



Policy solutions that work for low-income people

June 15, 2020

SNAP Program Design Branch
Program Development Division
Food and Nutrition Service
3101 Park Center Drive
U.S. Department of Agriculture
Alexandria, VA 22302

Re: Docket ID Number [FNS–2019–0008], “Employment and Training Opportunities in the Supplemental Nutrition Assistance Program” Notice of Proposed Rule Making

Dear SNAP Program Design Branch:

I am writing on behalf of the Center for Law and Social Policy (CLASP) in reference to the U.S. Department of Agriculture’s proposed regulation for the Supplemental Nutrition Assistance Program (SNAP) Employment & Training (E&T) Program. We strongly support the majority of the proposed rules, as we believe they will further the goal of helping SNAP recipients obtain and keep quality jobs that enable them to achieve economic security. We applaud the Department for its vision in workforce development, its overall commitment to clarification of rules, and its focus on State agency accountability.

CLASP is a national, nonpartisan, anti-poverty nonprofit advancing policy solutions for low-income people. We work at both federal and state levels, supporting policy and practice that makes a difference in the lives of people living in conditions of poverty. CLASP works to develop and implement federal, state, and local policies (in legislation, regulation, and on the ground) that reduce poverty, improve low-income people’s lives, and create pathways to economic security for everyone. That includes directly addressing the barriers people face because of race, ethnicity, and immigration status. Through high-quality analysis grounded in data and on-the-ground experience, effective advocacy, a strong public voice, and hands-on technical assistance, CLASP develops and promotes new ideas, mobilizes others, and provides guidance to government leaders and advocates to help them implement strategies that deliver meaningful results to people across America.

Background

Food is necessary for people to live, work and thrive. SNAP is our nation's most important anti-hunger program and is proven to reduce poverty¹ and food insecurity.² It provides food assistance to youth, working families, people with disabilities, seniors, and many more. Last fiscal year, SNAP helped 40.3 million people in 20.1 million households put food on the table.³ SNAP puts food on the tables of many Americans across the U.S. More than two-thirds of SNAP participants are in families with children; a third are in households with seniors or people with disabilities. After Unemployment Insurance, it is the most responsive federal program providing additional assistance during economic downturns.⁴ The SNAP program has been shown to support work⁵, stimulate economic growth,⁶ improve academic outcomes for children⁷, and improve health outcomes for recipients.⁸

Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) is a funding source that can be used to support a variety of education, training, workforce, and related services to increase the employability of SNAP recipients and ultimately, reduce their need for SNAP. The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture funds state agencies, and in some regions county agencies, to oversee the SNAP E&T program. Each state receives a modest allocation of 100% federal funds to support their SNAP E&T programs, but may also draw down 50 percent reimbursement for non-federal spending on SNAP E&T activities. This "50 percent funding" is not capped.

CLASP has long supported voluntary SNAP E&T programs as a key way to promote economic advancement for individuals with low incomes who are receiving SNAP. Research shows that voluntary programs can significantly increase employment, while mandatory SNAP E&T programs withhold basic assistance if individuals cannot meet participation requirements in a given month.⁹ Most critically, voluntary SNAP E&T programs do not subject individuals to sanctions that increase food insecurity. To attract SNAP recipients to voluntary SNAP E&T programs, states can partner with trusted service providers, or intermediaries, that operate programs with a successful track record. Given these outcomes, states have increasingly moved from mandatory to voluntary SNAP E&T programs in recent years.¹⁰

By contrast, mandated work programs are harmful because they threaten to take away benefits from people who are unable to comply with arbitrary rules.¹¹ Instead of spending time receiving necessary skills, resources, and education, recipients must spend time complying with regulations to keep food on their tables, while states must spend time and resources on government bureaucracy rather than serving clients with the programs needed to succeed. Furthermore, mandatory work programs encourage recipients to enter into the labor market sooner, with fewer of the necessary tools to be successful in finding a stable position with livable wages.

This regulation largely implements provisions that were included in the bipartisan Agriculture Improvement Act of 2018, [P.L. 115-334], commonly referred to as the 2018 Farm Bill. In particular, we note that this rule contains provisions implementing the 2018 Farm Bill's addition

of subsidized employment as an allowable activity under SNAP E&T. FNS has not permitted states to implement this policy, instead requiring them to wait for rulemaking. In light of the current health and economic crisis, we urge FNS to immediately issue guidance allowing states to begin implementing subsidized employment as part of their E&T programs as soon as the health crisis permits people to safely return to work.

We address specific provisions and questions of the proposed rule section by section below.

Consultation with Workforce Development Boards and Coordination with WIOA

This provision implements the new statutory requirement that state agencies must design their SNAP E&T programs in consultation with their state workforce development board. CLASP agrees with this provision because, as stated by the Department, it allows states “to take full advantage of the workforce development expertise that already exists in their States.” Correspondingly, CLASP supports the requirement that states describe in their E&T plans how they met this consultation requirement, including, if applicable, how they determined that it was more effective or efficient to instead consult with private employers or employer organizations. We recommend that if a SNAP agency chooses to consult with a private employer or employer organization instead of consulting with their state Workforce Board, they must demonstrate that they have also consulted with labor representatives such as unions or worker centers.

