



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

DEC 14 2010

TO: Joe Leonard, Jr., Ph.D.
Assistant Secretary for Civil Rights

FROM: Kevin W. Concannon *Kevin W Concannon*
Under Secretary
Food, Nutrition, and Consumer Services

SUBJECT: 2008 Farm Bill Proposed Rule on SNAP Eligibility, Certification, and
Employment and Training Provisions

This responds to your memorandum of August 13, 2010, in which you discussed the additional requirements necessary to receive your complete concurrence of the proposed rule, Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008. The additional requirements included a detailed outreach plan that describes the specific method(s) to notify minorities, women, and/or persons with disabilities of the proposed rule and the specific method(s) by which the effectiveness of the outreach activities will be determined.

To discuss these additional requirements, a meeting was held on October 7, 2010, between representatives of the Food and Nutrition Service (FNS) and the Office of Civil Rights, Policy Division, Office of Compliance, Policy and Training, at Park Office Center, Alexandria, Virginia. Discussion focused on the Federal/State administration of SNAP and how this affects FNS' outreach and monitoring activities. Although SNAP is a federally-funded program based on Federal statute and regulations, State agencies administer the program at the State and local levels by conducting outreach to low-income households, taking applications and determining eligibility and benefit levels. SNAP regulations are directed to State agencies, which incorporate new regulatory requirements into their operations of the program. Similarly, FNS provides funding to State agencies to conduct outreach efforts to low-income households including those in the protected classes. FNS, through its seven regional offices, maintains a robust review schedule of State and local SNAP operations to determine compliance with Federal program requirements and civil rights laws. FNS extrapolates information about household characteristics and average benefit levels from individual case record reviews and other national data sources.

An Equal Opportunity Employer

Joe Leonard, Jr., Ph.D.

Page 2

As a result of this discussion, it was agreed that in lieu of the detailed outreach plan and evaluation of the outreach specified in your August 13, 2010 memorandum, FNS would provide additional information that describes how the agency's combined efforts of outreach funding, monitoring, and national evaluations function to help ensure equal treatment for minorities, women, and persons with disabilities. This information is attached.

Attachments

Outreach and Communication to Minorities, Women, and Persons with Disabilities

The Supplemental Nutrition Assistance Program (SNAP) is administered by State agencies which communicate program information and program rules based on Federal law and regulations, including any changes in policy, to those within their jurisdiction, including individuals from protected classes that may be affected by a change in regulation. Although SNAP is national in scope, The Food and Nutrition Act of 2008 (the Act), the Federal statute governing SNAP, as well as the Federal program regulations, permit some flexibility in State administration of the program, making some program rules State-specific. State agencies are required by the Food and Nutrition Service (FNS) to accurately communicate changes to program rules resulting from Federal rulemaking to all their program participants and to the general public. This global outreach contributes to the knowledge of those most vulnerable as well, including minorities, women, elderly, and the disabled, to understand the availability of and access to SNAP.

State agencies employ a variety of communication strategies to meet this requirement including the development and dissemination of program publications, direct communication (typically via mail) with program participants, and face-face interaction with current and prospective participants as part of outreach activities and eligibility determinations or recertification processes. The majority of State SNAP agencies maintain outreach plans which describe ongoing outreach activities and partnerships designed to increase access to and participation in SNAP. Most of these outreach plans target under-served minority populations, including the elderly, disabled, and Latinos since their participation rate is significantly lower than the national average. FNS monitors State agencies to ensure that they are complying with their outreach plans.

To supplement this work, FNS provides (at no cost) a variety of tools, publications, and services to support State agencies and community organizations in their outreach activities. Examples include: program-related publications, on-line program toolkits, on-demand webcast recordings, and toll-free hotline services that provide program information and referrals to local providers. These products are updated regularly to reflect current law and policy.

FNS also works with a host of partner organizations to conduct program outreach communicating significant program changes, including eligibility and certification policy changes resulting from Federal rulemakings that affect program participants and prospective applicants. Partner organizations include other Federal agencies, local governments, community organizations, faith-based organizations, and advocacy organizations including those that target and serve protected classes.

Additional outreach activities include distributing content through partner distribution channels (print and electronic communication), hosting webinars, producing and marketing electronic

products for on-line viewing and download, presentations at meetings and conferences, holding community roundtable events, and delivering messages through media channels. FNS reaches more than 250,000 organizations serving diverse low-income populations across the nation through these communication channels with a particular focus on reaching low-income populations including underserved minorities such as Latinos, women, the elderly, and the disabled.

Outreach messages, targets, and strategies are continually refined to account for program changes, data about program participation, and data related to outreach activities. FNS evaluates its effectiveness in improving access to and participation in its nutrition programs through program data which includes race, age, and ethnicity.

Finally, FNS maintains a public website that provides basic information on each program, including SNAP. Interested persons, including potential applicants, applicants, and participants can find information about SNAP basic eligibility and certification requirements as well as State agency contact information, downloadable applications, and links to State agency websites and online applications.

