

Get Ready for Food Stamp Reauthorization Changes in Your State

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Food Research and Action Center
1875 Conn. Ave. NW
Washington, DC 20009
202-986-2200
<http://www.frac.org>

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On May 13, 2002, President Bush signed into law the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171), which includes, as title IV, the Food Stamp Reauthorization Act of 2002--the nutrition title of the Farm Bill. This law adds \$6.4 billion in new funds to the Food Stamp Program and other nutrition programs over the next ten years, through a number of program enhancements and simplifications. The new law expands eligibility for some groups. For some it increases the grant amount. More sweepingly, the law gives states new flexibility to improve the Food Stamp Program for their low-income residents.

Most of its provisions take effect October 1, 2002, although some phase in later and a few take effect immediately.

Advocates may want to be involved as their state plans how to implement the new provisions. If state agencies and anti-hunger groups do not publicize the new eligibility enhancements, they may go unused. State administrators will be more likely to use in positive ways the new flexibility given them, if state and local advocates, anti-poverty and immigrant groups, emergency food providers and others support positive actions and lay out the needed actions. Finally, because some uses of state flexibility are better for low-income households than others, advocates will want to help shape their states' choices.

This paper both summarizes the important Food Stamp Program changes in the Act, and describes opportunities it creates for state-level advocacy. For more details on the Food Stamp Reauthorization Act, see the USDA summary at http://www.fns.usda.gov/cga/2002_Farm_Bill/food_stamps.html.

Check FRAC's web site (<http://www.frac.org>) for news over the coming months as USDA's Food and Nutrition Service ("FNS") issues guidance for states on implementing these provisions.

Expanded eligibility and benefit improvements

Partial Restoration of Benefits to Immigrants: Section 4401 of the Act restores eligibility for certain "qualified immigrants," but phases in the restoration gradually:

- Qualified immigrants will become eligible after they have lived in the U.S. for five years. By definition, this provision restores full eligibility for all refugees and asylees, who are already eligible for food stamps during their first seven years in the U.S. This provision is effective April 1, 2003.

- Disabled qualified immigrants who receive a disability benefit (such as disability-related Medicaid) will be eligible, regardless of date of entry into the U.S. This restoration takes effect October 1, 2002.
- All qualified immigrant children will become eligible for food stamps effective October 1, 2003. Sponsor deeming rules will not apply to children.

These restorations are not state options. Advocacy *will* be necessary, though, to assure that states prepare for and implement these changes in a timely manner; to press states to reach out to educate immigrant communities about these restorations; and to press states not to cut back on state replacement programs. Anti-hunger organizations should also consider what outreach they can perform on their own.

States must begin accepting applications on March 1 for those immigrants who will become eligible on April 1, 2003. USDA is encouraging states to take applications for these households further in advance: it has said it will automatically approve requests to take applications in February 2003 and hold them for processing in March. See:

http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/guide_immigrant_provisions.htm

Many of the newly-restored immigrants - although not the children - will be subject to sponsor deeming. That is, much of the income and resources of the individuals who sponsored the immigrants' entry into the U.S. may be treated as available to them, under revised rules enacted by USDA in 2000. Not all immigrants have sponsors, however, and there are several exemptions for those immigrants who do. Advocates should make sure their state agency properly understands and implements this critical exemptions from sponsor deeming rules. For more information, see 7 C.F.R. § 273.4(c)(3); USDA's overall guidance on non-citizen eligibility, at

http://www.fns.usda.gov/fsp/rules/Legislation/pdfs/Non_Citizen_Guidance.pdf.

See also FRAC's *Opportunities to Maximize the Effects of Food Stamp Restorations in the Farm Bill By Preserving and Increasing State Food Stamp Replacement Programs for Immigrants*.

Gradual Increase in the Standard Deduction. Section 4103 of the Act replaces the current \$134 standard deduction for all households with a deduction that varies by household size and increases with inflation. As the standard deduction (from income) increases, food stamp benefits increase.

