



STATEMENT SECRETARIES' INNOVATION GROUP

Endorsed by Members, November 19, 2014 Meeting, Washington DC

One out of every seven Americans currently receives Food Stamps. The Supplemental Nutrition Assistance Program (SNAP), which is known as Food Stamps, has quadrupled in cost since 2001, and has doubled in cost since President Obama took office in 2008. States face an uphill battle on reforming this program. Federal regulations and laws are not designed to best ensure integrity and effectiveness in the program, and the federal administering agency, Food Nutrition Service (FNS) puts up roadblocks to reform whenever possible.

A common sense approach is needed in Washington D.C. to allow states the ability to ensure welfare benefits are being used appropriately. Despite intense opposition, States have made significant strides in some areas to tackle fraud, waste and abuse in the system. For instance, several states have implemented photos on Electronic Benefits Cards (EBT) and are requiring working-age, non-disabled adults to meet work requirements.

Measures underway by states, and the reforms proposed below are aimed at deterring fraud, protecting legitimate beneficiaries and securing taxpayer's peace of mind that the Food Stamp program is best serving the people of the United States. With the help of reform-minded voices in Congress, States can move forward with significant and meaningful reforms to this important program.

FOOD STAMP PROGRAM PROBLEMS AND RECOMMENDED SOLUTIONS

1) The "Nutrition" program allows the purchase of soda, candy and other harmful products

PROBLEM: The Supplemental Nutrition Assistance Program is intended to subsidize

nutrition for needy families. Instead it is fueling the Obesity problem in America. Too many recipients are utilizing their benefit to purchase items that are not only void of nutrition, they are damaging to their health. “More than one-third of adults and 17% of youth in the United States are obese,” according to the Journal of the American Medical Association.¹

The Obesity epidemic, driven in part by poor choices in Food Stamp purchasing, costs the U.S. and states billions of dollars. According to a Health Affairs study, the medical costs associated with Obesity are an estimated \$147 billion in 2008.² This massive spending certainly includes state’s Medicaid programs, which is a major cost driver in state and federal budgets.

Examples of real purchases made in Maine in 2013 with SNAP benefits:

- Multiple Red Bulls
- RockStar Energy Drinks
- 1-LB Bag of Reese’s Peanut Butter Cups
- 3 gallons of Hershey’s Ice Cream (one purchase)

SOLUTION A: Recommend that allowable SNAP purchases mirror allowable purchases in the Women, Infants and Children (WIC) program. SNAP purchases should be healthy and nutritious choices.

SOLUTION B: At a minimum, ban the purchase of harmful products with no nutritional value that are commonly purchased at “convenience” stores, like energy drinks and other sugar-sweetened drinks (Red Bull, RockStar, Mountain Dew) and candy.

2) Key SNAP purchase data is not available to States

PROBLEM: Micro-level transaction data which shows how SNAP benefits are being spent is not available to the States because the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) does not allow its capture or dissemination. This data would provide an objective, measurable picture of where reforms are needed to ensure the program is effective in providing essential nutrition for those in need.

SOLUTION: Require FNS and SNAP-EBT vendors (i.e. Xerox) to capture all SNAP transaction-level data and make it available to States. Transparency on how SNAP dollars are spent (Mountain Dew vs. Milk) is important to inform program officials, legislators and the public on what changes are needed in the program to ensure its effectiveness.

3) EBT card traffickers can easily avoid prosecution

PROBLEM: Electronic Benefit Transfer (EBT) cards are regularly trafficked for cash and illegal

¹ <http://jama.jamanetwork.com/article.aspx?articleid=1832542>

² <http://content.healthaffairs.org/content/28/5/w822.full.pdf+html>

drugs. A suspected trafficker encountered by Law Enforcement might have multiple EBT cards on them, or a card that does not have their name or picture. The potential trafficker can claim they are authorized by the household to use the card and if the Law Enforcement agent cannot contact the household the card was issued to, there is nothing else they can do. This issue is often cited by Law Enforcement and Fraud Investigators as the number one reason EBT/SNAP traffickers avoid prosecution.

