DATE: December 20, 2024

SUBJECT: Supplemental Nutrition Assistance Program (SNAP) - Question and Answer #1 for the Implementation of Regulatory Changes to Standard Utility Allowances (SUAs)

TO: SNAP State Agencies
Food and Nutrition Service Regional Offices

On Nov. 18, 2024, the Food and Nutrition Service (FNS) published the final rule, *Supplemental Nutrition Assistance Program: Standardization of Heating and Cooling Standard Utility Allowances*. For a summary of the final rule provisions, please see the December 3, 2024, memorandum, *SNAP - Implementation of Regulatory Changes to Standard Utility Allowances.*

This memorandum covers questions related to provisions in the rule and the implementation process. FNS plans to publish additional question and answer guidance in the following months.

State agencies with questions regarding the final rule implementation should contact their respective Regional Office representatives.

SASHA GERSTEN-PAAL Digitally signed by SASHA GERSTEN-PAAL Date: 2024.12.20 15:39:03 -05'00'

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Attachment

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Supplemental Nutrition Assistance Program: Standardization of Heating and Cooling Standard Utility Allowances Final Rule
Questions and Answers #1

A. *SUA Methodologies*

1. **What happens if the State agency does not have FNS approval for its revised SUA methodologies and values per the new criteria by October 1, 2025?**

   The final rule requires that the State agency implement changes to SUA values to comply with the new methodology criteria by October 1, 2025. FNS will work closely with each State agency to review preliminary SUAs, provide technical assistance, and issue SUA approvals in advance of implementation.

   Please note, the State agency must have FNS approval before updating its SUA values. If the State agency does not have updated and approved SUA values consistent with the regulatory criteria by the required timeline, the State agency may request an administrative waiver per program rules at 7 CFR 272.3(c). If the request meets the waiver criteria, the previously approved SUA values may remain in effect until approval of the revised methodology.

2. **How will FNS determine if SUA methodologies meet the listed criteria at 7 CFR 273.9(d)(6)(iii)(C)?**

   FNS will evaluate SUA methodologies by looking both at the updated data sources and the step-by-step operations the State agency uses to calculate SUA values. The criteria at 7 CFR 273.9(d)(6)(iii)(C) apply to the SUA methodology as a whole, not each individual data source.

   For example, one criterion is that SUA methodologies must "reflect the entire State or geographic area the SUA covers". The State agency may set a Statewide SUA value that meets this criterion by using a data source that reflects the whole State. Alternatively, the State agency may combine data from one utility provider that covers one portion of the State and another utility provider that covers the remainder of the State. Although each data source does not represent the whole State, the overall SUA methodology reflects the entire State. This is allowable given the State agency provides a reasonable explanation for its approach.

3. **What does it mean that SUA "baseline expenditure data and underlying methodology reflect recent trends and changes" per 7 CFR 273.9(d)(6)(iii)(C)?**

   The underlying data and methodology must reflect recent trends and changes to ensure that the State agency captures general trends in energy markets, utility prices, and consumption patterns. For instance, in the past 50 years, home energy consumption has

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shifted from natural gas to electricity and air conditioning has become more popular. The State agency should adapt SUA methodologies to reflect similar such changes in energy sources or uses over time.

4. **What does it mean that SUA methodologies must "reflect the entire State or geographic area the SUA covers"?**

   The final rule continues to allow the State agency to set SUAs statewide or to vary SUAs by geographic area within the State (i.e. different values for northern or southern parts of the State). This requirement clarifies that if the State agency uses a SUA statewide, it must use data that represents the whole State or adjust data to represent the whole State. If the State agency uses different SUAs to represent different geographic regions within the State, it must use data that represents those areas or adjust data to represent those areas. Please see the example in question 2 above.

5. **How does FNS define "data sourced from utility providers or similar reliable source"?**

   For the purposes of these criteria, "utility providers" includes any company or organization that supplies or sells a utility allowed under 7 CFR 273.9(d)(6)(ii)(C). FNS considers Federal survey data as similarly reliable sources, such as data from American Community Survey (ACS), Residential Energy Consumption Survey (RECS), and Consumer Expenditure Surveys (CEX). For annual adjustments, FNS will also allow the State agency to use data sources such as the Consumer Price Index (CPI) and Short-Term Energy Outlook (STEO). FNS will consider other data sources as well on a case-by-case basis.

6. **How will FNS evaluate for the requirement that SUA methodologies "reflect expenses incurred by low-income households"?**

   The State agency also has flexibility on how the methodology reflects expenses incurred by low-income households, given that some data sources may not differentiate between low-income households and other households. For example, the State agency could use data from the American Community Survey (ACS) to determine the ratio of utility costs for low-income households compared to all households. The State could then apply that ratio as an adjustment in its SUA methodology so that it reflects expenses incurred by low-income households. Additionally, the State agency could account for low-income households' costs by adjusting for available utility subsidies. The State agency may propose additional strategies to those above to reflect expenses incurred by low-income households.

