

March 29, 2019

Submitted via www.regulations.gov

Ms. Sasha Gerstan-Paal, Chief
Certification Policy Branch
Program Development Division
Food and Nutrition Service
3101 Park Center Drive
Alexandria, Virginia 22302

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

Dear Ms. Gerstan-Paal:

I am writing on behalf of the Center for Law and Social Policy (CLASP). 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 submits the following comments in opposition to the U.S. Department of Agriculture's proposed regulation regarding the time limits within the Supplemental Nutrition Assistance Program (SNAP) that apply to working-age adults without minor children. We are deeply concerned by attempts to restrict food assistance to individuals for whom SNAP is essential to meeting their basic needs and providing a work support. While we strongly support the goal of helping SNAP recipients obtain and keep quality jobs that enable them to achieve economic security, we believe the proposed restrictions will not advance this goal. In fact, because the changes will result in more people losing their SNAP benefits, they will make it harder to achieve this goal.

SNAP already has harsh time limits in place requiring states to limit food assistance to just three months out of every three years for most working-age adults without minor children, unless they have a documented disability or report 20 hours of work or related activities each week. This policy alone cuts off hundreds of thousands of unemployed people from food assistance when they need it most. The proposed rule would make the policy even harsher by taking away food from even more people struggling to find steady work. By the Trump administration's own estimates, approximately 755,000 to 851,000 individuals are at risk of losing food assistance through SNAP under the proposed rule.

In the general comments that follow, we explain in more detail the reasons why the Department should immediately withdraw this proposed regulation. At the close of our general comments, we address major elements of the proposed rule section by section.

1. BACKGROUND

SNAP is our nation's most important anti-hunger program. It provides food assistance to youth, working families, people with disabilities, seniors, and many more. SNAP helps approximately 39 million people in nearly 20 million households put food on the table.¹ In 2015, SNAP lifted approximately 2.1 million Black people (including 1 million children)² and an estimated 2.5 million Latinos (including 1.2 million children) out of poverty.³ More than ten percent of Asian American and Pacific Islander (AAPI) families receive SNAP benefits,⁴ while many more are likely eligible but unenrolled due to cultural stigma and insufficient program outreach to AAPI groups.⁵

In addition to fighting hunger, SNAP encourages work in several ways.⁶ First, SNAP's structure encourages work because as earnings rise, benefits phase out gradually. And because of the earned income disregard, earnings are treated more favorably than other income when benefits are calculated. Second, SNAP promotes employment by ensuring people have their basic needs met. Those working and seeking work on SNAP do not have to worry about when they will get their next meal. Instead, they can focus their energy on finding and keeping a job.

Access to SNAP Has Positive Effects on Individuals' Long-Term Economic and Educational Attainment, Which in Turn Contribute to Self-Sufficiency

The face of hunger in working-age adults is often hidden. It can look like a single mother denying herself her medication so she can buy groceries for her family, a college student unable to focus in his classes, a hungry young adult unsuccessfully trying to find a job in a competitive labor market without money for interview clothes, or even a veteran with Post-Traumatic Stress Syndrome choosing between rent, heating, and food after serving our country. Studies have shown that lack of access to food and proper nutrition exacerbates stress, anxiety, and depression,⁷ causes sleep disturbances and fatigue, and impairs cognitive functioning⁸ - conditions that are a significant barrier to finding a job, keeping a job, or getting training to improve wages.

¹ U.S. Department of Agriculture, "SNAP Participation," Food and Nutrition Service, September 2018, <https://fns-prod.azureedge.net/sites/default/files/pd/34SNAPmonthly.pdf>.

² *SNAP Helps Millions of African Americans*, Center on Budget and Policy Priorities, updated February 2018, <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-african-americans>.

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

⁴ "Congressional Tri-Caucus Denounces Cuts to the Supplemental Nutrition Assistance Program (SNAP)," *Congressional Asian Pacific American Caucus*, September 2013, <https://capac-chu.house.gov/press-release/congressional-tri-caucus-denounces-cuts-supplemental-nutrition-assistance-program-snap>.

⁵ Victoria Tran, "Asian Americans are Falling Through the Cracks in Data Representation and Social Services," Urban Institute, June 2018, <https://www.urban.org/urban-wire/asian-americans-are-falling-through-cracks-data-representation-and-social-services>.

⁶ Nune Phillips, *SNAP and Work*, Center for Law and Social Policy, January 2018, https://www.clasp.org/sites/default/files/publications/2018/01/2018_snapandwork.pdf.

⁷ Adrienne O'Neil, Shae E. Quirk, Siobhan Housden, et al., "Relationship Between Diet and Mental Health in Children and Adolescents: A Systematic Review," *American Journal of Public Health* vol. 104,10 (2014): e31-42, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4167107/>.

⁸ Michael W. Green, Peter J. Rogers, Nicola A. Elliman, and Susan J. Gatenby, "Impairment of Cognitive Performance Associated with Dieting and High Levels of Dietary Restraint," *Physiology & Behavior* 55.3 (1994): 447-452, <https://www.seven-health.com/wp-content/uploads/2018/08/Impairment-of-Cognitive-Performance-Associated-with->

SNAP is the antidote that helps hungry people become more employable⁹ and increase wages.¹⁰ The SNAP program has also been shown to stimulate economic growth,¹¹ improve academic outcomes¹², and improve health outcomes.¹³ SNAP benefits allow recipients to spend less money on food and be better able to afford other basic needs such as medicine and housing. Subjecting SNAP recipients to time limits makes it harder, not easier, for them to become self-sufficient.

Further, although pregnant women are exempt from the time limit on SNAP benefits, the restrictions will still impact the health of pregnant women and babies, because they apply to women who do not yet know that they are pregnant, or who do not yet have medical documentation of their pregnancies. The U.S. Centers for Disease Control strongly recommends that even before conceiving, women achieve a healthy weight and nutritious diet in order to maximize their odds of a healthy pregnancy.¹⁴

Nutrition assistance has been documented to promote healthy birth outcomes as well as to have long-term benefits for the children of recipients. Researchers compared the long-term outcomes of individuals in different areas of the country when SNAP expanded nationwide in the 1960s and early 1970s and found that mothers exposed to SNAP during pregnancy gave birth to fewer low-birth-weight babies.¹⁵ If women in early pregnancy are cut off from nutrition services, the negative outcomes would extend decades into the future, diminishing their children's opportunity to thrive in tangible and entirely preventable ways.¹⁶ Low-income women are already more likely to have poorer nutrition and greater stress, which can impair fetal brain development and health during pregnancy.¹⁷ Economic stressors, combined with inadequate prenatal care for low-income pregnant women, are associated with higher rates of pre-term births and infant mortality.¹⁸

[Dieting-and-High-Levels-of-Dietary-Restraint-.pdf](#)

⁹ Dottie Rosenbaum, "The Facts on SNAP, Part 2: SNAP Supports Work," *Center on Budget and Policy Priorities*, May 2013, <https://www.cbpp.org/blog/the-facts-on-snap-part-2-snap-supports-work>.

¹⁰ *Ibid.*, 6.

¹¹ Nune Phillips, *SNAP Contributes to a Strong Economy*, Center for Law and Social Policy, August 2017,

<https://www.clasp.org/sites/default/files/SNAP-Contributes-to-a-Strong-Economy.pdf>.

¹² Nisha Beharie, Micaela Mercado, and Mary McKay, "A Protective Association between SNAP Participation and Educational Outcomes Among Children of Economically Strained Households," *Journal of Hunger & Environmental Nutrition* vol. 12,2 (2016): 181-192, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5513186/>.

¹³ Steven Carlson and Brynne Keith-Jennings, *SNAP Is Linked with Improved Nutritional Outcomes and Lower Health Care Costs*, Center on Budget and Policy Priorities, January 2018, <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>.

¹⁴ Centers for Disease Control and Prevention, "Before Pregnancy: Women" Centers for Disease Control and Prevention, <https://www.cdc.gov/preconception/women.html>.

¹⁵ Douglas Almond, Hillary Hoynes, and Diane Schanzenbach, "Inside the War on Poverty: The Impact of Food Stamps on Birth Outcomes," *The Review of Economics and Statistics*, 93(2), May 2011,

https://www.mitpressjournals.org/doi/pdfplus/10.1162/REST_a_00089; and Hilary Hoynes, Diane Whitmore Schanzenbach, and Douglas Almond, "Long-Run Impacts of Childhood Access to the Safety Net," *American Economic Review*, 106(4):903–934, April 2016, <https://pdfs.semanticscholar.org/c94b/26c57bb565b566913d2af161e555edeb7f21.pdf>.

¹⁶ Sharon Parrot, et al., *Trump "Public Charge" Rule Would Prove Particularly Harsh for Pregnant Women and Children*, Center on Budget and Policy Priorities, (May 1, 2018), available at <https://www.cbpp.org/research/poverty-and-inequality/trump-public-charge-rule-would-prove-particularly-harsh-for-pregnant>.

¹⁷ Tess Lefmann, Terri Combs-Orme, "Prenatal Stress, Poverty, and Child Outcomes," *Child and Adolescent Social Work Journal* 31 (2014), <https://link.springer.com/article/10.1007/s10560-014-0340-x>.

¹⁸ Maternal and Child Health Bureau, *Child Health USA 2014: Prenatal Care*, Health Resources and Services Administration, 2014, <https://mchb.hrsa.gov/chusa14/dl/chusa14.pdf>; Maternal and Child Health Bureau, *Child Health USA 2013: Barriers to Prenatal Care*, Health Resources and Services Administration, 2014, <https://mchb.hrsa.gov/sites/default/files/mchb/Data/Chartbooks/childhealth2013.pdf>; Centers for Disease Control and

SNAP Already Has Harsh Time Limits and Work Reporting Requirements in Place

Federal law currently limits adults ages 18-49 without dependent children or documented disabilities to just 3 months of SNAP in a 36-month period unless they engage in work or work-related activities at least half time or participate in workfare.¹⁹ The current rule is harsh and unfair. When several states reinstated this time limit in 2016 after suspending it due to the Great Recession, at least 500,000 people lost SNAP benefits.²⁰ For instance, in a recent Urban Institute study of the effects of Kentucky's reinstatement of time limits, researchers found that at least 13,000 adults without dependent children or documented disabilities lost SNAP benefits because they reached the three-month time limit, representing 20 to 22 percent of the caseload subject to time limits.²¹ If the proposed rule goes into effect, many more geographic regions will now be required to reinstate the time limit. Time limits harm vulnerable people by denying them food benefits at a time when they most need it.

People subject to the time limit are a demographically diverse population in terms of race, education, and geography. Nearly half (47 percent) of the individuals subject to the time limit are ages 18 to 29. Approximately 85 percent have at most a high school diploma or equivalent. Approximately 45 percent of the people subject to the time limit are women and, among those who report race, an estimated 48 percent are White, 35 percent are Black, and 13 percent are Latino.²² People subject to the time limit face particular employment challenges, including a lack of reliable transportation, unstable housing arrangements, engagement with the criminal justice system, unstable work histories, or undiagnosed physical or mental limitations.²³ In particular, those who reside in states that have not expanded Medicaid are likely to have trouble getting access to a doctor to document their disability.

2. PROPOSAL DOES NOT ENCOURAGE EMPLOYMENT AND WOULD WEAKEN ECONOMY AS A WHOLE

Time Limits and Work Reporting Requirements Do Not Support Employment

Unlike work reporting requirements in most public assistance programs, SNAP time limit rules do not require states to offer options for meeting work reporting requirements before cutting people off benefits. Historically, most states have chosen not to help people subject to the time limit find qualifying

Prevention, *Preterm Birth*, 2016, <https://www.cdc.gov/reproductivehealth/MaternalInfantHealth/PretermBirth.htm>; Child Trends, *Preterm Births*, 2015, https://www.childtrends.org/wp-content/uploads/2015/06/indicator_1434209915.291.html.

