



MAR 07 2019

Food and Nutrition Service

SUBJECT: Supplemental Nutrition Assistance Program Provisions of the Agriculture Improvement Act of 2018 – Information Memorandum

Park Office Center

TO: Regional Administrators  
Food and Nutrition Service  
All Regions

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On December 20, 2018, the Supplemental Nutrition Assistance Program (SNAP) was reauthorized as part of the Agriculture Improvement Act of 2018 (the Act) [P.L. 115-334]. Attached is an information memorandum describing SNAP provisions and effective dates. Regulations reflecting revisions to SNAP made by the Act will be published as soon as possible. Please forward the attached memorandum to your State commissioners.

Please keep us advised of any challenges faced by States in implementing these changes. If you have questions, please reach out to the Director listed below as the contact for that Section of the Act.

Number	Title	Contact
Section 4001	Requirements for online acceptance of benefits	Andrea Gold
Section 4002	Re-evaluation of the thrifty food plan	Lizbeth Silbermann
Section 4006	Improvements to electronic benefit transfer system	Andrea Gold
Section 4007	Review of Supplemental Nutrition Assistance Program operations	Andrea Gold
Section 4008	Retail incentives	Andrea Gold
Section 4009	Required Action on data match information	Lizbeth Silbermann
Section 4010	Incentivizing technology modernization	Lizbeth Silbermann
Section 4011	Interstate data matching to prevent multiple issuances	Ronald Ward
Section 4012	Requirement of live-production environments for certain pilot projects relating to cost sharing for computerization	Karen Painter-Jaquess

Section 4013	Quality control improvements	Ronald Ward
Section 4014	Evaluation of child support enforcement cooperation requirements	Lizabeth Silbermann
Section 4015	Longitudinal data for research	Ronald Ward / Karen Painter-Jaques
Section 4019	Nutrition education	Ronald Ward
Section 4020	Retail food store and recipient trafficking	Andrea Gold / Ronald Ward
Section 4021	Public-private partnerships	Lizabeth Silbermann
Section 4205	Gus Schumacher nutrition incentive program	USDA NIFA / Andrea Gold
Section 4208	Healthy fluid milk incentives	Andrea Gold



Jessica Shahin  
Associate Administrator  
Supplemental Nutrition Assistance Program

Attachment

## **Agriculture Improvement Act of 2018 – Information Memorandum**

The Supplemental Nutrition Assistance Program (SNAP) was recently reauthorized as part of the Agriculture Improvement Act of 2018 (the Act), P.L. 115-334, enacted December 20, 2018. The law contains various provisions that affect SNAP eligibility, benefits, and program administration, including changes mandated by the law and those that provide additional flexibility for State agencies. All provisions of the Act related to SNAP are effective as of the date of enactment, unless otherwise stated.

This memorandum describes most of the SNAP related provisions and the implementation action required. Note that the Food and Nutrition Service (FNS) issued an information memorandum on February 8, 2019, regarding Section 4004: Simplified Homeless Housing Cost and an information memorandum on March 6, 2019, regarding Section 4005: Employment and Training for SNAP.

The provisions fall into four categories based on when they are to be implemented or what agency action needs to occur. The categories are immediate implementation (self-executing); implementation in Fiscal Year 2020; implementation after rulemaking; FNS action; and provisions already in effect. The provisions are grouped below chronologically within each group. Note that some provisions fall within more than one group, as aspects of a given provision may have different implementation requirements.

As with previous legislative changes to the program, FNS will, as appropriate, hold States harmless for Quality Control (QC) purposes for 120 days from the implementation date, following requirements outlined in SNAP regulations at 7 CFR 275.12(d)(2)(vii).

### **PROVISIONS AND EFFECTIVE DATES**

#### **A. Self-executing provisions - States must implement immediately**

##### **Section 4006: Improvements to electronic benefit transfer system**

***Prohibited Fees:*** This provision defines switching and prohibits the charging of fees for switching or routing SNAP benefits by any State, contractor, or subcontractor through fiscal year (FY) 2023. This prohibition applies to all new agreements, as well as any extensions or modifications of existing agreements, entered into by States with their EBT contractors.

The prohibition on switching and routing fees already applies to EBT contractors and subcontractors in accordance with Section 750 of the Consolidated Appropriations Act of 2018, P.L. 115-141 (March 23, 2018). This prohibition will continue to apply to all new agreements, as well as any extensions or modifications of existing agreements, entered into by EBT contractors and their clients, now effective through FY 2023. FNS will update guidance issued as a result of the Consolidated Appropriations Act of 2018 and may also codify these changes in future rulemaking.

