



**Testimony to the  
Senate Standing Committees on Aging and Social Services**

On changes to the federal Supplemental Nutrition Assistance Program (SNAP) and the Official Poverty Measure (OPM)

**Submitted by:**

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Thank you for the opportunity to provide comments regarding proposed federal changes to SNAP and the OPM, and their anticipated impact to New Yorkers.

Hunger Solutions New York is a statewide anti-hunger organization dedicated to alleviating hunger for all New Yorkers. Our organization's primary approach to addressing hunger is to maximize participation in the federally-funded nutrition assistance programs - SNAP, the School Breakfast Program, the Summer Food Service Program, the Child and Adult Care Food Program (CACFP), and WIC.

We base our perspective on our 30 years of experience managing the Nutrition Outreach and Education Program (NOEP). NOEP is one of the largest SNAP outreach, education and application assistance programs in the country. Full-time coordinators assist clients in 55 of 62 counties, providing SNAP application assistance, home visits, translation services and referrals to other nutrition assistance programs and to [www.mybenefits.ny.gov](http://www.mybenefits.ny.gov). In FY18-19, NEOP Coordinators assisted more than 28,000 households with receiving SNAP benefits.

In addition, our organization consults with and provides resources to non-profit organizations, schools and other agencies to improve access to nutrition assistance programs across the state, and to help make their anti-hunger efforts more efficient and effective.

SNAP, which is administered by the USDA, is recognized as the nation's most important anti-hunger program. Without SNAP, hunger in this country would be far worse. In 2018, SNAP lifted 3.2 Million Americans out of poverty.<sup>1</sup> Similarly in New York State, SNAP is the first line of defense against hunger. The following statistics help define the populations who are food insecure and who benefit from SNAP.

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<sup>1</sup> Food Research and Action Center, 2019

## Many New York families struggle to put food on the table:

10.5% of households (7.8 M households) were “food insecure,” or struggled to afford a nutritionally adequate diet, according to USDA.<sup>2</sup>

### In 2017 in NYS:<sup>3</sup>

- 2.9 Million NY residents or 1 in 7 people participated in SNAP
- More than 55% of SNAP recipients are in families with children
- Almost 46% are families with members who are elderly or have disabilities
- More than 43% are in working families

### SNAP Recipients in NYS are Poor:<sup>4</sup>

- 50% have incomes between 51-100% of poverty,
- 25% have incomes at or below 50% of poverty, and
- 25% have incomes above 100% of poverty.
- The average countable gross income of SNAP families in NYS in 2017 was \$984 per month.<sup>5</sup>

### SNAP Benefits in NYS:<sup>6</sup>

SNAP allocates benefits according to need. Very poor households receive more SNAP benefits than households closer to the poverty line since they need more help affording food.

- SNAP recipients in NYS received \$4.74 billion in SNAP benefits in 2017.
- Average monthly SNAP benefits by household type is:
  - \$239 for all households
  - \$399 for households with children
  - \$304 for households with earned income
  - \$179 for households with seniors
- SNAP benefits were spent at 18,600 grocers, farmers markets, and many other authorized retailers, boosting NYS local economies and sustaining jobs.
- In 2017, New York processed \$3.4 million in EBT transactions through 221,051 transactions at 243 farmers market sites, providing healthy, nutritious food to nearly 60,000 New York households<sup>7</sup>.

It is important to state that the NYS Office of Temporary and Disability Assistance has consistently demonstrated its commitment to serving as many people as possible at the state level by seeking administrative streamlining, taking advantage of state options, and implementing policies that improve access for the most vulnerable New Yorkers.