Policymakers, practitioners, and advocates have long hypothesized that closely aligning human services training programs such as SNAP E&T and WIOA programs would benefit clients, leveraging both programs combined resources and expertise. For example, while supportive services—including child care subsidies and stipends for tools or uniforms—are allowable uses of WIOA dollars, due to limited funds, one-stops rarely provide such supports to their job training participants. SNAP E&T, by contrast, is required to provide child care and transportation assistance, and allowed to provide other supports. Meanwhile, workforce agencies are usually better connected to labor market information, training providers and have more intensive employer relationships than many SNAP E&T programs. For these and other reasons, experts suggest that aligning programs will reduce duplication of services (such as resource rooms for job search) and generate cost savings.¹²

We would suggest adding that the Department also encourages SNAP agencies to engage with employers and industry representatives to discuss the potential for becoming SNAP E&T providers in partnership with local workforce development boards, WIOA business service teams, community-based organizations, and postsecondary institutions that are SNAP E&T providers. We believe there may be significant unrecognized potential for partnerships with employers and sector partners and additional efficiencies therein.

Supervised Job Search

This section implements the statutory requirement that job search as a stand-alone E&T activity must be "supervised" and the corresponding statutory definition. FNS seeks comments on how to define the terms "state-approved locations," "directly supervise participants," and "tracking timing and activities of participants" used in this statutory definition. CLASP strongly encourages giving states maximum flexibility in these definitions. We support allowing services to be provided in locations including SNAP offices, American Jobs Centers, E&T providers' offices, public libraries, as well as in virtual environments such as through websites or mobile apps. Similarly, we believe that supervision could occur via text or online check-ins, as well as through in-person oversight. Timing of activities could be tracked through a range of approaches, including sign-in sheets, time spent using an app, and a deemed number of hours per contact. States should also have the ability to use different approaches for different types of services, or to allow clients to opt to participate online or in-person, as they prefer.

CLASP notes, however, that online services, as with other SNAP E&T services, should be made accessible to individuals with disabilities or limited English proficiency. In addition, just as participants must be provided with transportation assistance to enable them to participate in in-person SNAP E&T activities, they must be provided with any electronic devices or reliable home broadband access needed to participate in online activities.

The proposed rule at 7 CFR 273.7(c)(6)(i) requires states offering supervised job search as a SNAP E&T activity to specify the locations of the state-approved sites, how they were selected, and how supervision will be provided. CLASP believes that requiring this level of detail in the state plan will limit flexibility to make adjustments or respond to emerging needs in the course of the year. We recommend that the state plan include the *criteria* that the state will use for approving sites and a supervision plan, but that it not be required to specify the actual locations.

The Department states in section (e)(2)(ii) that "a direct link between the job search training activities and job-readiness must be established for a component to be approved." We suggest adding the phrase "employment opportunities or" to "job-readiness" to include activities such as job placement services, which may increase employment opportunities available to participants but do not affect their job-readiness.

We support the Department's clarification that job search and job search training can be integrated as subsidiary activities into one or more other components, or serve as a standalone component (if the job search activity is supervised).

Job Retention

This section implements the statutory minimum of 30 days for job retention services. CLASP supports the concept that service providers make a good faith effort to provide a minimum of

30 days of job retention services and communicate the 30-day minimum to participants. However, we are concerned that the preamble language describing this as requiring a "case management program for each job retention program participant that extends at least 30 days" is confusing, since it suggests the need to create a new case management plan as part of job retention services separate from the overall SNAP E&T case management the participant is already receiving. We believe this could lead to unnecessary duplication of effort, or some providers and participants choosing not to participate in a job retention component.

E&T Pilot Activities

This section implements the statutory language allowing programs and activities from the SNAP E&T pilots under the 2014 Farm bill to count as regular E&T activities. The rule notes that because the independent evaluation is not yet complete, FNS is not able to specifically identify allowable components. CLASP recommends that states that participated in the pilots be allowed to continue the activities they undertook under these pilots until the evaluation is complete and FNS has identified which activities have been found to be effective. Congressional interest in continuing these pilots is reflected in the Congressional prioritization of the states operating such pilots for reallocated E&T federal grant funds. It does not make sense to prioritize funding for such programs but not allow them to continue the activities that were part of the pilot. Such a transition would allow states to avoid shutting down a program at the end of the pilot only to have it be found effective.

Subsidized Employment and Apprenticeships

Subsidized employment programs typically are designed to accomplish one or both of two primary goals: (1) to give people immediate access to employment and earnings, and (2) to increase people's work experience, skills, and connections in order to improve their employability after the subsidized job ends. Programs' size, target population, and design flow from these goals. Most subsidized jobs structures include skills training, work site supervision, and other support services, along with assessments of participants' job readiness throughout the program, which is a vital program component when trying to increase employability among harder-to-employ individuals.¹³

The federal government has historically used a variety of subsidized employment strategies to immediately connect people to work. Federal funds established large-scale programs such as the Works Progress Administration (WPA) under the New Deal that employed an estimated 3.3 million at its peak, and the Comprehensive Employment and Training Act (CETA) of the 1970s. These programs were operated during periods or within areas of high unemployment and often provided employment access to a broad cross-section of unemployed workers, including people affected by economic conditions who, otherwise, may not have had issues finding a job. Because of the need to go to scale rapidly, these programs often placed people in public sector jobs,

frequently created solely for the purpose of the program. They typically did not include education and training as additional program components.¹⁴

