

# Implementing New Changes to the Food Stamp Program:

A Provision By Provision Analysis of The 2008 Farm Bill

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The **Center on Budget and Policy Priorities**, located in Washington, DC, is a non-profit research and policy institute that conducts research and analysis of government policies and the programs and public policy issues that affect low- and middle-income households. The Center is supported by foundations, individual contributions, and publications sales.

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## I. INTRODUCTION

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The 2008 Farm Bill makes numerous improvements to the Food Stamp Program that will help low-income Americans put food on the table in the face of rising food and fuel prices.<sup>1</sup> Over the 2009-2017 period, the Farm Bill will add \$7.8 billion in new resources for the program, according to the Congressional Budget Office (CBO). The major food stamp provisions will:

- **End years of erosion in the purchasing power of food stamps** by raising and indexing for inflation the program's *standard deduction* and *minimum benefit*. These changes will help about 11 million low-income people, including families with children, seniors, and people with disabilities. With these changes, food stamp rules will fully account for annual inflation for the first time since the program's creation over 40 years ago, and food stamp households will stop losing food purchasing power each year.
- **Support working-poor families** by eliminating the cap on the *dependent care deduction*, reducing the chances that families will have to forgo food to pay for decent and safe child care.
- **Promote saving** by improving the program's resource limits and excluding *tax-preferred retirement accounts* and *education accounts* from those limits.
- **Simplify food stamp administration** for participants and states by building on successful initiatives from the last (2002) Farm Bill.
- **Rename and update the program**, which will be called the "Supplemental Nutrition Assistance Program" (SNAP); food stamp coupons will be eliminated.

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<sup>1</sup>The 2008 Farm Bill (The Food, Conservation, and Energy Act of 2008, P.L. 110-246) was enacted over the President's veto on June 18, 2008. In total the nutrition title includes more than \$10 billion over ten years in increases for domestic nutrition programs. In addition to the food stamp improvements, the bill's major provisions include \$1.26 billion over ten years for The Emergency Food Assistance Program (TEFAP) and \$1 billion for the free fresh fruit and vegetable snack program, which is targeted to schools with high shares of low-income families.

- **Strengthen program operations, integrity, and oversight and modernize benefit delivery**, for example by creating a state option for telephonic applications and by improving oversight of state modernization efforts.

These changes, which represent the largest increase in the Food Stamp Program in 15 years, will make a critical difference in the well-being of millions of low-income Americans.<sup>2</sup> The Food Stamp Program is the nation's most important food assistance program. It is the *only* social program that creates a national benefit floor under nearly all categories of poor households — low-income children and their families as well as low income elderly, disabled, and unemployed individuals. In 2007 the Food Stamp Program provided more than \$30 billion in benefits to a monthly average of 26.5 million people.

#### New Name for Food Stamp Program

Effective October 1, 2008, the Farm Bill renames the Food Stamp Program the Supplemental Nutrition Assistance Program (SNAP) and renames the Food Stamp Act of 1977 the Food and Nutrition Act of 2008. This paper continues to call the program the Food Stamp Program and the program's benefits food stamps.

### Recent Improvements in Food Stamp Performance

The context for the food stamp reauthorization in this year's Farm Bill differs dramatically from the last reauthorization in 2002. Much of the credit goes to states, which in collaboration with USDA's Food and Nutrition Service (FNS) and other stakeholders have significantly improved program operations in recent years.

In 2002 the Food Stamp Program was struggling. Participation rates among eligible households had plummeted in the wake of the 1996 welfare law; for individuals in families with children, participation had fallen from 90 percent in 1994 to 72 percent in 2000.<sup>3</sup> Research indicated that many families were losing food stamps when they left TANF cash assistance to go to work, despite remaining eligible. In addition, the eligibility restrictions in the 1996 welfare law disqualified many immigrants and childless adults from food stamps. For those low-income households that did participate in the program, the deep benefit cuts from the 1996 law resulted in food stamp benefits that were too low and were losing purchasing power with each passing year.

The food stamp quality control (QC) system exacerbated the participation problem. Because of concern about high error rates, states felt compelled to demand that households demonstrate their food stamp eligibility as often as every three months and frequently fill out extensive paperwork. These requirements placed the greatest burdens on working households because their incomes tend to fluctuate more. Also, since the QC system assessed liabilities on any state with an error rate

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<sup>2</sup> Appendix A presents estimates of the number of people affected and the size of the benefit increases in each state for most of the major provisions, based on CBO cost estimates and CBPP analysis.

<sup>3</sup> U.S. Department of Agriculture, Food and Nutrition Service, "Trends in Food Stamp Program Participation Rates: 1994 to 2000," June 2002, available at <http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/Participation/Trends94-00.pdf>.

above the national average, about half the states were in sanction status each year, which shifted many state policymakers' focus away from improving participation and better serving eligible families.

The 2002 Farm Bill addressed many of these concerns. It restored eligibility to many legal immigrants; simplified the program with ten new state options designed to help states deliver benefits more effectively to eligible households, particularly working households, while lowering the risk of QC errors from small changes in household income; improved benefit adequacy by raising the standard deduction for larger households and adjusting it annually for inflation; and reformed the QC system both to focus on states with persistently high error rates and to add new performance bonus awards.

States have shown broad enthusiasm for the new options. According to FNS, 48 states have adopted the simplified reporting option to reduce clients' paperwork burdens, almost 20 states have adopted transitional food stamps to help keep families connected to food stamps as they transition off of TANF cash assistance, 40 states have simplified their standard utility allowances, and 35 states have conformed their definition of income or resources to the definition used in their TANF or Medicaid program.<sup>4</sup>

As states have embraced these changes, the Food Stamp Program has turned around. In 2006 (the most recent year for which USDA estimates are available), 67 percent of all eligible individuals participated and states delivered an astounding 83 percent of the benefits for which eligible households qualify. This means that the program is effectively targeting benefits to the families with the greatest need. Among working households, the participation rate jumped from 45 percent in 2002 to 57 percent in 2006.<sup>5</sup> Every indication is that the changes from the 2002 bill, along with state efforts, have made a big difference.

At the same time, states' error rates have reached all-time lows every year since the 2002 Farm Bill, dispelling some critics' fear that the bill's QC reforms would raise error rates.

Because of states' low error rates — and their successful implementation of disaster food stamp programs in the aftermath of Hurricane Katrina and other disasters — the *National Journal*, a very respected and influential “inside Washington” publication, called the Food Stamp Program one of government's top successes and a “case study in effective government aid.”<sup>6</sup>

Saxby Chambliss, the Ranking Member of the Senate Agriculture Committee, praised the program on the Senate floor during debate on the bill:

*This program has evolved over the decades to become one of the most efficient tools to combat hunger and reduce poverty. The Food Stamp Program now has one of the best track records among all*

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<sup>4</sup> U.S. Department of Agriculture, Food and Nutrition Service, “Food Stamp Program's State Options Report (7<sup>th</sup> edition), November 2007, available at [http://www.fns.usda.gov/fsp/rules/Memo/Support/State\\_Options/7-State\\_Options.pdf](http://www.fns.usda.gov/fsp/rules/Memo/Support/State_Options/7-State_Options.pdf).

<sup>5</sup> U.S. Department of Agriculture, Food and Nutrition Service, “Trends in Food Stamp Program Participation Rates: 2000 to 2006,” June 2008, available at <http://www.fns.usda.gov/oane/menu/Published/FSP/FSPPartNational.htm>.

<sup>6</sup> Carl M. Cannon and Jerry Hagstrom, “10 Successes, 10 Challenges,” *National Journal*, January 20, 2007, pp. 18-39.

*Federal programs. The payment accuracy rate, which measures the correct level of benefit issuance to participating households, is at an all-time high. Trafficking, which long plagued the program, has been substantially reduced. Also, the certification process has a proven success rate with over 98 percent of food stamp participants properly eligible for benefits. American taxpayers can be assured that the resources dedicated to this program are effectively used for their intended purposes.<sup>7</sup>*

These successes put food stamps on a strong footing during Congress's consideration of the 2008 Farm Bill. The result is a law that finally ends the erosion of food stamp benefits, which has been a part of the program since 1977. It also removes some limitations on state flexibility from the simplified reporting and transitional food stamp options of the 2002 bill and further strengthens the program, especially for working families and seniors.

In another major development since the 2002 Farm Bill, some states have significantly redesigned the way they operate the Food Stamp Program to incorporate modern technologies and business systems. States are making greater use of telephone and online services, for example, and some have moved to paperless systems, which allows for significant changes in case management. These changes hold great promise to improve program administration and access but have also raised concerns about ensuring that these new mechanisms work well and for a broad array of families. The 2008 Farm Bill contains several provisions to address these changes. For example, it creates an option for telephonic applications and provides greater USDA oversight on the impact of these changes on program integrity and household access, particularly for vulnerable households.

## General Implementation Issues

USDA issued an initial implementation memorandum on July 3, 2008 that contains a summary of each provision and information on implementation requirements.<sup>8</sup> Below are some implementation issues that apply to all of the 2008 Farm Bill's provisions.

*Implementation date* — Virtually every food stamp provision of the bill, mandatory and optional, is effective on October 1, 2008. The exception is that the date on which food stamp coupons can no longer be issued is the date of enactment (June 18, 2008). Coupons will no longer be redeemable one year after the bill's enactment, or after June 17, 2009.

*State discretion prior to regulations* — USDA eventually will issue new regulations or amend existing ones to reflect the changes in the new Farm Bill. Typically, these regulations take many years. (For example, final regulations for the 2002 Farm Bill's certification provisions have not yet been issued.)

States are not permitted to wait for final regulations before implementing the bill's benefit improvements, such as the standard deduction and minimum benefit increases. States need not — and should not — wait for final regulations before implementing any of the bill's state options. Several of the bill's provisions, for example provisions on USDA oversight of state operations, require federal regulations before they can be implemented.

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<sup>7</sup> 154 Cong. Rec. S4157, (daily ed. May 14, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4157&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4157&dbname=2008_record).

<sup>8</sup> See <http://www.fns.usda.gov/fsp/rules/Memo/08/070308.pdf>.

Except in areas where the law leaves no room for interpretation, or where states must wait for USDA's interpretation, states have a wide degree of latitude in how to implement the new law until final regulations are issued. FNS in the past has provided states with some indication of its views through answers to state questions and other policy memoranda. In the meantime, states should inform FNS of which options they are implementing and how they are implementing them. This will ensure that federal quality control reviewers apply the correct policy when reviewing cases for accuracy.

*Relief from quality control errors during initial implementation* — Problems ranging from computer glitches to eligibility worker confusion can arise as a state begins to implement a food stamp change. These problems are typically ironed out after several months, but they can pose a problem for a state's error rate.

Fortunately, food stamp rules excuse states from quality control errors that result from misapplied policy during the first 120 days from a provision's mandated implementation date. For mandatory provisions, therefore, the "hold harmless" period will begin on October 1, 2008.

In 2002 FNS extended this 120-day "hold harmless" period to state options as well; the period begins on the date that a state implements an option. FNS is expected to continue this policy for optional provisions in this bill and earlier legislation.

## **Related Food Stamp Changes States May Want to Consider**

As states rewrite program manuals (and, in some cases, state regulations), retrain eligibility workers, revise forms, and reprogram computers to implement the Farm Bill changes, they have an opportunity to assess their policies in these areas and consider other changes in addition to those precipitated by the new Farm Bill. (It often is less work to make a series of related changes at the same time than to reopen issues at a later date.) Therefore, before the bill's October 1 implementation date, states may wish to consider the following possibilities:

- *Raising or eliminating the asset test.* States may wish to adopt the option to raise or eliminate the food stamp asset test in lieu of implementing the Farm Bill's exclusion of tax-preferred retirement and education accounts from the asset test. As of June 2008, some 15 states had raised or eliminated the asset test via the categorical eligibility option. See the section on page 61 entitled: "Using the State Option to Set Asset Policy".
- *Providing more food stamps to families with high child care costs.* The Farm Bill lifts the cap on the amount of dependent care costs that households may deduct from their income. As states implement this change, they may want to explore whether the deduction is underutilized in terms of the number of eligible households that claim it and/or the types of costs that count toward it. Improvements in these areas would direct more federal resources to working families. See the section on page 13 entitled: "Dependent Care Deduction".
- *Improving simplified reporting to reduce errors and paperwork.* The Farm Bill allows states to include certain households with elderly or disabled members in simplified reporting. As states revise their simplified reporting policies, they may wish to include other households they previously excluded or make other changes to limit the information that must be acted on between

reports. See the section on page 25 entitled: “Expanding Simplified Reporting”.

- *Conducting outreach related to the renaming of the program and the added benefits for seniors.* The new name presents an opportunity to reintroduce the public to food stamps. With a new “brand,” states may be better able to reach populations like working families and seniors, who have traditionally participated at lower rates than other households and may not know about the recent improvements in the program. See the sections entitled: “Changing the Program Name” (on page 35) and “Encouraging Elderly People to Participate in Food Stamps” (on page 69).

As part of this outreach effort, states may want to note that the new food stamp resources in the Farm Bill will go disproportionately to households with seniors or people with disabilities. These households will receive more than half of the total benefit increase resulting from the change in the standard deduction, and they make up the overwhelming majority of the households that will gain from the increase in the minimum benefit. In addition, the asset improvements in the Farm Bill will make many seniors and people with disabilities eligible for food stamps, and seniors can now be included in simplified reporting.

The effectiveness of this new Farm Bill, like the 2002 bill, depends on states’ implementation and their continued strong stewardship of the Food Stamp Program. This report provides information and analysis on the food stamp provisions of the Farm Bill for state administrators and non-profit groups to use as they implement the new law. It does not discuss *every* food stamp provision in the bill but does include those of most interest to state food stamp policymakers.

The report is written for persons who are familiar with the Food Stamp Program and its benefit structure. Those who need additional background should consult Appendix B, “A Quick Guide to Food Stamp Eligibility and Benefit Calculations.”

The Center plans to update this report to incorporate new FNS guidance as it is issued and to reflect additional issues as they arise.

## USDA Guidance on 2008 Farm Bill

Implementing Memorandum, “Food Stamp Provisions of the Farm Bill” (July 3, 2008) is available at <http://www.fns.usda.gov/fsp/rules/Memo/08/070308.pdf>.

## General Resources

The 2008 Farm Bill (P.L. 110-246) — statutory language and the statement of managers — is available at <http://agriculture.house.gov/inside/FarmBill.html>.

The Food and Nutrition Act of 2008 (formerly the Food Stamp Act of 1977) is available at [http://www.fns.usda.gov/fsp/rules/Legislation/pdfs/PL\\_110-246.pdf](http://www.fns.usda.gov/fsp/rules/Legislation/pdfs/PL_110-246.pdf).

Food stamp rules (regulations) are published by the Federal Register in the Code of Federal Regulations, 7 C.F.R., Parts 271 through 283, available at <http://www.gpoaccess.gov/cfr/index.html> or through the FNS website below.

Recent food stamp regulations (proposed and final), including the preamble discussions, are available at <http://www.fns.usda.gov/fsp/rules/Regulations/default.htm>.

The Food Stamp Program's state options report (7<sup>th</sup> edition) is available at [http://www.fns.usda.gov/fsp/rules/Memo/Support/State\\_Options/7-State\\_Options.pdf](http://www.fns.usda.gov/fsp/rules/Memo/Support/State_Options/7-State_Options.pdf).

Guidance on the 2002 Farm Bill is available at <http://www.fns.usda.gov/fsp/rules/Legislation/farbill.htm>.

USDA Participation Rate Estimates are available at  
National: <http://www.fns.usda.gov/oane/menu/Published/FSP/FSPPartNational.htm>.  
State: <http://www.fns.usda.gov/oane/menu/Published/FSP/FSPPartState.htm>.

USDA report: "Making America Stronger: A Profile of the Food Stamp Program," September 2005, available at: <http://www.fns.usda.gov/oane/menu/Published/FSP/FSPPartState.htm>.

USDA report: "Characteristics of Food Stamp Households: Fiscal Year 2006," September 2007, available at: <http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/Participation/2006Characteristics.pdf>.

## Other Resources

CBPP analysis: "Farm Bill Contains Significant Domestic Nutrition Improvements" (highlights major provisions in the nutrition title), <http://www.cbpp.org/5-8-08fa.htm>.

CBPP analysis: "Food Stamp Provisions of the Final 2008 Farm Bill" (complete list of all food stamp provisions), available at: <http://www.cbpp.org/5-23-08fa.htm>.

For news and information on the Food Stamp Program, see the website of the Food Research and Action Center, [www.frac.org](http://www.frac.org).

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## **II. IMPLEMENTING THE FARM BILL**

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## Standard Deduction

*Section 4102, amends section 5(e)(1) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### Description

As a result of benefit cuts enacted in the 1996 welfare law, the purchasing power of most households' food stamp benefits has eroded each year. In 2008, a typical working parent with two children receives about \$37 less in food stamps each month than she would have without the 1996 cuts. By 2017, the average benefit reduction from the 1996 cuts would have reached almost \$45 a month (in 2008 dollars).

The bulk of the benefit loss caused by the 1996 law, and the cut that has deepened with each passing year, resulted from a freeze in the food stamp standard deduction. Similar to income tax rules, food stamp rules allow households to subtract a standard deduction from their income to reflect the cost of non-food essentials such as housing and transportation. Prior to 1996, the standard deduction was indexed to inflation, since basic living expenses rise with inflation. The welfare law, however, froze the standard deduction permanently. This caused a deeper cut in benefits with each passing year, for most households.

In the 2002 Farm Bill, Congress changed the standard deduction from a flat \$134 for all households to 8.31 percent of the federal poverty income guidelines. This helped larger households (since the poverty guidelines are higher for larger households), raising their benefit levels and stopping the erosion of their benefits. But the 2002 change has had no effect yet on households with three or fewer members, a group that makes up three-quarters of all food stamp households. For these households, the standard deduction was scheduled to remain frozen at \$134 for another six to 30 years until Congress made a further change as part of the 2008 Farm Bill.

This provision of the new Farm Bill would raise the standard deduction for households of three or fewer members to \$144 and index it to inflation in future years.<sup>9</sup> This change both ends the erosion in food stamps' purchasing power and makes up some of the ground lost since 1996. The change will provide a typical family with an additional \$4 to \$5 a month in 2009, rising to \$17 a month by 2017.

The provision will help about 10 million recipients in an average month. CBO estimates that over the 2009-2017 period the higher standard deduction will increase food stamp benefits by about \$5.4 billion. About half of the households that will be helped contain a person who is elderly or has a disability; the remainder are primarily families with children.

### Implementation Issues

*Computer programming* — As it does each year, FNS will issue tables with the standard deductions for different household sizes that are to take effect next fiscal year. Implementation of this provision should be fairly straightforward, as the only change will be an increase in the values in the table each

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<sup>9</sup> Alaska, Hawaii, the Virgin Islands, and Guam have different minimum standard deductions. They also will be raised under the Farm Bill — to \$246 in Alaska, \$203 in Hawaii, \$127 in the Virgin Islands, and \$269 in Guam — and indexed for inflation in later years.

year for households with one to three members. (The standard deduction for households with four or more members is adjusted each year under prior law.)

*Adjusting benefits in Combined Application Projects and other waiver projects* — About 20 states have Combined Application Projects (CAPs) for certain households that receive SSI, under which these households face fewer food stamp verification requirements and receive a standardized food stamp benefit.<sup>10</sup> FNS must approve these projects and conduct an analysis to verify that they meet cost neutrality requirements.

Because the Farm Bill raises the standard deduction and the minimum benefit, food stamp benefits for households *not* in CAPs will increase. Since benefits under the CAPs are intended to represent typical benefit levels for similar households who are not in the CAP, the benefits under the CAP projects must also be raised in order to retain parity. The states with CAPs will need to work with FNS to ensure that this adjustment takes place so that low-income seniors in these projects receive the appropriate benefit.

Also, to the extent that states have other waiver projects that involve the standard deduction in a specialized benefit calculation, these waivers will also need to be reassessed to reflect the change in the deduction.

## **Additional Resources**

CBPP analysis: “Families’ Food Stamp Benefits Purchase Less Food Each Year,”  
<http://www.cbpp.org/3-6-07fa.htm>.

CBPP analysis: “Failure to Enact Farm Bill Would Lock in Food Stamp Cuts,”  
<http://www.cbpp.org/11-20-07fa.htm>.

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<sup>10</sup> The states that have implemented CAPs are Arizona, Florida, Kentucky, Louisiana, Massachusetts, Mississippi, New York, North Carolina, Pennsylvania, South Carolina, Texas, Washington, and Virginia. Another five states have CAPs that are pending approval or have been approved but not yet implemented. They are: New Jersey, New Mexico, South Dakota, Wisconsin, and West Virginia.

## Minimum Benefit

*Section 4107, amends section 8(a) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### Description

This provision sets the food stamp minimum benefit, currently fixed at \$10 a month, at 8 percent of the maximum benefit (or Thrifty Food Plan) for a household of one, rounded to the nearest whole dollar. Because the value of the maximum benefit is adjusted annually for inflation to ensure that it does not lose purchasing power over time, the minimum benefit will be adjusted automatically each year as well.

When this change takes effect on October 1, the minimum benefit likely will rise to \$14 a month.<sup>11</sup> By fiscal year 2017, under CBO's inflation forecast, it is expected to rise to \$16.