The deduction will be set at 8.31% of the federal poverty level for each household size, but no less than the current \$134 nor more than the deduction for a household of six. Effective October 1, 2002 in the 48 states and the District of Columbia, the standard deduction for households of five persons will be \$147 and for households of six or more persons will be \$168. Households of fewer than five will continue to receive the \$134 standard deduction until increases in the cost of living raise the 8.31% of poverty figure for their household size above that amount.

For more details, including information on the standard deduction figures for Alaska, Hawaii, Virgin Islands, and Guam, see USDA's "Farm Bill Implementing Memo to Welfare Commissioners," available at:

<http://www.fns.usda.gov/fsp/MENU/APPS/ELIGIBILITY/FarmBillImplementingMemo.htm>.

As with the immigrant restorations, this change is not a state option, but advocates should monitor state implementation and consider publicizing the change. If a state fails to implement the provision timely and a household was entitled to a higher standard deduction than it received, the state must issue restored benefits to the household. Until final USDA regulations are issued, a state has an option regarding how it treats ineligible or disqualified persons when determining the proper standard deduction amount for the household size.

Increase in Asset Allowance for the Disabled. Section 4107 of the Act raises the asset limit for households with a disabled member to \$3,000, the same limit as for households with an elderly member. This eliminates a confusing distinction in current law: the Food Stamp Program in almost all other respects treats these groups identically. Advocates may want to reach out to the disabled community to inform members of this positive change. This provision is effective October 1, 2002.

Removal of Cap on Employment and Training Expense Reimbursements. Currently, participants in food stamp employment and training programs are entitled to payments for their costs of transportation and other expenses of participating in these programs, such as required uniforms or supplies. Other than dependent care expenses, though, these reimbursements have been capped at \$25 per month, half of which is paid by USDA and half by the state. Among various changes in food stamp employment and training program funding, section 4121 of the Act removes this \$25 per month cap on reimbursement of participant expenses, effective immediately. Advocates should seize this opportunity to ensure that employment and training program participants are fully reimbursed for their expenses.

New opportunities to reduce burdens on food stamp households

Improved Transitional Food Stamp Option. Under current food stamp regulations, states may adopt a Transitional Benefit Alternative (TBA) and grant up to three months of continuing food stamps to households which leave cash welfare (TANF) for work or other reasons. Transitional food stamps help households understand that food stamp benefits are not dependent upon TANF enrollment. They also ease paperwork and office visit burdens on families and state agencies during the family's difficult transition off cash welfare and often busy early weeks of work. This option is available effective October 1, 2002.

The Act's section 4115 improves the existing TBA option's length, its value to food stamp households, and its ease of use by states. Starting October 1, states may provide transitional food stamps to TANF leavers for up to *five* months, instead of the current three. In a change from the TBA rules, states may continue these food stamps even if more than a year has passed since the household's last eligibility determination. And instead of freezing the food stamp benefit level, the state would adjust the food stamp allotment to take into account the loss of TANF income; because food stamp allotments go up as income goes down, this adjustment will benefit families.

States can, if they choose, also take into account information about the family's income learned from other programs, such as the state's child care subsidy system. All families leaving TANF would be eligible for transitional food stamps except those sanctioned under the state's TANF program, those ineligible to receive food stamps (for example, because of a work sanction), and those in categories a state chooses to make ineligible.

The Transitional Food Stamp option is good for both families and states. Advocates should push their state to adopt this option as soon as possible and for as many families as possible. For more information, see the revised version of FRAC's *Good Choices in Hard Times* report, available on FRAC's web site.

Improved Semi-Annual Reporting Option. Existing Food Stamp Program rules requiring households to report changes in their circumstances to the food stamp office can overburden households. Often states require monthly reporting, which has dramatic effects in reducing participation. Many working families are unable or unwilling to keep up with these reporting demands, and consequently lose or forego needed food stamps for which they are eligible. To ease these requirements, USDA recently adopted regulations permitting states to collect information from working households only every six months.