Programs aimed at the second goal of increasing overall worker employability are targeted at people with significant disadvantages that make them harder to employ, even in periods of overall low unemployment. Targeted populations include youth and adults with significant barriers to stable employment, such as ex-offenders and the long-term unemployed; Temporary Assistance for Needy Families (TANF) recipients; adults and youth with low educational attainment; and individuals with a history of mental health and substance abuse problems, as examples. Subsidized employment programs can be tailored to address the barriers to employment of these specific groups by enhancing the job search, job training, and employment experiences. These programs often include additional support services such as child care assistance, life skills courses, or mental health services to support participation and promote long-term employability.¹⁵

CLASP fully supports the revised definition of work experience and the inclusion of subsidized wages as an allowable cost, as mandated by the Farm Bill of 2018. In the March 6, 2019 memo to state agencies,¹⁶ FNS stated that the addition of subsidized employment as an allowable E&T activity is only effective after rulemaking occurs. By contrast, other aspects of the same section of legislation were determined to be available to states immediately upon approval of a state plan. FNS did not provide any justification for its delay of this provision.

Given the current COVID-19 pandemic and the high rates of unemployment that have ensued, CLASP urges FNS to allow states to begin incorporating subsidized employment into their SNAP E&T programs as soon as the public health situation allows people to safely return to work. Given the time needed to review public comments and finalize a rule, FNS should immediately issue updated guidance allowing states to begin to implement subsidized employment without waiting for federal regulations.

Overall, CLASP supports the use of definitions from other programs both to support the alignment of SNAP E&T with services offered under TANF, WIOA, and Perkins and to allow service providers to run programs that serve people with the activities that are best suited to promote employability, regardless of the funding stream used to support them. CLASP specifically applauds the inclusion of work-based learning (including internships, apprenticeships, customized training, transitional jobs, incumbent worker training, and on-the-job training) and the goal of the attainment of industry-recognized certificates or credentials. CLASP also appreciates FNS' encouragement of states to partner with other programs in order to capitalize on existing work-based learning infrastructure and services.

CLASP appreciates FNS's recognition that work experience components must be consistent with the Fair Labor Standards Act (FLSA), must not displace existing workers, and must provide participants with the same benefits and opportunities as anyone else doing a substantially

similar job. CLASP encourages FNS to partner with U.S. Department of Labor to issue guidance helping states avoid FLSA violations when using work-based learning models.

CLASP agrees that it is a best practice for states to consider and explain to participants what effects the earnings from a work-based learning activity would have on SNAP benefits for their household. We encourage FNS to share with states information on best practices for models that combine work-based learning with other modes of instruction in order to both comply with FLSA requirements and avoid disqualifying participants' households for SNAP and SNAP E&T.

Subsidized Employment and Racial Equity

Subsidized employment is an important tool, particularly for communities of color where multiple barriers to employment exist. Racial income disparities persist in the U.S. and studies show that racial discrimination,¹⁷ low proximity to jobs,¹⁸ overcriminalization,¹⁹ and barriers to transportation all play a role in attaining jobs with livable wages—resulting in higher unemployment rates in communities of color. In 2019, the unemployment rate²⁰ for Black people was 6.1 percent and 4.3 percent for Latinos, compared to 3.3 percent for their white counterparts. The unemployment rate for people of color is always substantially higher than that of whites. History teaches us that without targeted job creation efforts in communities experiencing the highest rates of unemployment, today's economic crisis will have a lasting negative impact on workers of color and those facing other structural barriers to obtaining employment. Subsidized employment programs will help to close that gap by providing immediate access to employment and earnings, increasing people's work experience, skills, and professional connections in order to improve their employability after the subsidized job ends. Communities of color have been hardest hit during the COVID-19 pandemic²¹ and subsidized employment is a targeted equity tool which can ensure that communities greatly affected by the pandemic will receive economic opportunity.

Case Management

This section reflects the statutory addition of case management as a required part of all SNAP E&T programs. CLASP supports the Department's statement in the proposed rule that case management should be tailored to the needs of the individual, and ensure that individuals receive the support they need to to succeed in E&T activities. We strongly support the statement at 7 CFR 273.7(e) that "the provision of case management services must not be an impediment to the participant's successful participation in E&T." We urge FNS to strengthen this provision by specifying that if a participant is otherwise participating in SNAP E&T activities, the participant may not be sanctioned for noncompliance solely on the basis to participate in case management activities.

We further suggest that case management should be provided to each individual at least once and be offered on an ongoing basis, but not be required beyond the initial interaction if not

desired or needed by the participant. Even within voluntary programs, procedural issues, such as requiring participants to undergo long assessments or complete multiple handoffs between SNAP agencies and providers can create burdensome administrative barriers for participants, especially those with disabilities, limited access to transportation or limited digital proficiency which inhibits their ability to attend in-person or virtual meetings. Furthermore, the assessments should be commensurate with the level of training. If the training is fairly low-intensity, the assessment should also be low-intensity. Assessments that are long and overwhelming can be daunting to participants—possibly resulting in inability to complete the program.

