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

Re: Notice of Proposed Rule Making Regarding Supplemental Nutrition Assistance Program (SNAP) Standardization of State Heating and Cooling Standard Utility Allowances -- RIN 0584-AE69

[Submitted via <https://www.regulations.gov>]

Dear SNAP Program Design Branch:

The National Women's Law Center (the "Center") takes this the opportunity to comment in opposition to USDA's Notice of Proposed Rule regarding Supplemental Nutrition Assistance Program (SNAP) Standardization of State Heating and Cooling Standard Utility Allowances. The proposed changes would cause serious harm to low-income women and their families, their communities, and the nation.

The Center fights for gender justice — in the courts, in public policy, and in society — working across the issues that are central to the lives of women and girls. The Center uses the law in all its forms to change culture and drive solutions to the gender inequity that shapes society and to break down the barriers that harm everyone — especially those who face multiple forms of discrimination. For more than 45 years, the Center has been on the leading edge of every major legal and policy victory for women.

Because of the importance of the Supplemental Nutrition Assistance Program (SNAP) to women's economic security, health, and well-being,¹ the Center strongly opposes any change in policy or regulation that further limits the receipt of SNAP benefits by low-income women, children, and families. More specifically, the Center opposes the

¹ HEATHER HARTLINE-GRAFTON, FOOD RES. & ACTION CTR., THE IMPACT OF FOOD INSECURITY ON WOMEN'S HEALTH, <http://frac.org/blog/impact-food-insecurity-womens-health>. See also STEVEN CARLSON & BRYNNE KEITH-JENNINGS, CTR. ON BUDGET AND POL'Y PRIORITIES, SNAP IS LINKED WITH IMPROVED NUTRITIONAL OUTCOMES AND LOWER HEALTH CARE COSTS (Jan. 17, 2018), <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>.

proposed changes to state Standard Utility Allowances (SUAs) for the following reasons:

- SNAP reduces hunger, food insecurity, and poverty for millions of people, including a diverse group of women, children, and families.
- The current flexibility given to states to determine their SUAs, with review and approval from USDA, is efficient for states and households.
- The proposed rule's changes to SUAs will cut SNAP benefits for about 7 million people in 3 million households and will harm women, children, and their families, especially low-wage working women, mothers, and women with multiple marginalized identities such as women of color, immigrant women, LGBTQ women, women with disabilities, senior women.
- The proposed rule will undermine the ability of SNAP to respond to future recessions, hurting families, businesses, and the economy writ large.
- The proposed rule disregards congressional intent. In addition, USDA failed to provide its rationale for changing the existing Heating and Cooling Standard Utility Allowance (HCSUA) calculation, its proposed methodology for calculating HCSUAs, or adequately describing the impacts of the proposed rule.

I. SNAP reduces hunger, food insecurity, and poverty for millions.

SNAP plays a critical role in reducing hunger, food insecurity, and poverty for millions of women and families. SNAP lifted 3.1 million people out of poverty in 2018.² In Fiscal Year (FY) 2018, SNAP served more than 39.7 million people in 19.7 million households on average each month.³

SNAP serves a diverse group of women, children, and families:

- 63 percent of adult SNAP recipients are women.⁴
- White, non-Hispanic women make up 25 percent of adult recipients, while women of color are 33 percent of adult recipients.⁵
- In 2016, women were almost 48 percent of noncitizen recipients of SNAP.⁶

² LIANA FOX, U.S. CENSUS BUREAU, THE SUPPLEMENTAL POVERTY MEASURE: 2018, at 10 (2019), available at <https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-268.pdf>.

³ U.S. DEP'T OF AGRIC., FOOD & NUTRITION SERVS., CHARACTERISTICS OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM HOUSEHOLDS: FISCAL YEAR 2018 xv (Nov. 2019), available at <https://fns-prod.azureedge.net/sites/default/files/resource-files/Characteristics2018.pdf> (hereinafter "SNAP HOUSEHOLD CHARACTERISTICS FOR FY 2018").

⁴ *Id.* at 67.

⁵ NAT'L WOMEN'S LAW CTR. calculations based on U.S. CENSUS BUREAU, 2019 CURRENT POPULATION SURVEY using SARAH FLOOD ET AL., INTEGRATED PUBLIC USE MICRODATA SERIES (IPUMS): VERSION 6.0 [Machine-readable database] (Minneapolis: University of Minnesota, 2018).

⁶ NAT'L WOMEN'S LAW CTR. calculations based on U.S. CENSUS BUREAU, 2017 CURRENT POPULATION SURVEY, using SARAH FLOOD ET AL., INTEGRATED PUBLIC USE MICRODATA SERIES (IPUMS): VERSION 6.0 [Machine-readable database] (Minneapolis: University of Minnesota, 2018) (hereinafter "2017 CURRENT POPULATION SURVEY").

- SNAP also serves over 11 million people with disabilities.⁷
- In a national survey, 26.1 percent of lesbian, gay, bisexual, transgender, and queer (LGBTQ) female survey respondents and 41.2 percent of disabled LGBTQ survey respondents reported receiving SNAP.⁸
- In another survey, 31 percent of survivors of domestic violence reported applying for food assistance since the abusive relationship began.⁹
- SNAP serves over 17 million children.¹⁰ Households with children make up 41 percent of all households receiving SNAP benefits.¹¹ Households with children who participate in SNAP for six months have an 8.5 percentage point decrease in food insecurity.¹²
- In 2016, children were 11 percent of noncitizen recipients of SNAP.¹³

A. SNAP is the first line of defense against food insecurity for women, children, and families.

Nearly one in nine U.S. households experience food insecurity¹⁴ during the year.¹⁵ In particular:

- In 2018, 14 percent of women living alone faced food insecurity.¹⁶
- According to a 2014 Gallup survey, 27 percent of LGBTQ adult respondents stated that they had experienced food insecurity over the past year versus 17 percent for non-LGBTQ respondents.¹⁷

⁷ STEVEN CARLSON ET AL., CTR. ON BUDGET & POL'Y PRIORITIES, SNAP PROVIDES NEEDED FOOD ASSISTANCE TO MILLIONS OF PEOPLE WITH DISABILITIES (June 14, 2017), <https://www.cbpp.org/research/food-assistance/snap-provides-needed-food-assistance-to-millions-of-people-with> (data based on the 2015 NATIONAL HEALTH INTERVIEW SURVEY). U.S. Department of Agriculture demographic data provide a 4.3 million statistic for FY 2017 but uses a narrower definition of disability. SNAP HOUSEHOLD CHARACTERISTICS FOR FY 2018, *supra* note 3, at 3, 25.

⁸ CAITLIN ROONEY, CHARLIE WHITTINGTON & LAURA E. DURSO, CTR. FOR AM. PROGRESS, PROTECTING BASIC LIVING STANDARDS FOR LGBTQ PEOPLE (Aug. 2018), *available at* <https://cdn.americanprogress.org/content/uploads/2018/08/10095627/LGBT-BenefitCuts-report.pdf>.

⁹ NAT'L DOMESTIC VIOLENCE HOTLINE, NAT'L RES. CTR. ON DOMESTIC VIOLENCE & NAT'L LATIN@ NETWORK, WE WOULD HAVE HAD TO STAY (Nov. 2018), *available at* https://vawnet.org/sites/default/files/assets/files/2018-11/NRCDDV_PublicBenefits-WeWouldHaveHadToStay-Nov2018.pdf.

¹⁰ SNAP HOUSEHOLD CHARACTERISTICS FOR FY 2018, *supra* note 3, at 25 (Table 3.5).

¹¹ *Id.* at 17.

¹² JAMES MABLI ET AL., U.S. DEP'T OF AGRIC., FOOD AND NUTRITION SERV., MEASURING THE EFFECT OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) PARTICIPATION ON FOOD SECURITY (Aug. 2013), <https://fns-prod.azureedge.net/sites/default/files/Measuring2013.pdf>.

¹³ 2017 CURRENT POPULATION SURVEY, *supra* note 6.

¹⁴ The U.S. Department of Agriculture defines food insecurity as a "lack of consistent access to enough food for an active, healthy life." ECON. RESEARCH SERV., U.S. DEP'T OF AGRIC., DEFINITIONS OF FOOD SECURITY (2018), *available at* <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/definitions-of-food-security.aspx>.

¹⁵ ALISHA COLEMAN-JENSEN ET AL., U.S. DEP'T OF AGRIC., HOUSEHOLD FOOD INSECURITY IN THE UNITED STATES IN 2018, at 6 (2019), <https://www.ers.usda.gov/webdocs/publications/94849/err-270.pdf?v=963>.

¹⁶ *Id.* at 14.

¹⁷ TAYLOR N.T. BROWN, ADAM P. ROMERO & GARY J. GATES, THE WILLIAMS INST., FOOD INSECURITY AND SNAP PARTICIPATION IN THE LGBT COMMUNITY 2 (2016), *available at*

- In a 2013 report, USDA documented that 33 percent of households with an adult age 18 to 64 with a disability who was not in the labor force, and 25 percent of households with adults age 18 to 64 with other reported disabilities, were food insecure.¹⁸
- Food insecurity heightens the risk of rape, physical violence, or stalking by an intimate partner.¹⁹
- In 2018, 11.2 million children lived in food-insecure households.²⁰
- In 2018, nearly 28 percent of households with children headed by a single woman faced food insecurity.²¹
- Studies have consistently found that households that include children with disabilities face higher rates of food insecurity.²²
- A longitudinal survey found that nearly 29 percent of former foster youth at age 23 or 24 face food insecurity.²³

As the nation's largest federal food assistance program, SNAP is the first line of defense against food insecurity. SNAP, which provides families struggling to make ends meet with monthly funds specifically designated for food purchases, is highly effective. Research shows that, for example, households with children who participate in SNAP for six months have an 8.5 percentage point decrease in food insecurity.²⁴

B. SNAP is a critical health intervention and provides support for people struggling to make ends meet.

Food insecurity has health effects, making SNAP a critical health intervention and support for people struggling to make ends meet. For example, food insecurity

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-and-SNAP-Participation-in-the-LGBT-Community.pdf>.

¹⁸ ALISHA COLEMAN-JENSEN & MARK NORD, U.S. DEP'T OF AGRIC., ECON. RES. SERV., FOOD INSECURITY AMONG HOUSEHOLDS WITH WORKING-AGE ADULTS WITH DISABILITIES 15 (2013), https://www.ers.usda.gov/webdocs/publications/45038/34589_err_144.pdf?v=41284. Individuals with other reported disabilities are individuals "who had a disability but did not indicate they were out of the labor force due to disability." For comparison, 12 percent of households with no disabled adult were food insecure. *Id.*

¹⁹ MATTHEW J. BREIDING, MICHELE C. BLACK & JIERU CHEN, CTRS. FOR DISEASE CONTROL & PREVENTION, NAT'L CTR. FOR INJ. PREVENTION & CONTROL, INTIMATE PARTNER VIOLENCE IN THE UNITED STATES — 2010 (2014), *available at* https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

²⁰ COLEMAN-JENSEN ET AL., *supra* note 15, at 9.

