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DATE: July 31, 2018

SUBJECT: Addressing Civil Rights Issues in Disaster Supplemental Nutrition Assistance Program (D-SNAP) Planning and Implementation

TO: Regional Directors  
Supplemental Nutrition Assistance Program  
All Regions

FNS is issuing guidance on addressing vulnerable populations in response to State requests to describe lessons learned from recent disasters and practices State agencies can use in planning and implementing D-SNAPs. This memo addresses how States can best serve vulnerable populations in D-SNAP. During fiscal year 2017, the Food and Nutrition Service (FNS) approved seven States to operate the Disaster Supplemental Nutrition Assistance Program (D-SNAP) in response to natural disasters, providing D-SNAP benefits and supplements to over 3.4 million households. The size and scope of these D-SNAPs, several of which were conducted in major metropolitan areas, presented many challenges, particularly around access for elderly, persons with disabilities, and other vulnerable populations.

### **Legal Requirements**

The Food and Nutrition Act of 2008 provides the Secretary of Agriculture with authority to establish temporary emergency standards of eligibility for households affected by a disaster that disrupts commercial channels of food distribution after those channels are restored. The Robert T. Stafford Disaster Relief and Emergency Assistance Act provides the Secretary with authority to operate a D-SNAP when affected areas have received a Presidential major disaster declaration and commercial channels of food distribution are available.

In July 2014, FNS issued Disaster SNAP Guidance: Policy Guidance, Lessons Learned, and Toolkits to Operate a Successful D-SNAP (D-SNAP Guidance). As stated in the D-SNAP Guidance, the primary responsibility for providing emergency food assistance rests with the State agency. FNS supports States' efforts by providing policy guidance, training, and technical assistance to State agencies as they plan, implement, and assess their D-SNAP activities.

Because there is not a specific Federal definition of "disability" for D-SNAP, a State agency implementing a D-SNAP must comply with other applicable Federal law, including civil rights laws such as the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973. Under those laws, persons with disabilities may not be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving assistance from USDA. State agencies are required to provide meaningful access to D-SNAP. This means that persons with disabilities may not be denied the opportunity to participate in D-SNAP if they meet the program's criteria and their participation does not fundamentally alter the nature of the program.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

This memo was prepared in conjunction with the FNS Civil Rights Division and, likewise, FNS strongly encourages State agencies to work with their civil rights offices on this important topic.

## **Addressing Potential Barriers**

### **Identifying and Serving Vulnerable Populations**

FNS understands that State agencies may face challenges in identifying vulnerable populations, particularly as some disabilities are not apparent. State agencies may ask D-SNAP applicants to confirm that they are asserting the existence of a physical or mental impairment that substantially limits one or more major life activities or, when the disabling condition is not obvious, ask the applicant for verification of the disability. However, a State agency may **not** deny a person with a disability the opportunity to participate in a program solely because a D-SNAP applicant does not provide evidence of a disability or identify a specific impairment.

State agencies have discretion to determine how best to serve vulnerable populations while ensuring program integrity. FNS encourages State agencies planning for, requesting, or implementing D-SNAP to consider groups that face special challenges in the aftermath of disasters. In reviewing their annual disaster plan, requesting D-SNAP waiver approval, and implementing D-SNAP, State agencies should consider how they conduct outreach and provide assistance to vulnerable populations. These populations may include those with mobility disabilities, those who are blind or have low vision, those who are deaf or hard of hearing, those who have cognitive and psychiatric disabilities, those who use service animals, the elderly, and any others who reside or work in a disaster-affected area and may need special assistance. State agencies must ensure that their D-SNAP policies and procedures do not exclude persons with disabilities and should adopt procedures to ensure that persons with disabilities are served in the most integrated setting possible.

States should remain focused on whether the individual meets the criteria to participate in D-SNAP. State agencies should offer reasonable modifications to individuals who self-identify as needing them because of their disability as long as doing so does not fundamentally alter the nature of the program. State agencies should focus on asking how they can help persons with disabilities have meaningful access to D-SNAP and not on establishing additional criteria that people must meet to receive an accommodation. State agencies should consider partnering with organizations that represent or advocate on behalf of vulnerable populations to assist with identifying and serving affected individuals who require modifications. For instance, a State agency could build relationships with Area Agencies on Aging or local disability service providers in advance of disasters to determine what support may be available. State agencies may also want to add services targeted to raising awareness of DSNAP for vulnerable populations into their State SNAP outreach plan so that these services are eligible for reimbursement in the event of a disaster.

