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November 25, 2019

SNAP Certification Policy Branch
Program Development Division
Food and Nutrition Service
3101 Park Center Drive
Alexandria, VA 22302

Re: Docket ID Number FNS-2019-0009 - Supplemental Nutrition Assistance Program (SNAP): Standardization of State Heating and Cooling Standard Utility Allowances -- RIN 0584-AE69

Submitted via Federal eRulemaking Portal at www.regulations.gov

To Whom It May Concern:

On behalf of the Oregon Department of Human Services (DHS) we appreciate the opportunity to comment on the United States Department of Agriculture (the Department) Notice of Proposed Rule regarding Supplemental Assistance Nutrition Program (SNAP) Standardization of State Heating and Cooling Standard Utility Allowances (HCSUAs).[1]

Oregon DHS assists people in achieving safety, health and independence through a system of Self-Sufficiency Programs designed to support and empower Oregonians. Each program is vital in the ability to create an environment where individuals and families are able to become self-reliant. SNAP is the largest of those programs and provides access to food for key vulnerable populations. In 2018, SNAP served an average of 662,173, (1 out of 6) Oregonians on a monthly basis. As such, SNAP plays a critical role in addressing hunger and food insecurity in our state. It is the first line of defense against hunger for low-income individuals.

With the exception of the inclusion of internet costs as part of Standard Utility Allowance (SUA), Oregon DHS respectfully disagrees with the proposed rule changes by the Department for the following reasons:

The explanation of the proposed rule changes goes against historical priorities the Department has identified when developing HCSUAs[2] and its implementation goes against Congressional intent.

When initial guidance was first issued in 1979 the Department ensured that the policy would not negatively impact families. The Department clarified this intent by permitting the use of

[1] USDA. Proposed Rules. Accessed online on October 03, 2019 from https://www.govinfo.gov/content/pkg/FR-2019-10-03/pdf/2019-21287.pdf
[2] USDA. Food Stamp Program Standard Utility Allowances Requirements and Methodologies. Accessed online on November 19, 2019 from: https://drive.google.com/file/d/1OZV-ZMnnlIZk3cFynC0ucecilv4up-08/view

actual costs, if those costs exceeded the state calculated amounts. When the rules were revised again to mandate use of HCSUAs across certification periods, the Department ensured the developed HCSUAs would encompass utility costs incurred by most families. In fact, in situations where the state calculated SUAs would have resulted in a loss of benefits, the Department has issued waivers to prevent this from happening[3].

For the past 40 years, the Department has reviewed, and approved methodologies used by states on an annual basis to create the individual state SUAs. Until now, there have been no concerns conveyed to states about specific methodologies.

Furthermore, it is Oregon's understanding that Congress intentionally did not adopt these changes as there was no need to modify this state option. A proposal was included in the President's 2018 budget (published March 2017) and after being debated in Congress, was not included or passed into law. Instead, with the passage of the Agricultural Improvement Act of 2018 (aka the Farm Bill), Congress recognized the need for a re-evaluation of how SNAP food benefit amounts are determined. The Department was mandated to "re-evaluate and publish revisions to the Thrifty Food Plan based on current food prices, food composition data, consumption patterns and dietary guidance." This suggests that Congress intended for an increase in SNAP benefit amounts not a reduction.

The Department doesn't adequately justify the proposed changes to warrant changing the current process.

The current policy allows variances in SUAs to accommodate for differences in utility costs and rates and allows states flexibility in how they calculate those costs. The proposed rule would standardize and cap SUA calculations across the country based on flawed survey data. The proposed rule does not adequately explain the Department's rationale for capping the largest of the SUA components (HCSUA) by calibrating to utility expense survey data for those no higher than the 80th percentile of low-income people and then limiting other SUA components as well.

The proposed rule asserts that it calculated calibrating to the 50th percentile compared to the 80th percentile. The proposed rule does not adequately explain whether the Department analyzed impacts calibrated to the 85th or higher percentiles and what were the results of those estimates. The lack of such explanation is particularly concerning given research documented that 21 states had SUAs exceeding the 85th percentile estimates, possibly because of their efforts to mitigate benefit loss for households with very high utility costs.