¹⁹ Center on Budget and Policy Priorities, "Unemployed Adults Without Children Who Need Help Buying Food Only Get SNAP For Three Months," <https://www.cbpp.org/unemployed-adults-without-children-who-need-help-buying-food-only-get-snap-for-three-months>.

²⁰ Ed Bolen, Dottie Rosenbaum, Stacy Dean, et al., *More Than 500,000 Adults Will Lose SNAP Benefits in 2016 as Waivers Expire*, Center on Budget and Policy Priorities, March 2016, <https://www.cbpp.org/research/food-assistance/more-than-500000-adults-will-lose-snap-benefits-in-2016-as-waivers-expire>.

²¹ Elaine Waxman and Nathan Joo, Urban Institute, "Reinstating SNAP Work-Related Time Limits," March 2019 <https://www.urban.org/research/publication/reinstating-snap-work-related-time-limits>.

²² Steven Carlson, Dorothy Rosenbaum, and Brynne Keith-Jennings, *Who Are the Low-Income Childless Adults Facing the Loss of SNAP in 2016?*, Center on Budget and Policy Priorities, February 2016, <https://www.cbpp.org/research/food-assistance/who-are-the-low-income-childless-adults-facing-the-loss-of-snap-in-2016>.

²³ Ibid.

work or training activities.²⁴ Many individuals will lose SNAP if they cannot find a qualifying activity – which does not include job search – on their own.

Lessons learned from TANF, SNAP, and other programs demonstrate that work reporting requirements are not effective in connecting people to living-wage jobs.²⁵ As laid out by the Center on Budget and Policy Priorities in a review of rigorous evaluations, research shows that employment increases among individuals subject to work reporting requirements were modest and faded over time. In nearly all of the approximately dozen programs evaluated, employment among recipients *not* subject to work reporting requirements was the same as or higher than employment among individuals subject to work reporting requirements within five years.²⁶

Work reporting requirements are not only ineffectual but have opportunity costs: the time that a SNAP recipient loses in low-intensity programs or low-wage jobs simply to meet requirements could have been spent obtaining skills and credentials, finding a quality job, and increasing their earnings. A much better focus for public policy is to invest in strategies that support people to develop skills and access training that prepares them for jobs that pay living wages and foster an economy that creates more quality jobs with fair wages.

Proposal Would Grow Government Bureaucracy

Under the Work Support Strategies (WSS) project, CLASP worked closely with six states that sought to dramatically improve the delivery of key work support benefits to low-income families, including health coverage, nutrition benefits, and child care subsidies through more effective, streamlined, and integrated approaches. From this work, we learned that reducing unnecessary steps in the application and renewal process both reduced burden on caseworkers and made it easier for families to access and retain the full package of supports that they need to thrive in work and school. Conversely, additional steps are burdensome to both caseworkers and participants.

In order to remain compliant with work reporting requirements, recipients must show proof of work. Failure to submit paperwork, even if the person meets work reporting requirements, can result in terminated SNAP benefits and increased caseload churn. For SNAP oversight agencies, tracking work hours, reviewing proof of work, and keeping track of who is and is not subject to the work reporting requirement every month is a considerable undertaking and is prone to caseworker error. Moreover, because the time limit rules are distinct from the work registration requirements, states may need to track compliance separately and provide participants with separate sets of notices informing them of the consequences for non-compliance, which further adds to the complexity of administration.

The complexity of the processes and the ensuing churn will also impose administrative costs on social service offices. People who lose benefits may later re-apply, which consumes more staff time. One of the key lessons of the Work Support Strategies project is that every time that a client needs to bring in a

²⁴ United States Government Accountability Office “Supplemental Nutrition Assistance Program: More Complete and Accurate Information needed on Employment and Training Programs,” November 2018, <https://www.gao.gov/assets/700/695632.pdf>.

²⁵ Ladonna Pavetti, *Work Requirements Don’t Cut Poverty, Evidence Shows*, Center on Budget and Policy Priorities, June 2016, <https://www.cbpp.org/research/poverty-and-inequality/work-requirements-dont-cut-poverty-evidence-shows>.

²⁶ Ibid.

verification or report a change adds to the administrative burden on caseworkers and increases the likelihood that clients will lose benefits due to failure to meet one of the requirements.²⁷ The WSS states found that reducing administrative redundancies and barriers used caseworkers' time more efficiently and helped with federal timeliness requirements.²⁸ These administrative requirements in the proposed rule are unnecessarily burdensome to SNAP agencies.

In particular, USDA's Office of Inspector General found that SNAP's provisions regarding time limit rules are difficult to implement. The report finds that states have difficulty implementing time limit rules because the requirements are very complex. As a result, implementation of time limit rules can be error prone. The report also quoted state officials as using terms like "administrative nightmare" and "operational nightmare" in describing the time limit rules. State officials also expressed concerns regarding the amount of time and resources spent implementing time limit provisions.²⁹ Many states have chosen to waive the maximum areas from the time limits in order to simplify program administration and preserve resources for meaningful services for participants.

Proposal Would Undermine Efforts to Provide Meaningful Training Through Voluntary E&T Programs

Mandated work programs are harmful because they threaten to take away benefits from people who are unable to comply with arbitrary rules.³⁰ Instead of spending time receiving necessary skills, resources, and education, recipients must spend time complying with regulations to keep food on their tables, and 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 less necessary tools to be successful in finding a stable position with livable wages.

Over the past decade, some state and local leaders have worked hard to intentionally engage SNAP recipients in high-quality, voluntary programs that give participants the skills and credentials to achieve lasting economic security and develop partnerships for SNAP Employment & Training (E&T). The effort to expand high-quality SNAP E&T programs, still in early stages, require substantial resources and capacity to deliver outcomes. A recent Government Accountability Office (GAO) study notes that "many states have reported to [FNS] that offering employer-driven, skills-based, intensive employment and training services, such as vocational training or work experience, through voluntary programs yields more engaged participants with stronger outcomes." FNS explained to GAO that "voluntary programs are less administratively burdensome than mandatory programs, as they allow states to focus on serving motivated participants rather than sanctioning non-compliant individuals."³¹ Under the proposed rules, this investment in quality, high-intensity programs will likely be reduced as some states will seek to spread limited SNAP E&T resources thinly to help more people meet SNAP time limit rules.

²⁷ Julia B. Isaacs, Michael Katz, Ria Amin, *Improving the Efficiency of Benefit Delivery Outcomes from the Work Support Strategies Evaluation*, Urban institute, November 2016, <https://www.urban.org/research/publication/improving-efficiency-benefit-delivery>.

²⁸ Ibid.

²⁹ United States Department of Agriculture, Office of Inspector General "FNS Controls Over SNAP Benefits For Able-Bodied Adults Without Dependents" <https://www.usda.gov/oig/webdocs/27601-0002-31.pdf>.

³⁰ Julia B. Isaacs, Michael Katz, Ria Amin, *Improving the Efficiency of Benefit Delivery Outcomes from the Work Support Strategies Evaluation*, Urban institute, November 2016, <https://www.urban.org/research/publication/improving-efficiency-benefit-delivery>.

³¹ Ibid.

Instead of penalizing people for being poor and requiring assistance to put food on the table, USDA should consider ways to create a foundation for long-term economic success. Voluntary SNAP E&T programs, for instance, do not subject individuals to sanctions that increase food insecurity. In fact, 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.³² To attract SNAP recipients to voluntary SNAP E&T programs, states can partner with trusted service providers that operate programs with a successful track record. Given these outcomes, in recent years, states have increasingly moved from mandatory to voluntary SNAP E&T programs.³³

Proposal Would Weaken the Economy as a Whole

SNAP has historically served as an economic stabilizer in changing times. It helps to shorten recessions and dampen the effects of an economic cycle in downturn. Without the mitigating effects of SNAP, the impact of recessions can escalate. The proposed rule inhibits SNAP from rapidly responding to changing economic conditions, and the resulting impact on the economy will affect all job seekers. In addition, by the Administration's own calculations, the proposed rule would take food away from 755,000 to 851,000 low-income Americans, resulting in a loss of at least \$15 billion in SNAP benefits over 10 years. These cuts will also have negative economic ripple effects, as SNAP benefits have been shown to have positive multiplier effects on state and local economies and to create new agricultural jobs.³⁴

3. PROPOSAL WOULD HAVE A DISPARATE IMPACT ON PEOPLE TRYING TO MAKE ENDS MEET

We strongly oppose the proposed rule due to its disproportionate impact on certain protected classes, including communities of color, immigrants, and people with disabilities. The Department acknowledges that the rule will have a disparate impact on some populations. It notes that the proposed changes "have the potential for disparately impacting certain protected groups due to factors affecting rates of employment of these groups, [it] find[s] that implementation of mitigation strategies and monitoring by the Civil Rights Division of FNS will lessen these impacts." But no explanation of the mitigation strategies and monitoring is provided, and we do not believe that mitigation strategies can be significant enough to fully address the disproportionate impact of increased food insecurity and poverty on protected classes.

³² Ibid., 9.

³³ United States Government Accountability Office "Supplemental Nutrition Assistance Program: More Complete and Accurate Information needed on Employment and Training Programs," November 2018, <https://www.gao.gov/assets/700/695632.pdf>.

³⁴ Mark M. Zandi, *Assessing the Macro Economic Impact of Fiscal Stimulus 2008*, January 2008, <https://www.economy.com/markzandi/documents/Stimulus-Impact-2008.pdf>; Kenneth Hanson, *The Food Assistance National Input-Output Multiplier (FANIOM) Model and Stimulus Effects of SNAP*, U.S. Department of Agriculture, October 2013, https://www.ers.usda.gov/webdocs/publications/44748/7996_err103_1_.pdf?v=41056; "The Benefits of Increasing the Supplemental Nutrition Assistance Program Participation in Your State," U.S. Department of Agriculture, December 2011, https://www.fns.usda.gov/sites/default/files/bc_facts.pdf; "Chart Book: SNAP Helps Struggling Families Put Food on the Table," Center on Budget and Policy Priorities, March 2017, <https://www.cbpp.org/research/food-assistance/chart-book-snap-helps-struggling-families-put-food-on-the-table#part8>.

Harm to Communities of Color

Many people of color face considerable employment challenges and, under the proposed rule, would be disadvantaged from accessing critical food assistance. Compared to the national average, rates of food insecurity are already higher for Black and Latino headed households.³⁵ Work reporting requirements are also part of a long history of racially-motivated critiques of programs supporting basic needs, with direct harms to people of color. As discussed in more detail in the sections that follow, the proposed rule would disproportionately impact communities of color.

Racial Income Disparities Persist in the United States

Due to persisting racial economic disparities and discrimination in hiring practices, average hourly wages for Black and Latino workers are substantially lower than their white counterparts.³⁶ In 2017, for adults age 18-64, the poverty rate of the general population is 11%. That percentage is significantly higher for Latinos who have a poverty rate of 15% and even higher for Black Americans who have a poverty rate of 18%.³⁷ This makes it more likely that Black and Latino individuals will benefit from programs that support work by helping them access nutritious food. The same is true for certain subgroups of Asian and Pacific Islanders that are particularly at risk of poverty, such as Marshallese (41% poverty rate), Burmese (38%), Hmong (26.1%) and Tongans (22.1%).³⁸

Employment Discrimination Limits Access to the Workforce for Many Immigrants and People of Color

Studies show that racial discrimination remains a key force in the labor market.³⁹ In a 2004 study, researchers randomly assigned names and quality to resumes and sent them to over 1,300 employment advertisements. Their results revealed significant differences in the number of callbacks each resume received based on whether the name sounded stereotypically White or Black. More recent research indicates that this racial bias persists. A study from 2013 submitted fake resumes of nonexistent recent college graduates through online job applications for positions based in Atlanta, Baltimore, Portland, Oregon, Los Angeles, Boston, and Minneapolis. Black people were 16% less likely to get called in for an interview.⁴⁰ Similarly, a 2017 meta-analysis of field experiments on employment

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

³⁶ Eileen Patten, "Racial, Gender Wage Gaps Persist in U.S. Despite Some Progress," Pew Research Center, July 2016, <http://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/>.

