

April 8, 2019

Submitted via www.regulations.gov

Certification Policy Branch
SNAP Program Development Division
Food and Nutrition Service, USDA
3101 Park Center Drive
Alexandria, Virginia 22302

RE: Proposed Rule: Supplemental Nutrition Assistance Program (SNAP): Requirements for Able-Bodied Adults without Dependents RIN 0584-AE57

Dear Certification Policy Branch:

Thank you for the opportunity to comment on USDA's proposed rule, "Supplemental Nutrition Assistance Program (SNAP): Requirements for Able-Bodied Adults without Dependents (ABAWDs)." I am writing on behalf of the Houston Immigration Legal Services Collaborative, which is deeply concerned by the agency's attempt to further restrict food assistance to individuals who are working to stabilize their lives. While we support the goal of helping SNAP participants obtain and keep quality jobs that enable them to achieve economic security, the proposed rule would result in even more individuals losing access to nutrition assistance under SNAP, disproportionately including immigrants and people of color. Taking away access to food assistance programs will not result in increased employment and earnings and will exacerbate existing racial and ethnic inequities.

HILSC is a consortium made up of over forty immigration legal services providers, social services agencies, and advocacy organizations serving Houston's immigrant communities. Our mission is to create a coordinated network of effective and efficient services to assist low-income immigrants access the information and legal representation that allows them to make choices in their own best interest. We are uniquely positioned to understand the ways that immigrants are impacted by changes in social policies.

HILSC submits the following comment to oppose the proposed rule and provide insight on the continuing challenges immigrants face in our economy. Our member legal services organizations regularly advise and represent low-income immigrants in their cases. Our staff members have years of experience working with immigrant children and families, both in the legal context and in social services and mental health.¹

BACKGROUND

SNAP is our nation's most important anti-hunger program, providing food assistance to youth, working families, people with disabilities, seniors, and many more. SNAP helps approximately 39 million people in nearly 20 million households put food on the table.² In 2015, SNAP lifted approximately 2.1 million African American, including 1 million children,³ and an estimated 2.5

¹ See attached document, "HILSC staff resumes.pdf."

² U.S. Department of Agriculture, "SNAP Participation," Food and Nutrition Service, September 2018, <https://fns-prod.azureedge.net/sites/default/files/pd/34SNAPmonthly.pdf>.

³ "SNAP Helps Millions of African Americans," *Center on Budget and Policy Priorities*, updated February 2018, <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-african-americans>.

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million Latinos, including 1.2 million children, out of poverty.⁴ More than ten percent of Asian American and Pacific Islander (AAPI) families receive SNAP benefits,⁵ while many more are likely eligible but unenrolled due to cultural stigma and insufficient program outreach to AAPI groups.⁶

Immigrant Eligibility for SNAP is Extremely Limited, and Immigrant Participation in SNAP is Already Declining in Houston

Following welfare reform in 1996, a person must be a U.S. citizen or an eligible, lawfully-present non-citizen to qualify for SNAP benefits. Non-citizens are rarely eligible for SNAP (and undocumented immigrants never are), but certain legal immigrants may be eligible if they fulfill the other requirements. For example, many legal immigrants may be eligible for SNAP after they are in the country for five years, if they meet the other requirements.⁷

The requirements for who is eligible to enroll in SNAP haven't changed but immigrant households legally eligible for SNAP benefits stopped participating in the program at a higher-than-normal rate in 2018.⁸ The Trump Administration's relentless anti-immigrant rhetoric and policies are driving low-income immigrant families away.⁹ Recent data presented at the 2018 American Public Health Association Annual Conference shows after a decade of steady increases, and with no legal reason for that not to continue, that there has been a 10 percent drop in enrollment nationwide among immigrant families eligible for SNAP.¹⁰ The study's lead researcher said in a press release, "We believe the drop in participation may be related to more nuanced changes in national immigration rhetoric and increased federal action to deport and detain immigrants. These findings demonstrate that rhetoric and the threat of policy changes, even before changes are enacted, may be causing families to forego nutrition assistance."

In general, immigrants are often unaware of the SNAP program or are confused about their eligibility for benefits.¹¹ Many immigrants in mixed-status families are not aware that some of their family members are eligible for SNAP, and immigrants face complicated administrative burdens due to caseworkers' lack of familiarity with foreign identity documents.¹² In fact, federal agencies

⁴ "SNAP Helps Millions of Latinos," *Center on Budget and Policy Priorities*, updated February 2018, <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-latinos>.

