

Implementing New Changes to the Food Stamp Program:

A Provision by Provision Analysis of the Farm Bill

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Edited by John Springer

The **Center on Budget and Policy Priorities**, located in Washington, D.C., 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 contributors, and publications sales.

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August 2002

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Acknowledgments

The authors wish to express gratitude to John Springer for his invaluable editorial assistance. In addition, Robert Greenstein, Peter Orszag, and David Super provided critical analytical, technical, and editorial contributions. Tanya Broder of the National Immigration Law Center provided helpful comments on the section covering the immigrant restorations. Finally, the authors wish to express special thanks to the many USDA Food and Nutrition Service staff as well as state food stamp directors who took the time to answer our many questions regarding the new legislation. Any errors in the publication are the authors' alone.

The Center on Budget and Policy Priorities is grateful to the David and Lucile Packard Foundation and MAZON: A Jewish Response to Hunger for their support of the Center's food stamp work.

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I. INTRODUCTION

States, non-profit groups, and low-income families from around the country have spent the last few years working together to promote a new vision for the Food Stamp Program — one that allows eligible families, especially working families, to participate in the program for longer periods of time with less paperwork and fewer office visits. The recently enacted Farm Bill should allow states to make significant progress toward this goal.

On May 13, 2002, President Bush signed into law the Farm Security and Rural Investment Act of 2002 (P.L. 107-171), more commonly known as the Farm Bill. The nutrition title of the Farm Bill reauthorizes the Food Stamp Program for five years, adds almost \$7 billion in resources to the program, and significantly strengthens the program in a variety of ways.

The food stamp provisions fall into four categories:

- *Restoring Benefits to Ineligible Groups.* Significant process was made in restoring benefits to legal immigrants made ineligible for food stamps under the 1996 welfare law. Benefits will be restored to legal immigrants who have lived in the country for at least five years, and to both legal immigrant children and individuals receiving disability benefits, regardless of the number of years they have been in the country. In addition, the asset limit for households with a disabled member will be raised to \$3,000.
- *Improving Benefit Adequacy.* The standard deduction will be raised for larger households and adjusted annually to reflect inflation. The Congressional Budget Office estimated that this provision would provide almost \$2 billion over 10 years to low-income families with children.
- *Simplifying the Program and Streamlining Benefit Delivery.* States will receive ten new options to deliver benefits more effectively to eligible households, particularly working households. Using these options, states can replace complex

benefit computations that must be adjusted each month to accommodate even the slightest changes in a household's circumstances with a benefit that is easier to calculate and remains constant longer. Adopting the new options should make the Food Stamp Program easier for states to administer and much less burdensome and stressful for families to use.

- *Reforming the Quality Control System.* The Quality Control system will no longer set up one-half of the states for failure. Instead, it will be revised to focus on states with persistently high error rates and will include new performance awards for states with superior performance.

These changes can help create a stronger Food Stamp Program and thereby make a critical difference in the well-being of millions of low-income individuals. The Food Stamp Program is the nation's most important food assistance program, especially for children. It provides more substantial nutrition assistance to low-income children than all of the nation's child nutrition programs combined. More than half of all food stamp participants are children, and over 80 percent of food stamp benefits go to families with children. Furthermore, the Food Stamp Program is the only social program that creates a national benefit floor under nearly all categories of poor households, assisting low-income children and their families as well as low-income elderly, disabled and unemployed individuals.

Moreover, food stamps serve as an important work support by helping low-wage workers make ends meet. Leaders from across the political spectrum have agreed that a family supported by a full-time, year-round, minimum-wage worker should not have to live in poverty. Such a family, however, will fall short of the poverty line by 25 percent, even after counting the Earned Income Tax Credit, if the family does not receive food stamps. And because food stamps (unlike the EITC) come to families throughout the year, they can help these families meet monthly expenses.

Unfortunately, however, food stamp participation among eligible households has plummeted in recent years:

- According to the U.S. Department of Agriculture (USDA), the share of eligible individuals participating in food stamps dropped from 73 percent to 60 percent between 1994 and 1998 and then remained essentially level through 2000. (The share of eligible households participating dropped from 70 percent to 53 percent between 1994 and 2000.)¹ These participation rates vary dramatically across states. In 1999, they ranged from over 75 percent in Maine, West Virginia, and Hawaii to below 45 percent in Massachusetts, Kansas, and Nevada.²

¹ *Trends in Food Stamp Program Participation: 1994 to 2000*, Karen Cunningham, Mathematica Policy Research, June 2002, available at: <http://www.fns.usda.gov/oane/MENU/Published/FSP/Participation.htm#Trends>.

² *Reaching Those in Need: State Food Participation Rates in 1999*, Allen Schrim and Laura Castner, Mathematica Policy Research, June 2002, available at: <http://www.fns.usda.gov/oane/MENU/Published/FSP/FILES/Participation/1999rates.pdf>.

- While participation rates for the elderly and disabled have held fairly stable, participation rates among households with children have declined markedly. In 1994, some 86 percent of eligible households with children participated in the program; in 2000, some 71 percent did.
- The share of individuals in *working* households with children that participate in food stamps has also fallen, from 63 percent in 1994 to 55 percent in 2000.

The decline in food stamp participation means that poor families are foregoing billions of dollars in federal food assistance each year. In any given month of 2000, more than two million eligible working poor households did not participate in the Food Stamp Program. These families gave up an average (in 2001) of about \$200 per month in food stamp benefits, which can make the difference in enabling a low-income family to put adequate food on the table each day.

While all of the reasons for the decline in food stamp participation among working families are not known with certainty, policy experts and state officials agree that barriers to participation in the program have become more significant in recent years, especially for working families:

- The Food Stamp Program has historically demanded that states be aware of changes in a household's circumstances on a monthly basis. This requirement poses particular difficulties for working families, whose circumstances are more likely to fluctuate than those of non-working families; working families typically have a lower food stamp participation rate than non-working families. As large numbers of food stamp households have moved from welfare to work in recent years, many have dropped out of the Food Stamp Program, finding it too burdensome to keep up with the program's demands for detailed information on a monthly basis.
- In an effort to limit food stamp errors, many states imposed *more* onerous paperwork and office-visit requirements on working food stamp households during the mid-1990s. USDA's Quality Control system evaluates states according to how accurately they issue food stamp benefits and imposes fiscal sanctions on states with error rates above the national average. Because states are especially likely to make errors in benefit levels for households with fluctuating incomes (like most low-income working households), states felt pressured to target the growing number of working food stamp households for extra verification of their circumstances and more frequent face-to-face eligibility reviews. These changes appear to have driven many working households from the program. In particular, states that required working families to reapply for food stamps every three months experienced much greater caseload declines among working families with children than did other states.
- Most families that leave TANF cash assistance programs have low incomes and remain eligible for food stamps when they go to work. Many of these eligible families, however, do not stay connected to the Food Stamp Program when they leave TANF. Research by both the Department of Health and Human Services and the Urban Institute has shown that fewer than half of the individuals who leave TANF cash assistance continue to participate in the Food Stamp Program

despite earning low wages and, in most cases, remaining eligible for food stamp benefits. Additional research by the Manpower Demonstration Research Corporation indicates that many families that leave TANF cash assistance are not aware they remain eligible for food stamps. Frequently these families are asked to complete paperwork detailing their circumstances once they leave TANF. Many, failing to understand that they continue to qualify for significant food stamp benefits, never respond to the welfare offices' queries.

In addition to these procedural barriers, research indicates that many low-income families that do not participate in the Food Stamp Program do not believe they are eligible. Others mistakenly believe they are eligible for only a very small food stamp benefit. Procedural barriers can compound these misperceptions: even if outreach efforts educate households about their potential eligibility, many households may not be willing to find out if they are eligible if the application process is too difficult or interferes with their work schedules.

Ironically, this deterioration in food stamp service to working families has been occurring at the same time that states have been *easing* the barriers that low-income working families face in obtaining health insurance. States have taken significant new steps to reduce paperwork and to allow families to apply for health insurance outside of the welfare office.

The Farm Bill Provides New Opportunities to Improve Access to the Food Stamp Program

States, non-profit groups and USDA all highlighted these problems and offered an array of possible policy solutions to Congress as it began to contemplate changes to food stamps as a part of its reauthorization. Across party-lines, members of Congress were deeply troubled that the Food Stamp Program was serving fewer and fewer eligible households, especially working families. Improving access to the program was a key goal in the Farm Bill.

The food stamp provisions of the Farm Bill equip states with tools to deliver benefits more effectively to eligible households, particularly eligible working families. States will now have an array of new options to simplify the program and make it easier for families to retain benefits. In addition, the new options will permit many states to improve coordination between their food stamp and Medicaid programs so working families can obtain and retain these two critical work supports through simplified and coordinated processes.

The effectiveness of these new options, however, depends on how many states adopt them and on how the states that do adopt the options implement them. This paper provides information and analysis on the new options that state administrators and non-profit groups can use to evaluate the merits of each option and to examine possible implementation issues. The paper first discusses the general implementation issues that the Farm Bill provisions raise. Then, it examines each of the major provisions individually, along with any specific implementation issues raised by the provision.

Due to space and time constraints, the paper does not discuss every food stamp provision of the Farm Bill. In particular, it does not review the immigrant restorations in full detail; the Center on Budget and Policy Priorities will issue a separate analysis of these important restorations. The majority of immigrants become eligible in 2003 under the restorations, giving states and non-profit groups time to consider these important implementation issues. For those interested in more detail on the provisions covered in the paper, additional resource materials are cited.

Finally, this paper should be considered a work in progress. We will endeavor to update it to incorporate new USDA guidance as it is issued and to reflect the experiences of states that implement the provisions.

II. IMPLEMENTING THE FARM BILL

The food stamp provisions of the Farm Bill offer states significant new opportunities to redesign and streamline the way they deliver food stamp benefits to low-income families. States need to evaluate which options to implement, how to implement them, and whether there are additional changes available under current food stamp flexibility that they should adopt at the same time. This section reviews general implementation issues and outlines each of the major provisions. We will seek to update the material as new FNS guidance becomes available and as states begin to put the options into practice.

General Implementation Issues

Some implementation issues apply to all of the Farm Bill's provisions. These are:

- Implementation dates
- Impact on clients
- State discretion prior to regulations
- Food stamp quality control
- Relief from quality control errors during initial implementation
- Potential delays due to computer systems
- Implementation costs
- Interactions with existing waivers

Implementation Dates — Generally, states may implement the new state options in the Farm Bill beginning on October 1, 2002; the few exceptions are noted in this paper. There is no deadline by which states must decide to implement these options. October 1, 2002, is also the date on which states must implement three mandatory provisions of the Farm Bill: restructuring the standard deduction, increasing the resource limit for the disabled to \$3,000, and making certain disabled legal immigrants eligible for food stamps.

Impact on Clients — Generally, the provisions of the Farm Bill will improve food stamp access and benefits for needy families. Yet some options that will help simplify the program —

such as the mandatory standard utility allowance option, detailed later in this paper — will likely result in benefit reductions for certain households. States will need to evaluate the merits of each option and determine whether the simplification benefits are worth the potential cost to certain clients.

State Discretion Prior to Regulations — USDA will eventually issue new regulations or amend existing regulations to reflect the legislative changes enacted in reauthorization. Typically, these regulations are years in the making. For example, final regulations on the immigrant provisions of the 1996 welfare law (enacted on August 22, 1996) were not published in the Federal Register until November 21, 2000, four years later.

States need not, and should not, wait for final regulations before implementing the Farm Bill provisions. That would delay improvements in the Food Stamp Program by several years. Except in areas where the law leaves no room for interpretation, such as the new \$3,000 resource limit for the disabled, states have a wide degree of latitude in how to implement the new law until final regulations are issued.

In the meantime, states must inform USDA of which options they are implementing and how they are implementing them. This will ensure that USDA quality control reviewers apply the correct policy when reviewing cases for accuracy. In addition, USDA provides states with some indication of its views through answers it provides to state questions; the Department publishes many state questions and its answers (Q&As) for the benefit of all states and the public. A first set of Q&As can be found at:
www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm

When drafting regulations, USDA has become increasingly sensitive to the range of approaches that states have adopted. Since there is no precise outline of how each option is supposed to work, USDA is likely to provide states with a degree of latitude in the final regulations.

Food Stamp Quality Control — The food stamp quality control (QC) system measures whether or not states issue benefits accurately. Each year states are assigned "error rates," which measure how many benefits were over- and under-issued. Historically, the QC system has imposed fiscal sanctions on states with error rates above the national average, which means that close to half of the states can be sanctioned each year.

In a program where the federal government funds the benefit costs, but the states are responsible for day-to-day administration, having an effective measure of payment accuracy is critical for the program's integrity. In recent years, however, there has been growing evidence that some of the measures states take to try to lower their error rates, such as requiring frequent face-to-face interviews, can impede access to the program, especially for low-income working families.

One of the major goals of many states and advocacy groups in food stamp reauthorization was to reform the QC system in order to strike a better balance between preserving program integrity and improving program access. The Farm Bill includes substantial QC reforms. For the first time, for example, the QC system will focus on and penalize only those states with persistently high payment accuracy problems. (See the detailed discussion of the QC changes on pages 70 to 73.) In addition, many of the new options in the Farm Bill will help states reduce

their error rates by enabling states to hold benefit levels constant for several months at a time; a state will not be charged for an error if a household's circumstances change during that period but its benefit level does not. This should encourage states to take advantage of the new options. It also should encourage states to rethink policies that they have adopted in the past to address QC concerns and that might limit access to the program.

Relief from Quality Control Errors During Initial Implementation — Problems can arise as a state begins to implement a new food stamp provision, ranging from computer glitches to confusion among some state workers about the new policy. These problems are typically ironed out after several months, but they can pose a problem for a state's error rate. Fortunately, the Food Stamp Act excuses states from quality control errors that result from misapplied policy during the first 120 days from a provision's mandated implementation date.

FNS recently announced that it would extend this 120-day "hold harmless" period to the provisions of the Farm Bill that are state options. The hold harmless period will begin on the day that the state implements an option. In the past, a few states have been hesitant to pursue options because they were concerned that in implementing the options they might cause a temporary increase in the state's error rate. The hold harmless period for optional provisions should minimize this concern.

Potential Delays Due to Computer Systems — Several of the new options will require states to reprogram their computer systems. In some states, this could delay implementation of the option considerably. A few state officials have suggested that they might have to wait a year before an optional food stamp change can be programmed into the computer. These delays, while discouraging, should not be a reason to avoid the options altogether. Implementation delays can provide the state with time to craft its policies, test the option with eligibility workers, redesign forms, and train workers. Of course, the sooner state officials decide to take an option, the sooner they can request that the necessary changes be put into the computer programming queue.

In addition, states sometimes can work around the computer system. For example, a state that elects to conform its definition of income for the Food Stamp Program with the definition it uses in TANF likely will drop numerous income sources from the food stamp definition. While the state's computer may still have spaces to enter these types of income into the client's file, eligibility workers could simply ignore these spaces until the reprogramming takes place.

Decisions on how to proceed given the constraints of a state's computer system will depend on local conditions and thus will vary from state to state.

Implementation Costs — The ultimate goals of streamlining and simplifying the Food Stamp Program are to improve access to the program and boost participation among eligible low-income families and individuals. This will bring much-needed resources to low-income families and communities. Furthermore, because food stamp benefits are 100 percent federally-financed, the state pays none of the additional benefit costs.

States do, however, share equally in the administrative costs of operating the program. States devote sizable staff resources to processing applications, reports, and eligibility recertifications. The more paperwork and office visits a state requires of a low-income household, the greater the state's administrative costs. In the current fiscal situation, where a

state's food stamp caseload may be rising even as its budget is subject to cutbacks or freezes, streamlining the application and recertification processes and reducing the number of office visits can help ease pressures on state eligibility staff.

Implementing some of the new options may require minor investments. To implement the "semi-annual reporting" option, for example, a state might need to reprogram its computer system, print new report forms, and conduct staff trainings. While the severe budget crises many states now face may make it difficult for some state agencies to consider allocating funds for implementation costs, investments like these should yield fairly rapid dividends by helping states manage rising caseloads with fewer resources. More importantly, the state economy will benefit from the additional federal funds coming into the state as its food stamp participation rate increases.

Non-profit groups may wish to consult with their state agency as to whether resources are needed to implement the new options. These groups can help demonstrate to the state legislature or governor's office that the long-term benefits of adopting the Farm Bill options will overwhelm any minor implementation costs.

Interactions with Existing Waivers — Several of the Farm Bill policies are based on innovative state waivers. For example, a few states already have waivers to conform the definition of income across TANF and the Food Stamp Program. In such cases, it will be important for the state to drop the waiver and implement the policy using the state option instead. This is because a state must offset any increased costs associated with implementing a waiver but need not do so for a state option. By switching from a waiver to a state option, a state can drop whatever restrictive policy it was using to pay for the cost of the waiver. For example, a state that reduced its standard deduction or its standard utility allowance (SUA) to cover the costs of conforming its income definitions in food stamps and TANF could restore the standard deduction or SUA while continuing to conform income definitions.

Specific Implementation Issues

The next section of the paper provides descriptions of the major Farm Bill provisions and discusses some of the key implementation issues associated with each provision. The following provisions are included:

- Mandatory provisions
 - Standard deduction*
 - Resource limit for the disabled*
 - Immigrants (general discussion - a more detailed analysis is forthcoming)*
- State options to simplify food stamp eligibility
 - Income simplification*
 - Resource simplification*
 - Child support simplification*
 - Standard utility allowance*
 - Homeless shelter deduction*

- State options to simplify food stamp procedures
 - Semi-annual (simplified) reporting*
 - Deductions freeze*
 - Transitional food stamps*
 - Procedures for residents of group facilities*
- Other Food Stamp Program features
 - Employment and Training*
 - Quality Control*
- Other non-statutory issues

Often, these discussions are rather technical. The paper is written for those familiar with the Food Stamp Program and its benefit structure. For those who might need additional background on how the benefit structure works, there is "A Quick Guide to Food Stamp Eligibility and Benefit Calculation" in the appendix.

General Resources:

The Farm Bill - Statutory Language and the Statement of Managers is available at:
<http://agriculture.house.gov/fbconfrpt.htm>.

The Food Stamp Act of 1977, available at:
<http://www.fns.usda.gov/fsp/LEGISLATION/fsa77.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.access.gpo.gov/nara/cfr/cfrhtml_00/Title_7/7tab_00.html.

Recent Food Stamp Regulations including the preamble discussions, available at
<http://www.fns.usda.gov/fsp/Regulations/FSPReg.htm>.

USDA Guidance:

USDA UnderSecretary Bost's Memo to State Commissioners on Options, available at:
<http://www.fns.usda.gov/fsp/MENU/ADMIN/CERTIFICATION/SUPPORT/UnderSecretary'sLetteronOptions.htm>.

USDA Letter to Welfare Commissioners on the 2002 Farm Bill, available at:
<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillCommissionersLtr.htm>.

USDA Implementing Memo on the 2002 Farm Bill, available at:
<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillImplementingMemoCover.htm>.

USDA Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at :
<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>.

Other:

Improving Access to Food Stamps, SCHIP, and Medicaid, Mathematica Policy Research, available at: <http://www.mathematica-mpr.com/3rdLevel/welrefimpact.htm>. This study also includes detailed site reports for the following states: Alabama, Arkansas, Connecticut, Georgia, Indiana, Maine, Minnesota, Ohio, Oklahoma, South Carolina, Utah, Washington.

Nutrition Provisions of Final 2002 Farm Bill, available at: <http://www.cbpp.org/5-1-02fa.htm>.

Get Ready for Food Stamp Reauthorization Changes in Your State, Food Research and Action Center, available at: <http://www.frac.org/html/publications/implementation081402.PDF>.

Standard Deduction

Section 4103, mandatory provision effective October 1, 2002, not a state option.

Description

This provision makes the Food Stamp Program more responsive to the needs of larger households by adjusting the standard deduction for household size.

When calculating food stamp benefits, households are permitted to deduct from their income a “standard deduction” to reflect the basic costs of housing, utilities, and other inescapable household expenses. Under prior law the standard deduction was the same for all household sizes (\$134).³ The Farm Bill sets the standard deduction at 8.31 percent of the federal poverty income guidelines (which vary by household size), but not less than the current \$134. Households with more than six members will receive the standard deduction for a six person household.