Despite the eligible population’s need for food assistance and the value to recipients and the economy, SNAP is under attack at the Federal level. Congress reviewed SNAP policy during the 2018 Farm Bill and considered and rejected substantial changes to the program. Since then, USDA has sought to achieve a

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<sup>2</sup> Food Research and Action Center, [https://www.frac.org/maps/food-security/tables/tab1\\_foodinsecurity\\_2016\\_2018.html](https://www.frac.org/maps/food-security/tables/tab1_foodinsecurity_2016_2018.html)

<sup>3</sup> [https://hungersolutionsny.org/wp-content/uploads/2019/03/CBPP-co-brand-snap\\_factsheet\\_new\\_york.pdf](https://hungersolutionsny.org/wp-content/uploads/2019/03/CBPP-co-brand-snap_factsheet_new_york.pdf)

<sup>4</sup> [https://hungersolutionsny.org/wp-content/uploads/2019/03/CBPP-co-brand-snap\\_factsheet\\_new\\_york.pdf](https://hungersolutionsny.org/wp-content/uploads/2019/03/CBPP-co-brand-snap_factsheet_new_york.pdf)

<sup>5</sup> USDA, Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2017, February 2019

<sup>6</sup> [https://hungersolutionsny.org/wp-content/uploads/2019/03/CBPP-co-brand-snap\\_factsheet\\_new\\_york.pdf](https://hungersolutionsny.org/wp-content/uploads/2019/03/CBPP-co-brand-snap_factsheet_new_york.pdf)

<sup>7</sup> <https://www.governor.ny.gov/news/governor-cuomo-calls-usda-protect-snap-recipients-access-farmers-markets>

set of changes that would limit SNAP eligibility and reduce benefits, changes that have already been rejected by Congress.

To date this year, the Trump Administration has proposed three rules that would cut SNAP benefits.

### **1. Elimination of ABAWD Waivers**

Federal law limits SNAP eligibility for childless unemployed and underemployed adults age 18-50 (except for those who are exempt) to just three months out of every three years unless they are able to obtain and maintain an average of 20 hours a week of employment. This policy was established in 1996 but was waived in New York and most other states when unemployment spiked during the recession. New York's statewide waiver expired, and the time limit was reinstated, in 2016.

Hunger Solutions New York has been concerned about the three-month time limit as this policy has cut off food assistance to so many who are in need just because they are unable to find a reliable 20-hour-a-week job. We have been educating and assisting community organizations around the ABAWD time limit rule since the fall of 2015. We have created and distributed resources for community organizations serving this population to ensure that eligible SNAP recipients in New York State are not wrongly cut off and are given information to comply, or learn if they qualify for an exemption.

Under the law, New York and other states have the flexibility to request area waivers for locations within their state that have experienced elevated unemployment. The rules governing area eligibility for waivers have been in place for nearly 20 years and New York, along with almost every state has availed themselves of waivers at some point since the time limit became law. For the calendar year 2019, USDA approved the following waivers for NYS: 37 counties (34 counties outside of NYC and 3 counties in NYC), 6 jurisdictions, and 6 community districts in Manhattan and Queens.

These waivers are critical in New York, as our state is large and includes diverse communities and challenges that affect our many counties, cities, and towns. The waiver rules are reasonable, transparent, and manageable for states to operationalize. Through these waivers, tens of thousands of under and unemployed SNAP recipients have been able to keep their benefits while looking for work.

Earlier this year, USDA proposed to essentially eliminate geographic waivers by tightening the conditions under which a waiver can be granted. If the proposed rule was to be put into effect, NYS would lose an estimated 89% of their current waivers, newly subjecting at least 107,000<sup>8</sup> people to the time limit in areas that have been determined by the state and the county to have insufficient jobs or job placement opportunities, or that have transportation barriers and other difficulties that make meeting the 20-hour work requirement impossible.

Hunger Solutions New York strongly opposes any administrative action by USDA that would expose more people to this cutoff policy. Any change that would restrict, impede, or add uncertainty to New York's current ability to waive areas with elevated unemployment should be rejected.

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<sup>8</sup> OTDA, 2019

## 2. Elimination of Categorical Eligibility

The current policy of Broad-Based Categorical Eligibility (or Cat EI) allows states to eliminate the SNAP asset test, and use a slightly higher income test so that more working families, families with children, seniors and people with disabilities with significant housing and dependent care expenses can still qualify for SNAP.

New York is one of 40 states that effectively uses this option to ease the benefit cliff for working households. It allows families, seniors, and people with disabilities to maintain modest savings without losing food assistance; and make it easier and more cost effective to administer SNAP in our state.

Cat EI policies have been in place for more than two decades. Congress rejected changes to Cat EI during the 2005 budget reconciliation and most recently during the 2018 Farm Bill.