²¹ COLEMAN-JENSEN ET AL., *supra* note 15, at 14.

²² SUSAN L. PARISH ET AL., LURIE INST. FOR DISABILITY POL'Y, Presentation at the National Association for Welfare Research and Statistics Annual Workshop: FOOD INSECURITY AMONG U.S. CHILDREN WITH DISABILITIES (Aug. 2015), *available at* <http://nawrs.org/wp-content/uploads/2015/09/2C-Parish-Food-Insecurity.pdf>.

²³ MARK E. COURTNEY ET AL., MIDWEST EVALUATION OF THE ADULT FUNCTIONING OF FORMER FOSTER YOUTH: OUTCOMES AT AGES 23 AND 24, at 36 (2010), *available at* <https://www.chapinhall.org/wp-content/uploads/Midwest-Eval-Outcomes-at-Age-23-and-24.pdf> (providing data based on respondents answering yes to questions such as "did not eat as much as you should because you did not have enough money for food").

²⁴ MABLI ET AL., *supra* note 12.

increases the risk of negative physical and mental health outcomes.²⁵ A USDA study found that “[a]dults in households with food insecurity were 15.3 percentage points more likely to have any chronic illness than adults in households with high food security... This is a 40-percent increase in overall prevalence.”²⁶ Food insecurity is also linked to an increase in the prevalence and severity of diet-related disease, such as obesity, type 2 diabetes, heart disease, stroke, and some cancers.²⁷ This exacerbates the heightened risk women, particularly women of color, have for contracting these diseases.²⁸ Studies have additionally shown that food insecurity increases the risk of depressive symptoms or diagnosis. This is especially dangerous for groups of women already vulnerable to depression, anxiety and stress, such as those who had been exposed to violence or substance use disorder, women at risk of homelessness, refugees, and pregnant women and mothers.²⁹

Food insecurity in pregnancy is particularly harmful. A Journal of the American Dietetic Association study demonstrated a positive association between food insecurity and complications of pregnancy, particularly second-trimester anemia, pregnancy-induced hypertension and gestational diabetes mellitus, and maternal pre-pregnancy weight and

²⁵ HARTLINE-GRAFTON, *supra* note 1; FOOD RES. & ACTION CTR., THE IMPACT OF POVERTY, FOOD INSECURITY, AND POOR NUTRITION ON HEALTH AND WELL-BEING 3-6 (Dec. 2017), *available at* <http://frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>.

²⁶ CHRISTIAN A. GREGORY & ALISHA COLEMAN-JENSEN, U.S. DEP’T OF AGRIC., ECON. RES. SERV., FOOD INSECURITY, CHRONIC DISEASE, AND HEALTH AMONG WORKING-AGE ADULTS WITH DISABILITIES (2017), *available at* <https://www.ers.usda.gov/webdocs/publications/84467/err-235.pdf?v=42942>.

²⁷ BRANDI FRANKLIN ET AL., EXPLORING MEDIATORS OF FOOD INSECURITY AND OBESITY: A REVIEW OF RECENT LITERATURE, 37 J. CMTY. HEALTH 253-264 (2012); SETH A. BERKOWITZ ET AL., FOOD INSECURITY, FOOD “DESERTS,” AND GLYCEMIC CONTROL IN PATIENTS WITH DIABETES: A LONGITUDINAL ANALYSIS, 41 DIABETES CARE 1188 (2018); CHRISTIAN A. GREGORY & ALISHA COLEMAN-JENSEN, U.S. DEP’T OF AGRIC., ECON. RES. SERV., FOOD INSECURITY, CHRONIC DISEASE, AND HEALTH AMONG WORKING-AGE ADULTS (Jul. 2017), *available at* <https://www.ers.usda.gov/webdocs/publications/84467/err-235.pdf?v=0>.

²⁸ FRANKLIN ET AL., *supra* note 27 (noting the link between food insecurity and obesity among women); NAT’L PARTNERSHIP FOR WOMEN & FAMILIES, AN AGENDA FOR PROGRESS FOR WOMEN AND FAMILIES (Dec. 2018), <http://www.nationalpartnership.org/our-work/an-agenda-for-progress-for-women-and-families.html> (noting that women of color experience higher rates of diabetes, cardiovascular disease, and hypertension and are more likely to die from cervical cancer or breast cancer); NAT’L PARTNERSHIP FOR WOMEN & FAMILIES ET AL., ATTACKS ON THE AFFORDABLE CARE ACT, PLANNED PARENTHOOD AND MEDICAID ARE ATTACKS ON REPRODUCTIVE JUSTICE FOR WOMEN OF COLOR (Sept. 2017), *available at* <http://www.nationalpartnership.org/our-work/resources/repro/attacks-on-the-affordable-care-act-planned-parenthood-and-medicaid-are-attacks-on-reproductive-justice-for-women-of-color.pdf> (noting higher breast cancer mortality rates for Black women, higher rates of cervical cancer for Latinx women, and that cancer is the leading cause of death for Asian-American and Pacific Islander women); MIQUEL DAVIES, NAT’L WOMEN’S LAW CTR., THE TRUMP ADMINISTRATION IS QUIETLY SABOTAGING OPEN ENROLLMENT AND PUTTING THE LIVES AND HEALTH OF WOMEN OF COLOR AT RISK (Dec. 5, 2017), <https://nwlc.org/blog/the-trump-administration-is-quietly-sabotaging-open-enrollment-and-putting-the-lives-and-health-of-women-of-color-at-risk/> (noting health disparities for women of color); U.S. DEP’T OF HEALTH & HUMAN SERVS., CTRS. FOR DISEASE CONTROL & PREVENTION, WOMEN AND STROKE, *available at* https://www.cdc.gov/stroke/docs/Women_Stroke_Factsheet.pdf (noting that nearly 60 percent of stroke deaths happen to women and that Black women are almost twice as likely as white women to have a stroke).

²⁹ MERRYLYN MAYNARD ET AL., FOOD INSECURITY AND MENTAL HEALTH AMONG FEMALES IN HIGH-INCOME COUNTRIES, 15 INT’L. J. ENVTL. RES. & PUB. HEALTH 1424 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6068629/>.

gestational weight.³⁰ A Journal of Nutrition study demonstrated that higher food insecurity was associated with increased risk of birth defects, including cleft palate, spina bifida, and anencephaly.³¹ This association remained even after adjustment for maternal race-ethnicity, education, Body Mass Index, intake of folic acid-containing supplements, dietary intake of folate and energy, neighborhood crime, and stressful life events.

In addition, because of limited financial resources, those who are food insecure may attempt to stretch budgets by using strategies that can be harmful to their health, such as underusing or postponing medication because of cost,³² postponing or forgoing preventive or needed medical care,³³ and forgoing the foods needed for special medical diets (e.g., diabetic diets).³⁴ Not surprisingly, research shows that household food insecurity is a strong predictor of increased numbers of emergency department visits and hospitalizations and increased health care costs.³⁵

³⁰ C. GUNDERSEN ET AL., HOUSEHOLD FOOD INSECURITY IS ASSOCIATED WITH SELF-REPORTED PREGRAVID WEIGHT STATUS, GESTATIONAL WEIGHT GAIN, AND PREGNANCY COMPLICATIONS, J. AM. DIET. ASS'N. (May 2010), <https://www.ncbi.nlm.nih.gov/pubmed/20430130>; ALANDERSON ALVES RAMALHO ET AL., FOOD INSECURITY DURING THE GESTATIONAL PERIOD AND FACTORS ASSOCIATED WITH MATERNAL AND CHILD HEALTH, 7 J. NUTRITIONAL HEALTH & FOOD ENG'G 1 (2017), <https://pdfs.semanticscholar.org/77a9/561b598d3542d1cae451d1ebeb12b4e4eb0b.pdf>.

³¹ SUZAN L. CARMICHAEL ET AL., MATERNAL FOOD INSECURITY IS ASSOCIATED WITH INCREASED RISK OF CERTAIN BIRTH DEFECTS, 137 J. NUTRITION 2087 (2007), <https://doi.org/10.1093/jn/137.9.2087>.

³² DENA HERMAN ET AL., FOOD INSECURITY AND COST-RELATED MEDICATION UNDERUSE AMONG NONELDERLY ADULTS IN A NATIONALLY REPRESENTATIVE SAMPLE, 105 AM. J. PUBLIC HEALTH 48 (2015); PATIENCE AFULANI ET AL., FOOD INSECURITY AND HEALTH OUTCOMES AMONG OLDER ADULTS: THE ROLE OF COST-RELATED MEDICATION UNDERUSE 34 J. NUTRITION IN GERONTOLOGY AND GERIATRICS 319 (2015); CHADWICK K. KNIGHT ET AL., HOUSEHOLD FOOD INSECURITY AND MEDICATION "SCRIMPING" AMONG US ADULTS WITH DIABETES, 83 PREVENTIVE MEDICINE 41 (2016).

³³ VICTORIA L. MAYER ET AL., FOOD INSECURITY, COPING STRATEGIES AND GLUCOSE CONTROL IN LOW-INCOME PATIENTS WITH DIABETES, 19 PUB. HEALTH NUTRITION 1103 (2016); MARGOT B. KUSHEL ET AL., HOUSING INSTABILITY AND FOOD INSECURITY AS BARRIERS TO HEALTH CARE AMONG LOW-INCOME AMERICANS, 21 J. GEN. INTERNAL MED. 71 (2006). *See also* MUNIRA Z. GUNJA ET AL., COMMONWEALTH FUND, HOW THE AFFORDABLE CARE ACT HAS HELPED WOMEN GAIN INSURANCE AND IMPROVED THEIR ABILITY TO GET HEALTH CARE (2017), <https://www.commonwealthfund.org/publications/issue-briefs/2017/aug/how-affordable-care-act-has-helped-women-gain-insurance-and> (noting that even though health insurance coverage gains through the Affordable Care Act have reduced the share of women skipping or delaying care because of costs, in 2016, 38 percent of women age 19 through 64 still reported not getting the health care they needed because of costs).

