

April 9, 2018

Ms. Sasha Gersten-Paal
SNAP Program Development Division
Food and Nutrition Service
3101 Park Center Drive
Room 812
Alexandria, VA 22302

Re: Advanced Notice of Proposed Rulemaking: Supplemental Nutrition Assistance Program: Requirements and Services for Able-Bodied Adults Without Dependents RIN 0584–AE57

Dear Ms. Gersten-Paal:

Thank you for the opportunity to comment on USDA's Advanced Notice on Requirements and Services for Able-Bodied Adults Without Dependents (ABAWDs).

The undersigned lesbian, gay, bisexual, transgender, and queer (LGBTQ) and allied organizations support the Supplemental Nutrition Assistance Program (SNAP), because it plays a critical role in addressing hunger and food insecurity for a majority of low-income individuals and families, including LGBTQ people. Because SNAP is the first line of defense against hunger in our country, we oppose any regulatory or statutory changes, such as denying benefits to unemployed adults, that would further limit who may benefit from the program.

Same-sex couples are more likely to experience poverty than different-sex couples are.¹ This disproportionate rate of poverty is even more stark for LGBTQ women, transgender and gender nonconforming people, and LGBTQ people of color.² Poverty is a leading cause of hunger and food insecurity, defined as having limited access to adequate food due to lack of money and other resources.³ In 2014, same-sex couples were roughly 1.6 times more likely to both experience food insecurity and to participate in SNAP than were different-sex couples.⁴ According to a nationally representative survey commissioned by the Center for American Progress (CAP) in 2017, more than twice as many LGBTQ respondents as non-LGBTQ people (21% vs. 9%) reported using SNAP in the past year.⁵

Employment discrimination is a factor contributing to LGBTQ poverty and unemployment rates. Over half of the US population lives in a state without comprehensive nondiscrimination laws prohibiting employment discrimination based on sexual orientation and gender identity.⁶ A survey conducted in 2017 by NPR, Robert Wood Johnson Foundation, and Harvard T.H. Chan School of Public Health found that 1 in 5 LGBTQ people reported experiencing discrimination due to their sexual orientation or gender identity when applying for jobs and 22 percent reported experiencing this discrimination in pay or promotions.⁷ Sixteen percent of respondents to the 2015 U.S. Transgender Survey reported losing their job due to their gender identity or expression.⁸ Respondents to that survey also reported a 15 percent unemployment rate, which was three times higher than the unemployment rate for the total U.S. population at the time.⁹

Federal law limits SNAP eligibility for childless unemployed and underemployed adults age 18-50 (except for those who are exempt) to just three months out of every three years unless they are able to obtain and maintain an average of 20 hours a week of employment. This time limit harms vulnerable people by denying them food benefits at a time when they most need them, and it does not result in increased employment and earnings. At least 500,000 low-income individuals nationwide lost SNAP in 2016 due to the time limit. This put their food security at risk. And, by time-limiting food assistance to this group, federal law has shifted the burden of providing food to these unemployed individuals from SNAP to local charities.

While this request for comment appears to be open to suggestions on how to make the time limit less harsh via administrative action, we are concerned that the Administration seeks only to make the time limit more draconian: to expand the scope of the cutoff and to eliminate the little flexibility states have to limit the damage caused. The Secretary of Agriculture has suggested that the agency needs to “remove those waivers for able-bodied adults without dependents,” because “it’s become a lifestyle for some people.”¹⁰ USDA’s budget has proposed making the impact of the time limit even worse by repealing states’ flexibility to exempt certain individuals and most high unemployment areas from the time limit and exposing more people to this punitive policy.

