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EXEMPTING INDIVIDUALS FROM THE THREE-MONTH FOOD STAMP CUT-OFF

The 1996 welfare law originally required states to cut off food stamps after three months to most able-bodied childless adults who are not working at least 20 hours per week, participating in an approved work or training program, or living in an area where the three-month cut-off has been waived because of an insufficiency of jobs. The following year, Congress gave states considerably more discretion in implementing this provision by authorizing them to exempt some individuals from the three-month cut-off. Apart from states' authority to seek waivers, this individual exemption authority is the simplest, least costly way for a state to assist needy men and women facing the food stamp cut-off. Unfortunately, for a variety of reasons, most states have only partially implemented this provision.

Highlights of the Exemption Authority

Based on the size of its caseload, each state has a certain number of exemptions it may provide to individuals subject to the time limit. *States have complete discretion in deciding to whom to extend the exemptions — no USDA approval is necessary.*

Although it is now entering its fourth year, the food stamp exemption authority remains subject to some important misunderstandings. In particular, this authority allows states to protect many more people than is commonly realized. Also, in guidance and proposed regulations concerning this authority, USDA has scrupulously avoided imposing any restrictions on states' discretion or any penalties for routine errors that might occur in implementing this exemption authority. Thus, states do not risk incurring quality control (QC) errors when implementing this provision.

- **The authority is sufficient to exempt far more than 15 percent of states' current caseloads of persons subject to the three-month cut-off.** Some people still refer to states' authority to exempt individuals from the cut-off as the "15 percent exemption authority." This may lead to the perception that it allows states to exempt 15 percent of current food stamp recipients subject to the time limit who live in areas without waivers. *This perception is incorrect: states may exempt many more people.* The exemption authority gives states the authority to exempt 15 percent of those individuals subject to the time limit whom USDA estimates *would have been receiving food stamps* were the three-month cut-off not in effect. In addition, the allocation of exemptions that states receive from USDA each fall represents the *average* number of exemptions that states may grant *each* month. To calculate the *total* number of months of exemption a state may grant over the course of a year, the USDA allocation must be multiplied by twelve. Since most people subject to the cut-off need only a few more months of benefits than the three-month cut-off allows, the number of people a state can help over the course of a year is several times the average number of exemptions it has available per

month. Furthermore, exemptions unused in previous years carry over to the next year. Almost every state has a vast store of unused exemptions that carried over.

Although written in somewhat technical language, USDA's guidance of February 9, 1998, provides states with valuable assistance in estimating how many exemptions would be used under various policy alternatives available to them. USDA estimates that if the three-month cut-off provision were not in effect, the average individual subject to the cut-off would have remained on the program for 5.66 months, or 2.66 months longer than the cut-off point. If a state were to provide three months of exemptions to each individual, essentially converting the three-month cut-off into a six-month cut-off, the state would enable the average individual who is subject to the time limit to receive this full 5.66 months of benefits. Furthermore, the number of individuals whom the state would aid by providing three months of exemptions in this fashion would be more than four times greater than the average monthly number of exemptions that USDA has allotted to the state. (For example, suppose a state provides three additional months of benefits to four individuals over the course of a year. The state has aided four people. But it has used an average of only one exemption per month over the course of this year in assisting these four individuals.[1])

- **Even if a state makes mistakes in implementing the exemption authority, it faces no penalties.** The statute and USDA's implementing guidance and proposed rules make clear that a state's overuse of exemptions *results in no penalty*. The only consequence of a state using too many exemptions in one year is that its allotment for the following year is reduced. For example, if a state provides 600 more months of exemption in fiscal year 2001 than it has available, USDA will simply reduce the average monthly number of exemptions it can provide in fiscal year 2002 by 50. (600 ÷ 12 = 50.) No fiscal or QC penalty will attach. The number of exemptions allotted to each state, therefore, is really more of a guidepost than a ceiling or a limitation. Each state is expected to manage its exemption policy to stay reasonably close to the guidepost, with any discrepancy dealt with by adjusting the following year's allotment accordingly. In this way, states are left free to experiment without concern of any penalty from USDA if their projections should prove wide of the mark.

  States also are not liable for any QC errors if eligibility workers (or the state's computer system) provide exemptions to individuals whom the state's policy did not intend to cover. Similarly, a state will not be considered to have committed an error if it fails to provide an exemption to someone who meets the state's criteria

[1] In fact, extending the time limit by three months will require states to use substantially less than three months of exemptions for each individual served. The average of 5.66 months on the program that USDA computed includes some people who stay much longer than six months, but it also includes a substantial number of individuals who leave the program more quickly. Since the *most* that anyone will receive is three extra months of benefits and those individuals who need fewer than three additional months of benefits will not use these full three months, USDA estimates that adding three months to the time limit will cost states an average of only 1.41 exemption months for each recipient covered by the policy.

for exemptions. In each case, since the state had absolute discretion under federal law to grant or withhold the exemption, no violation of federal policy has occurred, and no QC error can be assessed.