Because the minimum benefit has not been adjusted for inflation for almost 30 years, households that receive it can purchase only about one-third as much food as in 1979, when it went into effect. Approximately 650,000 households with 780,000 individuals will receive higher benefits under this provision, nearly all of them containing seniors or people with disabilities. According to CBO, food stamp spending will increase by about \$280 million over the 2009-2017 period.

The \$10 minimum benefit for one- and two-person households was put in place when the current benefit calculation rules were established in the Food Stamp Act of 1977.<sup>12</sup> Under the prior rules, even households with the smallest benefit amounts generally received more than \$10 a month; the minimum benefit was established to lessen the benefit losses to these households under the 1977 rules and ensure that households with elderly and disabled members with incomes and assets low enough to qualify for food stamps receive at least some assistance.

While most of the households that receive the minimum benefit have members who are elderly or have disabilities, the vast majority of food stamp households with seniors and people with disabilities receive *more* than the minimum benefit. In 2006, the average benefit for seniors or people with disabilities in one and two person households that did *not* receive the minimum benefit was more than \$80 a person.

### Implementation Issues

*Computer programming* — As with the change in the standard deduction, states' implementation of this provision will primarily involve a programming change to their computers. Because the minimum benefit has never been raised, however, this policy may require new programming that is necessary for October 2008. In subsequent years the change will be made each year routinely, along with the other cost-of-living adjustments.

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<sup>11</sup> The \$14 assumption is based on the Congressional Budget Office's March 2008 projection for the Thrifty Food Plan for a one-person household in fiscal year 2009, which assumes 4 percent inflation. Because USDA estimates separate (and higher) maximum benefits for Alaska, Hawaii, Guam, and the Virgin Islands, the minimum benefit will be higher in these jurisdictions. Depending on inflation this year, the minimum benefit will be approximately: \$20 to \$30 in Alaska (based on the region within the state), \$27 in Hawaii, \$25 in Guam, and \$22 in the Virgin Islands.

<sup>12</sup> Only one- and two-person households may receive the minimum benefit. Larger households that qualify for less than the minimum benefit, based on the program's benefit calculations rules, receive the calculated amount.

*Adjusting benefits in Combined Application Projects and other waivers* — About 20 states have Combined Application Projects (CAPs) for certain households that receive SSI, under which these households face fewer food stamp verification requirements and receive a standardized food stamp benefit.<sup>13</sup> FNS must approve these projects and conduct an analysis to verify that they meet cost neutrality requirements.

Because the Farm Bill raises the standard deduction and the minimum benefit, food stamp benefits for households not in the CAPs will increase, and the standardized benefits under the CAP projects must also be raised. The states with CAPs will need to work with FNS to ensure that this adjustment takes place so that low-income seniors in these projects receive the appropriate benefit.

*Using the opportunity to enroll more seniors* — Only about one-third (35 percent) of households with seniors that are eligible for food stamps receive them, according to USDA estimates. That means that over 6 million elderly people are eligible for food stamps but do not participate.

For many years, anti-hunger advocates, state officials, and other policymakers have argued that the \$10 minimum benefit undermined efforts to increase enrollment among eligible seniors. Groups that work with seniors report that many seniors believe they will receive only \$10 a month, even though they are likely eligible for at least five to eight times that much, and that the small benefit is not worth the hassle and paperwork of applying for and maintaining food stamp benefits.<sup>14</sup> USDA research from the 1990s found that the food stamp application process often requires multiple visits to the office and takes a total of about five hours, on average.

The Farm Bill's increase in the minimum benefit, combined with an outreach campaign to dispel myths among seniors about food stamps (such as the concern that accepting food stamps would take food stamps away from other needy families), could bring many more seniors into the Food Stamp Program. See "Encouraging Elderly People to Participate in Food Stamps" (on page 69).

## **Additional Resources**

USDA report: "Elderly Participation and the Minimum Benefit," November 2002, <http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/Participation/ElderlyPartRates.pdf>.

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<sup>13</sup> The states that have implemented CAPs are Arizona, Florida, Kentucky, Louisiana, Massachusetts, Mississippi, New York, North Carolina, Pennsylvania, South Carolina, Texas, Washington, and Virginia. Another five states have CAPs that are pending approval or have been approved but not yet implemented. They are: New Jersey, New Mexico, South Dakota, Wisconsin, and West Virginia.

<sup>14</sup> U.S. Department of Agriculture, Food and Nutrition Service, "Elderly Participation and the Minimum Benefit," November 2002, available at <http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/Participation/ElderlyPartRates.pdf>.

## Dependent Care Deduction

*Section 4103, amends section 5(e)(3)(A) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### Description

The food stamp benefit formula allows families to deduct some of their dependent care expenses from their income so they can receive more help from the Food Stamp Program to reflect the fact that they have less money available to purchase food. The deduction, however, has been capped at \$175 per month per dependent (\$200 for infants) for many years, well below the out-of-pocket costs that some low-income families must pay for care.

This provision lifts the cap on the per child deduction, allowing households to deduct the full amount of dependent care costs they incur in order to work (or to participate in approved education and training programs). That, in turn, will enable households whose expenses exceed the former caps to receive larger food stamp benefits.

Many low-income working families with child care needs receive free or very low cost child care; for example, from child care subsidies, the Head Start program, or informal child care arrangements with family or friends. Many other families, however, do not have these options available, or, even with help, face substantial child care costs. According to the U.S. Census Bureau, poor families that pay for child care spend roughly three times the share of their income on child care as other families do (25 percent, compared with 7 percent). For poor single mothers who pay for child care, these costs took up an astounding 42 percent of their monthly cash income in 2005.

Lifting the cap on the dependent care deduction will reduce the strain on food budgets for those families with significant out-of-pocket child care costs. Table 1 shows how a larger dependent care deduction could affect a household's food stamp benefits. We calculated benefits for a household of 3 with typical earnings (\$970 a month) and shelter expenses.

<b>Amount of the Dependent Care Deduction</b>	<b>Monthly Food Stamp Benefits</b>
\$0	\$324
\$175	\$403
\$200	\$414
\$250	\$426

The Congressional Budget Office estimates that the change will provide an average of almost \$500 a year (more than \$40 a month) to approximately 100,000 households whose child care costs exceed the current cap. A mother of three who works 35 hours a week at \$9 an hour and pays \$350 a month for child care (the average out-of-pocket cost for a poor, employed mother with a pre-school-aged child, according to the Census Bureau) will receive an additional \$79 in food stamps each month (\$334 rather than \$255), or almost \$1,000 a year.

### Implementation Issues

On its face, this policy change should be relatively simple for states to make. Instead of limiting the monthly per dependent deduction to \$175 or \$200 (depending upon the age of the dependent), the state will now allow households to deduct the full amount of their out-of-pocket child care expenses. Other than eliminating the cap, the farm bill did not make any other changes to the

deduction. There are, however, a number of issues for states to consider as they implement the new policy.

#### Dependent Care Deduction Isn't Just for Child Care

While the following discussion focuses on the deduction's impact on families with child care costs, the deduction is not limited to children or child care. Food stamp households may deduct expenses related to the care of *any dependent, including an adult*. Thus, the deduction can help working families with an elderly member who requires care due to a disability or an illness such as Alzheimer's disease.

*Treatment of households already on the program* — The change is effective on October 1, 2008 for applicant households as well as households already participating in the Food Stamp Program. For new applicants, states can simply apply the new rules as of that date, by deducting the full amount of applicants' out-of-pocket dependent care costs when calculating their benefits.

For households already on the program that would benefit from the change, however, implementation will be slightly more complicated. Congress did not craft the provision in such a way that states can phase-in the new policy for these households at their next recertification. Instead, the cap is eliminated on October 1, 2008 for all households, making some on the program eligible for a larger deduction.

USDA's implementation memorandum states that "FNS encourages State agencies to apply the new provision to all ongoing households as soon as possible on or after October 1, 2008. State agencies should notify potentially eligible households of the availability of the increase in the dependent care deduction."<sup>15</sup>

USDA's guidance also makes clear that a state must restore back benefits if it discovers after October 1, 2008 that the case record contained verified dependent care expenses in excess of the cap, but the state failed to give the household a larger dependent care deduction.

States, therefore, will have to determine how they will identify households eligible for a larger deduction and implement the change on the effective date. While these processes may be cumbersome, it appears that only a small share of a state's entire caseload will be eligible for a larger deduction on October 1, 2008.<sup>16</sup> The affected households will likely receive a sizeable benefit increase, though, so it will be important for states to find mechanisms to identify them and provide the benefit increase.

Some states may already have the full amount of households' child care costs verified and in the case record, which would make it relatively easy for them to adjust households' benefits. States that do not have this information could start collecting and verifying child care costs from households as they come up for recertification in the months prior to October. If states begin that effort in July,

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<sup>15</sup> See <http://www.fns.usda.gov/fsp/rules/Memo/08/070308.pdf>.

<sup>16</sup> The 100,000 households CBO estimates will benefit from the change represent less than 1 percent of all food stamp households.

they will likely capture the needed information for about one-fourth of the current caseload that will be eligible for increased benefits.

Some states will have access to households' child care co-payments in their child care program records and could provide the larger dependent care deduction on the basis of that information. In other cases, states may wish to identify which food stamp households have dependent care deductions, notify these households of their potential eligibility for a larger food stamp allotment, and offer these households the opportunity to request more benefits. Households that request help and provide needed verification could receive larger benefits for their October 2008 allotment. Of course, households that fail to respond to the state notice should not face any adverse action.

*Deduction may be underutilized in many states* — It appears that many households that are eligible for the dependent care deduction do not take advantage of it.<sup>17</sup> States have an opportunity to leverage even more out of the elimination of the deduction cap by ensuring that all eligible households receive the deduction.

CBPP sought to determine whether households who are likely to be eligible for the deduction were claiming it and in what amounts. While any household with out of pocket dependent care expenses is eligible, the group most likely to claim the deduction is households with young children (under age 5) where one or more adults are employed. These households are those most in need of some form of child care because their children are not yet school age. For our analysis, we elected to use this group as our “likely eligible” group. According to our analysis of the FY2006 quality control data, only 26 percent of the roughly 1.5 million food stamp households with children under age 5 where all adults reported some earnings claimed the deduction. As shown in Table 2, this percentage varied significantly amongst states, ranging from 5 percent or less in California and Hawaii to 45 percent or more in North Dakota and Missouri. States and advocates should consider this data as illustrative with respect to the state-specific figures. For some states, particularly smaller states, the sample size are very small and could result in an imprecise measurement of the deduction's use amongst this subgroup. We encourage all states to analyze their own more reliable data, to assess what share of likely eligible households are claiming the deduction.

As mentioned above, some low-income working households are able to secure fully subsidized child care through child care programs, Head Start, or a friend or family member who provides care for free. It is unlikely, however, that this fact alone accounts for the small share of households claiming the deduction, particularly in states where families with incomes low enough to qualify for food stamps are charged co-pays in their child care programs.

Virtually all households with a dependent in a care arrangement are potentially eligible for the deduction. According to the regulations, households are eligible if they contain an individual who is employed, looking for work, or attending school or training. Federal regulations place no additional restrictions on the deduction, such as limiting the deduction only to households with no non-working adults. Nor do households necessarily lose the deduction if a household member loses his or her job, since parents must be able to maintain a safe and stable child care arrangement in order to secure new employment. As states implement the new, uncapped deduction, they may want to

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<sup>17</sup> In order to qualify for the deduction, a household's dependent care expense must be necessary for a household member to: (1) accept or continue employment, (2) seek employment, or (3) attend school or training. 7 C.F.R. § 273.9(d)(4).

review their policies and procedures to ensure that they are extending the deduction to all eligible households.

*Reviewing policies on allowable costs* — On average in FY2006, households with earnings and young children that claimed the deduction received an average per-child deduction of \$84. This figure varied widely among states, ranging from \$24 in Washington to \$133 in North Dakota.

Many things can explain these differences, such as: regional variation in the cost of formal and informal care, the share of households that receive some form of subsidy vs. those that pay the full cost of care, and the differing co-pay rates in child care programs. State food stamp programs have little control over those factors. But a factor that is within the Food Stamp Program's control is state policy with respect to what types of costs states count toward the deduction.

Federal policy is that households may deduct "actual costs" that are associated with care for a dependent. There is very little written guidance beyond the regulation. Expenses that qualify under this deduction can include transportation (such as mileage or subway fare) to a provider, a full-time attendant for an incapacitated adult, co-payments for subsidized child care, fees for non-reimbursed care, and expenses incurred even when care is not actually provided (for example, because a child is sick). Currently, states use different approaches in determining what those costs are. Dependent care expenses that may not be allowed, on the other hand, include any in-kind payments to the care provider, care by another food stamp household member, excluded vendor payments, and any already reimbursed dependent care expenses.

In addition, federal policy does not place any limit on the types of care allowed under the deduction (other than that provided by a household member). These can include informal care, paid dependent care even when there is an unemployed adult in the home, or a care arrangement that may be more expensive than is typical. In lifting the cap on the dependent care deduction, Congress understood current food stamp policy in this area and expected it to continue. As Senator Harkin, Chairman of the Senate Agriculture Committee, stated:

*"Another major improvement in this bill supports working families by allowing them to deduct the full amount of their childcare expenses from their income for purposes of food assistance eligibility and benefit determinations. ... This change was made cognizant of current USDA policy on the childcare deduction, which takes a broad view of what constitutes a dependent care cost, defers to parents about what is appropriate childcare, and lets States determine how to set verification policy. This proposal was part of USDA's original farm bill proposal and they have given us every reason to believe they will continue these policies and do nothing that would limit what is deductible or the amount families may deduct."*<sup>18</sup>

To ensure that households eligible for the deduction are able to deduct all of their costs, states may wish to examine whether their policies are sufficiently broad as to include all costs associated with dependent care and all types of dependent care.<sup>19</sup> Transportation in the form of gas mileage is

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<sup>18</sup> 154 Cong. Rec. S4750, (daily ed. May 22, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4750&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4750&dbname=2008_record).

<sup>19</sup> Dependent care expenses that may *not* be allowed include any in-kind payments to the care provider, care by another food stamp household member, excluded vendor payments, and any already reimbursed dependent care expenses.



particularly important: providing a family that drives five miles to and from child care each day with the federal gas mileage reimbursement rate of \$0.585 would increase its child care deduction by \$126 each month.<sup>20</sup> (States that use this approach determine the distance between the household's residence and its child care provider using the mileage calculators on the MAPQUEST web page.<sup>21</sup>)

*Quality control considerations* — Technically, raising the cap on the child care deduction exposes states to more risk of quality control errors. Currently, for households with expenses in excess of the cap, a mistake in determining the deduction level does not count toward states' error rates. When the cap is lifted, that will no longer be true.

Before imposing new and unnecessary verification requirements for the deduction, however, states should assess their actual risk of errors and whether any changes in verification are necessary. While most states likely do require some form of verification of dependent care expenses, federal rules do not require any verification of child care expenses. Policy on this issue is designed entirely by states. As noted, only 100,000 households — less than 1 percent of the food stamp caseload — are estimated to have expenses in excess of the cap. Such a small group does not pose a significant quality control risk. States may want to determine how many households fall into this category and how error prone the group is before imposing new paperwork and reporting requirements on households eligible for the deduction. This is particularly worth considering in light of what appears to be a low utilization rate amongst households eligible for the deduction.

### **Additional Resources**

Federal regulations on the deduction: 7 C.F.R. § 273.9(d)(4).

Federal guidance on the deduction: “Treatment of Certain Attendant Care Payments and Certain Child Care Payments,” memo to regional directors, August 3, 2004, <http://www.fns.usda.gov/fsp/rules/Memo/04/080304.htm>.

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<sup>20</sup> The Government Services Administration publishes mileages reimbursement rates each year for federal employees: [http://www.gsa.gov/Portal/gsa/ep/contentView.do?P=MTT&contentId=9646&contentType=GSA\\_BASIC](http://www.gsa.gov/Portal/gsa/ep/contentView.do?P=MTT&contentId=9646&contentType=GSA_BASIC).

<sup>21</sup> [www.mapquest.com](http://www.mapquest.com).

**TABLE 2: SHARE OF HOUSEHOLDS WITH EARNINGS AND YOUNG CHILDREN WHO CLAIM THE DEPENDENT CARE DEDUCTION, FY2006\***

State	Claiming	Working households with young children	Share	Rank	Of households claiming the deduction			
					Average deduction per household	Rank	Average deduction per child	Rank
Alabama	8,239	21,003	39%	8	\$208	5	\$100	11
Alaska**	344	1,531	22	32	109	41	48	45
Arizona	5,930	37,044	16	40	164	26	77	33
Arkansas	2,992	13,424	22	33	222	3	119	5
California	8,163	149,951	5	52	179	20	72	37
Colorado	2,444	11,202	22	35	170	25	96	16
Connecticut	1,548	6,510	24	30	118	38	73	36
Delaware	1,199	5,218	23	31	177	21	86	23
District of Columbia**	131	1,362	10	50	186	16	56	42
Florida	20,100	56,715	35	12	149	32	82	27
Georgia	18,760	46,307	41	6	154	31	76	34
Hawaii**	104	3,625	3	53	72	50	61	40
Idaho	2,366	5,458	43	4	198	8	104	9
Illinois	20,519	61,744	33	14	108	43	59	41
Indiana	5,384	25,356	21	36	185	17	120	4
Iowa	813	10,963	7	51	106	44	61	39
Kansas	2,355	8,940	26	26	70	52	42	49
Kentucky	2,598	18,882	14	46	180	19	87	22
Louisiana	11,713	26,205	45	3	185	18	78	31
Maine**	903	3,656	25	29	147	33	108	8
Maryland	4,735	11,309	42	5	219	4	100	12
Massachusetts	3,583	12,893	28	25	224	2	98	13
Michigan	9,566	47,443	20	37	197	9	129	2
Minnesota**	1,408	11,947	12	48	78	49	45	48
Mississippi	4,904	17,517	28	24	160	29	82	26
Missouri	21,159	38,500	55	1	188	14	89	19
Montana**	828	2,627	32	18	80	48	41	51
Nebraska	962	6,871	14	45	138	34	83	25
Nevada	1,065	5,435	20	38	187	15	93	17
New Hampshire**	334	1,502	22	34	158	30	102	10
New Jersey	2,623	25,819	10	49	171	24	96	14
New Mexico	4,301	13,261	32	15	104	45	55	43
New York	9,773	61,176	16	41	189	11	124	3
North Carolina	16,621	41,308	40	7	132	35	76	35
North Dakota	946	2,080	45	2	226	1	133	1
Ohio	10,647	35,704	30	21	71	51	36	52
Oklahoma	6,869	18,177	38	10	100	46	54	44
Oregon	6,649	20,721	32	17	188	13	111	7
Pennsylvania	10,001	34,738	29	23	115	39	77	32
Rhode Island**	291	2,404	12	47	111	40	64	38
South Carolina	6,537	20,195	32	16	206	7	111	6
South Dakota	871	3,454	25	28	175	22	88	20
Tennessee	4,858	31,794	15	42	189	12	79	30
Texas	52,942	179,658	29	22	197	10	96	15
Utah	2,295	6,803	34	13	160	28	93	18
Vermont**	392	1,491	26	27	172	23	88	21
Virginia	6,778	22,104	31	19	163	27	84	24
Washington	9,237	24,388	38	9	44	53	24	53
West Virginia**	829	5,178	16	39	108	42	45	47
Wisconsin	3,006	20,596	15	44	128	37	81	28
Wyoming	413	1,374	30	20	97	47	46	46
Guam	283	1,877	15	43	131	36	41	50
Virgin Islands	257	682	38	11	206	6	81	29
<b>U.S.</b>	<b>322,693</b>	<b>1,246,240</b>	<b>26%</b>		<b>\$161</b>		<b>\$84</b>	

Data is based on CBPP analysis of food stamp quality control data.

\* All Adults in the household report some earnings.

\*\* These states had small sample sizes in the FY06 FSP QC data. Values reported for these states are the FY04-FY06 average.

## Resource Provisions: Indexing the Asset Limit and Excluding Retirement and Education Savings Accounts

*Section 4104, amends section 5(g)(1) and (2)(B)(v) of the Food and Nutrition Act, 7 U.S.C. 2014(g); mandatory provision effective 10/1/08*

### Description

Food stamp eligibility depends in part on a household's resources or assets. If a household's countable financial resources exceed the applicable asset limit, the household does not qualify for benefits. Once a household is eligible for food stamps, however, its assets do not affect its monthly benefit amount.

Countable assets include cash on hand or in the bank, stocks, bonds, certain tax-preferred retirement accounts, and the "excess value" of vehicles.<sup>22</sup> In general, households are not eligible for food stamps if they have more than \$2,000 in countable assets. The asset test for households with at least one member who has a disability (as defined by the Food Stamp Program) or is age 60 or older is \$3,000 in countable assets. States have some flexibility to exclude certain types of resources from counting toward these limits if the state has already excluded them in its TANF cash assistance or family Medicaid coverage program.<sup>23</sup>

On a bipartisan basis, policymakers agree that asset development is important to helping low-income Americans transition out of poverty. Accumulating assets allows low-income individuals to mitigate material hardships during periods of unemployment or illness, suffer less of a decline in their living standard during retirement, or make investments in their own education or housing that increase their financial stability.