⁵ "Congressional Tri-Caucus Denounces Cuts to the Supplemental Nutrition Assistance Program (SNAP)," *Congressional Asian Pacific American Caucus*, September 2013, <https://capac-chu.house.gov/press-release/congressional-tri-caucus-denounces-cuts-supplemental-nutrition-assistance-program-snap>

⁶ Victoria Tran, *Asian Americans are Falling Through the Cracks in Data Representation and Social Services*, Urban Institute, June 2018, <https://www.urban.org/urban-wire/asian-americans-are-falling-through-cracks-data-representation-and-social-services>.

⁷ *Supplemental Nutrition Assistance Program: Guidance on Non-Citizen Eligibility*, U.S. Department of Agriculture, June 2011, https://fns-prod.azureedge.net/sites/default/files/snap/Non-Citizen_Guidance_063011.pdf.

⁸ Allison Bovell-Ammon, "Trends in Food Insecurity and SNAP Participation Among Immigrant Families of U.S. Born Young Children," *Children's HealthWatch*, November 2018, <http://childrenshealthwatch.org/study-following-10-year-gains-snap-participation-among-immigrant-families-dropped-in-2018/>.

⁹ Helena Bottemiller Evich, "Immigrant Families Appear to be Dropping Out of Food Stamps," *POLITICO*, November 2018, <https://www.politico.com/story/2018/11/14/immigrant-families-dropping-out-food-stamps-966256>

¹⁰ "Study: Following 10-year gains, SNAP participation among immigrant families dropped in 2018," American Public Health Association, November 2018, <https://www.apha.org/news-and-media/news-releases/apha-news-releases/2018/annual-meeting-snap-participation>

¹¹ Susan Bartlett, Nancy Burstein, William Hamilton, et al., *Food Stamp Access Study: Final Report*, U.S. Department of Agriculture, November 2004, <https://naldc.nal.usda.gov/download/45671/PDF>.

¹² Krista M. Perreira, Robert Crosnoe, Karina Fortuny, et al., *Barriers to Immigrants' Access to Health and Human Services Programs*, U.S. Department of Health and Human Services, May 2012, <https://aspe.hhs.gov/system/files/pdf/76471/rb.pdf>.

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have been working to overcome the barriers immigrants face to enrolling in benefits rather than adopting policies such as this proposal, which will only exacerbate current disparities in immigrant access to the SNAP program.¹³ Given SNAP's record of alleviating poverty and food insecurity and improving health and employment outcomes, the USDA should be working to remove the barriers immigrant families face in accessing SNAP rather than further restricting access and increasing disparities for immigrant families.

In Houston, the foreign-born are 25% of our region's population, and are a key factor in our region's population and economic growth.¹⁴ While it is unknown how many of them may qualify for SNAP through other lawful legal status, there are 531,000 LPRs in the Greater Houston Area who do meet the immigration requirement.¹⁵ For these affected Houstonians and their families, SNAP is a lifeline that keep them living above the poverty threshold. Research demonstrates that safety net programs, such SNAP, have short and long-term health benefits and are crucial levers to reducing the intergenerational transmission of poverty.¹⁶

Houston already lags in SNAP enrollment, with only one in five of eligible people being enrolled in the program; this means that an estimated 193,551 Houstonians are eligible for but not receiving SNAP benefits.¹⁷ The Houston Food Bank conducted an assessment to determine how best to expand SNAP enrollment, finding that a barrier to participation for many is "concern that participation might undermine immigration status for someone in the household."¹⁸ The report cites the importance of partnerships, reaching out to vulnerable communities, and creating working groups that include immigrants as ways to increase SNAP participation in Houston.

Epiphany Community Health Outreach Services (ECHOS), a Houston nonprofit and HILSC member, said it has seen a 33 percent decrease in the number of families signing up for SNAP in 2018.¹⁹ At the same time, the group's food pantry has seen the number of people it serves increase by 266 percent.²⁰ The NPRM is an additional barrier to families who already feel threatened by the anti-immigrant climate.

¹³ Robert Crosnoe, Juan Manuel Pedroza, Kelly Purtell, et al., *Promising Practices for Increasing Immigrants' Access to Health and Human Services*, U.S. Department of Health and Human Services, May 2012, <https://aspe.hhs.gov/system/files/pdf/76471/rb.pdf>.

¹⁴ Rhor, Monica, "Immigrants from around the world are transforming Houston," Houston Chronicle (March 2015), www.houstonchronicle.com/local/themillion/article/How-diversity-culture-demographics-of-Houston-6117301.php; New American Economy, "Houston Metro Area," <https://www.newamericaneconomy.org/city/houston>.

¹⁵ Randy Capps and Ariel G. Ruiz Soto, "A Profile of Houston's Diverse Immigrant Population in a Rapidly Changing Policy Landscape," Migration Policy Institute (September 2018), available at <https://www.migrationpolicy.org/research/profile-houston-immigrant-population-changing-policy-landscape>, and attached here for your review (hereinafter "Profile of Houston's Diverse Immigrant Population").