The effect of varying the standard deduction by household size is to recognize that larger families — typically families with children — have more inescapable expenses than smaller households. In addition, since the federal poverty line rises each year to adjust for increases in inflation, so too will the standard deduction. The current standard deduction has been frozen since 1995 when Congress eliminated annual indexation in order to achieve budgetary savings. Prior to 1995, the deduction increased each year with inflation.

USDA’s implementation memo to states includes a table with the new standard deduction amounts for federal fiscal year 2003, which starts on October 1, 2002. Initially, only households with five or more members will be affected, but in the future, households of smaller sizes will also receive a larger standard deduction.

Household size	Standard Deduction (Fiscal Year 2003)
1	\$134
2	\$134
3	\$134
4	\$134
5	\$147
6+	\$168

³ Alaska, Hawaii, Guam, and the U.S. Virgin Islands have different standard deduction levels under prior law, which would also similarly be tied to the poverty line under the new law, though Guam is treated somewhat differently.

Rationale

Under prior law, all households, regardless of their size, received the same \$134 standard deduction. Although the level of \$134 is quite low and somewhat arbitrary, it is not reasonable to assume that a family of four needs to set no more income aside for basic needs than a single individual before being able to purchase food. Larger households are typically poorer, often because they are stretching the same limited income across more people.

The new approach mirrors the federal tax system, which allows families to set aside income based on family size by granting the basic personal exemption and then additional deductions for dependents. The larger the family size, the more income the household is permitted to set aside prior to taxation.

The Congressional Budget Office estimated that this provision would increase food stamp benefits by \$1.9 billion over ten years. One-half of the gains from this change will go to low-wage working households. In addition, over 99 percent go to families with children, including many who must double up in housing because of high rents, high heating costs, or low wages and benefit levels in their states. Since the federal poverty line rises each year to adjust for increases in inflation, so too will the standard deduction. With the standard deduction tied to the poverty line, the Food Stamp Program is now more responsive to the needs of families with children and regains the fundamental principle that the benefit structure should adjust for inflation so that the value of food stamp benefits does not erode over time.

Implementation Issues

Effective Date — This provision is effective on October 1, 2002. A few states have expressed concern that they will not be able to reprogram their computers to apply different standard deductions to households of different sizes by October. Only about 10 percent of food stamp households (those that have five or more members) will be affected by the provision in fiscal year 2003. A state that is not able to reprogram its computer systems can still implement the policy through communications with eligibility staff that explain how the benefit calculation for households of five or more members should be handled. Any state that implements the provision will be allowed a 120 day “variance exclusion period” (until the end of January), which means that Quality Control errors associated with the new provision will not be counted.

Determination of Household Size — USDA’s guidance allows states some discretion for how the size of the household should be determined for households with ineligible household members (for example, ineligible noncitizens). In the food stamp benefit calculation, for purposes of the maximum benefit, the household size is limited to the eligible members. For determining deductions, however, ineligible members are generally included as household members. The recent USDA guidance states that USDA “believes that the intent of the law is to base household size for the purpose of determining the standard deduction as equal to the number of eligible household members.”

Additional Resources

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:
<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>.

Simplified Resource Definition - Raising the Asset Limit to \$3,000 for the Disabled *Section 4107, mandatory provision, effective October 1, 2002.*

Description

This provision raises the asset limit for households containing a disabled member to \$3,000, thereby conforming it to the asset limit for the elderly.

Food stamp eligibility depends in part on a household's resources or assets. If a household's resources exceed the countable asset limit, the household does not qualify for benefits. Once a household is eligible for food stamps, however, its assets do not affect the amount of monthly benefits it receives. Countable assets include cash on hand or in the bank, stocks, bonds, and the "excess value" of vehicles. 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 is 60 or older, however, is \$3,000 in countable assets. Now, this higher limit will apply to households with at least one disabled member as well.

The Food Stamp Program defines a disabled person as someone who receives any of a wide array of disability benefits including: Supplemental Security Income (SSI), Disability Insurance, disability-related Medicaid, or state-based disability benefits such as general assistance or interim assistance pending SSI benefits.

Rationale

In a number of areas, the Food Stamp Program has more generous rules for households with elderly or disabled members. For example, the gross income test of 130 percent of the poverty line does not apply to households with elderly or disabled members. Typically, the Food Stamp Program applies these more generous eligibility rules to both elderly and disabled recipients. One notable exception has been the limit on the assets or resources a household may have and still qualify to receive food stamps. The same rationale that led Congress to establish a higher resource eligibility limit for the elderly applies equally to persons with disabilities. Elderly people should be permitted to preserve more financial resources because once these resources are depleted, they are less able to rebuild their assets. Persons with disabilities, too, are likely to have difficulty replacing assets. By setting a slightly higher asset limit for these populations, the program recognizes that both of these groups need access to a larger financial "cushion."

Implementation Issues

Generally, this provision will not affect households currently participating in the Food Stamp Program because they would not have been eligible to participate under the stricter \$2,000 asset test.⁴ It will primarily affect new applicants with a disabled household member and countable assets between \$2,000 and \$3,000. A significant share of low-income disabled

⁴ It is possible that some households with a disabled member that receive TANF cash assistance could have resources above the \$2,000 asset limit. Households that receive TANF assistance and/or benefits are often categorically eligible to participate in the Food Stamp Program regardless of their countable assets. As these households leave TANF-funded programs that trigger categorical eligibility it will be important to ensure that they do not lose eligibility for food stamps because they have countable assets between \$2,000 and \$3,000.

individuals participate in the federal Supplemental Security Income (SSI) program. SSI recipients are categorically eligible for food stamps and do not have to separately meet the food stamp asset test.⁵ This means that most of the single disabled individuals who will newly qualify for food stamps are likely to participate in the Social Security Disability Insurance Program, which does not have an asset test, or in state-funded disability programs with more generous asset rules.

Because the new rule will apply to relatively few households, it should not raise any serious implementation issues for states. States may want to work with anti-hunger groups as well as disability advocates to make sure that these organizations understand the new rule and are conducting outreach to the disability community regarding this expansion in food stamp eligibility.

Additional Resources

Food Stamp Regulations on Resources and Assets: 7 C.F.R. § 273.8(e)

Definition of the “Disabled” in the Food Stamp Act: Section 3(r) of the Food Stamp Act of 1977 or 7 U.S.C. 2012 (r).

New State Options to Improve the Food Stamp Vehicle Rule, Center on Budget and Policy Priorities, available at: <http://www.cbpp.org/1-16-01fs.htm>.

⁵ The SSI resource limit is \$2,000 for single individuals and \$3,000 for couples.

Partial Restoration of Benefits to Legal Immigrants

Section 4401, three mandatory provisions effective October 1, 2002, April 1, 2003 and October 1, 2003.

Description

The Farm Bill restores food stamp eligibility to three categories of legal immigrants who were made ineligible for benefits under the 1996 welfare law: legal immigrant children, disabled immigrants who entered the U.S. after August 22, 1996 and other legal immigrants who have lived in the U.S. for at least five years. As a result, most legal immigrants who were in the United States prior to August 22, 1996 (the day the welfare law was signed) will now be eligible for federal food stamp benefits. Many of those who entered after August 22, 1996 will also be eligible, subject to certain restrictions.

Each of the three Farm Bill restoration categories has its own effective date:

Immigrants with a "Qualified" Status Eligible for Food Stamps Under the Farm Bill	Effective Date
Legal immigrants who are disabled and receiving disability benefits (such as SSI or disability-related Medicaid)	October 1, 2002
Legal immigrant children who are under 18 years old and entered the United States after August 22, 1996	October 1, 2003
Legal immigrants who have lived in the United States for 5 years	April 1, 2003

Basic Background on Eligibility

To be eligible for food stamps, immigrants must meet two additional conditions that do not apply to U.S. citizens. First they must have an immigration status that food stamp rules define as "qualified." The "qualified immigrant" category is made up of:

- lawful permanent residents (holders of green cards);
- refugees;
- asylees;
- people granted withholding of deportation or removal;
- conditional entrants;
- individuals who have been paroled into the United States for a least one year;
- Cuban/Haitian entrants; and
- certain abused immigrants, their children, and/or their parents.

"Not qualified" immigrants include all other immigrants — undocumented immigrants as well as many immigrants who do not have green cards but nonetheless are lawfully present in the United States.

Second, qualified immigrants must be in one of the groups that federal rules allow to receive food stamps. The Farm Bill liberalizes this second condition by including three new groups of qualified immigrants that may participate in the Food Stamp Program.

Legal Immigrants' Eligibility for Food Stamps with the Farm Bill Improvements

A summary of the food stamp eligibility rules incorporating the Farm Bill changes can be found in the table below. A detailed explanation of the eligibility rules follows the table.

A Quick Guide to Post-Farm Bill Immigrant Eligibility for Food Stamps				
	Eligible?	Subject to:		
		5-Yr. Bar	Sponsor Deeming	Sponsor Liability
Immigrants Eligible on the Same Terms as Citizens				
Naturalized U.S. citizens	Y			
Immigrants who entered the U.S. prior to December 19, 1997 and who have held a qualified status for 5 or more years	Y			
Refugees, asylees and some others admitted for humanitarian reasons	Y			
LPRs with 40 quarters	Y			
Lawfully residing Hmong and Laotian tribe members	Y			
Cross-Border Native Americans	Y			
Immigrants Who Are Eligible Subject to Certain Restrictions				
Immigrants who entered the U.S. after December 19, 1997 and whose sponsors <i>did not</i> sign an enforceable affidavit of support	Y	/		
Immigrants who entered the U.S. after December 19, 1997 and whose sponsors <i>did</i> sign an enforceable affidavit of support	Y	/	/	/
Qualified immigrants under 18 years of age	Y			/
Qualified immigrants with a military connection or who are disabled	Y		/	/
Ineligible Immigrants				
Lawfully residing non-qualified immigrants	N			
Undocumented immigrants	N			

Once the Farm Bill provisions are effective, the following legal immigrant non-citizens will be eligible for food stamps *on the same terms as citizens*:

- naturalized U.S. citizens;

- immigrants who have been LPRs (or held another qualified status) for five years and who do not have sponsors who signed an enforceable affidavit of support (virtually all immigrants who entered or adjusted to qualified status prior to December 19, 1997);
- refugees, asylees, persons granted withholding of deportation, Amerasians, Cuban or Haitian entrants, and certain victims of trafficking in persons⁶;
- lawful permanent residents with a substantial work history in the United States (40 quarters of coverage under the Social Security system, alone or in combination with a spouse and in some circumstances a parent);
- lawfully residing Hmong and Laotian tribe members; and
- Native Americans with treaty rights to cross the U.S. borders with Canada and Mexico, regardless of whether they were born on the Canadian or Mexican side of the border.

Once the Farm Bill provisions are effective, the following legal immigrant non-citizens will be eligible for food stamps *subject to certain restrictions*:

- qualified immigrants who entered the country after August 22, 1996. Unless immigrants fall into one of the categories listed below, immigrants in this group may not participate in the Food Stamp Program during their first five years in the country. After the five year bar, non-sponsored immigrants or immigrants whose sponsors signed traditional affidavits of support may participate in the program similar to citizens. Sponsored immigrants whose sponsors signed an enforceable affidavit of support (typically those who filed an application to become a lawful permanent resident after December 19, 1997) are subject to sponsor liability after the five year bar and may, in very rare circumstances, be subject to sponsor deeming;
- immigrant children whose sponsors signed an enforceable affidavit of support; this group is subject to sponsor liability; and
- qualified immigrants who are disabled or who have served or whose family members have served in the U.S. military *and* whose sponsors signed an enforceable affidavit of support; these groups are subject to sponsor liability and in rare cases sponsor deeming.

Finally, some categories of immigrants *are ineligible* for food stamps altogether:

- undocumented immigrants, and
- immigrants who are not qualified immigrants.

⁶ Victims must be certified by the Department of Health and Human Services (HHS) as willing to assist in the investigation and prosecution of severe forms of trafficking in persons unless they are under age 18.

Some of the eligibility rules reviewed above are dependent upon whether an immigrant is a sponsored immigrant and what type of affidavit of support their "sponsor" signed when petitioning to bring them into the country. Many sponsored immigrants are now subject to sponsor liability rules, and in rare cases sponsor deeming.

Sponsored Immigrants and Affidavits of Support: The great majority of immigrants seeking to enter the U.S. have long been required to submit "affidavits of support" from their relatives who are petitioning to bring the immigrants into the country. Traditionally, affidavits of support (INS Form I-134) have been statements of commitment to support immigrants that the sponsor brings in the U.S. Until a few years ago, these affidavits were not legally enforceable. In 1996, Congress created a new type of enforceable affidavit of support which is legally binding (INS Form I-864). The enforceable affidavits of support went into effect on December 19, 1997. Sponsors who now seek to bring their family members into the country must sign the new enforceable affidavit of support.

Sponsor Deeming: Historically, deeming resulted in sponsored immigrants being ineligible for food stamp during the deeming period. While the deeming period is longer for immigrants with the new enforceable affidavit of support, new exemptions from the deeming rules will result in the overwhelming majority of sponsored immigrants being eligible to participate in the Food Stamp Program during the deeming period.

Under deeming rules, a sponsor's income and resources are counted as though they are part of the immigrant's income and resources when determining if the immigrant is eligible for benefits. Only sponsored immigrants whose sponsors signed enforceable affidavits of support are subject to deeming. The deeming period lasts until the immigrant becomes a citizen or meets one of the other exemption criteria, such as child immigrants. All exemptions are discussed below; these exemptions will result in most sponsored immigrants being exempt from sponsor deeming.

The deeming period begins when the immigrant obtains lawful permanent resident status and continues until the immigrant becomes a citizen or meets one of the other exemption criteria. Sponsored immigrants with traditional non-enforceable affidavits of support were subject to three years of deeming in the Food Stamp Program. More than three years has lapsed since December 19, 1997. Therefore, deeming now only applies to those with enforceable affidavits of support.

Sponsor Liability: Under the sponsor liability requirements of the 1996 welfare and immigration laws, if a sponsored immigrant with an enforceable affidavit of support receives food stamps, the state must request reimbursement from the immigrant's sponsor for the value of the benefits that the immigrant receives, subject to exemptions. It is possible to be exempt from deeming, as immigrant children are, and still be subject to sponsor liability. The 1996 welfare law also empowers, but does not require, states to sue sponsors to collect the cost of these benefits.

Rationale

Until passage of the 1996 welfare law, legal immigrants were generally eligible for public benefits on the same basis as citizens. The welfare law conditioned eligibility on citizenship status rather than legal status, extending to most legal immigrants the eligibility

restrictions that had traditionally applied primarily to undocumented immigrants. Prior to the passage of the Farm Bill, the restrictions the welfare law imposed on legal immigrants' receipt of food stamps were the most restrictive of any public benefit program. They denied benefits to hundreds of thousands of legal immigrants who were in the United States when the law was passed.

A broad consensus has emerged that the welfare law's eligibility restrictions, especially those concerning food stamps, went too far. Critics of the restrictions cite four key factors:

- *Benefit Restrictions Affected Hundreds of Thousands of Low-Income Individuals* — An estimated 940,000 immigrants receiving food stamps in 1997 lost eligibility for the Food Stamp Program. Between 1994 and 1999, according to USDA administrative data, the number of non-citizens receiving federally funded food stamps fell by 60 percent, from nearly 1.9 million to less than 750,000.⁷ Food stamp participation among individuals living in households not affected by the major eligibility restrictions⁸ imposed by the 1996 law also declined during that time, but by half as much (30 percent).
- *Impact on Citizen Children* — These figures, however, do not fully capture the effect of the eligibility restrictions because most households headed by non-citizens include citizen members (particularly citizen children). Even though U.S. citizen children living with non-citizens remained eligible for benefits, their participation in the Food Stamp Program declined 47 percent between 1994 and 2000, from nearly 1.9 million to less than 900,000.⁹
- *Increases in Hardship* — Strong evidence now exists that the welfare law's eligibility restrictions have had an adverse impact on many legal immigrants and their citizen children. The most striking evidence comes from a recent analysis of food insecurity trends by Professor George Borjas of Harvard University, whose earlier work on immigrants' use of public benefits has commonly been cited by proponents of eligibility restrictions. Borjas found that food insecurity¹⁰ rose significantly among immigrant-headed households in the 23 states that did the least to ameliorate the federal restrictions, while declining among immigrant-headed households in 28 states that provided more generous safety nets for immigrants. The sharpest increase in food insecurity occurred in households headed by newly arrived immigrants living in less generous states: some 16.3

⁷ *The Decline in Food Stamp Participation: A Report to Congress*, USDA Office of Analysis, Nutrition and Evaluation, July 2001, available at: <http://www.fns.usda.gov/oane/MENU/Published/FSP/FILES/Participation/PartDecline.pdf>.

⁸ Households without any non-citizens or non-disabled childless adults subject to the three month time-limit.

⁹ *Trends in Food Stamp Program Participation Rates: 1994 to 2000*, Karen Cunyngnam, Mathematica Policy Research, Inc, June 2002, available at: <http://www.fns.usda.gov/oane/MENU/Published/FSP/FILES/Participation/Trends94-00.pdf>.

¹⁰ A household is food insecure if it reports cutting back on the size of meals or skipping meals due to lack of income, or reducing food intake to such an extent that members experienced hunger.

percent of these households were “food insecure” in 1997-1998, compared with 11.3 percent in 1994-1995. In these same states, the percentage of “food insecure” households headed by *native-born* persons fell. Borjas also found that the decline in food insecurity was not due to differences in socioeconomic characteristics among the groups or changes in state-level social or economic conditions.¹¹

- *Cost Shift to States and Localities* — Numerous states stepped in to create state-funded food assistance programs for some or all legal immigrants made ineligible for federal food stamp benefits by the welfare law. Seventeen states have such programs. In some of these states, however, eligibility is limited to very narrow categories of legal immigrants. Legal immigrants in need are turning to local soup kitchens and food banks, which report that they are overwhelmed with the increased demand for their services since the passage of the welfare law.

The Farm Bill restorations had strong support across ideological and partisan lines. President Bush’s budget proposal for fiscal year 2003 recommended that Congress restore food stamps to legal immigrants who have lived in the United States for five years; the Senate passed a similar proposal by a 97-1 vote. Bruce Reed, President of the Democratic Leadership Council and a strong supporter of the 1996 welfare law in general, has called for restoring benefits for all legal immigrants. And former House Speaker Newt Gingrich recently stated that the food stamp restrictions in the welfare law were “one of the provisions that went too far.”

Implementation Issues

Space does not permit a complete discussion here of the many issues raised by the immigrant restoration provisions; the Center will prepare a separate analysis on this matter. The restorations that affect the largest number of immigrants do not take effect until April 2003, so states have ample time to sort through the many implementation issues.

Confusion and Fear — While USDA estimates that over 350,000 legal immigrants will return to the Food Stamp Program as a result of the Farm Bill restorations, states and non-profit groups will have significant work to do to explain the restorations to immigrant communities.

Legal immigrants’ eligibility for benefits has been in a constant state of flux since the passage of the 1996 welfare law. The draconian cuts in the welfare law created the general impression that immigrants are not eligible for any type of benefit. This impression has persisted even though many immigrants did remain eligible after the 1996 changes, Congress made some restorations prior to the Farm Bill, and many states have provided benefits at their own expense. Even when immigrants or community groups understand that low-income legal immigrants might be eligible for assistance, the rules seem extremely complex and vary across programs.

¹¹ *Food Insecurity and Public Assistance*, George Borjas, Harvard University, May 2001, Joint Center on Poverty Research Working Paper 243. Borjas uses an index developed by the Urban Institute to classify states as more or less generous based on whether they opted to provide federally funded TANF and Medicaid benefits to legal immigrants and whether they established state-funded replacement programs for legal immigrants ineligible for federal assistance.

Moreover, immigration and anti-hunger advocates around the country report that legal immigrants are fearful of participating in benefit programs even when they are eligible. Several years ago some INS officials were inappropriately declaring legal immigrants who participated in public benefits as “public charges,” which affected some legal immigrants’ immigration status. In a few cases, states and immigration judges illegally required immigrants to repay the value of benefits that they or their citizen children had properly received. Stories about these developments spread throughout immigrant communities and created an atmosphere of fear around public assistance programs.