The farm bill sought to address two of the basic concerns that have been raised about food stamp asset rules with respect to the goals of broader asset development:

- The overall asset limits have not been raised for most households since 1986.<sup>24</sup> As a result, their value has shrunk dramatically in real terms. If the limits had maintained their real 1986 values, in 2008 they would be \$3,700 for most households and \$5,500 for households with an elderly or disabled member. Many believe that because the asset limits are low and have been shrinking, they inhibit asset development and undermine a key path to self-sufficiency.
- Food stamp rules discourage low-income households from saving for retirement and education, despite the widely held view that public policy should *promote* savings in these areas. Food stamp rules treat retirement savings inconsistently, excluding some accounts while counting others, and count education savings accounts toward the asset limit even if these accounts have tax-preferred status.

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<sup>22</sup> 7 C.F.R. § 273.8 Countable assets do not include items such as a household's home, personal property, resources with a cash value that are inaccessible to the household, certain vehicles (subject to the state's policy.)

<sup>23</sup> Section 5(g)(6) of the Food Stamp Act of 1977 or 7 U.S.C. § 2014(g)(6).

<sup>24</sup> The 2002 Farm Bill raised the asset limit for households with a disabled member to \$3,000 thereby conforming it to the asset limit for the elderly. Prior to October 1, 2002 households with a disabled member were subject to the \$2,000 asset limit.

The Farm Bill made three changes in response to these concerns. Under the new law, the food stamp asset limit will:

- 1) adjust to reflect inflation,
- 2) exclude all tax-preferred retirement accounts from countable assets, and
- 3) exclude education savings accounts from countable assets.

As Senator Harkin, Chairman of the Senate Committee on Agriculture, explained:

*Many agree that it is counterproductive to discourage savings by forcing people to liquidate their retirement savings or other financial assets when they lose their jobs and need to turn to food assistance to feed their families. Policymakers from across the political spectrum agree that asset development is important to helping low-income Americans make a permanent transition out of poverty as well as avoiding it in their later years. After all, a family does not spend its way out of poverty. Quite the opposite, most families build a path to financial security on the foundation of assets, whether it be a home, a small business, or retirement savings.*

*This bill ensures that all retirement accounts and education savings accounts are excluded from a household's financial assets when determining whether or not they are eligible for food assistance. And for the first time in nearly two decades the \$2,000 and \$3,000 asset limits will be adjusted for inflation each year.<sup>25</sup>*

*Adjusting the asset limits for inflation* — This provision will index the two asset limits to inflation. The limits will be raised only in \$250 increments, however, and it generally will take several years for the cumulative inflation to reach the \$250 threshold and thus trigger a change in the asset limit.

Unfortunately, this means that a household will be ineligible for food stamps if its savings are above the actual asset limit but below the inflation adjusted amount (for example \$2,050 in FY2010).

Under current CBO inflation assumptions, the \$3,000 limit will increase to \$3,250 in 2012 and the \$2,000 limit will increase to \$2,250 in 2014.

*Excluding retirement accounts* — While individuals can save for retirement via a variety of means, the term “retirement accounts” generally applies to savings accounts that enjoy special tax privileges in exchange for limitations on their use. Some of the most common are traditional pension or “defined benefit” plans, defined-contribution plans (including 401(k)s), and Individual Retirement Accounts (IRAs). Despite their common goal of encouraging individuals to save toward retirement, the Food Stamp Program has counted some of these accounts toward the food stamp asset limit while excluding others.

States can exclude certain retirement accounts from their food stamp asset limits if they already exclude these accounts in their TANF cash assistance or family Medicaid coverage programs. The proposed regulations on this option are unclear, however, and suggest that states must determine whether the funds in the accounts are “readily available” to the household. In general, the Food

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<sup>25</sup> 154 Cong. Rec. S4750, (daily ed. May 22, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4750&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4750&dbname=2008_record).

Stamp Program's treatment of retirement accounts is inconsistent and confusing and can be complicated for states to administer.

The Farm Bill provision addresses these issues by excluding *all* retirement accounts with federal tax-preferred status from the food stamp asset test. Table 3 provides a complete list of those accounts.

In addition to exempting these existing accounts, the Farm Bill provision exempts from the food stamp asset limit any tax-preferred retirement accounts that Congress creates in the future. Finally, the provision gives USDA the authority to determine which, if any, other retirement plans, contracts, or accounts should be excluded from the asset limit.

*Excluding education accounts* — Similar to the above section on retirement accounts, this provision excludes from the food stamp asset test the two types of education savings accounts that currently receive tax-preferred status under the federal tax code:

- Section 529 qualified tuition programs, which allow owners to prepay a student's education expenses or to contribute to an account to pay those expenses, and
- Coverdell education savings accounts, an IRA type of account designed to pay a student's education expenses.

The provision also gives the Secretary the authority to exclude from the asset test the value of any other education program, contract, or account. Unlike the retirement provision, the provision does *not* automatically exclude from the asset test any future tax-preferred education savings vehicles Congress may create.

## Implementation Issues

*Why not just set your own asset policy?* — The above changes represent important improvements but do not go as far as many states and advocates had hoped. In lieu of implementing the new changes, which will require new forms, computer programming, and staff training, states may wish to set their own food stamp asset policy via the categorical eligibility option. Fifteen states already have done so, 12 of which have eliminated the food stamp asset test for all households. (See "Using the State Option to Set Food Stamp Asset Policy" on page 61.)

*Preparing for October 1* — While the asset limits are not expected to increase until 2012, the exclusions for retirement and education savings accounts will take effect on October 1, giving states less time to prepare. Those latter provisions are relatively straightforward in what they require of states. In essence, they redesignate tax-exempt retirement and education savings accounts that are currently countable assets in the Food Stamp Program as non-countable assets. Existing state policy for exempted accounts will now apply to all tax-preferred retirement accounts.

The key for states in implementing the provision will be to revise all forms, computer systems, policy manuals, and other tools for setting policy and determining eligibility to reflect the changes. In addition, caseworkers will likely require some training to ensure that they understand the change and can implement it. For example, caseworkers may benefit from information about the newly

**TABLE 3: SUMMARY OF TAX-PREFERRED RETIREMENT ACCOUNTS/PLANS**

<b>Retirement Plan or Account Type</b>	<b>What is It?</b>	<b>Authorized Under</b>
Pension or traditional defined-benefit plan*	Employer-based retirement plan that promises retirees a certain benefit upon retirement, regardless of investment performance.	Section 401(a) of the Internal Revenue Code
401(k) plan*	Defined-contribution plan that allows employees to contribute to their accounts from their salary or wages on a pre-tax basis (with earnings tax-exempt until withdrawal). Employers may or may not contribute.	Section 401(a) of the Internal Revenue Code
SIMPLE 401(k)*	401(k)-type plan available only to small businesses.	Section 401(a) of the Internal Revenue Code
501(c)(18)*	401(k)-type plan offered mostly by unions. Had to be set up prior to June 1959; now largely obsolete.	Section 501(c)(18) of the Internal Revenue Code
403(b) plan*	Tax-sheltered annuity or custodial account plan offered by certain tax-exempt organizations and public educational institutions. Many are salary reduction plans that look like 401(k)s.	Section 403(b) of the Internal Revenue Code
457 plan*	401(k)-type plan offered by state and local governments and non-profit organizations	Section 457 of the Internal Revenue Code
Federal Employee Thrift Savings plan*	401(k)-type plan offered by the federal government to its employees.	Section 8439 of Title 5 of the US Code
Keogh plan**	Informal term for retirement plans available to self-employed people.	Section 401(a) of the Internal Revenue Code
Individual Retirement Account (IRA)	Vehicle for tax-deferred retirement saving controlled by individuals rather than employers. Many IRAs were previously employer-based accounts that individuals converted into an IRA when they left their job.	Section 408 of the Internal Revenue Code
Roth IRA	Similar to an IRA but with different income limits and tax treatment.	Section 408(A) of the Internal Revenue Code
SIMPLE IRA	Employer-based IRA available only to small businesses.	Section 408 of the Internal Revenue Code
Simplified Employer Plan	Employer-sponsored plan available only to small businesses; allows employers to contribute to employee accounts that essentially function as IRAs.	Section 408 of the Internal Revenue Code
Profit Sharing Plan	Employer-based defined-contribution plan under which employer contributions may (but need not) be linked to profits. May provide 401(k) accounts.	Section 401(a) of the Internal Revenue Code
Cash Balance Plans	Employer-based hybrid plan that combines features of defined-benefit and defined-contribution plans.	Section 401(a) of the Internal Revenue Code

\* Already exempt from the food stamp asset test under existing regulations.

\*\* Keogh plans that involve a contractual obligation with someone who is not a household member were already exempt from the food stamp asset test prior to the Farm Bill.

exempted accounts and examples of what IRA or 529 statements look like; otherwise, caseworkers may mistakenly deny benefits to eligible households.

States that already have excluded one or more of these accounts (because they already exclude the accounts in their TANF cash assistance or family Medicaid coverage programs) may not have to make any changes. However, they should make sure that they exclude all of the accounts the new policy covers.

*Reaching eligible households* — Compared to states' existing food stamp caseloads, the number of people made eligible by this change is not estimated to be large, although the impact could be bigger than estimated due to the recent economic downturn and growing number of unemployed workers who may have some modest retirement savings. Those who do gain access to the program could benefit greatly from receiving food stamps. It will be important to educate the public and community partners about the change in eligibility rules. Local unions may be an example of an important community partner who could help to educate their newly unemployed members.

In addition to states' regular food stamp outreach efforts, states may wish to reach out to non-traditional partners to ensure that newly eligible households learn about the new rules. Many states and localities have agencies or community groups involved in asset building that work with households that may be affected by the change. In addition, many tax preparers that serve low-income households also screen their clients for food stamp eligibility. All of these entities could be very helpful in spreading the news about the policy change.

In addition, states can take steps to help people who apply for food stamps before October 1 and are ineligible under the current asset rules but *will* be eligible after the new rules take effect. For example, states could inform these households that the rules will change on October 1 and encourage them to reapply. For households that apply after September 1, states can “pend” or hold their application for 30 days and then approve it once the asset rules have changed.

*USDA's discretion to add exclusions* — As noted, the Secretary has the authority to exclude from countable assets any other retirement plan, contract, or account. Given past experience, USDA is unlikely to use this authority before October 1. Instead, it will likely explore the possibility of adding additional retirement savings vehicles through the rule-making process. Nevertheless, if states are aware of savings vehicles they wish to exclude which they are unable to exclude via the resource alignment provision, they may want to consider asking FNS for permission to exclude such accounts under this authority.

## Additional Resources

### *Information on Tax-Preferred Retirement Accounts:*

- Congressional Budget Office, “Online Guide to Tax Incentives for Retirement Saving,” <http://cbo.gov/doc.cfm?index=4572&type=0>.
- CBPP and Retirement Security Project paper: “Protecting Low-Income Families’ Savings,” <http://www.cbpp.org/6-21-05socsec-sum.htm>.
- U.S. Congress, Joint Committee on Taxation, “Present Law and Analysis Relating Individual Retirement Arrangements,” <http://www.house.gov/jct/x-53-08.pdf>.

### *Information on Tax-Preferred Education Savings Accounts:*

- Information on each state’s 529 savings account plan: <http://www.collegesavings.org/index.aspx>.
- IRS booklet, “Tax Benefits for Education,” <http://www.irs.gov/pub/irs-pdf/p970.pdf> (Chapter 7 covers Coverdell IRAs; Chapter 8 covers Qualified Tuition Programs).
- IRS Tax Tip 2008-59, “Coverdell Education Savings Accounts,” <http://www.irs.gov/newsroom/article/0,,id=107636,00.html>.

## **Excluding Combat Pay From Income**

*Section 4101, amends section 5(d) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### **Description**

In each of the last several years, the Administration has proposed that special military pay for military personnel deployed to a designated combat zone be excluded from food stamp income calculations, and Congress has enacted this proposal as part of the appropriations process. As a result, low-income households with a spouse or parent overseas in a combat zone have not had this special pay count towards their income when they apply for food stamps, which would have reduced their benefit amount. The Farm Bill would make this income exclusion permanent.

### **Implementation Issues**

As this provision is currently law under other authority, there should be minimal implementation issues in the short term. In future wars or conflicts, the same policy will go into effect for additional combat pay under Chapter 5 of Title 37 of the U.S. Code (or if the Secretary designates the pay as appropriate for exclusion).

### **Additional Resources**

FNS January 14, 2005 memorandum on combat pay exclusion under appropriations acts:  
<http://www.fns.usda.gov/fsp/rules/Memo/05/011405.htm>.

FNS January 2008 guidance explaining that this 2005 memorandum is still in effect:  
<http://www.fns.usda.gov/fsp/rules/Memo/08/011808.pdf>.



## Expanding Simplified Reporting

*Section 4105, amends section 6(c)(1)(A) of the Food and Nutrition Act); state option effective 10/1/08*

### Description

This provision allows states to extend the food stamp “simplified reporting” option to certain households that thus far have been excluded, most notably households in which all members are elderly or disabled and in which no member has earnings. For states that take the option, the paperwork burden of participation for these households will be significantly reduced. The option also can ease workload pressures on state administrative staff and reduce payment errors.

One of the most popular and successful state options in the Food Stamp Program over the last decade has been “simplified reporting.” Created by regulation and then codified and expanded in the 2002 Farm Bill, it allows states to reduce and simplify the rules under which most food stamp participants inform the state about changes in their income and circumstances during a certification period.

Previously, households had to report even minor fluctuations in their income and other household circumstances very frequently and were subject to a number of complicated rules. These requirements burdened both states and households, especially working households whose earnings vary frequently.

Simplified reporting was designed to improve food stamp participation rates by reducing these paperwork burdens. Under this option, once a household is certified as eligible for food stamps, it is required to report a change in its circumstances during a six-month period *only* if the change pushes the household’s income above the Food Stamp Program’s gross income limit of 130 percent of the federal poverty level. Otherwise the state essentially freezes the household’s benefits for six months at a time.<sup>26</sup> After six months, the state must recertify the household or, if it uses 12-month certification periods, require the household to submit a short report.<sup>27</sup>

Forty-seven states and the District of Columbia have adopted simplified reporting for a portion of their participating households, usually the majority of households. Unfortunately, due to an oversight in the option’s design, states are *not* allowed to apply simplified reporting to several categories of households, such as households with only elderly or disabled members and no earnings, migrant or seasonal farmworker households, and households in which all members are homeless. For the latter two types of households, states have been allowed to reduce the reporting requirements but must assign such households to six-month, rather than 12-month, certification periods.<sup>28</sup>

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<sup>26</sup> During this time the household still receives annual cost-of-living adjustments. The household may (but does not have to) report other changes in circumstances, and states have some flexibility over how they respond when households voluntarily report these additional kinds of changes, as explained below.

<sup>27</sup> Under the simplified reporting statute, states may require households to file a report every four or five months, rather than six months, but virtually all states use six-month periods.

<sup>28</sup> Under guidance and proposed regulation, FNS has allowed migrant or seasonal farmworker households and households in which all members are homeless to participate in simplified reporting as long as they are not required to file a periodic report. In other words, states can suspend most reporting requirements for six months for these households, but must assign them to certification periods no longer than six months. FNS has discouraged this option

In most states, households with only elderly or disabled members and no earnings currently are assigned to 12- or 24-month certification periods but must report many changes in their income and circumstances within *ten days* of the change. Each time a change is reported, states must assess whether it affects the household's benefits, collect any required verification of the change, and adjust household benefits accordingly. This requires states to operate two different reporting systems — change reporting and simplified reporting — each with different forms, staff training, and rules.

This provision of the Farm Bill allows the excluded categories of households to participate in simplified reporting. States will be able to treat migrant farmworker and homeless households like other households under simplified reporting and assign them to six- or 12-month certification periods. For households that contain only elderly or disabled members and no earnings, states will be able to adopt a new 12-month simplified reporting option (in lieu of six-month reporting) to reflect the fact that many of them live on fixed incomes and have stable living situations and thus do not have many changes to report.

## Implementation Issues

*Converting households to simplified reporting* — Because households with elderly or disabled members and no earnings are usually assigned to 12- or 24-month certification periods, states may wish to convert these households to simplified reporting *prior to* their next recertification (but after October 1, 2008, when the provision goes into effect). Otherwise, the option's paperwork and administrative advantages for households and states could be delayed up to two years.

FNS allows states to convert households to simplified reporting in the middle of a certification period. For example, prior to the 2002 Farm Bill (when simplified reporting was limited to households with earnings), FNS allowed states to convert households to simplified reporting when they reported that they had begun a job, so long as the household was notified of the change in reporting requirements.<sup>29</sup>

States that wish to make such a conversion for households with elderly or disabled members may wish to extend the household's certification period at the same time. In general, under food stamp regulations, households in which all adults are elderly or have a disability may be assigned to up to 24-month certification periods, so long as there is contact with the household at least every 12 months.<sup>30</sup> In addition, states are allowed to extend the certification periods for such households once they are established, as long as the certification period does not exceed 24 months and the household is notified of the change.

Therefore, households with elderly or disabled members that are newly eligible for simplified reporting can be converted to simplified reporting, at the state's option, with a simple notice that informs them of the new requirements. States may, in some cases, be able to extend the certification period at the same time, or may conduct the recertification as originally scheduled.

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for households with only elderly or disabled members and no earnings because it would be burdensome for them to reapply every six months and most such household have very stable circumstances. See Questions 4109-14 and 4109-15 from: [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs-II.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs-II.htm).

<sup>29</sup> See Questions A-4 to A-6 at [http://www.fns.usda.gov/fsp/rules/Memo/00/NCEP\\_Q\\_As.htm](http://www.fns.usda.gov/fsp/rules/Memo/00/NCEP_Q_As.htm).

<sup>30</sup> 7 C.F.R. § 273.10(f)(1).

*Including all households in simplified reporting* — As a result of the Farm Bill change, virtually all households may now be assigned to simplified reporting. States no longer must operate two different reporting systems for different types of households. This can simplify staff training, policy manuals, and the reporting messages for households.<sup>31</sup>

According to FNS, a handful of states — Indiana, Michigan, Ohio, and New Mexico — still limit simplified reporting to households with earnings.<sup>32</sup> Other states have excluded other types of households that could be included (for example, households with TANF cash assistance or households with no income). The broadest possible application of simplified reporting can increase food stamp participation among households while at the same time lowering state error rates. This is because the Food Stamp Program's Quality Control (QC) system does *not* count a change in household circumstances as causing an error if the change did not have to be reported. Since 1999 the national error rate has been falling, reaching or matching record lows in each succeeding year. The simplified reporting option has likely contributed substantially to this decline.

*Setting the length of the certification period* — States that extend simplified reporting to households with only elderly or disabled members and no earnings will need to decide whether to use 12-month certification periods or 24-month certification periods with a short report at the 12-month mark.

A 24-month certification period is preferable for both the client and the state, since the report that would be required at the 12-month mark covers only a few items: income, household composition, residence, vehicles (if they are not excluded), assets (if they are not excluded), a change in child support obligations (which are uncommon in this population). This is less burdensome for a household than a full reapplication, which covers all eligibility elements. It also has QC advantages, since if a state uses such a report it is accountable only for changes in the items included on the report form. At reapplication, states are accountable for changes in all eligibility items.

If a state prefers to require a full reapplication after 12 months, it can make the reapplication process less burdensome by conducting the certification interview over the telephone rather than requiring the household to appear in its office. A policy of routinely using telephone interviews for this population does not require a waiver.<sup>33</sup>

*Setting the income reporting threshold* — As noted, under simplified reporting the only change households must report during the 12-month period is when their income exceeds the Food Stamp Program's gross income limit. However, since the gross income limit does not apply to households with elderly or disabled members, a reported change of income in excess of the gross income limit does

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<sup>31</sup> The one group of households that states may not be able to assign to simplified reporting is households with unemployed childless adults that are subject to the three-month time limit. These households generally are assigned to three-month certification periods because of their short-term eligibility; simplified reporting requires at least four-month certification periods. Nevertheless, a state could still completely eliminate change reporting for its caseload by using its discretionary exemptions from the time limit to extend these households' eligibility beyond three months. See <http://www.fns.usda.gov/fsp/rules/Memo/08/022708.pdf> for a current list of the number of exemptions available in each state.

<sup>32</sup> See [http://www.fns.usda.gov/fsp/rules/Memo/Support/State\\_Options/7-State\\_Options.pdf](http://www.fns.usda.gov/fsp/rules/Memo/Support/State_Options/7-State_Options.pdf), p. 6.

<sup>33</sup> 7 C.F.R. § 273.2(e)(2).

not automatically signal ineligibility. Instead, a reported change in income causes a new net income calculation to determine if food stamp eligibility should continue and at what benefit level.<sup>34</sup>

For households to which the gross income limit does not apply, FNS, under guidance, has allowed states to eliminate the 130 percent poverty reporting requirement once it determines that the household's income is above that level. But households with income below 130 percent of poverty must still report when their income rises above 130 percent of poverty (and their benefits must be adjusted accordingly), even though the change may not make them ineligible.<sup>35</sup>

*Acting on changes in medical expenses* — Under FNS regulations, states may not act on changes in medical expenses that they learn from a source other than the household if those changes require the state to contact the household for verification. States may only act on changes in medical expenses from a source other than the household if those changes are “verified upon receipt” and do not require contact with the household.<sup>36</sup> See below for additional discussion of deductions and acting on reported changes. Since the excess medical deduction is available only to households that contain an elderly member or a member with a disability, it is more common among the households that are newly eligible for simplified reporting. Approximately 12 percent of households with elderly or disabled members receive the medical deduction, compared to less than 2 percent of households with children.

