

December 11, 2023

Submitted Electronically Via Email

Secretary Tom Vilsack
Secretary of Agriculture
Department of Agriculture Building
1400 Independence Avenue SW
Washington, D.C. 20250

Ms. Cindy Long
Administrator of Food and Nutrition Service
Braddock Metro Center II
1320 Braddock Place
Alexandria, VA 22314

Re: Section 553(e) Petition to Remove Interview Requirement from the regulations governing the Supplemental Nutrition Assistance Program

Dear Secretary Vilsack and Administrator Long,

The National Student Legal Defense Network, the Hope Center at Temple University, the Center for Law and Social Policy, the Institute for College Access & Success, the California Student Aid Commission, California Competes: Higher Education for a Strong Economy, and Higher Learning Advocates submit the enclosed petition pursuant to 5 U.S.C. § 553(e) and 7 C.F.R. § 1.28 to request that the United States Department of Agriculture promptly amend its regulations to remove the requirement for an interview in the certification of eligibility for applicants to the Supplemental Nutrition Assistance Program (“SNAP”).

The interview requirement has become an unnecessary barrier for many qualified applicants who need SNAP benefits, especially college students. Many applicants are denied solely because of a missed interview, meaning that they never receive a complete evaluation of their eligibility, and thus undermining the very purpose of the interview. Recent research has shown that the drawbacks of the requirement outweigh its benefits, a point which was underscored when interview requirements were waived during the COVID-19 pandemic. Eliminating the burden of the interview requirement would be a substantial step towards expanding food security in the United States.

Please contact me if you have any questions or would like to discuss this further.

Sincerely,

Alexander S. Elson
Vice President, Student Defense
alex@defendstudents.org

cc (by email):

Ms. Stacy Dean, Deputy Under Secretary for Food, Nutrition, and Consumer Services
Ms. Mary Beth Schultz, Acting General Counsel, Department of Agriculture

**PETITION TO AMEND REGULATIONS BEFORE THE
UNITED STATES DEPARTMENT OF AGRICULTURE**

*In re: Interview Requirement for the
Supplemental Nutrition Assistance Program*

Petition by the National Student Legal
Defense Network to Eliminate the Interview
Requirement for the Supplemental Nutrition
Assistance Program

**PETITION TO AMEND UNITED STATES DEPARTMENT OF
AGRICULTURE REGULATIONS PURSUANT TO SECTION 553(e) OF THE
ADMINISTRATIVE PROCEDURE ACT**

1. The National Student Legal Defense Network, the Hope Center at Temple University, the Center for Law and Social Policy, the Institute for College Access & Success, the California Student Aid Commission, California Competes: Higher Education for a Strong Economy, and Higher Learning Advocates submit this petition to request that the U.S. Department of Agriculture (“USDA”) facilitate access to benefits under the Supplemental Nutrition Assistance Program (“SNAP”) by eliminating the regulatory requirement that SNAP applicants go through an interview before they can be certified as eligible. 7 C.F.R. § 273.2(e). Petitioners are also asking that USDA eliminate the requirement that SNAP recipients complete a regular interview to be recertified for benefits. 7 C.F.R. § 273.14(b)(3).

2. The interview requirement has become a significant barrier to access. For example, in the most comprehensive study of SNAP applications, 31% of all applications were denied because of a missed interview, while only 6% were denied

because of ineligibility.¹ This disparity suggests that the interview requirement is much more likely to result in the denial of benefits based on a technicality than it is to identify applicants who are truly ineligible for the program.

3. The interview requirement is a particular barrier for college students with low incomes, a group that already struggles with high levels of food insecurity and difficulty accessing SNAP benefits. As Congress has recently affirmed, one of the stated purposes of SNAP is to “assist low-income adults in obtaining employment and increasing their earnings,” the same goal which inspires many college students and underlies the federal investment in higher education.² In the aforementioned study, 40% of students were denied because of a missed interview, an even greater rate than the 31% rate for the general population.³ *See infra* ¶¶ 33–38.

4. The Executive Office of the President has charged administrative agencies with “Balancing burden reduction and program integrity.”⁴ By eliminating the interview requirement, the Department can preserve the integrity of the SNAP program while simultaneously reducing the burden on both applicants and the government, and thus increase the number of eligible applicants who are able to access SNAP benefits.