³⁴ HILARY K. SELIGMAN ET AL., FOOD INSECURITY AND GLYCEMIC CONTROL AMONG LOW-INCOME PATIENTS WITH TYPE 2 DIABETES, 35 DIABETES CARE 233 (2012); VALERIE S. TARASUK, HOUSEHOLD FOOD INSECURITY WITH HUNGER IS ASSOCIATED WITH WOMEN'S FOOD INTAKES, HEALTH AND HOUSEHOLD CIRCUMSTANCES, 131 J. NUTRITION 2670 (2001).

³⁵ VALERIE TARASUK ET AL., ASSOCIATION BETWEEN HOUSEHOLD FOOD INSECURITY AND ANNUAL HEALTH CARE COSTS, 187 CAN. MED. ASS'N J. E429 (2015); SETH BERKOWITZ ET AL., FOOD INSECURITY AND HEALTH EXPENDITURES IN THE UNITED STATES, 2011-2013, 53 HEALTH SERVS. RES. 1600 (2017).

SNAP improves health outcomes, including physical and mental health, for children, adults, and seniors.³⁶ SNAP decreases food insecurity³⁷ and reduces health care utilization and costs.³⁸ Elderly SNAP participants were found to be 5 percentage points less likely to cut back on their medications because of cost than eligible non-participants, which is equivalent to a 30 percent reduction.³⁹ A longitudinal study of low income older adults eligible for Medicaid and Medicare found that participation in SNAP reduced the incidence of two very costly types of care – hospitalization and long term care of older adults.⁴⁰

Furthermore, SNAP also helps reduce stress for struggling individuals and families worried about finances; stress is highly correlated with poor health outcomes.⁴¹ Research also shows that SNAP helps to ensure that infants and toddlers meet developmental milestones.⁴²

³⁶ HARTLINE-GRAFTON, *supra* note 1. For instance, SNAP increases the probability of self-reporting “excellent” or “good health.” CHRISTIAN A. GREGORY & PARTHA DEB, DOES SNAP IMPROVE YOUR HEALTH?, 50 FOOD POL’Y 11 (2015). SNAP also lowers the risk of poor glucose control (for those with diabetes). MAYER ET AL., *supra* note 33. SNAP also has a protective effect on mental health. CINDY W. LEUNG ET AL., HOUSEHOLD FOOD INSECURITY IS POSITIVELY ASSOCIATED WITH DEPRESSION AMONG LOW-INCOME SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPANTS AND INCOME-ELIGIBLE NONPARTICIPANTS, 145 J. NUTRITION 622 (2015).

³⁷ CAROLINE RATCLIFFE, SIGNE-MARY MCKERNAN & SISI ZHANG, HOW MUCH DOES THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM REDUCE FOOD INSECURITY?, 93 AM. J. AGRIC. ECON. 1082 (2011), *available at* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4154696/> (finding that SNAP reduces food insecurity by approximately 30 percent); JAMES MABLI & JULIE WORTHINGTON, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION AND CHILD FOOD SECURITY, 133 PEDIATRICS 610 (2014), *available at* https://pdfs.semanticscholar.org/e435/b9d06640ea66b336af29a313fcd55eba02a0.pdf?_ga=2.130299787.541188643.1574784796-800845501.1574784796; M. NORD, HOW MUCH DOES THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ALLEVIATE FOOD INSECURITY? EVIDENCE FROM RECENT PROGRAMME LEAVERS, 15 PUB. HEALTH NUTRITION 811 (2012), *available at* <https://www.cambridge.org/core/journals/public-health-nutrition/article/how-much-does-the-supplemental-nutrition-assistance-program-alleviate-food-insecurity-evidence-from-recent-programme-leavers/85DA7CBB96D5F228FB11A9AFF1D31C67/core-reader>.

³⁸ CHRISTIAN A. GREGORY & PARTHA DEB, DOES SNAP IMPROVE YOUR HEALTH?, 50 FOOD POL’Y 11 (2015); HILARY K. SELIGMAN ET AL., EXHAUSTION OF FOOD BUDGETS AT MONTH’S END AND HOSPITAL ADMISSIONS FOR HYPERGLYCEMIA, 33 HEALTH AFFAIRS 116 (2014). For example, a national study revealed that SNAP participation was associated with lower health care costs. SETH BERKOWITZ ET AL., SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) PARTICIPATION AND HEALTH CARE EXPENDITURES AMONG LOW-INCOME ADULTS, 177 JAMA INTERNAL MEDICINE 1642 (2017). On average, low-income adults participating in SNAP incurred nearly 25% less in health care costs in 12 months, including those paid by private or public insurance, than low-income adults not participating in SNAP. *Id.*

³⁹ MITHUNA SRINIVASAN & JENNIFER A. POOLER, COST-RELATED MEDICATION NONADHERENCE FOR OLDER ADULTS PARTICIPATING IN SNAP, 2013–2015, 108 AM. J. PUB. HEALTH 224 (2018), <http://ajph.aphapublications.org/doi/10.2105/AJPH.2017.304176>.

⁴⁰ LAURA J. SAMUEL ET AL., DOES THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AFFECT HOSPITAL UTILIZATION AMONG OLDER ADULTS? THE CASE OF MARYLAND, 00 POPULATION HEALTH MANAGEMENT 1 (2017), *available at* http://www.bdtrust.org/wp-content/uploads/2017/07/Pop-Health-Mgmt_Hospitalizations_linked.pdf.

⁴¹ ROBERT-PAUL JUSTER, BRUCE S. MCEWEN & SONIA J. LUPIEN, ALLOSTATIC LOAD BIOMARKERS OF CHRONIC STRESS AND IMPACT ON HEALTH AND COGNITION, 35 NEUROSCIENCE AND BIOBEHAVIORAL REVIEWS 2 (2010).

⁴² STEVEN CARLSON ET AL., CTR. ON BUDGET & POL’Y PRIORITIES, SNAP WORKS FOR AMERICA’S CHILDREN (Sept. 29, 2016), <https://www.cbpp.org/research/food-assistance/snap-works-for-americas-children>.

Conversely, by risking SNAP benefits for 19 percent of SNAP households,⁴³ the proposed rule threatens people’s health. Indeed, recent research showed that when working families lose SNAP or have their benefits reduced due to increased earnings, they are at greater risk of poor child and adult health outcomes, child hospitalizations, and multiple family economic hardships, including food insecurity.⁴⁴

The food insecurity resulting from reduced SNAP benefits will also worsen existing racial health disparities. Racial health disparities already cost our nation an estimated \$35 billion in excess health care expenditures, \$10 billion in illness-related lost productivity, and nearly \$200 billion in premature deaths.⁴⁵ The Joint Center for Economic and Political Studies estimates that between 2003 and 2006, over thirty percent of direct medical care expenditures for racial and ethnic minorities were excess costs stemming from health inequalities,⁴⁶ and eliminating health disparities for minorities would reduce direct medical care expenditures by nearly \$230 billion.⁴⁷ Exacerbating health disparities by taking SNAP and other food assistance away from families – as the proposed rule would do – would necessarily drive up the overall cost of health care expenditures.

C. Food assistance, including SNAP and free school meals, helps to ensure that students are not sitting in classrooms hungry.

Food insecurity negatively impacts children and adolescents socially, emotionally, and behaviorally.⁴⁸ For example, hunger impairs a child’s ability to maintain self-control, be attentive in class, and develop interpersonal relationships with teachers and peers.⁴⁹ Hungry children are seven times more likely than other children to engage in physical altercations,⁵⁰ likely due to negative changes in mood related to hunger.⁵¹ Lower levels of self-control in early childhood resulting from hunger leads to higher levels of

⁴³ U.S. DEP’T OF AGRIC., REGULATORY IMPACT ANALYSIS, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: STANDARDIZATION OF STATE HEATING AND COOLING STANDARD UTILITY ALLOWANCES 2, DOCKET NO. FNS-2019-0009 (Oct. 3, 2019) [hereinafter “USDA REGULATORY IMPACT ANALYSIS”]. This translates to about 7 million people. Ctr. on Budget & Pol’y Priorities calculations based on analysis of information on proposed SUAs from the Regulatory Impact Analysis for the proposed rule and FY2017 SNAP Household Characteristics (or Quality Control) data [hereinafter “CBPP calculations based on RIA and FY2017 FNS data”].

⁴⁴ STEPHANIE ETTINGER DE CUBA ET AL., LOSS OF SNAP IS ASSOCIATED WITH FOOD INSECURITY AND POOR HEALTH IN WORKING FAMILIES WITH YOUNG CHILDREN, 38 HEALTH AFFAIRS 765 (2019), *available at* <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2018.05265>.

⁴⁵ See JOHN Z. AYANIAN, THE COSTS OF RACIAL DISPARITIES IN HEALTH CARE, HARVARD BUS. REV. (Oct. 1, 2015), *available at* <https://hbr.org/2015/10/the-costs-of-racial-disparities-in-health-care>.

⁴⁶ *Id.*

⁴⁷ See WILLIAM RILEY, NAT’L INST. OF HEALTH, HEALTH DISPARITIES ARE COSTLY FOR (U.S.) ALL (Apr. 1, 2016), <https://obssr.od.nih.gov/health-disparities-are-costly-for-u-s-all-think-about-it-in-april-and-beyond/>.

⁴⁸ QWAMEL HANKS ET AL., FOOD RES. & ACTION CTR., THE CONNECTIONS BETWEEN FOOD INSECURITY, THE FEDERAL NUTRITION PROGRAMS, AND STUDENT BEHAVIOR 1 (2018), *available at* <https://www.frac.org/wp-content/uploads/breakfast-for-behavior.pdf>.

⁴⁹ *Id.* at 1-3.

⁵⁰ *Id.* at 1.

⁵¹ AM. PSYCHOL. ASS’N, HUNGER CAN LEAD TO ANGER, BUT IT’S MORE COMPLICATED THAN A DROP IN BLOOD SUGAR, STUDY SAYS, MED. XPRESS (June 11, 2018), <https://medicalxpress.com/news/2018-06-hunger-anger-complicated-blood-sugar.html>.

behavioral issues as they grow, compared to their food-secure peers.⁵² This may explain why girls living in food-insecure families experience impaired social skills development, such as a reduced ability to get along with other children and increased loneliness.⁵³ These negative impacts interfere with students' ability to focus on learning and getting good grades⁵⁴ because food-insecure students are too preoccupied with meeting basic human needs—putting them at a heightened risk of experiencing mental health issues such as anxiety, depression, and suicidal thoughts.⁵⁵

Access to SNAP, free school meals, and other food and nutrition assistance is key to combat food insecurity in students and support their positive social, educational, emotional, and behavioral development.⁵⁶ Students participating in SNAP have lower rates of disciplinary issues in the early part of a month, compared to later in the month when SNAP benefits usually run out⁵⁷ (due to the already inadequate SNAP benefit, an average of \$127 per month in fiscal year 2018).⁵⁸ Research also shows that SNAP helps improve children's performance in elementary school and beyond.⁵⁹

D. SNAP supports women in the low-wage workforce.

Nearly 23.8 million people work in the 40 lowest-paying jobs (typically paying less than \$12 per hour), which comprise child care workers, personal care aides and home health aides, housekeepers, restaurant servers, cashiers, and other vital jobs for our economy.⁶⁰ Women make up nearly two-thirds (65 percent) of the workforce in these low-wage jobs, and women of color are especially disproportionately represented.⁶¹

⁵² HANKS ET AL., *supra* note 48.