SOLUTION: Amend 7 CFR 273.2(3) to allow only individuals who have been certified in writing as an "Authorized Representative" to possess and use the EBT card for purchases. States will collect and retain information on the authorized representative(s) for the case and can verify if possession of the EBT card is legitimate. In addition, the number of "authorized representatives," that are not part of the household, should be limited to no more than three individuals at a given time.

4) No federal requirement for Photos on EBT cards

PROBLEM: Photos on EBT cards is permitted by federal law but discouraged by restrictive federal rules and in practice by FNS.

SOLUTION: Require photos on all EBT cards nationwide. Photos on EBT cards deter potential criminal activity, allow for quick basic checks of card ownership by law enforcement and protect legitimate users against theft.

5) There is no federal requirement for positive identification and verification

PROBLEM: Photo ID is permitted by law but discouraged by FNS. The transition to online applications, where Photo ID is not a factor, facilitates fraudulent applications.

SOLUTION: Federally required in-person application meetings with a requirement that a valid photo ID is produced to ensure the individual applying is the person they claim to be.

6) Unlimited replacement cards encourage EBT card trafficking

PROBLEM: If an EBT card containing a SNAP benefit is trafficked, it is likely the individual will request a replacement card in order to facilitate a new illicit transaction the next month when the benefits are loaded back on the account. Excessive card replacements are a top red-flag indicator of fraud. While states can monitor excessive card replacements, there is no restriction on total number of cards issued in a given time period. In addition, federal rules do not allow states to charge an individual more than the actual cost of producing a replacement EBT card. This doesn't allow states to discourage trafficking or losing EBT cards through financial penalty.

SOLUTION: Restrict the amount of replacement cards an individual can request in a twelve-month period. Require an individual to have a face-to-face interview with an eligibility

specialist for initial replacement request, and with a fraud investigator present to explain the reason for more than one card replacement request. No more than two replacement cards per 12 month period.

7) “Convenience stores” need more stringent requirements to participate in SNAP

PROBLEM: The “convenience store” category of EBT retailers is of particular concern (e.g. gas stations, food marts, party stores). The majority of EBT trafficking occurs in these venues. These establishments typically do not stock the type of eligible food products that satisfy the original intent of the SNAP program. EBT redemptions typically far exceed eligible food inventory at these locations.

SOLUTION A: Amend 7 CFR 278.1(8) - Increase the minimum eligible food inventory requirements of the four major food groups to be stocked for sale at convenience store category retailers. Current federal requirements of 3 items of each of the four major food groups are too minimal. Increasing daily food inventory requirements will require convenience store retailers to make an inventory investment to become authorized for EBT redemptions. Currently, convenience stores have minimal requirements and investment to become authorized.

An alternative option is to require EBT retailers to submit food inventory records on a frequency basis (quarterly or semi-annually) in order to reconcile with EBT redemptions. This could serve as a deterrent to trafficking redemptions. This option requires increased staffing resources to review inventory records, however.

SOLUTION B: Increase financial assurance requirements to participate as an EBT Retailer.

SOLUTION C: Increase penalties for non-compliance with retailer requirements (monetary penalties).

SOLUTION D: Increase the frequency of compliance inspections at convenience store category retailers.

8) States are unable to prosecute retailer fraud and remove retailers from SNAP

PROBLEM: The USDA’s Office of Inspector General (OIG) has sole responsibility and authority over retailer fraud investigations and enforcement in all states. There are very few agents assigned to perform this extremely important task. For example, there are just two agents covering Maine and they have other responsibilities in the rest of New England. There as few as four in the state of Michigan. Additionally, the USDA OIG agents tend to focus on larger and more high profile cases, limiting states ability to shut down smaller, convenience store type locations with fraudulent activity.

SOLUTION: Allow States the opportunity to utilize state OIG's and state fraud investigatory entities to investigate and enforce violations on retailer fraud. For instance, Michigan's DHS OIG has 133 agents throughout Michigan who work closely with Law Enforcement and the Michigan Attorney General's Office. This type of state-based unit is better positioned to investigate and enforce EBT retailer trafficking violations in the SNAP program. At a minimum, allow for state pilots of this model.

