Using SNAP to Address Food Insecurity During the COVID-19 Pandemic

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SUMMARY. It is estimated that more than 50 million Americans experienced food insecurity in 2020 as the COVID-19 pandemic ravaged the U.S. economy. This is a devastating 42% spike in food insecurity from 2019. Recent data from the United States Department of Agriculture (USDA) indicates that 35.2 million Americans experienced food insecurity in 2019. In fact, 2019 represented a 19-year low in the national food insecurity rate. However, the USDA’s 2019 data revealed that the burden of food insecurity continued to be inequitably experienced. White Americans experienced food insecurity at a rate of 7.9%, while the rates for Black Americans and Latino Americans were 19.1% and 15.6%, respectively. Preliminary studies of the 2020 food security crisis indicate that this disturbing inequity continues. Unfortunately, the economic challenges that created this drastic increase in food insecurity will linger for years. Economic projections expect the national economy to return to pre-pandemic levels in 2023. During this period of economic recovery, the Supplemental Nutrition Assistance Program (SNAP) will be vital in addressing food insecurity. This Chapter analyzes recent government actions pertaining to SNAP within the context of a prolonged economic recovery. This analysis focuses on government actions pertaining to the value of SNAP benefits and eligibility for SNAP. It also provides recommendations to enhance SNAP’s ability to fight food insecurity during this public health crisis.

Introduction

As discussed in Chapter 29 of Assessing Legal Responses to COVID-19: Volume I, the COVID-19 pandemic has exacerbated the food security crisis in the United States. Recently published food security data reveals that prior to the pandemic, in 2019, 10.5% of US households or 35.2 million Americans were food insecure (Coleman-Jensen et al., 2020). National food insecurity had not been this low since 2000. However, the pandemic-induced economic crisis caused a disturbing spike in food insecurity. Experts estimate that more than 50 million Americans experienced food insecurity during 2020 (Feeding America, 2020). Unfortunately, the weak economy that has led to this food insecurity is not projected to recover until 2023 (Shulman, 2020).

Even during better times, the burden of food insecurity is inequitably experienced. Prior to the pandemic, in 2019, white Americans experienced food insecurity at a rate of 7.9%, while rates for Black Americans and Latino Americans were 19.1% and 15.6% respectively (Coleman-Jensen et al., 2020). This inequity is perpetuated during the pandemic. A full analysis of the pandemic’s impact on food security in 2020 is not yet available. However, a study by Feeding America found that while only 3% of all counties in the United States are majority Black, 18 of the 25 counties with the highest projected food insecurity rates were majority Black (Feeding America, 2020).

The Chapter in Volume I also discussed how SNAP could be leveraged to address this food security challenge and provided numerous legal and policy recommendations. This Chapter analyzes recent government actions pertaining to key recommendations made in the first Volume. The analysis will specifically focus on government actions that pertain to (1) increasing the value of SNAP benefits and (2) increasing the number of individuals eligible for SNAP.

Increasing the Value of the SNAP Allotment

Increase Maximum SNAP Allotment

Part I discussed the need for the federal government to increase the maximum value of the SNAP allotment, the money provided to households for the purchase of food. Three factors drove the need for this increase. First, it would provide support to the 40% of SNAP households that were already receiving the maximum allotment. Second, it would help address the baseline inadequacy of the allotment, which fails to support a healthy diet under normal
conditions. Third, SNAP provides strong economic stimulus for the larger economy.

Congress began to address the insufficiency of the SNAP allotment through the Consolidated Appropriations Act of 2021. The act increased the SNAP allotment for all households by 15% by requiring the maximum allotment value to be calculated using 115% of the thrifty food plan. For a family of four, the increase in benefits could be as much as an additional $102 per month (USDA, 2020a). This increase went into effect on January 1, 2021 and will provide needed support to vulnerable Americans.

Unfortunately, this allotment increase will sunset on June 30, 2021. This appears to be a political compromise. In the Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES Act), the House originally proposed a September 30, 2021 sunset for the 15% increase. In contrast, the Senate’s earlier stimulus efforts, The Health, Economic Assistance, Liability Protection, and Schools Act (HEALS Act), did not include any allotment increase for the SNAP program.

However, the Biden administration has recognized the need to extend the 15% SNAP benefit increase. President Biden’s American Rescue Plan, a $1.9 trillion relief package, calls on Congress to extend the benefit increase through September 2021. He has also indicated that he is committed to providing this additional support “for as long as the COVID-19 crisis continues, and will work with Congress on ways to automatically adjust the length and amount of relief depending on health and economic conditions...”(White House, 2021). At the time of this writing, the House and Senate have passed a concurrent budget resolution and are working on the appropriations bill to implement Biden’s plan (Pramuk, 2021).

While extending the SNAP benefit increase through June 2021 or September 2021 is helpful, more is needed to support the millions of Americans struggling with food security. Recently, Federal Reserve Board Vice Chairman Richard Clarida asserted that recovery from the COVID-19 recession may take until the end 2023 (Lane, 2020). Clarida’s view is supported by other economic forecasts that predict that the nation’s GDP will not recover until 2023 and that employment will not recover to pre-pandemic levels until “well past 2022” (Shulman, 2020). Sunsetting the SNAP increase in June or September ignores that the economic conditions driving the nation’s exacerbated food insecurity still exist and economic recovery is years away. This only underscores the recommendation, made in Volume I, that the duration of any temporary SNAP benefit increase must be linked to an economic metric that reflects a decreased need for government support. The Center of Budget and Policy Priorities recommends terminating the increase when there is a decrease in the three-month unemployment rate for two straight months that results in an unemployment rate within 1.5% of the pre-pandemic level (Rosenbaum et al., 2020).

