

A photograph of a man and a woman in a grocery store. The man, who is Black, is wearing a grey hoodie and a dark jacket, and is holding a white shopping list. He is looking down at the list with a focused expression. The woman, who is white with long brown hair, is also looking at the list. They are standing in front of a grocery store aisle filled with various products, including vegetables and packaged goods. The background is slightly blurred, emphasizing the couple and their shopping list.

NOVEMBER 2020

# TRANSITION BRIEFING & RECOMMENDATIONS

**Fight Poverty, Hunger, and Health Care Needs  
by Removing Barriers to Program Access.**

ELIZABETH LOWER-BASCH,  
DIRECTOR OF INCOME AND WORK SUPPORTS  
[elowerbasch@clasp.org](mailto:elowerbasch@clasp.org)

**CLASP**  
The Center for Law and Social Policy



## Address poverty, hunger, and health care by removing barriers, promoting cross-program enrollment

Since the start of the economic crisis caused by the COVID-19 pandemic, government programs have provided critical supports to help people pay rent, mortgages and other bills, feed themselves and their children, and access health care. These include both the new programs created in response to the pandemic and programs such as SNAP and Medicaid that have long helped people with low incomes meet their basic needs. However, even before the stimulus payments ran out and the boosted unemployment benefits expired, too many people were left out. In some cases, this was due to policies that explicitly limited eligibility – such as the denial of stimulus payments to immigrants without Social Security numbers and their families – or the chilling effect of the “public charge” rule. In other cases, it was due to the factors that have long limited access to key benefit programs – complicated applications, long waits for the phone to be answered, missing paperwork, or lack of information.

Studies have found that 6-8 million people have been pushed into poverty in recent months. A new Congress is likely to pass additional COVID relief as its first action. **Turning the good intentions represented by such legislation into reality on the ground – with funds in people’s pockets, food in their stomachs, access to health care – will require swift and intensive administrative action.** Moreover, successful implementation of new programs will be one of the first highly visible tests of the new Biden-Harris Administration's performance.

A new Administration has a unique opportunity to take immediate steps to remove the barriers created to key economic, nutrition, and health supports and to support efforts to put out a “welcome mat” and enroll people in the full range of programs for which they are eligible. An extraordinary array of research shows the benefits of these supports for adults and especially children – including long-run benefits for health, children’s development, education, and work. The depth of the need caused by the twin health and economic COVID crises makes this work urgent as well as important. The confusing and duplicative administrative processes take time away from both family and work, reduce participants’ confidence in government, and contribute to the stigma of receiving help. And directly addressing the racist stereotypes and assumptions behind many policies and procedures advances a racial justice agenda.

We propose four action priorities for the Biden-Harris Administration to achieve these goals. We’ve summarized each priority below and would be delighted to answer questions and provide more details in whatever way would be most helpful.

## **I. Incorporate the resources and policies needed for successful implementation into the COVID-19 relief package, which would rapidly deliver urgently needed income and basic needs support to tens of millions of people.**

Major COVID-19 relief legislation is rightly expected to be the first priority of the new Administration and Congress – and that legislation should include additional income and basic needs support, delivered quickly and effectively to make a difference to families. This legislation should have another round of stimulus payments—including for immigrant families and adult dependents who were left out of the 2020 payments—extended unemployment benefits, and paid family and medical leave. The bill should also include improvements to core programs such as the Child Tax Credit, the Earned Income Tax Credit, Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), and Medicaid.

**The transition team should immediately develop a list of legislative authorities and resources needed to effectively implement the new programs and incorporate these provisions into the draft legislation.** Areas to incorporate include:

- Flexibility on eligibility and enrollment rules
  - Ensure authority to deem people as eligible based on participation in other programs.
  - Tie authorities for enhanced benefits to economic indicators and not arbitrary dates.
  - Provide a transition period for ending emergency flexibilities or Maintenance of Effort (MOE) requirements.
- Outreach and administrative funding
  - Include at least \$2 billion in cross-program outreach and enrollment assistance funds, to be provided through states and existing networks, such as Head Start centers, health care navigators, or Volunteer Income Tax Assistance (VITA) providers.
  - Provide administrative funding for benefit agencies—particularly IRS and the Social Security Administration—and for state and local agencies, including waivers of cost allocation requirements. In addition, allow program infrastructure supported with federal funds to be used to deliver state and locally funded benefits.
- Removing barriers to access and penalties
  - Suspend program requirements that act as barriers to receiving benefits (e.g., time limits, work reporting requirements) and using the Congressional Review Act to repeal harmful regulations.
  - Suspend rules that incentivize states to focus on documentation and compliance versus access and providing flexibility on overpayments.