However, the USDA recently issued a proposed rule eliminating Broad-Based Categorical Eligibility. The proposal would result in the loss of all monthly SNAP benefits (\$97.00 on average) for over 206,000 individuals in NYS or 7% of people currently receiving SNAP<sup>9</sup>.

School age children in households that lose SNAP eligibility would also lose eligibility for free school meals. These children would suffer the risk of increased hunger at school and at home. Since childhood hunger is linked to academic struggles, difficulty focusing and concentrating, mental health disorders, and increased behavioral referrals, many schools would struggle to meet the educational, health, and mental health needs of the students who lose SNAP benefits and as a result, access to free school meals.

Original estimates indicated that 39,000 children in NYS would lose automatic eligibility for free school meals. However, on October 17<sup>th</sup>, USDA released an updated analysis, essentially doubling the estimate for the number of school age children whose eligibility for free and reduced price school meals are potentially affected. It is unclear how many more children in NYS would be impacted. Some children in SNAP Households would lose eligibility entirely, others would need a parent or guardian to complete a school meal application to reestablish eligibility, a step that even USDA acknowledges many families fail to do. For families that do apply, many would shift from free eligible to reduced eligible, putting additional financial demand on the state (NYS provides additional reimbursement for reduced price meals to cover the cost of the student copay). As a result of the updated USDA analysis, the public comment period on the proposed rule will reopen for 14 days.

Together, the proposed rules on ABAWD and Cat EI are estimated to negatively impact over 313,000 New Yorkers<sup>10</sup>. The proposed rules received a combined 200,000 comments from food banks, policy advocates, legal services, faith-based organizations, unions, business leaders and government officials from across the country. Our organization expects a similarly robust response to the next harmful proposal we will discuss below and we hope that the volume of comments in opposition to these proposed rules will discourage the administration from publishing detrimental final rules, and prevent increasing hunger for low-income people in communities across our state.

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<sup>9</sup> <https://www.mathematica.org/dataviz/impact-of-bbce-proposal-on-snap-caseloads>

<sup>10</sup> <https://www.mathematica.org/dataviz/impact-of-bbce-proposal-on-snap-caseloads> and OTDA, 2019

### **3. Standardization of State Heating and Cooling Standard Utility Allowances**

Current law requires the SNAP program to recognize the utility expenses of each SNAP applicant household and adjust the benefits issued based on the Standard Utility Allowance (SUA) calculated by the state and approved in the state plan. The current policy allows variances in SUAs to accommodate for differences in utility costs and rates, and allows state flexibility in how they calculate those costs. It is no surprise that New York along with other Northeast states have relatively high heating costs, just as Southern and states have relatively high cooling costs. The most recent proposed rule by the USDA would standardize calculations across the country and set the SUA to an amount lower than what would be needed to meet the costs of utilities for many New Yorkers.

Nationwide, the proposed change is estimated to reduce SNAP benefits by \$4.5 billion over a five-year period. The USDA estimates that 20 percent of the national SNAP caseload will be impacted, though it is unknown what percentage of those impacted live in New York.

Leveling the SUA amounts across the country down rather than up, despite the well-documented fact that benefits for all recipients are currently inadequate, means even fewer people will be able to afford the food they need to last them through the month. We will urge the administration to abandon this proposal.

#### **Intent to Lower the Official Poverty Measure (OPM) Line**

Hunger Solution New York pays very close attention to SNAP and Child Nutrition Programs because they play a critical role in addressing hunger and food insecurity in our communities and are the first line of defense against hunger for low-income people in our state. Through our work, Hunger Solutions New York witnesses every day that the federal measures do not accurately capture the extent of poverty in communities across New York State.

It has long been understood that the OPM is incomplete and outdated. It was first set during the Johnson Administration after research showed that low-income families at the time spent about one-third of their income on food. Since then, it has been increased for inflation, but without a serious revision based on current spending patterns. Today's families with children, for example, spend a high percentage of their income on housing and childcare. Similarly, not all income sources are included in the OPM (also known as the Poverty Threshold).