³⁷ "POV-01. Age and Sex of All People, Family Members and Unrelated Individuals Iterated by Income-to-Poverty Ratio and Race," U.S. Census Bureau, 2017, <https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pov/pov-01.html>.

³⁸ "American Community Survey 2015 Five Year Estimates, table DP03," U.S. Census Bureau, 2015, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

³⁹ Robert Manduca, *Income Inequality and the Persistence of Racial Economic Disparities*, Sociological Science, March 2018, https://www.sociologicalscience.com/download/vol-5/march/SocSci_v5_182to205.pdf.

⁴⁰ Brett Arends, "In Hiring, Racial Bias is Still a Problem. But Not Always for Reasons You Think," *Fortune*, November 2014, <http://fortune.com/2014/11/04/hiring-racial-bias/>.

discrimination since 1989 found that white Americans applying for jobs receive on average 36% more callbacks than Black people and 24% more callbacks than Latinos.⁴¹

Latino and Black Workers Have Been Hardest Hit by the Structural Shift Toward Involuntary Part-Time Work

Despite wanting to work more, many low-wage workers struggle to receive enough hours from their employer to make ends meet. A report from the Economic Policy Institute found that 6.1 million workers were involuntary part-time; they preferred to work full-time but were only offered part-time hours. According to the report, “involuntary part-time work is increasing almost five times faster than part-time work and about 18 times faster than all work.”⁴²

Latino and Black workers are much more likely to be involuntarily part-time (6.8 percent and 6.3 percent, respectively) than whites, of whom just 3.7 percent work part time involuntarily. And Black people and Latinos are a higher proportion of involuntary part-time workers, together representing 41.1 percent of all involuntary part-time workers. The greater amount of involuntary part-time employment among Black people and Latinos is primarily due to their having greater difficulty finding full-time work and more often facing work conditions in which hours are variable and can be reduced without notice.⁴³ Historical racial bias and work conditions, in which hours are variable and can be reduced without notice, disparately impacts Black people and Latinos and increases their likelihood of experiencing involuntary part-time employment.⁴⁴

People of Color Are More Likely to Live in Neighborhoods with Poor Access to Jobs

In recent years, majority-minority neighborhoods have experienced particularly pronounced declines in job proximity. Proximity to jobs can affect the employment outcomes of residents and studies show that people who live closer to jobs are more likely to work.⁴⁵ They also face shorter job searches and fewer spells of joblessness.⁴⁶ As residents from households with low-incomes and communities of color shifted toward suburbs in the 2000s, their proximity to jobs decreased. Between 2000 and 2012, the number of jobs near the typical Latino and Black resident in major metropolitan areas declined much more steeply than for white residents.⁴⁷

⁴¹ Lincoln Quillian, Devah Pager, Ole Hexel, et al., *Meta-Analysis of Field Experiments Shows No Change in Racial Discrimination in Hiring over Time*, PNAS October 10, 2017 114 (41) 10870-10875, September 2017, <https://doi.org/10.1073/pnas.1706255114>.

⁴² Lonnie Golden, “Still Falling Short on Hours and Pay,” Economic Policy Institute, December 2016, <http://www.epi.org/publication/still-falling-short-on-hours-and-pay-part-time-work-becoming-new-normal/>.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Scott W. Allard and Sheldon Danziger, *Proximity and Opportunity: How Residence and Race Affect the Employment of Welfare Recipients*, Housing Policy Debate, September 2000, <https://pdfs.semanticscholar.org/4936/dfd925b78d9e81f8d5d44b95b6a15f8ba0ab.pdf>.

⁴⁶ Elizabeth Kneebone and Natalie Holmes, “The Growing Distance Between People and Jobs in Metropolitan America,” Brookings Institution, March 2015, <https://www.brookings.edu/research/the-growing-distance-between-people-and-jobs-in-metropolitan-america/>.

⁴⁷ Ibid.

Due to Overcriminalization Of Neighborhoods of Color, People of Color Are More Likely to Have Previous Histories of Incarceration, Which in Turn Limits Their Job Opportunities

People of color, particularly Black people and Latinos, are unfairly targeted by the police and face harsher prison sentences than their white counterparts.⁴⁸ National data show that Black people and Latinos are three times more likely to be searched than whites⁴⁹ and people of color are significantly overrepresented in the U.S. prison population, making up more than 60 percent of people behind bars.⁵⁰

After release, formerly incarcerated individuals fare poorly in the labor market, with most experiencing difficulty finding a job after release. Research shows that roughly half of people formerly incarcerated are still unemployed one year after release.⁵¹ For those who do find work, it's common to have annual earnings of less than \$500.⁵² Further, during the time spent in prison, many lose work skills and are given little opportunity to gain useful work experience.⁵³ People who have been involved in the justice system struggle to obtain a driver's license, own a reliable means of transportation, acquire relatively stable housing, and maintain proper identification documents. These obstacles often prevent formerly incarcerated persons from successfully re-entering the job market and are compounded by criminal background checks, which further limits their access to employment.⁵⁴ A recent survey found that 96 percent of employers conduct background checks on job applicants that include a criminal history search.⁵⁵

People of Color May Be Less Likely to Receive Exemptions Based on Health Conditions

Research suggests that people of color, in particular Black people, may be negatively impacted by racial bias in pain assessment and treatment recommendations, which would affect their ability to receive exemptions based on health conditions. One study found individuals with at least some medical training hold false beliefs about race that inform medical judgements, which may contribute to racial disparities

⁴⁸ Jamal Hagler, "8 Facts You Should Know About the Criminal Justice System and People of Color." Center for American Progress, May 2015, <https://www.americanprogress.org/issues/race/news/2015/05/28/113436/8-facts-you-should-know-about-the-criminal-justice-system-and-people-of-color/>.

⁴⁹Lynn Langton, Matthew Durose, et al., *Police Behavior during Traffic and Street Stops, 2011*, U.S. Department of Justice, October 2016, <https://www.bjs.gov/content/pub/pdf/pbtss11.pdf>.

⁵⁰ "United States profile," Prison Policy Initiative, <https://www.prisonpolicy.org/profiles/US.html#disparities>.

⁵¹ Adam Looney and Nicholas Turner, *Work and Opportunity Before and After Incarceration*, The Brookings Institution, March 2018, <https://www.brookings.edu/research/work-and-opportunity-before-and-after-incarceration/>; Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry*, Chicago, Ill: University of Chicago Press, 2003, <https://www.amazon.com/When-Prisoners-Come-Home-Prisoner/dp/0195386124>; Jeremy Travis, *But They All Come Back: Facing the Challenges of Prisoner Reentry*, Washington, D.C.: Urban Institute Press, 2005, <https://www.amazon.com/But-They-All-Come-Back/dp/0877667500>.

⁵² *Ibid.*, 40.

⁵³ Christy Visher, Sara Debus, and Jennifer Yahner, *Employment after Prison: A Longitudinal Study of Releasees in Three States*, The Urban Institute, October 2008, <https://www.urban.org/sites/default/files/publication/32106/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF>.

⁵⁴ Marina Duane, Nancy La Vigne, Mathew Lynch, et al., *Criminal Background Checks: Impact on Employment and Recidivism*, Urban Institute, March 2017, https://www.urban.org/sites/default/files/publication/88621/2017.02.28_criminal_background_checks_report_finalized_blue_dots_1.pdf.

⁵⁵ Thomas Ahearn, "Survey Finds 96 Percent of Employers Conduct Background Screening," Employment Screening Resources, August 2017, <http://www.esrcheck.com/wordpress/2017/08/03/survey-finds-96-percent-of-employers-conduct-background-screening/>.

in pain assessment and inadequate treatment recommendations for Black patients' pain.⁵⁶ Further, the Government Accountability Office (GAO) found in the early-1990s that Black people with serious ailments were much more likely than White people to be rejected for benefits under Social Security disability programs.⁵⁷ While this particular analysis has not been repeated recently, there remains widespread evidence of disparities in medical treatment. These findings suggest that people of color may be less likely to receive exemptions based on health conditions, potentially subjecting more people to time limit rules than would otherwise be the case.

Work Reporting Requirements Are Part of a Long History of Racially-Motivated Critiques of Programs Supporting Basic Needs

False race-based narratives have long surrounded people experiencing poverty, with direct harms to people of color. For decades these narratives have played a role in discussions around public assistance benefits – including SNAP – and have been employed to garner support from working-class White people.⁵⁸ Below are a few examples of the relationship between poverty, racial bias, and access to basic needs programs.

- When the “Mother’s Pension” program was first implemented in the early 1900s, it primarily served white women and allowed mothers to meet their basic needs without working outside of the home. Only when more African American women began to participate were work reporting requirements implemented.⁵⁹
- Between 1915 and 1970, over 6 million African American people fled the south in the hope of a better life. As more African Americans flowed north, northern states began to adopt some of the work reporting requirements already prevalent in assistance programs in the South.⁶⁰
- As civil rights struggles intensified, the media’s portrayal of poverty became increasingly racialized. In 1964, only 27 percent of the photos accompanying stories about poverty in three of the country’s top weekly news magazines featured Black people; by 1967, 72 percent of photos accompanying stories about poverty featured Black people.⁶¹
- Many of Ronald Reagan’s presidential campaign speech anecdotes centered around a Black woman from Chicago who had defrauded the government. These speeches further embedded

⁵⁶ Kelly m. Hoffman et al., “Racial bias in pain assessment and treatment recommendations, and false beliefs about biological differences between blacks and whites” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4843483/>.

⁵⁷ Stephen Labaton, “Benefits Are Refused More Often To Disabled Blacks, Study Finds” New York Times, May 1992, <https://www.nytimes.com/1992/05/11/us/benefits-are-refused-more-often-to-disabled-blacks-study-finds.html>.

⁵⁸ Josh Levin, “The Welfare Queen,” *Slate*, December 2013, http://www.slate.com/articles/news_and_politics/history/2013/12/linda_taylor_welfare_queen_ronald_reagan_made_her_a_notorious_american_villain.html.

⁵⁹ Rachel Black and Aleta Sprague, “Republicans’ Fixation on Work Requirements is Fueled by White Racial Resentment,” *Slate*, June 2018, <https://slate.com/human-interest/2018/06/trump-administrations-fixation-on-work-requirements-for-snap-benefits-is-part-of-a-long-racist-policy-history.html>.

⁶⁰ Kali Grant, Funke Aderonmu, Sophie Khan, et al., *Unworkable and Unwise: Conditioning Access to Programs that Ensure a Basic Foundation for Families on Work Requirements*, Economic Security and Opportunity Initiative at Georgetown Law, February 2019, <http://www.georgetownpoverty.org/issues/tax-benefits/unworkable-unwise/>.