#### *More General Simplified Reporting Implementation Issues*

In the almost ten years since FNS first allowed simplified reporting, it has been tremendously popular. As a report by Mathematica Policy Research confirmed in 2004, the option is having much of its intended impact — reducing staff workload, improving client access to the Food Stamp Program, and reducing payment error rates.<sup>37</sup>

Yet the report also notes that simplified reporting could be implemented in ways that would be more beneficial to households, and in many states the number of reports has not been reduced as much as it could have. For example, as a result of state practices on acting on reported changes or data matches, households have lost benefits, and in some cases even eligibility, because of changes in circumstances they were not required to report. Simplified reporting, therefore, has not fully lived up to its intended purposes.

*Accounting for increases in need* — Simplified reporting can leave the state without information that would help it target benefits to households that experience increases in need. Under simplified reporting, households need not report increases in their deductible expenses for items such as shelter, dependent care, medical care, or child support paid during the certification period. Nor are they required to report when they lose a job or experience another sharp decrease in income. Yet

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<sup>34</sup> According to food stamp administrative data, only 2 percent of households with only elderly or disabled adults and no earnings have income above 130 percent of poverty.

<sup>35</sup> See [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs.htm).

<sup>36</sup> 7 C.F.R. § 273.12(c).

<sup>37</sup> Carole Trippe *et al.*, “Simplified Reporting and Transitional Benefits in the Food Stamp Program — Case Studies of Implementation,” Mathematica Policy Research, May 2004.

changes like these can compromise a household's ability to afford an adequate diet — and if reported, could lead to higher food stamp benefits.

One way states can address this concern is to include in their notices and report forms a reminder that while households are not *required* to report such changes, doing so, and providing the necessary documentation may qualify the household for higher food stamps.

*Acting on reported changes* — Even with simplified reporting, states sometimes receive information about changes (or possible changes) in household circumstances, either from the household directly or from another party, such as through a data match. In some cases, another program — such as Medicaid or TANF — may have required that the change be reported. There are several steps states can take to minimize the effects on households of ongoing changes.

- 1) *Reduce the reporting requirements in other programs:* In most states, households that receive Medicaid and/or TANF are still required to report all changes within ten days. Since most states administer these programs together with the Food Stamp Program, this can lead to confusing and contradictory reporting requirements for households. Some households could lose eligibility for food stamps if they do not provide required verification of certain changes, even if the change did not have to be reported for food stamps and did not change the household's eligibility for the other program.

States have broad latitude to set reporting requirements in these other programs and may wish to limit those requirements in order to minimize the burdens on recipient families and eligibility workers.

- 2) *Send a friendly notice asking for, but not requiring, verification:* When a household notifies a state of a change that did not have to be reported for food stamps, it often does not include sufficient verification to satisfy food stamp requirements. If the change was not required to be reported and does not indicate that the household is ineligible for food stamps, the state may simply send a notice that asks for, but does not require, more information. If the household does not respond, no further action is needed.<sup>38</sup> This treatment is very similar to what is required for changes in the medical deduction discussed above.

Unfortunately, some states routinely send notices, known as requests for contact (RFCs), in these situations that require that the household's eligibility be terminated if the verification is not provided within ten days. This type of notice is appropriate under simplified reporting *if* there is reason to believe the household has income over 130 percent of poverty that was not reported. But for other reported changes that were not required to be reported and affect only the level of food stamp benefit, an RFC is unnecessary and places the household's eligibility at risk.

- 3) *No longer act on changes that would reduce benefits:* Under FNS's simplified reporting rules, if a state learns of a change that was not required to be reported, it should act on it only if doing so would increase the household's food stamp benefits, or if the information is "verified

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<sup>38</sup> See 7 C.F.R. § 273.12(c)(1) and (2) for policy regarding state action on reported changes.

upon receipt.”<sup>39</sup> Otherwise the information should be acted on at the next recertification or report.

Many states have received waivers from FNS to act on changes that would *decrease* benefits as well.<sup>40</sup> At the time, these states concluded that acting on changes in only one direction would require significant computer reprogramming that would delay implementation and could be confusing for their eligibility workers. In addition, some states thought that it would be more complex for eligibility workers to manage two reporting systems: one for elderly and disabled households without earned income where all reported changes had to be acted on, and another for simplified reporting where only changes that would increase benefits would be acted on. As discussed above, states now may include all households in simplified reporting.

Many states are considering new computer systems over the next decade and thus may be able to resolve the issues that led the state to adopt the waiver. By dropping the waiver and acting only on changes that would increase benefits, a state could provide food stamp households with higher food stamp benefits, reduce its administrative costs for processing changes, and likely lower its food stamp error rate (because it would have to act on fewer changes).

- 4) *Limit information that must be acted on:* States have numerous databases from which they draw information. When states get reliable information that is considered “verified upon receipt,” such as from the Social Security Administration, they must act on it without securing additional verification. Changes are considered “verified upon receipt” if they are reported by or received directly from the source of the information and are not questionable and do not require further verification. However, other information from matches, such as a wage or new hire match, is not considered verified upon receipt because the information is not from the source or is not complete enough to act on without additional follow-up.

It is beneficial for both food stamp households and the state agency for the state agency to adopt food stamp policy that delays action on data match information that is not considered “verified upon receipt” until the next recertification or report, unless the information appears to put the household at risk of exceeding the gross income limit. Alternatively, where possible, states may wish to consider running these matches as households come up for recertification, as opposed to routinely, on a more regular basis for the entire caseload.

## Additional Resources

Qs & As from the 2002 Farm Bill regarding simplified reporting:

- [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farbill-QAs.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farbill-QAs.htm).
- [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farbill-QAs-II.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farbill-QAs-II.htm)

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<sup>39</sup> Information is considered “verified upon receipt” if it is not questionable and the provider is the primary source of the information (for example, the Social Security Administration regarding SSI income). See Section D under the NECP Q&As at: [http://www.fns.usda.gov/fsp/rules/Memo/00/NCEP\\_Q\\_As.htm](http://www.fns.usda.gov/fsp/rules/Memo/00/NCEP_Q_As.htm).

<sup>40</sup> See [http://www.fns.usda.gov/fsp/rules/Memo/Support/State\\_Options/7-State\\_Options.pdf](http://www.fns.usda.gov/fsp/rules/Memo/Support/State_Options/7-State_Options.pdf), p. 2.

- [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs-IV.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs-IV.htm).

Qs & As from the 2000 Noncitizen Eligibility Certification Provisions final regulation:

[http://www.fns.usda.gov/fsp/rules/Memo/00/NCEP\\_Q\\_As.htm](http://www.fns.usda.gov/fsp/rules/Memo/00/NCEP_Q_As.htm).

Regulations on reporting rules: 7 C.F.R. § 273.12. (Note: these regulations have not been updated since before the 2002 Farm Bill, so in many instances the above guidance supersedes them.)

USDA Report: Carole Trippe *et al.*, “Simplified Reporting and Transitional Benefits in the Food Stamp Program — Case Studies of Implementation,” Mathematica Policy Research, May 2004.

## Expanding the Transitional Food Stamp Option

*Section 4106, amends section 11(s)(1) of the Food and Nutrition Act; optional provision effective 10/1/08*

### Description

One of the most successful provisions of the 2002 Farm Bill gave states the option to provide up to five months of transitional food stamps to families that leave TANF cash assistance without requiring the family to submit any additional paperwork or other information. It was designed to help address a problem that arose after the TANF implementation: many families that left welfare for work were not staying connected to food stamps, despite remaining eligible, because of confusion about what paperwork was required of them in order to retain eligibility. Currently, approximately 20 states provide transitional food stamps, with additional states adopting the option each year.

By continuing a family's food stamps based on information the state already has, transitional food stamps can provide continuity of food stamps and can make clear to families that leave cash assistance that food stamps remain available as a work support. Helping families retain food stamps after they leave welfare to work can help them make the transition to work more successfully and can ensure that families are better off working than on welfare. An added feature of transitional food stamps is that it provides a higher level of food stamps than many working families would receive under the regular benefit formula. This can serve as a reward for work and can reinforce states' "welfare-to-work" messages.

Transitional food stamps also can help respond to states' concern that families that leave TANF are error-prone because of their fluctuating circumstances. This is because the correct transitional food stamp benefit is based on information that the state already has. Households are not required to report changes during the transitional period. As a result, states can have a higher degree of confidence that these households are receiving the "correct" amount.

The 2002 option, however, applied only to families that leave programs funded under the federal TANF program.<sup>41</sup> Many states, in response to the changes made to TANF in the Deficit Reduction Act of 2005, have established separate, wholly state-funded cash assistance programs for certain groups of poor families with children. These new programs give states greater flexibility to develop services and supports that can serve certain families appropriately without the limitations imposed by programs funded under the TANF structure.<sup>42</sup>

At least half the states have authorized or implemented state-only funded programs to serve some groups of families, such as families for whom the rigidly defined work activities or hourly requirements that count toward the TANF work rate are not a good match or two-parent families (who, under TANF are subject to work participation rates that are difficult for states to achieve).

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<sup>41</sup> These programs could be funded either by federal TANF dollars or state maintenance-of-effort (MOE) funds, but in either case would be subject to the rules of the TANF program.

<sup>42</sup> For more information about this approach, see Liz Schott and Sharon Parrott, "Designing State-Funded Programs: Implementation Guide for One Win-Win Solution for Families and States," Center on Budget and Policy Priorities, July 17, 2007, at <http://www.cbpp.org/12-7-06tanf.pdf>.



The transitional food stamp option did not apply to these new types of cash assistance programs. As a result, families leaving those programs have been ineligible for transitional food stamp benefits, even if similarly situated families that leave TANF programs do receive transitional benefits. Several states have expressed concern that these two groups of poor families are treated differently; indeed, some states cited the lack of access to transitional food stamps as one reason why they rejected a state-only program. While some states have been able to “work around” this limitation administratively by switching families to the TANF program in their last month of assistance, this is administratively burdensome.

This provision of the 2008 Farm Bill allows states to provide the same transitional food stamp benefits to families that leave a basic cash assistance program — whether it is funded with federal TANF funds, state maintenance-of-effort (MOE) funds, or state funds that do not count toward the state MOE requirement. States will now have a new tool to ensure that all families transitioning from cash assistance to work stay connected to the work supports that food stamps provide, regardless of how that cash assistance was financed

## Implementation Issues

There should be very few new implementation issues related to this provision. States that are already providing transitional food assistance for families leaving TANF-funded programs may wish to extend this assistance to their state-only cash assistance programs.

Other states that have not implemented transitional food stamps may wish to revisit the option as they consider implementation changes from the 2008 farm bill. In implementing transitional food stamps, states have faced several implementation questions and choices, which are summarized below.

*Which households to include* — All households that cease to receive cash assistance are eligible for transitional food stamps, except for those where the entire household is sanctioned off of TANF or disqualified from food stamps. Unlike Medicaid, transitional food stamps are not limited to households that the state knows have left TANF with earnings: states can apply transitional food stamps to any household that leaves TANF, even if the state does not know whether the household has a new source of income. This also includes households that fail to reapply for TANF and food stamps, and so have their case closed for procedural reasons.<sup>43</sup>

*The level of the transitional benefit* — Under the option, states may either freeze the food stamp benefit level at the level received in the month prior to cash assistance closure (adjusted for only the loss of cash assistance income) or may adjust the food stamp benefit based on information from another program in which the household participates. The transitional benefit amount will typically be the maximum food stamp benefit available for a given household size. This is because if a household had only cash assistance income in the month before leaving that program, and that income is removed in calculating the transitional food stamp benefit, the household will qualify for the maximum benefit under transitional food stamps. It is preferable from both the household's

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<sup>43</sup> See question 4115-2 at [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs.htm).

perspective and the state's quality control perspective to freeze the benefit without taking into account changes from other programs.

*Dual participation* — The only situation in which FNS has said that the transitional benefit five-month freeze *must* be broken, other than when a household reapplies for cash assistance, is if a member of the household moves out and applies for food stamps as part of another household. When faced with this situation, states may remove from the food stamp calculation the household member(s) and any income and deductible expenses associated with the member(s) and continue transitional food stamps for the remaining household members based on the same information that was used to originally calculate the transitional food stamp benefit level.

*Computer systems* — As states that have not adopted transitional food stamps update or overhaul their computer systems, they may want to build capacity that will allow them to take advantage of the transitional food stamps option. The principal challenge that states have identified is that they currently have computer systems that are integrated to calculate eligibility and benefits for multiple programs based on the same information. Under transitional food stamps, the benefit is calculated based only on the prior month's information. States have needed to reprogram their computers to override other household information maintained for other programs, such as Medicaid and child care, so that the frozen transitional benefit is what is issued for food stamps.

## Additional Resources

USDA report: "Food Stamp Program State Options Report," 7<sup>th</sup> edition, November 2007, [http://www.fns.usda.gov/fsp/rules/Memo/Support/State\\_Options/7-State\\_Options.pdf](http://www.fns.usda.gov/fsp/rules/Memo/Support/State_Options/7-State_Options.pdf).

USDA memo: "Transitional Benefit Practices," <http://www.fns.usda.gov/fsp/rules/Memo/05/082405.pdf>.

USDA Qs and As from 2002 Farm Bill on transitional food stamps:

1<sup>st</sup> set: [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs.htm).

2<sup>nd</sup> set: [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs-II.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs-II.htm).

4<sup>th</sup> set: [http://www.fns.usda.gov/fsp/rules/Legislation/2002\\_farm\\_bill/farmbill-QAs-IV.htm](http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs-IV.htm).

CBPP analysis: "Transitional Food Stamps: Background and Implementation Issues," <http://www.cbpp.org/11-10-03fa.htm>.

CBPP analysis: "Using TANF or MOE Funds to Provide Supplemental Assistance to Low-Income Working Families," <http://www.cbpp.org/5-24-07tanf.pdf>.

CBPP report: "Designing State-Funded Programs: Implementation Guide for One Win-Win Solution for Families and States," <http://www.cbpp.org/12-7-06tanf.pdf>.

## Changing the Program Name

*Section 4001, amends Section 1 et seq. of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### Description

Food stamp benefits are no longer issued in stamp form; instead they are delivered on Electronic Benefit Transfer (EBT) cards that program participants swipe at the supermarket counter like credit or debit cards. This change has significantly enhanced program integrity, while also reducing the stigma associated with receiving food stamps. Virtually all program supporters have called for the program's name to be changed to reflect this transformation in benefit delivery.

This provision of the Farm Bill changes the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP), effective October 1, 2008. It also updates language throughout the Food and Nutrition Act to reflect the new name.

### Implementation Issues

While the name change should not affect states' day-to-day operation of the program, it provides states with a unique opportunity to create a new image for SNAP as a modern, streamlined support system for households that need help to afford a healthy diet, including working families and elderly people. Such an undertaking is well worth considering. While a name change is unlikely to radically transform public perceptions, it could help improve perceptions, as well as encourage non-participating households to apply for benefits. In an effort to "rebrand" the program, several states have already changed the name of the program to something other than food stamps. FNS's implementation guidance says, "State agencies may continue to use state-specific program names."<sup>44</sup>

To leverage the most out of the name change, states will need to work with all of the program's stakeholders, including clients, local government, community and advocacy groups, retailers, and EBT providers. In the same vein, USDA will likely contact stakeholders, including State agencies, partners, and community and faith-based organizations, regarding efforts to raise awareness of the new name and maximize this opportunity to create a positive image of SNAP.

*Changing the name in official documents* — Under federal law, the name "Food Stamp Program" will be replaced with "Supplemental Nutrition Assistance Program" on October 1. FNS is expected to begin using that name in its program materials and guidance. The Department, however, does not appear to be planning to force all states to convert to the new name immediately.

FNS seems sensitive to the concern that states may wish to take time to change the name of the program so that they have an opportunity to convert forms, contracts, state policy documents, and other documents or systems. By giving states leeway on when they implement this change, FNS is allowing them to set up an orderly process, which should minimize costs and disruption. For example, states may want to use up their current supplies of applications and notice forms, making any necessary changes only when they order new forms. There do not appear to be any disadvantages or penalties with this approach.

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<sup>44</sup> See <http://www.fns.usda.gov/fsp/rules/Memo/08/070308.pdf>

*Avoiding confusion* — The larger consideration in the name change is how to best implement it in ways that maximize the opportunity to reintroduce the program to the public and avoid confusing people who are already familiar with food stamps. If current participants are not aware of the name change, they may think that SNAP is a different program and submit duplicate applications, creating work for the state and disappointment for the applicant. Similarly, if states do not change all of their forms, notices, and messaging at the same time some clients may believe they've signed up for SNAP and ignore correspondence related to food stamps. States may want to plan a transition period during which program documents explain the name change or include both program names. Community groups that work with low-income households can play an important role in assisting the states' public education efforts.

A number of states have valuable experience in renaming as well as “rebranding” public programs, which could provide an array of useful best practices. Many states, for example, renamed their children’s Medicaid category in an effort to improve the public perception of the program, such as Wisconsin’s adoption of the name “Badger Care.” Also, a number of states have already adopted a different name for the Food Stamp Program and may have relevant experience in educating the existing client base about a name change.

*Reintroducing the Food Stamp Program as SNAP* — The name change provides states with an excellent opportunity to create a new image for SNAP by emphasizing recent improvements the public may not be familiar with. For example, many people may not be aware of efforts to make the program more accessible, such as phone interviews, online applications, reduced documentation requirements, longer certification periods, and simplification or elimination of resource rules.

The name change may also be a way to interest low-income households that are eligible for food stamps but have chosen not to apply. Some of these households may have a negative view of food stamps, but if approached about the benefits of SNAP (instead of food stamps), they may consider applying for benefits. Many important partners could help states reach potentially eligible households, including other government agencies, community groups, and the business community.

Government programs that could help with these outreach efforts include child care subsidy programs, home energy assistance programs, and public health insurance programs. Possible inter-agency initiatives include:

- offering applicants for another program an opportunity to indicate an interest in SNAP, including permission to share their contact information with the SNAP agency;
- posting signs in all government agency offices announcing the name change and encouraging people to get screened or apply;
- including information about SNAP (including the name change) in correspondence to clients of other agencies, such as billing statements, informational mailings, requests for verification, and vehicle registration renewals; and
- conducting a data match to identify potentially eligible households that are receiving benefits from another program and sending them a targeted message (in return, the food stamp agency could offer to send similar notices to its clients about other programs for which they may be eligible).

Community-based organizations (CBOs) are another potential outreach partner. Many CBOs may not refer their clients to the Food Stamp Program because of the stigma sometimes attached to it or because they are unaware of the many improvements in the program in recent years. The name change offers an opportunity to reintroduce community groups to the program and to solicit their help in promoting the SNAP program. For example, states could:

- ask CBOs to include SNAP information in their newsletters, routine mailings, and other information they routinely distribute to their clients (states may want to provide materials such as flyers, posters, and a newsletter article so CBOs can help without investing a lot of time or resources);
- offer training on the program, with an emphasis on recent improvements such as the 2002 Farm Bill options the state has adopted or out-of-office application initiatives, and encourage the groups to screen and refer potentially eligible people; or
- partner with CBOs in food stamp outreach and application assistance projects.

Many businesses also interact with low-income households and could be important outreach partners. For example, firms that hire many low-wage or part-time workers, such as retail stores and fast-food restaurants, may be concerned that their employees are struggling to make ends meet. Also, utility companies may be concerned about increased payment delinquencies due to rising fuel costs. These companies can provide SNAP information using many of the same methods as government agencies, presenting an opportunity to target low-wage workers, who have a very low rate of participation in the Food Stamp Program.

*Media opportunities* — States' public relations offices will probably have plans to publicize the name change. They can also take this opportunity to announce innovations that the agency has already implemented but may be unfamiliar to the public.

The renaming of the program gives states an opportunity to reflect on food stamps' image, among the public as well as other government agencies, and recast the program to reflect its many recent improvements.

### **Additional Resources**

FNS's Food Stamp Program outreach toolkits (includes many ideas, templates, and tools to help state and local agencies and community advocates to develop and implement food stamp outreach efforts): <http://www.fns.usda.gov/fsp/outreach/tool-kits.htm>.

Food Research and Action Center report: "Access and Access Barriers to Getting Food Stamps: A Review of the Literature," <http://www.frac.org/pdf/FSPaccess.pdf>.

## **Accrual of Benefits**

*Section 4114, amends Section 7(1) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### **Description**

Some food stamp households receive only small benefit amounts. Under the former coupon-based system, they might choose to save several months' worth for one shopping trip or for a special occasion, such as a holiday meal. Under the Electronic Benefit Transfer (EBT) system, however, states may make unused benefits inaccessible — by taking them “off-line” if an account is not accessed for three months or more — in order to reduce their administrative costs.

Under current rules, states must reinstate these benefits upon a household's request. Many households are not aware of this fact, however, and simply assume that if they cannot access the benefits on their EBT card, they are no longer eligible for food stamps.

This provision attempts to strike a balance between administrative efficiency and benefit accessibility. It allows states to move a household's benefits off-line if the household has not accessed its EBT account for at least six months, rather than the current three months. When a state moves benefits off-line, it must notify the household and put benefits back on-line within 48 hours if the household requests it.