Earlier this year, the Office of Management and Budget (OMB) posted an intent to change the way the annual inflation adjustment is calculated, which would cause the poverty threshold to grow more slowly over time, with the result that more people would fall above the income-eligibility cutoffs. The poverty thresholds are a research tool used in estimating the number of people living in poverty. They are used in developing the poverty guidelines; if the thresholds grow more slowly because of a change in the adjustment for inflation, it would result in people losing some or all assistance from programs they would otherwise have qualified for.

This was not an official proposed rule, nor were public comments solicited. Nevertheless, Hunger Solutions New York and thousands of advocates across the country provided written feedback on this intended change.

Any change to the factors that determine poverty thresholds and affect poverty guidelines should build on existing research that suggests the OPM is too low for most types of households, and that shrinking the inflation adjustment will make it less accurate, not more. The Bureau of the Census has begun this kind of research, developing the Supplemental Poverty Measure, which counts income sources such as SNAP and refundable tax credits, as well as more accurately accounting for expenditures such as housing, child care, and out of pocket medical expenses. The Supplemental Poverty Measure shows a somewhat higher poverty level and rate for most types of households, as compared to the OPM.

We know that households just above the poverty line report higher than average food insecurity and difficulty paying rent and utilities. They are more likely to be uninsured. These facts suggest that shrinking the annual rate of increase in the OPM will artificially push people over the poverty line even though they struggle to make ends meet. Such a change would be unsupported by the evidence, and would have an impact of increasing hardships for people who work for low and volatile wages and for retirees whose earnings were never high and who were unable to build adequate savings.

OMB should not ignore the evidence of low-income worker and retiree spending and income patterns and simply shrink the annual inflation adjustment for the poverty measure. Instead of making the annual assessment more accurate, it will make the current flaws worse. People who would be most adversely affected by this change include children, people of color, and people with disabilities, veterans and low-income seniors, many of whom rely on SNAP, School Meals, WIC and CACFP.

### **Changes to Public Charge Definition**

On October 15<sup>th</sup>, following a rule-making process, the Trump Administration was set to enact changes to Public Charge policy, but has since been indefinitely blocked by the courts.

“Public charge” or the “public charge test” is used by immigrations officials to decide whether a person can enter the U.S. or is eligible to receive a Green Card (lawful permanent residence or “LPR” status). When a noncitizen applies for LPR status or for a visa, they are subjected to an assessment of their life circumstances to determine if they are likely to become a public charge in the future.

The administration’s new rule redefines what being a “public charge” means in both economic and program-receipt terms. The public charge decision is based on several different factors. Called the “totality of circumstances” test, an immigration officer looks at the applicant’s age, health, family status, financial status, education and skills, and their affidavit of support (if they have one). The government must look at the person’s whole situation to decide if they are likely to depend on public programs in the future.

The final rule now counts wealth and income as the primary markers of a person’s future contribution. It assigns as a negative factor if the applicant has bad credit, has assets and resources below 125% of the federal poverty guideline, or has received immigration fee waivers. The rule also assigns a negative weight to many factors that have never before been relevant in a public charge determination, including being a child, a senior, or not speaking English.

The final rule also expands the list of programs that can be considered for a public charge determination. SNAP, Medicaid (for people over 21 who are not pregnant), and federal housing assistance will be added to the list of programs that are counted once the rule goes into effect.

Even though receipt of SNAP benefits is forward-looking, meaning that receipt of benefits prior to October 15, 2019 are not counted against the applicant, there is already a measurable drop in SNAP caseloads by immigrant households. The rule also allows for a very low threshold of benefits to be utilized by an individual before it is considered a negative factor; but this fact has not changed the volume of immigrants looking to disenroll from the program. There are many immigrant groups who will NOT be affected by these changes (current green card holders, US citizen children) yet immigrants continue to avoid using many benefit programs that they are legally entitled to.

In New York State, it is estimated that 2.1 million people would be impacted by the rule. This includes anyone in a family that has received any food, health, or housing supports, and where at least one member of the family is a non-citizen. Approximately 680,000 children under 18 years old live in families with at least one non-citizen family member and that have received one of the benefits.

Fiscal Policy Institute estimates a loss of \$2.2 billion in direct federal dollars coming into the state and a potential loss of \$3.6 billion due to the ripple effects in lost spending. Finally, 25,000 jobs are potentially lost as a result of this reduction in federal funding coming to the state.

