

September 23, 2019

SNAP Program Design Branch,
Program Development Division
Food and Nutrition Service
3101 Park Center Drive
U.S. Department of Agriculture
Alexandria, VA 22302

**Re: Comments in response to Notice of Proposed Rule Making -- Revision of
Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)
RIN 0584-AE62**

Dear SNAP Program Design Branch:

Thank you for the opportunity to provide comments on USDA's Notice of Proposed Rule Making (NPRM) regarding the proposed revision of the categorical eligibility provision in the Supplemental Nutrition Assistance Program (SNAP), known as "broad-based categorical eligibility" (BBCE). The proposed SNAP changes will effectively eliminate a well-established state option that has served the Commonwealth of Massachusetts for nearly two decades in its quest to both support low-wage working families seeking a path out of poverty and support low-income older adults and persons with disabilities remain in their communities, while also reducing health care costs that result from poor nutrition.

The Massachusetts Law Reform Institute (MLRI) is a statewide legal advocacy and support center. Our mission is to represent low-income parents, children, persons with disabilities and older adults in their struggle for basic human needs. Our activities include litigation, policy analysis, research, technical assistance and public information. We pay particular attention to the SNAP program because of its critical role in reducing the hunger and food insecurity suffered by low-income households. In addition to providing legal support and technical assistance to legal services field programs, MLRI has chaired the Massachusetts SNAP Coalition since 2002. The Coalition is comprised of dozens of community-based anti-hunger partners across the Commonwealth. MLRI has substantial expertise on SNAP policy and very familiar with the State's implementation history of "broad-based categorical eligibility." We have also worked closely with numerous State Administrations to help streamline the SNAP eligibility process and recommend policies to ensure SNAP reaches eligible households. We have a deep understanding of the hardship and administrative havoc the proposed rule would unleash.

USDA has projected this regulation change will eliminate SNAP benefits for 3.1 million individuals nationwide, resulting in a SNAP benefits cut of \$10.543 billion dollars over five years

while increasing SNAP administrative costs by \$2.314 billion and taking free school meals away from roughly 500,000 children.¹

In Massachusetts, this proposed rule will cause loss of SNAP for over 100,000 low income Massachusetts residents alone – impacting 13% of the MA SNAP recipient population.² This does not include the significant loss of access to free school meals and locally grown foods and the severed connections to Medicaid renewals, WIC benefits and more.

It is troubling that USDA does not include any projections relative to the impact of loss of benefits on the health and well-being of terminated SNAP recipients or projections on how and whether the loss of SNAP will somehow trigger an increase in economic independence of households impacted by these proposed rules. USDA simply identifies the federal savings as a result of denial of federal nutrition benefits.

In our estimation, this significant cut in benefits will only exacerbate food insecurity and increase health care costs for our most vulnerable residents. It will also negatively impact grocers and farmers in both rural and urban communities. Even USDA concedes that *“The proposed rule may also negatively impact food insecurity”* among the target population.”³ These proposed regulations are unlawful, inconsistent with the goals of the Food and Nutrition Act, arbitrary, unworkable and harmful. USDA should withdraw the proposed regulation.

1. A brief history of BBCE implementation in Massachusetts

The administrative and policy flexibility BBCE permitted states has been a core part of Massachusetts’ Food Stamp/SNAP policies to support working families whose earnings are insufficient to meet their basic needs, as well as older adults and persons with disabilities whose health and well-being would deteriorate without adequate nutrition.

Massachusetts first implemented BBCE in 2001 under the Republican-controlled Swift Administration, adopting the 200% federal poverty level (FPL) gross income test in the Food Stamp program for families with children. At the turn of the Millennium, **Massachusetts landed rock bottom in the Food Stamp participation state ranking – 51st in the nation between 2001 through 2003** (including the District of Columbia), and second to worst participation rate in

¹ Letter from Chairman Robert Scott, House Committee on Education and Labor, to USDA Secretary Sonny Perdue, 7/26/19, <https://edlabor.house.gov/imo/media/doc/2019-07-26%20Chairman%20Scott%20to%20Secretary%20Perdue%20SNAP%20Cat%20El%20Proposed%20Rule%5b1%5d.pdf>

² Mathematica, Inc. State-by-State Impact of Proposed Changes to "Broad-Based Categorical Eligibility" in SNAP, 9/5/19. <https://www.mathematica.org/news/new-research-analyzes-state-level-impact-of-usda-proposal-to-end-snap-broad-based-categorical> - citing 100,489 SNAP participants and 50,840 SNAP households would be terminated. See also Boston Globe, 90,000 in Mass. could be affected by Trump’s callous food-stamp cuts, 7/25/19 <https://www.bostonglobe.com/opinion/editorials/2019/07/25/mass-could-affected-trump-callous-food-stamp-cuts/okaiPnaHQDSBTtRieBcGqk/story.html>, and data from the Congressional Research Service (CRS), *The Supplemental Nutrition Assistance Program (SNAP): Categorical Eligibility*, Updated 8/1/19, CRS Report R42054. <https://fas.org/sgp/crs/misc/R42054.pdf> CRS notes noting that 22,481 non-elder/disabled SNAP households (vs individual recipients) would be impacted by lowering of gross income test to 130%, projected at 13.4% of all SNAP households without elder/disabled member.

³ Federal Register, July 24, 2018 Vol. 84, No. 124

2000.⁴ In 2001, only 45% of eligible MA households were participating, compared with the national average of 60% of eligible households participating.

The Massachusetts Food Stamp caseload plummeted in large part as a result of the rapid implementation of both state welfare reform “work first” legislation passed by the Massachusetts Legislature in 1995⁵ coupled with the TANF restrictions legislated in the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193) that impacted both working families and childless individuals, effectively delinking them from core benefits.

Between 1994 and 2002, the Massachusetts TANF caseload dropped **by nearly 48%, from nearly 115,000 families to less than 46,000 in 2001.**⁶ The majority of these former TANF families remained in deep poverty, as confirmed by various “leaver studies” commissioned by the state. A study by the University of Massachusetts Center for Survey Research (CRS) commissioned by DTA in 2000,⁷ which was based extensive interviews with current and former TANF recipients, confirmed that not only did the TANF leavers need Food Stamp benefits and other significant work supports – including Medicaid, fuel assistance, school meals – **they were more food insecure than ever:**

“Based on respondents’ recall of their food situation before and after leaving welfare, food security was worse by 14.7 percentage points in the time limit closings and by 11.8 percentage points in the non-time limit closings after households left welfare.”

The report documented that ending welfare—even during a booming economy—does not assure economic stability for families and additional income supports are necessary for these families’ survival and well-being. CRS analyzed the impact of loss of TANF due to families reaching the time limit and for families who lost TANF due to reasons other than the time limit, concluding:

- Sever food insecurity (five or six food problems) increased by 10.2 percentage points for the time limit closings and 6.5 percentage points for the non-time limit closings.

⁴ Mathematica Policy Research Institute for USDA, Reaching Those in Need: State Food Stamp Participation Rates for 2000, 2001, 2002, 2003. 2004. See for example 2001 SNAP Participation Rates <https://fns-prod.azureedge.net/sites/default/files/ops/Reaching2001.pdf>. See also, Cunningham, K. “Trends for Participation Rates: 1999-2002” Mathematica, (September 2014) <https://fns-prod.azureedge.net/sites/default/files/Trends99-2002.pdf>

⁵ Chapter 5 of the Acts of 1995, which law included a 24 month time cash limit, severe work requirements, a “family cap” limit on aid for additional children, teen parent rules and other provisions— policies all pre dating the 1996 PRWORA. See also the Urban Institute, Assessing the New Federalism: Changes in Massachusetts Welfare and Work, Child Care, and Child Welfare Systems, July 2001. <https://www.urban.org/sites/default/files/publication/61151/310183-Recent-Changes-in-Massachusetts-Welfare-and-Work-Child-Care-and-Child-Welfare-Systems.PDF>

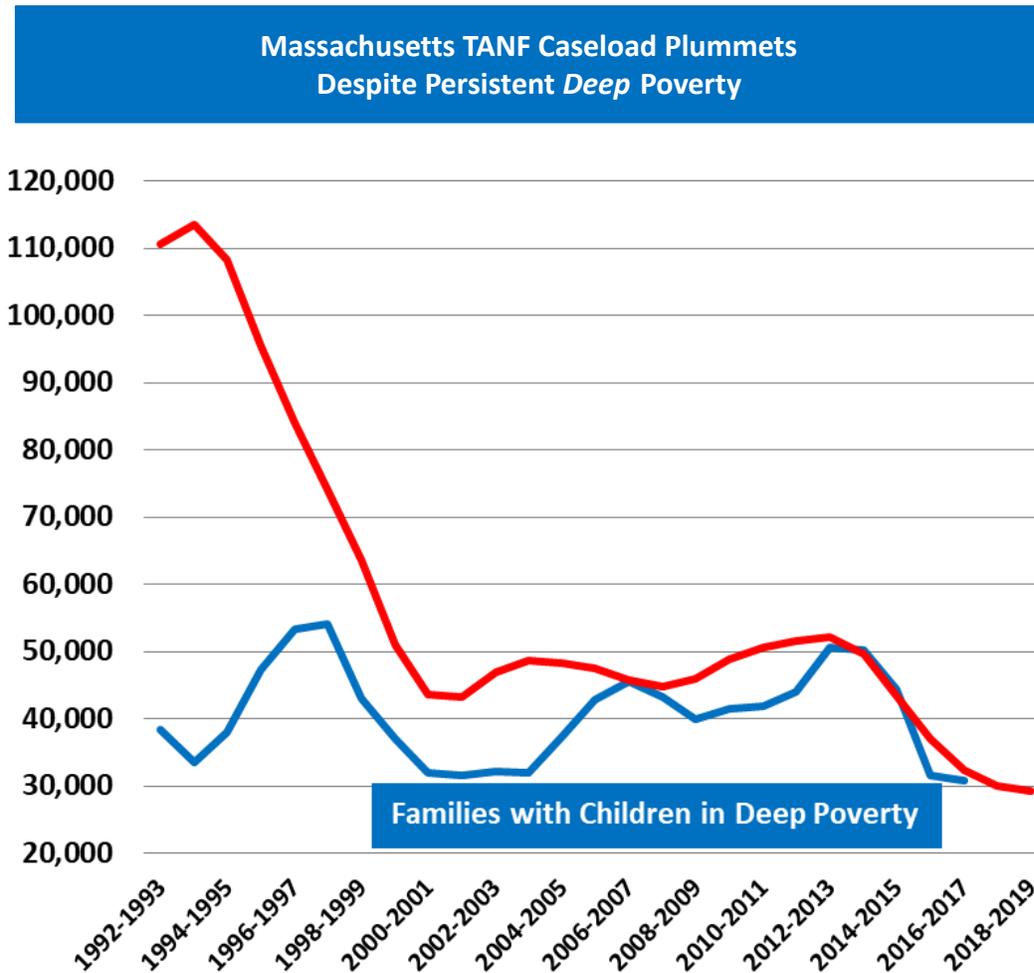
⁶ Center for Budget and Policy Priorities, TANF Reaching Few Poor Families, updated 11/28/18

<https://www.cbpp.org/research/family-income-support/policy-brief-tanf-reaching-few-poor-families>

⁷ Mass Department of Transitional Assistance: After Time Limits: A Study of Households Leaving Welfare Between December 1998 and April 1999. November 2000. <https://aspe.hhs.gov/pdf-report/after-time-limits-study-households-leaving-welfare-between-december-1998-and-april-1999> The Center for Survey Research (CSR) at UMass Boston University interviewed 460 Massachusetts households whose cases were closed between December 15,1998 and April 30,1999 because of the time limit and 210 households who left welfare during that period for other reasons.

- One-quarter (23.5%) of the time limit closings and 21.0% of the non-time limit closings were rated as suffering from severe food insecurity.
- Fewer than half (48.5%) of the time limit closings that were severely food insecure were receiving food stamps and 17.9% of the non-time limit closings that were severely food insecure were receiving food stamps.⁸

The following chart helps capture the dramatic impact of the TANF caseload drop (red line) in comparison with the number of Massachusetts children who remained in deep poverty.



Thankfully, by 2001, the Commonwealth recognized that the flexibility offered by the federal Food Stamp categorical eligibility rules was one way to ensure struggling families would be able to access core nutrition benefits.

Governor Jane Swift became appropriately alarmed as it became evident that low-income working families were still struggling after the state and federal Welfare Reform laws were implemented. In her press statement announcing implementation of a 200% income test in the Food Stamp program, Governor Swift noted:

⁸ DTA, After the Time Limits., pgs 69-70.

“As a nation and as a Commonwealth, we are facing uncertain times. Now, more than ever, we need to make sure that families have access to the assistance they need and this is one way we can help... One by one, we’re breaking down the bureaucratic barriers that have made it difficult for many working families to provide food and nourishment.”⁹

Massachusetts’ decision to implement BBCE followed the 1999 guidance issued by USDA describing the federal categorical eligibility option. USDA expressly stated that:

“any time all members of a food stamp household receive or are certified to receive cash, in-kind or other benefits funded under a state TANF program, the household is categorically eligible for food stamps.”... and “States have discretion over whether or not they confer food stamp categorical eligibility to a recipient of TANF-funded benefits that are not limited to needy families.”¹⁰ (Underlining added).

Massachusetts took this guidance as written at face value, exercised its discretion and implemented the federal option accordingly.

Massachusetts expanded the BBCE policy in October of 2008, under the Patrick Administration, waiving the SNAP asset test for the majority of SNAP.¹¹ The asset test requirement was seen as both administratively burdensome and discouraged families from building modest assets. The state agency reinforced that eliminating the asset test for most households “will have a positive impact on many vulnerable Massachusetts households, particularly households with elder and disabled members.”¹² In January of 2016, the Baker Administration made further adjustments to align all households with a 200 % gross income test, eliminating some inconsistencies in the application of the gross income test.¹³ The administration explained the rationale for this policy decision as an “effort to streamline the administration of SNAP.”¹⁴

In all three Administrations, Massachusetts implemented the BBCE option changes in a quest to 1) reduce barriers to access for low income households with substantial shelter costs and dependent care expenses, 2) reduce bureaucratic barriers including excess verification and complex forms and notices, and 3) streamline the processing of SNAP eligibility for administrative efficiency.

⁹ Press Advisory, October 19, 2001. Swift Expands Assistance for Families (Included as Attachment A)

¹⁰ USDA Food and Nutrition Service, Letter to Regions on Categorical Eligibility, July 14, 1999 <https://fns-prod.azureedge.net/sites/default/files/a-raletter2.pdf>

¹¹ DTA State Letter 1342, October 14, 2008, Food Stamp Program Maximized Categorical Eligibility, amending 106 C.M.R. §§ 365.150,363.110 (Elder and disabled households with gross income above 200% FPL must meet the asset test.)