We appreciate FNS's offer of technical assistance to state agencies in developing high quality case management services. Such technical assistance materials should be made publicly available to inform the field and allow for public input.

CLASP supports the inclusion of a description of case management practices in the state E&T plan, but recognizes that states may choose to use different practices in different parts of the state, or with different E&T providers. CLASP does not support the proposed requirement for State agencies to provide information on the cost for providing case management services, because collecting the information is often impractical. Many service providers integrate case management into other individually tailored services within E&T components such as career counseling and job readiness training, and it would be burdensome to require providers to account for each activity separately.

Finally, proposed section (e)(1) includes the statement that, "if the case manager determines a mandatory E&T participant may meet an exemption from the requirement to participate in an E&T program, the case manager must inform the appropriate State agency staff." This language is helpful, but does not protect the participant if the state agency fails to act upon the information.

CLASP recommends that this language be amended to read " if the case manager determines a mandatory E&T participant may meet an exemption from the requirement to participate in an E&T program, or qualify for a good cause excuse for non-participation, the case manager must inform both the participant and the appropriate State agency staff. If the identified potential exemption or good cause excuse requires documentation, the case manager may assist the participant in obtaining this documentation. The mandatory E&T participant shall not be subject to disqualification for refusal without good cause to participate until the state agency has reviewed the information provided by the case manager, and provided the client with a written explanation of why they do or do not meet the exemption criteria set by the state."

In addition, although we agree that case management under SNAP E&T should focus on the guidance and supports needed to successfully participate in E&T activities, states should have the flexibility to support comprehensive case management services that make referrals and warm handoffs to meet other needs that case managers may identify, such as educational

support for children, domestic violence services or addiction treatment. In some cases, these issues may be significant enough to temporarily prevent participation in E&T activities. However, if this determination forces states to immediately stop funding those case management services under SNAP E&T, in many cases, clients will have to start over in a different program from the beginning, and many clients will fall through the cracks.

Referral of Individuals

The FNS states that if a mandatory E&T client is found to be ill-suited for a particular E&T component, the State agency must take one of the actions codified in (c)(18)(i): "1) refer the individual to an appropriate E&T program component; 2) refer the individual to an appropriate workforce partnership, if available; 3) reassess the physical and mental fitness of the individual; or 4) coordinate, to the maximum extent practicable, with other Federal, State, and local workforce or assistance programs to identify work opportunities or assistance for the individual." We support the Act's four actions as well as the Department's proposal that the individual not be found to have refused without good cause to participate in mandatory E&T until these actions are taken. We also support the Department's proposal to delegate authority to E&T providers to determine whether the participant is ill-suited for their particular component.

CLASP is concerned with the stigmatizing nature of the phrase "ill-suited." Moreover, there are multiple reasons for a referral from a State agency to not be successful outside of an ill-suited determination, including a lack of an available slot or a lack of follow-up from the participant or provider, and these reasons should ideally be similarly communicated back to the State agency under a mandatory E&T program. We therefore suggest that a new umbrella phrase such as "incomplete referral" be used to generate further action.

If the individual is a mandatory E&T participant, we suggest that the Notice of E&T Participation Change (NETPC) indicate the reasons for an incomplete referral; which of the four actions in section (c)(18)(i) would first occur by the State agency, if any; the current status of the participant including "good cause" status; options they can pursue on their own without a referral; and the time period by which the State would be expected to take one of the four actions. We recommend that the State be required to take one of the four actions at the next recertification, where the State will already be scheduled to contact the participant and have the opportunity to ask questions related to an incomplete referral. However, we think that the participant should be given the opportunity to contact the State agency sooner for help in identifying employment and training opportunities, as well as be given the right to appeal.

CLASP also has concerns over provider-participant confidentiality in sharing with the State agency the reason for the ill-suited determination. We suggest that the Department define specific fields in the final rule that minimize confidentiality concerns, such as "participant does not meet specific provider eligibility criteria," "participant has not met participation requirements for good cause," "participant has not met participation requirements without a known good cause," "provider does not have a program slot for the participant that meets the minimum

mandatory hours," and "participant's employment goals or desired skills cannot be realized through this program." We also suggest including the SNAP E&T provider's recommended next steps for the SNAP eligibility worker such as "suggest reassessment for exemption for mental/physical fitness," and "suggest referral to another program" or more appropriate E&T program component, provided that individual meets State agency criteria for participation.

The Department states that "good cause for circumstances where there is not an appropriate or available opening within the E&T program shall extend until the State agency identifies an appropriate and available E&T opening, and the State agency informs the SNAP participant." We support this proposal and ask the Department to allow participants who are unable to meet specific employment/career goals due to a limited range of SNAP E&T options to be released from mandatory participation through an exemption from mandatory E&T or an indefinite good cause status. The Department should also encourage State agencies to establish programs that vary by geography, component, industry, hours of operation, and prerequisite skills.

