



May 18, 2016

Vicky Robinson, Chief
Retailer Management Issuance Branch
Retailer Policy and Management Division
Supplemental Nutrition Assistance Program
Food and Nutrition Services
United States Department of Agriculture
3101 Park Center Drive, Room 418
Alexandria, Virginia 22302

Re: Proposed Rule on Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP); Docket RIN 0584-AE27

Dear Ms. Robinson:

Trust for America's Health would like to thank you and Secretary Vilsack for this opportunity to provide comment on the Food and Nutrition Services' (FNS) proposed rule concerning retailer standards for participation in the Supplemental Nutrition Assistance Program (SNAP). As a nonprofit, nonpartisan organization dedicated to saving lives by protecting the health of every community and working to make disease prevention a national priority, TFAH strongly supports the SNAP program as critical to both combatting hunger and improving nutrition among some of the most vulnerable Americans.

Having responded to the FNS Request for Information on this issue in 2013, TFAH is encouraged that FNS has now proposed to enhance retailer standards for SNAP.¹ In TFAH and the Robert Wood Johnson Foundation's most recent edition of our annual report, *State of Obesity 2015: Better Policies for a Healthier America* report,² we outlined the severity of the obesity epidemic. Although there have been encouraging signs of progress in the fight against obesity in recent years, there is still much work to be done. Approximately 17 percent of children and greater than 30 percent of adults in the United States are obese and millions more are overweight. Obesity and its comorbidities including heart disease, hypertension, diabetes, stroke, cancer, asthma, and osteoarthritis account for billions of dollars in preventable healthcare spending every year. Most troublingly, low-income communities bear a disproportionate burden

¹ Trust for America's Health, Response to Response to Request for Information: Supplemental Nutrition Assistance Program Enhancing Retail Food Store Eligibility, [http://tfah.org/assets/files/TFAH_Comments_on_USDA_SNAP_Retailers_\(FINAL\)_11-05-13.pdf](http://tfah.org/assets/files/TFAH_Comments_on_USDA_SNAP_Retailers_(FINAL)_11-05-13.pdf), November 2013.

² Levi, J., Segal, L. M., Rayburn, J., & Martin, A. (2015). *The State of Obesity: 2015. Better Policies for a Healthier America.*

of obesity compared to their higher-income counterparts thanks, in part, to a lack of access to nutritious and fresh food options.³

The Food and Nutrition Service's retailer standards for SNAP participation are an important mechanism to help ease this disproportionate burden and provide healthy, accessible food choices for low-income Americans. We therefore offer the following recommendations to further strengthen USDA's proposal towards the goal of a healthier SNAP population.

Staple Foods

In our initial comments from 2013, TFAH recommended modifying the requirements for participating retailers surrounding staple foods to increase access to healthier food choices for SNAP beneficiaries. We also note that the proposed SNAP retail requirements to stock a greater variety of staple foods is consistent with legislative changes made in the 2014 Farm Bill.

Since the proposed changes to staple foods are designed to provide SNAP participants with greater access to fruits and vegetables, whole grains, lean meats and dairy products, we recommend greater clarity around this provision with respect to intent which will be essential in helping retailers to comply.

The current proposal does this, in part, by excluding "foods that do not represent a single staple food category, such as commercially processed and prepared mixtures with multiple ingredients." TFAH is supportive of this modification. Additionally, TFAH supports the FNS clarifying that snack foods like chips, dips, cookies, cakes, and pastries are not staple foods but rather "accessory foods."

SNAP retailers should be committed to providing low-income communities healthy, nutritious food choices. We agree with USDA's assertion that narrowing the definition of staple foods to exclude unhealthy food options will encourage stores to "offer more nutritious options and provide SNAP recipients access to a larger selection of healthy foods." To ensure these standards do not inappropriately restrict access to food retailers, we urge FNS to provide clear and comprehensive guidance, at the time the rule is finalized, that includes a list of specific foods that would qualify as staple foods, as well as lists of foods that would not qualify and therefore would be considered accessory foods.

Determination of Authorization

TFAH supports the proposal to codify the mandatory requirements from the 2014 Farm Bill including increasing the minimum variety of foods in each staple food category from three to seven different varieties and requiring perishables in three staple food categories instead of two. These codifications not only bring the regulations in line with the 2014 Farm Bill, but help ensure there is sufficient quantity and variety of fresh, healthy foods for SNAP beneficiaries.

³ Bell, J., Mora, G., Hagan, E., Rubin, V., & Karpyn, A. (2013). Access to healthy food and why it matters: A review of the research. *Philadelphia, PA: The Food Trust.*

Given low-income communities' lack of access to nutritious foods,⁴ such a measure is a necessary precondition to improving health outcomes.