The provision also codifies current regulations requiring states to “expunge” a household's benefit if it has not been accessed for 12 months.<sup>45</sup>

### **Implementation Issues**

States will need to review their EBT procedures to ensure they are meeting the new requirements — particularly those requiring states to notify households whose benefits have been moved off-line and restore those benefits within 48 hours upon request. This may be an opportune time to review current notices to ensure that they clearly explain how a household can get its benefits restored. Advocates may wish to work with their states to review these procedures and notices and to help ensure that this process works smoothly for clients. In addition, advocates can be an important partner for states in insuring that states have the resources necessary to implement the changes.

Some states have administrative waivers relating to some of these policies. Since the provision is now statutory, those waivers will no longer be valid and those states will need to revise their policies to ensure they comply with the statutory standards.

The requirement to expunge benefits after 12 months simply codifies existing law and should not affect most states.

These changes may require some states to reprogram their systems and/or renegotiate their contracts with their EBT providers. If the necessary changes cannot be made by the October 1

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<sup>45</sup> 7 C.F.R. § 274.12(g)(7)(ii).

implementation date, states may wish to simply suspend the practice of taking benefits off-line until they are able to make the changes.

### **Additional Resources**

USDA study: “Expunging Food Stamp EBT Benefits: A Case Study of the Elderly in Three States,” February 2003,  
<http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/ProgramOperations/EBTStateSum.pdf>.

## **Deobligation of Coupons**

*Section 4115, amends Section 7 of the Food and Nutrition Act; mandatory provision effective 6/18/2008*

### **Description**

The Food Stamp Program has implemented Electronic Benefit Transfer (EBT) nationally and few food stamp coupons are redeemed each month. This provision deobligates coupons, making them no longer legal tender, and updates the language of the Food and Nutrition Act to reflect the fact that benefits are now issued electronically.

As of June 18, 2008, no more coupons may be issued. No more coupons may be redeemed after June 17, 2009.<sup>46</sup> Until that date all Food Stamp Program retailers are legally obligated to accept coupons.

This provision also prohibits the companies which operate electronic benefit systems from charging interchange fees to retailers for food stamp EBT transactions. Retailers currently pay interchange fees to the card issuers for credit and debit card transactions, but not for food stamp EBT transactions. This provision ensures that such fees are not applied to EBT transactions in the future.

### **Implementation Issues**

The deobligation of coupons will not affect most households, since very few should have coupons in their possession. However, some coupons remain unredeemed. Clients are eligible to use these benefits until June 17, 2009. After that date the coupons will no longer be honored. States may want to work with advocates and retailers to advise individuals in possession of coupons to use them.

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<sup>46</sup> See USDA Implementing memorandum at <http://www.fns.usda.gov/fsp/rules/Memo/08/070308.pdf>.



## Clarification of Split Issuance

*Section 4113, amends Section 7(h) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### Description

All states provide food stamp benefits on a monthly basis. The statute, however, technically allows states to “split” this monthly issuance. This is a holdover from the period before the 1977 Food Stamp Act, when clients had to purchase their stamps each month. Allowing states to issue benefits in increments smaller than the monthly allotment made it easier for the poorest households to afford their stamps. Since clients no longer buy food stamps, the 2008 Farm Bill codifies states’ current practice of monthly issuance.

This provision clarifies that states may not, as a routine practice, divide an individual household’s monthly allotment into more than one issuance per month. It does *not* eliminate states’ option to use “staggered issuance” — i.e., issue food stamps to different households on different days of the month. Some states feel this approach helps to manage their own workload and helps stores offer better service to food stamp participants by spreading food demand over the course of the month. The provision also permits states to make more than one issuance “when a benefit correction is necessary,” such as when a household has been underpaid or a food stamp client leaves a group home before the end of the month.<sup>47</sup>

### Implementation Issues

Since the provision restates current practice, no state should need to change its policies.

*Moving to staggered issuance* — Some states have not yet chosen to stagger issuances throughout the month. States that wish to begin staggering issuances must do so in a way that ensures that households currently on the program do not wait more than 40 days between issuances. Also, in calculating benefits in the month that the change occurs, states will need to ensure that each household receives its full benefit and does not lose benefits for the portion of the month before their new issuance date.

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<sup>47</sup> Food stamp benefits for participants living in group homes are issued directly to the facility. When people leave the group home setting a second issuance may be made directly to the participant so he or she can buy food for the remainder of the month. The conference report clarifies that this situation qualifies as a “correction” stating, “The Managers recognize that there may be situations in which individuals that leave a group home before the end of the month will still be eligible to receive program benefits. The Managers intend that, in such a situation, the Secretary interpret the term ‘benefit correction’ to allow a second issuance of program benefits in a month.” U.S. House of Representatives . Food, Conservation and Energy Act of 2008, Conference Report (to Accompany H.R. 2419). (H. Rept. 110-627), p. 772 at [http://thomas.loc.gov/cgi-bin/cpquery/R?cp110:FLD010:@1\(hr627\)](http://thomas.loc.gov/cgi-bin/cpquery/R?cp110:FLD010:@1(hr627)).

## Expanding Permissible Food Stamp Employment and Training (FSET) Activities

*Section 4108, amends section 6(d)(4) of the Food and Nutrition Act; mandatory provision effective 10/1/08*

### Description

Food Stamp Employment and Training (FSET) programs provide services, activities, and programs “for the purpose of assisting members of households participating in the food stamp program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment.”<sup>48</sup> FNS has in the past interpreted this to *prohibit* states from providing services to enable an individual to accept or retain employment.<sup>49</sup> For example, a state could pay for transportation to enable a client to attend a job training course, but if the course resulted in a job offer, the state could *not* continue to provide transportation during the initial weeks of employment, when the participant had not yet been paid.

To address this issue, this provision allows states to set up “programs intended to ensure job retention by providing job retention services” for up to 90 days after FSET participants begin employment. The provision does not change the types of services that are allowable.<sup>50</sup>

The provision expands FSET in another way as well. Generally, FSET rules do not allow participants to engage in work activities for more than 120 hours per month or the number of hours equal to the participant’s grant divided by minimum wage, whichever is lower.<sup>51</sup> This limitation has primarily affected households working 30 or more hours per week (because they cannot be offered any employment and training services) and households with very small food stamp grants (whose hours limitation may be so restrictive as to effectively prohibit them from participating in available programs).

This provision eliminates the limitation on hours for people who participate in FSET voluntarily. The hours limitation remains unchanged for individuals who can be required to participate in an employment and training program, i.e. “mandatory” participants, in FSET programs.

Taken together, these changes will allow states to offer job retention services to new workers on a voluntary basis and to make programs available to participants who live in households that receive small food stamp grants.

### Implementation Issues

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<sup>48</sup> 7 U.S.C. § 6(d)(4)(A)(i).

<sup>49</sup> The FNS Q&A on the subject states that, “An E&T component that provides for the purchasing of services and goods associated with beginning and retaining employment is not allowable since this is beyond the scope of E&T, which is limited to providing goods and services leading up to employment.” Q&A Package on E&T Financial Policy, May 2006, Question B-1, <http://www.fns.usda.gov/fsp/rules/Memo/06/052306.pdf>.

<sup>50</sup> In addition, the provision does not change policy regarding which expenditures may be funded with 100 percent federal FSET funds or 50 percent matched FSET funds. Rather, any activity or service that was previously allowable for people not employed 30 hours per week with either 100 percent federal or 50 percent matched funds is now allowable for employed individuals during the first 90 days of employment.

<sup>51</sup> 7 U.S.C. § 2015(4)(d)(F), 7 C.F.R. § 273.7(e)(3)(ii).

*When to begin new job retention services* — Offering job retention services, like other specific employment and training components, is entirely optional for states. While the provision is effective on October 1, 2008, states may add these services at any time after that date. States may choose to include them in their FY2009 Employment and Training Plans, which are due on August 15, 2008,<sup>52</sup> or they can modify their plans at a later date.

*Ensuring that participation is voluntary* — A volunteer may drop out of a work program at any time and is not subject to sanction.<sup>53</sup> FSET participants, however, may not fully understand how the program works, whether they are a “volunteer,” or that voluntary participation cannot result in a sanction. As states consider developing FSET services for these individuals, it will be important to consider the clients’ perspective when communicating about these new FSET optional programs.

This is particularly true given that states may be encouraging households to participate in activities that total far more than 120 hours per month when combined with the household’s hours at work. For families with small children or people with certain disabilities, this could be more than they can manage.

Some clients may not take advantage of a beneficial FSET program out of a misplaced fear that missing a class would put their food stamps at risk. Other clients might continue to participate in a service when it is no longer useful out of fear that their families’ benefits might be sanctioned if they left the program. Communication with clients about program rules for FSET volunteers will be critical.

Moreover, if states are building FSET programs for volunteers, food stamp caseworkers and FSET service providers will need a system to track voluntary versus mandatory participants in order to ensure that volunteers are not inadvertently sanctioned.

## **Additional Resources**

Workforce Alliance, description of FSET: [http://www.workforcealliance.org/atf/cf/%7B93353952-1DF1-473A-B105-7713F4529EBB%7D/2BB%20Chpt\\_11.pdf](http://www.workforcealliance.org/atf/cf/%7B93353952-1DF1-473A-B105-7713F4529EBB%7D/2BB%20Chpt_11.pdf).

USDA: *Employment and Training Program Handbook*:  
<http://www.fns.usda.gov/fsp/rules/Memo/Support/pdfs/handbook-2003.pdf>

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<sup>52</sup> Details of what is required in State Employment and Training Plans and instructions for filing can be found at <http://www.fns.usda.gov/fsp/rules/Memo/Support/pdfs/handbook-2003.pdf>.

<sup>53</sup> 7 C.F.R. § 273.7(e)(4)(ii).

## **Funding for Food Stamp Employment and Training**

*Section 4122, (amends section 16(h)(1)(A) of the Food and Nutrition Act); mandatory provision effective 10/1/08*

### **Description**

FNS provides annual grants to states to operate Food Stamp Employment and Training (FSET) programs for food stamp recipients. The grants are divided among states according to an allocation formula described in 7 C.F.R. § 273.7(d).

Because the grant money has been permanently available, not all funds are spent immediately. Under current law, FNS may reallocate the grants from states that have not spent all of their allocation to states that have. This allows the Secretary to adjust for the fact that the allocation formula may not perfectly align with the design of states' employment and training programs. On occasion, in lieu of letting these unspent funds remain available to states, Congressional appropriators have rescinded them to finance appropriations spending.

This provision limits the time unspent unmatched federal funding for employment and training program expenses may remain available to 15 months. Previously such money was available until it was expended.

### **Implementation Issues**

The change in funding gives FNS less flexibility to use employment and training funds that, in the past could have been reallocated to another state. Funds must be spent within fifteen months, leaving FNS less time to spend funds. States that in the past have relied upon funds reallocated from other states to support their employment and training programs will need to communicate with FNS about what their expected funding level will be for FY09 and subsequent years.

## Review of Major Changes in Program Design

*Section 4116, amends section 11(a) of the Food and Nutrition Act; technically effective 10/1/08, but requires implementing regulations*

### Description

A number of states are redesigning the way they operate the Food Stamp Program. Some are experimenting with relatively small changes, such as moving to a paperless system or offering an online application option in part of the state. Others are dramatically changing the ways households interact with local food stamp offices, such as by closing county offices and requiring households to contact a statewide call center to apply for benefits, provide needed verifications, and report changes. Although these initiatives can improve the quality of service if administered properly, they also can leave households without recourse if the technology breaks down or the state agency lacks sufficient staff.

The Government Accountability Office (GAO) recently examined these state initiatives but found that “[i]nsufficient information is available to determine the results of using alternative methods to provide access to the Food Stamp Program.”<sup>54</sup> GAO recommended that USDA enhance its ability to assess the effects of these alternative methods on program access, payment accuracy, and administrative costs and then disseminate its findings among the states.

This provision requires states implementing ‘major changes’ in state agency operations to collect data on the impact of these changes on program integrity and household access, particularly for vulnerable households. This will allow states to identify problems (such as technology that is inaccessible to technically unsophisticated elderly applicants or persons with disabilities) before the program’s error rate — or large numbers of households — suffer. USDA will set the criteria that determine which changes in state operations are ‘major’ and therefore require state data collection, although the statute requires USDA to include the following:

- large or increased numbers of low-income households who do not live within a reasonable distance of a certification office (presumably because the state agency has closed them);
- a substantial increase in the state’s reliance on automated systems for tasks previously performed by merit systems personnel;
- changes that potentially increase the difficulty of reporting and submitting information; and
- changes that may disproportionately increase the burdens on households with special needs, such as households with elderly or disabled members, households in rural areas, homeless individuals, households residing on Indian reservations, and households in areas where a substantial number of residents speak a language other than English.

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<sup>54</sup> “Use of Alternative Methods to Apply for and Maintain Benefits Could be Enhanced by Additional Evaluation and Information on Promising Practices,” Government Accountability Office, p. 3, at: <http://www.gao.gov/new.items/d07573.pdf>.

A separate provision in this section clarifies the responsibility of state agencies in the roughly one-third of states in which county or city governments, rather than the state, administer the Food Stamp Program. In such states, FNS still works primarily with the state human services department, which retains an overall policy-setting role over food stamps. States generally have understood this and performed those supervisory functions. On occasion, however, state agencies have claimed that they lack the authority to compel local offices to comply with program requirements. This provision makes the state's continuing responsibility clear.

## Implementation Issues

USDA will use the regulatory process to define what a “major change” is and to set criteria for state data collection. Therefore, it will be some time before this provision directly affects states.

Nevertheless, states that have changed the way they interact with low-income households may wish to begin collecting their own data on how the new operations are affecting program integrity and client access (if they have not done so already). For example, states may already be able to measure impacts on program integrity by measuring payment accuracy in areas that have undergone a major change in program delivery versus those that have not. Similarly, states may want to track which households are using a particular form of technology (such as a call center or online application) versus those that are not.

With respect to client access, one way to measure whether households can navigate new systems is to assess whether clients who initiate an application or recertification or report a change are able to complete the process. States currently track the number of cases they deny each month because the client failed to complete the process; if they see an increase in these “procedural denials” after changing their program delivery model, the model may need improvement to better address the needs of these households.

States can also survey clients to determine whether they were able to navigate a new process such as an online application on their own or needed help. To be accurate, however, these surveys must include clients who never finished their application, report, or recertification as well as those who did. If states cannot find these families to survey them, they can build their online applications and call center software to track at what point clients drop off — for example, which web screen has the lowest completion rate.

Another important, albeit less scientific way for states to assess their new processes is to reach out to community partners that work directly with clients, such as homeless shelters, community action agencies, and food pantries. Often these groups hear from clients about problems they are having accessing benefits.

All of these efforts will give states ongoing information about how well their services work and where there is room for improvement. Moreover, these efforts can be instructive to USDA as the Department considers how it will regulate this provision. States that have gathered information as a management tool to oversee their new systems will be well situated to advise USDA about what data are both useful and reasonable to collect.

## Additional Resources

USDA report: “Modernization of the Food Stamp Program in Florida,”  
<http://www.fns.usda.gov/oane/MENU/Published/FSP/FILES/ProgramOperations/FloridaModern.pdf>.

Florida Legislature, Office of Program Policy Analysis and Government Accountability: “ACCESS Improved Productivity; Additional Refinements Would Better Manage Workload,” Report No. 08-13, March 2008, <http://www.oppaga.state.fl.us/reports/health/r08-13s.html>.

Center for Public Policy Priorities’ materials on changes to Texas’s Eligibility and Enrollment Delivery: <http://www.cppp.org/subcategory.php?cid=3&scid=7>.

## **Preservation of Access and Payment Accuracy**

*Section 4121, amends section 16(g) of the Food and Nutrition Act; technically effective 10/1/08, but requires implementing regulations*

### **Description**

While food stamp benefits are federally funded, federal and state governments share the program's administrative costs, including the costs of developing and procuring computer systems and for modernizing their delivery of services through such innovations as call centers. FNS must approve states' plans to purchase or update their systems before states can receive a federal match for the projects.

Over the years, however, FNS has permitted a number of states to implement new automation systems that produced disastrous results. In some cases, the new systems calculated (or issued) benefits incorrectly; in other cases, the systems proved so slow and cumbersome that the state could no longer keep up with its regular workload. The states' error rates jumped, sometimes approaching twice the national average. In some states program administration became chaotic, applications were lost, and needy households' benefits were terminated.

Restoring effective program operations in the affected states took several months, sometimes even years. Many of these problems could have likely been avoided had FNS required states to test their new systems properly *before* applying them to the entire caseload.

Under this Farm Bill provision, states may not receive federal funding for new major automated systems changes unless they test the system adequately both before and after implementation, including through pilots in limited areas. In addition, the Secretary must thoroughly evaluate the testing data before allowing the state to implement the system broadly. The provision leaves it to the Secretary to determine what qualifies as a "major systems change" and how testing and piloting are to be conducted.

### **Implementation Issues**

This provision will not have any practical effect until USDA issues final regulations. Most states extensively test new systems to ensure that they are sound before implementing changes that affect large numbers of households. As a result, this provision should not affect most states.



## State Option on Telephonic Signature

*Section 4119, (amends section 11(e)(2)(C) of the Food and Nutrition Act;), optional provision effective 10/1/08*

### Description

Historically, food stamp applicants have typically had to apply in person at a local welfare office, and food stamp recipients have been required to come to the welfare office to renew their eligibility. In an effort to reach out to populations that can have a hard time coming to welfare offices, such as working families (who often have difficult schedules) and senior citizens (who often have difficulty traveling) as well as to improve program efficiency, some states have experimented with policies such as permitting people to apply for food stamps by telephone.

One complication with allowing households to apply over the telephone is establishing an applicant's filing date. This is important because a household's first month of benefits is paid back to the filing date.

Currently, a food stamp application cannot be filed without the applicant's signature, and the Food Stamp Act has only permitted traditional ink and electronic signatures.<sup>55</sup> This has meant that in states that allow households to initiate an application over the phone, the state must then mail a copy of the application to the household, which reviews and signs the application and mails it back to the state. The state only considers the application filed once it receives the form with a signature.

As a result, households receive fewer benefits that they would have had they applied in a local office. In addition, some households never send back the signed application, mistakenly thinking the state is already processing their application for benefits, and their application is never filed. In short, while a telephone application offers certain convenience to clients and efficiencies to state agencies, it can cost households needed food assistance.

The Farm Bill addresses this problem by giving states the option to accept complete applications over the telephone using a telephonic signature. To preserve program integrity, the new option requires that states establish a number of basic procedural safeguards:

- record both the household's verbal assent that it is officially applying for benefits and the information it is assenting to;
- send a written copy of the application to the applicant so that the client may review the information and make any necessary corrections;
- establish procedures to ensure against identity theft, impersonation, and invasions of privacy;
- ensure that this process does not deny or interfere with the right to apply in writing;
- use the date of the telephone interview as the filing date without requiring any further signature; and

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<sup>55</sup> 7 U.S.C. § 2020(e)(2)(C).

- other standards which the Secretary may establish.

The statute states that the telephonic signature shall “satisfy all requirements for a signature on an application under this Act and other laws applicable to the supplemental nutrition assistance program, with the date on which the household member provides verbal assent considered as the date of application for all purposes.” Senator Harkin also emphasized this in his floor statement, in which he said, “We have provided that a telephone signature should be accepted as adequate for all purposes. No subsequent mail-in application should be required in order for the application to be considered filed by the State agency.”<sup>56</sup>

Therefore, once an applicant has given their recorded verbal assent (and provided name and address as required by the statute), the application is successfully filed, triggering all rights and responsibilities associated with the filing of an application.

## Implementation Issues

This provision does not impose any new obligation on states that do not choose to use telephonic signatures. States that currently conduct business with clients over the phone, including recertifications and establishing initial applications, may want to consider this new option as a means of improving client access and increasing benefits to households by establishing an earlier filing date.

The FNS guidance of July 3, 2008 implies a requirement that is not in the statute. The guidance says that states “should require” applicants to submit an additional signature on paper after completing a telephonic signature. State may offer applicants an opportunity to sign and return the paper application — in fact, states are required to send a paper copy of the application and give the applicant the opportunity to correct any mistakes. Federal law is clear, however, that an applicant need submit only a name, address and signature to file an application<sup>57</sup> and the statute is clear that the telephonic signature satisfies the signature requirement. Nothing in the statute authorizes states to create an additional application requirement, such as a second signature.<sup>58</sup> Thus, while a state may suggest that the applicant sign and return the paper application under this option, it must process the application even if the applicant fails to do so.

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<sup>56</sup> 154 Cong. Rec. S4752, (daily ed. May 22, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4752&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4752&dbname=2008_record).

<sup>57</sup> 7 C.F.R. §(e)(2)(B)(iv) requires that state agencies “shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application.”

<sup>58</sup> States are also prohibited from imposing additional eligibility requirements by 7 C.F.R. § 2019(e)(5).

## Major Systems Failure

*Section 4133, amends section 13(b) of the Food and Nutrition Act; technically effective 10/1/08, but requires implementing regulations*

### Description

This provision provides specific authority for FNS to collect certain overpayments (or “overissuances”) from states in cases where the overpayment resulted from a major computer or systems failure by the state agency. In these cases, FNS also can prohibit the state from collecting the overpayments from the affected households.