⁶¹ Rachel Black and Aleta Sprague, “The Rise and Reign of the Welfare Queen,” *New America*, September 2016, <https://www.newamerica.org/weekly/edition-135/rise-and-reign-welfare-queen/>.

the idea of the Black “welfare queen” as a staple of dog whistle politics, suggesting that people of color are unwilling to work.⁶²

- In 2018, prominent sociologists released a study looking at racial attitudes on welfare. They noted that white opposition to public assistance programs has increased since 2008 — the year that Barack Obama was elected. The researchers also found that showing white Americans data suggesting that white privilege is diminishing led them to express more opposition to spending on programs like SNAP. They concluded that the “relationship between racial resentment and welfare opposition remains robust.”⁶³

The Unemployment Rate Does Not Reflect Opportunities Available to People of Color and, Because of Barriers to Employment, there is a Disproportionate Rate of Employment for People of Color

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

First, the Department suggests that insufficient jobs are reflected in unemployment data, but that data excludes key evidence, such as unemployed persons who searched for work in the previous year but not in the past four weeks, and workers who are part-time for economic reasons. According to Bureau of Labor Statistics data, Black people are twice as likely than White people to have searched for work in the previous year but not in the past 4 weeks, and Latinos are 66 percent more likely than White people to work part-time for economic reasons.⁶⁴ These data points suggest that the proposed core standard for determining lack of sufficient jobs, unemployment data, disproportionately impacts protected classes.

Second, because of the systemic barriers to employment facing communities of color described in detail above, there is a disproportionate rate of employment for people of color. For instance, nationwide, the unemployment rate for Black people was 9.5 percent and 6.0 percent for Latinos, compared to 4.5 percent for their White counterparts in 2017.⁶⁵ Further, even within states, unemployment rates for Black people and Latinos are still relatively higher than their White counterparts. For example, in California—a state with a statewide time limit waiver in place—the unemployment rate was 5.9 percent in 2017.⁶⁶ However, the unemployment rate was considerably higher for Black people and Latinos in

⁶² Gene Demby, “The Truth Behind the Lies of the Original ‘Welfare Queen’,” *National Public Radio*, December 2013, <https://www.npr.org/sections/codeswitch/2013/12/20/255819681/the-truth-behind-the-lies-of-the-original-welfare-queen>.

⁶³ Rachel Wetts and Robb Willer, *Privilege on the Precipice: Perceived Racial Status Threats Lead White Americans to Oppose Welfare Programs*, *Social Forces*, Volume 97, Issue 2, 1 December 2018, Pages 793–822, May 2018, <https://academic.oup.com/sf/article/97/2/793/5002999>.

⁶⁴ “People in the Labor Force and Not in the Labor Force by Selected Characteristics, 2017 Annual Averages,” U.S. Bureau of Labor Statistics, <https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm>; “Employed and Unemployed Full- and Part-time Workers by Age, Ssex, Race, and Hispanic or Latino Ethnicity,” U.S. Bureau of Labor Statistics, December 2018, <https://www.bls.gov/cps/cpsaat08.htm>.

⁶⁵ Census Bureau, American FactFinder, 2017 American Community Survey 1-Year Estimates, Table S0201 https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_1YR_S0201&prodType=table.

⁶⁶ *Ibid.*

California in 2017; 10.7 percent for Black people and 6.7 percent for Latinos, compared to 5.5 percent for their White counterparts.⁶⁷

Harm to Immigrants

Immigrant Eligibility for SNAP is Extremely Limited and Current SNAP Participation Is Already Declining

The Trump Administration's relentless anti-immigrant rhetoric and policies are driving low-income immigrant families away from SNAP.⁶⁸ The requirements for eligibility in SNAP haven't changed recently but immigrant households legally eligible for SNAP benefits stopped participating in the program at a higher-than-average rate in 2018.⁶⁹ Following welfare reform in 1996, a person must be a U.S. citizen or an eligible, lawfully-present non-citizen to qualify for SNAP benefits.⁷⁰ Recent data presented at the 2018 American Public Health Association Annual Conference shows that after a decade of steady increases, enrollment nationwide among immigrant families eligible for SNAP has dropped by 10 percent.⁷¹ The study's lead researcher said in a press release, "We believe the drop in participation may be related to more nuanced changes in national immigration rhetoric and increased federal action to deport and detain immigrants. These findings demonstrate that rhetoric and the threat of policy changes, even before changes are enacted, may be causing families to forego nutrition assistance."

In addition, immigrants are often unaware of the SNAP program or are confused about their eligibility for benefits.⁷² Many immigrants in mixed-status families are not aware that some of their family members are eligible for SNAP, and immigrants face complicated administrative burdens due to caseworkers' lack of familiarity with foreign identity documents.⁷³ In fact, most federal agencies have been working to overcome the barriers immigrants face to enrolling in benefits rather than adopting policies such as this proposal, which will only exacerbate current disparities in immigrant access to the SNAP program.⁷⁴ Given SNAP's record of alleviating poverty and food insecurity and improving health and employment outcomes, the USDA should be working to remove the barriers immigrant families face in accessing SNAP rather than further restricting access.

⁶⁷ Ibid.

⁶⁸ Helena Bottemiller Evich, "Immigrant Families Appear to be Dropping Out of Food Stamps," *POLITICO*, November 2018, <https://www.politico.com/story/2018/11/14/immigrant-families-dropping-out-food-stamps-966256>.

⁶⁹ Allison Bovell-Ammon, "Trends in Food Insecurity and SNAP Participation Among Immigrant Families of U.S. Born Young Children," *Children's HealthWatch*, November 2018, <http://childrenshealthwatch.org/study-following-10-year-gains-snap-participation-among-immigrant-families-dropped-in-2018/>.

⁷⁰ *Supplemental Nutrition Assistance Program: Guidance on Non-Citizen Eligibility*, U.S. Department of Agriculture, June 2011, https://fns-prod.azureedge.net/sites/default/files/snap/Non-Citizen_Guidance_063011.pdf.

⁷¹ "Study: Following 10-year gains, SNAP participation among immigrant families dropped in 2018," *American Public Health Association*, November 2018, <https://www.apha.org/news-and-media/news-releases/apha-news-releases/2018/annual-meeting-snap-participation>.

⁷² Susan Bartlett, Nancy Burstein, William Hamilton, et al., *Food Stamp Access Study: Final Report*, U.S. Department of Agriculture, November 2004, <https://naldc.nal.usda.gov/download/45671/PDF>.

⁷³ Krista M. Perreira, Robert Crosnoe, Karina Fortuny, et al., *Barriers to Immigrants' Access to Health and Human Services Programs*, U.S. Department of Health and Human Services, May 2012, <https://aspe.hhs.gov/system/files/pdf/76471/rb.pdf>.

⁷⁴ Robert Crosnoe, Juan Manuel Pedroza, Kelly Purtell, et al., *Promising Practices for Increasing Immigrants' Access to Health and Human Services*, U.S. Department of Health and Human Services, May 2012, <https://aspe.hhs.gov/basic-report/promising-practices-increasing-immigrants-access-health-and-human-services>.

Harm to People with Disabilities

People who are unable to work due to disability or illness are likely to lose food assistance under the proposal. Although the statute and regulations both provide for exemptions from the time limit for individuals with work limitations, the reality in practice is that many individuals with disabilities are not identified and granted exemptions. In many states, only individuals who are receiving government disability benefits are exempted from the time limit.

Many individuals characterized as able-bodied adults have significant physical or mental barriers to employment. In a Franklin County, Ohio report, approximately one-third of individuals characterized as able-bodied reported having a “physical or mental limitation.”⁷⁵ Of those, 25 percent indicated that the condition limited their daily activities, and nearly 20 percent had filed for Disability/SSI within the previous 2 years.⁷⁶ Although some conditions may not meet the stringent standard to qualify the individual for a federal disability benefit, they still may have significant barriers to working 20 hours or more per week. For instance, BLS reported that half of working-age adults with a disability who were not working reported barriers to employment, including a lack of transportation and the need for accommodations in a workplace.⁷⁷ Another BLS report shows that workers with disabilities are nearly twice as likely as workers with no disability to be employed part-time.⁷⁸

Additionally, we know that many disabilities go undiagnosed either because they are difficult to diagnose or the person does not have the resources to seek out a diagnosis. Moreover, many people who are unable to work due to disability fail to receive an exemption because of the complexity of paperwork required for exemptions. A Kaiser Family Foundation study found that 36 percent of unemployed adults receiving Medicaid reported illness or disability as their primary reason for not working but were not receiving Disability/SSI.⁷⁹ Because of the historic unemployment and underemployment of people with disabilities – which workforce and SNAP employment systems are not adequately structured or funded to solve – a reduction in time limit waivers would result in the loss of crucial nutrition assistance for large numbers of low-income people with disabilities.

Harm to College Students

Many Students Cannot Meet Requirements of Proposed Rule

Students enrolled at least half-time are not subject to the time limit, and this will not change under the proposed rule. However, students enrolled less than half-time and not otherwise exempt will now be at increased risk of losing benefits under the proposed rule if they are unable to meet SNAP time limit rules. Many low-income students must work part-time to support themselves and their families, and

⁷⁵ *Franklin County Work Experience Program*, Ohio Association of Foodbanks, 2015, http://admin.ohiofoodbanks.org/uploads/news/ABAWD_Report_2014-2015-v3.pdf.

⁷⁶ *Ibid.*

⁷⁷ U.S. Department of Labor, “Persons with a Disability: Barriers to Employment, Types of Assistance, and Other Labor-Related Issues—May 2012, Bureau of Labor Statistics, April 2013, https://www.bls.gov/news.release/archives/dissup_04242013.pdf.

⁷⁸ U.S. Department of Labor, “Persons with a Disability: Labor Force Characteristics—2016,” Bureau of Labor Statistics, June 2017, <https://www.bls.gov/news.release/pdf/disabl.pdf>.

⁷⁹ Rachel Garfield, Robin Rudowitz, and Anthony Damico, “Understanding the Intersection of Medicaid and Work, February 2017, <http://kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/>.

therefore enroll in college less than half-time. However, an 80 hours per month requirement does not allow enough time for many students to be able to attend classes and complete their homework.

Given these challenges, this rule stands in direct contradiction to its stated principle of “...improv[ing] employment outcomes and economic independence.” This rule will limit the ability of students with low incomes to successfully maintain SNAP and complete a postsecondary education that can lead to quality employment with family-sustaining wages⁸⁰ and employer sponsored healthcare and retirement savings.⁸¹

Proposal Would Exacerbate Confusion about Students’ Eligibility for SNAP

SNAP has specific rules that determine which low-income students can receive food assistance. Low-income postsecondary students who are enrolled at least half-time and not otherwise exempt must meet all of the standard SNAP eligibility rules, as well as one of several additional qualifications, such as working at least 80 hours a month, participating in work-study, or participating in an employment and training program.⁸² According to the Government Accountability Office (GAO), postsecondary officials and students report being confused by these student rules. This leads to misinformation about the availability of SNAP on campus and low SNAP enrollment. A reported 57 percent of potentially eligible students (those who have low incomes, and at least one additional risk factor for food insecurity) are not presently accessing SNAP.⁸³ The proposed time limit rule will add to the confusion by imposing harsh restrictions on students who are enrolled less than half-time and trying to meet their basic need for food through SNAP. The proposed rule compounds the challenges of maintaining SNAP and undermines education activities that could lead to greater economic contributions and increased productivity.⁸⁴

Proposed Rule Does Not Reflect Recent Changes in the Student Body

Students who enroll full-time right after high school, receive help from their parents, and do not work during the school year are no longer the norm on college campuses.⁸⁵ A recent report from the GAO demonstrated that 71 percent of undergraduate students now have at least one characteristic that complicates their ability to attend classes such as being financially independent from their parents. The additional financial strain of independence can contribute to lower retention and graduation rates as compared to their “traditional” counterparts, emphasizing the need for more robust and diverse supports.