- Address the chilling effect on immigrants by retracting the public charge rule, protecting sensitive locations and requiring benefit agencies to offer services in multiple languages.

To fine-tune this ask, the incoming Administration should gather information during the transition period using the agency review process to learn as much as possible about the challenges agencies and departments have experienced in implementing the programs created by Families First Coronavirus Response Act and the CARES Act and to identify solutions recommended by career staff.

## **II. Send strong messages about the importance of basic needs programs and institutionalize efforts to improve them**

The Administration should accompany this legislative push with an aggressive administrative agenda to reverse damaging executive actions from the Trump Administration, reframe the narrative, and create a framework for action moving forward.

### **Executive Order to improve benefit access**

In the first 100 days, the President should issue an Executive Order directing agencies to take all steps possible to support benefit access and to undo Trump Administration efforts to impose barriers. This order would serve as a public commitment to this work and create a structure for ongoing reporting on progress. We later list actions across the federal agencies that should be included in this EO, along with regular required reporting deadlines for the agencies.

The Executive Order should also announce the appointment of a senior White House staff person to spearhead this work. This is crucial because the benefit programs are spread across so many federal departments. Progress will require immediate action, even before political appointees are in place, and ongoing leadership will also be needed to keep this work a priority, overcome obstacles, and generally promote a systematic cross-agency focus. In addition to staffing, the EO should also address the data infrastructure needed to do this work, including directing the Census Bureau to continue the Pulse survey and directing federal agencies to monitor the effectiveness of public programs in reducing hardship and poverty, by state and by race/ethnicity.

Finally, the Executive Order should charge the lead White House person to ensure the federal agencies work together to provide coordinated guidance to states and localities on implementing (a) benefit access provisions in the COVID-19 response legislation and (b) other benefit provisions as needed. Issuing shared guidance and responding to questions in a coordinated manner can dramatically improve state implementation and lessen the burdens imposed on people seeking help.



## **Strong positive message about government programs**

In multiple messages during the first months, the President and Vice President and other senior members of the Administration should speak clearly and boldly about the important role that benefit programs have played in moderating the harm of the pandemic, as well as their ongoing role in promoting the health, nutrition, and overall well-being of the American public. For example, the announcement of proposed COVID-relief legislation is a time to highlight how the stimulus payments, unemployment benefits, and pandemic-EBT have improved people's lives and supported the economy. It's also a moment to explain the need to continue stimulus payments and build upon them. In identifying what will be different and better about the new package, Administration leaders should also call attention to the damage done when past efforts fell short of creating an effective and coordinated system of programs that helps people meet their and their families' core basic needs while respecting their agency and human dignity – and explicitly set that as a goal. The Administration should lift up similar themes over time at opportunities such as budget releases, the State of the Union address, enactment of stimulus legislation, etc.

## **Systemic engagement of individuals with lived experience**

Policymakers can design and deliver successful programs best when telling the story of their importance to the American people and—importantly—by amplifying the voices of individuals with direct lived experience with the programs and engaging them as policy experts. Taking this approach will be most powerful and persuasive – and is also necessary to get the ideas right. While the disability rights movement coined the term “nothing about us, without us,” it is broadly applicable and a critical principle across agencies and policy areas. When decisionmakers craft policies without directly impacted people at the table, the policies will be structured around long-standing and deeply racist narratives about who is the “deserving poor.” Only by co-creating policy with directly impacted communities will we achieve systems of support that truly further mobility.