Effective October 1, 2002, the Act's section 4109 allows states to extend this

semi-annual reporting option beyond households with earnings to almost all food stamp households. During the six-month period, the family's food stamp benefit level would be frozen, and the family would only have to report if its monthly income rose above the eligibility limit (130% of the poverty level). If the household lost income or gained new members in the interim, it could report those changes and receive a higher allotment. Nineteen states are already taking this option for households with earned income, which, in addition to easing burdens on families, eases the workload of state caseworkers. Advocates should encourage all states to adopt this broadened option.

Quality Control Reform. Section 4118 of the Act reforms the Quality Control system, under which the federal government oversees the accuracy of state agencies' food stamp payments. Currently, states with error rates above the national average are subject to fiscal sanctions. By definition, this means that about half the states every year are subject to penalties, and others are close enough to the national average that they feel they must operate as if they are in danger of being penalized. States often react by creating ever-higher barriers to access to the program. Under the new system, starting October 1, 2002, a state may only be penalized if there is a 95% statistical probability that its error rate has been above 105% of the national average for two consecutive years. In addition, USDA has advised states that they will be held harmless for QC purposes in implementing new law provisions for 120 days (i.e. 120 days from mandatory implementation date or, where provision is optional, from date initially implemented). This reform eases the threat of fiscal sanctions dramatically, allowing states to consider Food Stamp Program changes previously rejected out of fear that they might increase error rates. In particular, states should now be more receptive to arguments that they should:

- Shorten application forms;
- Ease stringent and unnecessary verification rules, such as proof of when a job ended;
- Waive face-to-face interviews when they create hardships, such as for those with full-time jobs; and
- Lengthen certification periods.

The Act also instituted a system of "high performance bonuses" for states with high achievement or improvement in their error rates and other measures of effective administration. USDA has issued guidance for fiscal year 2003. Half the \$48 million will go to states with the lowest or most improved payment error rates; the other half will be distributed based on participant access rates, negative error rates (that is, rates of improper denials or terminations), and the percentage of applications processed on time. USDA has issued FY 2001 participant access rates (a slightly less precise, but more quickly available, measure of participation than its official participation

rate); these are available at

<http://www.frac.org/html/news/121602paRates.htm>.

For more information about these issues, see FRAC's reports, *Good Choices in Hard Times* and *Food Stamps for Working Families: Issues and Options*, available on FRAC's web site.

New Opportunities to Align Income and Resource Rules with TANF or Medicaid. Section 4102 of the Act authorizes a state to exclude certain types of income in the Food Stamp Program that it excludes as income in its TANF (cash welfare) or Medicaid programs, subject to certain limits. Section 4107 is a parallel provision allowing exclusion of resources that the state excludes in its TANF or Medicaid program. These provisions will allow states to simplify application processing by reducing the kinds of income and resources households must list and verify. For example, a state could decide to encourage charitable donations to low-income households by not counting such donations against TANF benefit levels, and under this provision could do the same for food stamps. Similarly, a state could decide to exclude retirement accounts (perhaps under a certain amount) from its TANF or Medicaid program, and under this provision extend that exclusion to food stamps as well so long as the funds are not readily available to the household. New guidance makes clear that funds in retirement accounts are not readily available if the household must pay a penalty to withdraw them. These options are available effective October 1, 2002.

Advocates should consider what income and resources are currently excluded in their state's TANF and Medicaid programs, and urge the state to extend those exclusions to food stamps – a choice that would reduce their caseworkers' burdens at no cost to the state. Advocates should also urge states to use this new opportunity to adopt appropriate new exclusions of income or resources in their TANF and/or Medicaid program – and, under this new provision, in the Food Stamp Program. In the past, states may have reasoned that such exclusions were of little value in reducing their caseworkers' workload because most TANF and Medicaid recipients also receive food stamps, and without a food stamp exclusion, caseworkers would have had to document the income or resource anyway. Advocates can monitor what income and resource rule choices the state makes by requesting the list that the state is required to provide to the USDA regional office.