¹² DTA Field Operations Memo 2008-27, “Maximized Categorical Eligibility for NPA Food Stamp Households.” <https://eohhs.ehs.state.ma.us/DTA/PolicyOnline/olg%20docs/fo/08/27.pdf>

¹³ Elder/disabled households are not subject to a gross income test, but are subject to the \$3,250 asset test if their gross income exceeds 200% FPL. 106 §C.M.R. § 363.110.

¹⁴ DTA Operations Bulletin 2016-1, “Streamlining the Gross Income Limit for SNAP.” https://www.masslegalservices.org/system/files/library/Operations%20Bulletin%202016-1_0.pdf

2. SNAP has long-standing bi-partisan support as a key nutrition program that reduces food insecurity and poverty for Massachusetts residents.

SNAP has been long regarded by Congress as the first line of defense against hunger for low-income households in Massachusetts and across the nation. The Massachusetts Congressional Delegation has lent its unwavering support to the SNAP program over many decades including:

- Former U.S. Senator Edward (Ted) Kennedy championed a wide range of anti-hunger initiatives in the US Senate focusing on funding Meals on Wheel and WIC. He was instrumental in raising public awareness of the growth of elder hunger in the 1970s and beyond. In one speech on March 7, 1972, Senator Kennedy noted: *“A decade ago, elderly Americans comprised 15 percent of the nation’s poor. Yet today, our senior citizens represent 20 percent of the nation’s citizens who must exist on income below the poverty line. The restrictions placed on elderly Americans by their meager incomes makes it easy to understand why they have difficulty providing themselves with adequate diets. But more than adequate income plagues the nation’s aged.”*¹⁵ Among his many accomplishments, Senator Kennedy was also instrumental in helping Massachusetts secure a USDA approval in 2003 for a Combined Application Pilot to ensure elderly and severely disabled Supplemental Security Income (SSI) recipients had more direct access SNAP when they applied for or renewed their SSI benefits.¹⁶
- In 2012, then U.S. Senator Scott Brown co-sponsored an amendment with NY Senator Kristin Gillibrand in opposition to proposed cuts to SNAP, commenting in his press statement: *“There are many families throughout the Commonwealth and the nation who depend on food stamps to get by in today’s tough economy and it is important that this service is available for them”.*¹⁷
- Former US Senator John Kerry and current US Senators Ed Markey and Elizabeth Warren have all stood firm in protecting and defending our nation’s most essential nutrition program. Senator Markey was present and cast his vote on the House Floor in support of the Food Stamp Act of 1977 as a newly elected member of Congress.
- Senator Markey joined with Senator Elizabeth Warren on February 24, 2012 to cast a NO vote on the pending Farm Bill Conference report, which proposed deep cuts to SNAP that would have harmed thousands of Massachusetts low income households.¹⁸ Both Senators Markey and Warren joined in an October 28, 2013 letter signed by 39 Senators

¹⁵ Edward M, Kennedy Institute, Accomplishments of Senator Kennedy, 1962-2009, Creating a Federal Funding Stream to Feed the Elderly, Support Women and Children, http://www.tedkennedy.org/service/item/health_care.html

¹⁶ Letters of U.S. Senator Edward Kennedy to USDA Secretary Eric Bost, 11/25/2002 and 2/21/2003 in support of a Combined Application Pilot for Massachusetts and noting the very low SNAP participation of SSI recipients.

¹⁷ Press Release: Sen. Brown Cosponsors Amendment To Prevent Food Stamp Cuts For 140,000 MA Families, dated 6/11/12. <https://votesmart.org/public-statement/704635/sen-brown-cosponsors-amendment-to-prevent-food-stamp-cuts-for-140000-ma-families#.XYJi5yhKiUk>

¹⁸ Senate roll call vote on Agriculture Reform, Food, and Jobs Act of 2013 Conference Report H.R. 2642 https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=2&vote=00021

opposing proposed SNAP cuts: *"(W)e encourage conferees to reject all SNAP eligibility changes designed to erect new barriers to participation, preventing millions of seniors, children and families from accessing food assistance... an additional 280,000 children would lose free school meals because children in SNAP households are automatically eligible for school meals. Changes would also increase administrative costs by requiring states to redetermine eligibility for SNAP, even if a household was deemed eligible for other state and/or federal assistance programs... SNAP is a safety net program in the truest sense of the world; there is no other more fundamental human need than food."*¹⁹

- Current House Rules Committee Chair, Massachusetts Congressman Jim McGovern, has been instrumental in educating his colleagues about hunger and the importance of the SNAP program, including co-chairing the Congressional Hunger Caucus and participating in 2007 with Congresswoman JoAnn Emerson (R-MS) in the first of many "Food Stamp challenges" to demonstrate the woeful inadequacy of SNAP benefits.²⁰ As Congressman McGovern stated in his April 2002 "Hunger Hits Home" speech: *We know that hunger would be even worse in the country if it weren't for programs like the Supplemental Nutrition Assistance Program, or SNAP, the school meal programs and other federal anti-hunger programs. These programs are literally a lifeline for millions of hungry children, parents and seniors. I believe we can end hunger in America if we muster the political will to do so. Fighting hunger has traditionally been a bipartisan effort.*²¹

In addition to Congress, both Republican and Democrat State Administrations have recognized the value of both supporting families seeking a path out of poverty and supporting older adults and persons with severe disabilities seeking to live in their homes and communities.

As noted above, then Republican Governor Jane Swift instructed her administration to implement a 200% gross income test in 2001. The Patrick Administration implemented a number of policies to strengthen access to SNAP, especially during the Great Recession. More recently, during the observance of the 40th Anniversary of the Food Stamp Act of 1977, Massachusetts Governor Charles Baker and Lt. Governor Karen Polito issued a Governor's Citation on September 26, 2017 in recognition of 40th anniversary of the bi-partisan Food Stamp Act of 1977 noting the historical importance of the program.²² The Baker Administration has actively supported the DTA's quest to simultaneously improve access to SNAP and improve administrative efficiencies, described below.

In the past four years, the Baker Administration has invested substantial resources in a wide range of initiatives to reach and enroll low-income seniors²³ and veterans²⁴ in SNAP as well as

¹⁹ Senator Ed Markey Press release, 10/28/13 <https://www.markey.senate.gov/news/press-releases/markey-calls-on-farm-bill-negotiators-to-reject-cuts-to-food-stamps-for-millions-of-children-seniors-vulnerable-families>

²⁰ National Public Radio, Lawmakers, Reporter Survive on Food Stamps, May 24, 2007 <https://www.npr.org/templates/story/story.php?storyId=10373929>

²¹ Congressman James McGovern, Statement on US House Floor, Hunger Hits Home, 4/17/2002 <https://mcgovern.house.gov/news/documentsingle.aspx?DocumentID=396421> See also Congressman McGovern #EndHungerNow speeches <https://mcgovern.house.gov/issues/issue/?IssueID=120517>

²² See Governor Baker Citation, Attachment B.

²³ DTA initiatives to reach older adults include implementing a simplified SNAP application and a dedicated Senior Assistance Office. A number of DTA's Senior initiatives can be found here: <https://www.mass.gov/department-of->

engage more community-based outreach partners in SNAP enrollment, including over 20 Councils on Aging.²⁵ DTA has invested resources to offer unemployed and underemployed SNAP households meaningful skills training programs through the SNAP Path to Work program,²⁶ a program hailed by USDA as a model “SNAP to Skills” state Initiative.²⁷ It is important to stress that families and/or able-bodied individuals who do not receive SNAP benefits cannot access DTA’s SNAP Path to Work programs.

The State’s investments reflect the priorities of an administration that cares about healthy children, seniors and veterans, a healthy and skilled workforce, and efficient, good government. SNAP remains the most important, effective, and efficient program we have to combat food insecurity. SNAP continues to have significant bi-partisan support within the Commonwealth and across the nation. USDA could learn from the Commonwealth about efficient and effective ways to serve people in need and boost the economy and should focus its efforts on helping states expand access to SNAP to eligible households and reduce the “SNAP gap” for those in need versus pursuing changes that restrict access and increase poverty and hunger.

3. BBCE is consistent with the goals of the Food and Nutrition Act by reducing food insecurity and poverty for Massachusetts and the nation’s lowest income residents.

Congress clearly articulated the intent of the Food Stamp program in Section 2 of the Food Stamp Act of 2008:

“It is hereby declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation’s population by raising levels of nutrition among low-income households. Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households.... To alleviate such hunger and malnutrition, a supplemental nutrition assistance program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.”²⁸

[transitional-assistance-seniors](#). DTA also received USDA approval for an early Elder Simplified Application Project, ESAP, as described here: <https://www.fns.usda.gov/snap/elderly-simplified-application-project>

²⁴ DTA initiatives to reach low-income veterans. <https://www.mass.gov/news/massachusetts-departments-of-transitional-assistance-and-veterans-services-partner-to-reduce>

²⁵ DTA’s Community Outreach Partners, September 2019: <https://www.mass.gov/service-details/snap-outreach-partners>

²⁶ DTA’s SNAP Path to Work initiatives through the SNAP Employment and Training program: <https://www.mass.gov/snap-path-to-work>

²⁷ USDA SNAP to Skills: State Highlights: Massachusetts SNAP E&T Then... and Now <https://snaptoskills.fns.usda.gov/state-highlights/state-highlights-massachusetts>

²⁸ Food and Nutrition Act, 7 U.S.C. § 2011, Section 2.

Food insecurity rates increased during the Great Recession and have yet to return to pre-recession levels in Massachusetts and across the country.²⁹ Infact, USDA research confirms that rates of food insecurity were higher than the national average in 2018 for a wide range of low income households, including nearly 15% of all households with children, 21.2% of Black, non-Hispanic heads of households, 29.1% of households incomes below 185 percent of the poverty threshold.³⁰

As recently as 2018 - despite nearly nine years of economic recovery - one out of every ten households in Massachusetts still lacked the resources necessary to afford enough food for all household members to lead active, healthy lives.³¹ Although SNAP monthly benefits remain woefully inadequate, and not all households who are food insecure are able to access the benefit,³² SNAP remains a critical nutrition resource for low-income Massachusetts residents. SNAP benefits also support low-income eligible individuals living in group homes, teen living homes and substance abuse disorder treatment programs, where the SNAP benefits are turned over to the program in order to buy food for the residents.³³

A. SNAP helps lift Massachusetts households out of poverty

SNAP helps put food on the table, supports work, helps lift families out of poverty and advances economic opportunity for low-income Massachusetts households:

- One in nine Massachusetts residents, currently 755,625 low-income individuals, relies on SNAP to help put food on the table due to the very real economic challenges they face.³⁴
- 70% of the state's SNAP households have gross income below 100% FPL, which is \$16,240 annual gross income for a household of two.³⁵
- Nearly three-quarters of the state's SNAP recipient population is comprised of older adults, minor children, and persons with disabilities.³⁶

²⁹ ERS has found that a reduction in food insecurity does not necessarily correlate with decreasing unemployment - falling unemployment was not tracked by the rate of food insecurity for the years immediately following the Great Recession. Nord, M., et. al. Prevalence of U.S. Food Insecurity Is Related to Changes in Unemployment, Inflation, and the Price of Food. ERS. June 2014. <https://www.ers.usda.gov/publications/pub-details/?pubid=45216>

³⁰ Coleman-Jensen A., et al. Household Food Security in the United States in 2018 Household Food Security in the United States in 2018 Sept 2019 <https://www.ers.usda.gov/publications/pub-details/?pubid=94848>

³¹ Cook, J.T., Poblacion, A. An avoidable \$2.4 Billion Cost: The Estimated Health Related Costs of Food Insecurity and Hunger in Massachusetts. Children's HealthWatch, February 2018. <http://macostofhunger.org/wp-content/uploads/2018/02/full-report.pdf>

³² Food Research & Action Center, Replacing the Thrifty Food Plan in Order to Provide Adequate Allotments for SNAP Beneficiaries. December 2012. <http://frac.org/research/resource-library/replacing-thrifty-food-plan-order-provide-adequate-allotments-snap-beneficiaries>

³³ 7 C.F.R. §273.11(e),(f), (g). It is worth noting that in states like Massachusetts, some of the group living settings also encourage residents to try to build assets through their weekly or monthly income to be used to toward their transition into the community, such as saving for first month's rent, security deposit, a car, etc.

³⁴ DTA Performance Scorecard, September 2019, <https://www.mass.gov/lists/departement-of-transitional-assistance-performance-scorecards>

³⁵ USDA Characteristics of SNAP Households, FFY17. <https://www.fns.usda.gov/snap/characteristics-supplemental-nutrition-assistance-program-households-fiscal-year-2017> In FFY17, nearly 50% of MA SNAP households had income between 50% and 100% FPL, 13% had income between 1% and 50%; 13% had zero countable income

- USDA’s 2017 SNAP profile data confirms that 45% of Massachusetts SNAP households have at least 1 worker in the past 12 months, 21% have had two more workers in the past 12 months.³⁷

According to the most recent Supplemental Poverty Measure (SPM) data released from the U.S. Census, Boston had a higher poverty rate than 24 other states in 2018. Further, the US Census **found that SNAP alone reduced the number of Massachusetts residents living in poverty by 54,000 people** – nearly half (24,000) children under 18.³⁸ The SPM makes two important adjustments to the official federal poverty level analysis: it adds in noncash transfers received by households that help them make ends meet including SNAP and the Earned Income Tax Credit; and it takes into consideration local differences in cost of living.

Massachusetts was identified in the SPM **as one of 16 states plus the District of Columbia where SPM rates were higher than official poverty rates.**³⁹ As noted by the Boston Indicators in its recent blog posting highlighting the more detailed SPM measures,

*“Focusing on these different estimation methods can feel a bit academic, but it actually matters a lot in terms of the federal policy-making debate. There are efforts afoot to cut many of these federal anti-poverty programs, including, for instance, through President Trump’s proposed 2020 budget—based on simplistic assessments of the official measure.”*⁴⁰

U.S. Census data shows that the population groups with the largest number of people removed from poverty and deep poverty due to SNAP receipt include adults aged 18-64 and individuals in families with a working adult.^{41 42} SNAP is critical for these households as well as enabling low-income seniors and persons with severe disabilities to remain in or return to their home communities.

³⁶ DTA Performance Scorecard, September 2019. See also Center on Budget and Policy Priorities SNAP Fact Sheet for Massachusetts https://www.cbpp.org/sites/default/files/atoms/files/snap_factsheet_massachusetts.pdf

³⁷ USDA Community Characteristics of SNAP in Massachusetts for FFY 2007 <https://www.fns.usda.gov/ops/snap-community-characteristics-massachusetts> Note, nearly 50% of MA SNAP caseload comprised of older adults and disabled households than many states. See also CBPP SNAP Fact Sheets Massachusetts https://www.cbpp.org/sites/default/files/atoms/files/snap_factsheet_massachusetts.pdf

³⁸ U.S. Census Bureau, The Supplemental Poverty Measure, 2018; released September 2019. <https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-268.pdf>

³⁹ Ibid. Figure 7, page 9 of SPM report.