¹⁶ Page, Marianne, "Safety Net Programs Have Long-Term Benefits for Children in Poor Households", Policy Brief, University of California Davis, 2017, available at <https://poverty.ucdavis.edu/policy-brief/safety-net-programs-have-long-term-benefits-children-poor-households>.

¹⁷ Houston Food Bank, Closing the SNAP Gap: Recommendations to Prevent Hunger and Strengthen SNAP in Houston (October 2018), available at http://www.houstonfoodbank.org/wp-content/uploads/2018/10/Advocacy_HoustonSNAPReport10182018.pdf

¹⁸ *Id.*

¹⁹ Teo Armus, "A proposed federal policy won't target immigrants for using welfare. In Texas, they might drop out anyway," The Texas Tribune (September 28, 2018) available at <https://www.texastribune.org/2018/09/28/public-charge-immigration-chilling-effects-texas/>.

²⁰ Teresa Wiltz, "Why Crackdown Fears May Keep Legal Immigrants From Food Stamps," PEW (July 24, 2018), available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/07/24/why-crackdown-fears-may-keep-legal-immigrants-from-food-stamps>

There are 569,000 children under the age of 18 in the Houston area who have at least one non-citizen parent. This comprises one third of Houston's population of children under 18.²¹ Children's well-being is inseparable from their parents' and families' well-being, so help received by parents is central to children's health and well-being in the short- and long-term. Children thrive when their parents can access needed health or mental health care, when their families have enough to eat, and a roof over their heads. Conversely, parents' stress and health challenges impede effective caregiving and can undermine children's development. Research has consistently shown that a child's mental health and well-being is tied to that of their parent or caregiver.²² Studies have also shown that when young children endure prolonged periods of stress their bodies are flooded with hormones that can alter brain architecture and disrupt other aspects of healthy development.²³

The NPRM Would Hurt Victims of Hurricane Harvey and Make it More Difficult for Victims of Natural Disasters to Get Aid

Houston was hit by a five-hundred-year storm in 2017, and the damage of Hurricane Harvey is still being felt over a year later. The Houston Immigration Legal Services Collaborative was active in providing information and assistance to immigrant communities during and after the storm.²⁴ We answered questions on Spanish-language media, hosted a Frequently Asked Questions website that was widely referred to by our member and stakeholder agencies (including the City of Houston), and we utilized our established immigrant rights hotline as a resource to provide information about Harvey relief and recovery efforts in multiple languages. HILSC also provided grants to partners to provide direct cash assistance to families still recovering from Harvey. In all of our outreach efforts, we were often asked about how immigration status affected an individual's access to resources. The long-lasting effects of Harvey mean that families continue to need assistance. With the increased anti-immigrant rhetoric, we fear that vulnerable victims of natural disasters will not seek the assistance that they and U.S. citizens in their mixed-status households may be eligible for.

A study by the Kaiser Family Foundation and the Episcopal Health Foundation of the experiences of immigrants under Harvey shows that immigrants were disproportionately impacted and less likely to seek assistance than their native-born counterparts.²⁵ Immigrants were greatly impacted by physical damage and the fallout of Hurricane Harvey. About three-quarters (74 percent) of Houston area immigrants were affected by some type of property damage to their home or vehicle and/or some form of job or income loss, compared to 63 percent of native-born residents.²⁶ Sixty-four percent reported employment and income losses while more than half of immigrant

²¹ *Id.*

²² Maternal Depression Can Undermine the Development of Young Children, Center on the Developing Child at Harvard University (2009), at: <https://developingchild.harvard.edu/resources/maternal-depression-can-undermine-the-development-of-young-children>.

²³ Excessive Stress Disrupts the Architecture of the Developing Brain, Center on the Developing Child at Harvard University (January 2014), available at https://developingchild.harvard.edu/wp-content/uploads/2005/05/Stress_Disrupts_Architecture_Developing_Brain-1.pdf.

²⁴ For more information about HILSC's work during and after Hurricane Harvey, please visit: Houston Immigration Legal Services Collaborative Website, Harvey Resource page: www.houstonimmigration.org/harvey/; and \$4M Fellowship Program Provides Post-Harvey Legal Aid, Houston Public Media (Nov. 20, 2018), available at <https://www.houstonpublicmedia.org/articles/news/hurricane-harvey/2018/11/20/312582/4m-fellowship-program-provides-post-harvey-legal-aid/>; and For Houston's Undocumented Immigrants, There's No Promise Of Disaster Relief, KERA News (Sept. 4, 2017), available at <http://www.keranews.org/post/houstons-undocumented-immigrants-theres-no-promise-disaster-relief>.