We would like to point out that taking one or all of the referral actions in (c)(18)(i)(B) does not guarantee State follow-up on referrals or successful identification of an appropriate and available placement. We therefore suggest that the statement in (c)(18)(ii) be revised to state (with addition in italics), "from the time an E&T provider determines an individual is ill-suited for an E&T component until after the State agency takes one of the actions in (i)(B) of this section *that leads to State-confirmed enrollment in an appropriate SNAP E&T component or workforce partnership that meets mandatory E&T requirements, or else leads to an exemption*, the individual shall not be found to have refused without good cause to participate in mandatory E&T." It should also clearly state that if the State agency finds that the participant is better placed in Federal, State, or local workforce or assistance programs other than the current SNAP E&T or workforce partnership options, then that individual must be exempted from mandatory SNAP E&T.

We disagree with the Department requiring any of the four actions in (c)(18)(i) to be applied to voluntary participants. Significant administrative time would be required for both the service provider and the State agency in adding this level of communication and asking the State agency to follow through on identifying a placement. We suggest that for voluntary programs, the State agency require E&T providers to refer participants who are incomplete referrals to other service providers only if appropriate and desired by the participant. In these cases, we believe that a NETPC is unnecessary and is administratively burdensome.

Finally, section (c)(18)(i)(B)(1) states that, "any individual referred to an E&T component must also receive case management services in accordance with paragraph (e)(1) of this section." Many individuals referred to an E&T component might not actually be placed into the component due to a lack of provider slots, the participant not meeting eligibility criteria, or the participant or provider not following through with the referral. Many SNAP agencies are not configured to provide case management outside of their E&T providers, and a requirement to offer case management might discourage further expansion of SNAP E&T. In addition, many

E&T providers would not be willing to provide case management if they did not have available component slots or the participant did not meet eligibility criteria. We think it would therefore be prudent to state that case management is required only if the SNAP participant is successfully placed in a component.

State Agency Accountability for Participation in an E&T Program and Good Cause

CLASP strongly supports FNS's statement that mandatory E&T participants should not be disqualified for failure to participate when there is no appropriate and available opening, and that they should either be exempted from participation or granted good cause.

CLASP agrees with the Department's proposal to consolidate the State requirement to inform individuals of their applicable work related requirements. We propose adding to the consolidated requirements that if the individual is subject to SNAP or ABAWD work requirements, the written and oral information include an explanation of the process for requesting a good cause consideration, examples of good cause circumstances, and documents or contact information to initiate a good cause request.

We support the Department's proposal to create consistency between paragraphs of existing regulations by clarifying that before a State agency issues a notice of adverse action for non-compliance with SNAP work related requirements, the State agency must determine that the non-compliance was without good cause. We propose that an equivalent requirement be instituted for ABAWD work requirements where a State agency must determine that non-compliance was without good cause prior to issuing a notice of adverse action.

CLASP strongly supports FNS' proposed good cause provision at §273.24(b)(2) which specifies that individuals subject to the ABAWD time limit are eligible for good cause excuses regardless of the type of work or work program that they are participating in, and for clarifying that a separate good cause determination is not required for the time limit when it has been made for purposes of mandatory E&T.

This section states that an individual who missed some hours for good cause "shall be considered to have fulfilled the work requirement if the absence is temporary and the individual retains his or her job, training or workfare slot." We suggest striking the language "and the individual retains his or her job, training or workfare slot" as some employers and trainers will not be able to retain the SNAP participant even if he or she has a good cause circumstance. We propose that good cause be allowed in cases where the absence is temporary, whether or not the individual retains his or her job, training or workfare slot. For example, a worker who has COVID-19 might lose his or her job due to an extended absence but be available for work upon recuperation.

Improving Accountability in State Agency Quarterly Reports

We support the Department's concept of adding accountability data elements of "*number of participants required to participate in E&T*" and of those, "*number who actually begin to participate.*" In practice, we know that in states operating large-scale mandatory SNAP E&T programs, many people are sanctioned and lose their SNAP benefits without participating in an E&T component. Supporters of mandatory programs suggest that some of these individuals are motivated to find employment by the participation mandate, but there is not sufficient information to make that claim.²² Therefore, both the sanction rate and the employment rate for the full universe of those assigned to mandatory SNAP E&T should also be collected in order to present a complete account of the impact of mandatory programs.

CLASP believes that states should be required to report on the number of SNAP recipients who are mandated to report for assessment, the number of mandatory participants who receive a SNAP E&T assessment, the number of mandatory participants who participate in a SNAP E&T activity, the number who are sanctioned for non-compliance, and the number of those mandated to participate who are later found to be exempt. In addition, states should report on the employment rates in the second quarter and the fourth quarter after SNAP recipients are mandated to participate. For more details, please see the comments that CLASP previously submitted to FNS on the SNAP E&T reporting requirements.²³

We suggest replacing the data element "*number who actually begin to participate*" with "*number who are successfully placed into a qualifying component,*" as activities such as orientation and assessment are considered participation and may take place at the State agency prior to component placement, yet generally do not allow participants to meet the minimum hours of mandatory programs. Moreover, the language of placement rather than participation narrowly focuses the accountability for placement into a qualifying component on the State agency, whether or not the participant actually appears at the placement site.

Workforce Partnerships

This section implements the statutory provisions creating workforce partnerships as a new way for SNAP participants to gain high-quality, work-related skills, training, work, or experience that will increase the ability of the participants to obtain regular employment. CLASP agrees that the proposed regulations reflect the statutory requirements. CLASP encourages FNS to share information about workforce partnerships that have been created and the participating entities.