All advisory boards and other expert panels that support this work should include people who have lived experiences with programs supporting basic needs. As part of the Executive Order, the Administration should create a cross-agency task force to identify models and best practices for truly incorporating the voices of people with lived experiences and provide participating agencies at all levels of government with guidance and support on implementing such practices in their work.

## **A clear directive to address racism and racial disparities in benefit programs**

The Executive Order, and any other instructions to agencies, should include a clear directive to address racism and racial disparities in benefit programs. Public benefits are supposed to

compensate for the failures of the labor market by providing wider access to health care, food, housing and other basic needs, removing systemic and institutional inequities, and creating conditions that allow all to thrive. But just as racism in education, employment, and housing denies people of color equitable access to income and wealth, our core basic needs programs have also reinforced systems of oppression. Tracking disparities by race is a critical step – and one that policies have frequently been neglected to include. But it is only the start. Unless we understand the history that has brought us to this moment and name the racism that underlies policies such as such as work reporting requirements, drug testing, or “family caps,” we cannot escape that history and that racism. Racism within the policies and implementation of the programs serve as very real barriers to access for people. The stigma and shame based on a history laden with racist stereotypes must be addressed on both a policy level and a cultural one.

The Executive Order should also direct federal agencies to use all the tools at their disposal to address policies and practices that perpetuate racism in public benefits programs. This could include

- collecting and reporting data, conducting racial impact analyses of relevant new policy proposals (such as waivers),
- incorporating racial equity into discretionary funding opportunities and evaluations,
- reviewing policies and practices of concern through each agency’s Office of Civil Rights,
- providing training and technical assistance, and
- supporting peer learning among states and localities.

### **III. Undo the Trump Administration’s barriers to access and tear down bureaucratic obstacles that keep people from health, nutrition, and economic help they need – through the initial EO and follow-on administrative actions**

The EO should direct agencies to review and reverse harmful policies promulgated by the Trump Administration as soon as possible. This should include the following provisions:

- Public charge rules from the Departments of Homeland Security and State. (see *Stop the Damage and Start Healing for Children in Immigrant Families*)
- Medicaid work reporting requirement waivers and related administrative actions to weaken health insurance access under Medicaid. (See details in Appendix A)
- Harmful regulations and guidance that restrict access to SNAP and other nutrition programs. (See details in Appendix B)
- DOL guidance that has limited coverage under pandemic paid leave and unemployment programs. (see *Provide Long-Overdue Paid Leave to All Workers and Their Families*)
- Replace IRS priorities that have led to disproportionate auditing of EITC claimants.

The EO should address the ending of pandemic relief and specifically the MOE requirement for



Medicaid, which requires states not to end people's Medicaid eligibility during the public health emergency. The EO should direct CMS to give states clear guidance for how to handle Medicaid eligibility determinations when the MOE requirement ends. Guidance should:

- Withdraw the recent interim final rule that undercuts the MOE requirement by allowing states to provide more limited benefits.
- Ensure states have ample time to conduct renewals to avoid errors.
- Clearly direct states to use all resources available to conduct *ex parte* renewals and to ensure that no individuals are terminated from Medicaid without proper review to determine if they are still eligible or are eligible under a different eligibility category.
- Explicitly state that no one should be automatically disenrolled from Medicaid without an opportunity to provide verifications of their continuing eligibility.

The EO should direct agencies to review COVID flexibilities for permanent changes. During COVID-19, federal agencies have provided critical waivers, such as allowing telephonic applications for SNAP even if the state does not have the systems needed to record and store a voice signature. These changes in policies can reduce the frequency of mandated in-person visits for recipients and applicants of public benefit programs and provide accommodation for recipients with transportation barriers, child care needs, or physical disabilities.