⁵³ *Id.*

⁵⁴ *Id.* at 3. See also MADELEINE LEVIN & HEATHER HARTLINE-GRAFTON, FOOD RES. & ACTION CTR., BREAKFAST FOR LEARNING 1 (2016), available at <http://frac.org/wp-content/uploads/breakfastforlearning-1.pdf> (stating children and adolescents experiencing hunger are more likely to have attention problems and poorer grades).

⁵⁵ HANKS ET AL., *supra* note 48.

⁵⁶ *Id.* at 2-3.

⁵⁷ *Id.* at 3.

⁵⁸ CTR. ON BUDGET & POL'Y PRIORITIES, POLICY BASICS: THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) (June 25, 2019), available at <https://www.cbpp.org/research/food-assistance/policy-basics-the-supplemental-nutrition-assistance-program-snap>.

⁵⁹ CARLSON ET AL., *supra* note 42.

⁶⁰ NAT'L WOMEN'S LAW CTR. calculations based on U.S. CENSUS BUREAU, 2017 AMERICAN COMMUNITY SURVEY using Steven Ruggles et al., IPUMS USA: Version 9.0 [dataset] (Minneapolis, 2019), available at <https://ipums.org/>.

⁶¹ *Id.* For example, Latinx women and Native women are represented in the low-wage workforce at roughly double the rate of their representation in the workforce overall, while Black women's share of the low-wage workforce is 1.75 times their share of the workforce overall. *Id.* In this comment, "white, non-Hispanic" women and men are those who identified themselves as white, but not of Hispanic, Latinx, or Spanish origin in the source material. "Black women" includes those who identified themselves as Black or African American. Latinx women are of any race who identified themselves to be of Hispanic, Latinx, or Spanish origin.

The U.S economic system and society have created these unjust results. Employers are less likely to hire women than men for high-wage jobs,⁶² and employers' negative stereotypes about mothers and their ability and commitment to do higher-level work also contribute to mothers' overrepresentation in the low-wage workforce.⁶³ Women are also systemically (sometimes overtly and sometimes subtly) discouraged from higher-paying job tracks, such as in the Science, Technology, Engineering, and Mathematics (STEM) field.⁶⁴ "Women's work" is also devalued, in the most literal sense. Caregiving is just one example: paid child care providers are vastly underpaid for the valuable work they do caring for children and supporting their development,⁶⁵ and family caregiving responsibilities,⁶⁶ of which mothers also bear a disproportionate share, are completely uncompensated. Studies have also revealed that large numbers of women moving into a field typically lead to a decline in wages for that field.⁶⁷ Gender and racial discrimination, combined with policymakers' failure to increase the minimum wage, thus negatively impacts the economic security of women in the low-wage workforce.

SNAP is a critical support for low-wage working women, helping them feed themselves and their families as they struggle to meet other basic needs, like housing, child care, and health care, with inadequate paychecks. SNAP's benefit structure also explicitly incentivizes work, favoring earned income over unearned income through an earnings disregard, and phasing out gradually as income rises so that, for most households, each additional dollar of earned income results in a reduction of SNAP benefits of only 24 to 36 cents.⁶⁸

E. SNAP provides critical food assistance to survivors of gender-based violence.

While domestic violence and sexual assault occur across the socio-economic spectrum, there are unique challenges and barriers for survivors at the intersection of gender-based violence and economic hardship.

Women living in poverty experience domestic violence at twice the rate of those who do not, and the violence perpetrated against them can make it impossible to climb out of

⁶² NAT'L WOMEN'S LAW CTR., THE WAGE GAP: THE WHO, HOW, WHY, AND WHAT TO DO 2 (Sept. 2019), available at <https://nwlc.org/resources/the-wage-gap-the-who-how-why-and-what-to-do/> (hereinafter "THE WAGE GAP").

⁶³ *Id.* at 3.

⁶⁴ *Id.* at 3.

⁶⁵ JULIE VOGTMAN, NAT'L WOMEN'S LAW CTR., UNDERVALUED: A BRIEF HISTORY OF WOMEN'S CARE WORK AND CHILD CARE POLICY IN THE UNITED STATES 2 (2017), available at https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/12/final_nwlc_Undervalued2017.pdf.

⁶⁶ THE WAGE GAP, *supra* note 62, at 3.

⁶⁷ *Id.* at 3.

⁶⁸ See ELIZABETH WOLKOMIR & LEXIN CAI, CTR. ON BUDGET & POL'Y PRIORITIES, THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM INCLUDES EARNINGS INCENTIVES (Mar. 6, 2018), <https://www.cbpp.org/research/food-assistance/the-supplemental-nutrition-assistance-program-includes-earnings-incentives> (providing information on how the benefit structure incentivizes work); DOROTHY ROSENBAUM, CTR. ON BUDGET & POL'Y PRIORITIES, THE RELATIONSHIP BETWEEN SNAP AND WORK AMONG LOW-INCOME HOUSEHOLDS (Jan. 2013), <https://www.cbpp.org/research/the-relationship-between-snap-and-work-among-low-income-households> (providing information on the relationship between SNAP and work).

poverty.⁶⁹ Women who have experienced food insecurity in a 12-month period also face higher prevalence of rape, stalking, and physical violence from a partner compared to women who do not.⁷⁰ In order to exercise control over their partners, abusers often actively prevent their partner from attaining economic independence by sabotaging their partner's economic stability. For example, abusers may interfere with survivors' access to financial resources, education, employment, child care, or health care; engage in reproductive coercion; ruin the survivor's credit; leave the survivor with tax debt; and more.⁷¹

Abuse can also result in survivors previously not considered low income falling into poverty—violence often undermines survivors' ability to work, have a place to live, and do what is necessary to pursue a more stable life for themselves and their children.⁷² Ending an abusive relationship, moreover, may mean losing not only access to a partner's income, but also housing, health care, or child care. Furthermore, survivors in marginalized and underserved communities (such as people of color, LGBTQ people, immigrants, and people with disabilities) often face intersecting forms of discrimination that exacerbate their likelihood of facing economic instability.⁷³ In a recent survey, 67

⁶⁹ See, e.g., ELEANOR LYON, NAT'L RES. CTR. ON DOMESTIC VIOLENCE, WELFARE, POVERTY AND ABUSED WOMEN: NEW RESEARCH AND ITS IMPLICATIONS (Oct. 2000), *available at* https://vawnet.org/sites/default/files/materials/files/2016-09/BCS10_POV.pdf; MARY KAY, INC., 2012 MARY KAY TRUTH ABOUT ABUSE SURVEY REPORT (2012), *available at* http://content2.marykayintouch.com/public/PWS_US/PDFs/company/2012Survey.pdf; ELEANOR LYON, SHANNON LANE & ANNE MENARD, MEETING SURVIVORS' NEEDS: A MULTISTATE STUDY OF DOMESTIC VIOLENCE SHELTER EXPERIENCES (Oct. 2008), *available at* http://www.vawnet.org/Assoc_Files_VAWnet/MeetingSurvivorsNeeds-FullReport.pdf; ELEANOR LYON, JILL BRADSHAW & ANNE MENARD, MEETING SURVIVORS' NEEDS THROUGH NON-RESIDENTIAL DOMESTIC VIOLENCE SERVICES & SUPPORTS: RESULTS OF A MULTI-STATE STUDY (Nov. 2011), *available at* <https://vawnet.org/sites/default/files/materials/files/2016-07/DVServicesStudy-FINALReport2011.pdf>; RACHEL KIMERLING ET AL., UNEMPLOYMENT AMONG WOMEN: EXAMINING THE RELATIONSHIP OF PHYSICAL AND PSYCHOLOGICAL INTIMATE PARTNER VIOLENCE AND POSTTRAUMATIC STRESS DISORDER, 24 J. INTERPERSONAL VIOLENCE 450 (2009).

⁷⁰ MATTHEW J. BREIDING, MICHELE C. BLACK & JIERU CHEN, CTRES. FOR DISEASE CONTROL & PREVENTION, NAT'L CTR. FOR INJ. PREVENTION & CONTROL, INTIMATE PARTNER VIOLENCE IN THE UNITED STATES — 2010, at 34 (2014), *available at* https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

⁷¹ See, e.g., JUDY POSTMUS ET AL., UNDERSTANDING ECONOMIC ABUSE IN THE LIVES OF SURVIVORS, 27 J. INTERPERSONAL VIOLENCE 411 (2011), *available at* <https://journals.sagepub.com/doi/abs/10.1177/0886260511421669>; ADRIENNE ADAMS ET AL., DEVELOPMENT OF THE SCALE OF ECONOMIC ABUSE, 13 VIOLENCE AGAINST WOMEN 563-588 (2008), *available at* <https://vaw.msu.edu/wp-content/uploads/2013/10/Scale-of-Economic-Abuse.pdf>; INST. FOR WOMEN'S POL'Y RES., THE ECONOMIC COST OF INTIMATE PARTNER VIOLENCE, SEXUAL ASSAULT, AND STALKING (Aug. 2017), *available at* https://iwpr.org/wp-content/uploads/2017/08/B367_Economic-Impacts-of-IPV-08.14.17.pdf.

⁷² See, e.g., INST. FOR WOMEN'S POL'Y RES., *supra* note 71.