Minimum Allocation of 100 Percent Funds

This section implements the 2018 Farm Bill's statutory increase of the state minimum allocation to \$100,000.

Prioritized Reallocation of Employment and Training Federal Grant Funds

This section closely tracks the statutory language. We suggest further clarification on the 30 percent reallocation provision that focuses on specific target populations. Almost all E&T programs serve at least some persons within the target population, e.g., individuals with substantial barriers to employment. We suggest that the Department ask the State agency to estimate the percentage of E&T participants in the request for reallocation that meet each one of the listed criteria.

The rule at 7 CFR 273.7(d)(1)(iii)(F) proposes that any remaining funds after the reallocation process described in statute be allocated to states requesting additional funds for E&T programs and activities that FNS determines have the most demonstrable impact. We recommend that the Department include in this determination whether the states plan to initiate or maintain new services, enhanced services, or new slots due to the availability of SNAP E&T funding.

Advisement of Employment and Training Opportunities

This section reflects the statutory requirement for State agencies to develop information about available employment and training services for household members subject to the general work-related requirements. While we agree that this could be provided in electronic or paper form, we note that this information should be made available in paper form whenever possible, especially if a SNAP participant does not have reliable internet access or comfortable digital proficiency to access this information online. We also agree that states should consider how to tailor this list to be of most use to participants (e.g., allowing it to be sorted by career interests, target populations, regional availability, and openings for participants).

We recommend that State agencies also be required to provide user-friendly labor market information. A list of training providers is of minimal value to participants if it is not partnered with information about labor market needs. This information should specify the fastest growing or largest sectors for entry-level jobs and living wage jobs that can be accessed with limited training, and the career pathways associated with them. The information should ideally be updated at least yearly, localized, and developed in consultation with workforce experts. States should also make this information available to underemployed SNAP recipients and voluntary E&T participants.

Work Programs for Fulfilling the ABAWD Work Requirement

This section incorporates the legislative changes adding training programs for veterans and workforce partnerships to the list of qualifying activities. As noted above, we support the Department's clarification that job search and job search training do not need to be supervised when integrated as subsidiary activities into one or more other components. We agree that this was the clear intent of Congress as expressed through the Joint Explanatory Statement of the

conference committee. One Stop services only offer services that fall under job search and job search training components. Unfortunately those hours don't count at all toward meeting ABAWD work requirements if offered on their own. Even though they tend to be less than 20 hours per week, they can combine with work or other activities to meet the full requirements.

Current rules in §273.24 state that job search and job search training can serve as an allowable way for ABAWDS to fulfill their work requirements, as long as the job search or job search training activities comprise less than half the total required time spent in the components. We recommend clarifying that "total required time spent in the components" signifies the total required time spent in the overall program (or participants' average time for program completion where there is no standardized program length), whether or not the time spans multiple months or overlaps with a new fiscal year. Some successful models, such as pre-apprenticeship programs, offer job readiness training and other soft skills for an extended period prior to transitioning participants into work experience and education.²⁴ Inclusion of these components opens career paths that offer livable wages and benefits to people who would otherwise be shut out however, by the time a recipient subject to the ABAWD time limit is successfully enrolled in SNAP, placed into E&T, referred to an E&T provider, and placed into qualifying components, they may have timed out of SNAP.

Discretionary Exemptions for ABAWDs Subject to the Time Limit

This provision implements the statutory reduction of these exemptions from the time limit from 15 percent to 12 percent of covered individuals. We note that in separate regulations, FNS has arbitrarily ended the longstanding practice of allowing states to carryover these exemptions from year to year, which was not contemplated in this legislation.

Informing SNAP Participants About Their Work Requirements

CLASP supports FNS' attempt to consolidate multiple provisions that require states to notify participants of their work requirement and time limits. CLASP urges FNS to develop and share with states model notices that comply with this requirement and that have been user tested for both plain language and clear information about the steps that participants must take in order to retain their benefits.

SNAP E&T Eligibility

CLASP appreciates the Department's interest in recommendations on SNAP E&T eligibility processes. The comments that follow are broken down into initial eligibility determination and ongoing eligibility verification sections, with a focus on recommended additions to current federal regulations.

1. Initial SNAP E&T Eligibility Determination

The following describes challenges in initial SNAP E&T eligibility determination and potential solutions.

Student Eligibility Rules Challenges

Many students in higher education are subject to SNAP student eligibility rules, and SNAP E&T participation is one of the exemptions that allows them to become eligible for SNAP. However, a student cannot be placed into SNAP E&T unless the student receives SNAP, which leads to a “chicken and egg” situation that warrants further Department clarification.

Timing Challenges

When participants enter SNAP E&T through the provider door (without a referral from the State agency), timing challenges around SNAP E&T enrollment can be significant. Currently, placement into an E&T component cannot precede placement into SNAP E&T, and until a client is placed into an E&T component, the provider cannot charge for its costs. Unfortunately E&T providers may need to wait for up to 30 days to enroll the participant into their component, because they must first submit a referral to the State agency and then wait while the agency verifies SNAP eligibility, screens the participant, places them in SNAP E&T, and registers them in a management information system. Client needs and program start dates often cannot wait for the 30 days of SNAP E&T enrollment turnaround, and service providers may be faced with a choice of serving the client before those costs are eligible for federal reimbursement, or else turning the client away.