⁴⁰ Schuster, L., Ciurczak, P., Boston Indicators report, 9/11/19. Indicators Research, Poverty in Massachusetts Higher Than 24 Other States, <https://www.bostonindicators.org/article-pages/2019/september/supplementary-poverty-measure>

⁴¹ Wheaton, L., Tran V., The Antipoverty Effects of SNAP. The Urban Institute, Feb. 2018. https://www.urban.org/sites/default/files/publication/96521/the_antipoverty_effects_of_the_supplemental_nutrition_assistance_program_3.pdf

⁴² In 2017, according to the Census Bureau the SNAP kept about 3.5 million people out of poverty. Fox, L. The Supplemental Poverty Measure: 2016. U.S. Census Bureau, Sept. 2017. <https://www.census.gov/content/dam/Census/library/publications/2017/demo/p60-261.pdf>

B. SNAP helps reduce health care costs of low income Massachusetts residents

A growing body of research confirms that SNAP contributes to reducing health care costs.

- A 2017 research report released by Massachusetts General Hospital found that SNAP reduces individual recipient health care costs by an average of \$1,400 per year.⁴³
- A 2016 study examining the impact of the 2009 boost in SNAP under the American Recovery and Reinvestment Act found a correlation between increased food resources and a decline in inpatient Medicaid usage and cost patterns in Massachusetts.⁴⁴
- Children’s Healthwatch has tracked and documented the positive impact of SNAP on infants and toddlers early brain development and found that SNAP reduces the likelihood of young children having costly medical care as they grow.⁴⁵

Conversely, 2018 research published by the Centers for Disease Control and Prevention found that the post-Recession decrease in SNAP benefits contributed to increased Medicaid admissions and \$6.4 billion in additional Medicaid inpatient costs.⁴⁶ Food insecurity is associated with more emergency department visits, hospitalizations, days hospitalized, outpatient visits, and health care costs.⁴⁷

USDA released research in 2017 finding that that food insecurity among low income adults is associated with an increased risk of hypertension, coronary heart disease, hepatitis, stroke, cancer, arthritis, and other diseases.⁴⁸ Using peer-review research on food insecurity and health conditions, Children’s HealthWatch **estimated that food insecurity and hunger in Massachusetts increased health-related expenditures in the Commonwealth by about \$2.4 billion in 2016 alone.**⁴⁹ Reducing access to food by imposing additional restrictions on SNAP

⁴³ Berkowitz, S, Seligman, H. Supplemental Nutrition Assistance Program (SNAP) Participation and Health Care Expenditures Among Low-Income Adults. *JAMA Internal Medicine*, November 2017.

<https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2653910>

⁴⁴ Sonik, R., Massachusetts Inpatient Medicaid Cost Response to Increased Supplemental Nutrition Assistance Program Benefits, *American Journal of Public Health*, March 2016.

<https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2015.302990>

⁴⁵ Children’s Health Watch Policy Report, The SNAP Vaccine: Boosting Children’s Health, February 1, 2002 https://childrenshealthwatch.org/wp-content/uploads/snapvaccine_report_feb12.pdf See also Hoynes, H, Schanzenback, DW, Almond, D. Long Run Impacts of Childhood Access to the Safety Net. *The American Economic Review*. 2016; 106(4) <https://www.nber.org/papers/w18535>

⁴⁶ Sonik, R. A., Parish S., and Mitra, M. Inpatient Medicaid Usage and Expenditure Patterns After Changes in Supplemental Nutrition Assistance Program Benefit Levels.” *Preventing Chronic Disease*, October 2018.

https://www.cdc.gov/pcd/issues/2018/18_0185.htm

⁴⁷ Berkowitz, S., Seligman, H., Meigs, J. Food Insecurity, Healthcare Utilization, and High Cost: A Longitudinal Cohort Study. *The American Journal of Managed Care*, September 2018.

<https://www.ajmc.com/journals/issue/2018/2018-vol24-n9/food-insecurity-healthcare-utilization-and-high-cost-a-longitudinal-cohort-study>

⁴⁸ Gregory, A., Coleman-Jensen, A.. Food Insecurity, Chronic Disease, and Health Among Working-Age Adults, ERR-235, U.S. Department of Agriculture, ERS, July 2017. <https://www.ers.usda.gov/webdocs/publications/84467/err-235.pdf?v=42942>

⁴⁹ Cook, J.T., and Poblacion. A. An Avoidable \$2.4 Billion Cost: The Estimated Health Related Costs of Food Insecurity and Hunger in Massachusetts. Children’s HealthWatch, February 2018. <http://macostofhunger.org/wp-content/uploads/2018/02/full-report.pdf> See also, Azetsop J, Joy TR. “Access to nutritious food, socioeconomic

access, as proposed by USDA, will increase food insecurity and increase health care costs. These data cannot be ignored as states grapple with containing health care costs.

4. BBCE allows low-income households on the economic margins to participate in SNAP, positively impacting the Massachusetts economy and agricultural sector.

The preamble of the 2008 Food Stamp Act states that low income households should be able to access food benefits *“through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.”*⁵⁰

Massachusetts SNAP recipients currently redeem approximately \$1.1 billion annually in SNAP EBT benefits.⁵¹ Almost all SNAP households use their benefits in the month they receive them.⁵² In FFY 2018, over 5,500 USDA-approved Massachusetts EBT retailers accepted SNAP benefits for the purchase of approved food items.⁵³

A. SNAP has a direct economic stimulus to the state and local economy.

According to recent studies by the USDA Economic Research Service (ERS) and other prominent economists, each \$1 of SNAP benefits is estimated to trigger between \$1.50 and \$1.80 in total economic activity during a recession. Economists find SNAP to be one of the stimulus policies with among the highest “bangs for the buck.”⁵⁴ The economic stimulus of SNAP is superior to any other federal benefit. ERS also found that new SNAP spending has relatively large effects on manufacturing and trade and transportation sectors, including food and beverage manufacturers, packaging manufacturers, grocery stores and food and other wholesalers, and trucking and rail freight industries.⁵⁵

Assuming an average SNAP benefit per household of \$111/month, the proposed cuts to SNAP benefits would drop the SNAP EBT revenues in Massachusetts by nearly \$68 million per year.⁵⁶

individualism and public health ethics in the USA: a common good approach.” *Philos Ethics Humanit Med.* Oct 29 2013;8:16. <https://www.ncbi.nlm.nih.gov/pubmed/24165577>

⁵⁰ Food and Nutrition Act, 7 U.S.C. § 2011, Section 2.

⁵¹ DTA Scorecard, September 2019; USDA FNS SNAP State Project Area Participation and Issuance data, as of June 2019: <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>

⁵² USDA FNS, Benefit Redemption Patterns in the Supplemental Nutrition Assistance Program. February 2011. <https://fns-prod.azureedge.net/sites/default/files/ARRASpendingPatterns.pdf>

⁵³ USDA FY 2018 Retailer Management Data (most recent FY publically available), <https://fns-prod.azureedge.net/sites/default/files/media/file/2018SNAPRetailerManagementYearEndSummary.pdf>

⁵⁴ USDA ERS, The Supplemental Nutrition Assistance Program (SNAP) and the Economy: New Estimates of the SNAP Multiplier, July 2019, available at <https://www.ers.usda.gov/webdocs/publications/93529/err-265.pdf?v=8010.7> pages 6-8 and Table 1. See also Zandi, M., MoodysEconomy.com, Assessing the Macro Economic Impact of Fiscal Stimulus 2008, January 2008 <https://www.economy.com/mark-zandi/documents/Stimulus-Impact-2008.pdf>

⁵⁵ Ibid. pages 24, 25.

⁵⁶ Mathematica, Inc. State-by-State Impact of Proposed Changes to "Broad-Based Categorical Eligibility" in SNAP, 9/5/19. <https://www.mathematica.org/news/new-research-analyzes-state-level-impact-of-usda-proposal-to-end-snap-broad-based-categorical> - citing 50,840 SNAP households would be terminated. The average household benefit per household is, on average, \$111 x 50,840 households = \$5.6 million/year.

The BBCE proposal would invariably lead to reductions in the economic stimulus effect of SNAP, especially during recessionary periods.

B. SNAP has a positive impact on Massachusetts farmers and has boosted access to healthy, locally-grown foods for low income residents.

SNAP's impact on the state's agricultural economy and on the ability of SNAP recipients to access fresh fruits and vegetables has been extraordinary, thanks in large part to USDA's historic funding of Food Insecurity Nutrition Incentive (FINI) pilots and the state's subsequent fiscal investment.

In 2011 and 2012, Massachusetts piloted a USDA-approved FINI grant in Hampden County, for the primary goal of *"increasing the purchase of fruits and vegetables by low-income consumers participating in SNAP by providing incentives at the point of purchase."*⁵⁷ This initial "Healthy Incentives Program" (HIP) was hailed as a successful pilot, favorably impacting the purchasing decisions of low income households by making higher cost healthy food more affordable.

In 2015, Massachusetts applied for and received one of the USDA FINI Large Scale Project (FLSP) grants to implement a statewide HIP program allowing SNAP recipient purchases at local farmers markets, farm stands and community sustainable agriculture (CSA) programs.⁵⁸ The program has been so successful that the Massachusetts Legislature has invested substantial state funding since then – investing \$1.3 million in FY17 with another \$2.35 million in a FY18 supplemental budget. HIP got a boost to \$4 million and most recently increased to \$6.5 million in the FY20 budget.⁵⁹ These significant state investments have been inspired by a well-run and successful program.

Further, based on USDA's most recent EBT retailer data for FFY2018,⁶⁰ more SNAP EBT dollars are being spent at local farmers markets because HIP makes locally grown food more affordable. USDA data confirms that Massachusetts saw a four-fold increase in farmer's market EBT retailer enrollment between FFY 2012 and 2018 - from 122 to 458 authorized farmers and a 1,222% increase in SNAP EBT redemptions from \$313K in FFY12 to \$4.2 million in SNAP EBT redemptions in FFY18.

The grafting of HIP onto the SNAP EBT system has shifted SNAP household food purchasing habits and fueled a significant economic boost in our state's agriculture industry. **However, HIP is only available to SNAP recipients.** All of this is at some risk with the proposed BBCE rules, as discussed in Section 6 below.

⁵⁷ USDA FNS, Office of Policy Support, Healthy Incentives Pilot Final Evaluation Report, 9/18/2014 <https://www.fns.usda.gov/snap/hip/final-evaluation-report>

⁵⁸ Also known as the Gus Schumacher Nutrition Incentive Program (GusNIP). <https://nifa.usda.gov/program/gus-schumacher-nutrition-incentive-grant-program> See USDA Research, Education & Economics Information System, Massachusetts submission for Expansion of the Healthy Incentives Program to Increase Fruit and Vegetable Purchases Among SNAP Households. <https://reeris.usda.gov/web/crisprojectpages/1006149-expansion-of-the-healthy-incentives-program-to-increase-fruit-and-vegetable-purchases-among-snap-households.html>

⁵⁹ Mass Food Systems <https://mafoodsystem.org/projects/HIP/> See also DTA HIP data. <https://www.mass.gov/service-details/healthy-incentives-program-hip-for-clients>

⁶⁰ USDA Comparison of SNAP Authorized Farmers and Markets SNAP EBT purchase, FFY2012 and FFY2018 <https://fns-prod.azureedge.net/sites/default/files/media/file/SNAP-Farmers-Markets-Redemptions.pdf>

6. The proposed BBCE rules are not permitted under federal law and are not authorized by Congress.

The proposed rule is unlawful. There is absolutely no provision in the SNAP or TANF statutes that gives USDA the authority or discretion to limit the types of TANF benefits that confer categorical eligibility. (The matter of limiting categorical eligibility to specific TANF-funded programs that are identified as “ongoing and substantial” is discussed in Section 8 below.) Shortly after the release of the proposed regulations, USDA was put on notice by the chairs of the Chairs of House Ways and Means, Education and Labor, and Agriculture including Massachusetts Congressman Richard Neal:⁶¹

“The Trump Administration’s action today will increase hunger and hardship for 3 million Americans, including those who live in my state of Massachusetts, where one in nine residents currently relies on SNAP to put food on the table,” said **Ways and Means Committee Chairman Richard Neal of Massachusetts**. *“Congress rejected this very proposal in the 2018 Farm Bill, and it is unlawful for the administration to attempt to override the law without congressional authorization. This distressing action will have significant, harmful impacts on hungry families and children across the country.”*

USDA received multiple communications from Members of Congress that it is overstepping its authority, including the Massachusetts Delegation letter of August 8, 2019 informing USDA Secretary Sunny Perdue:

*“This regulation directly violates congressional intent and would harm our constituents... Congress rejected this very proposal, on a bipartisan basis in the 2018 Farm Bill. Overriding the law without congressional authorization defies the clear, recently-expressed intention of the U.S. Congress.”*⁶²

Congress has never given USDA the authority to narrow the types of TANF-funded benefits that can confer categorical eligibility. Indeed, since 1996 when Congress enacted the provision under the Welfare Reform law that created BBCE,⁶³ the program has been reauthorized four times – in 2002, 2008, 2014, and 2018.⁶⁴ The Food and Nutrition Act of 2008 is clear that households that receive TANF-funded benefits are eligible for SNAP.⁶⁵ As USDA notes in its summary of the Act:

⁶¹ Chairmen Neal, Scott, and Peterson Oppose Administration’s unilateral proposal to kick millions off SNAP Jul 23, 2019 Press Release <https://waysandmeans.house.gov/media-center/press-releases/chairmen-neal-scott-and-peterson-oppose-administration-s-unilateral>

⁶² Letter dated 8/8/19 from Massachusetts Senators Warren and Markey, U.S. Representatives Neal, McGovern, Pressley, Kennedy, Keating, Trahan, Clark and Lynch to USDA Secretary Sunny Perdue.

⁶³ 42 U.S.C 601 et.seq.

⁶⁴ See USDA, A Short History of SNAP describing the components of each Farm Bill reauthorization, none of which bills included any provisions to restrict BBCE. <https://www.fns.usda.gov/snap/short-history-snap>

⁶⁵ 7 USCA 2014 §5(c). Food Conservation and Energy Act, P.L. 110-234 (May 22, 2008)

“Significantly, the 2008 Farm Bill also institutionalized priorities that FNS had focused on for many years including strengthening integrity, simplifying administration, maintaining State flexibility, improving health through nutrition education, and improving access.”⁶⁶

When the House passed proposals to roll back the BBCE state option in 2005, 2012, and 2018, a bipartisan majority in Congress ultimately rejected the proposals. Despite being aware of BBCE, and enacting many other changes to SNAP in these bills, Congress has not acted to change it. . Section 5(a) of the Food and Nutrition Act of 2008 is clear that households that receive TANF-funded benefits are eligible for SNAP. Congress did not give USDA discretion to narrow the types of TANF-funded benefits that can confer categorical eligibility. This USDA rulemaking is a blatant attempt to side step Congress and is outside USDA’s authority.