We strongly oppose any administrative action by USDA that would expose more people to this cutoff policy. Such a move would disproportionately hurt LGBTQ people. Under current law, states have the flexibility to waive the 3-month time limit for individuals living in areas within the state that have experienced elevated unemployment. The rules governing areas’ eligibility for waivers have been in place for nearly 20 years and every state except Delaware has availed itself of waivers at some point since the time limit became law. The waiver rules are reasonable, transparent, and manageable for states to operationalize. We oppose any change that would restrict, impede, or add uncertainty to states’ current ability to waive the time limit in areas with elevated unemployment.

The request for comment also seems to suggest that potential improvements to other aspects of the time limit policy, such as the individual exemption policy, would justify weakening states’ flexibility to waive the time limit in areas with elevated unemployment. This logic is unfounded. States’ current ability to exempt certain individuals from the time limit is important, but is wholly insufficient and could never make up for having to apply the time limit in areas with elevated unemployment. And, the underfunded workforce system and SNAP employment and training programs are not designed or well suited to meet the job training requirements under this regulation. Put simply, there is no justification for weakening current waiver rules and exposing more vulnerable people to this SNAP eligibility cutoff.

The only action we encourage USDA to take with respect to this time limit that impacts Able-Bodied Adults Without Dependents is to propose its elimination. Restoring SNAP’s ability to provide food assistance to impoverished unemployed people would be a powerful policy improvement that would reduce food insecurity among those seeking work.

Sincerely,

A Better Balance
American Civil Liberties Union
CenterLink: The Community of LGBT Centers
Equality California
Equality North Carolina
Gay and Lesbian Activists Alliance
GLMA: Health Professionals Advancing LGBT Equality
Jacobs Institute of Women's Health
Movement Advancement Project
National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Jewish Women
National LGBTQ Task Force
Whitman-Walker Health
Witness to Mass Incarceration

¹ M.V. Lee Badgett, Laura E. Durso, and Alyssa Schneebaum, “New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community” (Los Angeles: The Williams Institute, 2013), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>

² Ibid; Center for American Progress and Movement Advancement Project, “Paying an Unfair Price: The Financial Penalty for Being Transgender in America” (2015), available at <https://www.lgbtmap.org/file/paying-an-unfair-price-transgender.pdf>

³ See U.S. Department of Agriculture, Economic Research Service, “Definitions of Food Security,” October 4, 2017, available at <http://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/definitions-of-food-security.aspx>; See also Bread for the World, “About Hunger,” available at <http://www.bread.org/what-causes-hunger>, which states that “Poverty is the main cause of hunger in the world. This is true in rich and poor countries alike.”

⁴ Brown, T. N. T., Romero, A. P., & Gates. G. J., “Food Insecurity and SNAP Participation in the LGBT Community” (Los Angeles: The Williams Institute, 2016) available at, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-and-SNAP-Participation-in-the-LGBT-Community.pdf>

⁵ Caitlin Rooney, “LGBTQ people are more likely to turn to benefits like Medicaid and SNAP,” Center for American Progress, *forthcoming* 2018. Note that the comparison between the percentage of LGBTQ respondents reporting use of SNAP and the percentage of non-LGBTQ respondents reporting use of SNAP is statistically significant.

⁶ Movement Advancement Project, “Non-Discrimination Laws,” last modified March 29, 2018, available at http://www.lgbtmap.org/equality-maps/non_discrimination_laws

⁷ NPR, Robert Wood Johnson Foundation, Harvard T.H. Chan School of Public Health, “Discrimination in America: Experiences and Views of LGBTQ Americans” (2017), available at <https://www.npr.org/documents/2017/nov/npr-discrimination-lgbtq-final.pdf>.

⁸ Sandy E. James, “The Report of the 2015 U.S. Transgender Survey” (Washington: National Center for Transgender Equality), available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

⁹ Ibid.

¹⁰ Eric Escalante, “U.S. Agriculture Secretary Hears Valley Farmers,” *209 Business Journal*, January 9, 2018, available at <http://www.209businessjournal.com/index.php/2018/01/09/u-s-agriculture-secretary-hears-valley-farmers/>.