



March 3, 2016

Vicky T. Robinson, Chief
Retailer Management and Issuance Branch
Food and Nutrition Service
United States Department of Agriculture
3101 Park Center Drive, Room 426
Alexandria, VA 22302

RE: Proposed SNAP Photo EBT Card Implementation Requirements (RIN 0584-AE45)

Dear Ms. Robinson:

The Center for Law and Social Policy (CLASP) advocates for public policies and programs at the federal, state, and local levels that reduce poverty, help low-income people become economically self-sufficient, and create ladders to opportunity for all. We appreciate the opportunity to comment on the proposed rule on the Supplemental Nutrition Assistance Program (SNAP) Photo Electronic Benefit Transfer (EBT) card implementation requirements. CLASP has extensive experience working on income and work support programs at both, the federal and state levels

SNAP is a critical nutrition program for millions of low income families and when states require photos on SNAP EBT cards, it creates additional barriers to nutrition access. To ensure that SNAP participants' access to much needed food assistance is not hindered by poor state administration, this proposed rule provides critical guidance to state agencies wishing to implement the photo EBT option. We support USDA's goal of protecting participants' access, preventing problems with future photo EBT implementation, and clearing up confusion around implementation of photo EBT cards. Recent photo EBT card rollouts ran into significant challenges with providing timely, accurate, and fair service to SNAP applicants and participants. We believe that the proposed rule, with a few necessary changes, must be implemented to ensure that it achieves its desired purpose of protecting SNAP participants and applicants' access to critical food assistance.

While we do not support the implementation of photo EBT cards, we recognize the importance of your efforts in providing clear procedures and parameters for states wishing to do so. Photo EBT cards undermine decades of work aimed at de-stigmatizing SNAP benefits and can create additional barriers for participants. In addition, photo EBT cards add to the cost of administering the SNAP program, with little benefit.

Even with the information available about the ineffectiveness of photo EBT cards in reducing fraud, a handful of states have taken up the photo EBT option or are considering it. Requiring states that intend to implement photo EBT cards to submit a comprehensive Implementation Plan is a critical first step to

ensuring that program access is protected for all individuals participating in SNAP. Our comments on select provisions are provided below.

7 CFR 274.8(f)(1) - Minimum Requirements

A state agency that decides to implement photo EBT must continue to meet metrics set forth by the Department or suspend photo EBT. In the proposed rule, the Department proposes that state agencies must meet certain performance metrics *prior* to approval of implementation of photo EBT. We believe that it is critical that state agencies have to continue to meet performance metrics, even *after* implementation. For example, if a state agency that has implemented photo EBT has an application timeliness issue after implementation, the Department must have the power to act. The Department would be able to require that the state suspend the photo EBT policy in order to allow the state to re-deploy state resources to the critical task of application timeliness.

As the Department is aware, in states that have recently implemented photo EBT there were significant issues with providing timely, accurate, and fair service to SNAP applicants and participants. We do not want that to happen in other states. Moreover, we urge the Department to make this apply to states that have already implemented the photo EBT option to help SNAP applicants and participants in those states.

The standard for meeting performance metrics must also be defined. The Department must establish very clear performance metrics that a state agency must meet to implement, and maintain, a photo EBT option. We agree with the Department's proposal that a state must meet, at a minimum, metrics related to program access, the State's payment error rate, the State's Case and Procedural Error Rate, and application processing timeliness, but it is critical that there be a specific performance level that must be established and maintained for each metric that reflects a state's commitment to providing timely assistance to eligible households, and its ability to do so. For example, for the application timeliness metric, states must reach or exceed 95% application timeliness, the rate at which is considered acceptable performance, and not 90% which is the benchmark used for improving states who have fallen below acceptable performance. We believe that the performance metrics must be based on performance and not on improvement to best protect SNAP applicants and participants. After all, a state with the most improved performance on timeliness can still have an unacceptable number of applications that are not processed on time.

7 CFR 274.8(f)(3) and 7 CFR 274.8(f)(4) - Voluntary vs. Mandatory

The proposed rule would allow state agencies to implement the SNAP photo EBT card on a mandatory or voluntary basis. It requests comment on *"how to strengthen the requirements on states to provide clear and effective information that ensures clients understand the state's photo EBT policies."* In their implementation plan, states should include a number of strategies they will employ to inform households. These strategies must address how they will reach individuals whose primary language is not English, individuals with disabilities, elderly individuals and people who are experiencing homelessness. States must ensure that those who do not receive notification do not lose SNAP benefit access because of this.

The proposed rule also requests comment on whether there is potential benefit of allowing non-applicants to have their photograph taken under voluntary implementation of photo EBT cards and whether such benefits would outweigh potential problems. At this time, we do not see the benefit of allowing non-applicants to have their photo on EBT cards.

7 CFR 274.8(f)(6) - Issuance of Photo EBT Card

States must demonstrate sufficient capacity to issue photo EBT cards before they receive authorization from FNS to implement the photo EBT option. As a part of this process, states must demonstrate that they will provide sufficient time for participants to come into the office to take a picture. We suggest that the Department follow the principle in the “Notice of Missed Interview” rule, which gives household members an additional opportunity to complete a missed interview before they are negatively impacted.

States must establish a process to address the needs of those who cannot reach a state office due to a hardship condition, or because they are not within reasonable travel distance to an office. While the hardship conditions in the proposed rule cover a wide variety of issues, we think that a “good cause” hardship condition must also be included. This would make sure that a SNAP applicant who wants to meet the requirement, but is facing a hardship, is not prevented from receiving food assistance due to a condition beyond their control.

7 CFR 274.8(f)(9) - Household and Authorized Representatives Card Usage

It is critical that states make every effort to ensure that all members of a household or authorized representatives of a household be able to use the photo EBT cards with a valid PIN, even if their photo is not on the card. States should include in their implementation plan how they will both educate vendors and participants on this topic, including materials that retailers can use to train their staff. States should also be required to include language on the card itself that explains that non-photographed household members or representatives are able to use the card with a valid PIN without additional verification of identity.

7 CFR 274.8(f)(14) - Implementation Plan

In the states’ implementation plan, in addition to providing a description of mechanisms in place to handle complaint calls and questions from clients, retailers and external stakeholders, states must specifically describe efforts to make such access available to English Language Learners, individuals with disabilities, elderly individuals and others who may need additional assistance.

We appreciate the opportunity to comment on these important rules, and welcome any questions you may have.

Sincerely,



Helly Lee
Senior Policy Analyst