWD time limit issue mentioned previously, this unequal access to timely assistance may not be the result of deliberate choices by county

or state administrators; yet the negative outcomes of lost food assistance for communities of color in Ohio are undeniable.

SNAP-eligible communities face similar access barriers online. According to the 2018 State Options Report, only 33 states and territories allowed households to apply for SNAP online **and** recertify their case online. To make it easier for people, especially historically disadvantaged populations to access SNAP, states should be required to offer households options to access benefits and recertify eligibility online, in person and by phone while not scaling back in-person services. Requiring participants to come in person is not only incredibly challenging but can be impossible considering low-income areas and areas of concentrated poverty often have little to no access to reliable public transportation and work jobs with little flexibility or formal time off.

Another concerning area of SNAP policy and practices that disproportionately harms immigrant communities is very [limited accommodations](#) for individuals with limited English proficiency (LEP). The USDA's Food and Nutrition Service (FNS) does not appear to actively enforce its language access requirements on state and county agencies that administer SNAP at the local level. Mandatory notices are often provided only in English (or in some cases, in just English and Spanish). Non-English readers are held accountable for overpayments – or even charged with intentional program violations – when they misunderstand program rules, despite never receiving a copy of those rules in their native language. And while most SNAP agencies subscribe to a language translation service to assist LEP households over the phone, it is not always offered or well-monitored to ensure it meets the SNAP agencies' privacy and customer service standards.

Expanded Training Needed for SNAP Caseworkers

Frontline staff in state or county SNAP agencies are often a SNAP participants' first introduction to SNAP and the USDA. Negative interactions with caseworkers can not only result in a case not being handled properly, but it can deter low-income individuals from ever seeking benefits again. Households often must overcome stigma and shame to seek out SNAP benefits, so it is crucial that those tasked with helping eligible individuals enroll in the program are not perpetuating negative stereotypes. USDA-FNS could provide significant support to state and county agencies by developing new, ideally mandatory, training curricula for frontline staff on anti-racism, implicit bias, and trauma-informed care, along with mechanisms of staff accountability for administering agencies to adopt. Additionally, workforce development policies should be in place to support hiring current or former participants as caseworkers and hiring staff who reflect the makeup of the communities they serve.

Reform Needed in SNAP Overpayment Collection Policies

One of the most pernicious and misunderstood areas of federal SNAP policy is the requirement for individuals to repay any and all SNAP benefits received in error, even when the state or county agency is responsible for the mistake. States are expected to recoup SNAP overpayments from very poor households through a variety of means, such as reducing ongoing SNAP benefits (sometimes for years), requiring cash repayment, and/or intercepting households' tax refunds, including from the Earned Income Tax Credit, one of our country's premier anti-poverty programs. Unfortunately, the aggressive pursuit of SNAP benefit recoupment can both drive vulnerable families further into poverty and deter them from future participation in SNAP or other USDA programs, even when they remain eligible.

Even more pernicious are the financial incentives for state and county SNAP agencies to “over-charge” SNAP overpayments so that the administrating agency can retain a portion of recouped benefits. USDA-FNS allows local SNAP agencies to retain 0% of overpayments from agency errors, 15% from inadvertent household errors (IHE), and 35% from intentional program violations (IPV). Because of these financial incentives, legal aid advocates in many states have identified examples of SNAP agencies classifying overpayments as IPVs, rather than IHEs. These agency decisions have serious consequences for SNAP households, including possible program disqualification and potential criminal prosecution. Even a few anecdotal stories of this happening can create significant fear and confusion in local communities, especially in communities of color that already overburdened by the criminal justice system.

Community Solutions appreciates the opportunity to identify SNAP policies and practices at the local, state, and federal levels that result in unequal access to this critical nutrition program. One final recommendation for USDA and its state and county partners is to proactively solicit feedback from SNAP participants and SNAP-eligible non-participants *before* making significant policy or process changes. One effective approach to promote is human-centered design (which FNS has recently done through [SNAP Process and Technology Improvement Grants](#)). Principles of human-centered design must be incorporated into all new technology projects, efforts to revise notices and applications, post-pandemic workforce models, and more. USDA should also consider holding various listening tours in-person and online, and in multiple languages, to better understand the needs of SNAP’s most vulnerable and most important stakeholders.

Sincerely,

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