It has been a long-standing requirement in the Food Stamp Program that when a state discovers it has paid a household too much in food stamp benefits, the state must have a policy in place to establish a claim against the household and attempt to recover the overpayment.<sup>59</sup> If the overpayment occurred because the client intentionally defrauded the program, the individual is disqualified from food stamps and must repay the amount. Even if the overpayment was caused by an honest mistake by the household or the state agency — including mistakes caused by a major systems failure — the household generally must repay the overissuance.

States must have procedures in place to address how they will recoup overpayments which include policy on how they will forgive (or “compromise”) some or all of a claim if the state cannot collect them or if collecting them would cause significant hardship to the household.

Rather than punish low-income families and seniors for a state’s mistake in issuing federal funds, the new Farm Bill provision allows the Secretary to require the state to repay some or all of the mis-issued funds. This provision essentially acts as the enforcement mechanism for Section 4121, “Preservation of Access and Payment Accuracy,” which requires states to pilot and test major systems changes and requires FNS to evaluate the results of those tests before allowing states to implement the systems more broadly. Arguably, FNS has long had the authority to apply both of these policies, but this provision highlights Congress’ desire to ensure that vulnerable families and individuals are not caught between a widespread system failure that misappropriates federal funds and federal policy that demands repayment of those funds.

### Implementation Issues

This provision will not take effect until USDA issues final regulations. Most states already test new systems extensively to ensure that they are sound before implementing changes that affect large numbers of households. As a result, this provision is highly unlikely to affect the vast majority of states.

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<sup>59</sup> States have broad authority to waive establishment of claims and forgive or reduce established claims. This allows states to control administrative expenses that may be disproportionate to the value of the claim, and to take the household’s circumstances into consideration when determining how to manage a potential claim. Section 13(a)(1) of the Food Stamp Act (7 U.S.C. § 2022(a)(1)) establishes USDA’s authority to settle, compromise or deny claims. This authority includes “the power to waive claims if the Secretary determines that to do so would serve the purposes of” the Food Stamp Act. USDA has delegated this authority to waive or compromise claims to the states in 7 C.F.R. §§ 271.3 and 271.4(b).

FNS has significant authority under current law, to collect overpayments from states and to prohibit states from collecting certain overpayments from households. While the new provision may ensure a more consistent application of FNS's authority and facilitate such collections from states, it does not represent a significant change in policy. Until USDA issues regulations on this provision, states can safely continue to implement new systems by following sound management practices, continuing to monitor clients' access to the program, and maintaining good reporting and communication practices with FNS.

## State Performance on Enrolling Children Receiving Food Stamps for Free School Meals<sup>60</sup>

*Section 4301, mandatory provision effective 10/1/08*

### Description

Children in households receiving food stamps have long been eligible for free school meals. For more than a decade, school districts have had the option to enroll these children for free school meals automatically through “direct certification,” bypassing the standard application process.

In 2004, Congress created a new entitlement for children in households receiving food stamps by *requiring* school districts to directly certify these children for free school meals. The requirement has been phased in gradually. Beginning this fall, states will need to ensure that children in food stamp households are directly certified for free school meals.

According to USDA data, however, direct certification systems around the country vary widely in effectiveness. In some areas that have already implemented direct certification, there is evidence that many children in households receiving food stamps are missing out on the benefit of a simplified enrollment process. Some of these children receive free meals only after they (and their school administrators) complete an application process that duplicates the food stamp application; other children never receive free meals at all.

This Farm Bill provision requires USDA to use data it already collects from food stamp and school meals administrators to give Congress an annual, state-by-state estimate of the portion of school-age children in households receiving food stamps who were directly certified for free school meals. In addition, USDA must report on best practices from states with the strongest performance to ensure that all states have access to information about how to improve direct certification. The first report must be submitted by December 31, 2008; subsequent reports are due each June 30.

### Implementation Issues

This provision should have little immediate impact on state food stamp operations. USDA will use data it already has to estimate the share of children households receiving food stamp benefits that are enrolled in the free meals programs.

States should recognize, however, that USDA’s report will inherently *rank* states’ effectiveness in this area. The results will undoubtedly reflect on those who administer the state’s child nutrition program as well as those who administer its Food Stamp Program. State food stamp officials may wish to review whether all possible steps are being taken to connect needy children on the Food Stamp Program to the school meals benefits to which they are entitled.

### Additional Resources

USDA report: “Data Matching in the National School Lunch Program”:

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<sup>60</sup> Zoë Neuberger wrote this section.

- Summary: <http://www.fns.usda.gov/oane/MENU/Published/CNP/FILES/DataMatching-Sum.pdf>.
- Final report: <http://www.fns.usda.gov/oane/MENU/Published/CNP/FILES/DataMatching-V1.pdf>.
- Case studies: <http://www.fns.usda.gov/oane/MENU/Published/CNP/FILES/DataMatching-V2.pdf>.
- Guide for state and local agencies:  
<http://www.fns.usda.gov/oane/MENU/Published/CNP/FILES/DataMatchingGuide.pdf>.

CBPP analysis: “Implementing Direct Certification: States and School Districts Can Help Low-Income Children Get the Free School Meals for Which They Are Eligible,” <http://www.cbpp.org/8-11-06fa.htm>.

## **Civil Rights Compliance**

*Section 4117, (amends section 11(c) of the Food and Nutrition Act;), mandatory provision effective 10/1/08*

### **Description**

This provision updates the Food Stamp Act and clarifies that four major civil rights statutes — the Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Title VI of the Civil Rights Act — apply to all aspects of Food Stamp Program administration, not just eligibility determinations.

This is consistent with action Congress took when it replaced the Aid to Families with Dependent Children (AFDC) Program with Temporary Assistance for Needy Families (TANF). Congress included specific requirements that agencies carrying out the TANF programs comply with the above four major civil rights statutes: the Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Title VI of the Civil Rights Act. This food stamp provision is parallel to the TANF provision.

### **Implementation Issues**

States are highly unlikely to face implementation issues, as USDA's regulations require states to be in compliance with these laws.

## **Codification of Bilingual Access Rules**

*Section 4118, (amends section 11(e)(1) of the Food and Nutrition Act;), mandatory provision effective 10/1/08*

### **Description**

For almost three decades, the Food Stamp Program has had rules requiring translated forms and interpreters in areas where large numbers of low-income families speak a language other than English.<sup>61</sup> These rules have been particularly important in serving migrant farmworker families and other non-English proficient households when these households are eligible and need food assistance.

This provision clarifies that these rules have the force of law. It does *not* in any way change the substance of those requirements, which have caused few problems over the years.

### **Implementation Issues**

States will not face implementation issues, as they are already operating the program subject to these regulations.

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<sup>61</sup> See 7 C.F.R. § 272.4(b).



## **Privacy Protections**

*Section 4120, (amends section 11(e)(8) of the Food and Nutrition Act;), mandatory provision effective 10/1/08*

### **Description**

This provision applies a tighter, “need to know” policy to the exceptions to the Food Stamp Act’s privacy protections. The Food Stamp Act has long required that all information about applicant and recipient households be held confidential, subject to certain exceptions related to computer matching and similar efforts, law enforcement, research, and matters involving program administration.

Unfortunately, these exceptions were framed in all-or-nothing terms. If an automation contractor needed access to household benefit amounts in order to operate the EBT issuance system, for example, it could in theory obtain a host of other personal information that it did *not* need for that task — but that may have other commercial applications for the contractor.

This provision of the Farm Bill does not impose new restrictions on who may obtain program information or for what purposes. It does, however, prohibit commercial exploitation of that data for purposes unrelated to program administration. The provision also clarifies that food stamp information may be used to directly certify school children for eligibility for free meals.

### **Implementation Issues**

It is unlikely that state operations will be significantly affected in any significant way. FNS guidance will likely provide more information on how states can ensure that food stamp data remains private and confidential and are never re-disclosed.

## Protecting Innocent People From the “Fleeing Felon” Ban

*Section 4112, amends section 6(k) of the Food and Nutrition Act; technically effective 10/1/08, but requires implementing regulations*

### Description

Section 6(k) of the Food Stamp Act provides that individuals shall not be eligible for food stamps if they are being pursued by law enforcement for outstanding felony charges and are actively evading arrest, or if they have been found to be in violation of probation or parole.

This provision was intended to exclude people who are fleeing justice and are being actively pursued by law enforcement authorities. In some cases, however, it appears that it is being applied inappropriately to people who are *not* “fleeing felons.”

Some individuals have been disqualified for food stamps simply because their name appears in a criminal database. They may be identified erroneously in a database due to identity theft, mistaken identity, data entry errors, or poor recordkeeping. In other cases, individuals whose name appears in a criminal database may have contacted the authorities only to find that law enforcement no longer deems their infractions worth pursuing, or may have had a warrant issued for a procedural matter that in no way suggests that the individual is fleeing justice.

Senator Harkin described the problem in his floor statement on the Conference Report:

*“[T]his rule occasionally denies food assistance to the wrong people — innocent people whose identities may have been stolen by criminals or those whose offenses were so minor or so long ago that law enforcement has no interest in pursuing them. If the issuing authority does not care to apprehend the applicant when notified of his or her whereabouts, there is no public purpose served by denying food assistance benefits. Unfortunately, inadequate guidance to States has resulted in exactly that. This provision would correct this by requiring USDA to clarify the terms used and make sure that States are not incorrectly disqualifying needy people who are not being actively pursued by law enforcement authorities.”<sup>62</sup>*

This Farm Bill provision directs states to prevent the disqualification of people who are not intentionally fleeing justice and being “actively pursued by law enforcement authorities.” It requires the Secretary to define the terms “fleeing” and “actively seeking” and to establish consistent procedures for states to ensure that they disqualify only those individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against them.

### Implementation Issues

Until USDA issues regulations defining the terms specified in the statute, states may struggle with how to set standards that meet its requirements. An approach used by some states may provide a

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<sup>62</sup> 154 Cong. Rec. S4752, (daily ed. May 22, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4752&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4752&dbname=2008_record).

workable model until those regulations appear. Many states currently use self attestation — a “yes” or “no” question on the application form — to determine whether food stamp applicants and participants are “fleeing felons.” There is no need to verify this information unless the state becomes aware that a given individual may be a fugitive.

This approach is consistent with current law. Nothing in the statute or regulations requires a state agency to actively investigate whether applicants might have an outstanding warrant, unpaid fine, or other legal entanglement; a state is only required to act on information of which it is aware. The Quality Control (QC) Handbook instructs QC reviewers to find an error only “if the reviewer determines that the agency was aware of the household member(s) status as ineligible and failed to take appropriate action.”<sup>63</sup> If there is no evidence that the agency was aware of the problem, reviewers are instructed *not* to find the case in error but instead to report the information to the agency for appropriate further action.

Some states may have a policy of conducting data matches of the food stamp caseload with criminal databases. This puts the state at risk of applying the new Farm Bill provision incorrectly, given the inexactitude of both the information in the databases and the provision’s requirements. If a state wishes to pursue these data matches, the new provision would seem to require it to investigate the veracity of the information before disqualifying an individual from food stamps. The state would need to determine that (a) the individual is the one sought, (b) the offense is subject to this provision, (c) the individual is taking action with specific intent to “flee” from justice, and (d) the issuing authority is actively attempting to apprehend the individual. If *any* of these circumstances is uncertain, the state lacks sufficient basis to determine that the individual is ineligible for benefits.

## Additional Resources

Current federal statute on the disqualification: 7 U.S.C. § 2015(k).

Federal regulations on the disqualification: 7 C.F.R. § 273.11(n).

FNS: “Food Stamp Quality Control Review Handbook,” Handbook 310, October 2003.

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<sup>63</sup> FNS Handbook 310, section 848 (“Ineligibility Due to a Drug Related Conviction, and Fleeing Felon Status”), pp 18-19.

## Nutrition Education

*Section 4111, amends sections 4(a) and section 11(f) of the Food and Nutrition Act, mandatory provision effective 10/1/08*

### Description

The goals of food stamp nutrition education are to improve the eating practices of food stamp eligible low-income people eligible for food stamps and to promote active lifestyles for people eligible for food stamps. States at their option provide education and services under this program with costs shared between states and the federal government. In fiscal year 2007, 52 state agencies drew down \$276 million in federal funds for nutrition education under the Food Stamp Program.

The Farm Bill codifies current policy on nutrition education activities under the Food Stamp Act, including the requirement that state nutrition education programs be operated pursuant to an FNS-approved plan. Nutrition education remains a state option (with FNS approval) that may be made available to individuals who are eligible for food stamps.<sup>64</sup> The state agency may provide nutrition education activities directly or through agreements with the National Institute of Food and Agriculture or other state and community partners. The activities must promote healthy food choices consistent with the most recent Dietary Guidelines.<sup>65</sup> To the maximum extent possible, states must notify eligible participants and applicants of the availability of nutrition education.

### Implementation Issues

This provision updates the statute to accurately reflect current nutrition education policy. Since FNS has been approving plans based on these standards, it is unlikely that states will face any significant new requirements or implementation issues.

### Additional Resources

FNS, food stamp nutrition education plan guidance:  
[http://www.nal.usda.gov/foodstamp/guidance/Final\\_2009\\_Guidance.pdf](http://www.nal.usda.gov/foodstamp/guidance/Final_2009_Guidance.pdf).

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<sup>64</sup> 7 U.S.C. § 2020(f), 7 C.F.R. § 272.2(d).

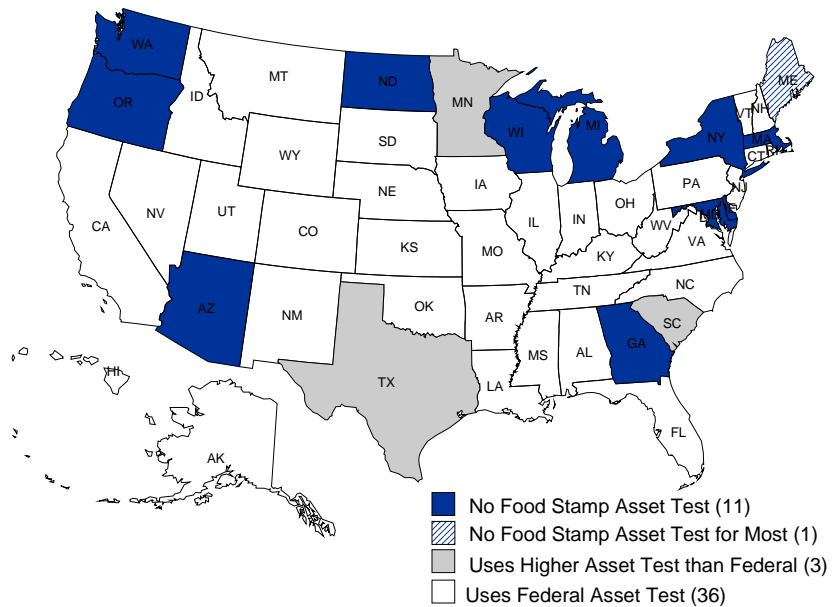
<sup>65</sup> USDA already uses the Dietary Guidelines for Americans, published jointly by the Departments of Agriculture and Health and Human Services every five years, for its nutrition education programs. The current version, published in 2005, is available at <http://www.health.gov/dietaryguidelines/dga2005/report/>.

## Using the State Option to Set Food Stamp Asset Policy

As discussed in the “Resource Provisions” section (see page 19), the Farm Bill made three improvements in the food stamp asset test. But these changes may not go as far as many states and advocates had hoped. Even with the changes, the food stamp asset limits remain restrictive and are inconsistent with recent efforts by policymakers of both parties and business leaders to urge Americans to save more.

Many policymakers now believe that assets are a critical underpinning of households’ economic security, opportunity, and progress. For low-income families, assets bolster financial security by helping them avert financial crises that can push a family deeper into poverty. Assets also enable families to invest in their future and move forward economically. Research has shown that asset holding is associated with greater family stability, improved health outcomes, greater economic security and better educational outcomes for children.<sup>66</sup> Accordingly, policymakers have begun to question the requirement that low-income households liquidate even modest savings in order to receive food stamps.

**Figure 1: Food Stamp Asset Tests by State**



Fortunately, states have the flexibility to set a less restrictive food stamp asset test. In lieu of implementing the new changes in Section 4104 of the Farm Bill — which will require new forms, policy manual changes, computer programming, and staff training — states may wish to set their own food stamp asset policy via the expanded categorical eligibility option.

## How “Categorical Eligibility” Works

States long have had the ability to set their own vehicle and financial asset policies in the major assistance programs they administer: Temporary Assistance for Needy Families (TANF), child care, the State Child Health Insurance Program (SCHIP), and Medicaid. Some have opted to disregard assets completely when determining a family’s or individual’s eligibility for one or more of these programs.

<sup>66</sup> See “Effects of Asset Holding on Neighborhoods, Families and Children: A Review of Research,” Edward Scanlon and Deborah Page- Adams, Chapter 3 in “Building Assets — A Report on the Asset Development and IDA Field,” CFED, Ray Boshara (editor), December 2001.

States can also set their own asset policy in the Food Stamp Program. All states have already adopted a vehicle asset test that is less restrictive than the federal food stamp vehicle limit, for example.<sup>67</sup> It is less commonly understood that states may also set their own rules on the program's treatment of households' *financial* assets. A few states, such as Michigan and Delaware, embraced the option almost immediately after it became available in 1999 and eliminated their asset test. As Figure 1 shows, 15 states currently use financial asset limits that are less restrictive than the federal food stamp limits for some or all of their food stamp caseload; 12 of these states have no asset test.<sup>68</sup>

Under the federal asset rules, households typically are not eligible for food stamps if they have countable financial assets worth more than \$2,000 (\$3,000 if the household contains an elderly or disabled member). However, households in which all members receive SSI, general assistance, or benefits funded with TANF block grant or state maintenance-of-effort (MOE) funds are categorically eligible for food stamps *regardless of their assets*.<sup>69</sup> The rationale is that since a state or federal agency has already found this household to be needy, that assessment should be sufficient for the purposes of the Food Stamp Program.

States may declare a household categorically eligible for food stamps if all members participate in a program, receive a service, or are authorized to receive a service<sup>70</sup> that is funded by federal TANF or state MOE dollars.<sup>71</sup> (As explained below, this includes services that are provided to households without children, including seniors and other childless adults.) If the TANF- or MOE-funded program or service has an asset test, that asset test effectively becomes the food stamp asset test in the state; if the TANF- or MOE-funded program or service has no asset test, there is no food stamp asset test either.

## Why Should States Take This Option?

Categorical eligibility has a number of advantages for both states and low-income households.

*Opening up asset-building policy to low-income households* — The federal government provides more than \$350 billion annually in programs and tax incentives to promote individual asset building, according to the Corporation for Enterprise Development. Most of this, however, goes to upper-income Americans in the form of preferential tax treatment for home or stock equity. The benefits largely bypass low-income Americans — the people who most need help building savings and wealth.

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<sup>67</sup> See “States’ Vehicle Asset Policies in the Food Stamp Program,” Center on Budget and Policy Priorities, available at: <http://www.cbpp.org/7-30-01fa.htm>.

<sup>68</sup> Some of these states do apply the federal asset limit to households that are subject to an Intentional Program Violation disqualification or a work-related sanction.

<sup>69</sup> 7 C.F.R. § 273.8(e)(17).

<sup>70</sup> Individuals who are “authorized to receive” a benefit or service are those whom the state has determined eligible for a service but who have not elected to use the service. For example, a state may determine someone eligible for job retention counseling, but the individual may not avail themselves of the counseling.

<sup>71</sup> “Letter to Regions on Categorical Eligibility,” signed by Susan Carr Gossman, July 14, 1999, <http://www.fns.usda.gov/fsp/rules/Memo/99/raletter2.htm>, and “Questions and Answers on Categorical Eligibility,” October 21, 1999, <http://www.fns.usda.gov/fsp/rules/Memo/99/CatElQAs.htm>. Categorical eligibility rules are set forth in 7 C.F.R. § 273.2(j)(2).

In 2006, taxpayers earning less than \$48,000 (about 60 percent of all Americans) shared a little less than 3 percent of the asset-building benefits. Meanwhile, the top 1 percent of households, with average incomes exceeding \$1.25 million, received over 45 percent of the benefits. (Put another way, the poorest 20 percent of the population receive \$3 per household per year from these policies, on average, while the wealthiest 1 percent receive \$58,000 and households with incomes of \$1 million or more receive \$169,000.<sup>72</sup>)

By contrast, asset policies have traditionally *penalized* low-income families and individuals who build savings by making them ineligible for government health insurance or income supports. States can help expand financial stability, economic mobility, and self-sufficiency in retirement by eliminating the disincentive to save embedded within food stamp asset rules.

*Extending food stamp eligibility to needy households* — In addition to removing the savings disincentive in the program, raising or eliminating the asset test makes new low-income households eligible for food stamps. These are households whose net incomes are too low to afford a basic healthy diet; the expanded categorical eligibility option can enhance state efforts to reduce food insecurity in the state by extending food assistance to these households.

This change would likely help many recently unemployed workers with modest savings. Current rules require these workers to liquidate their savings before they can receive food stamps, undermining their long-term financial stability.

*Administrative simplification* — Eliminating the food stamp asset test makes the Food Stamp Program easier to administer. States that have taken the option claim they have achieved important administrative savings: they no longer spend time on asset issues during client interviews, do not need to gather or review documents to verify clients' asset amounts, and quality control workers no longer have to double check household asset information.