7. The proposed rule undermines efforts of Massachusetts to support working households struggling with low wages and to support older adults and persons with disabilities to remain in their homes.

The current BBCE policy is critical for high cost of living states such as Massachusetts in order to support our lowest wage household who, despite being slightly over 130% FPL, are not making a living wage to meet their high shelter and/or child care costs. BBCE is designed to incentivize households to work, gradually decreasing their benefits as wages or hours of work increase.

USDA estimates that Massachusetts is one of the states that would be most strongly harmed by the proposed reduction of the gross income test to 130% FPL, as a result of significantly curtailing BBCE. USDA estimated that between 8 and 10 percent of the Massachusetts SNAP households would lose eligibility due to the income cut alone.⁶⁷ This cut would undermine the ability of low wage working families to move out of poverty.

A. The proposed rules will create a “cliff effect” that punishes low wage households who are able to slightly increase their earnings.

Massachusetts has invested significant resources on both the SNAP and TANF side to minimize the “cliff effect” and support families as they transition off of benefits. As discussed in Section 12 below, Massachusetts has taken a number of steps to increase the asset test in TANF and disregard a bigger portion of a household’s earnings. Massachusetts has been at the forefront with states tackling the “cliff effects” that discourage families from work and creating savings.

At the July 2019 National Conference of State Legislatures (NCLS) conference, Massachusetts was among four New England states (including ME, NH, and CT) featured in implementing policies to address the cliff effects. As noted in their issues brief, “Moving on Up: Helping Families Climb the Economic Ladder by Addressing Benefits Cliffs”, NCLS states that:

For families, the cliff effect can create and anchor into, rather than a ladder out of poverty. They lose more than they gain when they take a job or receive a raise and their safety net is simultaneously weakened or eliminated. For businesses, it often means

⁶⁶ Quoting from USDA’s narrative, A Short History of SNAP. <https://www.fns.usda.gov/snap/short-history-snap>

⁶⁷ USDA’s Regulatory Impact Analysis, page 21.

perpetually recruiting, hiring and training for the same entry level positions. To the detriment of all, the workforce shortage is not filled, families do not exit social support systems, and economic growth is stymied.”⁶⁸

Massachusetts DTA provided states with details on recent policies to lift the TANF asset limit and earnings disregards as well as piloting a “Learn to Earn” initiative was tapped to give a presentation at the NCLS conference on the steps they had taken to address the cliff effects, along with their New England sister states of Maine, New Hampshire and Connecticut. Commissioner McCue noted in the NCSL brief:

I hear from employers that folks can’t take on extra hours or a wage increase because they are afraid of losing their housing, child care or other supports. We want to hand them a pole vault tick to get over the cliff.”⁶⁹

The one-size-fits-all cookie-cutter approach that USDA proposes – requiring all states to operate their SNAP programs under 130% FPL for non-elder/disabled households and imposing an asset test for all households – fails to recognize the significant variations in the cost of living across the nation and the exacerbation of the cliff effects that Massachusetts and sister states are seeking to address.

Indeed, by depriving states with high costs of living from supporting lower paid workers poses a significant risk to the Commonwealth: the loss of workers who will invariably move to other states where the cost of living is cheaper, undermining the Commonwealth’s workforce needs. The income inequality within Massachusetts – especially rural versus suburban/urban areas of the state⁷⁰ – already has a direct and negative impact on the state’s economy. USDA should support states in seeking to address these issues and not exacerbate or undermine them.

B. The majority of Massachusetts SNAP recipients who are able to work do work but struggle with the cost of living. The proposed rules punish these households.

According to US Census data analyzed by the Center for Budget and Policy Priorities (CBPP), in 2017 over 246,700 working Massachusetts residents lived in households that participated in SNAP in the last year.⁷¹ The Center documented that the most common work for Massachusetts SNAP recipients is in service occupations, such as cooks or home health care aides; office and administrative support occupations, such as customer service representatives; and professional and related occupations, such as teacher assistants, all of which are low paying jobs. The average pay in 2017 was between \$12 and \$17/per hour.

⁶⁸ National Conference of State Legislatures Policy Brief: Moving on Up: Helping Families Climb the Economic Ladder by Addressing Benefits Cliffs, July 2019.

http://www.ncsl.org/documents/cyf/Benefits_Cliffs_Brief_32099.pdf

⁶⁹ Ibid. Pg 5

⁷⁰ State Senator Adam Hinds, Op Ed, The income inequality problem Massachusetts ignores <https://www.bostonglobe.com/magazine/2019/05/17/the-income-inequality-problem-massachusetts-ignores/exgnJiiLGXjbU7G1xI2jZl/story.html>

⁷¹ Center for Budget and Policy Priorities, SNAP Helps 1 in 14 Workers in Massachusetts Put Food on the Table. State Fact Sheets- Massachusetts, <https://www.cbpp.org/snap-helps-low-wage-workers-in-every-state#Massachusetts>

For low-wage working families, SNAP serves to help fill the gaps between earnings and monthly food costs for a family. The average SNAP benefit for Massachusetts SNAP households is \$207.59/month— only \$2.27 per meal, for all family members.⁷² SNAP also provides the essential, reliable connection for these working households to additional nutrition benefits including free school meals for their children, automatic WIC financial eligibility for pregnant or nursing women and infants, as well as state-funded programs like the Massachusetts Healthy Incentives Program (HIP).

Massachusetts is now ranked the 46th most expensive state in the nation to live in,⁷³ based on the cost of housing, energy, child care, transportation, health care, and food. The Massachusetts Institute of Technology (MIT) calculated that in 2018, the “living wage” in Massachusetts for a single parent with two children would be at least \$70,011 annually⁷⁴- at least \$33.66/hour.

Massachusetts has some of the highest housing costs in the nation. Multiple data sources confirm the Commonwealth’s housing costs are beyond the reach of most families.

- In 2019, the National Low Income Housing Coalition found that Massachusetts is the third-most expensive state for renters. The report found that workers need to make more than \$33.81/ hour to afford a two-bedroom apartment, or work more than 112 hours per week at the current \$12/hour minimum wage. In the Boston-Quincy-Cambridge area, workers would need to earn over \$42.19 an hour to afford a two-bedroom apartment, \$23.12 in Worcester and \$26.23 in Lawrence.⁷⁵
- The Massachusetts-based Citizens Housing and Planning Association (CHAPA) further analyzed the “housing wage” needed to live in the Commonwealth and the impact of housing costs on low-wage workers, and concluded. *“This year’s findings demonstrate how far out of reach modestly priced housing is for the growing low-wage work force, despite recent wage growth, and for other vulnerable populations across the country”*.⁷⁶ CHAPA notes that working at the minimum wage of \$12.00 in Massachusetts, a wage earner must have 2.3 full-time jobs or work 91 hours per week to afford a modest one-bedroom apartment and work 2.8 full-time jobs or work 113 hours per week to afford a two-bedroom apartment. The typical renter in Massachusetts earns \$20.72, which is \$13.09 less than the hourly wage needed to afford a modest rental home.

⁷² DTA Performance Scorecard September 2019. (This is higher than the projected loss of SNAP benefits due to the proposed BBCE regulations as Mathematica’s cost estimate assumes a lower average benefit for the SNAP households between 130% and 200% FPL.

⁷³ Missouri Economic Research and Information Center. Massachusetts, https://www.missourieconomy.org/indicators/cost_of_living/

⁷⁴ Living Wage Calculator (2018 data), Massachusetts Institute of Technology, Massachusetts www.livingwage.mit.edu/states/25

⁷⁵ Aurand, A., Emmanuel, D., Yentel, D., Out of Reach, The High Cost of Housing: 2018 National Low Income Housing Coalition https://nlihc.org/sites/default/files/oor/OOR_2018.pdf

⁷⁶ CHAPA Out of Reach Report Press Release, 2019 <https://www.chapa.org/housing-news/affordable-housing-is-out-of-reach-in-massachusetts-for-people-with-low-incomes>

- According to the Joint Center for Housing Studies at Harvard University, nearly half of Massachusetts renters were burdened with high rental costs, with one-quarter million renters (249,995 renters) being “severely burdened” with rental costs that consume at least 50% of their income. The Joint Center listed the median rent cost listed for Massachusetts in 2018 as \$1,169/month.

Massachusetts energy costs are among the highest in the nation. The bulk of Massachusetts residents use electricity and natural gas for heating their homes, with less dependency on oil and other heating sources, but we do not escape high energy costs.

- *Electricity:* Based on data from the U.S. Energy Information Administration (EIA) from June 2019, the average U.S. household spent 12.70 cents per kWh of electricity. However, in Massachusetts, the average resident paid 22.57 cents per kWh, ranking third highest after Hawaii and Rhode Island.⁷⁷
- *Natural Gas:* Based on data from EIA, Massachusetts is ranked second highest after Hawaii in the cost of natural gas (per 1,000 cubic feet) with an average price of \$13.64/unit residential price in the state, compared with the national average of \$6.23/unit.⁷⁸
- *Heating oil and propane:* The New England Region has some of the highest heating oil and propane prices in the nation, second only to the Central Atlantic Region. Massachusetts residents pay an average of \$3.11/gallon of propane compared with the U.S. average of \$2.40/gallon. RI, VT and ME pay even higher amounts - near \$3.50/gallon.⁷⁹ The Massachusetts Department of Energy Resources reports significant variations in the fee per gallon of oil, from \$2.50 to \$4.50/gallon based the most recent weekly survey of off season heating oil prices done this month (September 2019).⁸⁰

Under the SNAP rules, the SNAP math involves combining the shelter (rent or homeownership costs) with a “Standard Utility Allowance” (SUA) in order to average out fluctuating shelter costs.⁸¹ The SUA is the only standardized element of the SNAP calculation that varies from state to state based on regional utility costs. While the capped shelter deduction artificially lowers actual shelter costs to a capped amount for non-elder/disabled households, the SUA is an important indicator of how costly it is to live in each state.

⁷⁷ U.S. Energy Information Administration, Electric Power Monthly by state 2019 https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a See also How Much: Understanding Money, 5/7/2019 <https://howmuch.net/articles/how-much-americans-pay-in-electricity-rates-in-each-state-2019>

⁷⁸ US Energy Information Administration, Natural Gas Data <https://www.eia.gov/naturalgas/> See also comparative state data from the Public Policy Institute of New York, Just the Facts: <http://www.ppinys.org/reports/jtf2004/naturalgas.htm>

⁷⁹ US Energy Information Administration Heating Oil and Propane Update as of March 2019, <https://www.eia.gov/petroleum/heatingoilpropane/>

⁸⁰ Massachusetts Department of Energy Resources, Weekly Average Retail Heating Oil Price Survey <https://www.mass.gov/service-details/massachusetts-retail-heating-oil-prices>

⁸¹ 7 CFR §273.9(d)(6)(iii)

USDA's proposed regulations would deprive even families with substantial shelter costs from stepping through the front door for a SNAP eligibility determination if their gross income – before any deductions– exceeds 130% FPL.

C. The proposed regulations will punish hard-working households with dependent care costs.

One in eight Massachusetts children live in poverty – nearly 170,000 children ages 0 to 18.⁸² SNAP currently helps nearly Massachusetts 448,625 households, nearly 30% of which have at least one child in the home.⁸³ Families experiencing poverty endure high levels of financial strain due to a high cost of living, including the high cost of child care.

Thanks to the 2008 Food Stamp Act, households are allowed to claim actual dependent care costs paid in order for the household to work, go to school, or look for work,⁸⁴ unlike the capped shelter deduction. In Massachusetts, dependent care costs can only be claimed for households with income under the state's gross income test, currently 200% in Massachusetts. USDA's proposed regulations would deprive families with child care costs from stepping through the front door for a SNAP eligibility determination if their gross income – before any deductions– exceeds 130% FPL.

Although Massachusetts has one of the highest minimum wages in the country at \$12/hour, **we rank second out of 50 states for the most expensive infant care:**

- The average cost of child in the Commonwealth is estimated at \$31,827/year for in-home care and \$13,208/month for in-center care, which varies from \$14,690 in-center care in Boston to \$12,146 in-center care in Worcester.⁸⁵
- The Economic Policy Institute reports that the average annual cost of infant care in Massachusetts is \$20,913 (\$1,743 per month); child care for a 4-year-old costs \$15,095 (\$1,258 each month).⁸⁶ The Center ranks Massachusetts second out of 50 states and the District of Columbia for most expensive infant care.
- Further, these childcare estimates do not include the transportation costs involved in driving a child to and from a day care center, or extended care needs when the parent is required to work late or arrive at work early.

⁸² US Census Data, 2018, Poverty by Age 0-18, Massachusetts. Kaiser Family Foundation estimates based on the Census Bureau's American Community Survey, 2008-2017 <https://www.kff.org/other/state-indicator/poverty-rate-by-age/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

⁸³ DTA Performance Scorecard, September 2019.

⁸⁴ Amendments to the Food Stamp Act, P.L. 96-249, 94 Stat. 357-370 7 USCA 2014 (e)(3) For a discussion of the historic importance of the dependent care deduction, see Center for Budget and Policy Priorities, The Food Stamp Dependent Care Deduction Help for Families with Child Care Costs (March 23, 2010) <https://www.cbpp.org/research/the-food-stamp-dependent-care-deduction>

⁸⁵ The Care Index: State Cost of Child Care in the United States, Massachusetts. <https://www.care.com/care-index>, (Cost refers to the cost of 40 hours per week of care for 52 weeks for one child.).

⁸⁶ Economic Policy Center: The Cost of Child Care in MA <https://www.epi.org/child-care-costs-in-the-united-states/#/MA>

These day care center costs are largely driven by operational costs including staff wages, space and insurance as well as mandated worker-to-child ratios or “licensing standards”⁸⁷ The in-home costs are a factor of a competitive market and low unemployment. Even families that qualify for subsidized child care incur significant expenses when their net disposable income is limited.

Being a stay-at-home parent is not an option for everyone. According to the Boston Planning and Development Agency (BPDA), overall, 29.6% of children in Boston live in poverty and 49.4% of children live in single-parent households. Although the poverty rate is only 6.2% for married-couple families, caring for children under the age of 18 - especially as a single parent - increases a family’s chance of living in poverty.⁸⁸

Child care costs continue to exceed the affordability standard set by the US Dept. of Health and Human Services, which in 2017 defined affordable childcare as consuming no more than 10% of a family’s budget.⁸⁹ According to the Economic Policy Institute,

“Child care is out of reach for low-wage workers. A minimum wage worker in Massachusetts would need to work full time for 44 weeks, or from January to November, just to pay for child care for one infant. A median child care worker in Massachusetts would have to spend 75.6% of her earnings to put her own child in infant care.”⁹⁰

Subsidized child care is not universally available, nor always affordable. According to the 2018 Mass Department of Early Education and Care (EEC) Annual Report, 17,708 children were identified as waitlisted on the state’s Early Education and Care waitlist in 2018,⁹¹ although the waitlist does not include the 2,600 children “deactivated” from the waitlist, either due to returned mail or families simply giving up and not renewing their place on the waitlist.