FNS Monitoring Responsibilities of State Administration of SNAP

Case-level Reviews: Quality Control (QC)

The SNAP Quality Control System reviews the eligibility and benefit level of participants. States must review a random sample of participating, closed and denied cases each month. All information in the active cases is reviewed and verified. Then, FNS reviews a sub-sample of the State sample to validate State findings and may adjust the State findings while developing the national error rate. The national error rate is announced at the end of June each year. The system enables FNS to get continuous objective information on the certification policies applied by States. Reviewing denied and closed cases enables FNS to determine that States are following regulatory procedural requirements. If significant problems are identified, FNS works with States on corrective action. This system is a valuable tool for monitoring policy implementation. For example, if a State was inappropriately limiting the child care deduction or using an incorrect standard deduction, it would be detected by the QC system. FNS routinely asks States if they are meeting implementation targets. QC provides a method for getting additional independent information.

State and Local Level Program Reviews: Management Evaluation (MEs)

The Management Evaluation (ME) requirements are established in the SNAP regulations at 7 CFR 275. The purpose of these reviews is to determine compliance with the provisions of the Act and SNAP Federal regulations. Each year FNS identifies high priority program areas (national target areas) for the focus of State and Federal program operations reviews. This targeted approach to conducting MEs enables FNS to focus monitoring efforts on critical program areas. State agencies are also required to include the identified target areas in their ME reviews of their local SNAP project areas. If the RO finds a State agency to be out of compliance with SNAP requirements through an ME, States are required to develop corrective

action plans. Depending on the nature of the problems, States must correct deficiencies immediately if possible. Otherwise, States must address them in a Corrective Action Plan within 60 days of receipt of the FNS report, as required by SNAP regulations. FNS analyzes State deficiencies for trends at the State, regional and national level on an annual basis. These analyses are used to develop the national target areas for the following year.

One longstanding target area has been State-level program access issues. This involves a review of State policies and complaint systems.

Program Access Reviews

A Program Access Review (PAR) examines a local SNAP office's operations to determine compliance with Federal SNAP requirements governing access to SNAP benefits by persons applying for or already participating in the program. The objectives of the PAR are to identify barriers to program access at the local office level; to provide technical assistance to State agencies and their local offices; to eliminate or minimize the barriers; and to promote a partnership with State agencies to further improve program access for SNAP applicants and participants. The review focuses on the application and reapplication process. FNS is committed to ensuring that eligible households know about the Program and do not encounter barriers to participation. Although not regulatory, PARs have been part of the FNS review focus since FY 1999, when they were added as part of FNS' strategic plan to increase participation in the SNAP. FNS regional offices are required to perform four PARs per region per year.

Civil Rights Reviews

State agencies that operate SNAP must provide to FNS a written assurance that it will be operated in compliance with USDA and FNS nondiscrimination laws, regulations, instructions, policies, and guidelines. The FNS Regional Offices (RO) obtain written assurance of nondiscrimination compliance from each State agency and ensure that State agencies obtain assurance from local agencies or other sub-recipients that receive Federal Financial assistance for compliance. Civil rights assurance is governed by SNAP regulations at 7 CFR 271.2 (b).

Under FNS Instruction 113-1, Part XI, civil rights training is required so that all involved in all levels of administration of programs that received Federal financial assistance understand civil rights related laws, regulations, procedures and directives. This training is part of the technical assistance to the State agencies, and the FNS ROs are responsible for providing such training. Specific training includes: (1) collection and use of data; (2) effective public notification systems; (3) complaint procedures; (4) compliance review techniques; (5) resolution of noncompliance; (6) requirements for reasonable accommodation of persons with disabilities; (7) requirements for language assistance; (8) conflict resolution; and (9) customer service.

FNS also requires each RO Office of Civil Rights to conduct on-going civil rights compliance reviews in its respective States. Under 7 CFR 275, the State agencies are also required to conduct a civil rights review annually for large project areas, every 2 years for medium project areas, and 3 years for small project areas.

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.

FNS Evaluation of SNAP

FNS's Office of Research and Analysis (ORA) conducts program analysis and assessment of SNAP and the other Federal nutrition assistance programs. This research informs policy making and effective program management and performance. Studies range from examining participant characteristics, to effects of modernization on program access and integrity, to increasing SNAP participants' access to healthier foods. FNS's study and evaluation plans are available at: <http://www.fns.usda.gov/fns/research.htm>.

A major ongoing research effort of SNAP is the annual analysis of the characteristics of SNAP households. Using SNAP QC data, ORA examines key indicators of household characteristics, such as household type (including households with elderly and/or disabled members), household size, source and level of income, citizenship, expenses, benefit levels, and whether the household is urban or rural. The recently released "Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2009" analyzes the impact of the 2008 Farm Bill and the American Recovery and Reinvestment Act of 2009 on SNAP household characteristics. For more information on this annual report, see: <http://www.fns.usda.gov/ora/menu/Published/SNAP/FILES/Participation/2009CharacteristicsSummary.pdf>.

Each year, ORA estimates the national and State participation rates (the percentage of eligible persons who receive SNAP) and periodically examines the dynamics of SNAP participation – how frequently people enter and exit the program, how long people participate, and reasons why people enter and leave SNAP. ORA is currently evaluating the effectiveness of outreach grants to six States trying to reach more elderly or working poor.

ORA also provides analytical information on important topical SNAP issues, such the calculations used by FNS to determine the program access index, a key measure for which State agencies may receive performance bonuses. For more information on this topic, see: <http://www.fns.usda.gov/ora/menu/Published/SNAP/FILES/Other/pai2009.pdf>.