The EO should also direct agencies to adopt additional helpful policies through new guidance or waiver authority, such as:

- Reinstating the A-87 waiver of cost allocation requirements for IT systems that benefit multiple programs. (See details in Appendix C)
- Promoting cross-program outreach and enrollment activities by waiving cost allocation requirements – allowing health care navigators, SNAP outreach programs and VITA tax assistance programs to help people access the full range of programs that can help them.
- Allowing states to keep families eligible for Pandemic-EBT in the 2020-21 school year if they qualified during the 2019-20 year and still have an enrolled student, which is critical because the pandemic has deeply disrupted applications for free and reduced-price school meals.
- Granting waivers to states for SNAP student restrictions due to the pandemic.
- Creating a new special enrollment period to purchase health coverage through [healthcare.gov](https://www.healthcare.gov)

In addition, the EO should direct FNS and ACF to provide guidance to states regarding SNAP and TANF. This will send a clear message to states that for the duration of the pandemic and the special pandemic response, states should prioritize providing benefits to individuals and families over work participation rates or error rate measurements. For example, given the high levels of confusion around unemployment benefits, failure to report such benefits should be assumed to be inadvertent errors and not intentional program violations in the absence of clear evidence of the contrary. The EO should direct the Federal agencies to be clear that they will use their

maximum discretion to waive repayment collections or penalties caused by such prioritization and will highlight the context when reporting rates publicly.

#### **IV. Targeted efforts to reach specific populations who have been harmed**

The Administration should strongly consider targeted efforts to provide benefit access to specific populations that have been particularly harmed by the pandemic, the recession, the Trump Administration's actions, and long-term discriminatory policy. These examples could provide important relief for the targeted groups and an opportunity to demonstrate approaches to streamlined and coordinated support that would benefit all people.

##### **Young children in families with low incomes**

The Administration should take action in the initial months to address the pandemic's devastation on families with young children, particularly Black and Latinx families. The opportunities for action are particularly strong for these families, because children in families with low incomes are almost always eligible for health care through Medicaid or CHIP, and nutrition supports through WIC or SNAP – even though not all participate (and rates of participation were declining prior to the pandemic.) Since more than 40 percent of all U.S. births are covered by Medicaid – with an even greater share of births in rural areas, and among young mothers and mothers of color – the Administration has a great potential to leverage this initial Medicaid coverage to ensure that young children and their parents remain enrolled and to support families' broader needs. This initiative could then demonstrate the feasibility of this approach for other benefit access initiatives.

Actions that the Biden-Harris Administration could take without legislative action, largely through CMS, include the following steps to expand health coverage:

- Issue guidance encouraging states to take up the Children's Health Insurance Program Reauthorization Act (CHIPRA) option to cover immigrant pregnant women and children and encourage states to apply for and grant waivers to extend post-partum coverage from 2 months to a year and ensure full-scope care.
- Issue guidance to require that when automatic Medicaid coverage for newborns expires at 12 months, states make every effort to ensure eligible children remain enrolled.
- Grant waivers to allow for continuous eligibility from birth to age 3 or 5.
- Investigate states where child Medicaid coverage was declining prior to the pandemic and identify practices that have led to disenrollment; issue guidance to limit administrative burden.

The Administration could also promote holistic services and enrollment in other programs by:



- Inviting and granting waivers to make it easier for Medicaid to support full range of home visiting services.
- Promoting cross enrollment between Medicaid and SNAP/WIC/TANF by activities such as lifting up positive examples, providing discretionary grants for pilots and waivers to allow obstetricians and pediatricians to directly certify patients as eligible for WIC.
- Using Medicaid births to generate SSN number applications, which would connect people directly to refundable tax credits and ensure that families start getting help right away, thus not having to wait until next tax season.
- Promoting state policy choices under TANF to support families with young children.

### **Other populations who have been harmed.**

We also suggest targeted efforts focused at: children in immigrant families (see *Stop the Damage and Start Healing for Children in Immigrant Families*); LGBTQ People Living in Poverty (link forthcoming); college students with low incomes (see *Promote Racial and Economic Justice in Higher Education*) and individuals impacted by the criminal justice system) (see *Divest from Policing and Mass Incarceration, Invest in Communities and Families of Color*).

Each of these groups experience unique barriers to accessing basic needs programs that should be specifically addressed, in addition to more universal efforts to remove barriers to enrollment. We would be pleased to share additional thoughts on how to remove barriers to access for each of these groups.