Under USDA’s proposed BBCE rules, families who are not able to access subsidized child care and/or rely on private care arrangements with neighbors, family, friends, or informal child care homes that offer parents reduced rates (outside the structure of EEC state subsidies) will be harmed.

Below are two tables that illustrates the SNAP benefits that two and three person families are currently eligible for, based on gross income, number of children in household and monthly child care costs (in these scenarios, child care amounts are paid to a local neighborhood care provider who offers a private sliding scale fee for low income families comparable to the subsidized child care rates offered by EEC). The child care costs do not include any travel costs to and from the child care provider. In all scenarios, driven by the fact that Massachusetts is a high shelter cost state, the maximum shelter expense deduction (of \$552/month) is applied.

⁸⁷ Massachusetts day care licensing standards, Provider/Child ratio <https://www.daycare.com/massachusetts/> and

⁸⁸ Boston Planning and Development Agency, Boston by the Numbers 2017 <http://www.bostonplans.org/getattachment/ff4bf0fa-64ec-4b31-a417-044460018798> For example, one caregiver for every three children 0-1, one caregiver for every three toddlers.

⁸⁹ Government Accountability Office, Child Care: Access to Subsidies and Strategies to Manage Demand Vary Across States. December, 2016. <https://www.gao.gov/assets/690/681652.pdf>

⁹⁰ Economic Policy Center: The Cost of child care in Massachusetts.

⁹¹ Department of Early Education and Care 2018 Annual Report to the Legislature, submitted March 18, 2019. Appendix E.

Family Size	Working parent, 1 child	Working parent, 2 children
Monthly Gross Income 150% FPL	\$ 2,057.50	\$2,597.50
Monthly Child Care cost	\$ 379	\$412
Monthly Shelter Cost	\$1,000	\$1,200
SNAP benefit (monthly)	\$188	\$220

Family Size	Working parent, 1 child	Working parent, 2 children
Monthly Gross Income 185% FPL	\$ 2,607	\$3,288
Monthly Child Care cost	\$379	\$412
Monthly Shelter Cost	\$1,000	1,200
SNAP benefit (monthly)	\$56	\$54

The following are examples of two clients represented by MLRI help which illustrate that reinstating a blanket 130% cut off eligibility test in Massachusetts would drive low wage working families deeper into poverty:

- Linda is a Holyoke working mother of four kids earning about \$15 per hour as a personal care attendant, working between 40 hours and 55 hours/per week, depending on her employer assigning her patients (she is not paid when her patients are hospitalized or the days they have doctor visits). Linda pays a flat \$40/week for after-school care for her youngest. Linda has to stretch her monthly income to cover rent and utilities, clothing, and car costs so that she can get to her job. Currently, she receives a modest SNAP benefit of \$ 224/month. Her children receive free school meals. Because Linda's income is \$200/month over the 130 % FPL threshold for a family of five, she would automatically lose her SNAP benefits for her family, and would be required to pay \$14 a

week for her children's breakfast and lunch co-pays –nearly \$60 a month. For this mother, SNAP makes helps her feed her children.

- Carla is a single mother living in Boston family making \$12.50 per hour at a local grocery mart. Her 16 year old daughter is in high school and her 19 year old has part time jobs, saving to go to college next year. She pays \$800/month in rent plus utilities, sharing a 4 bedroom apartment with another family. Her son's work hours vary depending on the jobs he gets - higher in the summer, lower in the winter. The combination of their income would put this family over 130% FPL for the summer months when he has earnings, even though he is trying to save this money for his college education and contribute to the family's food and shelter expenses.

D. The proposed regulations will discourage families from saving assets that can help move them out of poverty.

For more than 20 years, states have had the flexibility to lift SNAP's very low asset tests, which disqualify families and individuals from food assistance if they have managed to save as little as \$2,250 (or \$3,500 for households with elderly or disabled members, who are very unlikely to be able to replenish any assets they spend down.) Massachusetts eliminated the asset test in 208 recognizing the significant barrier towards helping households move out of poverty, promote economic mobility, or address unexpected economic shocks.

Older adults and persons with disabilities may set aside small amounts of their SSI, Social Security and pensions for emergencies and health care costs not covered by Medicaid or Medicare. Disability alone can lead to extra costs for individuals and frail older adults, including the costs of special diets and nutrition supplements to assistive devices, rehabilitation, personal assistance, or unexpected disability related expenses including durable medical equipment.⁹²

A 2009 report of the National Council on Disability contained a number of relevant findings including:

- *People with disabilities experience significant health disparities and barriers to health care, as compared with people who do not have disabilities.*
- *People with disabilities frequently lack either health insurance or coverage for necessary services, such as specialty care, long-term services, prescription medications, durable medical equipment, and assistive technologies.*⁹³

Asset development among low-wage working families has also been successful in helping families create lines of credit and start down the path of economic independence. According to the Urban Institute examining the impact of an asset test:⁹⁴

⁹² Mitra, S. Palmer, M., Kim, H. Mont D, Groce N. Extra costs of living with a disability: A review and agenda for research *Disability and Health Journal* Volume 10, Issue 4, October 2017, Pages 475-484

⁹³ National Council on Disability, *The Current State of Health Care for People with Disabilities*, September 2009 https://www.ncd.gov/rawmedia_repository/0d7c848f_3d97_43b3_bea5_36e1d97f973d.pdf

⁹⁴ Ratcliff, C. Urban Institute, *Reviving SNAP asset limits could backfire on families' finances*, (May 14, 2018) <https://www.urban.org/urban-wire/reviving-snap-asset-limits-could-backfire-families-finances>

Our research found that SNAP asset limits likely affect behavior at low asset levels below the federal limit but not at higher levels. In most cases, relaxing meant eliminating the asset limit, but in a handful of states, it meant applying a higher asset limit. We find that relaxed asset limits led to the following outcomes:

- 1. **More savings among low-income households.** Families were 8 percent more likely to have at least \$500 in savings. This level of saving (between \$250 and \$750) has been found to [reduce economic hardship](#) in the face of volatile income.*
- 2. **More participation in the mainstream financial market.** Families were 5 percent more likely to have a bank account.*
- 3. **Lower SNAP “churn.”** The likelihood that households cycled on and off SNAP fell percent. A less burdensome recertification process possibly contributed to this trend.*

In 2017, Abt Associates conducted a research project to track rental assistance recipients in Lynn and Cambridge Massachusetts.⁹⁵ Abt tracked these families over an average of 40 months as they participated in Family Self-Sufficiency (FSS) programs offered by the nonprofit Compass Working Capital in partnership with local housing, reporting : *“Our evaluation found their FSS programs in Lynn and Cambridge successfully help residents increase their earnings and improve their credit and debt outcomes.”* Their major findings include:

- “Earnings increased. Participation in Compass FSS was associated with an average gain in annual household earnings of \$6,305.*
- Welfare income declined. Participation in Compass FSS was associated with an average decrease of almost \$500 in household welfare income.*
- Credit scores improved. Compass FSS participants who entered the program with a FICO® credit score saw an average score increase of 23 points, from 617 to 640. The share of Compass FSS participants who had a FICO® score increased by 7 percent, from 91 to 98 percent. Participants with a prime FICO® score (above 660) also increased 14 percentage points, from 23 to 37 percent.*
- Debt decreased. Compass FSS participants experienced an average decrease in total derogatory debt of \$764. For these participants, credit card debt also decreased on average by \$655.”*

Had Massachusetts imposed an asset test in the SNAP program, as proposed by USDA, these families would either have had to decline participation in this program once assets reached \$2,225 or they would have had to use their assets to offset the loss of SNAP and school meals, thereby diminishing the positive impact of the Family Self-Sufficiency Program.

⁹⁵ Dastrup, S., Freiman, L., Lubell, J., Villarreal, M., Weiss, D. Abt Associates. Evaluation of the Compass Family Self-Sufficiency (FSS) Programs Administered in Partnership with Public Housing Agencies in Lynn and Cambridge, Massachusetts (September 2017)
https://www.abtassociates.com/sites/default/files/files/Insights/reports/2017/Compass%20FSS%20Evaluation%20Report_09082017_0.pdf

Equally critical, families and individuals of color are significantly more disadvantaged with respect to asset development. In a Boston-based study conducted by the Federal Reserve, The Color of Wealth, researchers used a National Asset Scorecard for Communities of Color (NASCC) survey and found significant disparity in both the accumulation and quality of wealth between white and non-white residents.⁹⁶ In particular, the Federal Reserve found that the typical white household in Boston is more likely than nonwhite households to own every type of liquid asset. For example, close to half of Puerto Ricans and a quarter of U.S. blacks don't have either a savings or checking account, compared to only 7% of whites, nonwhite households are more likely than whites to have student loans and medical debt.

USDA's proposal to require states to implement low asset tests would undermine economic mobility and force families in need to spend their limited savings before they can qualify for assistance, leaving them vulnerable to financial emergencies and to pay day lenders, and preventing them from moving along the path to financial security – a path that is particularly challenging for low income communities of color.

E. The proposed rules harm low-income older adults and persons with disabilities seeking to stay or return to live in their communities.

SNAP provides critical food assistance for more than 8.7 million for older adults age 50 and older across the nation.⁹⁷ Out of the current 755,625 Massachusetts SNAP recipients, over half (57.4 %) of Massachusetts SNAP recipients are age 60+ or have severe disabilities.⁹⁸

Massachusetts has invested substantial resources in improving the application process for these populations, including creating a specialized Senior Assistance Office⁹⁹ that is dedicated to serving the needs of older adults and screening them more carefully for medical expenses. Based on a review of DTA caseload data, between August 2016 and September 2019, the number of SNAP recipients age 60 and older has increased by 12%, from 145,983 older adults to 164,158 older adults – significantly more than the overall SNAP caseload.¹⁰⁰ Based on FFY15QC data, two-thirds of Massachusetts SNAP recipients age 60 and older had incomes well below 100% of the federal poverty level.¹⁰¹

Using FFY2016 QC data, Mathematica projects that 17,036 older adults in Massachusetts (12% of SNAP recipients age 60 or older) and 4,327 individuals with disabilities (3% of disabled SNAP

⁹⁶ Munoz, A. Kim, M, Federal Reserve, The Color of Wealth Ana Patricia Muñoz, Marlene Kim, <https://www.bostonfed.org/publications/one-time-pubs/color-of-wealth.aspx>

⁹⁷ Olivia Dean and Lynda Flowers, "Supplemental Nutrition Assistance Program (SNAP) Provides Benefits for Millions of Adults Ages 50 and Older," AARP Public Policy Institute, Washington D.C., April 2018. <https://www.aarp.org/content/dam/aarp/ppi/2018/04/snap-providesbenefits-for-millions-of-adults-ages-50-and-older.pdf>

⁹⁸ ⁹⁸ Center for Budget and Policy Priorities. Massachusetts Supplemental Nutrition Assistance Program Fact Sheet, Feb 2017; https://www.cbpp.org/sites/default/files/atoms/files/snap_factsheet_massachusetts.pdf and Department of Transitional Assistance Scorecard, September 2017 <http://www.mass.gov/eohhs/docs/dta/perfcard.pdf>.

⁹⁹ DTA Senior Assistance Office <https://www.mass.gov/service-details/department-of-transitional-assistance-snap-senior-assistance-office>

¹⁰⁰ DTA Performance Scorecards from 2016 through September 2019.

¹⁰¹ Center for Budget and Policy Priorities. SNAP Helps Millions of Low-Income Seniors. (April 26, 2017) <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-low-income-seniors>

recipients) will lose their SNAP benefits under the BBCE proposal¹⁰², due to imposition of an asset test, verification barriers and caseload churn. The loss of SNAP to these elder and disabled recipients is unacceptable and likely a very low estimate of the potential impact for this population.

Here are some additional critical facts about low-income older adults in Massachusetts we urge USDA to take into consideration.

- **The U.S. and Massachusetts population is rapidly aging.** In 2050, the population aged 65 and over is projected to be 83.7 million; almost double its estimated population of 43.1 million in 2012. The older adult population is growing both nationally.¹⁰³ Women are 80% more likely to be impoverished at age 65 and older than men.¹⁰⁴ According to the Massachusetts Executive Office of Elder Affairs, the older adult population in Massachusetts will have increased by nearly 48.6% between 2004 and 2024.¹⁰⁵
- **Massachusetts ranks second to Mississippi for older adults unable to meet their basic living expenses.** In 2016, the University of Mass Boston Gerontology Institute analyzed the income and costs of basic living expenses throughout the nation for older adults living alone and living with others. Known as the “Elder Economic Security Index,” Massachusetts ranked 49th out of 50 states – second only to Mississippi – in the inability of older adults who live alone to meet basic needs.¹⁰⁶ In Massachusetts, 1 out of 4 elder households have an annual income below \$20,000, representing about 152,000 households are headed by an adult aged 65 and over.¹⁰⁷ Housing, food, transportation and health care were the driving costs behind this economic insecurity. Indeed, health care costs and housing costs alone have increased substantially, according to UMass Gerontology Institute, since 2016, annual health care costs have risen to \$5,580 per older adult.¹⁰⁸
- **Massachusetts still faces a significant “SNAP Gap” of individuals likely eligible but missing out on SNAP nutrition benefits.** In January of 2019, the State identified a “SNAP Gap” of over 700,000 individuals receiving MassHealth (Medicaid) with income

¹⁰² Mathematica Policy Institute. Simulating Proposed Changes to the Supplemental Nutrition Assistance Program: Countable Resources and Categorical Eligibility, September 6, 2018.

<https://www.mathematica.org/dataviz/impact-of-bbce-proposal-on-snap-caseloads>

¹⁰³ United States Census Bureau. An Aging Nation: An Aging Nation: Projected Number of Children and Older Adults March 13, 2018 <https://www.census.gov/library/visualizations/2018/comm/historic-first.html>

¹⁰⁴ National Institute on Retirement Security. Shortchanged In Retirement, March 2016.

http://www.nirsonline.org/index.php?option=com_content&task=view&id=912&Itemid=48

¹⁰⁵ Massachusetts Executive Office of Elder Affairs, growth in older adults by Massachusetts city and town, 2004 through 2024 US Census data.

¹⁰⁶ University of Massachusetts-Boston, Gerontology Institute, Living Below the Line: Economic Insecurity and Older Americans Insecurity in the States 2016. September 2016.