⁷³ See, e.g., KAISER FAMILY FOUNDATION, POVERTY RATE BY RACE/ETHNICITY (2016), <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity>; NAT'L POVERTY CTR., POLICY BRIEF — THE COLORS OF POVERTY: WHY RACIAL AND ETHNIC DISPARITIES PERSIST (2009), *available at* http://npc.umich.edu/publications/policy_briefs/brief16/PolicyBrief16.pdf; BADGETT ET AL. WILLIAMS INST., NEW PATTERNS OF POVERTY IN THE LESBIAN, GAY, AND BISEXUAL COMMUNITY (2013), *available at* <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>; ALBELDA ET AL., WILLIAMS INST., POVERTY IN THE LESBIAN, GAY, AND BISEXUAL COMMUNITY (2009), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Albelda-Badgett-Schneebaum-Gates-LGB-Poverty-Report-March-2009.pdf>; BREAD FOR THE WORLD, HUNGER AND POVERTY AMONG IMMIGRANTS

percent of survivors reported that they stayed longer than they wanted in, or returned to, an abusive relationship because of financial concerns, such as not being able to pay bills, afford rent/mortgage, or feed their family, with 24 percent of those survivors reporting food insecurity in the past year.⁷⁴

Accessing public benefits that help meet basic needs, including SNAP, is therefore imperative for women's safety.⁷⁵ Survivors' access to SNAP is fundamental to determining whether they can leave an abusive relationship⁷⁶ and is critical to helping them establish a safer and more stable life. In a 2017 survey of service providers working with survivors, over 88 percent of respondents said that SNAP is a very critical resource for most domestic violence survivors and 55 percent of respondents said SNAP is critical for sexual assault survivors.⁷⁷

The Center for Disease Control identifies SNAP as a program that can strengthen household financial security through providing cash benefits to low-income households, representing an evidence-based approach to reduce risk factors for intimate partner violence.⁷⁸ Simply put, when survivors have stable access to resources that help them build economic resiliency – including programs like SNAP – they and their families are much more likely to remain safe and secure.

F. SNAP helps the economy.

According to recent studies, it is estimated that \$1 of SNAP benefits leads to between \$1.50 and \$1.80 in total economic activity during a recession.⁷⁹ USDA's Economic Research Service has reported that new SNAP spending has relatively large effects on manufacturing and trade and transportation sectors. Those sectors include businesses, such as food and beverage manufacturers, packaging manufacturers, grocery stores

(2016), available at <http://www.bread.org/sites/default/files/downloads/immigrants-fact-sheet-2016.pdf>; REBECCA VALLAS, & SHAWN FREMSTAD, DISABILITY IS A CAUSE AND CONSEQUENCE OF POVERTY, TALK POVERTY (2014), <https://talkpoverty.org/2014/09/19/disability-cause-consequence-poverty/>.

⁷⁴ NAT'L DOMESTIC VIOLENCE HOTLINE, NAT'L RES. CTR. ON DOMESTIC VIOLENCE & NAT'L LATIN@ NETWORK, *supra* note 9.

⁷⁵ See, e.g., ELEANOR LYON, NAT'L RES. CTR. ON DOMESTIC VIOLENCE, WELFARE, POVERTY AND ABUSED WOMEN: NEW RESEARCH AND ITS IMPLICATIONS (2002), <https://vawnet.org/material/welfare-poverty-and-abused-women-new-research-and-its-implications>.

⁷⁶ LYON, LANE & MENARD, *supra* note 69; LYON, BRADSHAW & MENARD, *supra* note 69; KIMERLING ET AL., *supra* note 69.

⁷⁷ SHAINA GOODMAN, NAT'L RES. CTR. ON DOMESTIC VIOLENCE, THE DIFFERENCE BETWEEN SURVIVING AND NOT SURVIVING: PUBLIC BENEFITS PROGRAMS AND DOMESTIC AND SEXUAL VIOLENCE VICTIMS' ECONOMIC SECURITY 3 (Jan. 2018), https://vawnet.org/sites/default/files/assets/files/2018-10/NRCDV-TheDifferenceBetweenSurvivingandNotSurviving-UpdatedOct2018_0.pdf.

⁷⁸ NIOLON, KEARNS, DILLS, ET AL., CTR. FOR DISEASE CONTROL & PREVENTION, PREVENTING INTIMATE PARTNER VIOLENCE ACROSS THE LIFESPAN: A TECHNICAL PACKAGE OF PROGRAMS, POLICIES, AND PRACTICES (2017), available at <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>.

⁷⁹ See PATRICK CANNING & BRIAN STACY, U.S. DEP'T. OF. AGRIC., ECON. RES. SERV., THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) AND THE ECONOMY: NEW ESTIMATES OF THE SNAP MULTIPLIER 6-8 (2019), available at <https://www.ers.usda.gov/webdocs/publications/93529/err-265.pdf?v=8010.7> (regarding research by Blinder and Zandi exhibited in Table 1).

and food and other wholesalers, and trucking and rail freight industries.⁸⁰ But other sectors are impacted as well, including health and social services and agriculture.⁸¹ SNAP is a job creator. The program supported 782,600 jobs in 2018.⁸² SNAP dollars help many food retailers operating on thin margins to remain in business, which improves food access for all residents.

II. The current flexibility given to states to determine their SUAs, with review and approval from USDA, is efficient for states and households.

Policymakers recognize that household resources used to pay for basics such as shelter – including utility costs – and child or dependent care are not available to purchase food. Under current law, the SNAP benefit calculation takes household utility expenses into account by including them in shelter costs (along with rent or mortgage costs), which are deducted from income (to calculate net income). Households with no elderly or disabled individuals then have a cap on the amount to which shelter costs exceed 50 percent of their income (after other deductions).

The Heating and Cooling Standard Utility Allowance (HCSUA) is the largest component of the SUA. Most states require SNAP applicants to use HCSUAs instead of actual utility costs, in order to reduce administrative burdens. Integral to the use of SUAs is the understanding that SUAs should be set at levels such that most SNAP beneficiaries would not lose SNAP benefits if SUAs are used.⁸³ Currently, states calculate their own HCSUAs, which are then approved by USDA. States are required to update their HCSUA annually and can revise their methodology, pending USDA approval. The current policy allows state-specific HCSUAs to accommodate for differences in utility costs and rates by states, and it provides states flexibility in how they calculate those costs.

III. The proposed rule's SUA calculations would harm women and their families and should be rejected.

Unlike current policy, the proposed rule would base HCSUA calculations for every state on two national surveys (the RECS and the ACS), only one of which (the ACS) offers state-level data.⁸⁴ Moreover, the proposed rule would calibrate the calculation of

⁸⁰ *Id.* at 24.

⁸¹ *Id.* at 25.

⁸² RACHEL WEST & REBECCA VALLAS, CTR. FOR AM. PROGRESS, TRUMP'S EFFORT TO CUT SNAP BY FIAT WOULD KILL 178,000 JOBS OVER THE NEXT DECADE (Mar. 14, 2019), <https://www.americanprogress.org/issues/poverty/news/2019/03/14/466700/trumps-effort-cut-snap-fiat-kill-178000-jobs-next-decade/>.

⁸³ See, e.g., U.S. DEP'T. OF. AGRIC., FOOD & NUTRITION SERV., FOOD STAMP PROGRAM STANDARD UTILITY ALLOWANCES REQUIREMENTS AND METHODOLOGIES (1979) (on file with that Nat'l Women's Law Ctr.).

⁸⁴ USDA leaves itself a huge degree of flexibility on its future methodology, but indicates it plans to use national survey data such as the American Community Survey (ACS) and the Residential Energy Consumption Survey (RECS) to calculate HCSUAs. Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances, 84 Fed. Reg. 52809, 52811 (proposed Oct. 3, 2019) (to be codified at 7 C.F.R. pt. 273).

HCSUA to the 80th percentile of heating and cooling utility costs for low-income households.⁸⁵ The proposed rule also would eliminate states' ability to vary their SUAs by household size, area of the state, or season, and would curtail their flexibility to respond to state-specific factors that affect utilities costs.⁸⁶ Setting new allowances using the study methodology referenced in the Regulatory Impact Analysis (RIA) and Notice of Proposed Rule-Making (NRPM) would result in HCSUAs that are lower than existing HCSUAs in over two-fifths of states.

The proposed rule also would cap the Limited Utility Allowances (LUAs) at 70 percent of a state's HCSUA amount and cap single utility allowances at 35 percent of a state's HCSUA,⁸⁷ both of which would be lowered in many states because the HCSUA upon which they are based would be lower.⁸⁸ Furthermore, the proposed rule would cap the telephone/internet SUA level at only \$55 per month.⁸⁹

The Administration estimates that, if the proposed rule is finalized, SNAP benefits would be cut by \$1 billion per year,⁹⁰ harming women and their families across the country. About 7 million people would have their SNAP benefits reduced.⁹¹ Moreover, the average amount by which SNAP benefits would be reduced, in affected households, would be more than \$30 per month – and even higher in the hardest-hit states.⁹²

A. The proposed rule threatens vital food assistance for women with low incomes.

The proposed rule undermines the purpose of the SUA, which recognizes the burden that energy costs place on low-income households. Such households spend a higher proportion of their income on energy costs than higher income households. In a 2016 report, the American Council for an Energy-Efficient Economy (ACEEE) analyzed energy burdens (the percentage of household income spent on energy costs) in 48 U.S. cities.⁹³ The median energy burden for low-income households⁹⁴ was over **three times** the median energy burden for non-low-income households (7.2 percent compared to 2.3 percent).⁹⁵ Failing to adequately heat or cool homes can have health impacts on women and their families, moreover.⁹⁶ Cutting SNAP benefits based on lower SUAs completely

⁸⁵ *Id.* at 52815.

⁸⁶ *Id.* at 52811.

⁸⁷ *Id.* at 52815.

⁸⁸ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 21-22.

⁸⁹ Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances, 84 Fed. Reg. at 52811.

⁹⁰ *Id.* at 52812.

⁹¹ CBPP calculations based on RIA and FY2017 FNS data, *supra* note 43.

⁹² *Id.*

⁹³ ARIEL DREHOBL & LAUREN ROSS, AMERICAN COUNCIL FOR AN ENERGY-EFFICIENT ECONOMY, LIFTING THE HIGH ENERGY BURDEN IN AMERICA'S LARGEST CITIES: HOW ENERGY EFFICIENCY CAN IMPROVE LOW INCOME AND UNDERSERVED COMMUNITIES (Apr. 2016), *available at* <http://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf>.

⁹⁴ Households with incomes below 80 percent of the area median income. *Id.*

⁹⁵ *Id.*

⁹⁶ *See, e.g.*, JIYOON KIM, AJIN LEE & MAYA ROSSIN-SLATER, WHAT TO EXPECT WHEN IT GETS HOTTER: THE IMPACTS OF PRENATAL EXPOSURE TO EXTREME HEAT ON MATERNAL AND INFANT HEALTH, NAT'L BUREAU OF ECON. RES. (OCT. 2019), *available at* <https://www.nber.org/papers/w26384.pdf>; BETH DUFF-BROWN,

disregards the outsized burden that energy costs impose on low-income women and their families.

Furthermore, nearly 70 percent of households that would see a cut under the proposed rule are headed by women.⁹⁷ The impact of the proposed rule would likely be even more negative for women with multiple marginalized identities. Consequently, USDA should withdraw this proposed rule.