INS, USDA, and other federal agencies later clarified that participation in food stamps as well as many other public benefit programs does not make an immigrant a public charge. These agencies also conducted an outreach campaign to educate immigrant communities about the rules. These initial efforts have made a significant difference, although immigrants continue to be deeply concerned that states and localities will inform the INS about their participation in benefit programs and that this could negatively impact their immigration status. USDA addressed this concern in its initial set of Questions and Answers on the immigrant restorations:

Q: Will receiving food stamps hurt me if I want to become a citizen?

A: No. Receiving food stamps does not make an immigrant a “public charge”—meaning an immigrant to the United States will not be deported, denied entry to the country, or denied permanent status or a “green card” because he or she receives food stamps.¹²

States may want to consider working closely with immigrant community groups to ensure that this and other pieces of information about the restoration are communicated clearly to immigrants by leaders who are trusted within those communities.

Maintaining State Replacement Programs — Seventeen states created state-funded food assistance programs to provide benefits to some or all legal immigrants made ineligible for food stamps under the federal welfare law. Given state budget crises, many of these states are anxious to reduce the programs’ costs by shifting immigrants eligible for federal food stamps out of the state programs.

Since most of the federal restorations do not take effect until 2003, it will be important for states to continue their programs in the meantime to ensure continuity of assistance to needy families. In addition, several of the state programs assist groups *not* covered by the restorations, such as low-income legal immigrants during their first five years in the United States; it is imperative that states continue coverage for these groups. As noted above, research shows that low-income legal immigrants ineligible for food stamps have suffered significant hardships. State replacement programs can make a significant difference in enabling these families to purchase an adequate diet each day.

¹² *Changes In The Food Stamp Program Make More Legal Immigrants Eligible for Benefits*, available at: [http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillQ&AsforImmigrants\(E\).htm](http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillQ&AsforImmigrants(E).htm)

Defining Disabled — The restoration for disabled immigrants uses the Food Stamp Act's definition of disabled.¹³ Under the Food Stamp Act a disabled person is someone who receives any of a wide array of disability benefits including: Supplemental Security Income (SSI), Disability Insurance, disability-related Medicaid, or state-based disability benefits such as general assistance or interim assistance pending SSI benefits. Immigrants participating in a state-based disability benefit, including state replacement programs for immigrants ineligible for SSI that use disability criteria similar to the one used for federal SSI, may be eligible for food stamps under this restoration since those programs arguably are the equivalent of disability-related general assistance programs, assuming of course, that the immigrants meet the Food Stamp Program's general eligibility criteria.

Sponsor Deeming and Sponsor Liability — Many immigrants who enter the United States as lawful permanent residents (or green card holders) have “sponsors” who agree to help them settle into the U.S. When applying for food stamps, these immigrants are subject to sponsor deeming rules, under which the sponsor's income and resources are counted as though they are part of the immigrant's income and resources when determining the immigrant's eligibility for benefits. Historically, most immigrants subject to deeming have been declared ineligible for benefits as a result. This has been the case even when the sponsors themselves have very low incomes. Far fewer sponsored immigrants will be found ineligible for food stamps under the new deeming rules due to the new exemptions from deeming.

While Congress strengthened the sponsor deeming and liability rules in the 1996 welfare law and in separate immigration legislation enacted that year, it also created several new exemptions from deeming. The following immigrants are exempt from deeming in the Food Stamp Program.¹⁴

- non-sponsored immigrants, such as refugees or immigrants with an employment-based visa;
- immigrants who are indigent as defined under 7 C.F.R. § 273.4(c)(3). (*Most immigrants who are financially eligible for the Food Stamp Program will qualify as indigent*);
- immigrants under the age of 18 (thus deeming does not apply to legal immigrant children);
- immigrants with 40 quarters of coverage under the Social Security system (either themselves or in combination with their spouse);
- immigrants whose sponsor is a member of the immigrant's household (the sponsor's income is already counted for food stamp eligibility purposes);
- immigrants who are victims of domestic violence; and
- immigrants whose sponsor is deceased.

In November 2000, USDA issued revised final sponsor deeming regulations to incorporate the new exceptions as well as other changes enacted in 1996. States should consult these regulations prior to implementing the Farm Bill restorations.

¹³ Section 3(r) of the Food Stamp Act of 1977 or 7 U.S.C. 2012 (r).

¹⁴ 7 C.F.R. 273.4.

States must also consider how sponsor *liability* rules will interact with the new restorations. Under the sponsor liability requirements of the 1996 welfare law, if a sponsored immigrant whose sponsor signed an enforceable affidavit of support gains food stamp eligibility, then the state must request repayment of the benefits from the immigrant's sponsor. The 1996 welfare law also empowers, but does not require, states to sue sponsors to collect the cost of these benefits.¹⁵

There are several explicit exemptions from sponsor liability: naturalized citizens, immigrants that can be credited with 40 quarters of work (included their own, their spouse's, and under some circumstances, their parents'), immigrants whose sponsor is a member of the household, and immigrants whose sponsor is deceased. Beyond these rules, however, USDA has issued very little guidance on how sponsor liability will work.¹⁶

States that implement a sponsor liability policy in the absence of full USDA guidance risk having to take corrective action in all cases they processed once federal standards are established. Many important questions remain unanswered, such as the contents of the notices and the manner of reporting states' actions to USDA. It also seems doubtful that states may keep any of the money they collect from sponsors. (Currently, states may keep a portion of food stamp overpayments collected from recipients based on the recipients' errors, but these benefits were correctly issued.) Since USDA has not indicated that states face any consequences for failing to pursue a sponsor liability, most states appear to be postponing implementation until they receive complete federal guidance.

If states implement a sponsor liability policy that is more stringent than USDA requires, they may do more than discourage eligible legal immigrants from applying for benefits for themselves. They may also frighten some immigrants into removing their citizen children from the Food Stamp Program even though these children have no sponsors and cannot trigger sponsor liability rules.

USDA is likely to provide additional guidance on these issues. At that point, states and non-profit groups can work together to create a sponsor liability policy and an outreach strategy that works best for their communities.

Full Restoration for Qualified Immigrants in the U.S. Prior to December 19, 1997 — The Farm Bill restores eligibility for benefits to legal immigrants who have held a "qualified" status for at least five years. Immigrants who have held a qualified status, such as lawful permanent resident, since before December 19, 1997 will have lived in the U.S. for more than five years by the time the Farm Bill restorations take effect. Sponsored immigrants in this group will not be subject to sponsor deeming and liability because their sponsors signed traditional non-binding affidavits of support. The new enforceable affidavits of support did not take effect until December 19, 1997.

¹⁵ Also as noted above, immigrants with traditional affidavits of support (INS Form I-134) are only subject to three year deeming under the Food Stamp Program and are not subject to sponsor liability. It is critical that caseworkers understand which type of affidavit of support an immigrant's sponsor signed before applying new deeming and liability rules

¹⁶ See 65 Fed. Reg. 70169 (Nov. 21, 2000) for USDA's discussion of sponsor liability in its final rules implementing the 1996 welfare law's immigrant provisions.

Reaching Out to Potentially Eligible Legal Immigrants Already Connected to the Food Stamp Program — States are likely to have contact with many households containing legal immigrants who could be affected by the Farm Bill restorations. These immigrants may be participating in a state-funded food assistance program, for example, or their family members (such as their citizen children) may be participating in the federal Food Stamp or Medicaid Programs. When these households come into the welfare office to reapply for benefits, caseworkers can use this opportunity to inform the currently ineligible immigrant household members about the new restorations and the potential that they may regain food stamp eligibility.

Refugees and Asylees — Prior to the Farm Bill, refugees and other immigrants admitted for humanitarian reasons were only eligible for food stamps during their first seven years in the country. The Farm Bill permits all qualified legal immigrants who have been in the country for five years and who meet the program's income and resource tests to participate in the program indefinitely. (While some other immigrants are potentially subject to deeming and sponsor liability rules, refugees and others admitted for humanitarian reasons are not.) As a result, when the major Farm Bill restoration takes effect on April 1, 2003, there will no longer be a seven-year limit on food stamps for refugees, asylees, Amerasians, and Cuban or Haitian entrants.¹⁷

This is a very important restoration; many refugees are extremely poor and in need of assistance. Immigrants are admitted to the U.S. as refugees or asylees only if they can establish a compelling case that they would face persecution if they returned to their native country. Refugees and asylees constitute only a small fraction of immigrants admitted to the U.S.; federal law strictly limits the numbers that may be admitted each year. (Most immigrants are admitted on the petitions of employers or close relatives.) Refugees and asylees typically have no one in this country on whom they can depend. Many escaped their home countries with little more than the clothes they were wearing; those that got away with some funds often spent them while waiting in a refugee camp for admission to the U.S. In addition, some arrive with serious injuries inflicted by their oppressors that make it difficult for them to work.

States may wish to make special outreach efforts to the refugee community to ensure that refugees and refugee resettlement agencies understand this change, as well as the fact that refugees are not subject to sponsor deeming or sponsor liability rules.

Resources

USDA Guidance and Regulations:

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>

¹⁷ Even if refugees and other immigrants admitted for humanitarian reasons adjust their immigration status to lawful permanent resident (LPR), they remain exempt from the general restrictions on immigrants' food stamp eligibility, including the five year bar.

Changes In The Food Stamp Program Make More Legal Immigrants Eligible for Benefits, available at:
[http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillQ&AsforImmigrants\(E\).htm](http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillQ&AsforImmigrants(E).htm)

Joint Guidance on Citizenship, Immigration Status and Social Security Numbers at
<http://www.fns.usda.gov/fsp/TRI-AGENCY/JointGuidanceonCitizenship.htm>

Center on Budget and Policy Priorities Materials:

Immigrants and Welfare Reauthorization, <http://www.cbpp.org/1-22-02tanf4.htm>

New Federal Food Stamp Restoration for Legal Immigrants: Implications and Implementation Issues, <http://www.cbpp.org/71098fs.htm>

The INS Public Charge Guidance: What Does it Mean For Immigrants Who Need Public Assistance?, <http://www.cbpp.org/1-7-00imm.htm>

Other Materials:

Guide to Immigrant Eligibility for Federal Programs, National Immigration Law Center, 4th Edition, 2002. This can be ordered on NILC's website at: www.nilc.org.

Opportunities to Maximize the Effects of Immigrant Restorations in the Food Stamp Reauthorization Act of 2002, Food Research and Action Center, available at:
http://www.frac.org/html_new/food_stamps/legal_immigrants/opportunities.PDF

How Are Immigrants Faring after Welfare Reform? Preliminary Evidence from Los Angeles and New York City, by Randy Capps, Leighton Ku, Michael Fix, Chris Furguele, Jeff Passel, Rajeev Ramchand, Scott McNiven, Dan Perez-Lopez, Eve Fielder, Michael Greenwald, and Tonya Haas, available at: http://www.urban.org/UploadedPDF/410426_final_report.pdf.

Fact Sheet: Children of Immigrants, Urban Institute, 2001, available at:
<http://www.urban.org/UploadedPDF/900506.pdf>

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The Decline in Food Stamp Participation: A Report to Congress, USDA Office of Analysis, Nutrition and Evaluation, July 2001, available at:
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Trends in Food Stamp Program Participation Rates: 1994 to 2000, Karen Cunnyngham, Mathematica Policy Research, Inc, June 2002, available at:
<http://www.fns.usda.gov/oane/MENU/Published/FSP/FILES/Participation/Trends94-00.pdf>.

The Scope and Impact of Welfare Reform's Immigrant Provisions, Michael Fix and Jeffrey Passel, Urban Institute, January 2002.

Food Insecurity and Public Assistance, George Borjas, Harvard University, May 2001, Joint Center on Poverty Research Working Paper 243.

Simplified Definition of Income

Section 4102 — state option, effective October 1, 2002.

Description

This option allows states to simplify the definition of income used in the Food Stamp Program. The statute specifically provides that states may exclude from the food stamp definition of income the following (in addition to current exclusions):

- any education loans on which payment is deferred;
- grants, scholarships, fellowships, and veteran's educational benefits and similar education assistance; and
- complementary assistance program payments that are excluded under a state's family Medicaid program.

In addition, states may exclude from food stamp income calculations certain funds that they exclude when determining eligibility for TANF cash assistance¹⁸ or family Medicaid.¹⁹

Under this option, states may *not* exclude from the food stamp income definition:

- wages or salaries;
- benefits under
 - Social Security retirement, survivors or disability benefits,
 - Supplemental Security Income,
 - Title IV of the Social Security Act (including TANF, adoption assistance, and foster care),
- regular payments from a government source (such as unemployment benefits and general assistance);
- worker's compensation;
- legally obligated child support payments; or
- other types of income that USDA states by regulation are essential to the equitable treatment of eligibility.

Rationale

America's Second Harvest's report *The Red Tape Divide* found that overly complex application forms are hindering eligible families' access to food stamps. The report identified questions about obscure forms of income, such as the proceeds of selling blood plasma or garage sales, as contributing to the length and complexity of many states' forms.

¹⁸ States may adopt for food stamps the definition of income they use in any cash assistance program funded by federal TANF or state maintenance-of-effort funds. Some states operate more than one cash assistance program with these funds and thus may borrow any exclusion that any one of those programs uses.

¹⁹ "Family Medicaid category" means Medicaid coverage provided under section 1931 of the Social Security Act (42 U.S.C. § 1369u-2)

The cost of tracking down these obscure forms of income vastly overwhelms the value of ensuring that they are factored into food stamp benefit calculations. Such time-consuming efforts not only make the Food Stamp Program more difficult for eligible families to participate in, but also add to states' administrative burdens. States have to make sure their eligibility workers understand all the nuances of the food stamp income rules to ensure that program rules are applied accurately. Training on these obscure rules can take time away from more important aspects of program eligibility, such as income in the form of wages and salaries or household composition rules.

While in many cases, states must already exclude these forms of income from the Food Stamp Program, the rules governing these exclusions can be extremely complicated to administer. For example, many forms of educational assistance are currently excluded as income, but states and clients must jump through several hoops to determine whether or not the client's particular form of educational assistance is excluded.²⁰ These determinations sometimes involve complicated accounting exercises to attribute each household expense to funds received from one or another income source.

The new Farm Bill provision gives states a better alternative. Rather than determine whether a household's educational assistance meets the current food stamp income exclusion, states can use the new option to exclude *all* educational loans, grants, scholarships, fellowships, veteran's educational benefits and the like, including all federal and state work study programs. This approach offers a meaningful simplification of relatively complicated rules that liberalizes eligibility for only a few individuals, but simplifies eligibility determinations for many more.

The new option also enables states to establish a uniform (or near uniform) definition of income across the food stamp, TANF, and Medicaid programs. This should help states limit the questions on their application forms to those items that significantly affect families' ability to purchase food. Although some states have excluded certain types of income for Medicaid or TANF purposes, as long as these forms of income must be counted for food stamp purposes the state cannot eliminate questions about them from the common application form it uses for all three programs. Aligning the Medicaid and food stamp income definitions may make short joint applications for the two programs more feasible.

Implementation Issues

Coordinating Simplifications in Food Stamps, TANF, and Family Medicaid — States are free to exclude any type of income from their TANF and family Medicaid programs. Many states have already used this authority to adopt a simpler definition of income (for example, just wages, salaries, and government benefits) in these programs in order to make the programs easier to participate in and administer. Such states can apply to the Food Stamp Program the same income exclusions they use in the other programs. For example, states could exclude from the food stamp income test such items as income from blood and plasma sales, garage sale income, interest income from savings or other financial accounts, income from boarders or roomers, and funds from charitable organizations.

²⁰ 7 C.F.R. § 273.9 (c)(3).

A number of states have *not* simplified their definition of income in TANF or family Medicaid, perhaps because they have been reluctant to move these programs out of sync with the Food Stamp Program. These states can use the new Farm Bill option to adopt a uniform, simpler, and less restrictive income test in all three programs.

It is useful to note that the Senate-passed version of the Farm Bill listed “wages and salaries” among the types of income USDA must require states to count for food stamp purposes, regardless of their policies in Medicaid and TANF. The House-passed version of the Farm Bill, in contrast, required that “earned income” continue to count toward the definition of income. Since some of the obscure forms of income that this provision seeks to address (such as proceeds from selling blood plasma and garage sales) may be classified as “earned income,” the House language could have defeated the purpose of the provision. However, the final version of the Farm Bill adopted the Senate language on this point, so states should feel free to exclude these types of income.

Simplifying the Treatment of Educational Benefits — States can use the new Farm Bill option to exclude from their food stamp income definition all educational loans, grants, scholarships, fellowships, veteran’s educational benefits and the like, including all federal and state work study programs. This is true whether or not they currently exclude such assistance from their TANF or family Medicaid programs. Of course, states that exclude these forms of educational assistance from the Food Stamp Program may also want to extend the exclusion to TANF and Medicaid.

Using the New Option in Place of Existing Waivers — Some states already have streamlined the definition of income in the Food Stamp Program via the waiver process. The new Farm Bill option means these states may no longer need their waivers. Waivers that expand eligibility (for example, through the adoption of a less restrictive definition of income) typically require an offset to pay for the increased costs. By dropping their waiver and streamlining their food stamp income definition through the new Farm Bill option, these states can eliminate whatever restrictive cost savings policy they used to pay for their waiver. For example, a state that reduced its standard deduction or standard utility allowance (SUA) to cover the cost of conforming its food stamp and TANF income definitions could restore the standard deduction or SUA while continuing to conform the income definitions for those two programs.

Additional Resources

Food Stamp Regulations on Income: 7 C.F.R. § 273.9(a), (b), (c) and 7 C.F.R. § 273.11(a) and (b).

The Red Tape Divide: State-by-State Review of Food Stamp Applications, America’s Second Harvest, http://www.seconddharvest.org/policy/food_stamp_study.html.

Center on Budget and Policy Priorities Materials:

Enrolling Children and Families in Health Coverage: The Promise of Doing More, available at: <http://www.cbpp.org/6-30-02health.pdf>.

Expanding Family Coverage: States’ Medicaid Eligibility Policies for Working Families in the Year 2000, available at: <http://www.cbpp.org/1-2-02health.htm>.

Taking the Next Step: States Can Now Expand Health Coverage to Low-Income Working Parents Through Medicaid, available at: <http://www.cbpp.org/702mcaid.htm>.

Simplified Resource Definition – Aligning the Definition of Resources to TANF or Medicaid

Section 4107, state option, effective October 1, 2002.

Description

This provision allows states to conform the definition of resources they use in the Food Stamp Program to the definition they use in their TANF cash assistance program²¹ or their family category under the Medicaid program.²² States can do this by applying the same resource exclusions to the food stamp asset test that they already use in TANF or family Medicaid coverage. The option is subject to several conditions:

- States may not alter the food stamp asset limit of \$2,000 (\$3,000 for households with elderly or disabled members); they may only alter *what counts* toward the asset limit.
- All items currently excluded from the food stamp asset limit, such as 401(k) retirement accounts, recipient's homes, household goods, and most trust accounts, must continue to be excluded.
- Certain assets cannot be excluded for food stamp purposes even if the state excludes them in its cash assistance or family Medicaid programs. Assets that *must* be counted toward the food stamp limit are:
 - cash;
 - amounts in a financial institution that are readily available to the household, such as a savings account; and
 - those assets that USDA states via regulation are essential to the equitable treatment of eligibility.
- Finally, states may not use *this option* to modify the vehicle component of the food stamp asset test. However, states have two other options to improve the food stamp vehicle test by conforming to the rules they use in TANF assistance or TANF benefit programs. More than 40 states have already taken advantage of that flexibility.

²¹ States may use the definition of resources in any cash assistance program funded by either federal TANF or state maintenance-of-effort funds. Some states operate more than one cash assistance program with these funds and thus can borrow any exclusion that any one of those programs uses.

²² "Family Medicaid category" means Medicaid coverage provided under section 1931 of the Social Security Act (42 U.S.C. § 1396u-2).

Rationale

Just as food stamp application forms are unnecessarily lengthened by questions about obscure types of income that few households have, so too they often are filled with questions about ownership of unusual assets. For example, little constructive purpose is served by asking low-income households in the southwestern desert whether they own snowmobiles.