Most applicant households do not own any assets beyond some basic cash in hand or in a checking account. Yet states must still spend valuable time training staff on the asset rules and ensuring that their policy staff are well versed in the policy. This time and energy could be better spent improving staff capacity to budget income — the single biggest source of food stamp payment errors.

Moreover, for applicants who do own assets, food stamp asset rules can be very complicated. For example, determining if a trust is a countable resource is extremely complicated and often requires the assistance of the agency's legal department. Even sorting out whether a household savings account of \$3,200 is technically above the \$2,000 limit, for example, requires the caseworker to determine if some of the balance is due to an EITC refund and thus cannot be counted for 12 months after receipt.

States have already taken great strides to eliminate the asset tests in their health programs. Nearly all states have eliminated asset tests for the purposes of children's eligibility for Medicaid, and over 20 states have eliminated the asset test from their Medicaid category that covers parents.<sup>73</sup> Given the

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<sup>72</sup> "Return on Investment? Getting More from Federal Asset Building Policies," CFED, available at [www.cfed.org/imageManager/documents/publications/hips2/return\\_on\\_investment.pdf](http://www.cfed.org/imageManager/documents/publications/hips2/return_on_investment.pdf).

<sup>73</sup> "Health Coverage for Children and Families in Medicaid and SCHIP: State Efforts Face New Hurdles," Center on

considerable overlap between the Medicaid and food stamp populations, states would likely find food stamp administration simpler if they drop the food stamp asset test to make their rules consistent with one or both of these Medicaid coverage categories.

*Reducing error rates* — Because low-income households who participate in food stamps rarely have assets in excess of the \$2,000 limit, states do not typically have payment errors resulting from a misapplication of the asset rules. When such errors do occur, however, they typically are very significant because the entire case is in error. (Errors in calculating income or deductions often just mean that the amount of benefits was incorrect.)

The 15 states that have adopted categorical eligibility have an advantage over the states that have not done so because they cannot (or are less likely to) receive an overpayment finding as a result of an inaccurate determination of household assets. Since the food stamp QC system measures all states against one another, it is critical for states to keep abreast of whether certain states are electing policies that will lower their error rates relative to the rest of the group.

### **How Have States Used Categorical Eligibility?**

Twelve of the 15 states that have adopted categorical eligibility use no asset test in the TANF-funded service that confers categorical eligibility and therefore have eliminated the food stamp asset test for all food stamp households that receive the service. These 12 states are: Arizona, Delaware, Georgia, Maine, Maryland, Massachusetts, Michigan, New York, North Dakota, Oregon, Washington, and Wisconsin. (Georgia and New York most recently adopted categorical eligibility in 2008.) The other three states — Texas, Minnesota, and South Carolina — use a higher asset limit than that in the Food Stamp Act.

The states adopting categorical eligibility had to make four design decisions when setting up their new food stamp financial asset test.

- *What service or benefit will confer categorical eligibility?* The states selected a service or benefit that they believe helps the entire food stamp household. In several states, it is a brochure that provides clients with information and referrals to other services for which they may be eligible. When households apply for food stamps, they are simultaneously processed for the TANF service or benefit.

The service or benefit that confers categorical eligibility varies by state. In Michigan, food stamp households are authorized to receive domestic violence counseling and services when they apply for benefits. In North Dakota they receive a TANF-funded pamphlet with information about the full array of TANF-funded services. States are able to provide these TANF-funded services to all households, including elderly, disabled, and childless adults, because the programs are designed to educate and serve all individuals in the community who wish to avail themselves of the services. For example, Delaware has a strong commitment to preventing teenage pregnancy and believes that any member of the community can be a strong



ambassador to teenagers on this issue, so it has made all low-income households eligible for TANF-funded pregnancy prevention education, counseling, and services.

It is worth noting that while households must be determined *eligible* and *authorized* to receive the service or benefit, they are not required to actually *receive* it.

- *Which food stamp households will be categorically eligible?* All but one of the states that have elected the option provide the TANF- or MOE-funded service to all food stamp households. The exception is Maine, in which only households with children can be categorically eligible. Several states have excluded households subject to disqualification or work sanction.
- *If the state has chosen to raise rather than eliminate the food stamp asset test, what will be the asset test for the TANF- or MOE-funded benefit that confers categorical eligibility?* Texas and Minnesota used categorical eligibility to raise the food stamp asset limit to \$5,000 and \$7,000, respectively, well above the federal limit of \$2,000.
- *What is the gross income test for the benefit that confers categorical eligibility?* Under the federal TANF statute, states have full authority to set the income eligibility limits for TANF-funded programs. Using this flexibility, nine states have raised the gross income limit for the program that confers categorical eligibility above 130 percent of the poverty line (the Food Stamp Program's gross income limit), thereby making more households potentially eligible for food stamps. Federal rules permit states to raise the gross income limit of a program that confers categorical eligibility to the Food Stamp Program up to 200 percent of the poverty line.<sup>74</sup>

Raising the gross income limit primarily affects families with children and earnings because these households have the deductions necessary to meet the Food Stamp Program's net income test. Households with seniors and people with disabilities already do not face a gross income test.

States that choose to pursue this aspect of the option will likely consider several factors when deciding where to set their gross income test. They may, for example, wish to help as many households as possible by setting the limit at 200 percent of the poverty line, though many households at this gross income level will not meet the Food Stamp Program's net income test. CBPP analysis of food stamp quality control data show that 90 percent of the increased benefits resulting from raising the gross income test to 200 percent of the poverty line go to households with incomes between 130 percent and 165 percent of the poverty line. Therefore, it is not clear that raising the limit to 200 percent of the poverty line makes many more households eligible than a lower limit. States that chose to raise the gross income limit will want to weigh

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<sup>74</sup> Technically, federal regulations require states to set a gross income limit no greater than 200 percent of the poverty line only if the program is designed to meet the third or fourth purpose of the TANF block grant. TANF-funded benefits that meet these purposes are those that states can use for their entire food stamp caseload (see page 66). 7 C.F.R. § 273.2(j)(2).

States also have flexibility to raise the *net* income test under the option. CBPP, however, strongly recommends that states retain the net income test. The primary effect of raising it would be to make many additional one- and two-person households with gross incomes above 130 percent of the poverty line eligible for the minimum food stamp benefit, which is not an efficient or effective use of food stamp dollars.

the administrative costs of processing many more ineligible households against the benefits of expanding food stamp eligibility.

Once these decisions are made, the state must inform FNS of its new policy; if TANF provides less than 50 percent of the funds used to finance the service or program triggering categorical eligibility, FNS must also approve the state's policy. To minimize any potential hurdles associated with this approval process, states may wish to consider only programs or services that are primarily TANF-funded.

### **How Can States Make All Types of Low-Income Households – Including Childless Households – Eligible for TANF-Funded Benefits?**

One element of the categorical eligibility option that often causes confusion is how a state can use a benefit funded by TANF — a program for poor families with children — to set food stamp policy for its entire food stamp caseload, which includes households with no children (such as seniors and other childless adults).

Under the TANF block grant, states may use federal TANF funds for expenditures that are “reasonably calculated” to accomplish one of the four purposes of TANF. Those four purposes are:

- assisting needy families so that children can be cared for in their own homes;
- reducing the dependency of needy parents by promoting job preparation, work, and marriage;
- preventing out-of-wedlock pregnancies; and
- encouraging the formation and maintenance of two-parent families.<sup>75</sup>

While federal TANF expenditures under the first and second purposes of TANF must be for needy families with children, there is *no* such restriction on federal TANF expenditures under the third and fourth purposes.<sup>76</sup> Thus, a state can spend federal TANF funds on services under the third and fourth purposes without regard to whether the recipient is in a needy family with children.<sup>77</sup> States have used this flexibility to establish categorical eligibility from a TANF-funded

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<sup>75</sup> 45 C.F.R. § 263.11

<sup>76</sup> With the exception of some specified pro-family expenditures under the third and fourth TANF purposes, MOE expenditures must be for needy families with children regardless of which of the four TANF purposes they fall under. States, therefore, will have more flexibility to extend categorical eligibility to their entire food stamp caseload if they use a benefit paid for with federal TANF funds.

<sup>77</sup> States may only provide these benefits to households without children if the benefit or service they provide is “non-assistance.” “Assistance” includes benefits (cash or non-cash) that are designed to meet ongoing basic needs (such as cash, housing, or food assistance), as well as supportive services such as child care and transportation assistance that are provided to families that are not employed. “Non-assistance” benefits are those that do not fall within the definition of assistance. They include: services that do not serve as income support such as education, counseling, and referrals. The other advantage of “non-assistance” benefits is that under TANF rules “non-assistance” does not impose certain requirements that are imposed by “assistance,” such as the federal time-limit.

brochure or authorization to receive domestic violence services or pregnancy prevention education and counseling.

### **Why Haven't More States Taken Advantage of This Option?**

There are several reasons why fewer than half of the states have adopted categorical eligibility.

*Lack of awareness of the option* — As noted, virtually all states have eliminated asset tests in child care, TANF, and/or health insurance programs, and every state has adopted less restrictive vehicle asset tests in the Food Stamp Program. The key reason why states have not set their own food stamp asset test is that many states do not fully understand the flexibility available to them.

*Concern over administrative capacity* — Some states may fear that eliminating or loosening the asset test would cause large numbers of new households to apply for benefits, at a time when state administrative resources are already stretched thin. States, appropriately, want to be sure that they can manage any caseload increases without harming current service levels and program integrity efforts.

To get a sense of how this change might affect their caseloads, states could analyze the food stamp applications they denied in the past year (or some other recent period) to determine how many were ineligible because of the federal asset rule.

Anti-hunger organizations can play a key role in advocating for the resources the state agency needs to administer the Food Stamp Program. Working together, state administrators and advocates can ensure a successful implementation of this option.

*Belief that the option may not last* — Some states have expressed concern that the option will be eliminated because the Administration has proposed legislation to restrict this state flexibility. While it is true that the Administration has proposed eliminating the option, it would take an act of Congress to do so, and Congress has repeatedly rejected the Administration's proposal on a bipartisan basis. During the debate on the 2008 Farm Bill, leading members of the Agriculture Committees in both chambers reassured states that they embrace categorical eligibility.

*“But I also want to reaffirm that we did not take away, as President Bush proposed, the State option in the food stamp program to design a more appropriate asset test at the State level. . . . I hope that other States consider this option, and I urge USDA to work with other States to promote this important policy.”*

Rep. Joe Baca, Chairman  
Subcommittee on Department Operations, Oversight, Nutrition, and Forestry<sup>78</sup>

*“In addition, by leaving the existing State option on categorical eligibility in place, States have the full flexibility to set their own asset policy. I strongly encourage USDA to work with States to expand the use of this State option beyond the 15 States that thus far have expanded categorical*

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<sup>78</sup> 154 Cong. Rec. H3813, (daily ed. May 14, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=H3813&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=H3813&dbname=2008_record).

*eligibility. States with nearly 40 percent of the food stamp caseload do not currently use the national asset policy. I hope that in the coming months and years we will see more and more States take the option.”*

Senator Tom Harkin, Chairman  
Senate Committee on Agriculture, Nutrition and Forestry <sup>79</sup>

These statements should reassure states that Congress has rejected the idea of repealing the categorical eligibility option. To be sure, there are no guarantees that a future Congress will not reconsider this position, but there are no guarantees that any particular aspect of the program will remain the same. Moreover, Congress is much less likely to roll back this option if many states have taken advantage of it and are enjoying the benefits of stronger food stamp asset policy.

### Additional Resources

FNS letter to regions on categorical eligibility, July 14, 1999:  
<http://www.fns.usda.gov/fsp/rules/Memo/99/raletter2.htm>.

Corporation for Enterprise Development analysis: “The Role of Public Policy in Reducing Poverty and Expanding Economic Opportunity,” <http://www.cfed.org/publications/showcase/>.

CBPP and Retirement Security Project analysis: “Protecting Low-Income Families’ Savings,”  
<http://www.cbpp.org/6-21-05socsec-sum.htm>.

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<sup>79</sup> 154 Cong. Rec. S4750, (daily ed. May 22, 2008), available at: [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4750&dbname=2008\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S4750&dbname=2008_record).

## Encouraging Elderly People to Participate in Food Stamps

Low-income elderly people have historically had low rates of participation in the Food Stamp Program. By USDA's most recent measure, only 34 percent of eligible elderly people receive food stamps.<sup>80</sup> In an effort to connect more eligible seniors to the program, many states and advocates have undertaken outreach to low-income seniors and made efforts to make the program more attractive to elderly people.

Elderly people often hesitate to participate due to the stigma associated with food stamps, fears that applying will be difficult and time consuming, and the misperception that they will receive only \$10 per month. Focus groups in Washington, for example, expressed that benefit levels are too low compared to the difficulties of applying, the application form was too long, they were uncomfortable going to the food stamp office, eligibility interviews were inconvenient, and documentation requirements were intrusive, unnecessarily repetitive, time consuming, and difficult to meet.<sup>81</sup>

The Farm Bill contains a number of food stamp improvements that will have a disproportionate impact on seniors. Taken together, they will give states and advocates a new opportunity to “repackage” the program for this important group. Examples include:

*Strengthening the minimum benefit* — The Farm Bill converts the fixed \$10 minimum benefit to 8 percent of the maximum benefit (or Thrifty Food Plan) for a one-person household. When this change takes effect on October 1, the minimum benefit likely will rise to \$14 a month and will continue to rise in response to future food price inflation.<sup>82</sup>

Most of the households that will benefit from this increase include members who are elderly or have disabilities. Yet it is important to note that the vast majority of food stamp households with seniors and people with disabilities receive *more* than the minimum benefit. In 2006, the average benefit for seniors or people with disabilities in one- and two-person households that did *not* receive the minimum benefit was more than \$80 a person. The change in the minimum benefit creates an opportunity to dispel the myth that all seniors are eligible only for the minimum benefit.

*Exempting retirement funds* — The Farm Bill exempts all retirement accounts from the food stamp asset tests. Many elderly people are reluctant to spend their “nest egg,” even if they are struggling to buy food. The changes in resource rules may open the program to more vulnerable elderly people whose modest retirement savings currently make them ineligible for food stamps. Elderly people

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<sup>80</sup> “Trends in Food Stamp Program Participation Rates: 2000 to 2006,” Department of Agriculture, Office of Analysis, Nutrition, and Evaluation, June 2008, p 4, at <http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/Participation/Trends2000-2006.pdf>.

<sup>81</sup> “Seniors’ Views of the Food Stamp Program and Ways To Improve Participation — Focus Group: Findings in Washington State,” Vivian Gabor *et al.*, Health Systems Research, Inc., June 2002, at <http://www.ers.usda.gov/publications/efan02012/>.

<sup>82</sup> The \$14 assumption is based on the Congressional Budget Office’s March 2008 projection for the Thrifty Food Plan for a one-person household in fiscal year 2009, which assumes 4 percent inflation. Because USDA estimates separate (and higher) maximum benefits for Alaska, Hawaii, Guam, and the Virgin Islands, the *minimum* benefit will be higher in these jurisdictions. Depending on inflation this year, the minimum benefit will be approximately: \$20 to \$30 in Alaska (based on the region within the state), \$27 in Hawaii, \$25 in Guam, and \$22 in the Virgin Islands.

may benefit even more if states choose to further expand their resource limits as discussed in the previous section.

*Reducing paperwork and office visits* — The Farm Bill gives states the option to take applications over the telephone and to extend simplified reporting to seniors, dramatically reducing their paperwork requirements. If a state chooses to allow seniors to apply over the phone, the process may be less stigmatizing than going into an office would be — and less intimidating than an Internet application. In addition, seniors would likely find that simplified reporting and longer certification periods make it much easier for them to continue receiving food stamps as long as they remain eligible.

*Retaining access to benefits* — Congress had seniors in mind when it developed the Farm Bill's new requirement that states leave a household's benefits "on-line" for at least six months if it does not access its account. The goal was to make it easier for people to use their benefits in a convenient way. Some advocacy groups had raised concerns that seniors who wanted to allow their benefits to accumulate over several months were losing benefits in states that take benefits "off-line" after a few months.

All of these changes work together to make food stamps more convenient and worthwhile for seniors. Also, many elderly people may not be aware of the other changes states have made to the program in recent years, such as the move to EBT and the reduction in paperwork and required office visits. The Farm Bill presents an opportunity to inform seniors — as well as advocates who work with elderly people, some of whom may share their clients' concerns and misunderstandings about food stamps — of the program's many recent improvements and encourage them to apply.

There are a number of ways states can integrate these improvements (both those already in place and those created by the new Farm Bill) into their outreach efforts and publicity surrounding the implementation of the bill. In their media and outreach activities, states may wish to include messages and materials for low-income elderly people specifically touting these changes.

The Food Stamp Program is not the only program that has encountered challenges in reaching this population.<sup>83</sup> For example, the Centers for Medicare and Medicaid Services estimates that as of January 1, 2008, 4.6 million Medicare beneficiaries who are eligible for the Part D drug benefit and do not have other coverage do not receive it, and an additional 2.6 million people are eligible for the low-income drug subsidy but do not receive it. (The latter group constitutes more than half of those estimated to be eligible for the subsidy but not automatically enrolled in Part D because of their participation in Medicaid.<sup>84</sup>) In addition, low-income Medicare beneficiaries also can qualify for

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<sup>83</sup> GAO reported that as of January 2007, SSA had approved 32 to 39 percent of the people potentially eligible for the Part D low-income drug subsidy who were not automatically deemed enrolled by CMS. At that time CMS, the Congressional Budget Office, and other entities estimated that about 3.4 million to 4.7 million individuals who were eligible for the subsidy had not enrolled. "Medicare Part D Low-Income Subsidy: Progress Made in Approving Applications, but Ability to Identify Remaining Individuals Is Limited," statement of Barbara Bovbjerg, Director of Education, Workforce, and Income Security Issues, GAO-07-858T, May 2007, at <http://www.gao.gov/new.items/d07858t.pdf>.

<sup>84</sup> Source: Kaiser Family Foundation, based on HHS data, January 31, 2008 (data as of January 2008), at <http://facts.kff.org/chart.aspx?ch=391>.

Medicare Savings Programs for help paying for Medicare premiums and cost sharing, but only about a third of eligible Medicare beneficiaries participate in these programs.<sup>85</sup>

There is significant overlap in the low-income senior population eligible for the Part D low-income drug subsidy program, the Medicare Savings Programs, and the Food Stamp Program. Virtually all seniors who qualify for food stamps will also qualify for the Part D low-income drug subsidy and one of the Medicare Savings Programs.<sup>86</sup> To receive the full Part D low-income drug subsidy or the Medicare Savings Programs individuals and couples must have income below 135 percent of the poverty level.<sup>87</sup> The asset limits are somewhat higher than food stamps.<sup>88</sup> States have flexibility to adjust countable income and assets, and in virtually all states the state agency with responsibility for administering food stamps also has responsibilities for determining eligibility for the Medicare Savings Programs and the Part D low-income drug subsidy.

State food stamp agencies may wish to consider reaching out to other state agencies that run programs targeting elderly people, both to benefit from their experience and to ask them to relay updated information about the program to their customers. The state agency may want to consider packaging the program benefits together, which could result in sizable new help for low-income seniors. Enabling elderly people to apply for multiple benefits with just one application, set of documentation, and interview would make all benefits much more accessible.

Finally, in addition to state agencies, the Social Security Administration (SSA) shares responsibility for determining eligibility for the Part D Low-income subsidy. Recent Medicare legislation (Public Law 110-275) requires SSA to help applicants apply for the Medicare Savings Programs and to transmit data from the low-income subsidy application to the state agency to initiate enrollment in Medicare Savings Programs. These changes, which will be effective January 1, 2010, may provide new opportunities for state agencies to also enroll seniors in the Food Stamp Program.

## Additional Resources

USDA report: “Elderly Nutrition Pilot Projects,”  
<http://www.fns.usda.gov/oane/MENU/DemoProjects/ElderlyPilots/Update.htm>.

USDA report: “The Nutrition Safety Net: Help for the Elderly And Disabled,”

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<sup>85</sup> For a summary see Medicare Payment Advisory Commission (MedPAC), “Increasing participation in the Medicare Savings Programs and the low-income drug subsidy,” Chapter 5 of the Report to the Congress: Medicare Payment Policy (March 2008), available at [http://www.medpac.gov/chapters/Mar08\\_Ch05.pdf](http://www.medpac.gov/chapters/Mar08_Ch05.pdf).

<sup>86</sup> The Qualified Medicare Beneficiary (QMB) Program covers Medicare Premiums and cost-sharing for beneficiaries with income up to 100 percent of poverty, the Specified Low-income Medicare Beneficiary Program (SLMB) and Qualifying Individual Program (QI) cover Medicare premiums for individuals and couples with income up to 120 percent of poverty and 135 percent of poverty, respectively.

<sup>87</sup> At somewhat higher income and asset levels Medicare beneficiaries can qualify for a partial subsidy.

<sup>88</sup> Asset limits for the Part D low-income subsidy currently are more than \$6,000 for individuals and \$9,000 for couples for a full subsidy. For Medicare Savings Programs assets must be below \$4,000 for individuals and \$6,000 for couples until January 1, 2010, when the limits will be raised to conform with the Part D subsidy asset limits.