**Section 4009: Required Action on data match information**

This provision requires verification of data matches if the information significantly conflicts with information used at certification; is obtained from prisoner match, death match, or National Accuracy Clearinghouse (NAC) match; or is fewer than 60 days old compared to the current month; and would have been required to be reported by the household.

This provision codifies the regulatory provisions of the SNAP Eligibility, Certification, and Employment and Training Provisions Final Rule regarding acting on changes during a household's certification period, with the addition of the NAC match. FNS expects that, as required by regulation, States are already in compliance with this provision, except that the requirement for actions related to the NAC match will not be effective until after rulemaking occurs (see below).

**Section 4013: Quality control improvements**

This provision requires that State agencies provide access to SNAP records and the entire information systems in which the records are contained and make them available to the U.S. Department of Agriculture for inspection and audit, both as part of general State operations, and specifically as part of the QC process. FNS is working with State agencies to ensure that all State agencies have agreements in place regarding data and security protocols.

In addition, this provision eliminates performance bonuses, effective beginning in FY 2019 for performance in FY 2018. FNS will no longer provide bonus payments to States for any performance measures. States should note that, while this section removes the authority to provide bonus payments to States, it does not change the provisions in current law related to State agency liability.

This section also requires the debarment of any person who knowingly submits or causes submission of false QC information to the Department.

**B. Provisions effective beginning in Fiscal Year 2020**

**Section 4006: Improvements to electronic benefit transfer system**

***Benefit recovery:*** This provision changes the timelines for storing and expunging benefits that SNAP households have not used. Under these changes, State agencies may move benefits offline after they have not been accessed in 3 months and must expunge benefits that have not been accessed in 9 months, or upon verification that all members of the household are deceased. The section also outlines requirements for notifying households. This change is effective at the start of FY 2020 to allow States to implement this change with their contracted EBT Processors. FNS will codify this change in future rulemaking.

### **Section 4019: Nutrition education**

This provision requires State agencies to submit the following information in an annual State report: how they use SNAP-Ed funds, including the itemized administrative cost categories in the Act; a description of each project, its target population and performance indicators, and evaluations; and a comprehensive analysis of impacts and outcomes. As required, FNS will make these reports publicly available. The Department will update the SNAP-Ed guidance for FY 2020 to reflect the changes made by this provision.

This provision also requires the FNS Administrator, in consultation with the National Institute of Food and Agriculture (NIFA) Director, to submit an annual SNAP-Ed evaluation report to Congress. State agencies will be directed to make the changes required by this provision for FY 2020. FNS will gather the required information for this report and begin the annual submission in FY 2021, once FY 2020 State reports have been compiled.

### **C. Provisions effective after rulemaking occurs – States must implement after rulemaking**

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#### **Section 4001: Requirements for online acceptance of benefits**

This provision amends the definition of a retail food store to include online entities. FNS will implement this provision through rulemaking to make corresponding changes to the regulatory definition.

This section also strikes certain provisions in current law (authorized by the Agricultural Act of 2014) regarding demonstration projects to test the feasibility of accepting benefits through online transactions and the required report to Congress on the results of those projects. FNS is currently in the process of implementing the online purchasing demonstration projects and will complete these pilots to gain insight into the benefits and challenges of online purchasing with SNAP benefits. FNS intends to incorporate information from the pilots through rulemaking.

#### **Section 4011: Interstate data matching to prevent multiple issuance**

This provision directs the Department to establish an interstate data system, known as the National Accuracy Clearinghouse (NAC), to prevent individuals from being issued SNAP benefits in more than one State simultaneously. As directed by the Act, FNS will issue regulations, including interim final regulations, no later than 18 months after enactment, that carry out this provision by incorporating lessons learned and best practices from the NAC pilots, requiring action on matches from the NAC, and establishing safeguards to protect the privacy of information in the NAC. The section requires that State agencies must conduct the initial NAC matches and corresponding actions no later than 3 years from the date of enactment.

Pilot NAC States may continue operations in accordance with previous guidance. States already conducting NAC operations prior to the issuance of regulations will be required to come into compliance with the new rules when they go into effect. States with NAC experience are especially encouraged to provide formal comments as part of the rulemaking process in order to inform final agency action.