USDA's preliminary guidance on aligning resource exclusions with TANF or Medicaid is available at:

http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/fy02_resource_issues.htm

New Grants to Improve Food Stamp Program Access. Section 4116 of the Act directs USDA to spend up to \$5 million per year on grants to government agencies or non-profit organizations for projects to simplify food stamp applications or eligibility determination systems, or to improve access to food stamp benefits. USDA issued a Request for Applications for fiscal year 2003 on January 2, 2003. States and other entities who have the support of their state agency may apply. A letter of intent to apply is due January 24, with applications due February 27.

Improved Homeless Shelter Deduction. Almost by definition, most homeless individuals do not make regular rental payments that they can verify to the food stamp office in order to receive the benefit of the food stamp deduction for certain shelter costs. Nonetheless, many homeless individuals do incur costs of obtaining shelter: they make irregular payments to family members who take them in, or they pay a proportion of their income to a homeless shelter. Under existing regulations, states have the option of providing a standard homeless shelter deduction, of up to \$143/month, to homeless households that incur any shelter expenses. Starting October 1, 2002, because of Section 4105 of the Act, states may provide homeless households with a flat \$143/month shelter deduction, without having to document to USDA that such a sum is a reasonable estimate of these families' expenses. Advocates should urge their states to adopt this option, which will increase many homeless individuals' food stamp allotments. The standardized deduction would also ease the paperwork burdens on state caseworkers. Moreover, those homeless persons whose actual shelter expenses exceed the standard homeless deduction still may opt to have the actual expenses used.

Simplified Treatment of Child Support Payments: Section 4101 of the Act gives states two options to simplify Food Stamp Program rules regarding child support payments. (1) Currently, the Food Stamp Program provides a deduction from a household's counted income for child support payment amounts that a household is legally obligated to pay. The first of the new provisions allows states to exclude child support payment amounts altogether, rather than deduct these payment amounts in the calculation of the household's net income. In a state that chooses the option to exclude the amount of child support paid, a household whose gross income might otherwise be too high for it to qualify might find that it is eligible for food stamps. (2) The other new provision allows a state to rely on payment information from its child support enforcement ("IV-D") agency – even if the information is slightly out-of-date – rather than require households to verify their current child support payments. This option will reduce verification burdens on households paying child support. These provisions are effective October 1, 2002.

Simplification of Option for Mandatory Standard Utility Allowances. All states now use Standard Utility Allowances (SUAs) that approximate

households' utility costs. In most states, households have the choice whether to use their actual utility expenses or the SUA. States currently have the option to require that *all* households use the SUA, an option 12 states have now adopted. Section 4104 of the Act makes the mandatory SUA option more attractive to states by allowing states that adopt this option to ignore certain complicated rules. Specifically, if a state makes use of the SUA mandatory, it may ignore rules that prohibit use of the SUA for (1) households doubled up with other families or (2) households in public housing whose utility costs are partially paid by the housing authority.

This option reduces paperwork demands across the board: households in states with a mandatory SUA need only verify that they are charged for utility expenses, and need not verify the amount of those expenses. On the other hand, making the SUA mandatory reduces food stamp allotments for some households whose utility expenses are higher than the SUA - households whose high utility expenses may make them particularly needy. If a state agency is considering this option, advocates should ask them to offset the loss to these households by taking advantage of their flexibility in other ways, such as by increasing the amount of the SUA and committing to adjusting the SUA annually.

Conclusion

The food stamp provisions of the Act are overwhelmingly good news for low-income households across the country. The Act restores eligibility for many legal immigrants and increases benefit levels for larger households. It also gives states new flexibility to administer the program in ways that improve access and benefits. While states may be most interested in using this flexibility to ease their caseworkers' workloads, the flexibility also allows them to remove barriers that discourage many needy households from applying for, or remaining on, the program. Advocates should work with states to encourage them to use these options expansively.