¹ Caitlin Docker & Gwen Rino, *Think Big, Start Small: How Implementing Flexible Interviews Improves Benefit Delivery*, CODE FOR AMERICA (Dec. 22, 2021), <https://codeforamerica.org/news/think-big-start-small-how-implementing-flexible-interviews-improves-benefit-delivery/>.

² 7 U.S.C. § 2011.

³ Docker & Rino, *supra* note 1.

⁴ EXEC. OFF. OF THE PRESIDENT, TACKLING THE TIME TAX: HOW THE FEDERAL GOVERNMENT IS REDUCING BURDENS TO ACCESSING CRITICAL BENEFITS AND SERVICES 18 (July 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/07/OIRA-2023-Burden-Reduction-Report.pdf>.

5. The interview requirement for all applicants for certification and recertification is unnecessarily broad and burdensome and should be permanently eliminated.⁵

JURISDICTION

6. We bring this petition pursuant to the Administrative Procedure Act, 5 U.S.C. § 553(e), and 7 C.F.R. § 1.28.

STATEMENTS OF INTEREST

7. The National Student Legal Defense Network is a non-profit, non-partisan organization, recognized as tax-exempt under section 501(c)(3) of the Internal Revenue Code, that works to advance students' rights to educational opportunity and to ensure that higher education provides a launching point for economic mobility.

8. The Hope Center at Temple University advocates for federal and national policies that improve basic needs security in higher education, including by expanding access to food assistance to students with low incomes.

9. The Center for Law and Social Policy ("CLASP") is a national, nonpartisan nonprofit advancing anti-poverty policy solutions that disrupt structural and systemic racism and sexism and remove barriers blocking people from economic security and opportunity. CLASP focuses on creating and

⁵ We anticipate that this petition could be of significant public interest and support members of the public who wish to submit comments in response. To ensure the completeness and public availability of the administrative record, we urge the Department to open expeditiously a docket for the petition on www.regulations.gov. See 21 C.F.R. § 10.30(b)(1), (d) (describing a similar process used by the Food and Drug Administration for submission of petitions through regulations.gov and the acceptance of public comments).

implementing policies at the federal and state levels that help people achieve economic security and overcome barriers related to race, ethnicity, gender, disability, and immigration status. By analyzing data, advocating effectively, providing expert advice, and amplifying the voices of those directly impacted, CLASP aims to improve the lives of those with low incomes and create economic justice.

10. The Institute for College Access & Success (“TICAS”) is an independent, nonprofit research and policy organization dedicated to increasing college access, affordability and success through improvements in student financial aid policies, both nationally and in California. TICAS works to ensure that federal and state policies and systems are aligned to improve access and completion of postsecondary credentials for students from minoritized and poverty-impacted communities. TICAS is a trusted source of research, design, and advocacy for student-centered public policies that promote affordability, accountability, and equity in higher education.

11. The California Student Aid Commission is the nation’s largest state financial aid agency, awarding over \$3 billion in financial aid for all Californians to access a postsecondary education.

12. California Competes: Higher Education for a Strong Economy is a nonpartisan policy and research organization dedicated to expanding economic opportunities for all Californians by transforming the state’s higher education and workforce development systems. California Competes strives to advance solutions

that increase access to financial aid options and allow all students to be able to manage the costs of attending college, including nontuition and basic needs expenses, and continue on their education and career trajectory.

13. Higher Learning Advocates (“HLA”) is the leading bipartisan nonprofit organization that advocates for today’s students and their postsecondary success through policy and systems change. Established in 2017, HLA advocates for policies and support programs that ensure opportunity and promote inclusive pathways for all learners to succeed through an equitable system of higher learning, employment, and economic mobility.

BACKGROUND

The Interview Requirement in the Current Regulatory Framework

14. USDA regulations require applicants to interview with a state SNAP eligibility worker to verify eligibility at initial certification and during recertification, at least once every 12 months thereafter. 7 C.F.R. § 273.2(e); 7 C.F.R. § 273.14(b)(3). The interviews may be conducted in person or over the telephone. 7 C.F.R. § 273.2(e)(1)–(2). In most cases, interviews must be scheduled in advance. 7 C.F.R. § 273.2(e)(3).