In addition, once a participant is enrolled into SNAP E&T, the service provider may or may not be informed of the status change. Currently, providers are typically expected to initiate contact with the State agency to determine whether the placement is made. Providers may need to request this information multiple times. This is a poor use of provider time and causes further delays to placement into the component.

Impact of timing on college students, recipients subject to the ABAWD time limit, and mandatory SNAP E&T participants: The sooner that students, recipients subject to the ABAWD time limit or mandatory SNAP E&T participants can be enrolled in SNAP E&T, the sooner they can meet mandatory work related requirements or voluntarily begin SNAP E&T. Delays in enrollment can lead to churn, inability to access limited SNAP E&T slots, and or inability to receive services-- leading to poorer long-term employment outcomes. Moreover, when participants in a qualifying SNAP E&T component must wait to be placed into SNAP E&T, their legitimate efforts to meet work related requirements are not counted while the State agency processes their eligibility determination. Individuals subject to the 3 month time limit may come close to exhausting their benefits while waiting. Delays in processing can also be particularly challenging for SNAP recipients who wish to attend college or other training activities that have set start dates.

Impact of timing on service providers: The ability to maintain and attract service providers is essential to the successful operation and expansion of SNAP E&T. Service providers typically contribute 50% of the costs of operating a SNAP E&T program under the 50/50 reimbursement model. They need to claim federal costs that are incurred when they actually begin to serve the participant. Service providers often offer their most significant and costly services right after a participant enters their door. Some providers may choose not to participate in SNAP E&T if they fail to recoup costs in that first month. This is even more the case during economic downturns such as that resulting from COVID-19, where service providers have little or no margin to fund federal obligations.

The timing challenge for providers is most acute for those that serve SNAP E&T recipients exclusively, prioritize SNAP E&T recipients over others for enrollment, or provide certain services and supports exclusively to the SNAP E&T population (such as transportation vouchers, or 20-hour weekly components specifically for ABAWDs). These providers may decide not to prioritize enrollment of SNAP recipients because of the uncertainty in payment associated with timing.

Recommendations for Initial SNAP E&T Eligibility Determination

Recommendations for student eligibility rules: We would ask that the Department clearly state that a student can be pre-enrolled into a SNAP E&T component prior to SNAP eligibility determination and thereby become exempted from the student eligibility rules. State agency placement into SNAP and SNAP E&T then allows the E&T provider to formally enroll the student into the component. This is a critical provision that breaks the "catch-22" that is otherwise in effect, where a student who does not meet another exemption from the student restrictions can't receive SNAP unless they are in SNAP E&T, but they also can't participate in SNAP E&T unless they are receiving SNAP.

FNS Western Region's SNAP 10-9-CA letter confirms this concept's allowability at a regional level, and the concept is already in practice in many states. For example, in California's Fresh Success program, E&T providers first pre-enroll qualified students into a component and then submit a standardized Pre-Enrollment Form to the SNAP agency, which uses the form to qualify eligible students for SNAP and triggers the agency to screen and place students into SNAP E&T.

Recommendations for effective date of SNAP E&T placement: SNAP eligibility is effective from the date of the initial application for qualified applicants (as long as the application includes a name, address and signature). We recommend that the Department offer a parallel rule for SNAP E&T so that SNAP E&T enrollment is effective from the date of initial pre-enrollment into an E&T component or the date of SNAP E&T eligibility determination, whichever occurs sooner, as long as SNAP E&T eligibility determination occurs no later than 30 days following component pre-enrollment. The rule would need to state that the effective date for SNAP E&T cannot be earlier than the SNAP application date.

In cases of reverse referrals, SNAP E&T placement effective date would need to be retroactive to the pre-enrollment or SNAP application date, whichever occurs later. We recommend that costs

for intake and assessment be allowed if they occur on or after the date of successful pre-enrollment, as long as the participant is determined eligible for SNAP E&T (and SNAP if applicable) within 30 days. We also recommend that required participant reimbursements be allowed to be provided retroactively in such cases. Since retroactive payments could be considered an undue hardship for ABAWDs and mandatory E&T participants, we recommend that they be given the option to not participate for good cause until the participant reimbursement is provided.

Potential alternatives to effective date suggestion: If the above suggestions on effective date of placement are not possible, we recommend that State agencies be required to prioritize reverse referrals for SNAP E&T eligibility determination (and SNAP eligibility determination if applicable). We also suggest that State agencies be encouraged to work with interested service providers to set up systems to push information on SNAP E&T placement to providers that have pre-enrolled participants as soon as the placement is made.

