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December 2, 2019

Stephen L. Censky, Deputy Secretary, Food, Nutrition, and Consumer Services
Program Development Division
Food and Nutrition Services
3101 Park Center Drive, Room 812
Alexandria, Virginia 22302.

Re: Revision of Standardization of State Heating and Cooling Standard Utility Allowances in the Supplemental Nutrition Assistance Program (SNAP), Notice of Proposed Rulemaking, 84 Fed. Reg. 52809, FNS-2019-0009, October 3, 2019, (to be codified at 7 C.F.R. Part 273)

Dear Mr. Censky:

Thank you for the opportunity to provide comment on the above-referenced proposed rule. This rule, if enacted, would revise federal Supplemental Nutrition Assistance Program (SNAP) regulations to calculate the heating and cooling standard utility allowance (HCSUA) at the 80th percentile of low-income households' utility costs in the State. *Notice of Proposed Rulemaking*, 84 FR 52809, October 3, 2019. While the stated purpose of the proposed change is to standardize the methodology for calculating this allowance, the effect for Vermont, and most other cold weather states, would be a significant reduction in SNAP food benefits. In addition, the households suffering the greatest losses would be those with an older Vermonter or individual with disabilities.

I am committed to the protection of the rights and well-being of Vermonters, especially its most vulnerable citizens. I write to oppose the proposed rule, particularly in light of the disproportionate adverse impact that would befall the State of Vermont and its most vulnerable citizens, including older Vermonters and individuals with disabilities.

I. Background

The purpose of the Food and Nutrition Act of 2008, as amended, is to safeguard the health and well-being of the of the Nation's population by raising levels of nutrition among low

income households. Congressional findings include that the limited food purchasing power of low-income households contributes to hunger and malnutrition among such households, and that, by increasing utilization of food and the maintenance of adequate nutrition, the Act would have the attendant benefit of strengthening the Nation’s agricultural economy. 7 U.S.C. § 2011.

II. Impact

The stated purpose of the proposed rule is to standardize the HCSUA rate setting methodology to address related inequities between states and improve program integrity. However, the impact of the proposed rule would be to reduce federal SNAP funding by approximately \$1B per year.¹ Thus, nationally, a critical safeguard against food insecurity would be diminished. Further, more states would see a net loss in benefits (29) than would see a gain (22).² States losing benefits would see a net loss of \$1.5 billion per year compared to the relatively modest net gain of \$540 million to the other states. Critically, the proposal contains no analysis as to what impact this loss in benefits would have on those recipients suffering the loss. This failure to provide any analysis of the impact on the food and nutrition security, health and well-being on those losing benefits is particularly egregious given that, as FNS concedes, the protected populations of older and disabled recipients would face the most significant losses.

i. Protected Groups Face the Greatest Negative Impact

As FNS’s own impact analysis acknowledges, the proposed rule would have the greatest impact on households with an elderly or disabled individual, as these households are not subject to the cap on the allowable excess shelter reduction. *Id.*, 28. On average, more of these households would lose benefits than gain benefits, and the average benefit loss would greatly exceed the average benefit gain. Specifically, according to FNS’s regulatory impact analysis, 26.37 percent of households with an elderly member would lose on average \$36 in monthly benefits while, on average, 20.55 percent of such households would gain only \$14 in benefits. 30.4 percent of households with an individual with a disability would lose an average of \$35 in monthly benefits while, on average, 25.28 percent of such households would gain only \$13 in benefits. *Id.*, Table 10, 29.

ii. Impact in Vermont

The loss in benefits to Vermonters would exceed those faced by all other states.³ In Vermont, the department responsible for administering SNAP benefits is the Economic Services Division of the Department for Children and Families (hereinafter “the Department”). The Department has determined that, under the proposed rule, 68% of current SNAP-households – 26,233 out of 38,579 - would receive less SNAP benefits, not 61%, as FNS estimated. The Department has determined that, on average, these households will lose approximately \$82 per month.

¹ *Regulatory Impact Analysis 7 CFR Part 273, Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances*, Appendix Table E.

² *Id.*

³ *Id.*

The Department has determined that 80% of current SNAP Vermont households with an elderly or disabled member would receive less benefits. This is striking, undignified, and untenable. Over 100,000 Vermonters, each year, including older and disabled Vermonters, are already required to use multiple strategies to get enough food, including:

- Eating food past its expiration date;
- Pawning or selling personal property; and
- Watering down their food and drinks.⁴

The benefit loss resulting from the proposed rule would propel these families toward making untenable trade-offs between nutrition, medicine, utilities, housing, and other critical needs and services.⁵ It would decrease the independence of older Vermonters and those living with disabilities, leaning some number of this demographic toward expensive institutions such as hospitals and long-term care facilities. No household—no person—should have to make these trade-offs and compromises.

The Department calculates the total loss in benefits for Vermont SNAP-recipients at approximately \$25.8 million--\$5 million dollars more than calculated by FNS. It follows that the loss in benefits would mean close to a \$25.8 million-dollar loss to Vermont food retailers. In a small, rural state like Vermont, such a loss would have a disproportionate impact on small retailers.

There are no other available resources capable of compensating for this anticipated loss. Leaders of the Vermont Foodbank—the charitable organization responsible for distributing 11.7 million pounds of food annually to a statewide network of 215 food shelves, meal sites, senior centers and after-school programs—and leaders of Hunger Free VT, a nonprofit education and advocacy organization, have recently stated in unison that the charitable food system in Vermont “simply cannot compensate for the breadth of the impact of these proposed cuts.”⁶ The charitable food systems’ inability to fill this gap is made clear by the Vermont Foodbank’s calculation that, for every meal it provides a Vermonter, SNAP provides nine.⁷

Conclusion

I urge FNS to withdraw the proposed rule. The proposal is contrary to the intent of the Food and Nutrition Act of 2008 since it would result in a decrease in the ability for the majority of affected households to pay for food and maintain adequate nutrition, as well as a decrease in indirect funding to the agricultural economy and small businesses. Moreover, its disparate negative impact on protected populations counters strongly against any potential equity amongst states that might be realized. Greater equity should be achievable without the devastating losses

⁴ See *Hunger in America 2014*, Feeding America Report for Vermont Foodbank, August 2014, available at <http://www.vtfoodbank.org/wp-content/uploads/2016/04/FINAL-Statewide-Report-1.pdf> (last visited December 2, 2019), at 4.

⁵ *Id.* at 59.

⁶ *VT Digger, Horton, Minter & Sayles: Defend access to 3SquaresVT*, Nov. 18, 2019 <https://vtdigger.org/2019/11/18/horton-minter-sayles-defend-access-to-3squaresvt/>

⁷ *Id.*

the proposed change would cause to individuals, and the significant losses the proposed change would cause to state economies, nationally and in Vermont.

Thank you for your time and consideration.

Sincerely,

/s/ Thomas J. Donovan
THOMAS J. DONOVAN
Attorney General