Current law sets a cap on the amount of excess shelter costs which already limits the impact of this allowance on households without an elderly or disabled member. In FFY2020, the max shelter cap is set at $569, which doesn't reflect or represent the burden Oregonians face due to high housing prices. According to a 2018 report published by the Oregon Center for Public Policy the large majority of low-income renters struggle to afford housing. This can be broken up into two main categories. Cost-burdened households who spend more than 30% of their income on housing and severely cost-burdened households who spend over 50% of their income to maintain their housing. Oregonians of color disproportionately represented as

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[3] USDA. SNAP – SUA Annual Review and Adjustment. Biennial Option – Blanket Waiver of 273.9(d)(6)(iii). August 2009. Accessed online on November 25, 2019 from: https://fns-prod.azureedge.net/sites/default/files/snap/FY10-SUA%20Annual%20Review%20and%20Biennial%20Adjustment.pdf

severely cost-burdened. This increases the potential for civil rights impacts with this proposed rule change[4].

Specific aspects of the methodology proposed by the Department are not adequately explained, and data utilized is not the latest available. As a result, the proposed SUAs may be less accurate than what Oregon currently uses.

The proposed rule and Regulatory Impact Analysis (RIA) provide minimal details on the specific steps and data the Department is proposing. It is not clear which recommendations from the referenced 2017 SUA study are being used to formulate the proposed changes. In the proposed rule, the Department does not discuss why the proposed methodology is better than the methodology states currently use. The Department does not enumerate and discuss all the available methodologies to calculate HCSUAs and does not compare them with methodologies currently used by States. In fact, as part of the proposed rule, the Department states it will continue to allow states to use their current methodologies (without changes or improvements) to calculate the Limited Utility Allowances (LUA), Individual Utility Allowances (IUA) and to develop the new Telecommunications Allowances. The selected usage of individual state methodologies is perplexing especially when countered by the over-simplification of the HCSUA proposal.

Estimates by the Department of proposed HCSUAs and impacts on states and SNAP households are confusing and based on old data. In the RIA, the Department includes actual and proposed HCSUAs for FY2017, which are 3 years old. The underlying data used to generate estimates for the RIA are roughly a decade old, drawing from the 2009 Residential Energy Consumption Survey (RECS) and 2011 American Community Survey, instead of the more recently available data when FNS was developing this rule (i.e., the 2015 RECS[5]).

National survey data has significant lags in the availability of data, likely resulting in highly inaccurate estimates of utility costs now and in the upcoming year. Adopting the proposed methodology will result in SUA calculations that use data sets that are at least three and possibly up to nine years old. Given the growth and volatility of utility costs even over the course of a few months or year, this raises significant concerns about the appropriateness of using data that is several years old to estimate current utility costs. The Department does not discuss why its proposed methodology and data sources are better than more current data states get from utility providers.

In Oregon, Public Utility Commission (PUC) data is used to project rates for phones, gas, and electricity. The PUC data used in these calculations can be found at http://www.puc.state.or.us/pages/Index.aspx. Energy Information Administration (EIA) data is used for heating oil and to split out the gas and electricity rates for heating costs and others. The EIA website is: http://www.eia.doe.gov. The figures for Water, Sewer and Garbage are derived from providers and governments in Oregon. Each district has an average calculated which is then combined using weights based on the caseload for the district. The rest of the table is based on projections from PUC, EIA and the US Census. The Department has failed to explain how these calculations are not meeting the requirements codified into rule.

[4] Oregon Center for Public Policy. Fact Sheet. March 2018. Accessed online on November 25, 2019 from: https://www.ocpp.org/2018/03/15/20180315-cost-burdened-housing/

[5] US Energy Information Administration. RECS 2015 Household Characteristics. May 2017. Accessed online November 19, 2019 from: https://www.eia.gov/consumption/residential/reports/2015/methodology/pdf/RECSmethodology2015.pdf

The proposed methodology calculates state HCSUAs based on data that are not representative (and therefore not reliable) at the state level. Only one data source (American Community Survey) out of three data sources that the Department identifies in its proposed rule and RIA has reliable state-level estimates. The other two data sources (the RECS and the Consumer Price Index, or CPI) do not have state-level data for all states. For those data sources, states may be grouped together with other states, with significantly different patterns of utility costs. The Department is assuming that patterns of utility costs in one state are identical to those in neighboring states. However, residential sector energy price estimates from 2017, available through the US Energy Information Administration, show each state has different costs from that of their neighbors[6].

The Department proposes using the CPI to inflate HCSUA estimates from year to year but would use CPI data at the Census region level (the U.S. is divided into four Census regions). The Department does not explain why it believes its methodology (which has gaps in state-level data) would produce more accurate state-level estimates of utility costs compared to state-specific data sources that states having been using over the past four decades. Using CPI to inflate state SUAs is already one of the methods states currently use, so it's not clear why the Department is proposing a change.