### **Section 4013: Quality control improvements**

This provision requires that interim final QC regulations regarding system integrity, oversight of contracts, data accuracy, and procedures to evaluate at least two State agency QC systems per fiscal year be issued within 180 days of enactment. This provision also amends the Federal cost-share requirements for automatic data processing and information retrieval systems to require such systems to be accessible by the Secretary for inspection and audit.

## **D. Provisions requiring FNS action**

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### **Section 4002: Re-evaluation of the thrifty food plan**

This provision requires the Department to re-evaluate and publish revisions to the Thrifty Food Plan based on current food prices, food composition data, consumption patterns, and dietary guidance every 5 years beginning in 2022. FNS will implement these changes on the schedule required by the Act and will revise SNAP regulations to incorporate the updates to the statutory language.

### **Section 4006: Improvements to electronic benefit transfer system**

***EBT portability:*** This provision allows farmers markets and direct marketing farmers to operate an EBT POS device at more than one location under the same SNAP authorization if they provide location and operating information to FNS and if the POS device can provide its location through the EBT system. FNS is reviewing whether technology is available for POS devices to provide location information to FNS. If such technology is not available, FNS will issue regulations to specify what additional information beyond location and operating information FNS needs from farmers and markets to ensure integrity.

***Modernization of EBT regulations:*** This provision requires that FNS periodically review and modify EBT regulations to account for evolving technologies and comparable industry standards.

***Mobile Technologies:*** This provision directs the Department to authorize the use of mobile technologies for the purpose of accessing SNAP benefits. It replaces the existing section of the Food and Nutrition Act regarding demonstration projects for the use of mobile technologies focused on retail stores, and now requires that, prior to nationwide implementation, FNS approve not more than five projects submitted by State agencies to pilot participant use of mobile technologies to make payments at the point-of-sale. The section outlines project requirements and priority selection criteria.

As directed by the Act, FNS will solicit and approve the qualifying demonstration projects by January 1, 2021. Based on the results of the pilots, the Department will make a determination of whether authorizing mobile technologies nationwide is in the best interest of the program by January 1, 2022, and either authorize full implementation or provide a report to Congress.

***Approval of retail food stores:*** This provision allows FNS to set criteria to ensure that an applicant or participating retailer's selected EBT equipment and service provider provides sufficient information through the EBT system to minimize the risk of fraudulent transactions. Prior to applying these criteria, the provision directs FNS to issue guidance for retail food stores on how to select EBT equipment and service providers that meet the requirements.

This provision also specifies that FNS regulations may require retailers to submit records relating to electronic benefit transfer equipment and transaction and redemption data provided through the electronic benefit transfer system as items necessary for determining eligibility or continued eligibility to participate in SNAP.

#### **Section 4007: Review of Supplemental Nutrition Assistance Program operations**

This provision requires the FNS to review a representative sample of facilities for elderly/disabled individuals that are authorized as SNAP retailers to determine if they are properly using SNAP benefits and whether such facilities are utilizing more than one source of Federal or State funding to meet the food needs of residents.

The review must be completed within 18 months of enactment after which FNS will send Congress the required report with recommendations about any additional oversight requirements that would be appropriate and whether such facilities should continue to be authorized.

#### **Section 4008: Retail incentives**

This provision defines eligible incentive foods and directs the Department to issue guidance clarifying the process by which retail food stores can request a waiver to offer point of sale incentives to SNAP households for the purchase of such foods. No funding is provided under this section for such incentives. FNS will implement this provision by issuing guidance for retailers regarding the waiver process and submit the required annual report to Congress describing the types of approved incentives.

**Section 4010: Incentivizing technology modernization**

This provision removes references to improving access to benefits, reducing barriers to participation, and enrolling eligible households from the purposes of the *Grants for Simplified Application and Eligibility Determination Systems and Improved Access to Benefits* (commonly known as the Process and Technology Improvement Grants (PTIGs)). The grants remain targeted toward simplified application and eligibility determination systems, with an added focus on improving administrative infrastructure and enhanced technological methods for applying for benefits and determining eligibility. FNS will implement these changes in the FY 2019 PTIG request for applications.

**Section 4014: Evaluation of child support enforcement cooperation requirements**

This provision requires that the Secretary conduct, in consultation with the Secretary of Health and Human Services, an independent evaluation of a representative sample of States to assess implementation of child support enforcement options in six States that previously or currently implement those options. The evaluation shall include an assessment of the costs associated with implementing these options, the manner in which these options are implemented and enforced, and the effect of these options on SNAP eligibility. State agencies are required to cooperate with the evaluation and FNS must submit a report to Congress within 3 years of the date of enactment.