15. The statutes establishing SNAP do not include an interview requirement.⁶ Nevertheless, when SNAP was established in 1978, USDA kept in place the interview requirement inherited from the previous food stamp program, explaining:

⁶ See 7 U.S.C. § 2011–2036.

The interview represents a critical exchange between the State agency and the household and serves to satisfy the eligibility worker and the applicant household that all necessary information has been provided. The interview provides a mechanism for the eligibility worker to understand the household's circumstances and provides an avenue for the household to obtain a basic understanding of the program. On the basis of past experience, the Department believes that the interview is critically important to the certification process and must be carefully monitored and regulated.⁷

USDA did not provide any additional evidence to support these conclusions.

16. Recent developments reveal that the interview is no longer “critically important to the certification process.” The goals of the interview can be accomplished more easily through telephone calls, emails, databases, and information on agency websites.

17. During the COVID-19 pandemic, Congress authorized the Secretary of Agriculture to “adjust . . . issuance methods and application and reporting requirements . . . to be consistent with what is practicable under actual conditions in affected areas.”⁸

18. Under this authority, USDA allowed state agencies to make three adjustments to the interview requirements, including waiving the need for an interview prior to approval.⁹

19. As a condition of the waiver, the state agency was required to “ensure that sufficient controls in their policy and automation are in place to implement the

⁷ 43 Fed. Reg. 18823, 18880 (May 2, 1978).

⁸ Families First Coronavirus Response Act, P.L. 116–127 § 2302(a)(2) (Mar. 18, 2020).

⁹ U.S. Dep’t of Agric., Letter on Adjusting Interview Requirements Due to Novel Coronavirus (Mar. 26, 2020), <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-COVID19-AdjustInterviewRequirements.pdf>.

terms of this adjustment correctly.”¹⁰ This demonstrates that SNAP administrators recognized the significant disadvantages of an inflexible interview requirement and understood that the program could be successful without it. These waivers indicate that the interviews, although useful in certain circumstances, are no longer “critically important to the certification process,” as they were in 1978.

20. During the waiver period, the SNAP program continued to achieve its goals and even improved in the absence of the interview requirement.

21. More people receive SNAP benefits in areas where the administrative burden of the interview was removed. In a study of the ten states where SNAP is administered at the county level, “counties that adopted the SNAP interview waiver had 5% higher SNAP caseloads compared to counties that decided to not adopt the waiver.”¹¹

22. Focus groups with state-level SNAP administrators found support for the interview waivers. “[M]any SNAP administrators agreed that the waiver of face-to-face interviews, [and] the waiver of interviews at the time of initial application and recertification . . . helped to streamline operations. Interview waivers allowed SNAP administrators to streamline the application and recertification procedures and process larger case volumes when demand was high while reducing administrative burdens for participants.”¹²

¹⁰ *Id.*

¹¹ Colleen Heflin et al., *Local Control, Discretion, and Administrative Burden: SNAP Interview Waivers and Caseloads During the COVID-19 Pandemic*, 2023 AM. REV. PUB. ADMIN. 8 (Jul. 16, 2023).

¹² Gabby Headrick et al., *State Implementation of SNAP Waivers and Flexibilities During the COVID-19 Pandemic: Perspectives from State Agency Leaders*, 54 J. NUTRITION EDUC. & BEHAV. 987 (Nov. 2022).

The Interview Requirement Prevents Qualified Applicants from Accessing Crucial SNAP Benefits

23. The interview requirement creates an unequal burden on underserved groups. Working families and applicants experiencing homelessness saw disproportionate rates of denial based on missed interviews.¹³

24. The most comprehensive study of SNAP applications showed that missed interview requirements were by far the greatest reason for denial. Nearly three-fifths of denials occurred due to a missed interview.¹⁴

25. This creates additional inefficiencies for both the applicants and for the agency, since 10% of applicants denied for missed interviews reapply within the subsequent six months.¹⁵

26. In a study of another social welfare program comparing state-level implementation policies, there was a 10% greater rate of participation when there was no face-to-face interview requirement.¹⁶

27. Incorrect denials of applications are just as serious as incorrect approvals. In describing its understanding of equitable access to unemployment insurance, the Department of Labor recently wrote that “Identifying and preventing all forms of improper payments — including underpayments and erroneous denials — are critical to ensuring program integrity.”¹⁷

¹³ Docker & Rino, *supra* note 1.