The Department has not provided an analysis as to how a decrease in SNAP dollars resulting from this change will impact other programs that work and interact with SNAP.

Standard Medical Deductions (SMD)
The Department does not mention in its analysis the effect a decrease in HCSUA will have on the ability of states to maintain the cost neutrality of the Standard Medical Deduction being used by many states across the nation. SNAP households with elderly or disabled members are entitled to a deduction from their household income of allowable, out-of-pocket medical expenses incurred by these members that are in excess of $35/month. Oregon is one of the many states who request a demonstration waiver to establish a SMD for these households. Households may opt to claim actual medical expenses if they are greater than the SMD threshold.

The SMD allows States to streamline administrative procedures, reduce the paperwork burden on seniors and disabled persons, and simplify the process of claiming this deduction for vulnerable households. States who are using the program offset the cost of SMDs by reducing the HCSUA calculated. Standardizing the HCSUA amount will offset the cost neutrality for the SMD and the current shelter deduction amounts. This impact will range from having to stop the demonstration project, increase administrative burden to states and SNAP participants, and decrease access to participants seeking to deduct out of pocket medical costs.

Oregon Double-Up Food Bucks (DUFB) Program
In the 2019-2021 legislative session, the State of Oregon Legislature decided to support the DUFB program with $1.5 million dollars for the biennium. The DUFB program is a nutrition incentive program that matches SNAP benefits at farmers markets and other food outlets and

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[6] US Energy Information Administration. State Energy Data, Prices and Expenditures. 2017. Accessed online on November 21, 2019 from: https://www.eia.gov/state/seds/sep_sum/html/pdf/sum_pr_res.pdf

is run by Oregon's Farmer's Market Fund. Farmers markets participating in the DUFB program offer SNAP participants a $1 for $1 match on their SNAP purchases of up to $10 per day, which can be spent on fruits and vegetables at the farmers market. Farmers offering farm shares, also known as Community Supported Agriculture (CSA), participating in the DUFB program offer SNAP participants a reduced price on a full or partial farm share of seasonal fruits and vegetables.

Studies have shown that farmer market incentives like DUFB are associated with increased fruit and vegetable consumption and decrease food insecurity[7]. With the expected loss of SNAP benefits, households in Oregon will lose the ability to take advantage of this program, local farmers will lose customers and income, and less food dollars will stay in the local economy This will also result in long term negative health consequences resulting from the inability to afford and consume a healthy diet.

Economic impact to Oregon Small Farms

The Department acknowledged the impact a reduction in SNAP benefits will have on small retailers and justified the change because it constitutes a small and negligible amount of the retailer's total profits. However, the Department failed to acknowledge or estimate the impact the decrease of SNAP benefits will have on small non-chain retailers such as small farms. The decrease in dollars spent at farmers markets will result in fewer dollars going to local farmers. Unlike retailers, any impact to their thin profit margins could prove devastating. Also, we believe this will have a huge impact on food deserts where the primary retailer is a small neighborhood store or farm stand.

Cumulative impact from this rule and other proposed rules

In the proposed rule, the Department acknowledges there are other active proposed rules which will have an impact on the SNAP program. These rules include 1) RIN 0584-AE57 – Final Rule: Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents, 2) RIN 0584-AE62 – Proposed Rule: Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP) and 3)" Inadmissibility on Public Charge Grounds" for aliens (RIN 0970-AC79).

Although it is not possible to determine the impact of these rules, it is clear that the effect, intentional or not, is to reduce the number of people receiving SNAP and reduce the benefits issued to those who remain eligible. Compounded SNAP reductions will strain Oregon's safety net by forcing limited resources to be stretched even further, meaning some vulnerable populations will experience extreme hardship, food insecurity and negative health outcomes.

Oregon agrees that Internet costs should be included as an essential utility but questions the calculated amount.

The proposed rule replaces telephone utility allowance with a telecommunications utility allowance that combines both internet and telephone costs. Oregon is in agreement that Internet access is an essential component in the lives of all Americans, and associated costs should be treated as an allowable expense. According to the US Census Bureau, in Oregon 90.5% of households had access to a computer and 81.9% of those households had a

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[7] Double Up Food Bucks Participation is Associated with Increased Fruit and Vegetable Consumption and Food Security Among Low-Income Adults: Durward, Carrie M. et al. Journal of Nutrition Education and Behavior, Volume 51, Issue 3, 342 – 347.

broadband internet subscription.[8] Per the proposed rule, $55 was calculated as a reflection of the cost for these essential services. This is $13 less than the current $68 allowed for telephone only in Oregon and significantly undervalues the cost of these combined services.