⁸⁰ “Measuring the Value of Education,” *U.S. Bureau of Labor Statistics*, April 2018, <https://www.bls.gov/careeroutlook/2018/data-on-display/education-pays.htm>.

⁸¹ Teresa Kroeger and Elise Gould, *The Class of 2017*, Economic Policy Institute, May 2017, <https://www.epi.org/publication/the-class-of-2017/>.

⁸² “Supplemental Nutrition Assistance Program (SNAP),” *Food and Nutrition Service*, n.d., <https://www.fns.usda.gov/snap/students>; Carrie Welton, *SNAP and Students: Food Assistance Can Support College Success*, Center for Law and Social Policy, January 2019, <https://www.clasp.org/publications/fact-sheet/snap-and-students-food-assistance-can-support-college-success>.

⁸³ *Food Insecurity: Better Information Could Help Eligible College Students Access Federal Food Assistance Benefits*, U.S. Government Accountability Office, December 2018, <https://www.gao.gov/assets/700/696254.pdf>.

⁸⁴ Noah Berger and Peter Fisher, *A Well-Educated Workforce Is Key to State Prosperity*, Economic Policy Institute, August 2013, <https://www.epi.org/publication/states-education-productivity-growth-foundations/>.

⁸⁵ *Ibid.*, 17.

A reported 39 percent of all undergraduate students have a household income at or below 130 percent of the federal poverty line. The GAO reported that the highest student risk of food insecurity is being low-income and the second is being a first-generation college student.⁸⁶ In spite of the risk of food insecurity, low-income students are enrolling in college at rates that now exceed that of their middle-income peers.⁸⁷ But this proposed rule would increase food insecurity and interfere with students' ability to attend and complete college.

Proposal Would Undermine Students' Completion of Post-Secondary Education

Analyses of the labor market over the past decade illustrate the considerable barriers to getting and maintaining employment without some form of postsecondary education. Research shows workers with a high school diploma or less lost 5.6 of the 7.2 million jobs wiped out in the Great Recession. These workers have recovered less than 80,000 jobs in the decade since, while those with a bachelor's degree gained 4.6 million jobs in the recovery. Ninety-nine percent of the jobs created since the Great Recession have gone to those with some form of postsecondary education.⁸⁸ Workers with a postsecondary education also have the majority of jobs with livable wages and employer provided benefits.

Low-income individuals continue to enroll in postsecondary programs at increasing rates because they understand that postsecondary education is the most reliable pathway to economic security. Without access to SNAP, low-income students who are food insecure may struggle to persist in and successfully complete their postsecondary education.⁸⁹ The proposed rule is therefore incredibly short-sighted in limiting student success in postsecondary education.⁹⁰

Harm to Young Adults

The proposed rule would have a disparate impact on youth and youth of color, given the considerable barriers they face in entering the labor market and maintaining employment. Nationwide, approximately 4.6 million young adults ages 16 to 24 are out of school and unemployed.⁹¹ In 2018, the youth unemployment rate (9.2%) was more than double the overall unemployment rate of 3.9 percent.⁹²

⁸⁶ Ibid.

⁸⁷ Table 302.30. *Percentage of Recent High School Completers Enrolled in College, by Income Level: 1975 through 2016*, National Center for Education Statistics, July 2017, https://nces.ed.gov/programs/digest/d17/tables/dt17_302.30.asp?current=yes.

⁸⁸ Anthony P. Carnevale, Tamara Jayasundera, and Artem Gulish, *America's Divided Recovery College Haves and Have-Nots*, Center on Education and the Workforce, 2016, <https://cew.georgetown.edu/wp-content/uploads/Americas-Divided-Recovery-web.pdf>.

⁸⁹ Duy Pham, *Benefits Access for College Completion: Lessons Learned from a Community College Initiative to Help Low-Income Students*, Center for Law and Social Policy, July 2016, <https://www.clasp.org/blog/benefits-access-college-completion-lessons-learned-community-college-initiative-help-low-income>.

⁹⁰ Ibid., 21.

⁹¹ Sarah Burd-Sharps and Kristen Lewis, *More than a Million Reasons for Hope Youth Disconnection in America Today*, Measure of America, March 2018, <http://measureofamerica.org/youth-disconnection-2018/>.

⁹² Table 2. *Employment Status of the Civilian Noninstitutional Population 16 to 24 Years of Age by Sex, Race, and Hispanic or Latino Ethnicity, July 2015-2018*, U.S. Bureau of Labor Statistics, August 2018, <https://www.bls.gov/news.release/youth.t02.htm>; *Household Data Annual Averages: 1. Employment Status of the Civilian Noninstitutional Population, 1948 to Date*, U.S. Bureau of Labor Statistics, accessed March 2019, <https://www.bls.gov/cps/cpsaat01.pdf>.

Among young adults, Black people (16.5 percent) and Latinos (10.8 percent) have considerably higher rates of unemployment.⁹³

Even when employed, young adults are more likely than older workers to have jobs with low wages and no benefits.⁹⁴ Some struggle to receive enough hours from their employer to make ends meet. According to the Economic Policy Institute, young workers 16 to 24 years of age are more likely to be working part-time involuntarily among all age groups and account for approximately 28 percent of all involuntary part time workers, despite comprising 13 percent of those at work.⁹⁵

Furthermore, young adult workers are more likely to experience fluctuating work hours common to youth-hiring sectors such as retail, restaurants, agriculture, construction, and other services. For example, approximately 90 percent of young food service workers reported that their hours fluctuated in the last month by 68 percent, on average. In addition, half of retail workers reported that they know their work schedule just one week or less in advance, and half of janitors and housekeepers reported that their employer completely controls the timing of their work.⁹⁶

Young adults in these jobs use SNAP to help them cover basic needs, but many youths will lose SNAP under the proposed rule when their hours fall below 20 hours per week. The proposed rule penalizes young adults who struggle to find stable employment by increasing food insecurity.

4. ANALYSIS OF MAJOR ELEMENTS OF THE PROPOSED RULE

The majority of our comments to this point have addressed the harmful impact of the rule as a whole because different sections interact in ways that have a greater impact than any individual section. In order to ensure that our input is fully captured in the Department's analysis of the comments received, the following section addresses key elements of the proposed rule.

Conformance with the Agriculture Improvement Act of 2018 (Farm Bill)

The just enacted Agriculture Improvement Act of 2018 maintains current law regarding SNAP time limit rules. The explanation given by the Act's Joint Explanatory Statement of the Committee of Conference is, "the Managers...acknowledge that waivers from the ABAWD time limit are necessary in times of recession and in areas with labor surpluses or higher rates of unemployment."

While the NPRM states that applying SNAP time limit rules more broadly is in alignment with the House-passed Agriculture and Nutrition Act of 2018, H.R. 2, that bill did not ultimately become law. The final Agriculture Improvement Act of 2018 retains the SNAP time limit in current law and strikes the House

⁹³ Ibid., 83a.

⁹⁴ *Alleviating Poverty for Opportunity Youth*, JFF, December 2018, <https://www.jff.org/resources/alleviating-poverty-opportunity-youth/>.

⁹⁵ Ibid., 40.

⁹⁶ Susan J. Lambert, Peter J. Fugiel, and Julia R. Henly, *Schedule Unpredictability Among Early Career Workers in the US Labor Market: A National Snapshot*, University of Chicago: Employment Instability, Family Well-being, and Social Policy Network, August 2014, http://www.academia.edu/21504026/Schedule_Unpredictability_among_Early_Career_Workers_in_the_US_Labor_Market_A_National_Snapshot.

bill modifications. In a letter to Secretary Purdue requesting that the proposed rule be withdrawn, Senators Stabenow and Murkowski as well as 45 more Senators clarify congressional intent. The letter from U.S. Senators states:

In addition to being out line with Congressional intent related to waivers, this rule also directly contradicts Congressional direction related to waiver submissions and carry-over exemptions included in the 2018 Farm Bill report. This report, written by Chairman Pat Roberts, Ranking Member Debbie Stabenow, Chairman Mike Conaway and Ranking Member Collin Peterson and approved by the 369 members of the House and 87 members of the Senate, explicitly directs the Department not to make the changes made in this rule. This unilateral Administrative action is in direct contradiction to the will of Congress.⁹⁷

In contrast to the new law, the NPRM often cites the goal of ensuring that more people are subject to SNAP time limits and work reporting requirements as a justification for policy changes. For example, in describing options for a 6 percent floor, the NPRM states that, “the Department is concerned that too many areas would qualify for a waiver of the ABAWD time limit and that too few individuals would be subject to the ABAWD work requirements.” The Department’s proposed floor of 7 percent seems arbitrary and devised to produce the desired result of more individuals being subject to work reporting requirements, a goal that does not reflect the goals of Congress.

Setting policy goals inconsistent with the intent of the final law is an over-reach of Departmental authority. The Department is expected to ensure that waivers for SNAP time limit rules are adequately responsive to nationwide recessions and relative areas of higher unemployment or labor surpluses. The three core standards proposed by the Department do not allow that role to be performed adequately.

Federalism Summary Impact Statement

The proposed rule has federalism implications that contradict the intent of both the 2018 Farm Bill and Executive Order 13132. The Joint Explanatory Statement of the Committee of Conference of the Farm Bill states that “the Managers intend to maintain the practice that bestows authority on the State agency responsible for administering SNAP to determine when and how waiver requests for ABAWDs are submitted.”

Executive Order 13132 Section 7(b) states that, “Each agency shall, to the extent practicable and permitted by law, consider any application by a State for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State or local level in cases in which the proposed waiver is consistent with applicable Federal policy objectives and is otherwise appropriate.” The Federal policy objectives stated above specifically maintain State agency responsibility for determining when and how waivers are submitted.

State flexibility is critical to appropriate implementation of SNAP time limit rules. Consistent with the view of many researchers and agencies including the National Bureau of Economic Research, no single

⁹⁷ Senator Stabenow and Senator Murkowski, U.S. Senate, Letter to Secretary Purdue, March 28, 2019, <http://www.frac.org/wp-content/uploads/19-03-28-Letter-to-Perdue-re-ABAWD-Rule.pdf>.

measure can truly identify economic downturns and a lack of sufficient jobs.⁹⁸ Individual states have in-depth knowledge of their communities that allows them to identify qualitative data, Census Bureau data, Bureau of Labor Statistics employment-population data and U-6 measures, and other high-quality data to best make a case for the need for a waiver. The sections below highlight some of the strengths of these different measures.

Use of Bureau of Labor Statistics Data for Core Standards

The United States Bureau of Labor Statistics produces two measures of labor underutilization based on the Current Population Survey that will be discussed in this section.⁹⁹

1. **U-3 measure:** The U-3 measure is the official unemployment rate, which is proposed by the Department as the basis for two of three core standards: the fixed measure of unemployment rate over 10 percent, and the relative measure of 20 percent over the average unemployment rate over a 24-month period. The U-3 calculates the unemployed as a percentage of the labor force. The labor force includes employed as well as unemployed, which is defined as those who have no job and have made an attempt to look for work in the past 4 weeks.
2. **U-6 measure:** The U-6 is an alternative measure of labor underutilization that captures:
 - i. the percentage of people who want and are available for full-time work but have had to settle for a part-time schedule for economic reasons, such as their hours being cut back or being unable to find full-time jobs (termed “employed part-time for economic reasons”).
 - ii. the percentage of people who currently are neither working nor looking for work but indicate that they want and are available for a job and have looked for work sometime in the past 12 months (termed “marginally attached to the workforce.”) Discouraged workers, a subset of the marginally attached, have given a job-market related reason for not currently looking for work.
 - iii. The percentage of people who are unemployed, equivalent to the U-3 measure.