¹⁴ Eric Giannella et al., *Administrative Burden and Procedural Denials: Experimental Evidence from SNAP* 22 fig. 1 (Nat’l Bureau of Econ. Rsch., Working Paper No. w31239, 2023)

¹⁵ Docker & Rino, *supra* note 1.

¹⁶ Barbara Wolfe & Scott Scrivner, *The Devil May Be in the Details: How the Characteristics of SCHIP Programs Affect Take-Up*, 24 J. PUB. ANALYSIS & MGMT. 499, 514 (Summer 2005).

¹⁷ U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 01-24 (Nov. 8, 2023), <https://www.dol.gov/agencies/eta/advisories/uipl-01-24>.

The Interview Requirement Is a Particular Barrier for Food-Insecure College Students

28. College students eligible for SNAP benefits receive those benefits at rates much lower than the general eligible population. A study of low-income college students by the Government Accountability Office found that only 43% of potentially eligible students at risk of food insecurity collected SNAP benefits in 2016.¹⁸ In contrast, USDA estimated that 81% of eligible individuals and households participated in the program in Fiscal Year 2019.¹⁹

29. Data from the 2019–20 National Postsecondary Student Aid Study shows that 23% of undergraduate students in the U.S. experience food insecurity.²⁰

30. Rates of food insecurity among college students are consistently higher than national averages. Food insecurity among undergraduates (23%) was more than double the rate among all U.S. households in 2020 (10.5%).²¹

31. Despite higher levels of food insecurity and lower levels of SNAP take-up than other households, students face additional administrative burdens.²² Like many other SNAP beneficiaries, students attending college are often seeking the

¹⁸ U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-95, FOOD INSECURITY: BETTER INFORMATION COULD HELP ELIGIBLE COLLEGE STUDENTS ACCESS FEDERAL FOOD ASSISTANCE BENEFITS 18–19 (Dec. 2018), <http://gao.gov/assets/gao-19-95.pdf>.

¹⁹ ALMA VIGIL, U.S. DEP'T OF AGRIC., TRENDS IN SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION RATES: FISCAL YEAR 2016 TO FISCAL YEAR 2020 33 (Dec. 2022), <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-trends-fy2016-2020.pdf>.

²⁰ Bryce McKibben et al., *New Federal Data Confirm that College Students Face Significant—and Unacceptable—Basic Needs Insecurity*, HOPE CTR. (Aug. 3, 2023), <https://hope.temple.edu/npsas>.

²¹ *Food Security in the U.S.: Key Statistics & Graphs*, U.S. DEP'T OF AGRIC. ECON. RSCH. SERV. (Oct. 25, 2023), <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/key-statistics-graphics/>.

²² CAL. STUDENT AID COMM'N, ACCESS TO PROPER NUTRITION EQUALS COLLEGE SUCCESS: MAKING CALFRESH WORK FOR STUDENTS 23 (Feb. 2022), https://www.csac.ca.gov/sites/main/files/file-attachments/calfresh_workgroup_report.pdf?1646697827.

training and skills to secure better-paying jobs and need some additional support for a limited time. Nonetheless, only a fraction of students enrolled in college half-time or more are allowed to access SNAP benefits, and only through a series of narrow and complex eligibility rules, effectively creating substantial barriers to participation. *See* 7 C.F.R. § 273.5(b).

32. Reducing burden is also key for individuals considering enrolling in higher education. Such individuals may be dissuaded from enrollment because of both actual and perceived difficulties for students with respect to food insecurity.

33. Eligible college students face unique obstacles in accessing SNAP benefits. College students may move to a new state or county and be unfamiliar with government services in their new location. If they are applying for benefits for the first time as adults, they may be required to submit documents which they have never used and to which they do not have ready access. There is also likely to be a surge in applications at the beginning of each term, which can cause processing delays.²³

34. When state agencies reach out to applicants to schedule an interview or notify them that an interview has been scheduled, they often use postal mail or telephone calls. This is especially problematic for college students, many of whom are more comfortable with electronic communication and less likely to check their mail regularly or to answer calls from unknown numbers. As such, they may miss out on important communications about their interviews.²⁴

²³ *Id.* at 19–24.

²⁴ *Id.* at 21.