<http://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1012&context=demographyofaging>

¹⁰⁷ UMass Boston Gerontology Institute, Low Income Senior Households in Massachusetts May 2017

https://www.umb.edu/editor/uploads/images/centers_institutes/center_social_demo_research_aging/Low_Income_5.2017.pdf

¹⁰⁸ WGBH Massachusetts Seniors Facing Growing Living Costs, New Data Shows, 5/10/19

<https://www.wgbh.org/news/local-news/2019/05/10/massachusetts-seniors-facing-growing-living-costs-new-data-shows>

under 150% FPL but not receiving SNAP. That data includes nearly 100,000 individuals age 60 and older. Many of these older adults have incomes well below 100% of the federal poverty level (FPL), and few if any have assets.¹⁰⁹

- **Access to SNAP helps reduce health care costs and hospital admissions for older adults.** As discussed above, SNAP reduces food insecurity of all populations. Additional research confirms that food insecure older adults are at greater risk of exacerbating health problems including chronic heart disease, depression, diabetes, asthma.¹¹⁰ A five year longitudinal study conducted by the Maryland Department of Health, Johns Hopkins University and the Benefits Data Trust found that access to SNAP benefits reduces the likelihood of hospital admission of an older adult by 14 percent, reduces admission to a nursing home by 23 percent, and generates an average of \$2,100 in annual healthcare savings for every older adult enrolled in the SNAP program.¹¹¹

One of MLRI's clients and a member of the Massachusetts Senior Action Council shared her story with USDA through the comment portal on 9/19/19 and thus we share this to underscore how harmful the proposed BBCE policy will be to Massachusetts older adults.

"I am an elderly woman living in Roxbury, MA and I am now retired because of my heart condition, diabetes and high blood pressure. I have also had open heart surgery. I would still be working if it weren't for my health conditions and SNAP benefits have been a great help to me because I am on a lot of costly medications. I have to set aside some of my income to save up for emergencies. Without SNAP, I would not be able to afford food. If my SNAP benefits were cut, I wouldn't be able to afford the nutrition I need for my health conditions. Do not make these changes to SNAP. People like me rely on them for our nutrition and survival daily."¹¹²

¹⁰⁹ Comparison from DTA and the Massachusetts Executive Office of Health and Human Services of Medicaid and SNAP recipient data, January 2019 (Non-institutionalized MassHealth recipients under 150% FPL). The Massachusetts "SNAP Gap" does not include between 100,000 and 150,000 older adults not receiving Medicaid but with income under 200% FPL who may be SNAP eligible, such as older adults enrolled in the Medicare (Part D) Low Income Subsidy program, the Medicare Savings Program, or Fuel Assistance

¹¹⁰ National Foundation to End Senior Hunger, Health Consequences of Senior Hunger, February 2014.

<https://www.aaa1b.org/wp-content/uploads/2010/07/Health-Consequences-of-Food-Insecurity-final.pdf>

¹¹¹ Szanton et al. *BMC Geriatrics* Food assistance is associated with decreased nursing home admissions for Maryland's dually eligible older adults (2017) 17:162 <https://www.hilltopinstitute.org/wp-content/uploads/publications/FoodAssistanceDecreasedNHAdmissions-BMCGeriatrics-2017.pdf> See summary from Benefits Data Trust. Policy Brief: Seniors and SNAP. <https://www.bdtrust.org/wp-content/uploads/2017/08/Policy-Brief-FINAL>.

¹¹² Mass Senior Action Council member, comment filed on 9/19/19 through USDA comment portal.

8. The proposed regulations will sever the connection between SNAP and FINI-based programs that connect low-income households to locally grown healthy foods, harming Massachusetts residents and farmers.

As discussed above, USDA supported one of the first FINI pilots in 2011 which has now become a state-funded Healthy Incentives Program (HIP) for SNAP recipients. Under the proposed rules, 100,000 Massachusetts residents would be denied SNAP and thus also be disconnected from HIP. **It is important for USDA to understand that only active SNAP recipients can participate in this program.**

Based on a detailed analysis of the HIP program released in November 2018 and conducted by the JSI Research & Training Institute, Inc,¹¹³ between April 1, 2017 and June 30, 2018, nearly 40,000 SNAP households representing 74,000 SNAP clients participated in HIP (made a HIP-eligible purchase and earned HIP) – approximately 9% of all MA SNAP households, with 1 and 2 person households 5.6 times more likely to make a HIP-eligible purchase compared to large households.

Further, every dollar of HIP currently has an additional multiplier effect of \$1.12 – further expanding the impact of SNAP.¹¹⁴ According to USDA data tracked by the Mass Department of Agriculture (MDAR), Massachusetts has 7,241 farms on 491,653 acres. The state’s agricultural industry directly provides employment to 22,828 farm employees and produces an annual market value of over \$475 million in agricultural goods.¹¹⁵ HIP and the resulting increase in SNAP EBT dollars spent at farmers markets and farm stands as well has made an important economic dent in the state’s agricultural economy.

As noted above, nearly half of the HIP purchases are made by 1 and 2 person SNAP households, disproportionately older adults and persons with disabilities. Not only do Massachusetts SNAP seniors get to purchase fresh fruits and vegetables through HIP, visiting farmers markets is an important and effective way to address the growing phenomenon of social isolation.¹¹⁶ A recent Boston Globe article evaluating the “tragic spikes in suicides” in Middlesex County, underscores this growing phenomena among older adults in Massachusetts and across the nation:

“In an increasingly digital and mobile era, fewer people know their neighbors, generations are divided by lifestyles and activities, and more seniors live alone than ever. It’s a recipe for the social isolation described in a study by health insurer Cigna last year that found “loneliness at epidemic levels in America.””

¹¹³ JSI Research & Training Institute, Inc; Evaluation of the Healthy Incentives Program: An Analysis of the State of Massachusetts’s Food Insecurity Nutrition Incentive Grant Program, November 2018.

https://www.jsi.com/JSIInternet/Inc/Common/download_pub.cfm?id=22529&lid=3

¹¹⁴ Mass. Food System Collaborative. <https://mafoodsystem.org/projects/hip-citations/>

¹¹⁵ Mass Department of Agriculture (MDAR), based on 2017 USDA data, Resources, Facts and Statistics, <https://www.mass.gov/info-details/agricultural-resources-facts-and-statistics#current-statistics>. According to MDAR, “USDA defines small farms as farms with agricultural sales below \$250,000. Small farms account for 94.2% of farms in Massachusetts while family or individually owned farms account for 79.7% of Massachusetts farms.”

¹¹⁶ Boston Globe, ‘Disconnected from other folks,’ seniors grapple with a loneliness epidemic” August 3, 2019 <https://www.bostonglobe.com/metro/2019/08/03/disconnected-from-other-folks-seniors-grapple-with-loneliness-epidemic/CMvkmQhvOE6ysYpgogAFeM/story.html>

Although many of our low income Massachusetts seniors and persons with disabilities receive the SNAP minimum \$15/month benefit, the HIP benefit provides additional \$40/month extra in nutrition benefits – and, through expanded connections with SNAP outreach partners, also can help incentivize households to go through the process of verifying unclaimed medical expenses to boost SNAP.

The proposed BBCE regulations, especially the proposed reinstatement of the asset test, will sever the ability of low income households with minimal benefits to participate in the Massachusetts HIP program. Further, the proposed cuts will impact additional services that now spin off of SNAP receipt, including the successful Mass EBT Card to Culture program¹¹⁷, a public-private partnership that gives free and discount admission to museums and culture houses throughout Massachusetts.

USDA has failed to take into consideration in the NPRM the impact of disconnecting households from SNAP and the related programs that reduce social isolation and keep our low-income residents engaged and healthy.

9. The proposed regulations will trigger significant administrative costs for Massachusetts state agencies and local school districts, diverting administrative resources away from higher priorities.

The Commonwealth has invested significant resources over the past six years to improve the efficiency and accuracy of its benefits eligibility systems. Dramatically restricting the BBCE option for Massachusetts would undercut that historic work and increase administrative costs - adding red tape and complexity to an already complex SNAP eligibility system. The regulatory change would also significantly impact both the eligibility and administrative efficiencies that sister-state agencies rely on to administer the Medicaid, WIC and National School Lunch Programs.

A. Massachusetts investments in SNAP access and accuracy would be harmed by cutting BBCE

Massachusetts has made substantial investments to improve services and accuracy. In 2014, Massachusetts shifted from a case-based system to a task-based system, implemented a centralized call center model, and made other significant business process redesigns. More recently, the Baker Administration further modernized the eligibility system to increase administrative efficiencies and access for low-income eligible households across the Commonwealth, including:

- Revision and simplification of the verifications process and SNAP application, Interim Report, and Recertification forms to make eligibility determinations more accurate and streamlined.
- Release of DTA Connect (mobile app and online portal) technology that allows households to send documents directly through the app/online, and to complete

¹¹⁷ Mass Cultural Council EBT Card to Culture <https://massculturalcouncil.org/organizations/universal-participation-initiative/ebt-card-to-culture/overview/>

reevaluation paperwork online. According to state data, in 2018, 25% of all verifications submitted to the Department were submitted through DTA Connect, directly into the client's case record.¹¹⁸

- Expansion of Simplified Reporting to more SNAP households, reducing the number of times workers must work on cases when a household experiences for limited changes.
- Implementation of a USDA approved Elder Simplified Application Program (ESAP) waiver, approved in July 2018 and implemented in December 2018.
- Prioritization of caseworker efforts to ensure timely and accurate processing and to address outstanding issues with households as early as possible in the eligibility determination process. For example, it currently takes DTA an average of 10 days to process a SNAP application – down from 20 days in 2015.¹¹⁹

The State's investments have resulted in a significant decline in wait times for interviews and phone interactions, notable improvements in timeliness and processing, and improved payment accuracy and reductions in quality control errors. Indeed, Massachusetts recently received a number of USDA Quality Control bonus awards.¹²⁰ In FY2018, the MA payment error rate was 4.46 percent – well below the national average of 6.8 percent.¹²¹ The USDA proposed changes to the BBCE state option could potentially undermine many of these administrative improvements.

Balancing workflow is a delicate process. Reinstating a burdensome asset test and a benefit cliff would increase churn and administrative time needed to accurately process cases, undercutting DTA's ability to manage its workload efficiently. This could put the Department at risk of a backlog in processing, which would put our state's entire SNAP caseload at risk of delays in benefit issuance or erroneous case terminations.

B. Cutting BBCE would increase caseload churn and disrupt the Commonwealth's work to timely process SNAP cases.

Massachusetts measures churn using a 90 day look back churn measure – meaning the percentage of applicants who were on SNAP in the prior 90 days. DTA's churn rate is at its lowest point since January 2014, from 32% in late 2014 to 19.5% as of July 2019.¹²²

DTA's extensive work to reduce churn – largely by implementing the improvements listed above - has been mutually beneficial for the state and for low income households. A low churn

¹¹⁸ DTA. "Report on Agency Paper Reduction Efforts." March 2019.

https://www.mass.gov/files/documents/2019/03/19/fy19_dta_report_agency_paper_reduction_efforts.pdf

¹¹⁹ DTA Performance Scorecards, September 2019

¹²⁰ DTA Press Release. Massachusetts Department of Transitional Assistance Receives Federal Bonus for Strong Performance in Program Accuracy and Quality Control in Administering the Supplemental Nutrition Assistance Program. 7/2/18. <https://www.mass.gov/news/massachusetts-department-of-transitional-assistance-receives-federal-bonus-for-strong>

¹²¹ USDA. Supplemental Nutrition Assistance Program: Payment Error Rates, Fiscal Year 2018. <https://fns-prod.azureedge.net/sites/default/files/resource-files/FY18-SNAP-QC-Payment-Error-Rate-Chart.pdf>

¹²² DTA Performance Scorecards, see August 2019 link to see definition of DTA churn rate and data embedded in churn graph. <https://www.mass.gov/lists/departments-of-transitional-assistance-performance-scorecards>

rate ensures families have the continuity of benefits they desperately need and is a driving factor in improved efficiency and accurate operations for the state SNAP agency.

USDA has determined that state flexibility to elect BBCE, in conjunction with Simplified Reporting, lowered state administrative expenses per case by about 7%. According to USDA data tracking administrative costs in the SNAP program by state, Massachusetts administrative costs per case decreased by 64% between FY1999 and FY2016.¹²³ Further, USDA found that BBCE supports states in simplifying eligibility determinations through eliminating the asset test - reducing case manager resources needed to review SNAP applications. USDA's own Regulatory Impact Analysis of the proposed BBCE rule cites a USDA study that shows that limiting categorical eligibility may increase caseload "churn" and that more relaxed asset limits permitted under BBCE reduce SNAP churn by 26%.¹²⁴

In addition to increasing churn, dramatically shrinking BBCE would harm DTA's ability to manage its workload. In the NPRM, USDA estimated the state agency burden for verifying resources at certification would range from about 12 minutes to about 44 minutes. Based on our experiences in Massachusetts, this estimate seems low. Further, USDA's application of average verification burden in the NPRM is confusing and needs more explanation in order for us to be able to thoroughly comment. Even if USDA's time estimate is accurate, such extensive time burdens would seriously diminish the ability of DTA to timely process SNAP cases.

In 2015, the State contracted with the Public Consulting Group, a Massachusetts-based consulting firm¹²⁵, for analysis of DTA's workflow and time case managers spent processing case actions. In an in-depth review of 47 cases, PCG determined that on average it took more than five touches to complete a major eligibility transaction (application, recertification, or reported change). On average, case action took 17 minutes from assignment to completion. Further, PCG found that it takes the state more time to process overdue SNAP cases – an average of 26 minutes, versus 12 minutes for cases that were not overdue.¹²⁶ Falling behind in processing has a snowball effect. Overdue case work requires more time from case managers, which then results in case workers falling even further behind.

As a result of the PCG analysis and input from FNS, DTA made a significant investment its business model to reduce unnecessary case activities and reduce case processing time. These improvements have been publicly recognized by USDA in the form of program accuracy bonus awards. Managing workflow is a delicate balance that DTA has been striking with success for the past few years. Essentially eliminating the BBCE option would throw a monkey's wrench into that balance.

¹²³ USDA. Exploring the Causes of State Variation in SNAP Administrative Costs. June 2019. <https://fns-prod.azureedge.net/sites/default/files/media/file/SNAP-State-Variation-Admin-Costs-FullReport.pdf>

¹²⁴ USDA. "Asset Limits, SNAP Participation, and Financial Stability". June 2016. <https://fns-prod.azureedge.net/sites/default/files/ops/SNAPAssets.pdf> Cited by USDA, Regulatory Impact Analysis – Revisions of Categorical Eligibility in SNAP. Pg 20.

¹²⁵ Public Consulting Group website <https://www.publicconsultinggroup.com/>

¹²⁶ Public Consulting Group assessment report provided to DTA, dated 7/17/15.