The proposed rule will cut SNAP benefits in most states. The Department does not address the implications from food insecurity and effects to health outcomes resulting from the loss of benefits.

According to the USDA's own estimates, the proposed rule would cut SNAP benefits by $4.5 billion over the time period 2021 to 2025. The reduction would impact 3 million (19%) SNAP households nationwide, with an average cut of $31 (14% of their SNAP allotment) per month. In Oregon, 43% (or 157,946[9]) of households would be impacted, seeing an average SNAP benefit reduction of $35 per month, resulting in a total annual benefit loss of $60 million, or 6% of Oregon's total benefit allotments[10].

In FY2018, the average monthly SNAP participation 633,970 (1 out of 6 Oregonians) received an average of $123 in SNAP benefits per month. As such, SNAP plays an important role in reducing hunger and improving dietary intake, while lifting many out of poverty and bolstering local economies[11]. The proposed rule would exacerbate the struggles many low-income people have paying for costs of both food and utilities. It would have harmful impacts on health and well-being as well as on the economy.

In FY 2018, Oregon had a population of 4.2 million. In this time period, (27%) of Oregonians were living below 185% of Federal Poverty Level (FPL), and 516,570 (12.6%) individuals (of which 15.7% are children) were living in poverty[12]. Furthermore, almost two-hundred thousand (11.1%) Oregon households were Low Food Secure and an additional eighty-thousand (4.8%) were Very Low Food Secure[13]. The food security and health implications of the proposed rule are serious and disturbing. Food insecurity has direct and indirect impacts on physical and mental health for people of all ages. Food insecurity — and even marginal food security (a less severe level of food insecurity)— is especially detrimental to the health, development, and well-being of infants, children, and adolescents. Even more dramatic is the fact that 1 out 3 adults who are chronically ill are not able to afford their medicine, food or both. By reducing or taking away SNAP benefits, as the rule is proposing, individuals will be forced to choose between seeking medical treatment or eating.

[8] US Census. Oregon Quick Facts. July 2018. Accessed online on November 17, 2019 from: https://www.census.gov/quickfacts/fact/table/OR

[9] Estimated using 2018 monthly average of 367,317 SNAP households receiving SNAP benefits.

[10] USDA Administrative Records and Simulation. July 2019. Accessed online on October 03, 2019 from: https://fns-prod.azureedge.net/sites/default/files/resource-files/FY%202017%20HCSUA%20Values%20and%20Proposed%20Rule%20Impacts.pdf

[11] FRAC. Hunger and Health. December 2017. Accessed online on November 12, 2019: https://frac.org/wp-content/uploads/hunger-health-role-snap-improving-health-well-being.pdf

[12] FRAC. State Profiles of Hunger, Poverty, and Federal Nutrition Programs. 2019. Accessed online on November 16, 2019 from https://www.frac.org/research/resource-library/state-of-the-states-profiles?post_type=resource&p=4483&state=Oregon

[13] Low Food Security means food is not always available, provides an unbalanced diet or adults have to skip meals so their children can eat. Very Low Food Security indicates households experience quality or quantity of food that is decreased due to lack of resources, such that both adults and/or children go hungry at times.

The rule impacts the most vulnerable populations.

A recent report by the USDA indicated nationwide, approximately two-thirds of SNAP participants were children, elderly or had disabilities[14]. Nearly 44% of SNAP participants lived in households with earnings, yet most SNAP households had little income. For the average SNAP household, nearly 23% of monthly funds (gross income plus SNAP) came from SNAP.

Oregon's SNAP population reflects similarities with national numbers. In 2018, there were an average of 662,173 persons receiving SNAP benefits. Of those, 33% were children under 18, and 13.6% where persons over 60 years old[15]. The significance is that these are people most vulnerable to the proposed rule change. The proposed rule will impact households where members due to their age, or incapacity, would not be able to easily replace the lost income from SNAP. Impacts from the proposed rule will leave those families even more vulnerable.

The Department concedes that the proposed rule would cause 19 percent of SNAP households to get lower SNAP monthly benefits, would disproportionately impact elderly people and people with disabilities, and would cause a national cut to SNAP benefits amounting to a net decrease of $4.5 billion over five years. Of the 3 million households expected to see decreases, 68% have children, 20% have seniors, 29% have individuals with a disability and 51% have income from earnings.