35. College students commonly move to a new address shortly before starting classes and move again each academic year. They may also have multiple places of residence, one at home and one on or near campus. Thus, interview notifications may be sent to an outdated address, leaving applicants unaware that an interview has been scheduled.²⁵ In addition, 8% of undergraduates experience homelessness, which increases the likelihood that interview notifications may not reach them.²⁶ As mentioned above, applicants experiencing homelessness are more likely to be denied benefits due to missed interviews.²⁷

36. College students may be forced to wait until they move to a new county or state before they can apply for SNAP, which can create a gap in their benefits at the beginning of their college experience. College students living on their own for the first time may be required to schedule an interview while they begin their course of study or else face a shortage of food at a critical time in their educational journey.²⁸

37. Even when they receive timely notification of an interview, students often have conflicts between the scheduled interviews and their academic responsibilities. Students with their own dependent children represent more than one in five undergraduate students.²⁹ Parenting students, and especially single parents, in higher education, face high rates of food insecurity, but likely do not

²⁵ *Id.*

²⁶ McKibben et al., *supra* note 20.

²⁷ Docker & Rino, *supra* note 1.

²⁸ CAL. STUDENT AID COMM'N, *supra* note 22, at 21.

²⁹ U.S. GOV'T ACCOUNTABILITY OFF., GAO-19-522, HIGHER EDUCATION: MORE INFORMATION COULD HELP STUDENT PARENTS ACCESS ADDITIONAL FEDERAL STUDENT AID 9 (Aug. 2019), <https://www.gao.gov/assets/gao-19-522.pdf>.

have the same scheduling flexibility to schedule and attend interviews.³⁰

Regulations require interviews to be scheduled in advance, and some jurisdictions schedule interviews without any input about the applicant's schedule. Accordingly, students may be unable to attend their interview and be subject to a complicated rescheduling procedure.³¹

38. In addition, students will need to go through this process multiple times during their career in higher education through frequent recertification requirements including the submission of additional paperwork and interviews at least once per year. The administrative burdens of recertification cause many eligible persons to lose their benefits.³² Recertification interviews are especially unnecessary for students, whose financial circumstances are unlikely to change during a two- or four-year program of study.³³

39. These factors have combined to produce a system in which 40% of the college students who apply for SNAP are rejected due to a missed interview.³⁴

40. Food insecurity impedes educational attainment. Only 44% of food-insecure college students completed their degrees, compared to 68% of their food-secure classmates.³⁵ Non-completion of a degree is associated with worse financial

³⁰ McKibben et al., *supra* note 20.

³¹ CAL. STUDENT AID COMM'N, *supra* note 22, at 22.

³² MATT UNRATH, CAL. POLICY LAB, PUSHED OUT BY PAPERWORK: WHY ELIGIBLE CALIFORNIANS LEAVE CALFRESH (Jan. 2021), <https://www.capolicylab.org/wp-content/uploads/2021/02/Pushed-out-by-paperwork-why-eligible-Californians-leave-CalFresh.pdf>.

³³ CAL. STUDENT AID COMMISSION, *supra* note 22, at 24.

³⁴ Docker & Rino, *supra* note 1.

³⁵ Julia A. Wolfson et al., *The Effect of Food Insecurity During College on Graduation and Type of Degree Attained: Evidence from a Nationally Representative Longitudinal Survey*, 25 PUB. HEALTH NUTRITION 389, 391 (Feb. 2022).

outcomes compared to completers.³⁶ Studies link SNAP access to improved test performance by students receiving SNAP benefits.³⁷ Students who can obtain a degree are less likely to need SNAP benefits in the future.³⁸

Eliminating the Interview Requirement Would Provide Greater Flexibility for Agencies and Applicants to Use Interviews Only When Appropriate

41. A pilot program to study eliminating the interview requirement found that applicants who were not required to interview “were significantly more satisfied with the application process” than their peers in the comparison group.³⁹

42. In fact, this pilot study likely understates the benefits of a programmatic change. For instance, the study noted that efficiency gains among some segments of the staff were offset by additional time required by other workers.⁴⁰ A state agency adapting to a permanent modification of the certification process would be able to reallocate resources as needed to maximize the effectiveness of the office as a whole. Accordingly, material revision of the regulations is likely to produce new efficiencies not seen in the pilot program.