**Section 4015: Longitudinal data for research**

This provision permits State agencies to establish databases with eligibility, benefit, and demographic information about SNAP households and individual members and requires that the Department establish parameters, including data security and a procedure for States to use a unique identifier for individuals.

The section also makes the databases an allowable State agency expense eligible for 50/50 reimbursement and provides \$20 million in FY 2019 to remain available through FY 2021 and an additional \$5 million each fiscal year thereafter for carrying out this provision. These funds may be used for Federal costs and to provide grants to States implementing longitudinal databases in accordance with this provision.

FNS will implement this section to establish State requirements prior to awarding competitive grants for the establishment of such databases. As required, FNS will submit a report on the feasibility of expanding longitudinal databases to every State no later than 4 years from the date of enactment of the Act.

**Section 4019: Nutrition education**

This provision requires State agencies to describe in their SNAP-Ed State plans how they will measure and evaluate projects and to account for itemized SNAP-Ed administrative costs, in order to report this data electronically to FNS. FNS is working towards developing guidance to assist State agencies with implementing this requirement and may further define requirements through rulemaking.

## **E. Provisions already in effect**

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### **Section 4020: Retail food store and recipient trafficking**

This provision extends the authorization of appropriations of \$5 million for each fiscal year through 2023. No new activities are authorized or required by this section. FNS will continue to utilize any new appropriations to supplement its retail food store and recipient integrity activities.

### **Section 4012: Requirements of live-production environments for certain pilot projects relating to cost sharing for computerization**

This provision clarifies the language regarding Federal cost sharing for major systems changes to specify that pilots are required to test the system prior to implementation and that they must be conducted in a live production environment. Current regulations require live production pilots prior to system rollout so all States are expected to already be in compliance with this requirement. The Department intends to update existing regulations to include a definition of “major systems changes.”

### **Section 4013: Quality control improvements**

The provision directs the Department to establish performance criteria related to actions taken to correct errors, reduce rates of error, improve eligibility determinations, and other indicators of effective administration. Current regulations outline performance criteria for payment accuracy, negative error rates, program access, and application processing timeliness. FNS will continue to utilize these measures to monitor State performance, without issuing bonuses. States are expected to make ongoing efforts to maintain and improve their performance across these areas to ensure program integrity and customer service.

Future rulemaking may revise performance criteria as the Department determines appropriate.

### **Section 4019: Nutrition education**

This provision requires FNS to consult with the National Institute of Food and Agriculture on the administration of SNAP-Ed. This is current practice and FNS will continue these consultations. This provision allows projects carried out with SNAP-Ed funds to be coordinated with the expanded food and nutrition education program, subject to the approval of the Secretary. This is also current practice and FNS will continue to allow this coordination.

This section also requires that the Department provide technical assistance to State agencies in developing and implementing SNAP-Ed plans and create an online clearinghouse for best practices. FNS will continue issuing annual SNAP-Ed plan guidance, updating and maintaining the SNAP-Ed Interventions Tool-kit and operating the existing SNAP-Ed Connection, which serves these purposes.

**Section 4205: Gus Schumacher nutrition incentive program**

This provision maintains and enhances the Food Insecurity Nutrition Incentive grants that were made available by the 2014 Farm Bill, in addition to creating a new produce prescription program and establishing one or more Nutrition Incentive Training, Technical Assistance, Evaluation, and Information Centers. While the National Institute for Food and Agriculture will administer these grants and will determine how best to implement the Centers, FNS will continue to provide policy support and direction to both NIFA and grantees.

**F. Provisions Subject to Appropriation**

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**Section 4021: Public-private partnerships**

This provision allows the Secretary to carry out up to 10 pilot projects to support public-private partnerships that address food insecurity and poverty. The section outlines project requirements, requires the Secretary to conduct an independent evaluation of effectiveness and best practices and provides an authorization of appropriations of \$5 million available until expended.

**Section 4208: Healthy fluid milk incentives**

This provision calls for development of projects that test methods to increase the purchase and consumption of fluid milk by members of SNAP households to improve diet quality and nutritional outcomes. FNS would implement the healthy fluid milk incentives via a competitive grants process for government entities or non-profit organizations. This provision authorizes an appropriation of \$20,000,000. An independent evaluation is required and a report to Congress is due by December 31, 2020 and biennially thereafter.