Children
SNAP plays a critical role in improving the food security, health, and well-being of program participants across the lifespan. Conversely, research shows that a loss or reduction in SNAP benefits has detrimental impacts on food insecurity and health, especially for children and their families[16].

Older adults and people with disabilities
Older adults and people with disabilities will be disparately impacted by the proposed rule. This is because they have no shelter cap. Where other populations with shelter caps may not notice any change in benefits, a reduction in SUA amounts for households with older adults and people with disabilities will result in a noticeable impact. SNAP plays an important role in supporting the food security, nutrition, and health of older adults, allowing them to maintain their independence while also reducing their health care utilization and costs. People with disabilities are at higher risk of food insecurity, making SNAP a critical support for this vulnerable population as well. Nationwide, the percentage of households with elderly individuals has increased nearly 10% over the past 25 years. This trend is seen in SNAP participation, whereas the general numbers of SNAP recipients has been decreasing since FY2013, the number of elderly participants continues to grow. In Oregon, this trend also holds true. Elderly make up 14.5% of SNAP recipients, a number almost 1% higher than last year while the overall SNAP participant number went down[17].

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[14] USDA. Characteristics of USDA SNAP Households FFY 2017. February 2019. Accessed online on November 17, 2019: https://fns-prod.azureedge.net/sites/default/files/resource-files/Characteristics2017-Summary.pdf

[15] Oregon SNAP allotments distributed in 2018. December 2018. Accessed online on November 18, 2019:https://www.oregon.gov/DHS/ASSISTANCE/Branch%20District%20Data/SNAP%20County%20Tables%20by%20FIPS%20Jan2018%20-%20Dec2018.xls

[16] Hoynes, H.,Whitmore Schanzenbach, D., & Almond, D. (2016). Long-run Impacts of Childhood Assess to the Safety Net. *American Economic Review*, 106(4):903-934.

[17] Oregon SNAP allotments distributed in 2018. December 2018. Accessed online on November 18, 2019:https://www.oregon.gov/DHS/ASSISTANCE/Branch%20District%20Data/SNAP%20County%20Tables%20by%20FIPS%20Jan2018%20-%20Dec2018.xls

Fixed income households
The decrease in HCSUA will specially impact households with a fixed income. Since households with an elderly person or person with a disability are not able to respond to a loss of benefits by increasing their work hours or requesting an increase in their income, they are especially vulnerable to decreases in benefits.

Furthermore, those impacted by food insecurity are likely experiencing additional resource-related hardships, such as housing instability and energy insecurity. An emerging body of evidence demonstrates that SNAP supports housing stability and alleviate the trade-offs that families often are forced to make between food, health care, and other basic necessities.

Oregon is facing a housing and energy affordability crisis which will be exacerbated by this change.

The State of Oregon has an unprecedented housing affordability crisis. This is exemplified by a report showing that in Oregon it is not uncommon for households to pay at least half of their earnings in rent costs. The majority of cities had at least 20% and up to 40% of households that pay more than half of their income in rent. Lowering SNAP benefits will exacerbate their already tight budgets. An analysis of the Home Energy Affordability Gap for Oregon, a model to calculate “actual” home energy bills in comparison to “affordable” home energy bills shows that in 2018, the gap was higher for low income households, to the level that it is a crippling financial burden. For example, families with income below 50% FPL pay up to 25% in utilities while those in 150-185% FPL pay 6% of their income into utilities. Although some of these discrepancies can be explained by fact that similar expenditures result in a greater percentage of their income, it is not the only reason for this discrepancy. Low income households live in less energy efficient homes, which are more susceptible to weather changes. As a result, in the summer they experience more heat and, in the winter, are colder. Their use heating and cooling expenditures is higher than the general population. By using national data, instead of state specific numbers, the Department will be ignoring the reality of costs at the local level when providing HCSUA numbers.

In summary, Oregon DHS strongly opposes the proposed rule that would cut food benefits for struggling people and undermine health in our community and across the nation. As shown, the methodologies and reasonings are not adequately explained and do not demonstrate how they would better represent actual costs for states. It does not address the full impact this cut in benefits will have for families and the local economy and does not analyze the impact it will have on other SNAP related policies nor does it fully capture the negative consequences all policies related to SNAP will have once combined.

Oregon appreciates the opportunity to comment and strongly urges the Department to reconsider the proposed changes to this policy.

Sincerely,

Dan Haun
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