**Increase Minimum SNAP Allotment**

Volume I also recommended that Congress increase the minimum SNAP allotment from $16 per month to $30 per month. This increase is necessary to provide meaningful support to the approximately 1.8 million households that qualify for the minimum allotment, the majority of which include elderly individuals. The proposed HEROES Act included this increase. However, this change did not make it into the Consolidated Appropriations Act of 2021. Currently, the USDA is still approving emergency allotment waivers that allow states to issue up to the maximum allotment regardless of a SNAP household’s income. However, it is unclear how long the emergency allotment will be in place. States must apply for these waivers each month and the USDA has indicated it will grant these extensions if the state meets their data reporting requirement, the federal public health emergency declaration is in place, and the state is under a state declared emergency (USDA, 2020b). This system leaves minimum allotment households vulnerable, especially if the public health emergency declarations end before the economy has recovered. As discussed in Volume I, if the federal government is unwilling to provide this support, state governments can enact legislation to increase the minimum allotment in their jurisdiction.

**Increasing the Number of Individuals Eligible for SNAP Able-Bodied Adult Without Dependents (ABAWD) Requirement**

The ABAWD work requirement mandates that individuals between the ages of 18–49, who can work and do not have dependents, meet special work requirements to receive more than three months of SNAP in a three-year period. To address issues with the ABAWD work requirement, Part I made two recommendations. First, Congress should link the duration of the ABAWD work requirement waiver, passed as part of the Families First Coronavirus Response Act, to an economic recovery indicator rather than the termination of the federal public health emergency declaration. Second, the Trump administration’s new regulations pertaining to the ABAWD work requirement should be repealed. These regulations greatly restricted a state’s ability to (1) secure geographic waivers of the work requirement based on poor economic conditions and (2) grant struggling ABAWDs monthly exemptions to the work requirement. The repeal of these regulations was critical because 700,000 ABAWDs were expected to lose their SNAP benefits once the federal waiver expired (84 Fed. Reg. 66,792, 2019). The potential harm from this loss of benefits would be compounded because the federal ABAWD waiver was not linked to the nation’s economic recovery, leaving these individuals without SNAP benefits in a weak economy with few job options.

Unfortunately, Congress did not utilize the Consolidated Appropriations Act of 2021 to link the ABAWD work requirement waiver to the nation’s economic recovery. However, the problematic regulations were vacated on October 18, 2020 (District of Columbia v. USDA, 2020). A group of states, cities, and private entities challenged the regulations as an invalid use of agency power. In a scathing opinion, the United States District Court for the District of Columbia agreed with the plaintiffs. The court began its dissection of the regulations by invalidating them on procedural grounds. The court held that the USDA had failed to give the public notice of, and opportunity to comment on the regulatory changes as required by federal law. The court then went on to invalidate the geographic waiver restrictions as “arbitrary and capricious” because they lacked any evidentiary basis. Lastly, the court struck down the
individual exemption limitations as contrary to the agency's statutory mandate. While the USDA appealed this decision in December of 2020, it is likely that the appeal will be dropped under the Biden administration.

**Ban on Individuals with Drug Felony Convictions**

Finally, Volume I called for the repeal of the lifetime ban on SNAP benefits for individuals with a felony drug conviction. This ban disproportionately impacts people of color and women, undermines the food security of families, and creates barriers to reintegration. While many states have opted out or modified this ban, as permitted by federal law, it continues to undermine the food security of many Americans (Payne et al., 2020).

Congress attempted to repeal part of this problematic law through the historic Marijuana Opportunity Reinvestment and Expungement Act of 2019 (MORE Act). When the MORE Act passed the House (228-164), it was the first time a chamber of Congress had passed a bill to decriminalize marijuana at the federal level. The MORE Act also attempted to redress some of the negative societal impacts caused by the war on drugs. Key provisions of the bill included expungement and resentencing measures for federal cannabis offenses, federal funding to reinvest in communities and individuals adversely impacted by the war on drugs, and the removal of legal barriers to key federal benefits. For our discussion, it is important to note that the MORE Act prohibited a person from being denied any federal public benefit based on cannabis use or a cannabis conviction. This would have repealed the SNAP drug felony ban but only for individuals with cannabis convictions. Unfortunately, the MORE Act died in the Senate. However, now that control of the Senate has changed, there may be a greater chance to repeal the SNAP drug felony ban. Also, if the federal government is slow to progress on this issue, states have the authority to opt out of this ban and should do so.

### Recommendations for Action

**Federal government:**

- Congress should:
  - Link the duration of the temporarily 15% increase in the maximum SNAP allotment to an economic recovery metric, rather than an arbitrary date.
  - Increase the minimum value of a SNAP allotment from $16 to $30.
  - Link the duration of the temporary ABAWD waiver to the nation's economic recovery, rather than the termination of the public health emergency declaration.
  - Repeal legislation that bans individuals with felony drug convictions from participating in the SNAP program (21 U.S.C. § 862a).

**State governments:**

- If the federal government fails to increase the minimum SNAP allotment, pass legislation to increase the minimum value of SNAP allotment within the state. This requires allocation of state funds to supplement the federal benefit.
- If the federal government fails to repeal the SNAP ban on individuals with felony drug convictions, pass legislation that completely opts out of the SNAP felony ban.
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About the Author

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References


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