   For the purposes of SUA methodologies, the State agency has flexibility on how to define low-income households because different data sources may have different criteria for what constitutes low-income. For instance, the State agency may use a data source that differentiates households with gross monthly incomes below 200 percent of the Federal

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Poverty Guidelines.

7. **How would the State agency "distinguish if the utility is for heating or cooling, if applicable"?**
   The State agency must differentiate between utility expenses used for heating or cooling, and other uses. This applies to types of utilities that are used for heating and cooling such as electricity or fuel that may also be used for non-heating and cooling uses, like cooking. This differentiation is required because heating and cooling expenses may only be included in the HCSUA, not in the limited utility allowance (LUA) or individual standards. LUAs and individual standards may include electricity or fuel for purposes other than heating or cooling, and other allowable utility costs.
   The State agency can do this differentiation by using a data source, like RECS, which distinguishes between whether a utility was used for heating or cooling. If the data source does not distinguish, the State agency may make an adjustment to otherwise account for this difference.

8. **What does it mean that SUA methodologies must "reflect residential utility expenses"?**
   The State agency must use residential utility expenditure data or adjust to reflect residential expenditure expenses. This is in contrast to other types of utility expenses, such as commercial utility expenses.

9. **How should the State agency adjust SUAs to account for households with high utility costs?**
   FNS expects that the State agency will set SUA values high enough to cover the vast majority of households' utility expenses. This is especially important if the State agency mandates use of SUAs, because households with expenses greater than the SUA are not able to account for their actual costs.

   Although the final rule does not require the State agency set SUAs at a specific percentile in the distribution of low-income household costs, FNS expects the State agency to consider the needs in their State and set SUA values at a benchmark that covers households with significant utility expenses. For instance, the State agency may set SUAs at the 85th, 90th, or 95th percentile of low-income household costs as one approach in developing SUA methodologies.

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B. *Quality Control Hold Harmless Provisions*

10. Will there be a 120- day Quality Control (QC) variance exclusion period for the provisions in the final rule or its implementing memo issued on December 3, 2024?

Per Section 16(c)(3)(A) of the Food and Nutrition Act of 2008, as amended, and 7 CFR 275.12(d)(2)(vii), certification errors resulting from the application of a new change in Federal law that occurs during the first 120-days from the required implementation date are excluded from the QC error analysis.

The 120-day variance exclusion period cannot apply if the State does not implement the new provision in accordance with 7 CFR 275.12(d)(2)(vii)(E). States choosing to implement a provision early, when allowed, must notify the appropriate FNS regional office in writing, prior to implementation, that they wish the 120-day variance exclusion to commence with actual implementation. Absent such notification, the exclusionary period will commence with the required implementation date per 7 CFR 275.12(d)(2)(vii)(A). States that implement a provision later than the required implementation date, but before the end date of the exclusionary period, will only be allowed a variance exclusion for the time remaining. States that implement after the exclusionary period end date do not get a variance exclusion in accordance with 7 CFR 275.12(d)(2)(vii)(C).

Six provisions are eligible for a QC variance exclusion. The chart below provides the exclusionary period start and end dates for the allowable provisions based on dates in the implementing memo issued on December 3, 2024.

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Provision	Regulatory Citation	Exclusionary Period Start Date	Exclusionary Period End Date
New Requirements for Updating State SUA Methodologies	7 CFR 273.9(d)(6)(iii)(C)	Not Permitted	Not Permitted
Include Basic Internet as an Allowable Shelter Cost	7 CFR 273.9(d)(6)(ii)(C)	October 1, 2025	January 29, 2026
Expand HCSUA Eligibility to households that incur any heating and cooling expenses, even if those costs are minimal	7 CFR 273.9(d)(6)(iii)(D)(1)	January 17, 2025	May 17, 2025
HCSUA Eligibility Based on Receipt of LIHEAP over $20 annually or other similar energy assistance programs	7 CFR 273.9(d)(6)(iii)(D)(3) and (D)(3)(i)	Not New- Self Executing with the Agricultural Act of 2014	Not New- Self Executing with the Agricultural Act of 2014
State agencies must grant the HCSUA to a household in which a member: (1) previously received a qualifying LIHEAP payment as part of a different household, or (2) was previously a member of a different household on behalf of which a LIHEAP payment was made	7 CFR 273.9(d)(6)(iii)(D)(3)(vi)	January 17, 2025	May 17, 2025
A household is eligible for the HCSUA if the household lives in a multi-unit dwelling or an individual unit and receives a qualifying weatherization program payment	7 CFR 273.9(d)(6)(iii)(D)(3)(vii)	January 17, 2025	May 17, 2025

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Provision	Regulatory Citation	Exclusionary Period Start Date	Exclusionary Period End Date
State agencies that mandate the use of SUAs must give the HCSUA to public housing residents that are charged for excess heating and cooling costs	7 CFR 273.9(d)(6)(iii)(G)(2)	January 17, 2025	May 17, 2025
State agencies must prorate LIHEAP payments over the entire heating or cooling season the payment is intended to cover	7 CFR 273.10(d)(6)	Not New- Self Executing with the Agricultural Act of 2014	Not New- Self Executing with the Agricultural Act of 2014

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