³⁶ Jacob Lockwood & Douglas Webber, *Non-Completion, Student Debt, and Financial Well-Being: Evidence from the Survey of Household Economics and Decisionmaking*, BD. OF GOVERNORS OF THE FED. RESERVE SYS. (Aug. 21, 2023), <https://www.federalreserve.gov/econres/notes/feds-notes/non-completion-student-debt-and-financial-well-being-20230821.html>.

³⁷ See Edward A. Frongillo et al., *Food Stamp Program Participation Is Associated with Better Academic Learning Among School Children*, 136 J. NUTRITION 1077 (Apr. 2006); Anna Gassman-Pines & Laura Bellows, *Food Instability and Academic Achievement: A Quasi-Experiment Using SNAP Benefit Timing*, 55 AM. EDUC. RSCH. J. 897 (Oct. 2018).

³⁸ Michael D. King, *Those with a High School Diploma or Less Make Up Majority of Government Assistance Recipients*, U.S. CENSUS BUREAU (May 12, 2021), <https://www.census.gov/library/stories/2021/05/more-than-one-in-seven-social-safety-net-recipients-in-2017-were-college-graduates.html>.

³⁹ U.S. DEP’T OF AGRIC., ASSESSMENT OF THE CONTRIBUTIONS OF AN INTERVIEW TO SNAP ELIGIBILITY AND BENEFIT DETERMINATIONS: FINAL REPORT 73 n.61 (May 2015), <https://www.fns.usda.gov/snap/assessment-contributions-interview-supplemental-nutrition-assistance-program-eligibility-and-benefit>.

⁴⁰ *Id.* at 73–74.

43. Of course, some applicants may still request an interview with agency case workers even if such an interview is not required. Updated regulations should clarify that interviews are still available at the request of the applicant and should require state agencies to publicize that option. This setup is comparable to the current provision, which requires state agencies conducting telephone interviews to grant face-to-face interviews when applicants request them. *See* 7 C.F.R. § 273.2(e)(2)(i).

44. Even without an interview requirement, state agencies may still contact applicants as necessary when reviewing applications. As a condition to the COVID-19 waiver of the interview requirement, state agencies were still required to “contact the household if information in the application that is required to be verified under 273.2(f)(1) is questionable and cannot be verified through a data match.”⁴¹ New regulations could incorporate a similar mandate.

45. Current data verification standards make the interview requirement excessive. By regulation, states already “shall maintain and use an income and eligibility verification system,” and can use that system to “verify[] eligibility for and the amount of SNAP benefits due to eligible households.” 7 C.F.R. § 272.8. States also must use five additional databases to verify immigration status (7 C.F.R. § 272.11), prisoner status (7 C.F.R. § 272.13), death status (7 C.F.R. § 272.14), employment status (7 C.F.R. § 272.16); and whether an individual is a “disqualified recipient” (7 C.F.R. § 273.16(i)(4)(i)). States may verify eligibility with

⁴¹ U.S. Dep’t of Agric., Letter on Adjusting Interview Requirements Due to Novel Coronavirus, *supra* note 9, Enclosure 1, at 1.

other data matching sources and in 2018, states used an average of 19 different sources.⁴² State agencies will likely be able to conduct such verification much more easily due to the new national SNAP income verification contract.⁴³ The extensive availability and required use of computerized data for the purpose of verifying applicants' eligibility makes the interview much less important than it was in the past.

The Administration Has Directed the Department of Agriculture to Reduce the Administrative Burden on SNAP Applicants by Simplifying Enrollment and Recertification

46. Executive Order 14058 explains that “Every interaction between the Federal Government and the public . . . should be seen as an opportunity for the Government to save an individual’s time (and thus reduce ‘time taxes’) and to deliver the level of service that the public expects and deserves.”⁴⁴ The Order notes that efficiency, fairness, and transparency are ways to increase public trust in the government and its programs.

47. The Executive Order directs the Secretary of Agriculture to “identify opportunities to reduce individuals’ and families’ burdens by simplifying enrollment and recertification for nutrition assistance programs such as the Supplemental Nutrition Assistance Program (SNAP) and the WIC.”⁴⁵

⁴² U.S. DEP’T OF AGRIC., ASSESSMENT OF STATES’ USE OF COMPUTER MATCHING PROTOCOLS IN SNAP 23–25 (Aug. 2020), <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAPComputerMatching.pdf>.