## Appendix A: Undoing Trump Administration Damage to Medicaid

### Medicaid Work Reporting Requirements and Other Harmful Waivers:

The Trump Administration permitted states to require work as a condition of health care under Medicaid – a move that the courts have found violates the underlying Medicaid legislation and also makes no sense. It's always illogical to deny the health care people need to work – but especially so in a pandemic and recession, when people need health care and can't find jobs. CMS should:

- Rescind [SMD Letter 18-002](#) issued January 11, 2018, that outlined "community engagement" (work reporting requirement) waivers.
- Review all terms and condition agreement with states that have had an 1115 waiver approved for work reporting requirements, increased premiums, eliminated retroactive coverage, and implemented other provisions that limit access to Medicaid. Where possible, withdraw the authority for these waivers to ensure they are not implemented. Require states to submit complete evaluation plans and reports.
- Ask the Department of Justice to withdraw request that the Supreme Court review the litigation that has blocked implementation of many of these waivers.

### Medicaid Block Grants

- Rescind [SMD Letter 20-001](#) issued January 30, 2020, that announced the Healthy Adult Opportunity initiative, inviting states to request block grants and other harmful provisions for Medicaid.

### ACA Section 1557 Civil Rights Projections

- Suspend [litigation](#) in support of CMS final rule undermining civil rights protections under ACA section 1557, given clear inconsistency with Supreme Court ruling on gender discrimination, and move to replace regulation.

### Medicaid MOE Provision

- Withdraw the portion of [the interim final rule published on November 6, 2020](#), that undercuts the MOE requirement by allowing states to eliminate optional benefits, such as dental coverage, and reduce the amount, duration, and scope of covered benefits, compared to what was covered on March 18, 2020, or to shift recipients into different coverage groups with less comprehensive services.



## Appendix B: Undoing Trump Administration Damage to SNAP

### Emergency Allotments

- USDA should withdraw the FNS interpretation of the Families First Coronavirus Response Act that limits the value of emergency SNAP allotments and denies them entirely to households already qualifying for the maximum benefit. Instead, it should allow emergency SNAP allotments worth up to the maximum benefit for a family size to be paid to all SNAP recipients, as was intended by Congress.

### Harmful Regulations

- USDA should withdraw SNAP proposed rules on Broad Based Categorical Eligibility and Standard Utility Allowances that are designed to limit eligibility
- USDA should ask DOJ to stop litigation in support of the Able-Bodied Adults Without Dependents (ABAWD) time-limit final rule that has been struck down by a federal district court and should begin the regulatory process of replacing the rule.

## **Appendix C: Promoting Benefit Access through Information Technology Improvements**

The Administration should bring back the A-87 waiver of cost allocation requirements for systems that benefited multiple programs. While this was in effect from 2011 to 2018, it greatly contributed to the development of systems that allow people to apply for and renew eligibility for multiple programs. However, the timeline for development of such systems is long, and many states have unfinished projects or have only added some of the programs that could potentially be included. A new version of this waiver should not be limited to services needed by Medicaid. Rather, it should include all activities where improving the functioning of an existing system would be cheaper and more effective than development of a siloed system for another program.

The Administration should convene a cross-agency workgroup, including the U.S. Digital Service, federal agency staff, representatives of state and county agencies with policy, operational, and procurement expertise, program participants, and organizations that bring experience with human-centered design. This workgroup would identify and share information about best practices and develop a plan for how the federal government can encourage systems and apps to be designed with participants in mind – and with enhanced ability for continuous iteration (refining systems based on user experience) without increasing development cost. This should include an examination of a) the Advanced Planning Document (APD) process that governs federal reimbursement for state investments in information technology for benefit programs, b) other policies such as the SNAP major systems change rule, and c) technical assistance on scoping and procuring technology systems. The workgroup should also look for ways to leverage the investments that have already been made in Medicaid and SNAP systems to support additional programs, such as unemployment insurance and child support enforcement.

The federal government should provide technical assistance to states on scoping and procuring technology systems and support cross-state learning on best practices. Federal officials should also explore mechanisms for enhancing states' ability to re-use systems developed for other states rather than having to pay for similar systems in each state.