9) Cooperation with fraud investigators is not mandated by federal regulation

PROBLEM: Recipients suspected of trafficking typically fail to appear for OIG and fraud investigation interviews. Time and resources are wasted in attempts to locate these individuals. EBT has allowed recipients mobility without notifying the department of address changes, as the EBT benefits are electronically loaded on their EBT card monthly. Their location is irrelevant.

SOLUTION A: Federal requirement that when an individual fails to cooperate with a fraud investigation (definition of "cooperate" to be determined), the result is immediate case closure and termination of benefits, with potential penalty commensurate with actual fraud determination (e.g. suspension of any eligibility for a period of time).

SOLUTION B: Disallow out-of-state EBT redemptions, OR create limited time period exceptions for out-of-state redemptions. Residency requirements are questionable for extended periods for out-of-state EBT redemptions.

10) Federal waivers allow for reduced work requirements and decrease program integrity

PROBLEM: Several federal waivers of SNAP requirements have allowed States to eliminate work requirements, allow individuals with assets to gain benefits and general weakened integrity in the program.

SOLUTION: Recommend eliminating all waivers to move the food assistance program toward the original intent of the law. Waivers include but are not limited to the following:

- a. Asset Test – Eliminating the asset test waiver will bring the SNAP program into alignment with the Food Stamp Act as it was originally written.*
- b. Eligibility – Eliminate all categorical eligibility and simplified reporting waivers. The elimination of these waivers will go a long way in improving program integrity with the SNAP program.*
- c. ABAWD – Eliminating the ABAWD waiver will make participation in employment and training a requirement for all able bodied adults without dependents who are receiving SNAP benefits. This population is considered to be work ready and*

should participate in employment and training as a requirement of receiving food assistance.

11) The definition of “Household” is weak and allows duplicate benefit in household

PROBLEM: Federal rule allows two individuals, living in the same household, to be defined as separate “households” if they “purchase and prepare” food separately. This can easily be manipulated to produce a dual benefit for a household that does not truly “purchase and prepare” their food separately (i.e. 27 year old living with parents claiming to buy and cook themselves).

SOLUTION: Revise language in 7 CFR 273.1 to eliminate the option for separate “purchase and prepare” within one household.

12) “Simplified Reporting” allows for gaps in program integrity

PROBLEM: Federal rules allow for “simplified reporting” that gives states the option to only require individuals on SNAP to report household or income changes at intervals (monthly, semi-annually, annually). The intent is to make administration easier, but it creates the ability for individuals to go months without reporting a change that could impact their benefit.

SOLUTION: Change federal rules to eliminate the option for states to do “simplified reporting” and instead require individuals to report changes in household or income as they happen to ensure accurate and up-to-date information related to their case.

13) SNAP Education funds would be better utilized for employment and training

PROBLEM: SNAP-Education (SNAP-ED) funds are used for largely ineffective efforts to train SNAP recipients on healthy eating. There are limited funds available for state employment and training programs.

SOLUTION: Reallocate federal SNAP-ED funds for employment and training. In addition, recommend employment and training is mandatory for all SNAP recipients except for elderly, disabled, and children.

14) Increase financial incentives for States to pursue fraud, waste, and abuse

PROBLEM: States are only able to retain 35% of funds collected from intentional program violations (IPVs) or fraud to reinvest in program integrity efforts.

SOLUTION: Allow States to retain at least 50% of funds collected from IPVs or fraud to reinvest in program integrity efforts.

15) Illegal alien families receive an increased benefit because of unreported income

PROBLEM: Illegal alien families with citizen children obtain a higher benefit than they should be eligible for because unreported income of the parent/adult is not counted. In a family where all members are citizens, all income is required to be reported and counted.

SOLUTION: Federal Food Stamp amount for these families should be set at the same level as for comparable child-only cases from among citizen families. This would eliminate disparity between the two scenarios. As a minimum alternative, the greater of the stated income or imputed income should be applied when calculating the benefit.