B. The proposed rule will have a devastating impact on caregivers.

Families with children are likely to be disproportionately impacted by the proposed rule. Of the more than 7 million people who would experience a benefit cut under this proposed rule, 68 percent are in households with children.⁹⁸ These families would experience an average benefit loss of \$28 per month.⁹⁹

Additionally, the proposed rule will likely have a harsh impact on mothers of color because women are more likely to represent heads of households and/or be the breadwinners in their families. “[B]lack and Latina mothers are more likely to be breadwinners than white mothers. Furthermore, a substantial 84.4 percent of black mothers were primary, sole, or co-breadwinners in 2017, compared with 60.3 percent of Latina mothers and 62.4 percent of white mothers.”¹⁰⁰

The proposed rule will also harm adult caregivers,¹⁰¹ 60 percent of whom are women.¹⁰² As discussed in more detail below, the proposed rule will reduce SNAP benefits for many people with disabilities, some of whom need caregiving assistance, and many adult caregivers may not be able to afford to fill in this gap.

The Center urges USDA to withdraw this proposed rule because of the harm it will inflict upon caregivers.

C. The proposed rule will harm women of color and their families.

False race- and gender-based narratives have been used to demonize and shame women of color for accessing public benefits – including SNAP. The reality is that most

STANFORD U. FREEMAN SPOGLI INST. FOR INT’L STUDIES, GLOBAL WARMING AND EXTREME HEAT HARMING PREGNANT WOMEN (Oct. 21, 2019), <https://fsi.stanford.edu/news/global-warming-and-extreme-heat-hurting-pregnant-women> (noting that excessive heat can be harmful for pregnant women and fetuses).

⁹⁷ CBPP calculations based on RIA and FY2017 FNS data, *supra* note 43.

⁹⁸ *Id.*

⁹⁹ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 29 (Table 10).

¹⁰⁰ COLIN SEEBERGER, CTR. FOR AM. PROGRESS, NEARLY TWO-THIRDS OF MOTHERS CONTINUE TO BE FAMILY BREADWINNERS, BLACK MOTHERS ARE FAR MORE LIKELY TO BE BREADWINNERS (May 10, 2019), <https://www.americanprogress.org/press/release/2019/05/10/469660/release-nearly-two-thirds-mothers-continue-family-breadwinners-black-mothers-far-likely-breadwinners/>.

¹⁰¹ Adult caregivers are people who provide “unpaid care to a relative or friend 18 years or older to help them take care of themselves.” NAT’L ALLIANCE FOR CAREGIVING & AARP PUBLIC POL’Y INST., CAREGIVING IN THE U.S. (June 2015), *available at* <https://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>.

¹⁰² *Id.*

people accessing public benefits like SNAP do work, but in jobs where, unconstrained by an adequate minimum wage and robust protections for workers, employers pay low wages, provide few benefits, and offer unstable work hours. In addition, these are the jobs in which the balance of power puts workers most at risk of discrimination and harassment. The budgets of many women of color are even further strained because they disproportionately lack access to affordable, high-quality child care, transportation, and more. People do not use SNAP because they don't want to work — they turn to SNAP because they cannot put food on the table on their paychecks alone. The need for SNAP and other public benefits is an inevitability in an economic system that disadvantages women generally and women of color especially.

Women of color are 34 percent of non-elderly SNAP recipients and 31 percent of elderly recipients.¹⁰³ The proposed rule would remove a backstop that mitigates the impact of this unjust system, by reducing SNAP benefits for women of color and their families. The proposed rule would be especially harsh for the 24 percent of households with an Asian head of household that will lose benefits, with an average benefit loss of \$42.¹⁰⁴ As a result, USDA should withdraw the proposed rule.

D. The proposed rule will harm LGBTQ people.

The proposed rule would place extra pressure on LGBTQ families. Employment discrimination is a significant factor contributing to LGBTQ poverty and unemployment rates. Over half of the U.S. population lives in a state without comprehensive nondiscrimination laws prohibiting employment discrimination based on sexual orientation and gender identity.¹⁰⁵

LGBTQ women face pervasive discrimination in hiring.¹⁰⁶ And 15 percent of respondents to the national 2015 U.S. Transgender Survey reported being unemployed, a rate of unemployment three times higher than the unemployment rate for the total U.S. population at the time.¹⁰⁷ Many LGBTQ people who do get hired face discrimination at work, including being fired just for being who they are.¹⁰⁸ Nearly one in five transgender women report having lost a job due to their gender identity or

¹⁰³ NAT'L WOMEN'S LAW CTR. calculations based on U.S. CENSUS BUREAU, 2019 CURRENT POPULATION SURVEY using IPUMS.

¹⁰⁴ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 29. Once again, USDA does not provide gender impact analysis for the Center to comment on the impact on gender and race. Notably, 17 percent of households with a Black head of household will lose benefits, with an average benefit loss of \$30, and 17 percent of households with a Hispanic head of household will lose benefits, with an average benefit loss of \$31. *Id.*

¹⁰⁵ MOVEMENT ADVANCEMENT PROJECT, EQUALITY MAPS: STATE NON-DISCRIMINATION LAWS, http://www.lgbtmap.org/equality-maps/non_discrimination_laws (last modified March 29, 2018).

¹⁰⁶ CAITLIN ROONEY & SARAH HASSMER, CTR. FOR AM. PROGRESS & NAT'L WOMEN'S LAW CTR., PROGRAMS THAT SUPPORT BASIC LIVING STANDARDS FOR LGBTQ WOMEN SHOULD BE STRENGTHENED – NOT CUT (Mar. 2019), <https://nwlc.org/resources/programs-that-support-basic-living-standards-for-lgbtq-women-should-be-strengthened-not-cut/>.

¹⁰⁷ S.E. JAMES ET AL., NAT'L CTR. FOR TRANSGENDER EQUALITY, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY 5, (Dec. 2016), *available at* <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

¹⁰⁸ ROONEY & HASSMER, *supra* note 106.

expression at some point, according to the national 2015 U.S. Transgender Survey.¹⁰⁹ In addition, LGBTQ women who are also members of other marginalized communities, such as people of color and people with disabilities, may experience discrimination based on their multiple identities.¹¹⁰ This employment discrimination is one contributing factor to LGBTQ people being more likely to experience poverty, be food insecure, and need to use SNAP than non-LGBTQ people and their families.

LGBTQ people and their families, like every family, need to heat and cool their homes as well as put food on the table. Instead of cutting vital SNAP benefits for LGBTQ people and their families, USDA should withdraw this proposed rule and work on increasing access to this vital support.

E. The proposed rule will harm people with disabilities.

The Administration concedes that the proposed rule would cause 19 percent of households that currently receive SNAP to get lower SNAP monthly benefits, and it would disproportionately impact people with disabilities.¹¹¹ **Twenty-nine percent of households with a person with a disability** would experience a SNAP benefit cut,¹¹² with an average benefit cut of \$35 per month.¹¹³

People with disabilities can ill afford cuts of this scope. Twenty-nine percent of women with disabilities lived in poverty in 2018,¹¹⁴ and people with disabilities are more likely to be food insecure.¹¹⁵ This is due in part to the fact that people with disabilities face discrimination in employment¹¹⁶ as well as misconceptions about their ability to work. In addition, people with disabilities may need additional supports and services to obtain and keep jobs. Frequently, these supports and services are difficult to access.¹¹⁷ All of

¹⁰⁹ JAMES ET AL., *supra* note 107, at 150.

¹¹⁰ ROONEY & HASSMER, *supra* note 106. For example, in the 2015 U.S. Transgender Survey, the unemployment rate was 20 percent for transgender people of color and 24 percent for respondents with disabilities. JAMES ET AL., *supra* note 107, at 6.

¹¹¹ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 29 (Table 10).

¹¹² CBPP calculations based on RIA and FY2017 FNS data, *supra* note 43.

¹¹³ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 29 (Table 10). USDA states that this larger benefit cut is because these households do not face the excess shelter cost cap. Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances, 84 Fed. Reg. at 52813. As a result, households with people with disabilities are more likely than households without people with disabilities or seniors “to claim an excess shelter deduction, and those deductions are larger on average than the shelter deductions of other households.” USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 29-30.

¹¹⁴ AMANDA FINS, NAT’L WOMEN’S LAW CTR., NATIONAL SNAPSHOT: POVERTY AMONG WOMEN & FAMILIES, 2019, at 2 (Oct. 2019), available at <https://nwlc.org/resources/national-snapshot-poverty-among-women-families-2019/>.

¹¹⁵ COLEMAN-JENSEN & NORD, *supra* note 18, at 15. Individuals with other reported disabilities are individuals “who had a disability but did not indicate they were out of the labor force due to disability.” For comparison, 12 percent of households with no disabled adult were food insecure. *Id.*

¹¹⁶ AZZA ALTIRAIFI, CTR. FOR AM. PROGRESS, ADVANCING ECONOMIC SECURITY FOR PEOPLE WITH DISABILITIES (July 26, 2019), <https://www.americanprogress.org/issues/disability/reports/2019/07/26/472686/advancing-economic-security-people-disabilities/>.

¹¹⁷ See, e.g., U.S. DEP’T OF HEALTH & HUMAN SERVS., CTRS. FOR DISEASE CONTROL & PREVENTION, COMMON BARRIERS TO PARTICIPATION EXPERIENCED BY PEOPLE WITH DISABILITIES,

these factors contribute to the national unemployment rate for women with disabilities (7.4 percent) being more than twice the unemployment rate for non-disabled men (3.3 percent).¹¹⁸

People with disabilities may face higher cooling or heating costs, depending on a person's diagnosis and their health-related needs. Furthermore, people with disabilities and their families who live on fixed incomes often confront unexpected expenses. For example, a broken wheelchair or a trip to see a distant specialist for a child with a chronic illness can wipe out any savings a family may have in the blink of an eye. Unexpected costs like these, typically ranging between \$1,000 to \$7,000 per year,¹¹⁹ can be devastating for a family.

Because this proposed rule will cut SNAP benefits for people with disabilities who already face significant barriers to their economic security, the Center urges USDA to withdraw this proposed rule.

F. The proposed rule threatens vital food assistance for survivors of domestic violence or sexual assault.

Individuals working with survivors have already identified a variety of barriers that keep survivors from safely accessing SNAP benefits, or that serve as reasons why victims may lose benefits or not get the full range of services SNAP provides.¹²⁰ In one study, only 58 percent of individuals working with survivors reported that survivors of domestic violence had access to SNAP when they needed it, and 44 percent of those working with sexual assault survivors reported that these survivors had access.¹²¹

This proposed rule would cut SNAP benefits for many survivors and their families, adding an additional, unnecessary barrier for survivors to heat and cool their homes and put food on their table after escaping their abuser.