²⁵ *Id.*

²⁶ *Id.*

households in Houston contained workers whose overtime or regular hours were cut back at work – twice as many as the native-born population.²⁷

The immigrants who were surveyed reported tenuous financial and social circumstances. Seventy percent said they have little or no nearby support network, and more than half reported incomes below 200% of the federal poverty level.²⁸ The impact of Hurricane Harvey made their already precarious financial situation even more dire. Foreign-born residents were disproportionately more likely to report financial difficulties in the months and years following Harvey; compared to residents born in the United States, “immigrants affected by Harvey were significantly more likely to say that they or any other adult in their household had fallen behind in paying their rent or mortgage since the storm (39 percent versus 24 percent).”²⁹ And 22 percent of immigrant households had a family member who had to borrow money from a payday lender to make ends meet.³⁰ Only twelve percent of immigrants directly affected by Hurricane Harvey said that if they lost their job or source of income, they would be able to live comfortably for at least 6 months.³¹ In addition to facing financial difficulties, immigrants are more likely to have difficulty accessing health care following a natural disaster. After Hurricane Harvey, for instance, about a quarter of storm-affected immigrants reported needing more help with getting the medical care they and their family needed, as compared to thirteen percent of native-born residents.³²

Despite the disproportionate number of immigrants affected by Harvey, immigrants were less likely to report applying for government assistance after the storm. This may be because immigrants feared that seeking assistance would harm their immigration cases or that of their families. Nearly half of immigrants whose homes were damaged said they were worried that if they tried to get help in recovering from Hurricane Harvey, they would draw attention to their or a family member’s immigration status.³³ As a result, only four in ten immigrants whose homes were damaged said they applied for disaster assistance following the hurricane, compared to two-thirds of native-born residents who said they applied.³⁴

When the rules about eligibility change, there are collateral impacts on immigrant families seeking assistance for disaster programs, including D-SNAP and other direct cash assistance programs. The NPRM will contribute to the difficult landscape for immigrants seeking to stabilize their lives after Hurricane Harvey and other natural disasters.

The NPRM Would Have a Disparate Impact on Immigrants

We strongly oppose the proposed rule due to its disproportionate impact on protected classes including immigrants and communities of color. The Department acknowledges that the rule will have a disparate impact, noting that the proposed changes “have the potential for disparately impacting certain protected groups due to factors affecting rates of employment of these groups, [it] find[s] that implementation of mitigation strategies and monitoring by the Civil Rights Division

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Bryan Wu, Liz Hamel, Mollyann Brodie, Shao-Chee Sim, and Elena Marks, “Hurricane Harvey: The Experiences of Immigrants Living in the Texas Gulf Coast,” (March 2018), Kaiser Family Foundation and the Episcopal Health Foundation, available at: https://www.episcopalhealth.org/files/9515/2148/3999/Hurricane_Harvey_-_The_Experiences_of_Immigrants_Living_in_the_Texas_Gulf_Coast.pdf and attached hereto for your review.

³⁴ *Id.*

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of FNS will lessen these impacts.” But no explanation of the mitigation strategies and monitoring is provided, and we do not believe that mitigation strategies can be significant enough to fully address the disproportionate impact of increased food insecurity and poverty on protected classes. This is a deeply troubling omission given that rates of food insecurity are already higher than the national average for Black and Latino headed households.³⁵

A reduction in time limit waivers and the resulting loss in SNAP benefits will disproportionately affect certain protected classes based on (a) an inadequate method for determining lack of sufficient jobs, a criterion for approving time limit waivers; and (b) the disproportionate rate of unemployment and underemployment for people of color.

CONCLUSION

The Houston Immigration Legal Services Collaborative opposes the proposed rule. If implemented this rule will disproportionately impact low-income immigrants, immigrants with disabilities, persons of color, seniors, and other members of our communities – particularly so in the years following a disaster. For these individuals this rule would deny access to nutrition and health. Adding additional barriers to accessing nutritious food will make it even more difficult for individuals already facing economic inequity and discrimination to find and maintain employment. By failing to consider existing disparities and discrimination, the proposed policy will only exacerbate racial and ethnic injustice in the Houston region.

For these reasons and those stated in more detail above, the agency should immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen—rather than undermine – the ability of immigrants to support themselves and their families in the future. If we want our communities to thrive, everyone in those communities must be able to stay together and get the support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking.

Sincerely,



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³⁵ Alisha Coleman-Jensen, Matthew P. Rabbitt, Christian A. Gregory, et al., *Household Food Security in the United States in 2016*, U.S. Department of Agriculture, September 2017, <https://www.ers.usda.gov/webdocs/publications/84973/err-237.pdf>.