But damage has already been done. The impact of the policy change (the “chilling effect”) has rippled far beyond what the actual policy would do. Authorities in New York City report substantial drops in immigrant applications for SNAP before the final rule was issued. Food Banks report a decline in use of their services by immigrant households. And many other food assistance and public health programs like WIC have seen sharp declines in enrollment over the past few years.

## **What Can Be Done**

To directly counter the administration’s efforts to cut SNAP, the state’s congressional delegation must be engaged. The House and Senate already considered and flatly rejected several of the proposals being considered, which they believe to be in their jurisdiction. In our experience, when members of both parties learn of these proposed rules and the impact to their constituents, they are by and large willing to use the power of their office to oppose the policy change.

Three specific federal bills would improve access to SNAP, increase benefits, and prohibit some of the changes sought in the proposed rules.

### H.R. 1368 – Closing the Meal Gap Act of 2019 (Rep. Adams, D-NC)

- Increases benefits for all SNAP participants by basing benefits on the Low Cost Meal Plan instead of the Thrifty Food Plan.
- Increases SNAP benefits for families with children with high shelter costs by removing the cap on the SNAP shelter deduction.
- Raises the SNAP monthly minimum benefit to \$25.
- Authorizes a SNAP Standard Excess Medical Deduction for persons who are elderly or have disabilities (with a minimum standard of \$140).

### H.R. 2809 – Improving Access to Nutrition Act of 2019 (Rep. Lee, D-CA)

- Lifts SNAP’s three-month time limit and ensure that all people have access to nutrition assistance to stay healthy while seeking full-time work.

### H.R. 4297 – Enhance Access To SNAP Act (EATS Act) of 2019 (Rep. Gomez, D-CA)

- Helps level SNAP access for low-income college students.

At the state level, we believe there are administrative and legislative actions that would reduce hunger by increasing the number of eligible people who receive SNAP through simplifying the application process, creating more efficiency, and improving state-based outreach and education efforts.

1. Improve and expand state-level outreach and education efforts:
  - Increase funding for the Nutrition Outreach and Education Program (NOEP) by \$2M so that it can serve all counties and provide additional services in high-need counties.
  - Create linkages between Medicaid and SNAP databases to conduct “in-reach” with Medicaid recipients who are currently not receiving SNAP.
  - Ensure outreach, education and application assistance through health homes, Federally Qualified Health Centers, and other healthcare practices that serve a large percentage of low-income patients.
2. Streamline/simplify program:
  - Adopt uniform rules and ensure uniform enforcement of SNAP across the state.
  - Adopt a standard excess medical deduction.
  - Simplify the reporting requirements for six- month reporters by removing the periodic reporting requirement.
  - Establish a seamless inter-county transfer process for SNAP recipients who move between counties to maintain eligibility, ensure continuation of benefits and reduce administrative burdens.
  - Establish a 24-month certification period for kinship non-parent caregiver households.
3. Increase access to SNAP by eligible people:
  - Allow college students enrolled in a certificate or degree program that is considered a career or technical education program to qualify for SNAP.
  - Take maximum advantage of ABAWD waivers, grant exceptions and exemptions, and provide individuals with timely, consistent, understandable instructions on compliance.
  - Develop an Elderly Simplified Application Project (OTDA is currently seeking this).
  - Improve SNAP access for individuals leaving prison and re-entering society.
  - Monitor the NYS Combined Application Project (NYSCAP) which will use individualized budgets for people on SSI and living alone when automatically enrolling them in SNAP.
4. Maintain and increase the adequacy of benefits, and incentivize healthy eating, through SNAP:
  - Maintain food choice for SNAP recipients. Support public campaigns that promote healthy eating, including increased consumption of fruits and vegetables, and decreased consumptions of sugar-sweetened beverages (SSB).
  - Increase accessibility to a variety of healthy food for SNAP recipients by reducing food deserts (funded through mechanisms such as a tax on SSB).
  - Continue and expand incentive programs to increase buying power for fruits and vegetables at farmers markets and extend these initiatives to include fresh, canned and frozen produce as well as lightly processed food at other types of SNAP retailers.

We look forward to supporting your committee leadership, members and staff to explore the most effective ways that the state can act to protect and improve SNAP in New York State.