Some states believe they must ask about every possible type of asset on their application form to avoid allowing ineligible households into the program, even when applicants almost never own these assets and rarely have more than a few hundred dollars to their name. This can make the application process confusing and off-putting to low-income families. It also complicates administration of the program by forcing states to make sure their eligibility workers understand all the nuances of the asset rules. For eligibility workers, learning and applying these obscure rules can take time away from assisting clients and evaluating more important aspects of food stamp eligibility, such as household income and composition rules.

Even when the Food Stamp Program does exclude certain unusual assets, it often does so in a complicated manner. Program rules often require caseworkers to go through several steps to determine if these items may be excluded. For example, although many funeral agreements (accounts that individuals create to pay their future funeral costs) are excluded, those with an equity value exceeding \$1,500 are not.²³ Assets held in trust are often excludable but are subject to certain conditions. Caseworkers and clients can spend significant time tracking down the details of these unusual assets, only to discover that they are excluded from the food stamp asset test. These types of pesky questions serve little purpose and can undermine states' efforts to serve low-income families.

By streamlining the definition of countable assets in the Food Stamp Program, states can simplify the process for both clients and caseworkers. Furthermore, by adopting a uniform (or near uniform) asset definition for food stamps, TANF, and Medicaid, states can improve access to all three programs. (Currently, states frequently apply three different asset tests to the same household for the three programs.) This kind of coordination may also make it easier for states to provide food stamp and health benefits to eligible working families.

While streamlining the food stamp asset test will make the test less restrictive, it is highly unlikely that this will make large numbers of families newly eligible for the program. Low-income families tend to have very low levels of assets. According to data from the 1998 Survey of Consumer Finances, conducted by the Federal Reserve, families with incomes below \$20,000 and whose head of household was aged 65 or younger had median financial assets of only \$600; almost one-quarter of such families had zero financial assets.

²³ Rules on funeral agreements are different than rules on burial plot agreements. One burial plot per household member is currently excluded from assets.

Implementation Issues

Coordinating Simplifications in Food Stamps, TANF, and Family Medicaid — States have complete freedom to exclude items from the asset definitions for their TANF and family Medicaid programs, and many states have already simplified these programs' asset definitions to make the programs easier to administer and understand. Some states have eliminated the asset test altogether. For example, 19 states have dropped the asset test in their family Medicaid program.²⁴ The new Farm Bill option does not allow states to drop the food stamp asset test, but states may import many of the exclusions from the TANF or Medicaid asset test to the Food Stamp Program. As a result, these nineteen states can limit their food stamp resource test to the few items they are required by law to count. Similarly, states that have simplified rather than dropped the asset test in TANF or Medicaid (for example, counting only cash and savings accounts) can exclude from the food stamp asset test certain items that they do not count in TANF or Medicaid, such as all trust agreements or funeral agreements.

A number of states have *not* streamlined their asset definition for TANF or family Medicaid, perhaps because they have been reluctant to move these programs out of sync with the Food Stamp Program. These states can use the Farm Bill option to adopt a uniform, simpler, and less restrictive asset test in all three programs.

Congress clearly intended to give states broad new authority under this provision. Senator Leahy, Chairman of the Agriculture Committee's Subcommittee on Research, Nutrition, and General Legislation, stated during the floor debate of the final bill:

“The simplified definitions of income and resources should simplify the program in important ways. We repeatedly added items to the list of things that states could not exclude at USDA's suggestion so that the Department would not have to add to that list by regulation. We were pleased that the final provisions met with the Department's satisfaction and that states can move forward in reliance on the list in statute. Only under extraordinary circumstances do we expect USDA would need to add to the list.

Although cash in bank accounts that was readily accessible to the household would still count as a resource, a state could exclude the interest on those bank accounts from income calculations. This relatively tiny source of income is easy to forget and difficult to track. Excluding it is exactly the kind of simplification state agencies and households need as we move the food stamp program away from its old focus on serving welfare recipients to its new emphasis on the working poor and other diverse low-income populations.

States could, however, exclude accounts that households could not readily access, such as funds that states' TANF programs designate only to be spent for education, home or car purchases, or other specific purposes. States also could

²⁴ These states are: AZ, CT, DC, DE, IL, KS, MA, MS, MO, NJ, NM, ND, OH, OK, PA, RI, SC, WI, WY. See *Enrolling Children and Families in Health Coverage: The Promise of Doing More*, Center on Budget and Policy Priorities, June 2002.

exclude any designated retirement savings, including individual retirement accounts, to the extent current regulations do not already exclude those items.

Jointly held property could also be excluded if the household could incur legal liability by withdrawing the funds. Eligibility workers have neither the time nor the expertise to sort out potentially complicated ownership interests.”²⁵

Excluding Individual Development Accounts — Individual Development Accounts (IDAs) are savings accounts matched by public and private sources that are restricted to specific savings goals such as college education, starting a business, or buying a first home. IDAs are intended to help low-income families lift themselves out of poverty by building assets. Unfortunately, the assets a low-income family builds in an IDA can make it ineligible for benefit programs, which undermines the goal of promoting savings among these families.

The current rules governing whether IDAs are counted toward the food stamp asset test are relatively complex. Two types of IDAs are excluded by their authorizing legislation from consideration in asset tests for federal benefit programs, including food stamps: 1) IDAs funded in whole or part by funds authorized under the 1998 Assets for Independence Act, which created a large IDA demonstration program funded through HHS, and 2) IDAs that meet the statutory criteria specified in the 1996 welfare law and are funded in whole or part with federal TANF, state maintenance-of-effort, or federal Welfare-to-Work funds. Because many IDA programs are funded through a variety of sources, however, individual IDA holders may have no record of the particular funding source or authorizing legislation for their IDA and may not know if their IDA falls into one of these two categories.

In addition, food stamp regulations prohibit states from counting toward the asset limit any assets that are not readily accessible to the household.²⁶ Some IDAs are entirely inaccessible, other than to purchase the asset for which the account was opened — such as paying for post-secondary education, the purchase of a first home, or to capitalize a business. Because these accounts are not available to the household to cover daily expenses, they should be excluded as well.

While a number of IDAs already are excluded from the food stamp asset test, the new Farm Bill resource simplification option enables states, for the first time, to exclude *all* IDAs. This approach would dramatically simplify the treatment of IDAs in the Food Stamp Program. Rather than require applicants and caseworkers to scour IDA paperwork to determine its funding source or withdrawal rules, states could exclude IDAs from the asset test for food stamps — as well as for TANF and the family Medicaid category, if the state has not already done so. (As noted above, states have complete freedom to exclude items from the asset definitions for their TANF and family Medicaid programs, including all IDAs.)

²⁵ 148 Cong. Rec. S. 4034 (daily ed. May 8, 2002).

²⁶ 7 C.F.R. § 273.8(e)(8). Exclusions from resources include: “Resources having a cash value which is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to set at a reasonable price and which has not been sold.”

Excluding Retirement Accounts — A wide variety of retirement savings accounts or plans established under the federal tax code enjoy special tax privileges. Some of the most common are traditional pension plans, defined-contribution plans (including 401(k)s), and Individual Retirement Accounts (IRAs). Despite their common goal of encouraging individuals to save toward retirement, some of these accounts must be counted toward the food stamp asset limit while others are excluded. As with IDAs, states can use the new Farm Bill provision to simplify the treatment of retirement accounts by excluding all of them from the food stamp asset limit.

Currently, food stamp regulations exclude the following from the asset test:

- pension plans;
- 401(k) plans;
- 403(b) plans, which are similar to 401(k) plans but are for employees of tax-exempt organizations and state and local educational organizations;
- 457 plans, which are similar to 401(k) plans but are for state and local governments and other tax-exempt organizations;
- the Federal Employee Thrift Savings plan;
- Section 501(c)(18) plans, which are retirement plans for union members;
- Keogh plans that involve a contractual obligation with someone who is not a household member.

The following types of retirement savings *are* included as a resource for food stamp purposes, regardless of whether there is a penalty for early withdrawal:

- Keogh plans that involve no contractual obligation with anyone who is not a household member;
- IRAs; and
- Simplified Employer Pension Plans often referred to as SEP-IRAs, which are operated like IRAs and in which employers make direct deposits into IRA-like retirement accounts for workers.

If the cash value of an excluded type of plan is rolled over into an IRA, it loses its exclusion and becomes an included resource following the roll-over.

USDA has provided minimal guidance in its Q&As regarding the treatment of retirement accounts under the new Farm Bill option. It has said it will provide final guidance via regulation on the question of whether states may exclude IRAs under this option if they also exclude them in their TANF or family Medicaid programs. Until then, according to the Q&A, states are free to use the new option to exclude IRAs (and presumably all other retirement accounts on the list of included assets) from the food stamp asset test.

FNS also has stated that if a state does exclude IRAs as a resource for food stamp purposes, it must show that these funds are not readily available to the household. This should not be difficult. IRAs, as well as Keoghs and SEPs, are strictly governed by federal law and regulations; the rules pertaining to their accessibility do not vary by individual, state, or entity administering the account. Consequently, state eligibility workers need not make an individualized assessment of whether an applicant's IRA is inaccessible and should be excluded. Instead, states can adopt a uniform policy of excluding such accounts.

Excluding IRA Accounts — When states evaluate whether or not it is appropriate policy to exclude IRAs from the food stamp asset test, it is useful to draw upon the policy precedent set by 401(k) retirement accounts. The Food Stamp Program excludes 401(k) accounts even though most food stamp households that have them can withdraw funds from them..

For the general population, 401(k)s are less accessible than IRAs, but for low-income households — i.e. the food stamp population — the accessibility of the two types of accounts is similar. As a general rule, households may withdraw funds from their IRAs at any time subject to penalties and taxes, while 401(k)s have more restrictions on withdrawals. But, there are several circumstances under which households can make early withdrawals from their 401(k) accounts. Most individuals participating in the Food Stamp Program who would have a 401(k) meet the criteria for these early withdrawals. As a result, for low-income households, the accessibility of 401(k)s is not very different from the accessibility of IRAs.

The following types of individuals may access their 401(k) accounts, subject to penalties and taxes²⁷:

- all unemployed persons,
- the disabled,
- individuals over age 59 and a half,
- those over age 55 who have lost their jobs, and
- individuals facing immediate and heavy financial need.

Finally, anyone (including employed individuals) may borrow up to 50 percent of the balance of their 401(k) account so long as they repay the money within five years. If they repay, there is no penalty.

The large majority of food stamp applicants with 401(k)s are likely to fall into one of these categories, making the accessibility of these accounts to low-income households who participate in the Food Stamp Program very similar to the accessibility of IRAs. Given that 401(k)s are excluded from the food stamp asset test, states should find it appropriate to exclude IRAs as well, so long as these accounts are excluded from either their TANF or family Medicaid program.

According IRAs the same treatment that 401(k)s and employer pension plans also serves two other goals. First, it removes a disincentive to save for retirement; pension and retirement experts across the political spectrum believe low-income families should try to save more for retirement when they can and should try to avoid depleting their usually quite modest retirement savings when they encounter hard times. Second, according IRAs the same treatment as 401(k)s and pension plans promotes equity. Most experts in pension and retirement policy generally regard the Food Stamp Program's policy of excluding pensions and 401(k)s but counting IRAs and Keoghs as irrational and inequitable.

Using the New Option in Place of Existing Waivers — Some states have already streamlined the definition of assets in the Food Stamp Program via the waiver process. The new Farm Bill option means these states may no longer need their waivers. Waivers that expand

²⁷ 26 C.F.R. § 1.401(k)(1)(D).

eligibility (for example, by using a less restrictive definition of assets) typically require an offset to pay for the increased costs. By dropping their waiver and streamlining their food stamp asset definition through the new Farm Bill option, these states can eliminate whatever restrictive cost savings policy they used to pay for their waiver.

Additional Resources

USDA Guidance and Regulations:

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>

Food Stamp Regulations Governing the Treatment of Assets: 7 C.F.R. § 273.8, 7 C.F.R. § 273.2(j)(2)(i)

Guidance on the Treatment of Retirement (Pension) Plans, available at:

<http://www.fns.usda.gov/fsp/MENU/ADMIN/WELFARE/pensions.htm>

Guidance on Using TANF Vehicle Policies in Food Stamps, available at:

<http://www.fns.usda.gov/fsp/MENU/ADMIN/WELFARE/SUPPORT/TANFVehicleRules.htm>

Center on Budget and Policy Priorities Materials:

Asset Tests and Low Saving Rates Among Lower-Income Families, available at:

<http://www.cbpp.org/4-13-01wel.htm>

Enrolling Children and Families in Health Coverage: The Promise of Doing More, available at:

<http://www.cbpp.org/6-30-02health.pdf>

Expanding Family Coverage: States' Medicaid Eligibility Policies for Working Families in the Year 2000, available at: <http://www.cbpp.org/1-2-02health.htm>.

How Do IDAs Affect Benefit Eligibility?, available at: <http://www.cbpp.org/9-27-01wel.htm>.

New State Options to Improve the Food Stamp Vehicle Rule, available at:

<http://www.cbpp.org/1-16-01fs.htm>

States' Vehicle Asset Policies in the Food Stamp Program, available at:

<http://www.cbpp.org/7-30-01fa.htm>

Taking the Next Step: States Can Now Expand Health Coverage to Low-Income

Working Parents Through Medicaid, available at: <http://www.cbpp.org/702mcaid.htm>.

Other:

For more information on IDAs, see the Corporation for Enterprise Development's web page at: <http://www.cfed.org>

2001 U.S. Master Tax Guide, CCH, Incorporated, November 2000, pp. 530 - 539.

The Red Tape Divide: State-by-State Review of Food Stamp Applications, America's Second Harvest, http://www.seconddharvest.org/policy/food_stamp_study.html.

Simplified Child Support Payer Deduction

Section 4101, state option, effective October 1, 2002.

Description

This provision gives states two new options to simplify the child support payer deduction.

The Food Stamp Program deducts child support payments from the income of non-custodial parents who are subject to child support orders, thereby providing these parents with larger food stamp benefits than they would receive without the deduction. The deduction recognizes that money paid to support a child in another household is not available to purchase food for the non-custodial parent's current family. It also recognizes and rewards the responsible behavior of non-custodial parents who make their formal child support payments and ensures that the Food Stamp Program treats these non-custodial parents better than those who default on their obligations.

Under the new provision, states may convert the deduction to an exclusion from income. In other words, states may elect not to count the value of child support payments that a non-custodial parent has made when determining whether the parent's gross income falls below 130 percent of the poverty line, the standard for food stamp eligibility. Under a deduction, in contrast, child support payments are counted as part of a non-custodial parent's income in determining whether the parent is eligible for food stamps and are disregarded only when determining the benefit level of those parents that are eligible.

The Farm Bill provision also requires USDA to establish optional, simplified procedures for determining the amount of child support paid by a household; these procedures could be used with either the deduction or the exclusion. Until USDA issues regulations on these procedures, states may develop their own simplified procedures for determining the amount of the child support deduction.

Rationale

According to USDA, only 79,000 households claimed the child support deduction in an average month in fiscal year 2000. While the number of households claiming the deduction has been rising, it is highly likely that many households that are entitled to the deduction are not receiving it.²⁸ Some individuals may decide to forego the deduction because they find it difficult to provide sufficient verification of their most recent child support payments, especially since child support payments can fluctuate from month to month. The simplifications in the Farm Bill are intended to equip states with the tools to ensure that the Food Stamp Program reinforces the efforts of all eligible non-custodial parents who support their children.

²⁸ According to the Urban Institute's National Survey of America's Families, over 183,000 non-custodial fathers participating in the Food Stamp Program paid legally obligated child support in 1998 (the most recent year for which data is available). Only 38,000 food stamp households claimed the child support deduction during an average month in 1998. Not all of those fathers tracked by the NSAF study would have been eligible for the deduction, and there are differences in the data that may account for some of the discrepancy. Nevertheless, it appears that a significant number of food stamp recipients who are non-custodial parents paying child support do not benefit from the deduction.

Converting the Deduction to an Exclusion — This first option would eliminate child support payments completely from food stamp income calculations. The state would disregard from a household's gross income any formal child support that the household pays. No households would be made worse off under this approach, and some households would become newly eligible for food stamps. This option, therefore, represents an opportunity to expand the number of low-income individuals assisted by the Food Stamp Program.

Several states have also argued that an exclusion would be easier to implement than a deduction. All child support orders entered since 1994 are subject to wage withholding; it is an automatic and universal requirement for virtually all parents with a child support order. Nationally, about 55 percent of child support is collected through wage attachments. Since all the information the state needs to make the child support exclusion is available on the parent's paycheck, states may find it simpler to exclude the child support payment when calculating the parent's gross income.

In addition, some states have argued that converting the deduction to an exclusion would help simplify the deduction structure and streamline food stamp applications. Views on whether the deduction or the exclusion process is simpler may vary by state.

Adopting Procedures to Simplify the Deduction — Food stamp eligibility and benefit amounts are typically determined using very recent household information so that benefits accurately reflect a household's current circumstances. Some non-custodial parents may have difficulty providing sufficient verification of their most recent official child support payments. Furthermore, many states' child support enforcement agencies and food stamp agencies cannot effectively share data electronically. The Farm Bill provision requires USDA to issue regulations providing states with new, simplified procedures for calculating this deduction, including allowing the state to rely on information from the state's child support agency, even if that information is not current.

Implementation Issues

Applying the Earned Income Deduction — Currently, food stamp households receive a deduction of 20 percent of their earned income. This rewards work and recognizes that there are certain costs associated with working. It will be important for states that adopt the child support exclusion in lieu of the deduction to continue to base the earned income deduction on a household's *total* earnings rather than earnings minus child support payments, since the latter approach would result in lower food stamp benefit levels for households that pay child support. USDA, in its Q&As, has indicated that this approach provides an earned income deduction that reflects a household's actual costs of working and is likely to be less error prone than other methods.

Implementing Simplified Procedures Prior to USDA Regulations — Until regulations on simplified procedures are issued, states may develop their own simplified procedures so long as these procedures use payment history data from the Child Support Enforcement Program agency to determine the amount of a household's deduction, even if these data are a few months older than most information used to calculate food stamp benefits.²⁹ For example, if the Child Support

²⁹ See the floor statements by Senator Harkin and Congressman Stenholm on the food stamp provisions of the final bill, 148 Cong. Rec. S4047(daily May 8, 2002) and 148 Cong. Rec H2044 (daily May 2, 2002).

State Disbursement Unit provides the food stamp eligibility worker with a standard printout of an applicant's child support payment history, the food stamp worker could average the most recent data to determine the amount of the applicant's deduction or exclusion. Or, in states where food stamp caseworkers can access the child support system's records of a non-custodial parent's payment history, the food stamp caseworkers could use that information to calculate an average deduction or exclusion. This would relieve the household of having to provide verification. And, if actual amounts paid vary from this average, the state would not be charged with an error under the quality control system.

Opportunities to Simplify Treatment of Child Support Income — Like the non-custodial parents who make child support payments, the households that *receive* child support payments can have difficulty monitoring these payments on a monthly basis. As states evaluate new options to simplify the deduction for the payers of child support, they may also want to consider adopting an existing option to simplify the treatment of child support income for the households that receive it.

On January 1, 2001, USDA issued a memorandum announcing several new waivers to allow state agencies to simplify the budgeting and reporting of unearned income, such as child support. The waivers would essentially allow a state to project a household's future child support income based on its past child support income over a recent period of time (perhaps as long as six months). This enables the state to eliminate the requirement that households report any changes in child support income during the certification period.

Unlike the treatment of child support payments, however, the state cannot simply project future child support income for all households by *averaging* their recent child support income. Food Stamp regulations state, "*If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the state agency.*"³⁰ For example, if a household's child support income has fallen off recently or fluctuates dramatically from month to month, a projection of little or no future child support income is likely to be more accurate than a projection based on an average of past income. In such cases, using a simple average would result in a reduction in food stamp benefits to reflect child support income that the household may never receive.

Additional Resources

USDA Guidance:

Questions and Answers Regarding the Food Stamp Program Certification Provisions of the Farm Bill, August 1, 2002, available at:

www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm.

USDA Guidance on the Treatment of Unearned Income, Memorandum from Art Foley to FNS Regional Administrators, January 10, 2001, available at:

www.fns.usda.gov/fsp/MENU/ADMIN/WELFARE/unearned_income.htm

Research:

³⁰ 7 C.F.R. § 273.10(c)(1).

"Poor Dads Who Don't Pay Child Support: Deadbeats or Disadvantaged," Elaine Sorensen and Chava Zibman, Urban Institute, April 2001, available at: www.urban.org/UploadedPDF/anf_b30.pdf.

Simplified Standard Utility Allowance (SUA)³¹
Section 4104, state option, effective October 1, 2002.

Description

This provision allows states that require households to use a standard utility allowance to make that allowance available to *all* households that experience a utility expense.

The Food Stamp Program bases households' benefits on their income minus deductions for certain expenses. The deduction for high shelter expenses is among the most important deductions households are permitted in calculating their net income. This deduction recognizes that the same money cannot be spent on shelter costs and food. It deducts from a household's income the amount by which its shelter costs exceed half of its available income after all other deductions. This ensures that additional food stamps are targeted at those households that pay a significant share of their monthly income on housing costs.

The principal elements of shelter costs are rent or mortgage payment and utilities. Rent and mortgage costs remain relatively stable from month to month and do not present special difficulties for households and food stamp offices. Utility costs, however, tend to fluctuate considerably. Arriving at a fair estimate of a household's typical monthly utility costs could require examination of many months of bills. Understandably, many low-income households have trouble keeping track of these dated records.

To simplify this process for states and households, the Food Stamp Program has long allowed states to set standard utility allowances (SUAs) that households may use in calculating shelter deductions in lieu of their actual expenses. The standard utility allowance (SUA) can be used as a proxy for what the household spends on utilities. Instead of adding up its actual monthly bills for gas, electricity, water, etc., the household can have the SUA added to its rent or mortgage when its total shelter costs are computed, much as taxpayers do when claiming the standard deduction rather than itemizing deductions. Because utility costs for individual food stamp households vary, states generally set their SUAs at a point within the range of actual utility expenses paid by a majority of their food stamp households. Some food stamp households' utility costs are above the SUA level, while others' costs are below the SUA. Some states vary the level of their SUAs to reflect household size. Many states have separate SUAs for households that pay for heating or air conditioning and those for whom heating and cooling costs are included in their rent.

Ordinarily, households have the choice of whether to have their shelter deductions calculated with their actual costs or the SUA. This protects households whose utility costs exceed the SUA and who would qualify for additional food stamp benefits by using their actual costs instead. The 1996 welfare law, however, gave states the option to mandate that households use the SUA regardless of their actual utility costs. According to USDA, about a fifth of the states have taken this option for a mandatory SUA (AL, AZ, FL, IL, IA, LA, MI, MO, ND, WA, WY.)

³¹ David Super authored this section.

The appeal to states of the mandatory SUA has been limited, however, because of old rules preventing states from giving the SUA to two kinds of households. States have not been permitted to apply the SUA to households living in public housing that are billed only for utility usage that exceeds some fixed level. States also have not been permitted to apply the full SUA to households that share housing and utility costs with others; for these households, food stamp rules required states either to pro-rate the SUA or to determine the households' actual costs. Therefore, these rules required even states with a supposedly mandatory SUA to continue calculating individual utility costs for a significant proportion of their caseloads. Many states have argued that this significantly undermines the mandatory SUA's effectiveness as a simplification.

The Farm Bill provision gives states that adopt a mandatory SUA the option to provide the SUA to *all* households in the state who experience utility cost, thereby eliminating these two special rules which can complicate the SUA. Thus, in states with mandatory SUAs, those SUAs could apply to all households in public housing and to households sharing living space, as well as to all others. States that do not mandate the SUA cannot take advantage of this simplification. They would continue to be required to deny the SUA to households in public housing that are billed only for excess usage and to deny or pro rate it to households in shared living arrangements.

The 1996 welfare law specified that states converting to the mandatory SUA must do so in such a way that federal costs do not increase. The Farm Bill amendment, however, stipulates that states do *not* need to include the added costs of providing the SUA to households in public housing or shared living arrangements when they calculate whether their mandatory SUAs increase federal costs.

Rationale

Calculating actual utility costs is one of the more burdensome aspects of the application process for both households and eligibility workers. Although income errors constitute the lion's share of states food stamp quality control (QC) problems, utility costs can be an annoying additional source of error. The mandatory SUA, particularly with the Farm Bill's two simplifications, can provide significant relief from these administrative burdens.

The mandatory SUA's impact on households' benefit levels is mixed. It represents a benefit cut for households with very high utility costs. These may be households in structurally damaged dwellings that are difficult to heat and cool or households in which an ailing member requires an unusual degree of heating or cooling. This benefit cut can be moderated, though not eliminated, if the state increases its SUA at the time it makes the SUA mandatory. (See discussion below.)

On the other hand, a mandatory SUA under the new rules can increase benefits for households in public housing and particularly those in shared living arrangements. These households for the first time will gain the benefit of the full SUA. Households in shared living arrangements also will no longer need to inform the food stamp office of those arrangements when they apply or are recertified for food stamps (unless they are sharing rent or mortgage expenses). A few other households that, for whatever reason, have been claiming actual utility costs that are less than the SUA will benefit from a mandatory SUA. And all households

currently receiving the SUA will benefit if the state increases the SUA while making it mandatory.

Implementation Issues

Deciding Whether to Implement the Mandatory SUA — Most states currently do not have mandatory SUAs. The two complex rules that the Farm Bill allows states to drop may have played a significant part in many states' decisions to eschew the mandatory SUA. The Farm Bill therefore is likely to cause many states to reexamine the option of the mandatory SUA. As noted above, this option has significant advantages but also can reduce benefits to some of the most vulnerable food stamp households. It will be important for states to evaluate the benefits and costs to households participating in the Food Stamp Program when considering whether or not to implement this option.

Minimizing Benefit Cuts — Although the 1996 welfare law prohibits states from *increasing* federal food stamp costs when they make their SUAs mandatory, no law or regulation requires the mandatory SUA to *reduce* federal costs. Yet states that have simply mandated use of their SUAs without increasing their SUA levels have done just that: households that had been claiming higher actual costs received a benefit cut and virtually no households received benefit increases. States can increase their SUAs at the time they make them mandatory to offset the benefit reductions to households with high shelter costs. For example, in 1998, Florida made its SUA mandatory and increased it, by more than one-fourth, from \$152 to \$194.

In determining the amount of these increases, the legislation and USDA's guidance are quite clear that a state does *not* need to take into account the additional benefits it will provide to households in public housing or shared living arrangements when those households' benefits are recalculated with the SUA.

Using this Opportunity to Review a State's SUA — As states are determining whether or not to elect this option, it is a good opportunity to determine if a state's SUA level adequately reflects rising utility costs in the state. Rising heating oil, gas, and electricity prices in recent years may have outpaced the level of the SUA. One basic check on the adequacy of a state's SUA would be to determine if the state has been increasing the SUA to reflect inflation. Federal food stamp regulations require states to update the SUA annually.³² Some states' SUAs have increased only slightly despite large increases in energy costs. This may result from states' not using a methodology that fully reflects increases in low-income households' utility costs. States may update their SUAs by the Consumer Price Index for All Urban Consumers' (CPI-U's) component for Fuels and Utilities or using another data source such as local data on inflation in utility costs. An update may occur at any point during the year.

In addition, states may want to evaluate the underlying methodology of their SUAs. States, with USDA approval, develop their own methodology to determine the SUA. In some cases the original methodology was set many years ago and may not reflect newly available data. States may revise their SUA methodology at any time with USDA approval.

³² 7 C.F.R. § 273.9(d)(6)(iii)(B). These regulations were recently revised by FNS. 65 Fed. Reg. 70134, 70172-176, 70203-205 (Nov. 21, 2000).

Additional Resources

Questions and Answers Regarding the Food Stamp Program Certification Provisions of the Farm Bill, August 1, 2002, available at:

www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm

Regulations on the Standard Utility Allowance: C.F.R. § 273.9(d)(6). These regulations were recently revised by FNS. 65 Fed. Reg. 70134, 70172-176, 70203-205 (Nov. 21, 2000).

A table summarizing states' SUA levels and policies is available at:

www.fns.usda.gov/fsp/MENU/ADMIN/CERTIFICATION/SUPPORT/SUAAAlpha.htm

The Food Stamp Shelter Deduction: Helping Households with High Housing Burdens Meet Their Food Needs, Center on Budget and Policy Priorities, available at:

www.cbpp.org/7-1-02fs.pdf.

Homeless Shelter Deduction

Section 4105, state option, effective October 1, 2002.

Description

The food stamp benefit rules recognize that money spent on housing is not available to purchase food by allowing households a shelter deduction to the extent that their shelter expenses (including utilities) exceed half of the households' incomes after all other deductions have been taken into account. Food stamp benefits are generally higher by 30 cents for every \$1 that a household may deduct from its income.

This provision of the Farm Bill simplifies the existing homeless shelter deduction, which, at state option, can be provided in lieu of the regular shelter deduction to homeless households that face housing costs. It allows states to use a flat \$143 for this deduction rather than requiring states wishing to use this option to document the typical shelter costs that homeless households pay.

According to USDA, 13 states use the homeless shelter deduction as of 2002. These states are: Colorado, Kansas, Kentucky, Maryland, New Jersey, New York, North Dakota, Ohio, Tennessee, Virginia, Virgin Islands, West Virginia, and Wyoming. Although the homeless shelter deduction existed in prior law, the new law, recent regulations, and FNS guidance clarify some of the advantages to households as well as QC advantages for states of adopting a homeless shelter deduction. As a result, states that have not yet taken the option may be interested in reconsidering. Providing a homeless shelter deduction helps to ensure that homeless households get the full food stamp benefit to which they are entitled. This section discusses the rationale and implementation issues for states to adopt the homeless shelter deduction, rather than narrowly focusing on just the Farm Bill change to the homeless shelter deduction.

Rationale

Although homeless individuals and families do not have a permanent source of housing, they often face housing costs. For example, they might pay to stay in a temporary shelter or hotel or they may pay friends or family for temporary lodging. Homeless households that can provide verification of those expenses may use the regular shelter deduction.

In many cases, however, homeless individuals and families have difficulty proving their housing expenses. To ease paperwork burdens on such households, the Food Stamp Program has an optional "homeless shelter deduction." States may set a fixed homeless shelter deduction of \$143 per month for homeless households that incur shelter expenses. States are not required to provide the fixed homeless shelter deduction to homeless households with extremely low shelter costs, although they may. If a homeless household could get more food stamp benefits by claiming the regular shelter deduction, it may do so.

Implementation Issues

Granting Eligibility Workers Discretion to Provide the Deduction — If a homeless household incurs shelter expenses but has difficulty documenting the exact value of the expenses, eligibility workers may use prudent judgment in accepting claims of shelter costs that appear to be reasonable and may allow the fixed shelter deduction. If the state does not take the option to deny the deduction to households with extremely low shelter costs and if the worker adequately documents the basis for the decision to allow the deduction, the only time an error could be cited is if the QC reviewer affirmatively finds that the household was ineligible for the deduction because it, in fact, incurred no shelter expense.

Definition of Homeless in Food Stamps — The definition of homeless within the Food Stamp Program is quite broad. States and advocates may not be aware of the types of households that may be considered homeless.

For the Food Stamp Program a homeless individual is:

- (1) an individual who lacks a fixed and regular nighttime residence; or
- (2) an individual who has a primary nighttime residence that is —
 - (A) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;
 - (B) an institution that provides a temporary residence for individuals intended to be institutionalized;
 - (C) a temporary accommodation for not more than 90 days in the residence of another individual; or
 - (D) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. [Food Stamp Act, Section 3(s), 7 U.S.C. § 2012(s).]

Additional Resources

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>

Food Stamp regulations on the homeless shelter deduction at 7 C.F.R. § 273.9(d)(6)(i) and on verification at 7 C.F.R. § 273.2(f)(2)(iii).

The Food Stamp Shelter Deduction: Helping Households with High Housing Burdens Meet their Food Needs, Center on Budget and Policy Priorities, June 2002, available at:

<http://www.cbpp.org/7-1-02fs.pdf>

Semi-annual (or Simplified) Reporting

Section 4109, state option, effective October 1, 2002.

Description

Under the "semi-annual reporting" option, which has been available since early 2001, a state may provide a household with six months of continuous food stamp eligibility at a constant benefit level; the household only has to contact the food stamp agency during this period if its income rises above the program's gross income limit. The Farm Bill allows states to apply this important simplifying option to a broader group of households than was previously permitted. (It also allows states to set the continuous eligibility period for four, five, or six months. As a result, USDA now calls the option "simplified reporting" rather than semi-annual reporting.)

In recent years, USDA has provided states with several new options (through regulations and administrative waivers) to simplify reporting requirements for food stamp households. One of the most important of these is semi-annual reporting. Under the semi-annual reporting option, the state calculates a household's benefits at application in the same way it does for other new food stamp households. Then the state essentially freezes the household's benefits for six months at a time instead of requiring the household to report frequently on changes in its income and other circumstances.³³ Households *must* report if their income rises above 130 percent of the poverty line. They *may* (but do 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. Some states adjust a household's food stamps for *any* changes that a household reports, while others only respond to reported changes that would increase a household's food stamp benefits.

At the end of six months, states must require the household to file a semi-annual report and needed verification. Based on the new information, the state redetermines the household's eligibility and benefits for the next six-month period. Alternatively, states can require households to reapply (or recertify) for food stamps at the six-month mark. Many states require households to have an interview in the food stamp office each time they are recertified, although USDA's regulations require only one interview per year.

According to the most recent information available from USDA, some 23 states had implemented or had plans to implement semi-annual reporting as of June 2002. These states are: Colorado, Delaware, the District of Columbia, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Oregon, Tennessee, Texas, West Virginia, and Wyoming.

Prior to the Farm Bill, states could use semi-annual reporting only for households that had earnings. Under the new provision, however, states may extend semi-annual reporting to most of their caseload.

³³ Households' benefits would be increased to reflect the annual cost-of-living increases in the food stamp benefit structure.

Rationale

In response to widespread concern that low-income families — particularly working families — are missing out on food stamp benefits for which they are eligible, USDA and Congress have given states a number of new ways to adopt food stamp procedures that are less administratively burdensome on both participating households and state agencies. Semi-annual reporting is arguably the most far-reaching of these options and has the potential to transform the Food Stamp Program. It has three significant advantages over prior rules:

It helps states to offer food stamp benefits for longer periods of time and with fewer paperwork requirements. Previously, states and households had to monitor eligibility information on a monthly basis. In most states, if a household did not report even a modest change in circumstances within ten days its food stamp benefit could be considered in error. In others, a household had to file reports on its circumstances every month even if nothing changed. If the household failed to do so, its food stamps were terminated.

Many states had taken steps to avoid these errors, such as requiring working families to reapply for food stamps every three months. These steps harmed access to and participation in the program — especially among working families, which may have difficulty getting time off from their jobs to appear at the welfare office. The states that required three-month reapplications had the sharpest caseload declines among working families in the late 1990s. The latest available research shows that in 2000, the Food Stamp Program served only 53 percent of all eligible households and only 43 percent of eligible households with earnings.

Far fewer households will fall off the Food Stamp Program if they need to provide information and verification only every six months. Benefits will still be targeted at those households least able to purchase food. To be sure, semi-annual reporting makes the Food Stamp Program less responsive to monthly changes in households' circumstances, but the significant reduction in paperwork is well worth the trade-off.

Semi-annual reporting can provide states with significant administrative savings. States devote sizable staff resources to processing households' reports and carrying out eligibility recertifications. Some states have found that only by establishing special units dedicated to nothing but processing households' change reports can they ensure timely action on reports that could affect their error rates. In the current fiscal situation, where a state's food stamp caseload may be rising even as its human services budget is being frozen or cut, reducing households' reporting requirements and extending the time between recertifications can ease workload pressures on state eligibility staff.

Semi-annual reporting can help states achieve and maintain low error rates. The food stamp quality control (QC) system measures how accurately states determine eligibility and benefit amounts. Error rates are generally higher among households whose incomes tend to fluctuate from month to month, such as low-income working families. Under semi-annual reporting, states can increase food stamp participation among these families while at the same time lowering their error rates. This is because the QC system does not count changes in household circumstances as causing errors if the changes did not have to be reported.

As noted above, prior to the Farm Bill states could use semi-annual reporting only for households with earnings. A number of states declined to adopt the option because they did not

want to maintain separate sets of reporting rules for households with and without earnings. Because it is quite common for households to move in and out of work, these states were concerned that eligibility workers and households would become confused about the various reporting rules. Now that the Farm Bill has permitted states to extend semi-annual reporting to most of their caseload, many more states are likely to consider the option.

Implementation Issues

The semi-annual reporting option has enormous potential to improve access to the Food Stamp Program, but states must address several implementation issues to achieve the option's full potential.

Deciding on which households to assign to semi-annual reporting — Under the new law, states may assign nearly all households to semi-annual reporting. In addition to households with earnings, households with only unearned income, such as cash assistance from the state's TANF program, and households with no income may be assigned to semi-annual reporting.

Three types of households are statutorily prohibited from periodic reporting: 1) households with no earnings and in which all adult members are elderly or disabled, 2) households in which all members are homeless, and 3) households that include migrant and seasonal farmworkers. Although these three types of households may not be *required* to submit periodic reports, FNS has allowed states to assign households with homeless members or migrant or seasonal farmworkers to six-month certification periods and suspend all reporting requirements except in cases where a change causes the household's income to exceed 130 percent of poverty. In other words, homeless and migrant farmworker households may be assigned to simplified reporting as long as they are not required to submit a report at the six-month mark. Instead they would have to reapply for benefits. (As is the case for all households, the interview can be waived at the state's discretion.) If a state so chooses, it can waive the interview and make the recertification process for homeless and farmworker households very similar to the process other households follow in submitting a semi-annual report.

For homeless households, this approach would likely be less burdensome for both the household and the state than requiring a new application at more-frequent intervals. For migrant and seasonal farmworkers, the same logic may hold in areas where such workers generally do not move out of state very often. In some areas of the country, however, shorter certification periods would be preferable because migrant farmworkers cross state lines so frequently that six-month certification periods could increase the risk that they would inadvertently be issued food stamps for the same month in more than one state — or that their application in the second state would be held up because they still have a food stamp case open in the first.

For households in which all adults are elderly or disabled and that have no earned income, semi-annual reporting is ill-advised. Because such households are likely to have very stable circumstances, they can be assigned 12-month, or preferably 24-month, certification periods and are unlikely to experience frequent changes in the interim. These households may not understand the importance of filling out a semi-annual report and could lose their food stamps even though their circumstances have not changed. Thus, it is fortunate that the statute does not allow semi-annual reporting to be extended to these households.

Finally, households with unemployed childless adults that are subject to the three-month time limit can be assigned to semi-annual reporting if the state uses its discretionary exemptions from the time limit to extend eligibility beyond three months. Missouri, for example, uses exemptions to extend the time limit to six months rather than three months and plans to assign households subject to the time limit to semi-annual reporting.

Coordinating with Other Programs — Families that receive food stamps typically participate in other state-administered programs, such as Medicaid, SCHIP, TANF, and child care. Even if the family as a whole is not eligible for Medicaid, the children in the family are very likely to be eligible for Medicaid or SCHIP. Eighty-five percent of children and 56 percent of parents that received food stamps at some point in 2001 also received Medicaid. Nationally, about one-quarter of food stamp households also participate in TANF. (Medicaid and TANF overlap with food stamps will vary by state.) These programs often have different reporting and certification rules. As a result, low-income working families can face uncoordinated, and often duplicative, application, reporting, and renewal requirements. The lack of coordination can create confusion and paperwork for families and agency staff alike.

Most states have integrated eligibility systems for some or all of these programs so that information the state agency knows for one program is considered to be known for the others. As a result, a state that adopts semi-annual reporting for food stamps may become aware of information that a household has reported for a different program and that could affect the household's food stamp benefits, even though the family did not need to report this information for food stamp purposes.

Consider a low-wage working household living in a state that has adopted semi-annual reporting in food stamps but still uses "change reporting" in Medicaid. When the household applies for benefits it is told that it need not report any changes to the food stamp office unless its income rises above 130 percent of poverty. For Medicaid, however, the household must report *any* changes in its circumstances that could affect its Medicaid eligibility. When changes are reported for Medicaid, the state generally acts on the changes for Medicaid only if it believes the changes would render the household ineligible for Medicaid (which is relatively uncommon). But the state may need to take further action on the report for food stamp eligibility or benefits. This is because under the food stamp semi-annual reporting rules, states must respond to information that the household does report. This is to protect a household from losing food stamps if it experiences an increased need for food assistance.

If a state does not receive many reports of changes for other programs, this issue may not be a major concern. If the state is concerned about the volume of change reports it receives in Medicaid or TANF, however, states have several ways to limit the burden and confusion for households and state agency staff:

- *Amend the reporting requirements for the other programs.* States can limit the frequency of reports and/or the number of elements of eligibility that must be reported for other programs. States have total discretion to set reporting rules in TANF. Louisiana, for example, also uses semi-annual reporting in its TANF cash assistance program for households that receive TANF and food stamps.

States also have broad discretion to set reporting requirements in Medicaid. They states may offer 12-month continuous Medicaid eligibility to children and may

disregard all changes in income between redeterminations for families that receive Medicaid.³⁴ Other innovative options exist to reduce reporting requirements for Medicaid households.

Perfect alignment among programs should not necessarily be the goal. Instead, states should seek to coordinate reporting and certification rules in a way that limits the burden for recipient families and the eligibility workers serving them. Because there is wide variation in states' TANF and Medicaid eligibility rules, there will likely be wide variation in the rules that states will want to set up. As an example, a state that eliminates most interim reporting requirements in TANF may wish to continue to require such households to report when they get a job so that it will have that information for meeting TANF work requirements.

In designing their approach, states should take care not to make families worse off in the other program. For example, a state that currently requires families to have their Medicaid eligibility redetermined every 12 months would likely cause families to lose Medicaid if it shortened that period to six months in order to align with a food stamp semi-annual report. There is little reason to do so, however, since the state can redetermine eligibility for both programs every twelve months and have the household submit a simple report of its circumstances for food stamp purposes only at the six-month mark.

- *Send a helpful notice rather than a notice of adverse action.* When a state receives a report for another program of a change that was not required to be reported for food stamps, it often will not have been accompanied by the verification that satisfies food stamp requirements. The practice under past change reporting rules often has been for states to issue a notice to the household requesting the additional verification to explain the change; if the verification then is not provided within ten days, the household can be terminated from food stamps.

The situation under semi-annual reporting is different. If the change was not required to be reported for food stamps and does not indicate that the household is no longer eligible for food stamps, the state may send a notice that encourages, but does not require, more information and verification. If the household does not respond, no further action need be taken. This practice would limit the adverse effects of having different reporting rules for different programs.

While these examples all concern the implications for food stamp benefits of information a family provides for other programs, program interactions can work in the other direction as well. Several states now push a family's Medicaid eligibility forward based on information the family supplies for food stamp purposes. Illinois, which has 12-month eligibility periods for Medicaid, uses information from food stamp reports or reapplications to extend a family's Medicaid eligibility forward automatically. Thus, for example, if a household applied on April

³⁴ California recently received permission from the Centers for Medicare and Medicaid Services (CMS) to disregard changes in income between redeterminations for families that receive Medi-Cal. However, the state may not implement the change because of budget constraints.

1, it would be approved for Medicaid through March 31 of the following year. If the household submitted a food stamp report on July 1, the state would automatically extend the household's Medicaid eligibility through June 30 of the following year. As a result, families that are up-to-date on their food stamp eligibility never have to come into the office or fill out additional forms to retain Medicaid eligibility.

Deciding on Whether to Act on Changes that Decrease Benefits — Under the federal regulation governing the semi-annual reporting option, if a state learns of a change in a household's circumstances within the six-month period, the state should act on the change only if doing so would increase the household's food stamp benefits. Reports of changes that would decrease benefits are to be acted on at the six-month mark.

However, most of the states that have adopted semi-annual reporting have received a waiver to allow them to act on changes that would decrease benefits as well as changes that would increase benefits. These states concluded that acting on changes in only one direction would require significant computer reprogramming that would delay implementation and that would be difficult for their eligibility workers to understand. While having states act only on changes that increase benefits would provide households with higher food stamp benefits and would be preferable from a quality control perspective, semi-annual reporting with the waiver is preferable to other reporting options. States can always drop the waiver later if their computer issues are resolved.³⁵ According to USDA, the following states have adopted semi-annual reporting without the waiver: Colorado, Missouri, New York, and Oklahoma.

Setting the Length of the Certification Period — Under semi-annual reporting, states may either assign families to 12-month certification periods with a short report due at the six-month mark or require a full reapplication after six months. A longer certification period is preferable for both the client and the state, since the six-month report covers fewer elements of eligibility than a reapplication. In the six-month report, the state need ask the household about only six items: income, household composition, residence, vehicles (if they are not excluded), assets, and a change in child support obligations.³⁶ This is less burdensome for a household than a full reapplication, which covers all the elements of eligibility. It also has QC advantages since if a state uses a report it is held accountable only for changes in the items that were included on the report form. At a reapplication states are accountable for changes in all items of eligibility. (Louisiana uses 12-month certification periods with semi-annual reporting.)

If, on the other hand, the state decides to require a full reapplication at the six-month point, it can make the reapplication process less burdensome by waiving the interview or conducting it over the telephone rather than requiring the household appear in its office.

Informing households of their reporting requirements — To comply with semi-annual reporting correctly, households must understand the gross income limit that applies to their household size. Some states have provided households with a table that indicates the gross

³⁵ USDA's implementation memorandum on the Farm Bill indicates that they will continue to grant waivers under the new provision to allow states to act on changes that would decrease benefits.

³⁶ In addition, states do not need to collect information on more than one month. The semi-annual report can cover only a single month's circumstances.

income limit for all household sizes. The eligibility worker circles the appropriate household size when discussing reporting requirements during the interview. Other states provide only the dollar amount that represents a given household's gross income limit at the time the household is of approved for benefits.

Many households are accustomed to reporting rules that require them to keep the state informed of most changes in their income and household circumstances. When informing households of their new reporting requirement, verbally and in notices, states should make clear that household income rising above the gross income limit is the *only* thing the household is required to report for food stamps. In addition, to protect households that experience a significant deterioration in their circumstances, states should also inform households that they *may* report other changes, and that the state will increase food stamp benefits if appropriate.

For example, a notice could say:

You **must** tell us if your household's income for the month goes above \$_____. This is the **only** thing you must tell us for food stamps during the next six months.

If your income goes down or someone moves into your household who needs food stamps you **can** contact us and we can see if you can get more food stamps.

Establishing Fair Procedures — Like monthly reporting, semi-annual reporting is another version of periodic reporting. Food stamp regulations provide a range of procedural protections to clients participating in monthly reporting. For example, the regulations require that caseworkers inform clients of the monthly reporting and verification rules at the certification and recertification interviews. They require that the household receive a notice if the report form is not complete and be granted time to correct the problem before being terminated. The most important of these regulations can be found at 7 CFR § 273.21-(c), (h), (j), and (k). The Farm Bill Conference Managers makes clear that Congress intended for these rules to be extended to semi-annual reporting as well.³⁷ USDA has not yet had time to update the monthly reporting regulations to address their application to the newly available semi-annual reporting option. States that are shifting from change reporting to semi-annual reporting may wish to review these procedures to ensure that they implement the appropriate procedures and client protections.

Additional Resources

USDA Guidance and Regulations:

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>

³⁷ See the floor statement of Senator Harkin, Chairman of the Senate Agriculture Committee, "The same procedural protections that the Department has long applied to monthly reporting are just as appropriate for any other system of periodic reporting. Just as a household that files a late or incomplete monthly report needs a second chance, so too does a family having trouble with a quarterly or monthly report. In addition, the Americans with Disabilities Act and rules for individuals with limited English proficiency would apply equally no matter what period is covered by the report." 148 Cong. Rec. S.4047 (daily ed. May 8, 2002).

Questions and Answers on the Noncitizen Eligibility and Certification Provisions Final Rule (November 21, 2000 final rule), available at:
http://www.fns.usda.gov/fsp/MENU/NCEP_Q&As.htm

Statute and Regulations on Semi-annual Reporting: Food Stamp Act Section 6(c)(1)(D) [7 U.S.C. § 2015(c)(1)(D)] and Food Stamp regulations at 7 C.F.R. § 273.12-(a)(1)(vii).

Center on Budget and Policy Priorities Materials:

Coordinating Medicaid and Food Stamps: How New Food Stamp Policies Can Reduce Barriers to Health Care Coverage for Low-Income Working Families, available at:
<http://www.cbpp.org/9-14-01fs.htm>

Improving Access to Food Stamps: New Reporting Options Can Reduce Administrative Burdens and Error Rates, available at: <http://www.cbpp.org/9-1-00fs.htm>.

Freezing Deductions

Section 4106, state option, effective October 1, 2002.

Description

This provision gives states the option to freeze most deductions between scheduled reviews of a household's eligibility. The Food Stamp Program has six deductions for expenses that reduce the resources available to the household for purchasing food and are therefore subtracted from a household's gross income in calculating its food stamp benefit.³⁸

- a *standard deduction* to account for basic irreducible costs;
- 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 *child care deduction* of actual child care expenses up to \$200 per child per month for children under age two and \$175 per child per month for other children;
- a *child support deduction* for any payment by a member of the household for legally obligated child support;
- 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* for the amount by which the household's shelter costs (including utilities) exceed *half* of its income after all other deductions have been taken into account.

Under this option states may choose to freeze any or all deductions during certification periods, with two exceptions. States may not freeze the earned income deduction for changes in earnings and states must recalculate the shelter deduction when a household reports that it has moved.

Rationale

Traditionally, food stamp rules on what households must report to state agencies in between scheduled reviews of eligibility have not required reports on changes affecting most deductions. The rules have required households to report on deductions in only two situations: 1) if they move (and the resulting change in shelter expenses), and 2) if there is a change in child support obligations for any household member. Thus, most deductions are already frozen between scheduled reviews unless a household elects to report a change. Nonetheless, some households report changes in deductible expenses as they occur even though they are not required to make such reports. This could happen because the household does not understand that the report was not required, or because a household member experienced a large increase in an expense, for example for medical expenses, that resulted in an increased need for assistance.

³⁸ See appendix for a more detailed discussion of the food stamp eligibility and benefit calculation.

Conversely, a household may not report a change in deductible expenses that it was required to report because it thinks it is a minor change and does not realize that it would affect its food stamp benefits. For these reasons some states have been concerned that deductions are error-prone for state agencies.

This new provision allows a state to decide that it generally will address changes in households' deductions at the same time it undertakes full eligibility reviews. States would still be required to adjust the earned income deduction for reported changes in a household's wages. States also would be required to recompute a household's shelter deduction when the household reports that it has moved.

Implementation Issues

Freezing Deductions Versus Semi-annual Reporting — It will be important for states to evaluate how this provision would work in conjunction with the reporting rules the state has in place for various households. The best approach to freezing deductions is to use semi-annual reporting in lieu of adopting the option to freeze deductions. Under semi-annual reporting, households are not *required* to report any changes except if their income exceeds the program's gross income limit. Thus, deductions are already frozen unless the household elects to report a change that was not required to be reported.

The most likely reason that a household would report a change in expenses that it was not required to report is that it experienced a significant increase in a deductible expense — such as child care, medical care, or child support — that would result in an appreciable increase in food stamp benefits if the agency acted on it. Adopting semi-annual reporting allows the state QC protection, because no changes in expenses are required to be reported, but also protects clients from losing out on large amounts of food stamp benefits if their deductible expenses rise significantly. Under semi-annual reporting, states must act on reported changes that would increase food stamp benefits.

Acting on Reported Moves — Under the option to freeze deductions states need only respond to a change in the shelter expenses as a result of a move *if* the household elects to report the change. When households fail to report that they have moved (or if they were not required to report the move because they were on semi-annual or quarterly reporting), states are not liable for an error under the QC system for failing to adjust the shelter deduction.

Ability to Act Only on Changes That Increase Benefits — Some states have suggested that under this provision they should be allowed to act only on reported changes in expenses that would increase a household's food stamp benefit, as is allowed under semi-annual reporting. USDA's preliminary guidance suggests that this will not be allowed. (See Q&A 4106-3.)

Additional Resources

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>

Transitional Food Stamps

Section 4115, state option, effective October 1, 2002.

Description

This provision allows states an option to provide up to five months of transitional food stamps to families that leave welfare *without requiring the family to reapply or submit any additional paperwork or other information*. The change builds upon an earlier USDA regulation that gave states the option of providing transitional food stamps for *three* months to families leaving cash assistance funded with TANF block grant or TANF maintenance-of-effort (MOE) funds.

During the transitional period the household's food stamp benefit level is frozen at the amount it received prior to its TANF case closure, adjusted for the loss of TANF income. There are two possible exceptions to this freeze: 1) a household may *reapply* in order to have its benefits adjusted, and 2) the state may opt to adjust benefits based on information it receives from another program in which the household participates. If a household is due to reapply for benefits during the transitional period, the state may push back the reapplication or recertification until the transitional period is over.

States may not provide transitional food stamps to families that cease to receive TANF cash assistance because of a sanction or to households that are disqualified from the Food Stamp Program. States may, at their discretion, apply transitional food stamps to all other categories of households that cease to receive TANF, including those terminated from cash assistance for missing appointments.

As of October 2003 nine states have adopted the option. New York implemented the three-month option under regulation late in 2001 and modified their policy effective October 2002 to incorporate the legislative changes. Pennsylvania followed in the summer of 2002. Four states — Arizona, Colorado, Maryland, and Massachusetts — implemented transitional food stamps late in 2002 or early in 2003 and another three states implemented in the summer of 2003: Nebraska, New Mexico, and North Carolina. Several states are actively planning to implement the provision, including California, Connecticut, Oregon, Virginia, and Wisconsin.

States have adopted another of the major new food stamp options — simplified reporting — at a much faster rate. As of October 2003, 41 states either had already implemented this option or were well into the planning stages. Many states viewed simplified reporting as a more important priority because it affects a much larger share of the food stamp caseload. Simplified reporting reduces the administrative costs of food stamp cases and helps reduce error rates. Many states saw that option as a way of managing their caseloads at a time when they are losing staff resources because of tight state budgets. Now that most states have adopted simplified reporting they may wish to turn their attention to transitional food stamps which offers many of the same advantages as simplified reporting. States that have already implemented transitional food stamps are very positive about the option. This paper incorporates information gathered

from conversations with these states so that that their trail-blazing efforts can inform the decisions of the other states.

Rationale

Most families that leave TANF cash assistance programs have low incomes and remain eligible for food stamps when they go to work. Many of these eligible families, however, do not stay connected to the Food Stamp Program when they leave TANF. Research by both the Department of Health and Human Services and the Urban Institute has shown that fewer than half of the individuals who leave TANF cash assistance continue to participate in the Food Stamp Program despite earning low wages and (in most cases) remaining eligible for food stamp benefits.

Additional research by the Manpower Demonstration Research Corporation (MDRC) indicates that many families that leave TANF cash assistance are not aware they remain eligible for food stamps. MDRC also has reported that the steps such families must take to continue receiving food stamps often are confusing or difficult. If families on cash assistance knew they would continue to be eligible for food stamps (and Medicaid) when they obtained a job, MDRC notes, these families might be more likely to look seriously for employment.

The transitional food stamps option is designed to help address these problems. By continuing a family's food stamps based on information the state already has, a transitional benefit can both provide continuity of food stamps and make clear to the family that food stamps are available to families who do not receive cash assistance. Helping families retain food stamps after leaving welfare for work can help make the transition to work more successful and help ensure the families are better off working than on welfare. An added feature of transitional benefits 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 that will reinforce states' "welfare to work" messages.

Transitional food stamps also respond to states' concern that families that leave TANF are error-prone because of their fluctuating circumstances. The correct transitional benefit is based on information that the state already has and is frozen for several months. Households are not required to report changes in their circumstances during the transitional period. As a result, states can have a higher degree of confidence that these households are receiving the "correct" amount. Thus, states should actually have *lower* error rates for families receiving transitional food stamps than they do for the rest of their caseloads.

Implementation Issues

No Contact with the Household is Necessary — States that adopt the transitional benefits provision in the Farm Bill must issue these benefits based on information they already have, without further contact with the household. (Contact with the household is required at the end of the transitional period to assess eligibility for ongoing benefits.) States may not require contact

between the household and the state agency.³⁹ Requiring contact would undermine the purpose of transitional benefits. Many households may not understand that they remain eligible for food stamps after leaving welfare and thus may fail to respond to requests for additional information. This would result in their termination from the program, which is precisely what transitional food stamps are designed to prevent.

The Transitional Benefit Level is the Correct Amount, Even if There Was an Earlier Error in the Case — The correct transitional food stamp benefit for all purposes, including quality control, is the amount of food stamps received in the month prior to TANF case closure, adjusted for the loss of cash assistance (and at state option information from another program). This is true even if there was an error in the case before the household received transitional food stamps. According to USDA's Questions and Answers, "both the State and the household are to be held harmless for inaccuracies in the transitional benefit that are due to prior errors in the food stamp benefit if the transitional benefit is correctly computed based on the benefit during the final month of TANF receipt, even if this benefit was not correct." (See USDA's Q&As, number 4115-6.) As a result, if a state adopts transitional food stamps, families leaving TANF should no longer be considered "error prone."

Which Households Are Eligible — All households that cease to receive TANF cash assistance are eligible for transitional food stamps, except for those that are sanctioned off of TANF and those disqualified from food stamps. If a food stamp household contains members who are not in the TANF unit, the entire food stamp household may still receive transitional food stamps when there is no longer any TANF income.

Some may think of transitional food stamps as similar to transitional Medicaid and apply it only to households that the state knows have left TANF because of an increase in earnings. There is, however, a key difference between transitional food stamps and transitional Medicaid. Transitional Medicaid is designed to provide continued health coverage to families that have lost eligibility for regular Medicaid because of increased earnings. In contrast, transitional food stamps is designed to lessen the paperwork burden of food stamp participation for families that are leaving welfare but likely remain eligible for food stamps. Thus, 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.

Two of the nine states that have implemented transitional food stamp (Colorado and Pennsylvania⁴⁰) apply it only to households that leave TANF with earnings. The other seven states apply transitional food stamps more broadly to households that leave TANF for most other reasons.

³⁹ This is true even without the transitional benefit. Under the food stamp regulations, states must rely on households to report changes in their circumstances in order to adjust food stamp benefits. The fact that the household's TANF case is closed is not sufficient grounds by itself for a state to seek additional information from the household. There must be an indication that something else changed or is unclear about the household's circumstances. See 7 C.F.R. § 273.12(f)(3).

⁴⁰ Pennsylvania plans to expand transitional food stamps to more types of TANF "leavers" early in 2004.

Extending Transitional Food Stamps to Households Unable To Reapply for TANF and Food Stamps — A very common reason for a household to leave TANF is that it was due to have its eligibility for TANF redetermined and did not respond to a notice to come to an interview or otherwise provide information. Frequently, states set the food stamp recertification for the same time, so if a household fails to show up for its interview its TANF and food stamp cases are closed for procedural reasons rather than because the household was determined to be ineligible. Often households that fail to reapply for TANF are, in fact, eligible for food stamps and wish to continue to receive them but do not realize they can do so after leaving TANF. Alternatively, their work schedules may not have permitted them to make a trip to the welfare office.

USDA's Questions and Answers make clear that if the TANF and food stamp certification periods end at the same time, and the household ceases to receive TANF, the state may extend the household's food stamp certification period and provide transitional benefits for up to five months. This will provide a very clear signal to households leaving TANF that food stamps is available as a work support and that their food stamp eligibility is not dependent on participating in TANF. Maryland and Nebraska have taken advantage of this option and extend transitional food stamps to households that fail to reapply for TANF or otherwise fail to complete the TANF reapplication process. New Mexico extends benefits to these types of households as long as there is some contact with the household to allow the eligibility worker to explain transitional food stamps to the household.