C. The changing nature of low-wage work, especially “gig economy” jobs directly impacts SNAP eligibility and increases the likelihood of churn.

In addition to the significant increase in churn from re-instating an asset test, we anticipate that the proposed rule would exacerbate churn in states like Massachusetts with a higher minimum wage coupled with extremely high costs of living and child care – combined with the rise of gig economy work and highly inconsistent hours of “on-call” work in the service industry, agricultural industry and low-wage job sectors.

Across the Commonwealth and consistent with national trends, low pay service sector jobs in the country increasingly offer work that is unpredictable and ever-changing, prompting states to consider legislation to require more advance notice of shift changes.¹²⁷ Employees in the hospitality industry in particular are relegated to “on-call” scheduling practices so that employers pay them for just the hours needed in order to limit labor costs. Workers are expected to set aside time in case they are called into work, often experience scheduling shifts or cancellation of work schedules within a week or less of their shift, and lack of schedule consistency from week to week.¹²⁸

The “SHIFT Project” out of the University of California at Berkeley recently published detailed studies documenting the employer-employee work scheduling practices of retail and fast food workers, including workers in Boston. The SHIFT Project collected survey data from over 60,000 service sector workers in the nation between August 2016 and July of 2018, including 1,163 service sector workers in the Boston metropolitan area.¹²⁹ The SHIFT Project’s survey found:

- Only a third of Boston service sector workers report working at least 40 hours per week. The rest usually work part-time: 34 percent between 30 and less than 40 hours per week, 19 percent between 20 and less than 30 hours, and 10 percent fewer than 20 hours per week.
- Nearly three-quarters of workers reported non-standard work schedules: 33 percent report “variable” schedules, 19 percent report “rotating” schedules, and another 15 percent reported regularly working night or evening shifts. Only 27 percent of service sector workers report a regular daytime work schedule.
- Boston workers also experience a great deal of variation in the total number of hours worked each week. When asked about their work schedule over the past month, the average worker reported a difference of 12 hours between the week they worked the most hours and the week they worked the fewest hours (a 33 percent gap between most and fewest weekly hours worked).

¹²⁷ Johnson, Katie. “Bills seek more stable hours for low-paid workers.” The Boston Globe, July 19, 2015, available at <https://www.bostonglobe.com/business/2015/07/19/growing-movement-stabilize-work-schedules/VdXNfH3AQqID40xaHuzalN/story.html>

¹²⁸ Wolfe, Julia, Jones, J. and Cooper D., Economic Policy Institute “‘Fair workweek’ laws help more than 1.8 million workers” July 19, 2018 <https://www.epi.org/publication/fair-workweek-laws-help-more-than-1-8-million-workers/>

¹²⁹ Schneider, D., Harknett, K. and Collins M. “Working in the Service Sector in Boston Research Brief.” Berkeley’s The SHIFT Project, January 2019. <https://shift.berkeley.edu/working-in-the-service-sector-in-boston/>

- In addition to the common experience of schedule instability, many workers receive limited advance notice of their work schedules. Only 40 percent of workers receive more than 2 weeks' advance notice of their work schedules. 29 percent receive between 1 and 2 weeks' notice. The remaining 31 percent of workers receive less than 1 week's advance notice, and of those, half receive no more than 2 days' notice.

These modern day low-wage work phenomena will negatively impact the state's ability to manage the SNAP caseload if low-paid workers are required to close their SNAP case every time their income goes over 130% of the federal poverty level. MLRI and the anti-hunger community have seen countless numbers of gig economy workers whose income fluctuates widely in any given month or work quarter. Households who drop off SNAP due to the 130% FPL gross income test will need to close their SNAP case then reapply when their income declines. This creates high administrative costs and caseload churn.

D. USDA fails to substantiate its basis for estimated one-time administrative costs and ignores additional costs.

USDA's Regulatory Impact Analysis only includes estimated "one-time costs" estimated at \$5.25 million for states like Massachusetts who currently have BBCE – to make changes to state systems, online applications, and staff training.¹³⁰ The costs of rescinding a policy that has been in place for nearly twenty years in Massachusetts will certainly exceed these identified and limited one-time costs.

Further, it appears USDA did not estimate costs for a variety of additional "one-time" administrative burdens – including changes to the paper application, online reevaluations, paper reevaluations, application and reevaluation translations, client facing mobile applications and online portals, phone systems, and the extensive central office staff time that will be needed to create updated systems requirements, write policy updates, update application and reevaluation forms, and write and deliver extensive training.

Since USDA did not share the details of its discussion with the FNS' State Systems Office informing these cost estimates, it is not possible for us to comment further on the "one-time" cost estimates created by USDA.

However – regardless of USDA's poorly and vaguely calculated "one-time" cost estimates -- in a state struggling with serious levels of poverty and food insecurity, it is unreasonable for USDA to require the Commonwealth to fund rescinding a key state option that provides much needed flexibility and support for low-income households.¹³¹

¹³⁰ USDA, Regulatory Impact Analysis – Revisions of Categorical Eligibility in SNAP. Page 30-32.

¹³¹ Massachusetts has a poverty rate higher than 24 other states. Fox, Liana. The Supplemental Poverty Measure: 2018. September 2019. <https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-268.pdf>

10. USDA fails to take into consideration the administrative costs on programs that rely on the SNAP eligibility determination including Medicaid and School Meals.

USDA fails to take into consideration the impact of the proposed BBCE rule changes on programs that rely on SNAP eligibility determinations to confer eligibility or an extension of eligibility. The loss of SNAP has significant ancillary costs both Medicaid and the National School Lunch Program as well as state programs that rely on the SNAP data for distribution of state education monies.

Impact on National School Lunch Program and on Massachusetts School Districts:

The proposed rule fails to mention or quantify the effect of the change on free school meals, despite the fact that the Administration has indicated to members of Congress and their staff that they estimate that more than 500,000 children would lose free school meals. First, loss of SNAP for families between 130% and 185% FPL means that family must apply for the reduced-price meal status at a cost of \$.70 per day per child (\$.40 lunch and \$.30 breakfast), which can add up substantially for families with more than one child on a weekly basis.

It is unclear from the USDA general estimate how many of those children are in households above or below 130% FPL to measure the impact here. It is also not clear that USDA took into account the children not on SNAP but who live with a child getting SNAP and thus would be directly certified through “extended direct certification.”

However, even a family who would otherwise qualify for free meals (family income under 130% FPL, but the family loses SNAP by virtue of the asset test), also has a direct and negative impact on the school district and the district’s ability to meet the target numbers of “directly certified” students in order to qualify for the Community Eligibility Provision or CEP.¹³² As USDA also knows, students that qualify for free or reduced-price meals through the NSLP application process – but who are not “directly certified” based on receipt of SNAP or TANF – are not part of the identified student percentage, thereby undermining the ability of school districts to embrace this federal option.

Assuming even 10,000 students of the 500,000 children (2% of projected children who lose free meals), this could impact school districts substantially and negatively. Further, in states like Massachusetts, the number of students with a district’s “identified student population” is used for multiple purposes in determining the poverty or “economically disadvantaged” school districts.

For example, since state School Year 2017, Massachusetts has use the direct certification/ISP data as the basis for distribution of state-funded education monies, known as Chapter 70”

¹³² Receipt of SNAP benefits by a child in a household allows that child, and other children within that household, to qualify for free school meals under the federal “direct certification” process. Further, schools or school districts with 40% or greater children who are “directly certified” for free school meals through SNAP or TANF (or are otherwise part of the “identified student percentage”) have the option to pursue the Community Eligibility Provision (CEP) and provide universal free meals for all students

Foundation budgets based on the “economically disadvantaged” metric used for NSLP purposes.¹³³

Impact on Medicaid and CHIP in Massachusetts :

The loss of SNAP eligibility for an estimated 100,000 low income households has a potentially large impact on those individuals whose health care is extended under the Medicaid Express Lane Eligibility (ELE) option, and a potentially significant impact on the state’s Medicaid and CHIP administrative costs. Via Express Lane Eligibility (ELE), the Medicaid state agency uses both the initial SNAP eligibility determination and recertification to renew or extend Medicaid eligibility (called MassHealth in Massachusetts).¹³⁴

In September of 2012, Massachusetts implemented a Medicaid ELE option for both children and parents, approved under an 1115 Waiver. In its 2013 evaluation of the MassHealth ELE policy,¹³⁵ Mathematica made the following observation:

“Although Massachusetts has the highest rate of insurance coverage in the nation, the percentage of people losing MassHealth coverage for administrative reasons was high in comparison to the number losing coverage due to actual changes in eligibility. The ELE process the state adopted reduces the paperwork burden on families and keep eligible families enrolled, reducing churn while also reducing the administrative burden of processing renewals.”

The HHS Office of the Inspector General reported in 2016¹³⁶ that states that elected the ELE option reported significant cost savings and continuity of care, as follows:

“The most commonly reported benefit from ELE was a reduced administrative burden for State agencies and families. Agency officials from 13 of 14 the States reported, and previous research indicated, that ELE reduced State agency administrative tasks to determine eligibility and enroll beneficiaries. About half of the States reported that using ELE produced cost savings. Medicaid officials in 6 of the 14 States reported cost savings from using ELE, mostly due to reduced staff time to complete enrollments and renewals. Agency officials in one State reported that using an automatic ELE model reduced State costs for initial enrollments and renewals by \$7.3 million between 2011 and 2014. In another State, agency officials indicated that the agency saved \$25.77 per initial enrollment and \$5.15 per renewal form, a cost savings they characterized as significant, given the large number of beneficiaries processed through ELE.”

¹³³ Mass Department of Elementary and Secondary Education (DESE), Redefining Low Income - A New Metric for K-12 Education <http://www.doe.mass.edu/infoservices/data/ed.html>

¹³⁴ Medicaid.gov Express Lane Eligibility for Medicaid and CHIP Coverage <https://www.medicaid.gov/medicaid/outreach-and-enrollment/express-lane/index.html>

¹³⁵ Edwards, J., Rodin, D. Health, Mathematica Policy Research, CHIPRA Express Lane Eligibility Evaluation Case Study of Massachusetts’ Express Lane Eligibility Processes November 19, 2013. See also, MassHealth Section 1115(a) Demonstration Waiver 2014-2017 Evaluation Design, Center for Health Policy and Research Jan 2016 <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ma/MassHealth/ma-masshealth-eval-desgn-2014-2017-01302016.pdf>

¹³⁶ Dept of Health and Human Services, Office of the Inspector General, State Use of Express Lane Eligibility for Medicaid and CHIP Enrollment, October 2016. <https://oig.hhs.gov/oei/reports/oei-06-15-00410.pdf>

It does not appear from the NPRM that USDA factored either of these costs (loss of Medicaid eligibility for a period of time, and the administrative tasks now involved in a renewal) in their cost estimates of the proposed BBCE rules.

11. The Massachusetts SNAP program meets the rigorous requirements for robust eligibility determinations.

USDA claims in the NPRM that a basis for this rulemaking change is the lack of robust eligibility determinations done by states who have chosen the federal BBCE option.¹³⁷ In Massachusetts, as with all other states, DTA is required under the federal SNAP statute and regulations to fully review and verify each household's circumstances to determine eligibility for SNAP and, if determined eligible, issue the correct SNAP benefit amount. BBCE does not give Massachusetts or any other state any flexibility on the calculation methodology that must be used when determining the SNAP benefit amount for a household (with the exception of certain USDA-approved waivers such as a standard medical expense deduction).

To qualify for SNAP, all low-income applicants must complete a SNAP application, be interviewed by a state case manager, provide verification of their identity, income, non-citizenship status if applicable, residency, and other factors as determined by the state. In Massachusetts, applicants can apply online, by mail/fax, or in person. The Massachusetts SNAP application clearly states, "To apply for SNAP benefits, you need to prove your income, expenses and other information."¹³⁸ The state agency then sends households a "Verifications Checklist" with the required proofs the household must return in order to complete the application. An interview must also be done a DTA merit worker is completed either by phone or in person.

The application process, verification policies (with the exception of assets), procedures for determining eligibility, timely processing requirements, and administration of benefits are exactly the same for households whose eligibility is evaluated under BBCE and for those who are not categorically eligible (eg. due to an Intentional Program Violation sanction).

Additionally, in accordance with federal SNAP statutes and regulations, all SNAP households must report certain changes in their circumstances and reapply (recertify) for SNAP at regular intervals.¹³⁹ In Massachusetts, all non-Public Assistance SNAP households are required to comply with Simplified Reporting rules. In addition to reporting certain changes, non-elder/disabled households must complete paperwork every 6 months in order to retain SNAP.

¹³⁷ USDA is misleading and inaccurate when it states "it is also possible that households who may not have undergone a meaningful TANF financial eligibility determination through the TANF – funded program become categorically eligible for SNAP" and "Conferring categorical eligibility in such cases compromises the integrity of SNAP by allowing households that did not undergo a financial eligibility determination before receiving TANF-funded benefits, to then be deemed categorically eligible to receive SNAP." FR Vol. 84, No. 142, Pg. 35572.

¹³⁸ Massachusetts paper SNAP application (English): <https://www.mass.gov/files/documents/2017/11/01/c-snapapp-eng.pdf> Identical messages for on-line SNAP application as well.

¹³⁹ 7 C.F.R. §273.12 and §273.14

Most elderly/disabled households without earned income are now in the state's Elderly and Disabled Simplified Application Program (EDSAP), thanks to USDA approval of the ESAP waiver in July 2018. These households must also comply with reporting certain changes and complete recertification paperwork. Households receiving TANF or state general assistance are subject to change reporting rules and must also complete a SNAP Recertification every 12 months. Categorical eligibility does not eliminate or change these rigorous requirements - including re-verifying an array of eligibility areas and having an interview at the point of Recertification.

USDA's rational that higher income households are accessing SNAP as a result of categorical eligibility is further misleading because of the reality of the complex SNAP benefits calculation. As USDA is fully aware, **having income under 200% FPL does not guarantee SNAP eligibility.** The gross income test it is merely a threshold below which the state then evaluates the household's net income, allowing a limited number of expenses to be deducted:¹⁴⁰

- a flat 20% of gross earned income deduction, regardless of actual taxes, mandatory payroll deductions or cost of earning the income (such as transportation and clothing);
- a smaller flat "standard deduction", based on household size;
- the dependent care expenses incurred by the household, if needed for a household member to work, look for work, or go to school;
- a child support deduction allowed for legally-obligated support paid to a dependent child outside of the household;
- a medical expense deduction for expenses above \$35/month, but limited to elder and severely disabled household members; and,
- the "shelter deduction," which is limited to the amount that exceeds half of preliminary net income, and then capped currently at \$552/month for the majority of SNAP households.¹⁴¹

The final SNAP benefit is then calculated assuming 30% of the final "net" income is available to the household for food and thus SNAP will "supplement" the household's food budget.