- **States can effectively extend the time limit by one additional month for most individuals without using *any* individual exemptions.** Under proposed regulations USDA published on December 17, 1999, an individual's first month of food stamps would not count against the three-month time limit if the individual did not receive a full month of food stamps for that month. Since applicants' food stamps are pro-rated based on the number of days remaining in the month when an application is filed, all initial months' benefits are pro-rated except when an individual happens to apply on the first of the month. Although states are not required to implement this policy now, by doing so they can effectively extend the time limit an additional month to all individuals except those applying on the first of the month without using any of their allotment of individual exemptions.

Formulating an Exemption Policy: Whom Should the State Exempt?

One administratively simple way to use this exemption authority is to add months to the cut-off. A January 1993 study conducted by Abt Associates under contract with USDA found that only 33 percent of childless able-bodied individuals between the ages of 18 and 60 left the food stamp program within three months of beginning to receive benefits. The same study found, however, that 59 percent of these individuals left within their first six months on the program, and three-quarters left within nine months.[2] This suggests that many individuals subject to the cut-off can receive all of the food stamps they need if given just a few additional months of eligibility beyond the three months provided under federal law.

Hoping to make food stamps a more effective bridge for these short-term unemployed workers, Missouri and Tennessee have each extended the three-month time limit to five months by granting exemptions to all individuals for two months after the time limit has expired. USDA's guidance details how to calculate the number of months that a state may extend the time limit and still remain within its annual exemption limit. Based on this guidance and the most recent available data on the use of these exemptions, the Center on Budget and Policy Priorities has calculated that almost every state now has sufficient exemptions to extend the three-month cut-off to a total of six months and to maintain that policy for the foreseeable future.[3]

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[2] This study presents what is likely to be a somewhat conservative estimate of the rate at which persons who are subject to the three-month cut-off would leave the program today. During the years the study covered — 1983 through 1986 — the economy was not as strong as it is now. In addition, these data include some populations that are not subject to the cut-off because they may face greater barriers to employment, such as persons between ages 50 and 59 and pregnant women. In today's economy, and with these groups excluded, somewhat higher percentages of recipients likely would leave the program within six or nine months of entering it.

[3] USDA's guidance makes clear that all states could have extended the three-month cut-off by at least one month from the time the exemption authority originally took effect. According to USDA's figures, many states could have been providing an extra two months all along. Now, with the store of unused exemptions that states have, almost all states can provide three months of exemptions.

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Another option is to use exemptions in specific geographic areas. Some states might wish to use exemptions to supplement a waiver that covers only part of a county. States such as Florida, Illinois and Washington State have found this approach attractive because it permits them to have waived areas consistent with catchment areas of their individual food stamp offices, thereby making it simpler to determine who is and is not subject to the cut-off. States also might wish to use exemptions to continue a waiver-like policy in an area that formerly qualified for a waiver but no longer does. Florida is one of several states to take this approach.

States' large stock of unused, carryover exemptions provides them an excellent opportunity to design exemption policies that suit them best without undue concern of using too many exemptions. Moreover, even if a state finds that it has exempted too many individuals under a new policy, it will have plenty of time to modify its policy before it comes close to exhausting its carryover stock of exemptions. The population subject to the three-month cut-off cycles through the food stamp program relatively quickly, so natural attrition will limit the expenditure of exemptions in the unlikely event that a state's policy proves to have been too generous.

Conclusion

The authority to exempt individuals from the food stamp cut-off is an important tool that can help to protect these vulnerable individuals from losing food stamps unnecessarily while they look for work. States may be surprised to learn how many people they can protect from the three-month cut-off through this authority. Moreover, the exemption authority can be implemented in ways that pose few if any administrative difficulties for states and do not subject states to QC errors. Finally, USDA's estimates should help states to estimate relatively easily how many months of exemptions various exemption policy options are likely to consume.

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It also should be noted that with each additional month of food stamp benefits that are made available through the exemption authority, more individuals find jobs and leave the program on their own. As a result, the number of exemptions that is consumed for each month the time limit is extended declines as additional months of extensions are added. In other words, it requires fewer exemptions to extend the time limit from four months to five months than to extend it from three months to four, and fewer exemptions still to extend the cut-off from five to six months. The move from four or five months to six months requires a relatively modest number of additional exemptions and at worst should consume only a modest portion of states' accumulated supply of carryover exemptions.