⁴³ Press Release No. FNS-017.23, *Food and Nutrition Service Invests in SNAP Integrity and Modernization*, FOOD & NUTRITION SERV., U.S. DEP’T OF AGRIC. (Oct. 12, 2023), <https://www.fns.usda.gov/news-item/fns-017.23>.

⁴⁴ Exec. Order 14058, 86 Fed. Reg. 71357, 71357 (Dec. 16, 2021).

⁴⁵ *Id.* at 71359.

48. The Executive Order asked agencies to assess whether “their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups.”⁴⁶ The interview requirement does so and thus should be eliminated.

49. The elimination of the interview requirement can also contribute to alleviating recent staffing shortages and resultant processing delays.⁴⁷

50. The SNAP interview requirement is a paradigmatic example of the type of burden the Administration is seeking to eliminate. Removing the requirement is a prime opportunity for USDA to comply with the Executive Order, reduce unnecessary administrative burden, and improve government efficiency, cultivating public confidence in the SNAP program.

Even if the Interview Requirement is Maintained for New Applicants, It Should Be Eliminated for Recertifications

51. Even if USDA continues to require an interview for initial certification, it should eliminate the requirement for interviews during recertification because there is much less need for the agency to learn about the applicant or for the applicant to learn about the agency. State agencies can rely upon prior information about the applicant, in addition to new information provided in the during recertification application.

⁴⁶ *Id.* at 71358.

⁴⁷ U.S. Dep’t of Agric., Letter on Updated Guidance for Improving State Agency Application Processing Timeliness Rates (Aug. 2, 2023), https://www.fns.usda.gov/sites/default/files/resource-files/updated_apr_escalation_procedures.pdf.

52. USDA has already waived recertification interviews for a subset of participants in 22 states through the Elderly Simplified Application Project.⁴⁸

53. Recertification is also associated with a high degree of churn—a problem which plagues the entire SNAP program. In some states, 90% of SNAP churn occurs at the time of recertification.⁴⁹ Churn creates additional burdens on both applicants and beneficiaries by requiring additional time for new applications and certification processes, in addition to the significant costs to the recipients of missed benefits.⁵⁰ Reducing unnecessary burdens at recertification would reduce churn and thus improve program efficiency.

54. This change would be consistent with findings in the previously mentioned pilot program: “Most staff agreed that households known to the system, such as those recertifying, may not need to complete interviews, as basic information about them is already in the State system and the process is a relatively easy update that usually requires little client clarification.”⁵¹ This data shows that state agency staff do not agree with the 1978 regulations that “the interview is critically important” or that it “represents a critical exchange,” at least at the recertification stage.⁵²

⁴⁸ FOOD & NUTRITION SERV., U.S. DEP’T OF AGRIC., SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM STATE OPTIONS REPORT 25 (15th Ed. 2023), <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-15th-state-options-report-october23.pdf>.

⁴⁹ GREGORY MILLS ET AL., U.S. DEP’T OF AGRIC., UNDERSTANDING THE RATES, CAUSES, AND COSTS OF CHURNING IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) 48–49 (Nov. 2014).

⁵⁰ *Id.* at 110.

⁵¹ U.S. DEP’T OF AGRIC., *supra* note 39, at 74–75.

⁵² 43 Fed. Reg. 18823, 18880 (May 2, 1978).

CONCLUSION

55. Current USDA regulations create an unnecessary barrier for eligible individuals to access SNAP benefits. The interview requirement is particularly taxing for college students facing widespread food insecurity. This is precisely the kind of burden that the administration has set out to eliminate.

56. Too many Americans, whether students or otherwise, find themselves in doubt about where they will get their next meal. The SNAP program exists to make the modest but substantial impact needed to lift someone out of hunger. The system must have standards, but not ones so rigid as to disqualify otherwise-eligible candidates based solely on a technicality like a missed appointment.

57. Because the interview requirement was created by regulation and not mandated by statute, USDA can and should solve this problem quickly by amending 7 C.F.R. § 273.2(e) to eliminate the interview requirement entirely or, at the very least, eliminate it for all applicants seeking recertification of their benefits.

Respectfully submitted,

/s/ Alexander S. Elson

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