These components of the U-6 measure are calculated as a percent of the labor force plus all persons marginally attached to the labor force.¹⁰⁰

We oppose the proposed rule’s heavy and exclusive reliance on the U-3 measure for two of its three core standards. The U-3 data tends to be biased downward as a reflection of available jobs, because it does not include those who are part-time due to a lack of available work or who are discouraged for a job-market related reason. Therefore, the U-3 measure overstates the degree of recovery in the job market.

⁹⁸ “The NBER’s Business Cycle Dating Committee,” *The National Bureau of Economic Research*, September 2010, <https://www.nber.org/cycles/recessions.html>.

⁹⁹ The Current Population Survey universe is the non-institutionalized civilian population at least 16 years of age.

¹⁰⁰ Unlike the employment-population ratio (EPOP), the U-6 measure depends on an individual accurately defining what wanting and being available for a job means to them. While EPOP is less subjective, the U-6 data more accurately reflects the ABAWD population. EPOP includes longer-term discouraged workers but does not distinguish them from retired persons or others who are not available to work.

The U-6 measure is distinguished from the U-3 by just two subsets of workers: workers who are part-time for economic reasons and workers who are marginally attached to the workforce. The impact of including these two subsets can be demonstrated by calculating a ratio of the U-6 to U-3 measure: The U-6 measure of labor underutilization is significantly higher than the U-3 and the ratio varies geographically. As illustrated by graphic 1 in the appendix, some states have significantly lower numbers of workers who are part-time for economic reasons and/or marginally attached to the workforce than other states.

Moreover, the U-3 measure does not accurately represent a large subset of individuals subject to the SNAP time limit. According to the USDA Food and Nutrition Service (FNS), more than 31 percent of non-elderly adult SNAP recipients were employed in an average month of 2016. Many of these SNAP recipients were subject to the time limit who were employed part-time for economic reasons. A portion of the remaining 69 percent of non-elderly adult SNAP recipients were discouraged workers who had not looked for work in the past 4 weeks for job-market related reasons. Both subsets of individuals subject to the time limit are directly captured in the U-6 measure, but not in the U-3.

Exclusion of these subsets of individuals disproportionately impacts protected classes, who have higher rates of part-time employment for economic reasons and discouraged workers. Please see the Civil Rights Impact section below for a further discussion of this impact.

If the Department bases waivers exclusively on U-3 unemployment rates, it will not count these individual subsets in a waiver review even though lack of sufficient jobs has impacted their employment status. If BLS data is to impact individuals' access to SNAP, it is imperative to address the U-3 measure's weaknesses.

Development of Core Standards and Other Data and Evidence in Exceptional Circumstances

While the 2018 Farm Bill requires waivers for SNAP time limit rules to be responsive to recessions and areas with labor surpluses and higher rates of unemployment, there are inherent challenges in defining these economic conditions, including weaknesses in existing data sets, complexities in defining recessions, and difficulty in using a single data set averaged across different categories of people, industries and geographic locations. As a result, many researchers use qualitative data to support an understanding of employment challenges. For example, the recognized agency for defining recessions, the National Bureau of Economic Research, does not use a single formula or data set for a definition of a recession.

We oppose the proposed exclusion of additional data outside of the U-3. Additional data can support a picture of the strength of the labor market. For example, the BLS employment-population ratio, which measures employed persons as a percentage of the entire population,¹⁰¹ includes individuals who are employable but have not looked for a job in more than a year. In periods of severe and long-term

¹⁰¹ EPOP uses the relationship between the ratio of the monthly Current Employment Statistics Survey (CES) employment to the population and the ratio of the Current Population Survey (CPS) employment to the population. EPOP also includes trend and seasonal components to account for movements in the CPS not captured in the CES series. The seasonal component accounts for the seasonality in the CPS not explained by the CES (for example, agricultural employment movement), while the trend component adjusts for long-run systematic differences between the two series (for example, during expansions, the CES grows faster than the CPS).

economic recessions, the number of individuals in this category will grow and the employment-population ratio will paint a clearer picture of the strength of the labor market than other measures.

In addition, Census Bureau data should be an option for waiver applications, particularly for substate areas. BLS has “concluded that data users often are better served by substate area data from the Census Bureau’s American Community Survey (ACS). Data from the ACS provide more extensive geographic and demographic coverage, and have smaller sampling errors.¹⁰² The Census Bureau’s ACS sample size is 30 times larger than that of BLS, which accounts in large part for its increased accuracy.¹⁰³ In 2013, the numbers of persons the ACS classified as “employed,” “unemployed,” and “not in the labor force” for the nation were all higher than the official CPS estimates. The ACS unemployment rate was 8.4 percent, compared to the CPS annual average of 7.4 percent.”¹⁰⁴ The variation in this one example reflects the challenge of standardizing the U-3 measure instead of allowing Census data to be used.

Finally, data on lack of jobs in declining occupations or industries is critical in assessing whether there are enough jobs, and should continue to be considered in waiver determinations. While a population may as a whole remain employed, a large subset may be significantly affected by declining occupations. This is expected to be the case, for example, when transportation evolves toward self-driving vehicles. While participation in WIOA’s dislocated worker program meets SNAP time limit rules, there are inadequate opportunities for such participation in the United States, with only 400,000 people served nationwide in Federal Fiscal Year 2018.¹⁰⁵

The proposed rules would restrain SNAP from rapidly responding to changing economic conditions. Notably, according to the Brookings Institution, the most simulative type of spending during the Great Recession was a temporary increase in the SNAP maximum benefit, which was quicker to respond to deteriorating economic conditions than congressional action and more effective dollar for dollar than increased spending on infrastructure and defense.¹⁰⁶ Without the mitigating effects of SNAP, the impact of recessions can escalate. The USDA’s Economic Research Service uses the Food Assistance National Input-Output Multiplier (FANIOM) model to estimate the multiplier effects from SNAP benefits at 1.79, which is a significant economic boost. We strongly oppose any changes that dilute the impact of SNAP benefits as an automatic stabilizer.

Economic downturns are not exceptional circumstances and should not be treated as such. The exceptional circumstances floor of 10 percent is far too high to reflect the lack of sufficient jobs in a community, region, or country. On a national basis, the only time in the past 70 years that the average unemployment rate was above 10 percent was in 1982-83. Yet from December 2007 through June 2009

¹⁰² More information is available at: “Notes on Using Current Population Survey (CPS) Subnational Data,” *U.S. Bureau of Labor Statistics*, June 2018, <https://www.bls.gov/lau/notescps.htm>.

¹⁰³ More information is available at: “Fact Sheet: Differences Between the American Community Survey (ACS) and the Annual Social and Economic Supplement to the Current Population Survey (CPS ASEC),” *U.S. Census Bureau*, May 2016, <https://www.census.gov/topics/income-poverty/poverty/guidance/data-sources/acs-vs-cps.html>.

¹⁰⁴ More information is available at: “American Community Survey (ACS) Questions and Answers,” *U.S. Bureau of Labor Statistics*, April 2017, <https://www.bls.gov/lau/acsqa.htm>.

¹⁰⁵ A total of 406,407 were served from October 1, 2017 to September 30, 2018. More information is available, under quarterly reports, at: *WIOA Performance Results*, U.S. Department of Labor, February 2019, <https://www.doleta.gov/performance/results/>.

¹⁰⁶ Diane Whitmore Schanzenbach, Ryan Nunn, Lauren Bauer, et al., *Nine Facts About the Great Recession and Tools for Fighting the Next Downturn*, The Brookings Institution, May 2016, <https://www.brookings.edu/research/nine-facts-about-the-great-recession-and-tools-for-fighting-the-next-downturn/>.

the United States experienced the most severe recession in the postwar period, with over a 4 percent decline in gross domestic product (GDP).¹⁰⁷ A floor above 10 percent is therefore highly unresponsive to nationwide recessions and depressions. The 20 Percent Standard's use of a data over a 24-month period is also unresponsive—the period is more an indication of chronic economic depression than a new recession.

This lack of responsiveness limits SNAP's ability to serve as an automatic stabilizer and is therefore inconsistent with the goals described in the Joint Explanatory Statement of the Committee of Conference to address times of recession. If a recession took effect tomorrow and the current unemployment rate of 3.9% (December 2018 BLS) doubled, the number of persons *newly* unemployed would be about 5 million across the United States. Many of these 5 million would be individuals unable to access SNAP beyond the time limit, and the loss of benefits would be detrimental to the economy.

Retaining the Extended Unemployment Benefits Qualification Standard

The Unemployment Insurance Extended Benefits (EB) program extends individual unemployment compensation for an additional 13 weeks when a state's insured unemployment rate (IUR) or total unemployment rate (TUR) reaches at least 5% and is 120% of the average of the rates for the same 13-week period in each of the 2 previous years. There are two other optional thresholds that states may choose. EBs may be triggered if the state's IUR is at least 6%, or the TUR is at least 6.5% and is at least 110% of the state's average TUR for the same 13-weeks in either of the previous two years. An additional 20 weeks of benefits may be triggered if the TUR is at least 8% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years.¹⁰⁸

While these triggers are lower than the standard proposed for waivers, many researchers have found that EB triggers are set too high, which prevents many states from activating the program for extra weeks of benefits above and beyond the standard 26 weeks.¹⁰⁹ Moreover, the trigger requires ever increasing unemployment rates in order to remain triggered, which means that many states cycle out of the system too early. Congress has regularly passed legislation to provide extended UI benefits in states that do not meet the EB criteria, or else extended benefits nationwide. Congress established temporary programs of extended UI benefits in 1958, 1961, 1971, 1974, 1982, 1991, 2002, and 2008. In the Great Recession, Congress created a temporary program nationwide. The need for actions of Congress demonstrate that EB qualification as a core standard for approval is not adequate for states with high unemployment rates that are not rising rapidly.

¹⁰⁷ More information from 1948 to present is available at: *Databases, Tables & Calculators by Subject*, U.S. Bureau of Labor Statistics, accessed March 2019, <https://data.bls.gov/timeseries/Ins14000000>. The unemployment rate reached but did not exceed 10 percent in just one month of the Great Recession, October 2009. More information on GDP is available at: *GDP & Personal Income*, U.S. Bureau of Economic Analysis, accessed March 2019, https://apps.bea.gov/iTable/index_nipa.cfm.

¹⁰⁸ Julie M. Whittaker and Katelin P. Isaacs, *Extending Unemployment Benefits During a Recession*, Congressional Research Service, May 2013, <https://fas.org/sgp/crs/misc/RL34340.pdf>.

¹⁰⁹ *Unemployment Insurance Trigger 101: Is the Trigger System Working?*, Center for American Progress, February 2010, https://www.americanprogress.org/wp-content/uploads/issues/2010/02/pdf/ui_101.pdf.

Establishing a Floor for Waivers Based on the 20 Percent Standard

We strongly oppose the use of a floor for waivers. The 20 percent standard is an adequate relative measure that demonstrates that an area of the country is in a more difficult economic position than the rest of the country.

The Department seeks to create a fixed floor at 7 percent, well above the natural rate of unemployment. We believe a floor at any level above the natural rate of unemployment is unnecessary, arbitrary and needlessly disadvantages members of protected classes, as described in the Civil Rights Impact section below. In addition, it would subvert the intent of the Agriculture Improvement Act of 2018 to permit waivers in labor surplus areas.