The SNAP math is both challenging to explain to SNAP applicants as well as elected officials, but the SNAP math has built in cost containment components. For example, the definition of "net" income itself is somewhat misleading for two reasons: 1) the allowable earnings deduction of 20% barely covers taxes and mandatory payroll deductions, and 2) the shelter deduction is capped for all non-elder/disabled households, regardless of actual shelter expenses. Despite these challenges—prescribed by federal law -- the SNAP math formula allows households living on the edge to qualify for modest SNAP benefits as they build skills and assets for economic independence. Further, the reality of the SNAP math means that most households who are eligible for a SNAP benefit amount when income exceeds 130% FPL have significant shelter and dependent care costs.

BBCE does not change any of the strict regulations and requirements for determining eligibility or benefit amount at the point of application - other than waiving the asset test. It is misleading of USDA to say otherwise in the NPRM.

¹⁴⁰ 7 U.S.C. §2014 (e), 7 C.F.R. § 273.10(e)

¹⁴¹ The shelter deduction is scheduled to increase to \$569/month, effective 10/1/19.

12. The Proposed Rule Unlawfully and Unreasonably Limits the TANF Programs that Confer Categorical Eligibility

USDA is proposing a new policy to allowing states to implement a categorical eligibility option on a more limited basis to only to low income households that receive “ongoing and substantial TANF benefits.” Yet USDA fails to recognize that this does not have any meaning within TANF. USDA also requires valuation of non-cash benefits but solicits comments from stakeholders as to how to achieve this.

We wish to respond to the underlying legal problems as well as significant administrative issues this alternate proposal raises in states like Massachusetts, and again urge USDA to withdraw the proposed regulations. The proposed rules limits on which TANF or MOE benefits confer categorical eligibility violates the federal SNAP statute and creates arbitrary and unreasonable distinctions amount households.

Section 5(a) of the Food and Nutrition Act, 7 U.S.C. § 2014(a), unequivocally mandates eligibility for SNAP based on a household’s receipt of benefits in a TANF-funded program:

...[H]ouseholds in which each member receives benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)...shall be eligible to participate in the supplemental nutrition assistance program.

Thus, the statute establishes a *category* of eligibility for households who are receiving benefits in a program funded under Title IV-A of the Social Security Act – the TANF block grant. This categorical eligibility is absolute. It does not give USDA any discretion to decide that some TANF-funded programs confer categorical eligibility and others do not.

Of course, this does not mean that every household receiving a benefit in a program funded under the TANF statute actually qualifies for a SNAP benefit. In general, a household may receive a SNAP benefit only if 30% of the household’s income, after limited allowable deductions, is less than the maximum SNAP benefit for that family size. Thus, regardless of categorical eligibility, high income households will not receive SNAP benefits.

A. The proposal’s arbitrary minimum value and durational requirements for TANF cash assistance benefits undermine Massachusetts’ initiatives to help low income families achieve greater stability and self-support – and violate federal law.

The Food and Nutrition Act specifies no minimum dollar amount, no minimum benefit value amount, and no minimum criteria for a benefit to confer categorical eligibility other than that the benefit be funded under Title IV-A of the Social Security Act.

Our current state Administration has taken a number of steps to help working Massachusetts families receiving benefits in the state’s TANF cash assistance program move towards greater stability and self-support. The proposed minimum monthly value and durational requirements are particularly harmful – and irrational – as applied to these families.

In October 2016, Massachusetts took advantage of the flexibility afforded by TANF and eliminated the gross income test for cash assistance. The gross income eligibility was added to federal law in 1981 for the express purpose of denying cash assistance – then called Aid to Families with Dependent Children (AFDC) – to working families who would otherwise qualify based on their countable income after allowed deductions.¹⁴² TANF, on the other hand, gives states the flexibility to provide cash assistance to working families at higher income levels. Indeed, TANF actually rewards states for providing cash assistance to working families because the state can then count the family in the numerator for the work participation rate which the state is required to meet in order to qualify for its full share of the federal block grant.¹⁴³ By eliminating the gross income test, DTA allows working families with modest incomes to qualify for a small amount of supplemental assistance. Benefits are reduced as incomes increase rather than cut off when families are still very low income.

Also in October 2016, DTA increased the deduction allowed for work expenses to \$200 and extended an additional deduction of half the amount remaining after the work expense deduction to all working households. Over time, DTA has also increased its asset limit for the cash assistance program to \$5,000, and now excludes one vehicle per household. Effective July 2019, the state Legislature enacted a State Administration proposal to disregard all earnings for 6 months when determining the amount of benefits.

As in most states, it is not uncommon for some families to receive TANF cash assistance that is less than \$50 a month. These families in most cases have incomes below 130 percent of the federal poverty level but they may also have assets – which Massachusetts has encouraged them to accrue – in excess of SNAP asset limits. The proposed regulation would require the state to keep track of whether a family’s cash benefit goes below \$50 a month. It is not clear if the state would have to do this on a monthly basis and remove the categorical eligibility designation in any month for which the benefit goes below \$50.

If the cash benefit goes below \$50 a month, DTA would have to determine whether the family’s assets exceed SNAP asset limits. In some cases, the DTA would have to require the family to provide verification of the value of assets and would have to process the verifications. To maintain program integrity, DTA would have to add additional parameters to its matches for bank and other asset records – one for cash assistance recipients receiving more than \$50 in cash assistance and another for cash assistance recipients receiving less than \$50 in cash assistance. The additional requirements would confuse recipients, add to program complexity, increase the risk of error, and boost administrative costs. The NPRM does not consider these adverse consequences.

The proposed durational requirement similarly undercuts Massachusetts’ recent efforts to stabilize low income working families leaving its cash assistance program. A DTA initiative first implemented in October 2016 provides a stepped down benefit for four months to families whose cases closed because of earned income: \$200 plus an \$80 transportation stipend in the first month, \$150 plus \$60 for transportation in the second month, \$100 plus \$40 for transportation in the third month, and \$50 plus \$20 for transportation in the fourth month. The

¹⁴² See S. Rep. No. 97-139, at 504 (June 17, 1981).

¹⁴³ 42 U.S.C. § 607.

goal is to provide a transition for families who are leaving cash assistance because of paid work. In some cases, the family income may be over 130 percent of FPL. In others it will be less.

Regardless of the amount of income, however, the family would not be considered categorically eligible under USDA's proposal because the benefit is for four months rather than six months. Aside from the fact that there is absolutely no basis in the federal statute for requiring a benefit to meet a durational requirement in order for it to confer categorical eligibility, the NPRM offers no basis for concluding that a benefit expected to last six months is appropriate to confer categorical eligibility but a four-month benefit is not.

B. The proposed rule arbitrarily – and without statutory authority – limits the non-cash benefits that confer categorical eligibility.

The overriding purpose of the conversion of the AFDC program to the TANF block grant was “to increase state flexibility” with respect to the families and individuals benefiting from the funding and the types of benefits provided.¹⁴⁴ Accordingly, TANF benefits may be paid in cash. A state may also have a TANF program that provides non-cash benefits. Just as the federal SNAP statute does not say that only certain cash benefits under Title IV-A confer categorical eligibility, so also the federal SNAP statute does not say that only certain non-cash TANF benefits confer categorical eligibility.

This is important because Massachusetts allocates only a small portion of the funds it spends under Title IV-A to cash assistance for families. In FFY 2018, Massachusetts, as permitted by federal law, transferred 20 percent of the TANF block grant to the state's Child Care and Development Fund (CCDF) and 10 percent to Social Services. Just under \$958 million in state maintenance of effort (MOE) and federal funds was spent on programs funded under Title IV-A. Massachusetts spends only \$171 million, less than 18 percent of its state and federal funds remaining after the transfers, on the state's cash assistance program for families. Similarly, all states combined similarly spent only about 20 percent of their state and federal funds on basic assistance.¹⁴⁵

Thus, Massachusetts, like other states, has chosen to use the flexibility for which the block grant was designed to support a broad range of benefits in addition to cash assistance. Many of these other benefits are non-cash and many are provided to families who are not receiving cash assistance. The non-cash benefit programs Massachusetts funds under Title IV-A include child care subsidies (in addition to nearly \$92 million transferred to CCDF), emergency shelter for homeless families, housing stabilization benefits, structured housing for pregnant and parenting teens, and the state's earned income credit. All of these benefits are properly funded with TANF and/or MOE. Households who receive benefits in any of these programs are therefore *categorically eligible* for SNAP under federal law.

¹⁴⁴ 42 U.S.C. § 601.

¹⁴⁵ TANF and MOE Spending and Transfers by Activity, FY 2018: United States, Department of Health and Human Services, https://www.acf.hhs.gov/sites/default/files/ofa/fy2018_tanf_moe_national_data_pie_chart_b508.pdf. “Basic assistance” in the federal report includes some non-cash assistance such as Massachusetts' emergency shelter program.

USDA proposes to limit non-cash TANF benefits that confer categorical eligibility to programs that provide subsidized employment, work supports including transportation or vouchers, or child care subsidies to support working families. Contrary to USDA's proposal, USDA does not have the authority to pick and choose among non-cash benefits and decide that some of them do not confer categorical eligibility. Even if USDA did have the authority to exclude some TANF programs, there is no basis for limiting the allowed programs to those that support working families, while excluding programs, such as emergency shelter and housing subsidies, which support needy families in other ways. Nor is there a basis for excluding programs such as the state's earned income credit which is expressly intended to support working families.

Moreover, allowing the three programs selected by USDA to confer categorical eligibility is unlikely to qualify any Massachusetts households as categorically eligible.

Subsidized employment: Massachusetts currently does not have subsidized employment programs and has not had such programs for a long time. The programs that it had in the past were open only to cash assistance recipients and in some cases the participants continued to receive cash assistance. The USDA proposal to confer categorical eligibility on recipients of TANF-funded subsidized employment programs will therefore have no effect in Massachusetts.

Transportation assistance for working families: Massachusetts does provide transportation assistance *in its cash assistance program* to working families but since those families are receiving cash assistance they are already categorically eligible, even in USDA's proposal.¹⁴⁶

Child care for working families: Conferring categorical eligibility through child care subsidies will have little effect for a different reason. In Massachusetts, the main child care program is administered by the Department of Early Education and Care (EEC), a separate agency that is under a different secretariat from the TANF/SNAP agency.¹⁴⁷ EEC administers its programs through seven independent nonprofit resource and referral agencies. The nonprofits administer about 21,000 child care vouchers. In addition, the state contracts with numerous child care providers across the state to administer an additional 19,000 subsidized child care slots. The state child care agency not surprisingly already has difficulty collecting data from the nonprofits and contracted child care providers. The subsidized child care programs serve families where a parent is working and also families where the parents are not working.

Consequently, the data necessary to determine SNAP categorical eligibility may not be readily available to the state child care agency. And even if the data were readily available to the child care agency, there is currently no data exchange between the state TANF agency and the state child care agency. Does USDA expect that households will be responsible for verifying that they receive child care benefits in a TANF-funded program? In addition to burdening working households, requiring verification of receipt

¹⁴⁶ DTA provides up to \$80/month for TAFDC cash assistance families who participate in approved work activities: <https://www.mass.gov/service-details/get-childcare-and-transportation-help>

¹⁴⁷ Department of Early Education and Care (EEC) <https://www.mass.gov/orgs/department-of-early-education-and-care>

of TANF-funded child care would subject the state SNAP agency to new administrative burdens, because the state agency would be responsible for helping households get the documentation from the child care agency.¹⁴⁸

To be sure, conferring categorical eligibility through receipt of benefits in any program other than one administered by the state SNAP agency may entail administrative difficulties for the state and impose burdens on low income households.

By its terms, the statute does not allow states to avoid recognizing a household as categorically eligible simply because the IV-A benefit the household receives is administered by an agency other than the state SNAP agency. Broad-based categorical eligibility, adopted by the majority of states, avoids the verification and data match issues that would occur if the state SNAP agency – and households – had to establish categorical eligibility by looking to the household’s receipt of benefits in a program funded by a different agency.

Broad-based categorical eligibility thus simplifies administration of the program and facilitates low-income households’ access to nutritional assistance. USDA proposes to replace a method of complying with the statute that is simple and works with a regulation that does not comply with the statute and is not workable. The USDA proposal should not be promulgated.

Respectfully submitted,



Patricia Baker
Vicky Negus
Deborah Harris

¹⁴⁸ Federal regulations require the state SNAP agency to assist households in obtaining required verifications. 7 C.F.R. § 273.2(c)(5). “If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by paragraph (c)(5) of this section.” 7 C.F.R. § 273.2(d)(1). “The State agency must assist the household in obtaining the required verification provided the household is cooperating with the State agency as specified under paragraph (d)(1) of this section.” 7 C.F.R. § 273.2(f)(5)(i).



JANE SWIFT
GOVERNOR

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 727-3600

For Release: Friday October 19, 2001
Contact: Jim Borghesani
Sarah Magazine
(617) 727-2759
Rich Copp
(617) 727-0077

SWIFT EXPANDS ASSISTANCE FOR FAMILIES

Governor Jane Swift today announced that more working families in Massachusetts will now be eligible to participate in the Commonwealth's Food Stamp program as a result of changes that will expand access to the program.

"As a nation and as a Commonwealth we are facing uncertain times," said Swift. "Now, more than ever, we need to make sure that families have access to the assistance they need and this is one way we can help."

As a result of the changes, the Department of Transitional Assistance (DTA) which administers the food stamp program will expand eligibility by no longer including the value of an automobile as part of the Food Stamp application process. With welfare recipients continuing to enter the work force and getting their children to and from day care, a reliable vehicle is an absolute necessity for many. In addition, Massachusetts will expand categorical eligibility for Food Stamps to all families earning less than 200 percent of the federal poverty level. The changes will make hundreds -- possibly

-more-

thousands -- of additional families eligible statewide.

“One by one, we’re breaking down the bureaucratic barriers that have made it difficult for many working families to provide food and nourishment” said DTA Commissioner Claire McIntire.

A recent study by the United States Department of Agriculture showed that while Massachusetts enjoys one of the best food security rates in the nation, the rate of eligible families participating in the food stamp program was lower than the national average. The changes announced today represent an effort to build on steps the Swift Administration has already undertaken, such as expanded DTA office hours, direct mailings, and shelter outreach efforts, to maximize the statewide food stamp participation rate.

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The Commonwealth of Massachusetts



SNAP

ON BEHALF OF THE CITIZENS OF THE COMMONWEALTH OF MASSACHUSETTS, I AM PLEASED TO CONFER UPON YOU THIS GOVERNOR'S CITATION IN RECOGNITION OF THE IMPORTANCE SNAP AS THE FIRST LINE OF DEFENSE AGAINST HUNGER IN THE NATION AND I EXTEND WARM GREETINGS TO YOU ON THE JOYOUS OCCASION OF YOUR 40TH ANNIVERSARY.

THIS TWENTY-SIXTH DAY OF SEPTEMBER IN THE YEAR 2017

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor