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November 9, 2015

## Protecting SNAP and Child Nutrition From Appropriations Lapses

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The Supplemental Nutrition Assistance Program (SNAP) and the child nutrition programs (school lunch, school breakfast, summer meals, etc.) are the only major entitlement programs whose beneficiaries are at risk of two types of failures in the annual appropriations process: a government shutdown, especially at the beginning of the fiscal year, and annual funding that proves inadequate to cover the programs' needs for the entire fiscal year. Such failures can leave low-income families and children unable to afford food and risk confusion and harm to food retailers and schools. The Appropriations Committees can address this problem by extending to these programs the same basic protections given other key entitlement programs.

The most recent shutdown brinksmanship, in September, highlighted the need for action, as the Department of Agriculture (USDA) had to warn states and retailers to prepare to cease SNAP operations in mid-October if Congress failed to act because USDA had available only about half a month's worth of funding for October SNAP benefits.<sup>1</sup> State and county SNAP agencies around the country had to divert key resources from basic program operations to begin preparing for an unprecedented shutdown of the SNAP program.

For many other entitlement programs that Congress funds through the annual appropriations process — such as veterans' compensation and pensions, Medicaid, and Supplemental Security Income (SSI) — the Appropriations Committees provide protection against one or both types of appropriations failures. Table 1 lists \$512 billion of funding for 19 annually appropriated programs paying in-kind or cash entitlement benefits to families and individuals; some 80 percent of that amount is protected from both shutdowns and inadequate funding, and 99.6 percent is protected from at least one such failure. SNAP and child nutrition are the main exceptions, and SNAP faces the greater risk because child nutrition can receive transfers from the "Section 32" permanent appropriation.<sup>2</sup>

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<sup>1</sup> USDA had \$3 billion for SNAP at the start of fiscal year 2016 (because the FY 2015 SNAP appropriation provided a "benefit reserve" of \$3 billion, which remained available through September 30, 2016). SNAP costs are currently running about \$6 billion per month, so that amount would fund approximately half a month's worth of SNAP benefits. In the last two shutdowns, SNAP benefits have not been at risk: during the shutdown of the mid-1990s, the Agriculture Appropriations bill had been enacted, and in 2013 USDA drew on authority from the 2009 Recovery Act, but that authority has since expired.

<sup>2</sup> Section 32 dedicates 30 percent of annual customs receipts to farm sector support. In recent years, this has generated around \$9 billion annually, with approximately \$8 billion of that amount transferred to the child nutrition

## The Need for Advance Appropriations and “Such-Sums” Protection

Some entitlement programs that provide cash benefits or in-kind benefits (such as health insurance) to all eligible people who enroll, in the amounts prescribed by law, do not require annual appropriations because the laws establishing them provide funding directly. Examples are Social Security, military retirement, and the Earned Income Tax Credit.<sup>3</sup>

But various other similar entitlement programs receive funding through the annual appropriations process. They are known as “appropriated entitlements.” Examples include: veterans’ disability compensation, pensions, and education benefits; Medicaid; SSI; foster care; child support enforcement and family support; federal retiree health and life insurance benefits; federal employee unemployment insurance; and SNAP and the child nutrition programs. Such programs<sup>4</sup> are potentially subject to the vagaries of the annual appropriations process, which entails two separate risks for them:

- **No funding due to a shutdown.** A political impasse over one or more of the 12 appropriations bills might preclude their enactment by the October 1 start of the fiscal year, leaving no funding for a wide variety of activities. This would seriously disrupt many programs, but is of particular concern for appropriated entitlements such as SNAP that provide direct assistance to needy individuals and families, who rarely can get by for the days or weeks it may take to resolve such disputes.

A simple solution exists: appropriations bills can provide funding for the budget year and, via an “advance appropriation,” funding for some or all of the following fiscal year. That way, even if political brinkmanship leads to a shutdown at the start of the fiscal year, entitlement programs with advance appropriations are already funded (at least for the first part of the year) and so would not shut down. Many key appropriated entitlements receive such advance appropriations: Medicaid; SSI; and veterans’ compensation, pension, burial, and education benefits, for example.<sup>5</sup> (See Table 1.) Advance appropriations for this purpose are not a recent innovation; Medicaid has received them since 1971 and SSI since its creation in 1974.

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programs. The transferred funds are commingled with annually appropriated funds and used to reimburse schools and other entities for meals provided through the child nutrition programs. Because Section 32 has a permanent appropriation, the funds can be transferred to the child nutrition programs without an annual appropriations law. The amount transferred has generally exceeded the cost of operating the child nutrition programs for the first quarter of the fiscal year, although it would run out under a more protracted shutdown.

<sup>3</sup> Except for crop insurance (see footnote 4), the other Agriculture Committee entitlement programs, such as farm price supports through the Commodity Credit Corporation and conservation programs, fall into this category. Their funding derives from permanent law, not annual appropriations, so they are not at risk for either type of funding lapse. Other entitlement programs funded outside the annual appropriations process include civil service retirement; Medicare; DoD’s Medicare-eligible retiree health care; unemployment insurance; deposit insurance through the FDIC; the Pension Benefit Guarantee Corporation; the Children’s Health Insurance Program; Temporary Assistance for Needy Families; the child care entitlement to states; the refundable portion of the child tax credit, the American Opportunity Tax Credit for college, and the premium (health insurance) tax credit.

<sup>4</sup> We exclude appropriated entitlements from Table 1 when there is a looser relationship between beneficiaries and funding, and the harm caused by a shutdown or inadequate funds consequently is lower. Some of these annual appropriations are accrual payment or other subsidies paid to a retirement or health trust fund where there is no risk of trust fund inadequacy even if the annual appropriation is delayed or insufficient.

We also exclude crop insurance from Table 1 because payments go to the insurance companies to cover part of the claims they pay; the companies have a substantial ability to cover for the federal government during a shutdown or if funding is inadequate, under the understanding that they will be made whole later.

<sup>5</sup> The advance appropriations for appropriated entitlements provided by the Labor - HHS - Education subcommittee cover the first three months of the next fiscal year. The advance appropriations provided by the Military Construction -

- **Inadequate funding.** Even if there is no shutdown, the Appropriations Committees might specify a funding level for these programs that seems adequate when the appropriations legislation is being considered but turns out to be inadequate, e.g., if the economy weakens, making more people eligible for benefits. What happens if funding proves inadequate?<sup>6</sup>

Again, the solution is simple: appropriations bills can provide “such sums as may be necessary” to fulfill the requirements of the underlying entitlement law. Here again, some key appropriated entitlements receive “such-sums” funding: Medicaid; SSI; health and life insurance benefits for federal annuitants; and important social service benefits such as foster care, child support enforcement, and family supports, for example.<sup>7</sup> (See Table 1.) Like advance appropriations, “such-sums” funding is not a new idea; Medicaid has had this protection since 1971 and SSI since 1974.

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Veterans Affairs subcommittee for most veterans’ entitlement benefits will start with the FY 2016 appropriations bill and cover all of the next fiscal year, in this case FY 2017. Note also that ever since the FY 2010 appropriations bill, the veterans’ health care system, which is not an entitlement as such, likewise receives full-year advance appropriations and so is not at risk of a government shutdown. As explained below, an advance appropriation for the first part of the fiscal year is almost as effective as a full-year advance appropriation in protecting against the threat of a shutdown.

Temporary, stop-gap appropriations bills (known as continuing resolutions or CRs) are generally first enacted by October 1, the start of the fiscal year, and often extended one or more times if the political or logistical logjam preventing enactment of full-year appropriations continues. Shutdowns can come either if the first CR is not enacted by October 1 or (in the continued absence of full-year appropriations) if an extension of the CR is not enacted when the initial CR expires. The biggest risk to SNAP and child nutrition occurs if there is a shutdown on October 1. Later shutdowns entail less risk because, ever since FY 2004, temporary CRs have included a provision effectively extending the funding for most appropriated entitlements for 30 days *beyond* the CR’s general expiration date. For instance, if a general shutdown started November 5 after a first CR expired, entitlement payments due on or about December 1 would still be paid. The shutdown (which would seriously disrupt *non*-entitlement programs) would have to last a month or more before putting such entitlement funding at risk. For this reason, the main shutdown threat to appropriated entitlements occurs at the beginning of October because a shutdown at that time would mean both a lack of regular appropriations and the absence of the provision granting an extra 30 days of funding for most entitlements.

<sup>6</sup> The SNAP authorizing law, Section 18(b) of the Food and Nutrition Act of 2008, instructs the Secretary of Agriculture to reduce SNAP benefits across the board if he or she determines that appropriations are not sufficient. This provision has never been used; Congress enacted supplemental appropriations in the late 1970s and 1980s and since then appropriations have always been sufficient.

In the current political environment, however, supplemental appropriations are a rarity. If appropriations proved inadequate, across-the-board cuts could be necessary. (Amendments to Section 18 since its initial enactment have left the benefit-reduction mechanism unclear, raising the likelihood of litigation blocking an attempt to scale back benefits.) In any event, it would be far preferable for the appropriation to provide sufficient funding so that low-income families avoid a benefit cut and other stakeholders (such as food retailers, debit card processors, and program administrators) avoid the disruption and confusion that the need to trigger across-the-board benefit cuts would cause.

<sup>7</sup> The such-sums appropriations for these programs vary in form but not substance. For example, such-sums funding for payments of federal annuitants’ health and life insurance benefits, retirement pay and medical benefits for retired public health service officers, public safety officers’ benefits, black lung disability benefits, and vaccine injury compensation payments are simple such-sums appropriations covering the entire fiscal year. In apparent contrast, Medicaid, SSI, foster care, and child support enforcement, among other programs, receive a definite appropriation (a specified dollar amount) intended to cover most of the fiscal year *as well as* a such-sums appropriation for the last few weeks or months of the fiscal year. The two approaches are really the same. If the definite appropriation cannot stretch for the whole fiscal year, the such-sums funding will take effect in time to guarantee that *total* funding for the year will be sufficient even if caseloads or benefit levels prove to be higher than initially expected.

TABLE 1

## Treatment of Appropriated Entitlements in Annual Appropriations Legislation

(Programs Providing In-Kind or Cash Benefits)

<b>Program</b>	<b>Subcommittee</b>	<b>2015 funding, in billions <sup>a</sup></b>	<b>Advance funding?</b>	<b>“Such- sums” funding?</b>
Grants to states for Medicaid	Labor-HHS	\$343	Yes	Yes
Supplemental Nutrition Assistance Program (SNAP)	Agriculture	78	no	no
Veterans’ compensation, pensions, and burial benefits <sup>(b)</sup>	MilCon-VA	73	Yes	no
Supplemental Security Income (SSI)	Labor-HHS	55	Yes	Yes
Child nutrition	Agriculture	21	no	no
Veterans’ readjustment (education) benefits <sup>b</sup>	MilCon-VA	14	Yes	no
Government payments for annuitants, employees’ health benefits	Financial Services	12	no	Yes
Payments for foster care and permanency	Labor-HHS	7	Yes	Yes
Payments for child support enforcement and family support	Labor-HHS	4	Yes	Yes
Retired pay, Coast Guard	Homeland	1	no	no
Federal unemployment benefits and allowances	Labor-HHS	1	no	Yes
Retirement pay and medical benefits for commissioned officers	Labor-HHS	1	no	Yes
CIA retirement and disability system	Defense	1	no	no
Black lung disability trust fund	Labor-HHS	*	no	Yes
Vaccine injury compensation program trust fund	Labor-HHS	*	no	Yes
Veterans’ housing benefit program fund	MilCon-VA	*	no	no
Special benefits for disabled coal miners	Labor-HHS	*	Yes	Yes
Special benefits (FECA)	Labor-HHS	*	no	Yes
Public safety officer benefits	Justice	*	no	Yes
Veterans’ insurance and indemnities <sup>(b)</sup>	MilCon-VA	*	Yes	no
Government payments for annuitants, employees life insurance	Financial Services	*	no	Yes

<sup>a</sup> Congressional Budget Office estimates as of March 2015

<sup>b</sup> First provided via advance funding for FY 2017, at the request of the Obama Administration, in the (pending) FY 2016 House and Senate Military Construction – Veterans Affairs appropriations bills

\* less than \$500 million

## **Conclusion**

Of the 21 appropriated entitlements we have identified that provide in-kind or cash benefits to all enrollees, funded at a combined \$610 billion in 2015, only five lack any protection against appropriations failures: SNAP and child nutrition, funded at \$98 billion in 2015, and Coast Guard and CIA retirement benefits and the veterans' housing benefit programs, with combined funding of about \$2 billion.

SNAP and child nutrition are large and important programs, and their beneficiaries can suffer serious difficulties from appropriations failures. The Appropriations Committees can address this by giving these programs the protections that Congress affords, in whole or part, to the other \$510 billion in funding for appropriated entitlements that provide cash or in-kind benefits.