In a similar vein, TFAH supports the FNS proposal to increase the minimum variety of food in each staple food category. USDA has proposed increasing the minimum number of stocking units per staple food variety to six to ensure that retailers can meet the statutory requirement to offer staple foods in each staple food category. We also continue to urge USDA to consider additional regulatory updates it could pursue that that would further increase stocking requirements for staple foods. Specifically, TFAH would support broadening the definition of Criteria A staple foods by separating fruits and vegetables into two separate categories. While the Dietary Guidelines for Americans acknowledge there are a number of ways to achieve healthy eating patterns, all of these patterns involve consuming both fruits and vegetables.⁵ Dividing the singular fruits and vegetables staple food category into two separate staple food categories would ensure SNAP retailers had a variety of both fruits and vegetables stocked and would assist SNAP beneficiaries in achieving healthy eating patterns that include both types of foods.

We remain cognizant that strengthening stocking requirements in such a manner could present challenges for some retailers. Accordingly, TFAH recommends that any changes to criteria affecting either the variety or depth of stocking requirements for retailers be accompanied by appropriate technical assistance from USDA. Moreover, we continue to believe SNAP Education grantees are well situated to work with smaller food retailers based on their experience addressing barriers to healthier eating among SNAP beneficiaries should the FNS opt to implement more robust stocking requirements. TFAH recommends that USDA coordinate with local SNAP Education grantees in order to facilitate the transition to stronger stocking requirements for SNAP retailers.

Need for Access

TFAH recognizes how important it is for SNAP beneficiaries to have quick and easy access to SNAP retailers near their homes. Amending the federal regulations surrounding the approval of potential SNAP retailers to consider whether an applicant retailer is located in an area with significantly limited access to food will undoubtedly increase access to SNAP in low-access communities. At the same time, TFAH notes the potential for such a system to create two tiers of SNAP retailers, one of which offers less healthy food choices than the other.

If USDA is empowered to grant SNAP eligibility for retailers in low-access areas that would otherwise be ineligible, these newly eligible retailers are, by definition, offering less healthy food options than SNAP retailers who achieved eligibility through traditional eligibility requirements. Accordingly, TFAH strongly encourages USDA to monitor retailers who achieve SNAP eligibility in low-access areas to ensure that they are meeting the nutrition needs of the SNAP

⁴ Treuhaft, S., & Karpyn, A. (2010). *The grocery gap: who has access to healthy food and why it matters*. PolicyLink.

⁵ U.S. Department of Agriculture and U.S. Department of Health and Human Services. *2015-2020 Dietary Guidelines for Americans*. 8th Edition. (December 2015). Available at <http://health.gov/dietaryguidelines/2015/guidelines/appendix-3/>.

beneficiaries they serve. USDA may also consider a “grace period” during which newly eligible SNAP retailers in low-access communities can adapt their practices to meet traditional SNAP eligibility requirements in order to maintain their SNAP eligibility past the period. Retailers that fail to meet traditional SNAP eligibility requirements within this timeline could reapply to SNAP, at which time the community’s need for SNAP retailers and the retailer’s SNAP eligibility would be reassessed.

Public Disclosure of SNAP Information

TFAH supports the proposal to publicly disclose specific information about retailers that have been disqualified or otherwise sanctioned for SNAP violations. For food retail locations, successfully applying to participate in the SNAP program generates not only new direct revenue in the form of increased food sales but also the secondary benefit of marketing their SNAP-eligible status to help increase overall consumer traffic. TFAH believes retailers who stand to financially benefit from their status as eligible SNAP retailers should also face the consequences of full disclosure of any potential SNAP violations.

In our previous comments, TFAH recommended that USDA require that SNAP eligible retailers only be permitted to market their SNAP eligibility or SNAP benefits in conjunction with staple foods that meet the Dietary Guidelines for Americans. Similarly, TFAH also recommended that any promotion or education efforts aimed at SNAP beneficiaries should encourage beneficiaries to purchase healthy foods and beverages. We continue to support such marketing and promotional regulations because these rules, in conjunction with the public disclosure of SNAP violations, provide consumers with the most comprehensive information about SNAP retailers possible. In turn, SNAP beneficiaries will be able to make more informed and healthy decisions regarding where they purchase their food and what food they ultimately buy.

Compliance

As we noted in our original comments, the significant increase in number of authorized SNAP retailers in recent years creates new compliance and oversight challenges for USDA. Many of the initiatives proposed in this rule, including further expansion of SNAP retailers into low-access communities and public disclosure of retailers who are sanctioned for SNAP violations, place an even greater burden on USDA’s compliance and oversight systems. Accordingly, we continue to strongly urge USDA to explore and pilot new compliance measures as necessary, particularly by electronic means, to help ensure that SNAP retailers are complying with all requirements of the program. Doing so will become increasingly important to ensuring that the SNAP program is achieving its primary mission of protecting against hunger and improving health for millions of Americans.

Conclusion

Thank you for your consideration of these comments. We appreciate USDA's commitment to adapting the SNAP program so that it most effectively serves the nutritional needs of its beneficiaries and promotes the nation's public health. If you have any questions, please do not hesitate to contact Jack Rayburn, TFAH's Senior Government Relations Manager, at (202) 223-9870 x 28 or jrayburn@tfah.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Hamburg". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Richard Hamburg
Interim President and Chief Executive Officer