[http://www.fns.usda.gov/fsp/public\\_advocacy/pdfs/elderly\\_guide.pdf#xml=http://65.216.150.153/texis/search/pdfhi.txt?query=elderly&pr=FNS&order=r&cq=&id=4592c45531](http://www.fns.usda.gov/fsp/public_advocacy/pdfs/elderly_guide.pdf#xml=http://65.216.150.153/texis/search/pdfhi.txt?query=elderly&pr=FNS&order=r&cq=&id=4592c45531).

USDA report: "Trends in Food Stamp Program Participation Rates: 2000 to 2006,"  
<http://www.fns.usda.gov/oane/menu/Published/FSP/FILES/Participation/Trends2000-2006.pdf>.



## Other Programs

In addition to the Food Stamp Program, the nutrition title of the Farm Bill includes numerous provisions to reauthorize or amend other, smaller domestic nutrition activities. Below are brief descriptions of some of these changes that may be of particular interest.

### The Emergency Food Assistance Program

*Section 4201, amends section 27(a) of the Food and Nutrition Act; effective upon enactment*

The Emergency Food Assistance Program (TEFAP) supports food purchases by food pantries, soup kitchens, and other emergency feeding organizations. Federal mandatory funding under the Food Stamp Act for commodity purchases for TEFAP has been frozen at \$140 million per year since 2002, a period during which food prices have climbed by about 20 percent. Had funding kept pace with inflation, it would be \$163 million in fiscal year 2008.

TEFAP also receives money through the appropriations process and from “bonus commodities” that USDA purchases and provides under other authority. These “bonus commodities” have declined by more than 70 percent in the past three years.

Under the Farm Bill, annual funding for commodity purchases for TEFAP will increase to \$250 million in 2009 and continue increasing in accordance with changes in the cost of the Thrifty Food Plan in years after that, so funding will keep pace with food prices. TEFAP also will receive \$50 million in additional funding for the remainder of fiscal year 2008. On June 11, 2008 FNS issued a memo on the allocation to states of these fiscal year 2008 funds.<sup>89</sup>

### The Food Distribution Program on Indian Reservations

*Section 4211, amends section 4 of the Food and Nutrition Act; mandatory provision effective 10/1/08*

In about 20 states, some American Indians receive the Food Distribution Program on Indian Reservations (FDPIR) in lieu of food stamps.<sup>90</sup> The Farm Bill makes four changes to FDPIR:

- 1) It disqualifies from food stamps any individual who is disqualified from FDPIR.
- 2) It authorizes \$5 million a year in appropriations for the Secretary to purchase traditional and locally grown foods for the program.
- 3) It includes a separate authorization of appropriations for the purchase of bison meat.
- 4) It requires the Secretary to submit a report to Congress on the FDPIR food package in terms of its adequacy compared to food stamps and other factors. At \$44 per person per

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<sup>89</sup> See <http://www.fns.usda.gov/fdd/programs/tefap/TEFAPPolicyMemo-FY08ResourcesGuidance.pdf>.

<sup>90</sup> The following states contain Indians who receive FDPIR instead of food stamps: Alaska, Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

month in fiscal year 2007, the FDPIR food package is significantly smaller than the food stamp benefit that most households could receive if they participated in the Food Stamp Program.

### **Pilot Projects to Evaluate Health and Nutrition Promotion**

*Section 4141, amends section 17 of the Food and Nutrition Act; effective 10/1/08*

The Act provides \$20 million for the Secretary to conduct and rigorously evaluate a pilot test that will provide incentives in supermarkets and other food stores to encourage food stamp households to purchase fruits, vegetables, or other healthy foods. For example, pilot participants could receive a discount on the price of healthy foods that they purchase or a rebate to their EBT cards.

USDA will evaluate whether the pilot improves participants' diet and health status and reduces their likelihood of being overweight or obese. States that are interested in being a part of this pilot may wish to inform USDA of their interest.

The section authorizes additional pilots to test other ways to use the Food Stamp Program to improve the dietary and health status of food stamp recipients and reduce obesity, but Congress would have to appropriate funds for USDA to conduct any other pilots.

### **The Fresh Fruit and Vegetable Program**

*Section 4304, creates section 19 of the Richard B. Russell National School Lunch Act; effective 7/1/08*

The Farm Bill expands and improves the Fresh Fruit and Vegetable Program under the Richard B. Russell National School Lunch Act. This program has received \$9 million a year in mandatory funds and currently operates in 14 states. (Three Indian tribes also operate the program.) In fiscal year 2008, an additional \$9.9 million in discretionary funds was provided to expand the program into all states and the District of Columbia.

Under the Farm Bill, mandatory funding will increase to \$40 million for the 2008-2009 school year and grow each subsequent year through 2012. In 2012, the program is slated to receive \$150 million — nearly eight times its 2008 funding — and will receive annual adjustments for inflation in years after that. CBO estimates the ten-year cost of the expansion at a little over \$1 billion.

Funds will be allocated to states in the following manner: each state will receive 1 percent of the program's total funding for the year, and the remainder will be allocated according to each state's share of the total national population. States will receive sufficient funds to maintain their current caseloads.

In addition to providing increased funding, the bill targets program funds within each state to elementary schools with a significant share of low-income children. The goal is for free fresh fruits and vegetables to be provided to all elementary schools in the country where more than half of the children are eligible for free or reduced-price school meals. Each such school will receive \$50 to \$75 per child per year for fruit and vegetable purchases.

## **Puerto Rico Study**

*Section 4142, free-standing provision; effective 10/1/08*

The Farm Bill requires the Secretary to conduct a study of the feasibility and effects of treating Puerto Rico the same as one of the states as part of the national Food Stamp Program, in lieu of the block grant it currently receives. The bill includes \$1 million for the study, which will assess what administrative changes would be needed, what income eligibility, benefit, and deduction levels would be appropriate for Puerto Rico, and how such a change would affect low-income Puerto Ricans.

Since 1982, Puerto Rico has received a fixed block grant for food assistance rather than be a part of the U.S. Food Stamp Program like the 50 states, the District of Columbia, Guam, and the Virgin Islands. The block grant does not take into account changes in economic or demographic conditions, such as unemployment or the number of people who are in need of food assistance.

Because of this cap on funding, Puerto Rico has been forced to set much lower eligibility criteria for its Nutrition Assistance Program than the Food Stamp Program uses. For example, a Puerto Rican household can qualify for food stamps only if its net income does not exceed 23-34 percent of the poverty level, instead of the 100 percent cutoff used in the Food Stamp Program. Yet the poverty rate in Puerto Rico, 45.4 percent, is more than three times the national average.

## APPENDIX A

IMPACT OF SELECTED FOOD STAMP PROVISIONS OF THE FARM BILL				
Additional Benefits, FY 2009 (Budget Authority in millions of dollars)				
State	Standard Deduction	Dependent Care Deduction	Minimum Benefit	Total these provisions*
Alabama	\$5	\$1.6	\$0.3	\$7
Alaska	1	—	0.1	1
Arizona	4	1.0	0.3	6
Arkansas	3	0.8	0.3	4
California	19	0.7	0.5	20
Colorado	2	0.2	0.2	3
Connecticut	3	0.5	0.3	3
Delaware	1	0.2	0.1	1
District of Columbia	1	—	0.1	1
Florida	15	2.5	1.1	19
Georgia	8	2.3	0.5	11
Hawaii	2	—	—	2
Idaho	1	0.6	0.1	2
Illinois	11	2.3	0.7	14
Indiana	5	0.8	0.4	6
Iowa	2	0.1	0.2	2
Kansas	2	0.1	0.2	2
Kentucky	6	0.6	0.4	7
Louisiana	7	3.1	0.2	10
Maine	2	0.3	0.2	3
Maryland	3	1.4	0.3	5
Massachusetts	5	0.3	0.5	6
Michigan	9	2.2	1.4	13
Minnesota	4	0.1	1.1	6
Mississippi	3	0.3	0.2	3
Missouri	7	3.1	0.7	10
Montana	1	—	0.1	1
Nebraska	1	—	0.2	1
Nevada	1	0.2	0.1	2
New Hampshire	1	0.1	0.1	1
New Jersey	5	0.9	0.4	6
New Mexico	2	0.2	0.1	3
New York	19	3.4	1.3	23
North Carolina	8	2.1	0.9	11
North Dakota	1	0.3	—	1
Ohio	10	0.7	0.7	11
Oklahoma	3	—	0.8	4
Oregon	5	1.1	0.7	7
Pennsylvania	11	1.6	1.3	14
Rhode Island	1	0.1	0.2	1
South Carolina	4	0.9	0.4	6
South Dakota	0.4	—	0.1	1
Tennessee	8	2.2	1.1	11
Texas	19	7.8	0.8	28
Utah	1	0.3	0.1	1
Vermont	1	0.1	0.1	1
Virginia	5	0.8	0.7	7
Washington	5	0.2	0.3	5
West Virginia	3	0.1	0.3	3
Wisconsin	3	0.5	0.8	4
Wyoming	0.3	—	—	0.3
Guam	0.2	—	—	0.2
Virgin Islands	0.1	—	—	0.1
<b>Total</b>	<b>\$250</b>	<b>\$49</b>	<b>\$22</b>	<b>\$321</b>

— Estimated effect is less than \$100,000.

This table presents information for three of the major food stamp provisions: the standard deduction, dependent care deduction, and minimum benefit. For estimates of state amounts for The Emergency Food Assistance Program (TEFAP), and the Fresh Fruit and Vegetable Program see <http://www.cbpp.org/5-8-08fa.htm>. National estimates are from CBO. For state estimates the national number is allocated based on CBPP analysis of food stamp administrative data.

\* Total does not reflect the interaction of the three food stamp provisions. The actual impact may be slightly lower.

## IMPACT OF SELECTED FOOD STAMP PROVISIONS OF THE FARM BILL

Additional Benefits, FY 2009-2017  
(Budget Authority in millions of dollars)

State	Standard Deduction	Dependent Care Deduction	Minimum Benefit	Total these provisions*
Alabama	\$107	\$17	\$3	\$127
Alaska	17	—	1	18
Arizona	93	10	3	106
Arkansas	72	8	4	84
California	406	8	6	419
Colorado	46	2	3	51
Connecticut	56	5	4	64
Delaware	12	2	1	15
District of Columbia	19	—	1	20
Florida	333	26	14	373
Georgia	178	23	6	207
Hawaii	50	0.5	0.2	51
Idaho	18	6	1	26
Illinois	249	23	8	280
Indiana	112	8	5	124
Iowa	44	1	3	47
Kansas	43	1	3	47
Kentucky	138	6	5	149
Louisiana	147	32	3	181
Maine	45	3	3	51
Maryland	71	15	4	90
Massachusetts	103	3	6	113
Michigan	205	23	18	246
Minnesota	97	2	14	112
Mississippi	61	4	3	68
Missouri	140	32	9	181
Montana	18	—	1	18
Nebraska	24	—	3	27
Nevada	29	2	2	33
New Hampshire	14	1	1	17
New Jersey	111	9	6	126
New Mexico	47	2	2	51
New York	412	34	17	464
North Carolina	169	21	12	202
North Dakota	10	3	1	13
Ohio	218	7	8	234
Oklahoma	72	—	10	82
Oregon	102	12	9	122
Pennsylvania	244	17	17	277
Rhode Island	17	1	2	20
South Carolina	93	9	5	107
South Dakota	9	—	1	10
Tennessee	172	22	14	208
Texas	411	80	10	500
Utah	22	3	1	27
Vermont	13	1	1	15
Virginia	114	9	9	131
Washington	111	2	4	117
West Virginia	61	1	3	65
Wisconsin	56	5	10	72
Wyoming	5	0.2	1	6
Guam	4	—	—	4
Virgin Islands	1	—	—	1
<b>Total</b>	<b>\$5,420</b>	<b>\$500</b>	<b>\$278</b>	<b>\$6,198</b>

— Estimated effect is less than \$100,000.

This table presents information for three of the major food stamp provisions: the standard deduction, dependent care deduction, and minimum benefit. For estimates of state amounts for The Emergency Food Assistance Program (TEFAP), and the Fresh Fruit and Vegetable Program see <http://www.cbpp.org/5-8-08fa.htm>. National estimates are from CBO. For state estimates the national number is allocated based on CBPP analysis of food stamp administrative data.

\* Total does not reflect the interaction of the three food stamp provisions. The actual impact may be slightly lower.

## NUMBER OF PEOPLE BENEFITING FROM SELECTED FOOD STAMP PROVISIONS OF THE FARM BILL

### People Receiving Additional Benefits in 2012

State	Standard Deduction*	Dependent Care Deduction**	Minimum Benefit**	Total these provisions* ***
Alabama	201,000	10,000	10,000	209,000
Alaska	31,000	—	3,000	34,000
Arizona	174,000	4,000	9,000	184,000
Arkansas	129,000	6,000	11,000	140,000
California	850,000	4,000	18,000	866,000
Colorado	80,000	2,000	8,000	88,000
Connecticut	89,000	3,000	11,000	98,000
Delaware	25,000	1,000	3,000	28,000
District of Columbia	38,000	—	3,000	41,000
Florida	536,000	20,000	44,000	575,000
Georgia	324,000	16,000	19,000	340,000
Hawaii	71,000	—	1,000	72,000
Idaho	33,000	4,000	3,000	36,000
Illinois	415,000	14,000	27,000	438,000
Indiana	194,000	4,000	14,000	204,000
Iowa	76,000	—	7,000	82,000
Kansas	71,000	1,000	8,000	77,000
Kentucky	234,000	4,000	15,000	247,000
Louisiana	266,000	21,000	9,000	272,000
Maine	69,000	2,000	7,000	75,000
Maryland	120,000	9,000	13,000	131,000
Massachusetts	178,000	2,000	20,000	197,000
Michigan	395,000	14,000	53,000	446,000
Minnesota	176,000	2,000	18,000	192,000
Mississippi	136,000	2,000	9,000	142,000
Missouri	243,000	20,000	26,000	266,000
Montana	31,000	—	2,000	33,000
Nebraska	43,000	—	7,000	49,000
Nevada	46,000	1,000	5,000	51,000
New Hampshire	24,000	1,000	4,000	28,000
New Jersey	196,000	7,000	15,000	211,000
New Mexico	96,000	2,000	5,000	100,000
New York	877,000	19,000	40,000	912,000
North Carolina	311,000	15,000	35,000	340,000
North Dakota	17,000	2,000	2,000	18,000
Ohio	369,000	4,000	31,000	389,000
Oklahoma	135,000	—	25,000	157,000
Oregon	160,000	9,000	25,000	185,000
Pennsylvania	408,000	12,000	41,000	449,000
Rhode Island	34,000	1,000	4,000	38,000
South Carolina	201,000	5,000	14,000	213,000
South Dakota	16,000	—	2,000	17,000
Tennessee	309,000	15,000	38,000	345,000
Texas	857,000	46,000	32,000	890,000
Utah	41,000	2,000	5,000	44,000
Vermont	20,000	1,000	3,000	23,000
Virginia	198,000	7,000	23,000	220,000
Washington	229,000	2,000	12,000	239,000
West Virginia	104,000	1,000	11,000	112,000
Wisconsin	110,000	3,000	30,000	140,000
Wyoming	10,000	—	1,000	11,000
Guam	4,000	—	—	4,000
Virgin Islands	4,000	—	—	4,000
<b>Total</b>	<b>10,003,000</b>	<b>320,000</b>	<b>780,000</b>	<b>10,703,000</b>

— Estimated effect is less than 1,000 people.

This table presents information for three of the major food stamp provisions in the nutrition title: the standard deduction, dependent care deduction, and minimum benefit.

\* CBPP estimate based on food stamp administrative data.

\*\* National estimates are from CBO. For state estimates the national number is allocated based on CBPP analysis of food stamp administrative data.

\*\*\*Total is less than the sum of the three preceding columns because of overlap in the participants who would benefit from the three provisions.

## APPENDIX B: A QUICK GUIDE TO FOOD STAMP ELIGIBILITY AND BENEFIT GUIDELINES<sup>91</sup>

To be eligible for benefits, a household's<sup>92</sup> income and resources must fall below three key thresholds:

- Its *gross* monthly income — that is, its income before any deductions are applied — generally must be at or below 130 percent of the federal poverty line. For a family of three, the poverty line in federal fiscal year 2008 is \$1,431 a month. Thus, 130 percent of the poverty line for a three-person family is \$1,861 a month, or about \$22,330 a year. The poverty level is higher for bigger families and lower for smaller families.<sup>93</sup>
- Its *net* income, or income after deductions are applied, must be less than or equal to the federal poverty line.
- Its assets must fall below certain limits.<sup>94</sup>

The food stamp benefit formula is based on the expectation that families will purchase food using both food stamps and a portion of their other available income. The monthly food stamp benefit equals the maximum benefit for a given household size minus the household's expected contribution (which is set at 30 percent of the household's net income after the deductions the Food Stamp Program allows). The maximum food stamp benefit is based on the cost of the USDA Thrifty Food Plan, a diet plan intended to provide adequate nutrition at a modest cost.

The table below shows the maximum food stamp benefit levels in fiscal year 2008 for households of different sizes. Take as an example a family of four. If that family has no income, it would receive the maximum benefit: \$542 per month. Another family of four that has \$500 in net monthly income would receive the maximum benefit (\$542) minus 30 percent of its net income (30 percent of \$500 is \$150), or \$392.

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<sup>91</sup> This section focuses on the food stamp eligibility rules that apply to most low-income people. Some categories of people are not eligible for food stamps, such as strikers and certain immigrants. Unemployed childless adults are subject to a three-month time limit in many areas of the country. This section does not review the eligibility rules for these people. In addition, this section presents the rules for 48 states and the District of Columbia. Alaska, Hawaii, Guam, and the Virgin Islands participate in the Food Stamp Program but are subject to somewhat different eligibility and deduction levels. Many program parameters are adjusted annually for inflation. For the current fiscal year's levels, see <http://www.fns.usda.gov/fsp/government/cola.htm>.

<sup>92</sup> A "food stamp household" consists of individuals who live together in the same residence and who purchase and prepare food together.

<sup>93</sup> Households with elderly or disabled members and households that are "categorically eligible" because they receive public assistance — such as Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) — are not subject to the gross income test. See page 61.

<sup>94</sup> To be eligible, the food stamp rules require households without an elderly member to have assets of \$2,000 or less, and households with an elderly or disabled member to have assets of \$3,000 or less. These asset limits will, in the future, be raised to account for inflation. See page 19. The limits do not apply to households that are categorically eligible for food stamps. See page 61. The market value of most vehicles above a threshold (currently \$4,650) has historically been counted toward the asset limit, though the program grants states significant flexibility to apply less restrictive vehicle asset rules and every state has adopted this flexibility. (For more information on the Food Stamp Program's treatment of vehicles as assets, see "States' Vehicle Asset Policies in the Food Stamp Program," available at <http://www.cbpp.org/7-30-01fa.htm>.)

Deductions play an important role in the Food Stamp Program. They reflect the fact that not all of a household's income is available for purchasing food; some must be used to meet other needs. In determining available (or net) income, the program allows the following deductions from the household's gross monthly income:

- a *standard deduction* to account for basic irreducible costs;<sup>95</sup>
- an *earnings deduction* equal to 20 percent of earnings (which both serves as a work incentive and accounts for work-related expenses and payroll taxes);
- a *dependent care deduction* for the out-of-pocket dependent care (not limited to child care) expenses that are necessary for a household member to work or participate in education or training;<sup>96</sup>
- a *child support deduction* for any payment by a member of the household of legally obligated child support;<sup>97</sup>
- a *medical expense deduction* for out-of-pocket medical expenses greater than \$35 a month that are incurred by an elderly or disabled household member; and
- an *excess shelter deduction*, which is not a flat amount or a set percentage but is set at the amount by which the household's housing costs (including utilities) exceed half of its net income after all other deductions. The excess shelter deduction is limited to \$431 in 2008 unless at least one member of the household is elderly or disabled.<sup>98</sup>

Maximum Food Stamp Benefits by Household Size	
Household Size	Maximum Monthly Food Stamp Benefit, 2008
1	\$162
2	\$298
3	\$426
4	\$542
5	\$643
6	\$772
7	\$853
Each Additional Person	\$122

All food stamp households can receive the standard deduction. Over half (70 percent) of all households claim the shelter deduction, while almost one-third of households (and almost one-half of households with children) claim the earned income deduction. By contrast, the child care, child

<sup>95</sup> The standard deduction is different for different household sizes. See page 9.

<sup>96</sup> Until October 1, 2008, the dependent care deduction is capped at \$200 per child per month for children under age 2 and \$175 per person per month for other dependents. The 2008 Farm Bill removes the caps. See page 13.

<sup>97</sup> Some states have replaced the deduction for amounts paid in child support with an income exclusion in the same amount under a state option from the 2002 Farm Bill.

<sup>98</sup> For a detailed analysis of the food stamp shelter deduction, see "The Food Stamp Shelter Deduction: Helping Households with High Housing Burdens Meet their Food Needs," Center on Budget and Policy Priorities, June 2002 at <http://www.cbpp.org/7-1-02fs.pdf>.



support, and medical expense deductions are claimed by small shares of all food stamp households (5 percent, 2 percent, and 5 percent, respectively).<sup>99</sup>

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<sup>99</sup> Source: Center on Budget and Policy Priorities analysis of food stamp Quality Control data for fiscal year 2006. Some households that claim deductions do not benefit from them. For example, 14 percent of households have no gross income and therefore receive the maximum food stamp benefit even without any deductions. In other cases, the standard deduction by itself may be enough to give a household the maximum benefit level, so other deductions become superfluous.