The Level of the Transitional Benefit — In many states, 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 TANF income in the month before leaving TANF and that income is removed in calculating the transitional food stamp benefit, the household will qualify for the maximum benefit. Even households that had a small amount of earnings during their last month on the TANF cash assistance program may still qualify for the maximum benefit under transitional benefits. This may ease the concerns of some states and advocates that the freezing of benefit levels under transitional food stamps will cause some households to receive smaller benefits than they might otherwise receive. In these situations, even if the household loses its job during the transitional benefit period or experiences another increase in need, it will already be getting the maximum food stamp benefit available. Preliminary data from Maryland and Nebraska show that for transitional food stamp households the average benefit is about \$300 to \$350 a month.

Of course, if the household's size increases during the transitional period the household may qualify for additional food stamps (even though it is at the maximum benefit for the smaller household size). Such a household will need to reapply for food stamps if it wishes its benefits to be adjusted to include the new household member during the transitional period.

Adjusting the Benefit Based on Information from Another Program — Under the transitional benefit option, states may either freeze the food stamp benefit level at the level received in the month prior to TANF closure (adjusted for only the loss of TANF income) or

adjust the food stamp benefit based on information from another program in which the household participates.

It would be preferable from both the household's perspective and the state's quality control perspective to freeze the benefit without taking into account changes known from other programs. As mentioned above, it is quite likely that in most states the transitional benefit level will be the maximum food stamp benefit available for a given household size; taking household earnings or other income into account would generally reduce the household's benefit. Should a change in a household's circumstances during the transitional period make the household potentially eligible for a higher benefit, it can always reapply and have its benefit level redetermined.

In addition, a state that acts on changes that are reported for another program may have to contact households to request additional information about these changes if it lacks sufficient documentation for food stamp purposes. Such requests would undermine the paperwork-reduction goal of the transitional food stamp option and are likely to result in many procedural terminations of eligible households.

However, some states may have computer difficulties freezing the food stamp benefit and would rather make changes based on information they learn from other programs. It is important to keep in mind that even a transitional benefit with the state option to act on changes reported for other programs can be a large improvement over current practice. In addition, states that adopt transitional food stamps with the option to respond to changes that are known from another program can work to resolve the computer difficulties and convert to the other approach at a later date.

Computer Systems — Adopting the transitional food stamp policy requires modification of computer systems and other administrative policies and practices. States report encountering some challenges, but generally have worked through the problems relatively easily. The principal challenge that states identify is that they 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 they maintain for other programs, such as Medicaid and child care, so that the frozen transitional benefit is what is issued for food stamps.

Some states, including Arizona, Maryland, and New York have aimed to automate the entire process based on the code that the eligibility worker enters to identify the reason for the TANF case closure. In these states eligibility for food stamps, the food stamp benefit level, the authorization of the five-month transitional period, and all notices to households are triggered automatically if the TANF case-closure code is one that renders the household eligible for transitional food stamps. Other states, including Colorado and Nebraska, report systems changes that still leave a greater amount of activity to be completed manually by the eligibility worker.

The states that have implemented transitional food stamps report that systems changes took one to two staff people two to three months to complete. Some states have all in-house staff who do programming, others have a mixture of in-house staff and contractors to do the work. One state, Maryland, estimated that the programming costs of transitional food stamps totaled \$179,000.

Households reapplying for TANF during the Transitional Period — States report that a substantial number of the households that receive transitional food stamps reapply for TANF before the five month transitional period is complete. Because of the variability in low-income household's circumstances, reapplying for TANF was and is quite common even in the absence of transitional food stamps. Studies conducted in the late 1990s found that from 10 to 25 percent of TANF leavers returned to TANF within six months.⁴¹

When households that are on transitional food stamps reapply for TANF the states that have adopted the option continue transitional food stamps during the period that eligibility for TANF cash assistance is being determined (usually up to 45 days) and then certify the household under regular food stamp rules if the TANF is approved. If TANF is not approved the transitional food stamp period continues until the five months are completed. In general, states experience is that even though they have to process a new TANF application, this would have occurred anyway and the fact that the household is on food stamps already saves them some administrative time. In particular, there is no need to process expedited food stamps for these applications because they are already receiving food stamps.

Dual participation — The only situation in which USDA has said that the transitional benefits five-month freeze *must* be broken, other than when the household reapplies for TANF, is if a member of the household moves out and applies for food stamps as part of another household or is reported as a new member of another household. USDA has said that the Food Stamp Act strictly prohibits duplicate participation and that both households' benefits must be adjusted to reflect the change.

Most states that have adopted the option, when faced with this situation, remove from the food stamp calculation the household member(s) and any income and deductible expenses associated with the member(s). They otherwise continue transitional food stamps for the remaining household members based on the same information that was used to originally calculate the transitional food stamps benefit level.

Eligibility Worker Training and Attitudes — States report that some eligibility staff have had difficulty adjusting to the philosophical shift in food stamp eligibility and benefit rules that underlie transitional food stamps. These eligibility workers have been trained to calculate precise food stamp benefits every month based on knowing virtually every relevant detail of current household circumstances. They think that households are potentially getting benefits

⁴¹ Furthermore, these studies generally consider a family to have left TANF after two complete months of not receiving TANF, so the proportion could be higher. See The Urban Institute, *Final Synthesis Report of Findings from ASPE "Leavers" Grants*, November 2001 at <http://aspe.hhs.gov/hsp/leavers99/synthesis02/index.htm>.

they do not "deserve" under transitional food stamps because it is possible their actual circumstances would result in lower benefits.

Some states have found that providing workers with background on the research about TANF leavers and training on the policy rationale that Congress and the President made in enacting the legislation has helped to ease these concerns. States report that they find that these issues are receding with time as staff become used to the changes. In addition, despite their concerns, eligibility staff nonetheless recognize that transitional food stamps is an administrative simplification. Transitional food stamp cases are easier to administer and less prone to QC errors.

Additional Resources

USDA Guidance:

Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill, available at:

http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs.htm

Questions and Answers on the Noncitizen Eligibility and Certification Provisions Final Rule (November 21, 2000 final rule) — Second Section, available at:

http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs-II.htm

Revisions and Additions to the Procedures of the Quality Control (QC) Review Handbook for Fiscal Year (FY) 2004 at: <http://www.fns.usda.gov/fsp/qc/pdfs/memo-03-01.pdf>

Research:

Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, "Leavers" and Diversion Studies, available at:

<http://aspe.hhs.gov/hsp/leavers99/index.htm>.

Fewer Welfare Leavers Employed in Weak Economy, Pamela J. Loprest, The Urban Institute, August 2003, available at http://www.urban.org/UploadedPDF/310837_snapshots3_no5.pdf.

Who Returns to Welfare, Pamela J. Loprest, The Urban Institute, September 2002, available at http://www.urban.org/UploadedPDF/310548_B49.pdf.

Former Welfare Families Continue to Leave the Food Stamp Program, Sheila Rafferty Zedlewski and Amelia Gruber, The Urban Institute, March 2001, available at:

<http://www.urban.org/Template.cfm?Section=ByTopic&NavMenuID=62&template=/TaggedContent/ViewPublication.cfm&PublicationID=7309>.

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Access to and Participation in Medicaid and the Food Stamp Program: A Review of the Recent Literature, M. Robin Dion and LaDonna Pavetti, Mathematica Policy Research, Inc., March 2000, available at:

http://www.mathematica-mpr.com/PDFs/redirect_PubsDB.asp?strSite=accessfullrpt.pdf

Post-TANF Food Stamp and Medicaid Benefits: Factors That Aid or Impede Their Receipt, Janet Quint and Rebecca Widom, Manpower Demonstration Research Corporation, 2001, available at:

<http://www.mdrc.org/Reports2000/UrbanChange/Post-TANFFoodStamp/PostTANFBenefits2000.pdf>

Food Stamp Use Among Former Welfare Recipients, Cynthia Miller, Cindy Redcross, Christian Henrichson, Manpower Demonstration Research Corporation, 2002, available at:

http://www.mdrc.org/Reports2002/USDA_WorkingPaper/USDA_Mil

Alternative Procedures for Residents of Certain Group Facilities

Section 4112, state option to operate a pilot project, effective October 1, 2002.

Description

This provision allows states on a pilot basis to test issuing standardized benefits to residents of certain group facilities. The standardized benefit would be in lieu of the regular food stamp benefit and would be developed by the state taking into account the food stamp benefits typically received by residents of the covered group facilities.

Covered facilities could include:

- facilities that operate drug or alcohol treatment programs;
- certain small group living arrangements that serve elderly or disabled persons;
- shelters for battered women and children; or
- homeless shelters.

The law grants USDA the authority to make the standardized benefit for group facilities a state option nationwide if, after conducting the pilot projects, USDA finds that would be in the best interest of the Food Stamp Program.

Rationale

Residents of most institutions — for example, prisons and hospitals — are not eligible for food stamps. There are exceptions, however, for residents of five types of institutions: those listed above plus residents of certain federally subsidized housing for the elderly and disabled. Residents of these institutions apply as individual households and their benefit levels are determined under the same rules as for other households.

Under current policy, residents of drug or alcohol treatment facilities are treated somewhat differently from residents of other group living facilities in that if they wish to participate in food stamps they *must* participate through an “authorized representative” designated by and affiliated with the center. An authorized representative is someone chosen by the household to act on its behalf — usually because the household members would have difficulty completing the process on their own. In effect, in the case of residents of drug or alcohol treatment centers, the food stamp benefit is a subsidy to the center for the meals it serves to the resident. Other residents of group living facilities may, and usually do, apply for food stamps on their own and use their food stamps to purchase food on their own, either because they have relatively short stays in shelters, they need to obtain some or all of their meals outside the shelter, or the shelter provides kitchen facilities where the household prepares its own food. In some cases residents of these facilities may choose to use an authorized representative who may or may not be affiliated with the facility.

A few states have advocated for a standardized benefit for residents of certain group facilities in lieu of the regular food stamp benefit formula as a way of simplifying administration of food stamps for this population. The standardized benefit would be based on the typical food stamp benefit for residents of such institutions prior to the pilot. Only the benefit level would be different: residents of facilities in states that participate in the pilot would still have to apply for

food stamps and have their eligibility determined in the food stamp office. There are no changes to the rules regarding authorized representatives.

Implementation Issues

Protecting the Rights of Residents of Battered Women's Shelters and Homeless Shelters — This provision was designed to simplify the food stamp benefit structure for people who live in institutions and are unable to manage their own food stamps. It allows a standardized benefit in situations where the facility would have served as the household's authorized representative anyway. It does not change the rights of individuals who reside in facilities other than drug and alcohol treatment facilities to apply for and receive food stamps under regular food stamp rules on their own behalf. States cannot require these individuals or facilities to participate in a standardized benefit.

Furthermore, the pilot is probably impractical for these types of institutions. Individuals who spend time in homeless or domestic violence shelters are often there for very short periods of time, making it difficult for states and these facilities to administer. This proposal better suits institutions serving residents for at least a couple of months.

Handling Benefits For Those Who Leave Mid-Month — The statute includes some requirements on centers and the state to try to ensure that individuals and families who leave centers in mid-month will have access to food stamps for the remainder of the month. States will need to consider creative ways to ensure that centers report promptly when an individual leaves the center and that individuals are informed that they can continue to receive food stamps after they leave the center.

Employment and Training Programs

Section 4121, new funding levels mandated as of May 13, 2002, state implementation optional.

Description

This provision grants states significant new flexibility to design and operate their employment and training programs and also reduces federal funding for these programs.

The Food Stamp Employment and Training (FSET) program was established in 1985 to provide food stamp recipients with employment and training opportunities that will lead to paid employment. FSET has two federal funding sources: the federal government provides a set amount of funds annually for which no state match is required, and states may draw down an unlimited amount of additional federal funds at a 50 percent match.

As a part of the 1996 welfare law, Congress established a strict three-month time limit for receipt of food stamps by childless unemployed adults who are not working more than 20 hours per week or participating in an approved work activity. States are not *required* to provide work slots to individuals facing the three-month cut off, but to help states provide more work slots for these individuals, in 1997 Congress increased federal funding for FSET and imposed new limitations on states' use of FSET funds to encourage states with FSET programs to target them on childless unemployed adults.

The Farm Bill made several changes to FSET:

- Federal funding for the basic FSET grant was set at \$90 million per year for fiscal years 2002 through 2007, a reduction of \$75 million per year compared to the prior level. Any funds that a state fails to spend in the year in which the funds will carry forward into future years to be reallocated amongst all states.
- The federal government will provide an additional \$20 million per year to reimburse states that guarantee a work slot to all unemployed childless adults facing the three-month time limit. These funds are available only in the year they are allocated.
- Unspent funds from fiscal year 2001 and prior years were rescinded.
- Several limitations on states' use of FSET funds were removed. These include the requirement that states spend 80 percent of their FSET grant to provide work slots to individuals facing the three-month time limit, the requirement that states maintain their 1996 level of state spending in order to obtain the increased federal funding made available in 1997, and the cap on the federal reimbursement for each FSET work slot.
- Finally, the \$25 cap on the federal reimbursement for FSET participants' work-related expenses (such as transportation) was lifted. States receive a 50 percent match for reimbursing these expenses.

NOTE: After the passage of the Farm Bill, Congress rescinded an addition \$24 million in unspent FSET funds as a part of the FY2002 Supplemental Appropriations, P.L. 107-206.

This one-time cut will not affect new funds in FY2003, but it will reduce the amount of FY2002 funds that carry forward into FY2003.

Rationale

The three-month time limit on food stamp benefits for childless unemployed adults can penalize individuals who are willing to work but unable to find jobs. In addition, states find the time limit rules complex and difficult to administer. States also wanted more flexibility in operating their employment and training funds. The Senate-passed version of the Farm Bill would have addressed all of these issues. It eased and simplified the overly harsh time limit. In addition, it gave states more flexibility on the use of their employment and training funds. At the same time, the Senate version of the Farm Bill reduced funding for FSET in order to offset the costs of these changes.

Unfortunately, the final version of the Farm Bill did not ease the three-month time limit, but instead only adopted the changes to FSET, reducing states' funds from the FY2002 level but keeping funding above the 1996 amount. In addition, states were granted significant new flexibility to tailor programs for individuals subject to the time limit without caps on work slots and other restrictions.

The Farm Bill also gives states the flexibility to lift the \$25 cap on reimbursements for FSET participants' work expenses, which traditionally have been used to help cover transportation costs. States have long argued for the discretion to set the work expense cap at a level that best suits their needs, especially since they share in the costs of the cap. Transportation costs can be a real barrier to food stamp recipients seeking to participate in a work activity — especially in rural areas, where recipients sometimes must travel long distances to the work activity. Even in urban areas with mass transit, the monthly cost of going to and from a work activity can easily exceed \$25.

Implementation Issues

The single biggest challenge in implementing the new employment and training provision will be how to use the existing and newly enacted flexibility to maintain services to individuals facing the three-month time limit despite the reduction in federal FSET funding. Unemployed childless adults who participate in food stamps face significant hardships that can impair their ability to find employment. About half of these individuals have no income; many have limited skills and education.

Providing Work Slots to Individuals Subject to the Time Limit with Smaller FSET Grants — In response to the reduction in FSET funds, states can reduce the number of individuals facing the time limit and then target scarce FSET funds on those most in need of a work slot. There are two ways to reduce the number of individuals facing the time limit:

- *Area Waivers* — States may waive the time limit in geographic areas with insufficient jobs; in fiscal year 2002, some 42 states had area waivers. USDA automatically grants states waivers for areas that the U.S. Department of Labor (DOL) has designated as “labor surplus areas” (LSAs) or that have an unemployment rate of 10 percent or higher. USDA also routinely grants waivers for areas that are not on the LSA list but have unemployment rates similar to

those of areas that are on the list. For example, USDA will approve waivers for any area designated by a state in which the unemployment rate for a recent 24-month period exceeded the national unemployment rate for that period by at least one-fifth. (This formula is similar to that used by DOL to determine LSAs.)

Only about half of the states with waivers in fiscal year 2002 applied for every area in the state that qualified. Some states, such as Louisiana, Maine, and Montana, recently have applied to expand the number of areas waived in the state. States that could have waived more areas in 2002 include: AL, CA, CO, GA, ID, KS, KY, MA, MD, MI, MS, ND, NE, NH, NJ, NM, NY, NV, OH, OK, SC, TX, UT, VA, WY, and WV. The Center on Budget and Policy Priorities routinely provides analysis to states in support of their area waivers. Interested states should contact the Center.

- *Exempting Individuals from the Time Limit* — Each year USDA allocates states a certain number of exemptions from the time limit. States may structure their exemption policies in any way they choose. Some states, including Maine, target exemptions on specific populations (such as the homeless). Other states use exemptions to delay the time limit for all individuals that would be subject to it. In Missouri, for example, the time limit does not hit until after 6 months. Still other states, such as Florida and Illinois, use exemptions in combination with waivers to expand the size of areas exempt from the time limit.

Reducing the number of individuals facing the time limit does not undermine a state's emphasis on work. States may still subject exempted individuals or those living in a waived area to a work requirement. An aggressive waiver and exemption policy, however, allows a state to provide less expensive services to those living in waived areas, such as structured job search (see below), rather than the more intensive and costly work slots which allow individuals subject to the time limit to remain on the program, such as a 20 hour per week training program. This allows states to target much-needed resources at those who are facing the time limit.

Accessing the Additional \$20 Million Fund — Prior to passage of the Farm Bill, states that committed or pledged to provide a qualifying work slot to every individual in his or her last month of food stamp eligibility faced less restrictive FSET reimbursement rules. As of fiscal year 2002, 17 states were "pledge" states.⁴² The Farm Bill continues the tradition of rewarding states that are committed to serving individuals subject to the time limit by providing an additional \$20 million each year to be allocated among "pledge" states. States in need of additional FSET funds to serve those facing the time limit may wish to consider "taking the pledge" to obtain these new federal funds. To allocate funds equitably, USDA requires that states inform it of their commitment prior to the beginning of each fiscal year as a part of the state's annual FSET plan.

Redesigning Work Activities for Individuals in Waived Areas — Because of the reduction in federal FSET funds, states are likely to target those funds at individuals facing the time limit

⁴² The pledge states in FY 2002 are: AL, CO, DE, FL, IL, IA, MI, MS, MO, NE, OR, SD, TN, TX, UT, WA, and WV.

who live in non-waived areas. One approach would be to redirect all services to non-waived areas. Another approach would be to provide individuals in waived areas with less expensive services, such as job search or job training opportunities that entail less than 20 hours per week.

Prior to passage of the Farm Bill, however, a state's ability to follow this latter approach was hampered by the federal requirement that states spend no more than 20 percent of their annual FSET grant on activities for individuals not subject to the time limit. This requirement has frustrated states that want to provide job search training or less intensive training activities to these individuals. In a recent survey, virtually all (99 percent) of state officials surveyed said that they believed job search was the most helpful FSET service to provide to individuals who are ready for jobs but lack work experience.⁴³

The Farm Bill provision removes the limitation on a state's flexibility to spend FSET funds on activities for individuals not subject to the time limit. Thus it will allow states to run FSET programs of their choosing — including programs that provide less expensive services — in waived areas.

It is critical, of course, that states continue to provide individuals that are subject to the time limit and live in *non*-waived areas with qualifying work slots. Without a qualifying work opportunity, these individuals will lose their food stamps even if they are willing to work.

Using FSET to Serve Families — Because the Farm Bill removes the requirement that states spend 80 percent of their FSET grant on work slots for individuals facing the three-month time limit, some states may plan to expand FSET services to low-income families (who do not face the time limit). However, states should note that they may not use FSET funds to expand employment and training services to families with children participating in the state's TANF program beyond the level of FSET funding the state used to serve these types of families in 1995. Congress placed this limitation on FSET in 1996 to ensure that states did not use FSET funds in lieu of TANF funds to pay for employment and training programs for TANF families.

In addition, states will need to build a child care component into the FSET services they provide to families. Generally, states cannot require a parent to participate in FSET unless adequate child care is available for the parent's school-age children.⁴⁴ The Food Stamp Program does provide an open-ended 50 percent match to reimburse the costs of child care associated with an FSET program.