Further, there is significant disagreement amongst respected economists about the exact number for the natural rate of unemployment. While a 5 percent natural rate of unemployment seemed to be the norm at one point, the evidence has shifted in the past twenty years. If the natural rate is defined in part by the point at which unemployment leads to inflation, then the current unemployment rate of 3.9 percent is arguably above the natural unemployment rate, according to Jared Bernstein, President Clinton's former economic advisor. "While inflation is picking up a bit, it has been very low for a very long time, unresponsive to falling unemployment, and no one is arguing that it is...spiraling up in response to a full-capacity economy."¹¹⁰ A selection of a 5 percent rate is arbitrary given the lack of consensus by experts.

Restricting Statewide Waivers and Combined Areas

We oppose elimination of the option of statewide waivers as well as waivers for areas that are not economically tied together, due to the administrative complexities of implementing this change. There are 63 counties or county equivalents on average per state; Texas has the most counties at 254. Some states have chosen to submit statewide waivers to avoid the administrative burden of creating dual systems for those SNAP recipients who are or are not subject to time limits. Under the proposed rules, states will need to collect data for each county or Labor Market Area in order to submit a waiver request. States will then have to set up dual systems and train caseworkers to treat SNAP recipients differently based on their county of residence. This adds to caseworker confusion and potential error. States will also need to train SNAP E&T service providers to treat SNAP recipients differently based on their residence.

In addition, we oppose eliminating combined areas that fall outside of Labor Market Areas. The areas covered by Workforce Development Boards are not always consistent with Labor Market Areas; some include multiple counties, including some outside of Labor Market Areas, while others are smaller than a county. The proposed rules will make planning more difficult given the inability to group areas consistent with Workforce Development Boards.

Finally, we oppose the elimination of waivers in sub-county areas. Many counties in the U.S. have extreme disparities in the labor market in different geographic areas. Traveling to jobs with an adequate

¹¹⁰ Jared Bernstein, "I've Come to Believe That 'Are We at Full Employment?' Is the Wrong Question," *The Washington Post*, May 2018, https://www.washingtonpost.com/news/posteverything/wp/2018/05/24/ive-come-to-believe-that-are-we-at-full-employment-is-the-wrong-question/?noredirect=on&utm_term=.c249a3003278.

labor supply may not be feasible for many low-income SNAP recipients. For example, traveling from rural Gorman to Long Beach in the most populous county in the United States, Los Angeles, takes about 2 hours by car and is not possible via public transportation. The proposed rules do not account for the immense variety in local conditions that can make finding a job nearly impossible for many people.

Ending “Carryover” Exemptions

Current law allows unused exemptions to carry over and accumulate from one year to the next. Up until now, states understood these exemptions to be “earned” and made decisions about whether to use the exemptions in a given year based on a good faith assumption of FNS’ continued allowance of carryover exemptions. Past and recent FNS Memoranda on the subject, including the most recent “SNAP-FY 2018 ABAWD 15 Percent Exemptions Totals, Adjusted for Carryover,” clearly demonstrates FNS approval of carryover exemptions to date.

We strongly oppose the use of a carryover formula in which the current year is adjusted based on the number of exemptions earned in the preceding fiscal year minus the number of exemptions used in the preceding fiscal year. The formula penalizes states for using carryover from the previous year by subtracting any used carryover amount from earned exemptions. We do not believe penalties for the use of carryover was the intent of the act. As can be seen in Example 2 (Varied Exemption Use) of the NPRM, the number of exemptions after adjustment becomes highly erratic as well as difficult to track under the proposed formula. The formula also incentivizes states to use their full amount in the year earned rather than prudently reserving exemptions for a downturn in the economy. Overall, we hold that the proposed method of calculating exemptions would create confusion, discourage the use of exemptions, and increase errors.

Civil Rights Impacts under the Civil Rights Impact Analysis

The Department has stated that in accordance with the Department Regulation 4300-4 Civil Rights Impact Analysis, implementation of mitigation strategies and monitoring by the Civil Rights Division of FNS will lessen the disproportionate impacts of “certain protected groups due to factors affecting rates of employment of members of these groups.”

There are two main CRIA challenges to the NPRM. A reduction in waivers and the resulting loss in SNAP benefits will disproportionately affect certain protected classes based on (a) their disproportionate rate of unemployment and under-employment, as stated in the NPRM; and (b) an inadequate method for determining lack of sufficient jobs, a criterion for approving waivers.

Disproportionate Rate of Unemployment and Under-Employment

We strongly oppose further restrictions to waivers due to their disproportionate impact on many protected classes including women, Black people, Latinos, and people with disabilities. We do not believe that mitigation strategies will be significant enough to address the impact of increased food insecurity and poverty on protected classes.

Inadequate Methodology

The NPRM not only impacts protected classes disproportionately due to unemployment factors, but it further impacts protected classes due to the use of the U-3 measure, which excludes certain employment statuses that are more common amongst certain protected classes. We strongly oppose the NPRM for these reasons.

Data from the Bureau of Labor Statistics illustrate the disproportionate impact of the data excluded from the U-3 measure on selected protected groups. For instance, as illustrated by BLS data in graphics 2 and 3 in the appendix, Black individuals are more than twice as likely than their White counterparts to have searched for work in the previous year but not in the past 4 weeks (see graphic 2), and Latinos are 66 percent more likely than Whites to work part-time for economic reasons (see graphic 3). Also, women are 38 percent more likely than men to work part-time for economic reasons.¹¹¹

5. CONCLUSION

In conclusion, we urge the Department to withdraw the proposed regulation in its entirety. As anti-poverty experts, we believe that the proposed changes will not incentivize or equip people with what they need to seek and maintain work, and will also have profound and damaging consequences for the well-being and long-term success of struggling workers and their families. We encourage the Department to dedicate its efforts to advancing policies that truly support economic security, self-sufficiency, and a stronger future for the United States by promoting – rather than undermining – the ability of unemployed and underemployed workers, their families, and their communities to thrive.

Further, the proposed rule does not provide the analytical information needed to justify the policy change and to evaluate the proposed rule’s likely impacts. Because of the deficiencies in reasoning and analysis, the proposed rule fails to answer basic questions related to the impact of the change and the people whom the proposed rule would affect. All in all, the proposed rule does not contain the information and data necessary to fully evaluate the proposal or to comment on key aspects on the Department’s justification for the rule.

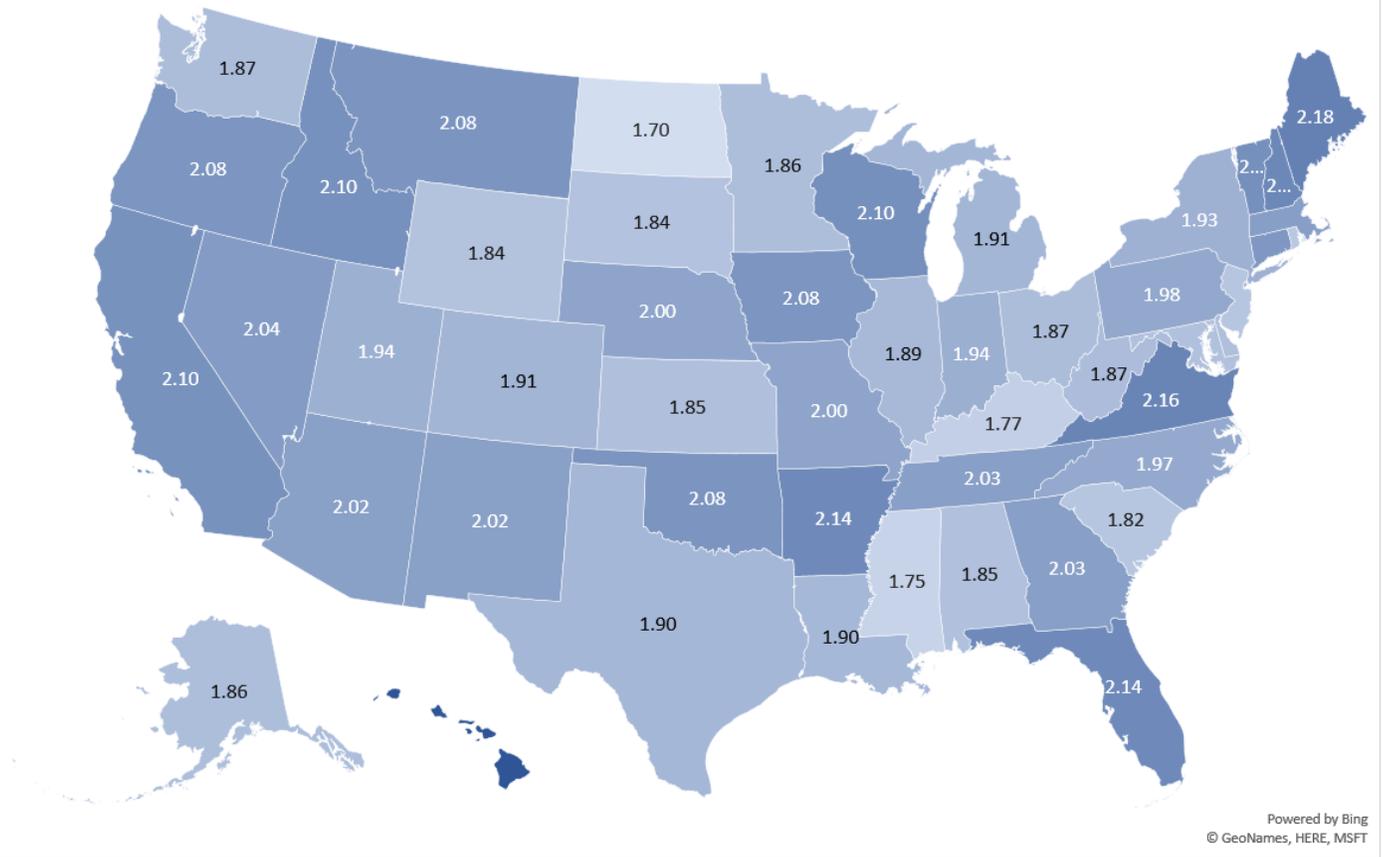
Lastly, our comments include citations to supporting research and documents for the benefit of the Food and Nutrition Service in reviewing our comments. We direct FNS to each of the items cited and made available to the agency through active hyperlinks and as attachments, and we request that these, along with the full text of our comments, be considered part of the formal administrative record on this proposal.

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

¹¹¹ Bureau of Labor Statistics, “Labor Force Statistics from the Current Population Survey, A-18. Employed and Unemployed Full- and part-time workers by age, sex, and Hispanic or Latino ethnicity” <https://www.bls.gov/web/empsit/cpseea18.htm>; and Bureau of Labor Statistics “Labor Force Characteristics by Race and Ethnicity, 2017, Table 15. People in the Labor Force and Not in the Labor Force by Selected Characteristics, 2017 annual averages” <https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm>.