## **Providing Appropriate Assistance and Accessible Communications**

State agencies should train emergency planners, staff, and volunteers to provide appropriate assistance to, and to recognize issues that may affect people with a variety of disabilities, including disabilities that may not be apparent. A best practice is to develop site-specific instructions and training materials for staff and volunteers to ensure compliance with legal requirements to provide access to programs and services and to address concerns raised by persons with disabilities. FNS encourages State agencies to monitor staff and volunteers during D-SNAP implementation to ensure that they are providing safe, appropriate assistance.

State agencies should also consider training staff and application site volunteers to assist persons with disabilities. A best practice is to ensure that any online preregistration systems and outreach materials are compliant with Section 508 of the Rehabilitation Act of 1973 and otherwise accessible to persons with disabilities<sup>1</sup>. Additionally, D-SNAP informational materials routinely provided at application sites or in local offices should be available in alternate formats such as Braille or large print; otherwise, other auxiliary aids and services must be available.

State agency procedures must support effective, accessible communication with persons with disabilities, including persons with communication or vision disabilities. FNS encourages State agencies to provide emergency announcements through auto-dialed teletypewriter (TTY), recorded telephone messages, text messaging, and email, and to include open captioning on emergency broadcasts on local television stations. State agencies may dispatch qualified sign language interpreters to assist with televised emergency announcements and at application sites, particularly in areas that the State agency identifies as having a high percentage of deaf or hard of hearing residents. State agencies have found success in seeking the services of partner organizations to help serve these individuals.

## **Ensuring Physical Access to Sites and Services**

Households unable to apply for D-SNAP in person are allowed to designate an authorized representative to apply on their behalf. This could be a trusted family member, friend, advocate, or other individual who is familiar with the household's circumstances. State agencies may include requirements in their D-SNAP plans or waiver requests for how authorized representatives are to be designated and verified, so long as the requirements are applied consistently across the D-SNAP and do not adversely affect vulnerable populations or protected classes.

The D-SNAP Guidance includes best practices for State agencies to consider in providing accommodations and interview access to vulnerable populations, such as establishing accessible parking areas, lines, and waiting areas for the elderly and persons with disabilities and ensuring that staff are trained to assist applicants with special needs.

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<sup>1</sup> Additional information about Section 508 compliance is available at [Section508.gov](https://www.section508.gov/) (<https://www.section508.gov/>).

FNS encourages State agencies to include these flexibilities in their D-SNAP plans and requests. State agencies may benefit from partnering with community-based organizations to obtain information about resources for persons with disabilities that the State agency can publicize on its website and include in its D-SNAP outreach materials. For instance, the State agency should consider identifying accessible transportation resources available to assist persons with mobility disabilities, including those who use wheelchairs or scooters, and medical equipment such as oxygen tanks, or service animals.

In choosing D-SNAP application sites, State agencies should survey sites and facilities to identify any physical or architectural barriers that may impact persons with disabilities. State agencies should minimize protruding objects, overhead objects, and unsecured cords on the ground so that someone who is blind or has low vision can walk safely throughout the area. Additionally, State agencies should ensure that there is accessible parking, an accessible exterior route from the parking to the site entrance, accessible waiting areas and toilet facilities, accessible emergency exits, and accessible interior routes to all of these areas. If barriers cannot be removed, the State agency should identify an appropriate number of alternate shelters that provide accessible features.

State agencies should consider providing low-stimulation stress-relief zones within application sites for people whose disabilities substantially limit them in crowded or noisy situations. Additionally, State agencies should ensure that persons with disabilities who use service animals are not separated from their service animals at application or issuance sites and have full access to programs, services, and activities, even if pets are normally prohibited in a facility or in certain areas of the facility.

### **Establishing a Pre-Disaster Database**

As part of their pre-disaster planning, State agencies may consider establishing a voluntary, confidential database of persons with disabilities to request individualized notification, assistance, and processing during a D-SNAP. Prior to an actual emergency, State agencies may require an individual requesting participation in such a database to provide a medical statement that verifies the existence of a mental or physical impairment, the way(s) in which the impairment impacts the person, and any reasonable modifications the person needs to access services and apply for benefits.

When a disaster occurs, the State agency could expedite the service or application of registered individuals, such as by providing advance notice of D-SNAP by text or phone to those who agree to receive such communications, or by providing separate application procedures. A State agency that chooses to establish such a voluntary database must ensure that appropriate security exists to protect personally identifiable information. Additionally, anyone not included in the database as of the time of D-SNAP implementation must still be able to request and receive modifications at the time of D-SNAP application.

### **For More Information**

Please distribute this guidance to your State agencies and advise them to contact their respective FNS Regional Office points of contact with any questions and for technical assistance. FNS Regional Offices should contact Sasha Gersten-Paal at (703) 305-2507 with any questions concerning this memorandum.

(Original Signed)  
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