Lifting the \$25 Cap on Reimbursements for Client Work Expenses — Many states are likely to evaluate whether to lift the \$25 cap on participant reimbursements this fall. They may also wish to consider expanding the list of expenses they will reimburse. In fiscal year 1999, virtually all states (45) provided FSET participants with some kind of support services, such as assistance with transportation or other job-related expenses. Many of these states limited

⁴³ *Imposing a Time Limit on Food Stamp Receipt: Implementation of the Provisions and Effects on Food Stamp Program Participation*, John L. Czajka, Sheena McConnell, Scott Cody, and Nuria Rodriguez, Mathematica Policy Research, Inc., September 2001, p. 129.

⁴⁴ 7 C.F.R. § 273.7(m) and § 273.22(f)(5)(ii). Households with children under age 6 typically cannot be required to participate in a food stamp employment and training program.

reimbursements to transportation and work supplies or uniforms, but a few states — often at their own expense — provided reimbursements for a wider array of expenses, including testing and licensing, clothing for interviews, medical services, eyeglasses, books and manuals, driver's education, car repairs, and driver's licenses. Now that the \$25 cap no longer applies, it may be feasible for more states to provide reimbursements to FSET participants for a broad range of job-related services. Since states share in the costs of these reimbursements, they enjoy significant latitude in determining how to structure the reimbursements.

Additional Resources

USDA Guidance:

Implementing Information and Instructions: Food Stamp Employment and Training Provisions of the Farm Security and Rural Investment Act of 2002, June 21, 2002, available at: www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillE&TImplementingMemo.htm.

Fiscal Year 2003 Federal Employment and Training Program Grants, July 3, 2002, available at: www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillFY03E&TGrantsMemo.htm.

\$20 Million ABAWD E&T Allocation for Fiscal Year 2002, available at: [www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill\\$20MillionFY02ABAWDE&TAllocationMemo.htm](http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill$20MillionFY02ABAWDE&TAllocationMemo.htm).

Research:

Imposing a Time Limit on Food Stamp Receipt: Implementation of the Provisions and Effects on Food Stamp Program Participation, John L. Czajka, Sheena McConnell, Scott Cody, and Nuria Rodriguez, Mathematica Policy Research, Inc., September 2001, available at: www.fns.usda.gov/oane/MENU/Published/FSP/FILES/Program%20Design/abawd.pdf

State Use of Funds to Increase Work Slots for Food Stamp Recipients: Report to Congress, Christopher Botsko, Vivian Gabor, Susan Schreiber, and Susan Pachikara, August 2001, available at: www.ers.usda.gov/publications/fanrr15/.

Center on Budget and Policy Priorities Materials:

Overview of the Food Stamp Time Limits for People Between the Ages of 18 and 50, available at: www.cbpp.org/12-8-00fa1849.htm

Many Areas that Qualify for Waivers Do Not Appear on the Department of Labor's List of Labor Surplus Areas, available at: www.cbpp.org/12-7-00faLSA.htm.

Implementing the Individual Exemptions From the Food Stamp Three Month Time Limit, available at: www.cbpp.org/12-11-98faexemp.htm.

Quality Control

Sections 4118 and 4120, generally effective for fiscal year 2003 performance.

Description

The Farm Bill included a major reform of the food stamp quality control system. It eliminates the feature of current law by which about half the states must be in sanction each year, focusing the quality control system on substantially fewer states with serious, persistent payment accuracy problems. The bill reconfigures the sanction formula, so that states can no longer incur unreasonably high sanctions and sets out new guidelines on the settlement of sanctions between the states and USDA. Finally, the QC reform package provides for new performance bonuses in lieu of enhanced funding.

Sanctions

- The threshold for sanctions is set at 105 percent of the national average, rather than the national average as under current law. This change means that states with error rates modestly above the national average will not be considered to be above the threshold.
- A state is not considered to be above the threshold unless there is a 95 percent statistical certainty that the state's error rate is truly above the threshold. In other words, if the quality control review shows that a state's error rate is above the threshold, USDA will perform a standard statistical test to determine the likelihood that the measured error rate exceeds the threshold only due to sampling error. Unless this statistical test shows that there is a 95 percent chance that the state's *true* error rate exceeds the threshold (in other words, the chance that the state has fallen victim to sampling error is five percent or less), a state will not be considered to have exceeded the threshold.
- States will not be subject to a sanction until the second consecutive year in which their error rates exceed the threshold. This means that in any given fiscal year, only states whose error rates exceeded the threshold the previous year are at risk of being sanctioned.
- For states that are subject to sanction, the amount of the sanction is determined by multiplying the total amount of food stamp benefits issued in the state during the year in question by ten percent of the amount by which a state's error rate exceeds six percent. For example, consider a state that issued \$100 million in food stamps in the fiscal year and had an error rate of 12 percent. Assume that this state was above the threshold for its second consecutive year. The amount of the sanction would be \$100 million times ten percent times six percent (the state's twelve percent error rate minus six percent), or \$600,000.
- Each year that a state is in sanction, as under current law, any or all of the state's sanction may be waived by USDA. While the Secretary is not required to continue adjustments for states with a high or rising number of earners and legal immigrants, current law authority to adjust sanctions remains.

- USDA may require the state to reinvest up to 50 percent of the sanction. USDA also has the authority to hold up to 50 percent of the sanction “at risk,” to be paid by the state the following year only if the state’s error rate continues to exceed the threshold. Sanction amounts that are not reinvested or held at risk must be waived. The bill does not give USDA the authority to collect any sanctions during the year in which they are applied.
- If a state fails to reduce its error rate to below the threshold after exceeding the threshold in the previous year, it must pay its “at-risk” amount to the federal government.
- When USDA determines a state is above the threshold, the Governor and state legislature must be notified. Error rates for a given fiscal year will now be announced by June 30 of the following year.
- States with combined overpayment and underpayment error rates over 6 percent will continue to be required to provide a corrective action plan to USDA.

Bonuses

- The current system of enhanced funding is eliminated and replaced with \$48 million per year in new performance bonuses to states.
- Bonuses will be provided to states with the best or most improved performance on measures relating to actions taken to correct errors, reduce rates of error, and improve eligibility determinations and other indicators of effective administration. USDA will design the new performance bonus system, including the establishment of other indicators of effective administration, in consultation with organizations representing state interests.

Implementation

- The current quality control system will remain in place for the FY2002 error rates.
- The new sanction system will be in effect for the purposes of the FY2003 error rates. FY2003 will represent “year one” in terms of sanction assessment. This means that while some states will exceed the threshold in FY2003, they cannot receive sanctions. FY2004 will be “year two” and thus the first year that sanctions will be applied under the new system.
- USDA must establish an interim performance bonus system for FY2003 and FY2004. It will likely announce criteria for the interim bonuses in September 2002. The new bonus system, effective beginning in 2005, will be established through regulations and likely will be based on the interim bonuses, while taking into account information from consultations with states and from public input via the regulation process.

Rationale

Prior to reauthorization a consensus had emerged among states, USDA, advocacy groups, and other policy makers that the food stamp quality control system exerted an inappropriate influence on state policy. Because states with error rates above the national average were subject to sanction, half the states were set up to be viewed as failures each year. As a result, many states increased paperwork requirements on families and required families to reapply for food stamps more frequently in an effort to monitor households they viewed as error prone. These policies appeared to have significantly reduced food stamp participation, especially among the working poor.

The new system will focus penalties on the few states with consistently high error rates. If the farm bill provisions had been in effect between 1996 and 2000, between 6 and 7 states would have been in sanction each year.⁴⁵ This is a much more appropriate number than the average of 23 states that were in sanction each year during that period under the old system. FNS will still provide technical assistance and work with states that have high error rates but are not in sanction, but states can now implement new options to improve access and risk allowing their error rates to rise temporarily due to the implementation of new policies or the introduction of a new computer system without fearing being subject to a fiscal sanction.

Implementation Issues

Payment Accuracy Remains an Important Program Component — Reform of the QC system should lessen the pressure that states feel to adopt policies that impede access to the Food Stamp Program. However, because the benefits are 100 percent federally-funded, the QC system is still an important tool for monitoring state stewardship of federal funds. USDA will continue to publicize error rates. In addition, all states with error rates above 6 percent will need to prepare and act on corrective action plans.

Hold Harmless Period from QC Errors for Mandatory and Optional Provisions — USDA's recent Questions and Answers says that states will be held harmless for 120 days from any QC errors that result from misapplication of the new provisions. For mandatory provisions, such as the standard deduction change, states will be held harmless for 120 days from the mandated implementation date. For the optional provisions, the state will be held harmless for 120 days from the date the provision is initially implemented. These protections give states some leeway in implementing new policies before mistakes count against them for QC purposes.

Additional Resources

For a description of the QC system see *Understanding Food Stamp Quality Control*, Center on Budget and Policy Priorities, available at: <http://www.cbpp.org/4-30-01fs2.htm>.

For information on the 120 day QC variance period see *Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill*, available at:

⁴⁵ The estimated number of states excludes the effects of adjustments to error rates for states with large or increasing shares of households with earned income or immigrants. The Farm Bill does not make any change to USDA's authority in this area, but for simplicity of comparison the adjustments were excluded. If USDA continues the adjustments, fewer states will be subject to sanction.

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBill2002Q&APkg.htm>

Other Policy Issues of Interest Not Addressed in the Farm Bill

Two provisions that were included in the Senate version of the Farm Bill did not make it into the final Farm Bill because the conferees determined that states already have the flexibility necessary to adopt these policies. They are described below.

Simplified Procedure for Determination of Earned Income

The Senate Farm Bill included a provision to allow states to multiply weekly paychecks by four and biweekly paychecks by two to compute monthly income. The idea was to eliminate confusion between working households paid biweekly and those paid semi-monthly. Because states would use the same procedure for biweekly and semi-monthly income, eligibility workers would no longer need to determine on which schedule a worker was paid. When taking this option, the state would adjust the earned income deduction downward for its entire caseload to ensure cost-neutrality.

Typically, states must convert the earned income of a household paid weekly or biweekly into a monthly figure in order to calculate gross income. States multiply the household's average weekly pay by 4.3 since there are 4.3 weeks in the average month. If the household is paid every two weeks, the state can multiply its average paycheck by 2.15 to calculate its monthly income. A few states reported that it can be difficult to tell the difference between biweekly and semi-monthly pay schedules. In each case, the household typically is paid about every two weeks. Many low-wage workers may not know themselves whether they are paid biweekly or semi-monthly. The state will be charged with a quality control (QC) overpayment error if the eligibility worker believes that the household is paid semi-monthly (and therefore multiplies the household's average paycheck by two) but a subsequent QC review determines that the household was paid biweekly (and thus should have had its average pay multiplied by 2.15). Conversely, if the eligibility worker multiplies by 2.15 when she or he should have multiplied by two, the state will be liable for a QC underpayment error.

The provision was not included in the final Farm Bill because under current regulations, states may use for food stamps the conversion standard they apply in their public assistance program (usually TANF).⁴⁶ [See 7 C.F.R. § 273.10(c)(2)(i).] Because the result of multiplying weekly or bimonthly income by a smaller number would result in a slightly lower attribution of income to households and modestly higher food stamp benefits, there is no harm to households if states wish to adopt this procedure. States may also use the same conversion rules for expenses (such as shelter costs) if they need to be converted from weekly or biweekly to a monthly figure. [See 7 C.F.R. § 273.10(d)(5).]

⁴⁶ See Senator Harkin's, Chairman of the Senate Agriculture Committee's floor statement, "The Senate bill included a simplification in the procedures states use to convert weekly and biweekly earnings into monthly income. However, the Department's current regulations already allow states to do that if they follow these same conversion procedures in TANF. Accordingly, the legislative provision was not adopted, but USDA should encourage more states to take the regulatory option." 148 Cong. Rec. S4047 (daily May 8, 2002).

Using TANF for Food Stamp Program Information Efforts

The Senate-passed bill also contained a provision explicitly to allow states to use TANF or TANF maintenance-of-effort (MOE) funds to pay for state administrative costs related to providing information about the Food Stamp Program. HHS policy was ambiguous about whether states could use TANF funds to inform low-income families about the Food Stamp Program. The confusion arose because of unintended effects of 1998 legislation that sought to address some unresolved issues surrounding the responsibility of the Food Stamp Program and the TANF block grant for the cost of administrative activities that benefit both programs.

For example, if a state wished to publish a pamphlet to inform TANF applicants and recipients about the work support programs available to them, it could use TANF funds to discuss child care subsidies, Medicaid, the earned income tax credit, the child tax credit, transportation assistance programs, etc. If the state also wished to mention food stamps, however, it was unclear whether the state would have to undertake a complex cost allocation exercise to ensure that the correct share of those costs was charged to the Food Stamp Program because the Food Stamp Act prohibits states from spending TANF funds on any activities that could be reimbursed instead as food stamp administrative expenses.

The managers' statement that accompanied the Farm Bill asserts that "it is current policy to allow states to use TANF (and "maintenance of effort") funds for food stamp informational activities directed to families, [as] long as they do not also charge these same costs to the Food Stamp Program. The managers expect the Secretary [of Agriculture] and the Secretary of Health and Human Services to issue guidance that clearly informs states of this policy." HHS issued such guidance in the form of a revised Question and Answer in August 2002, which can be found at: <http://www.acf.dhhs.gov/programs/ofa/polquest/usefunds.htm#revised14> and is reproduced below.

[REVISED]Q14: May States use TANF and/or MOE funds for SCHIP outreach and Food Stamp Program (FSP) informational activities? If yes, are such costs considered administrative costs?

A: States may use TANF and MOE funds for SCHIP outreach activities that will improve access of needy families to SCHIP benefits. In May 2002, Congress clarified that States may use TANF and MOE funds, Food Stamp funds, or a combination of both funding streams for Food Stamp Program (FSP) informational activities directed to families, as long as the same costs are not charged more than once. Food Stamp informational activities include activities that inform low-income families about the availability, eligibility requirements, application procedures, and the benefits of the Food Stamp Program. Activities associated directly or indirectly with individual FSP certification are not considered informational.

Any such expenditures by a State would not count against its administrative cost caps. The final rule at §263.0(b)(1)(i) cites the example of providing program information as an example of an activity that is excluded from the definition of administrative costs. Similarly, we would exclude the cost of providing information to needy families about related services or programs for which they might be eligible.

In deciding whether to use TANF or MOE funds for SCHIP outreach and/or Food Stamp informational activities, States need to keep in mind basic program and cost principles. States may only use Federal TANF or State MOE funds for allowable TANF or MOE

expenditures. This generally means that a Federal TANF or State MOE funded benefit or service must be reasonably calculated to accomplish a TANF purpose. For example, we believe that Food Stamp informational activities and SCHIP outreach services are reasonably calculated to accomplish the first of the four TANF purposes: to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives. Because expenditures on activities that accomplish this TANF purpose are restricted to the "needy," Federal TANF funds may only be used for the portion of the outreach/information expenditures that are attributed to low-income families meeting the State's income and resource (if applicable) standards established for this activity. This determination must be based on a sound methodology that enables the State to arrive at a reasonable estimate of the TANF-eligibles benefiting from the service vs. the non-eligible population. The document known as the ASMB C-10, which is entitled The Cost Principles and Procedures For Establishing Cost Allocation Plans and Indirect Cost Rates For Agreements with the Federal Government, provides guidance on the allocation of costs eligible for reimbursement under more than one program.

According to 45 CFR 263.2(b), MOE funds may only be used to help eligible family members -- namely, a financially eligible ("needy") family that consists, at a minimum, of a child living with a relative or a pregnant woman. Hence, as explained above, to claim any MOE expenditures for outreach activities, a State must have a sound methodology that enables it to identify and claim only the portion of total qualified expenditures for benefits that have been provided to or on behalf of eligible families.

APPENDIX: A QUICK GUIDE TO FOOD STAMP ELIGIBILITY AND BENEFIT CALCULATION

Eligibility for food stamps and the food stamp benefit level are determined for each household that applies.⁴⁷ A “food stamp household” consists of individuals who live together in the same residence and who purchase and prepare food together. To be eligible for benefits, the household’s income and resources must fall below three key thresholds:

- First, the household’s *gross* monthly income — that is, its income before any deductions are applied — generally must be at or below 130 percent of the federal poverty level. (For a family of three, the poverty level in federal fiscal year 2002 is \$1,220 a month. Thus, 130 percent of the poverty line for a three-person family is \$1,585 a month or about \$19,000 a year. The poverty level is higher for bigger families and lower for smaller families.)⁴⁸
- Second, the household’s *net* income must be less than or equal to the federal poverty level. (Net income is the household’s income after deductions are applied.)
- Third, the household’s assets must fall below certain limits.⁴⁹

The food stamp benefit for is based on the expectation that families will purchase food using both the food stamp benefit 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 available, or net, income. A household’s net income is its 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

⁴⁷ This section focuses on the food stamp eligibility rules that apply to most low-income people. There are some categories of people who 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.

⁴⁸ 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.

⁴⁹ 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 member to have assets of \$3,000 or less. The 2002 Farm Bill changes the law to apply the \$3,000 resource limit to households with an elderly *or disabled* member as of October 1, 2002. These limits also do not apply to households that are categorically eligible for food stamps. The market value of most vehicles above a threshold (currently \$4,650) has historically been counted toward the asset limit, though recent legislation grants states significant flexibility to apply less restrictive vehicle asset rules. (For more information on the Food Stamp Program’s treatment of vehicles as assets, see two Center on Budget and Policy Priorities reports: *New State Options to Improve the Food Stamp Vehicle Rule*, January 19, 2001, available at <http://www.cbpp.org/1-16-01fs.htm> and *States’ Vehicle Asset Policies in The Food Stamp Program*, revised February 13, 2002, at <http://www.cbpp.org/7-30-01fa.htm>.)

intended to provide adequate nutrition at a modest cost. The table below shows the maximum food stamp benefit levels in fiscal year 2002 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 — a monthly food stamp benefit of \$452. Another family of four that has \$500 in net monthly income would receive the maximum benefit (\$452), minus 30 percent of its net income (30 percent of \$500 is \$150). Thus, that family's monthly benefit would be \$452 - \$150, or \$302.

Deductions play an important role in the Food Stamp Program by taking into account certain household expenses in determining the household's net income, which is considered to be the amount of income that is available to purchase food. Not all of a household's income is available for purchasing food because some income must be used to meet its other needs. In determining available (or net) income, the following deductions from the household's gross monthly income are allowed:

- a *standard deduction* to account for basic irreducible costs;⁵⁰
- 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 *child care deduction* of actual child care expenses up to \$200 per child per month for children under age two and \$175 per child per month for other children;
- a *child support deduction* for any payment by a member of the household of legally obligated child support;⁵¹
- 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 net income after all other deductions. The excess shelter deduction is limited to \$354 in 2002 unless at least one member of the household is elderly or disabled.⁵²

⁵⁰ In 2002 the standard deduction is \$134 for all households. The 2002 Farm Bill restructures the standard deduction to recognize that larger households have greater expenses than smaller ones. In 2003 the standard deduction will be \$134 for households of 1 to four persons, \$147 for households of five, and \$168 for households of six or more. See the section of paper on the standard deduction provision for more information.

⁵¹ The 2002 Farm Bill creates a state option to replace the current deduction for amounts paid in child support with an income exclusion in the same amount. See earlier section of paper.

⁵² 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>.

The households that participate in the Food Stamp Program claim these various deductions at different rates. Three of the deductions are claimed by a significant share of food stamp households. All households can receive the standard deduction. Over half (59 percent) of all households claim the shelter deduction, while about one quarter of households (and 43 percent of households with children) claim the earned income deduction. By contrast, the child care, child support, and medical expense deductions are claimed by small shares of food stamp households (four percent, one percent, and four percent, respectively).⁵³

Maximum Food Stamp Benefits By Household Size

Household Size	Maximum Monthly Food Stamp Benefit, 2002
1	\$135
2	\$248
3	\$356
4	\$452
5	\$537
6	\$644
7	\$712
Each Additional Person	\$102

⁵³ Source: Center on Budget and Policy Priorities' analyses of food stamp Quality Control data, for fiscal year 2000. Some households that claim deductions do not benefit from them. For example, eight percent of households have no gross income and therefore receive the maximum food stamp benefit even without any deduction; in other cases, the standard deduction by itself may be enough to give a household the maximum benefit level, so that other deductions become superfluous.