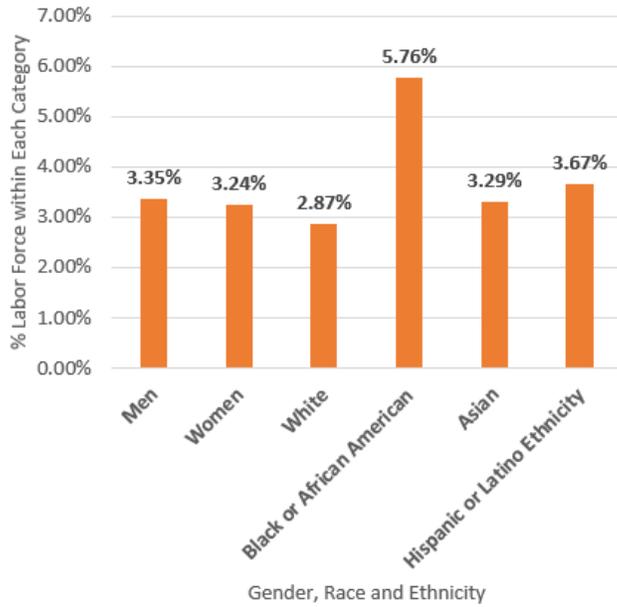
Appendix A: Graphics Referenced in Comment

Graphic 1: Ratio of U-6 to U-3 Measures by State



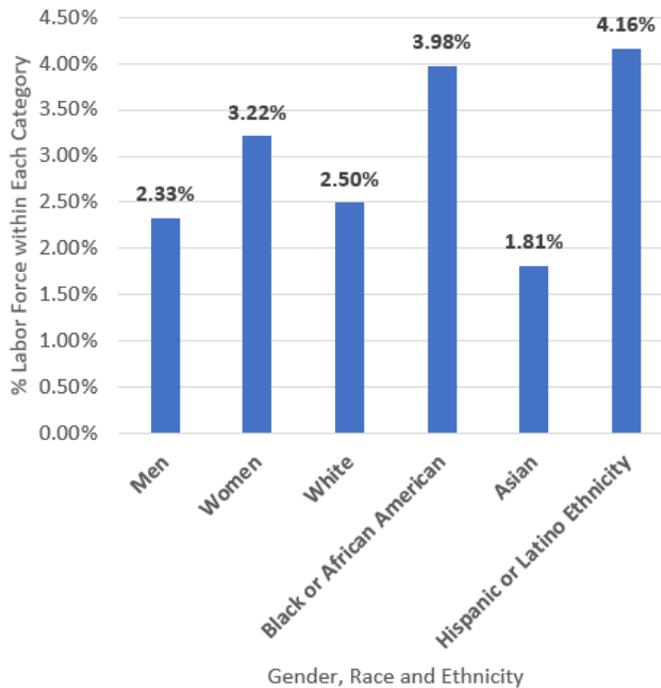
Source: BLS, Alternative measures of labor underutilization by state, fourth quarter of 2017 through third quarter of 2018 averages

Graphic 2: Data Excluded from U-3 Measure and Included in U-6 Measure:
Unemployed Who Searched for Work in Previous Year but Not in Past 4 Week



Source: BLS, *People in the labor force and not in the labor force by selected characteristics, 2017 annual averages*

Graphic 3: Data Excluded from U-3 Measure and Included in U-6 Measure:
Part-Time for Economic Reasons



Source: BLS, *Employed and unemployed full- and part-time workers by age, sex, race, and Hispanic or Latino ethnicity, December 2018*

Appendix B: Contributors to CLASP's Public Comment

Listed Alphabetically

Kisha Bird is CLASP's director of youth policy. Ms. Bird works to expand access to education, employment, and support services for low-income and opportunity youth. She is an expert in federal youth policy and helps ensure national legislation has maximum impact for youth of color. Before joining CLASP, Ms. Bird was director of the Pennsylvania Statewide Afterschool/Youth Development Network, working to make quality education and afterschool programs accessible to young people. Prior to that, she was a program officer at the Philadelphia Foundation, where she helped develop and manage the Fund for Children, Youth Advisory Board, and discretionary grants process. She also has direct service experience, working in various community settings with children, youth and families. Ms. Bird holds a master of social service and master of law and social policy from Bryn Mawr College Graduate School of Social Work and Social Research. Additionally, she earned a bachelor's in sociology from Spelman College.

Whitney Bunts is a policy analyst with CLASP's youth policy team, with a focus on juvenile justice, mental health, racial equity, and Opportunity Youth. Whitney has a competence in education policy, opportunity, at-risk, LGBTQ+ youth, racial equity, system dynamics, and evaluation. Preceding her career at CLASP, Whitney was a graduate student at Washington University in St. Louis. During her time in grad school, she interned for the 22nd District Circuits Attorney Office as a Victim Services Advocate. In this role, she educated victims on the criminal and juvenile justice process, while partnering with prosecutors to advocate for their rights. Additionally, she served as Policy Associate Intern at Covenant House Missouri. As an intern she had the opportunity to update, revise, and align their policies with the Housing First federal policy. Additionally, she facilitated workshops to build racial equity and inclusion within the organization using System Dynamic tools. As a student, Whitney was a Graduate Policy Scholar, served on the Student Coordinating Council and Graduate Professional Council, and was selected for the "Excellence Award for Activism." Prior to attending graduate school, Whitney served as a City Year AmeriCorps member where she tutored and mentored hundreds of high school students in reading and writing. She holds a Master of Social Work, with a concentration in Children, Youth & Families, and a specialization in Policy and System Dynamics from Washington University in St. Louis. Additionally, she has a double bachelors in political science and psychology from Georgia State University.

Aimee Chitayat is a consultant for CLASP's Income and Work Supports team. As Principal of AC Strategic Solutions, she has led efforts to expand SNAP Employment and Training (E&T) since 2007. Aimee developed the first SNAP E&T third-party partner programs implemented in California—the Fresh Success intermediary model and the county-based Cal Success model—and designed innovative policies, procedures, tools, and templates for their implementation. She provides intensive training and technical assistance on SNAP E&T to community colleges, community-based organizations, social enterprises, counties and statewide intermediaries throughout the country. She supported New Jersey in drafting successful legislation for a SNAP E&T program and provided oversight to the USDA's SNAP E&T Pilot Project in Fresno County as a consultant to the California Department of Social Services. She developed, supported, or commented on numerous state and national bills and policy clarifications on SNAP and SNAP E&T. She earned her Master of Social Welfare from the University of California Berkeley and her undergraduate degree from Brown University.

Parker Gilkesson is a policy analyst with CLASP's Income and Work Support team. She works with low-income and work support programs with a focus on the Supplemental Nutrition Assistance Program (SNAP). Parker is a subject matter expert in social policy, benefit eligibility, human services delivery, racial equity, and state and local policy regarding SNAP, TANF, and Medicaid. Prior to joining CLASP, Parker began her career as a Human Services Specialist in Mecklenburg County, Charlotte, NC. In this role, she worked directly with recipients receiving Medicaid, TANF, and SNAP to determine their eligibility for low-income and work support programs. She has other experience including TANF policy research, cancer research, public health, public service, and nonprofits. Parker holds a Master of Public Policy, with a concentration in Public Administration from Liberty University and a Bachelors in Health Education, Maternal and Child Health from Howard University. Furthermore, Parker believes in the importance of bridging the gap between policy analysis and policy effectiveness. She is very passionate about social change taking place within our communities, therefore, Parker aspires to be a part of the equation to solve poverty and inequities in health and social welfare among citizens of the United States.

Madison Hardee is a senior policy analyst/attorney at CLASP, where she focuses on issues affecting access to health care and public benefits for immigrants and mixed-status families. Ms. Hardee co-leads the Protecting Immigrant Families, Advancing Our Future Campaign in collaboration with the National Immigration Law Center. Prior to joining CLASP, Ms. Hardee spent five years as an attorney with Charlotte Center for Legal Advocacy, where she provided direct legal representation to low-income clients across public benefit programs and saw first-hand how programs like Medicaid, SNAP and SSI reduce economic hardship, improve health, and increase stability. She successfully challenged state agency decisions and identified several areas for systemic advocacy. Working together with partner organizations, Ms. Hardee negotiated significant changes to Medicaid and ACA eligibility policies, providing access to health care for tens of thousands of low-income immigrants. Ms. Hardee holds a Juris Doctor from Tulane Law School and a bachelor's degree in public health from George Washington University. In 2016, she was presented with the New Leader in Advocacy Award by the National Legal Aid and Defender Association.

Elizabeth Lower-Basch is director of CLASP's income and work supports team. Her expertise is federal and state welfare (TANF) policy, other supports for low-income working families (such as refundable tax credits), systems integration, and job quality. From 1996 to 2006, Ms. Lower-Basch worked for the Office of the Assistant Secretary for Planning and Evaluation at the U.S. Department of Health and Human Services. In this position, she was a lead welfare policy analyst, supporting legislative and regulatory processes and managing research projects. She received a Master of Public Policy from Harvard University's Kennedy School of Government.

Judy Mortrude is a senior policy analyst with CLASP's Center for Postsecondary and Economic Success. Ms. Mortrude has more than 30 years' experience developing, delivering, and evaluating workforce education, particularly with low-literacy and high-barrier populations. She has been a classroom teacher, school administrator, and state agency staff. Currently, Ms. Mortrude supports cross-agency state teams as they scale and sustain integrated education and training career pathway policies and practices; focus attention on racial and economic equity; and build two-generational strategies. Additionally, she analyzes federal adult and postsecondary education policy and supports organizations like the National Coalition for Literacy and the Open Door Collective.

Renato Rocha is a policy analyst within CLASP's Income and Work Supports team. He focuses on issues regarding work reporting requirements across benefit programs as well as access to public benefits for immigrant families. Prior to CLASP, Renato was an economic policy analyst at UnidosUS (formerly National Council of La Raza), where he conducted analysis of consumer protection, budget, tax, disaster relief, and labor issues that impact the wellbeing of Latino and immigrant communities. In graduate school, he also had the opportunity to work at the National Immigration Law Center, where he analyzed policy issues affecting deferred action recipients. Renato holds a Master in Public Affairs from Princeton University's Woodrow Wilson School of Public and International Affairs and a B.A. in Politics from Occidental College. In 2013, Renato served as a Fulbright Public Policy Initiative Fellow to Mexico.

Darrel Thompson is a research assistant with CLASP's Income and Work Supports team. He provides research support and analysis on various low-income and work support programs. Prior to joining CLASP, Darrel interned at the Center on Budget and Policy Priorities and the Lou Frey Institute of Politics and Government. He holds a bachelor's degree in political science from the University of Central Florida.

Isha Weerasinghe is a senior policy analyst focused on mental health and sits in CLASP's youth team. She works on how CLASP's issue areas impact individuals' mental health, with a specific focus on youth, young adults, and mothers. Ms. Weerasinghe previously worked as the Director of Policy and Advocacy at the Association for Asian Pacific Community Health Organizations (AAPCHO), where she focused on the intersections of how Asian Americans, Native Hawaiians, and Pacific Islanders (AA&NHPIs) can better access linguistically concordant and culturally appropriate care. She also did a great deal of coalition building and provided policy guidance nationally, for AA&NHPI-serving community health centers and AA&NHPI-serving organizations, in health access and equity. Ms. Weerasinghe has done community based participatory research, as well as local and state policy advocacy in her work at New York University's Center for the Study of Asian American Health (CSAAH), working within New York City and New York state. Over the past eight years, she has done extensive coalition work and policy advocacy on the impacts of hepatitis B in the United States. Isha has a bachelor's in arts degree in biology from Bryn Mawr College, and a master's in science degree in health policy and demography from the London School of Economics and Political Science.

Carrie Welton is a policy analyst on the income and work supports team. Her work focuses on advocating for policy reforms that improve the lives of people with low income and communities of color using a racial equity lens. This includes improving access to public benefit programs for postsecondary students and student parents to advance their academic success. She also advocates for policy reforms that strengthen the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC). Previously, Ms. Welton spent three years at the W.K. Kellogg Foundation on the national Education and Learning team focused on early childhood systems alignment. In addition, she spent four years at the Kellogg Company conducting research and providing strategic direction to inform the organization's government relations and lobbying efforts. Ms. Welton also served on the state board of the American Civil Liberties Union (ACLU) of Michigan, furthering the civil liberties and civil rights of residents. As a member of the executive committee, she provided fiduciary, strategic, and generative leadership to the organization. She earned her Master of Public Administration from the Gerald R. Ford School of Public Policy at the University of Michigan and her undergraduate degree in Public Law from Western Michigan University.