In addition, according to the National Consumer Law Center:

Getting utilities set up and kept current can be particularly difficult for domestic violence survivors. Several roadblocks to keeping or acquiring new utility service exist. The utility company may try to hold a survivor responsible for delinquent utility bills on an account managed by the

<https://www.cdc.gov/ncbddd/disabilityandhealth/disability-barriers.html> (last reviewed Aug. 9, 2018); U.S. DEP'T OF JUSTICE, CIVIL RIGHTS DIV., Cities and Counties: First Steps Toward Solving Common ADA Problems, <https://www.ada.gov/civiccommonprobs.htm>.

¹¹⁸ U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, TABLE A-6 EMPLOYMENT STATUS OF THE CIVILIAN POPULATION BY SEX, AGE, AND DISABILITY STATUS, NOT SEASONALLY ADJUSTED, *available at* <https://www.bls.gov/news.release/empsit.t06.htm> (last modified Nov. 1, 2019).

¹¹⁹ SOPHIE MITRA ET AL., THE HIDDEN EXTRA COSTS OF LIVING WITH A DISABILITY, THE CONVERSATION (July 25, 2017), <https://theconversation.com/the-hidden-extra-costs-of-living-with-a-disability-78001>.

¹²⁰ Shaina Goodman, Nat'l Res. Ctr. on Domestic Violence, The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims' Economic Security (Jan. 2018), https://vawnet.org/sites/default/files/assets/files/2018-10/NRCDDV-TheDifferenceBetweenSurvivingandNotSurviving-UpdatedOct2018_0.pdf.

¹²¹ *Id.*

abuser. In addition, a survivor who has any preexisting utility debt may find it hard to get new service.¹²²

Most states do not have utility protections for survivors, and survivors may still encounter roadblocks in states with protections due to implementation issues.¹²³

Because this proposed rule would add unnecessary barriers to survivors accessing SNAP and paying for their utilities, USDA should withdraw this proposed rule and instead focus on improving access to food and nutrition programs to increase the safety and well-being of survivors and their families.

G. The proposed rule will harm seniors.

As discussed above, the proposed rule would cause 19 percent of households that currently receive SNAP to get lower SNAP monthly benefits. While this percentage is significant, USDA estimates that nearly **26 percent of households with seniors** would receive lower SNAP monthly benefits and their average benefit loss would be \$36 per month.¹²⁴ This is because, like households with people with disabilities, households with seniors do not face the excess shelter cap.¹²⁵ Seniors may be least able to weather losing food assistance without dire consequences for their health and well-being – nor should we be asking them to. USDA should withdraw the proposed rule because of its impact on seniors.

IV. The proposed rule's impact on SUA calculations would harm children and should be rejected.

As noted above, 68 percent of the households that would experience a SNAP benefit cut are households with children.¹²⁶ Losing SNAP benefits will have a harmful impact on a diverse group of children:

- **Young children** living in food-insecure households are affected directly and indirectly.¹²⁷ As a direct result of food insecurity, young children may lack the nutrition they need during a crucial cognitive development and physical growth stage, leading to an increased risk of poor health, developmental delay, and hospitalization.¹²⁸ Indirectly, food-insecure parents of young children—especially mothers—who sacrifice their own nutritional needs for their children's, may

¹²² LIHEAP CLEARINGHOUSE, DOMESTIC ISSUES CREATING HARDSHIPS FOR LOW-INCOME UTILITY CUSTOMERS 1 (Nov. 2017), *available at*

<https://liheapch.acf.hhs.gov/sites/default/files/webfiles/docs/DomesticIssues.pdf>.

¹²³ *Id.*

¹²⁴ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 29 (Table 10).

¹²⁵ *See supra* note 113.

¹²⁶ CBPP calculations based on RIA and FY2017 FNS data, *supra* note 43.

¹²⁷ ELAINE WAXMAN ET AL., URBAN INST., WELLNESS CHECK: FOOD INSECURITY AMONG FAMILIES WITH INFANTS AND TODDLERS (June 2019), *available at* https://www.urban.org/sites/default/files/publication/100376/wellness_check_food_insecurity_among_families_with_infants_and_toddlers_3.pdf.

¹²⁸ *Id.*

experience depression, anxiety, and low energy levels, resulting in diminished parenting ability and potential behavioral problems in their children.¹²⁹ The loss of some or all SNAP benefits pursuant to this proposed rule would therefore deeply impact young children.

- **Children of color** living in low-income, food-insecure households are more likely to be at risk of developmental delay than their counterparts living in low-income but food-secure households.¹³⁰ Due to the toll inadequate nutrition takes on early childhood development, food insecurity contributes to the achievement gap and may perpetuate the cycle of poverty into adulthood for low-income children of color.¹³¹ Nutrition assistance programs mitigate the effects of poverty and food insecurity for low-income children of color,¹³² and, conversely, losing SNAP under the proposed rule could well exacerbate them.
- **Children in working families** are more likely to experience food insecurity and report poor health due to a reduction in or loss of SNAP benefits.¹³³
- **Children in the care of grandparents** may be living with their elders because their parents could not provide for them.¹³⁴ The housing, health care, and child care costs that come with taking care of grandchildren can be significant.¹³⁵ Consequentially, assuming the role of caretaker — often on short notice — places a financial strain on grandparents, especially those who are retired or semi-retired and have downsized their homes and budgets.¹³⁶ In a recent survey, 28 percent of caregiving grandparents use SNAP.¹³⁷ The loss of benefits precipitated by the proposed rule would throw these households into further financial jeopardy.
- **Teenagers** in food-insecure families often go hungry so their younger siblings can eat and look for ways to provide food and money for their households.¹³⁸ Food-insecure teenagers may also try to ease their hunger and make food last longer for their family by eating at friends' or relatives' homes and saving their school lunch for the weekend.¹³⁹ Losing SNAP benefits under this rule would further harm teenagers, who are at a critical stage in their growth and development.
- **Runaway and homeless youth** experiencing food insecurity are more likely to have been neglected and abused by caretakers, spend a lot of time on the streets,

¹²⁹ *Id.*

¹³⁰ JOINT CTR. FOR POL. & ECON. STUD. HEALTH POL'Y INST., THE IMPACT OF FOOD INSECURITY ON THE DEVELOPMENT OF YOUNG LOW-INCOME BLACK & LATINA CHILDREN 6 (MAY 2006), *available at* https://childrenshealthwatch.org/wp-content/uploads/children_of_color_5_06.pdf.

¹³¹ *Id.*

¹³² *Id.* at 8.

¹³³ LAXMI HAIGH, NUTRITION INSIGHT, U.S. FAMILIES WITH REDUCTION AND LOSS OF SNAP BENEFITS HAVE A HIGHER RISK OF FOOD INSECURITY AND POOR HEALTH (May 8, 2019), *available at* <https://childrenshealthwatch.org/us-families-with-reduction-and-loss-of-snap-benefits-have-a-higher-risk-of-food-insecurity-and-poor-health/>.

¹³⁴ CHRISTINE STANIK, ALTARUM CTR. FOR BEHAVIORAL HEALTH, COLLATERAL DAMAGE OF THE OPIOIDS CRISIS 2-3 (2018), *available at* <https://altarum.org/sites/default/files/uploaded-publication-files/Altarum-Research-Brief-Collateral-Damage-of-the-Opioid-Crisis-Dec1218.pdf>.

¹³⁵ *Id.* at 3.

¹³⁶ *Id.*

¹³⁷ *Id.* at 3-4.

¹³⁸ SUSAN J. POPKIN ET AL., URBAN INST., IMPOSSIBLE CHOICES: TEENS AND FOOD INSECURITY IN AMERICA V (Sept. 2016), *available at* https://www.urban.org/sites/default/files/publication/83971/impossible-choices-teens-and-food-insecurity-in-america_1.pdf.

¹³⁹ *Id.*

be isolated, and experience substance abuse.¹⁴⁰ The inconsistent food sources distinct to homelessness, combined with teenagers' unpredictable eating habits, put homeless teens at a higher risk for malnutrition.¹⁴¹ Runaway and homeless youth acquire food through means such as borrowing money, getting food or money from relatives, utilizing social welfare resources, begging for money, theft, and survival sex.¹⁴² The proposed rule's reduction or elimination of SNAP benefits for these young people would further place their health and well-being at risk.

- **Children with disabilities** are more likely to be food insecure than children without disabilities.¹⁴³ Due to the special diets children with disabilities often require, food insecurity puts these children at risk for health and developmental problems when families cannot afford the food their children need.¹⁴⁴ Increasing SNAP benefits for families with children who have disabilities would decrease the risk of food insecurity,¹⁴⁵ while cutting their SNAP benefits, as this proposed rule would do, would have the opposite effect.

Already, monthly SNAP benefits are often too low to last families with children the entire month.¹⁴⁶ Because of all the harm that would result from cutting SNAP benefits for children and their families, the Center urges USDA to withdraw this proposed rule and focus on providing enough food assistance to feed low-income children throughout the month.

V. The proposed rule will undermine the ability of SNAP to respond to future recessions, hurting families, businesses, and the economy writ large.

SNAP has a countercyclical economic effect – that is, enrollment in the program, and, as a result, the overall amount of SNAP benefits, increases during difficult economic times. Increased SNAP spending has been demonstrated to have a “multiplier effect” during economic downturns. As mentioned earlier, economic studies estimate that \$1 of SNAP benefits leads to between \$1.50 and \$1.80 in total economic activity during a recession.¹⁴⁷ In particular, increased SNAP spending has a highly positive impact on manufacturing and trade and transportation sectors,¹⁴⁸ as well as health and social services, agriculture, and other sectors.¹⁴⁹

¹⁴⁰ LES B WHITBECK ET AL., NAT'L INSTS. OF HEALTH, FOOD INSECURITY AMONG HOMELESS AND RUNAWAY ADOLESCENTS 6 (Feb. 2006), *available at* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2575688/pdf/nihms-73315.pdf>.

¹⁴¹ *Id.* at 1.

¹⁴² *Id.* at 6.

¹⁴³ KATHLEEN ROMIG, CTR. ON BUDGET & POL'Y PRIORITIES, YOUNG PEOPLE WITH DISABILITIES VULNERABLE TO FOOD INSECURITY (Sept. 26, 2016), <https://www.cbpp.org/blog/young-people-with-disabilities-vulnerable-to-food-insecurity>.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ KAREN HAMRICK & MARGARET ANDREWS, SNAP PARTICIPANTS' EATING PATTERNS OVER THE BENEFIT MONTH: A TIME-USE PERSPECTIVE, 11 PLOS ONE 1-18 (2016), *available at* <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0158422&type=printable>.