The Act also creates both a need and an opportunity for outreach. While advocates should urge states to adopt ambitious outreach strategies, they should also consider what outreach they can undertake themselves. Foremost, of course, the immigrant restorations will need to be widely publicized. But the Act also benefits other groups, such as disabled persons, homeless persons, and responsible noncustodial parents. Advocates may want to seize this opportunity to reintroduce the Food Stamp Program to these constituencies. By taking full advantage of the Act's new flexibility, and through aggressive outreach, states and advocates can help more households obtain food stamps and improve household well-being.

Resources

USDA, summary of the nutrition provisions of the Act, available at:
http://www.fns.usda.gov/cga/2002_Farm_Bill/food_stamps.html

USDA, "FSP Policy Memorandum, Questions and Answers Regarding the Food Stamp Program (FSP) Certification Provisions of the Farm Bill," available at:
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill-QAs.htm

USDA, "Under Secretary's Memo to State Commissioners on Options," transmitted from Eric Bost, 7/3/02, available at:
http://www.fns.usda.gov/fsp/rules/Memo/02/undersec_options_letter.htm

USDA, "Farm Bill Questions and Answers on Eligibility for Immigrants (English) (Spanish)," available at:
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill_QA_E.htm;
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/farmbill_QA_S.htm.

USDA, "Cover Memo for Regions to Use to Forward Guidance to State Directors," and "Guidance for State Agencies in Implementing Immigrant Provisions," available at:
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/memo_forward_guidance.htm;
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/guide_immigrant_provisions.htm

New Resources for Outreach on Legal Immigrant Food Stamp Restorations
<http://www.frac.org/html/news/FSPoutreach.htm>

USDA's "FSP-2002 Farm Bill Resource Issues," available at:
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/fy02_resource_issues.htm

USDA, "Implementing Information and Instructions: Food Stamp High Performance Bonuses," available at:
http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/performance_measures.htm

USDA, "Non-Citizen Requirements in the Food Stamp Program," January 2003, available at http://www.fns.usda.gov/Food Stamp Program/rules/Legislation/pdfs/Non_Citizen_Guidance.pdf

USDA, "Fiscal Year 2003 Food Stamp Program Participation Grants, Request For Applications," available at [http](http://www.usda.gov)

Sonya Schwartz and Brad Haywood, *Opportunities to Maximize the Effects of Food Stamp Restorations in the Farm Bill By Preserving and Increasing State Food Stamp Replacement Programs for Immigrants*, available on FRAC's web site at http://www.frac.org/html_new/food_stamps/legal_immigrants/Opportunities.PDF.

Brad Haywood, *Impact of the Food Stamp Reauthorization Act on Elderly and Disabled Individuals*, available on FRAC's web site at: <http://www.frac.org/html/publications/elderly-reauth.PDF>

FRAC, *Good Choices in Hard Times: Fifteen Ideas for States to Reduce Hunger and Stimulate the Economy* (revised edition), available on FRAC's web site at <http://www.frac.org/html/publications/stimulus2002.pdf>.

Louise Hayes, *Food Stamps for Working Families: Issues and Options*, available at <http://www.frac.org/html/publications/workingFamilies040402.PDF>.

Center on Budget and Policy Priorities "Implementing New Changes to the Food Stamp Program: A Provision by Provision Analysis of the Farm Bill," available at: <http://www.cbpp.org/8-27-02fa.htm>

Ellen Vollinger, FRAC, "Eligibility Screening Increases Food Stamp Participation," National League of Cities' Nation's Cities Weekly, 9/30/02. http://www.nlc.org/nlc_org/site/newsroom/nations_cities_weekly/display.cfm?id=6995F9AA-6822-4745-8424185F2D2673C2