Recommended data-sharing elements for initial SNAP E&T eligibility:

1. *ABAWD and mandatory SNAP E&T status:* Access to State agency information on ABAWD and mandatory SNAP E&T status will allow service providers to prioritize ABAWDs and mandatory participants for enrollment into components that meet their particular work related requirements. It will also allow providers to independently gather information for the FNS 583 and FNS outcome reporting measures to submit to the State agency. Finally, it will trigger service providers to meet requirements for communication about ongoing participant compliance with work related requirements.
2. *SNAP and SNAP E&T enrollment status and effective date:* Access to State agency information on SNAP E&T enrollment status and effective date will allow service providers to formally place the participant into the component. SNAP and SNAP E&T effective date will allow service providers to bill for costs appropriately as proposed in the recommendations regarding effective date.
3. *SNAP application status:* For providers that wish to provide SNAP application assistance outside of SNAP E&T funding, access to State agency information on application status (e.g., interview completed, documents submitted, etc.) will help these providers to best assist applicants and trouble-shoot problems with eligibility workers (outside of SNAP E&T funding). SNAP application-processing challenges have been one of the largest barriers to participation in a SNAP E&T component. If the service provider is assisting the individual in applying for SNAP, confidentiality issues should not be a barrier to accessing SNAP application status.
4. *Enrollment information from the service provider, for reverse and standard referrals:*
 - a. *Confirmation of successful enrollment or pre-enrollment, including confirmation that the participant has been assessed, meets criteria for enrollment into a component and will be placed into a component*
 - b. *Half-time student status*
 - c. *Date of enrollment or pre-enrollment*

For students, provider information on successful pre-enrollment into a component and half-time student status can help the State agency apply student eligibility and ABAWD rules correctly. Provider confirmation of successful assessment and enrollment or pre-enrollment can communicate to the State agency that the participant has been appropriately placed into the component (for reverse referrals, placement would be contingent upon SNAP E&T placement and SNAP eligibility, if applicable). If the proposed effective date is approved, the date of pre-enrollment would allow the State agency to place the participant into SNAP E&T effective the date of pre-enrollment into the component.

2. Ongoing SNAP E&T Eligibility Verification

The following describes challenges in ongoing SNAP E&T eligibility verification and potential solutions.

Impact of Monthly Ongoing Eligibility Verification and Individualized Methods of Verification

Verification of SNAP eligibility on a monthly basis is extremely time-intensive for service providers and/or State agencies and may lead to a resistance to SNAP E&T expansion. Many State agencies ask service providers to take on the burden of verification through such methods as providing read-only access to State case management systems or using a telephone or internet-based system of confirmation. Verification must often be done individually for each participant. Moreover, some State agencies have been providing only verbal verification of ongoing SNAP eligibility to service providers, which increases provider vulnerability to disallowed costs during fiscal reviews.

Recommendations for Ongoing Eligibility Verification

Recommendation for frequency and process of verification: CLASP recommends that monthly eligibility confirmation be made a state option rather than a federal requirement. State agencies that wish to pay invoices monthly would need to give service providers an option to verify eligibility monthly.

A preferred alternative to this monthly requirement would be to ask the State agency to generate notices of *changes* in status, to which providers would have easy access. This alternative alleviates the necessity to verify eligibility regularly while allowing the provider to reduce its invoice in a timely manner by removing participants who are no longer eligible. This alternative is easiest in states that can program electronic case management systems to automatically generate notices to a SNAP E&T service provider whenever a participant loses SNAP or SNAP E&T eligibility.

If this alternative is not possible, we recommend that confirmation be required at least quarterly instead of monthly. The Department might need to adjust the FNS 583 to track participation on a quarterly rather than monthly basis for purposes of consistency, which would create the added benefit of reducing the administrative burden of monthly participation tracking. Under the

quarterly verification option, the Department would need to: (1) agree to pay service providers for a participant's SNAP E&T costs for the full quarter, even if the State agency has determined that the participant is no longer eligible within that quarter; or (2) allow service providers to verify quarterly only if they agree to provide services for the quarter as needed and invoice participants only for the months in that quarter that they remain eligible for SNAP E&T, based on quarterly verification results.

Recommendations for document maintenance for verification of eligibility: We recommend that the Department clarify that states must provide a means for providers to maintain documents on eligibility verification (e.g., an electronic report or the ability to print a web page) so that providers are not held accountable for State agency errors in SNAP eligibility determination/confirmation in fiscal reviews.

Recommended data-sharing elements for ongoing SNAP E&T verification:

1. *ABAWD and mandatory SNAP E&T status:* Access to State agency information on changes to ABAWD and mandatory SNAP E&T status will allow service providers to continue to tailor their programs to meet work related requirements. It will also allow providers to continue to independently gather accurate information for the FNS 583 and FNS outcome reporting measures to submit to the State agency. Access to the number of countable months will allow service providers to proactively encourage participants to comply with requirements if they are in danger of being timed out.
2. *SNAP and SNAP E&T enrollment status:* Access to State agency information on changes to SNAP and SNAP E&T enrollment will allow service providers to bill for costs only if they remain enrolled in SNAP and SNAP E&T.
3. *SNAP semi-annual reporting and recertification dates/status:* For providers that wish to provide participants with assistance maintaining SNAP outside of SNAP E&T funding, this information will allow providers to support applicants through the process and troubleshoot any problems with eligibility workers. Without such support, there is often significant SNAP churning around this time, which adds an administrative burden to all parties.

Thank you for the opportunity to submit these comments. Contact Elizabeth Lower-Basch (elowerbasch@clasp.org) and Parker Gilkesson (pgilkesson@clasp.org) with any questions.

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