¹⁴⁷ See CANNING & STACY, *supra* note 79.

¹⁴⁸ *Id.* at 24.

¹⁴⁹ *Id.* at 25.

However, the proposed rule would put local businesses and economies in a less advantageous position in advance of a future recession, undercutting the positive economic effect that SNAP has during an economic downturn. USDA estimates that the proposed rule will cut SNAP by \$4.5 billion over five years.¹⁵⁰ Cutting SNAP benefits, as the proposed rule would do, will cause families shift more of their income to spending on food, reducing their spending on other essentials.¹⁵¹ This means that families will be spending less in local businesses, putting those enterprises in a more precarious financial position before a likely recession. The United States Conference of Mayors has noted that in response to other USDA proposed rules that reducing SNAP spending will harm local economies,¹⁵² more broadly, which means that in the event of a recession, more, rather than less, stimulus spending will be required to stabilize them.

In sum, the fact that the proposed rule would *reduce* the amount of SNAP spending before an anticipated recession, with detrimental economic effects on local businesses and economies, could hamper the significant positive economic stimulus impact of increased SNAP spending triggered by the onset of a recession. Accordingly, USDA should withdraw this proposed rule.

VI. This arbitrary proposed rule disregards congressional intent and previous agency guidance, has not been shown to further its stated goals, and does not have an adequate assessment.

The proposed rule is arbitrary and has not been shown to advance USDA's stated rationale, much less outweigh the harm to SNAP beneficiaries that will result if the rule is finalized.

A. Congress had an opportunity to reduce states' flexibility to calculate their SUAs and declined to.

Congress most recently legislated on SNAP in the 2018 Farm Bill. The budget proposal issued by the President earlier that year contained a proposal to change the calculation of SUAs, which was thus before Congress during the 2018 Farm Bill debate. Congress did not include this proposal in any version of the bill, even though versions of the bill contained other provisions from President's budget (which were ultimately rejected in the final version of the bill). Because Congress failed to advance a proposal to change states' calculation of SUAs in its most recent action around SNAP, this rule is really an end-run around the legislative branch and should be withdrawn.

B. USDA's proposed calculation of the HCSUA is lower than that suggested in agency guidance on SUA methodologies.

¹⁵⁰ Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances, 84 Fed. Reg. at 52812.

¹⁵¹ DIANE SCHANZENBACH, NORTHWESTERN U., WHO WOULD BE AFFECTED BY PROPOSED CHANGES TO SNAP?, ECONOFACT (Aug. 1, 2019), <https://econofact.org/who-would-be-affected-by-proposed-changes-to-snap>.

¹⁵² Letter from the United States Conference of Mayors to Jessica Shahin (Aug. 21, 2019), *available at* <https://www.usmayors.org/wp-content/uploads/2019/08/Mayors-SNAP-Letter-Final.pdf>.

In the proposed rule, USDA calibrates the HCSUA to utility expense survey data at the 80th cost percentile in the relevant survey data. This proposal will result in households losing SNAP benefits. Using the 80th percentile to set the HCSUA means that 20 percent of low-income households in each state will have utility costs that exceed the allowance. Moreover, many SNAP recipients who live in the 22 states whose FY 2014 SUAs met or exceeded the 85th percentile will lose some of their SNAP benefits as compared to current levels.

Agency guidance issued on SUA methodologies in 1979, in contrast, encouraged states to set SUAs at levels that would ensure almost every household was better off claiming the SUA than its actual household utility costs (i.e., by setting SUAs at the 95th percentile).¹⁵³ Even the 2017 study on standardizing state utility allowances cited by USDA in its RIA used a higher percentage of utility costs (the 85th) than that proposed in this rule.¹⁵⁴ Because USDA's proposal undercuts its own prior policy recommendations, the agency should withdraw the proposed rule.

C. The USDA has not demonstrated that its purported rationales for changing the SUA calculation would be furthered by this proposal, and certainly not to the extent of justifying the cuts to SNAP benefits that this arbitrary proposed rule would impose.

In its RIA, USDA states that the rationale for the proposed change to calculating SUAs is to “make the SUAs and the program more equitable and . . . improve program integrity by ensuring SUAs better reflect what households are paying for utilities.”¹⁵⁵ The USDA appears to be driven, at least in part, by the concern that the current policy improperly “allows for disparities” between states, noting that if two states have different SUA amounts, benefit recipients who live “on opposite sides of a State border” will have different SNAP benefit amounts.¹⁵⁶ The concern for equalizing the benefit amounts received by SNAP beneficiaries on different sides of a state border seems somewhat overblown, especially when compared to the fact that millions of SNAP beneficiaries across the country will face reduced SNAP benefits if the proposed rule is finalized. Moreover, the tension between this stated concern and states' flexibility in determining HCSUA amounts reflective of utility costs in their states should be resolved in favor of state flexibility.

The RIA also asserts that the HCSUA values across states are inconsistent with average per capita energy consumption and expenditures data reported by the Department of Energy, without explaining why those data are a relevant point of comparison to the utility costs of low-income households. Moreover, USDA has failed to show that the proposed national standard for calculating HCSUAs would make them more accurate. While the RIA asserts that setting the value of the HCSUA at 80 percent

¹⁵³ U.S. DEP'T OF AGRIC., FOOD & NUTRITION SERV., FOOD STAMP PROGRAM STANDARD UTILITY ALLOWANCES REQUIREMENTS AND METHODOLOGIES (1979) (on file with NWLC).

¹⁵⁴ CHRIS HOLLEYMAN, TIMOTHY BEGGS & ALAN FOX, U.S. DEP'T OF AGRIC., FOOD & NUTRITION SERV., METHODS TO STANDARDIZE STATE STANDARD UTILITY ALLOWANCES, (Aug. 2017), <https://fnsprod.azureedge.net/sites/default/files/ops/methods-standardizes-uas.pdf>.

¹⁵⁵ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 1.

¹⁵⁶ *Id.* at 6.

of utility costs would ensure “the HCSUAs better reflect what households are paying for utilities,” it provides no evidence to support that bald assertion.¹⁵⁷ In the absence of evidence that the proposed rule would advance this purported rationale, the more likely motivation behind this proposed rule is the desire to effectuate benefit cuts.

Indeed, USDA has failed to provide sufficient detail about the new federal SUA methodology to permit the public to fully evaluate whether its approach would improve equity or accuracy or in fact do anything other than ensure further SNAP cuts. But some flaws and bases for concern are evident, even from the incomplete description in the RIA. For example, the proposed rule precludes states from adjusting HCSUAs to account for household size, area of the state, or season, which would make it *less likely* that the HCSUAs accurately reflect utility costs. In addition, neither the NPRM nor the RIA discuss the underlying variation in utility costs around the 80th percentile within each state. The RIA only discusses variation around the average. It is possible the variation across states at a higher percentile is larger, and that is what would matter given the policy USDA has proposed.

Moreover, the RIA does not address the limitations of the data in the surveys endorsed in the proposed rule, including those related to state representation and the impact of the time lag for obtaining data from national surveys on the accuracy of the utility costs used to calculate the SUA (as discussed in more detail in the next subsection). A fuller description of the methodology in the proposed rule would permit more thorough comment, but suffice it to say, the USDA has failed to demonstrate that its proposal would further its purported rationales. (While USDA has repeatedly failed to provide sufficient analysis in NPRMs and RIAs to permit sufficient notice and comment by the public, the failure in the RIA for this proposed rule also warrants its withdrawal). For the foregoing reasons, USDA should withdraw this arbitrary proposed rule.

D. USDA’s assessment of the impacts of the proposed rule is inadequate.

USDA has failed to adequately describe the harm that will result from this proposed rule. As an initial matter, USDA’s estimates of proposed SUAs and impacts on states and SNAP households are based on outdated data. The RIA utilizes actual and proposed SUAs for Fiscal Year 2017, which are three years old at this point, and the underlying data used to generate estimates for the RIA draw from the 2009 Residential Energy Consumption Survey (RECS) and the 2011 American Community Survey (ACS), data which are roughly a decade old. This is despite the fact that more recent data from those surveys (the 2015 RECS and the 2018 ACS) were available this year, when USDA was developing this proposed rule. Given the growth and volatility of utility costs even over the course of a few months or a year, especially in the context of climate change, this raises significant concerns about the accuracy of the impact assessment.

In addition, the RIA fails to assess the impact of the proposed rule on a significant demographic group: women, who make up over 60 percent of adult SNAP

¹⁵⁷ *Id.* at 16.

beneficiaries.¹⁵⁸ Indeed, outside experts have estimated that nearly 70 percent of households that would see their SNAP benefits reduced under this proposed rule are headed by women – with an average household loss of \$32 in benefits.¹⁵⁹ USDA’s failure to articulate the impact for a demographic group whose representation among SNAP beneficiaries is significant and hampers the ability of the public to comment on the proposed rule.

In addition, the RIA notes that an aspect of “uncertainty” in the impact assessment arises from the fact that there are at least three proposed rules ***this year alone*** put forth by USDA that would impact SNAP beneficiaries.¹⁶⁰ This is deeply offensive. The inaccuracy of this assessment is entirely due to USDA’s own relentless efforts to cut SNAP benefits, and as a result, it is incumbent upon USDA to set forth the impacts of this proposed rule with care and sufficient specificity to facilitate the public notice and comment process. Since it has not done so, the proposed rule should be withdrawn.

VII. USDA should withdraw this harmful proposed rule restricting states’ flexibilities with HCSUA calculations.

USDA has failed to demonstrate that its proposed rule would further its stated rationales, much less the core purpose of SNAP. This proposed rule is really an attempt to make an end-run around Congress, and cut SNAP benefits. By USDA’s own estimates, this proposed rule would cut SNAP benefits by \$4.5 billion over five years,¹⁶¹ and there is reason to be concerned that those estimates do not fully capture the impact. Millions of women and families would be harmed. The Center strongly opposes the proposed rule that would cut food benefits, increase food insecurity, and harm our community, and urges USDA to withdraw it.

Sincerely,



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¹⁵⁸ SNAP HOUSEHOLD CHARACTERISTICS FOR FY 2018, *supra* note 3, at 67.

¹⁵⁹ CBPP calculations based on RIA and FY2017 FNS data, *supra* note 43.

¹⁶⁰ USDA REGULATORY IMPACT ANALYSIS, *supra* note 43, at 32-33.

¹⁶¹ Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances, 84 Fed. Reg. at 52812.



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