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Certification Policy Branch, Program Development Division
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Alexandria, Virginia 22302

To whom it may concern –

We are writing in response to the Department of Agriculture’s notice of proposed rulemaking (NPRM) regarding Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults with Dependents (Docket ID FNS-2018-0004).

Given that SNAP is a highly effective automatic stabilizer, proposals that change the conditions by which economically distressed places become eligible for work requirement waivers should be held to the highest evidentiary standards.

This comment summarizes and provides evidence relevant to the rulemaking. The USDA’s Proposed Rule does not meet an evidentiary standard and would weaken SNAP’s responsiveness to an economic downturn without increasing labor force participation rates.

Based on the research produced and attached herein, we find no evidence of a compelling public need for regulation nor that the benefits outweigh the costs. We ask that the USDA review and address each evidentiary point herein, as well from the research attached, as part of the notice and comment process. The existing rules should be sustained.

Sincerely,

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I. Introduction

The goals of safety net programs are to provide insurance protection to those who are experiencing poor economic outcomes and to support those who are trying to improve their situation. The Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) ensures that eligible participants and families have access to food when they have no or low income. SNAP does so by providing participants with resources to raise their food purchasing power and, as a result, improve their health and nutrition. SNAP lifts millions out of poverty and supports work while reducing food insecurity. Evidence shows that SNAP increases health and economic security among families in the short term as well as economic self-sufficiency in the long term.

SNAP is designed to expand as unemployment rates rise and household income falls, and in fact, caseloads increase as the unemployment does (Ganong and Liebman 2018). SNAP, Medicaid, and Unemployment Insurance provide the majority of automatic spending fiscal stabilization during economic downturns (Russek and Kowalewski 2015) and SNAP's responsiveness to downturns has increased over time (Bitler and Hoynes 2010). Studies show that when SNAP payments increase to a local area in response to an economic downturn, they serve as an effective fiscal stimulus to the local area (Blinder and Zandi 2015; Keith-Jennings and Rosenbaum 2015).

In accordance with the law, including the recently reauthorized Farm Bill, Congress authorizes States to manage the work requirement for so-called able-bodied adults without dependents (ABAWDs) in accordance with the needs of their State. After 1996, certain non-disabled SNAP participants ages 18-49 without dependent children are limited to 3 months of benefits out of 36 months if they do not work or participate in a training program at least 20 hours per week or participate in workfare. States have had the option to impose work requirements on certain beneficiaries since the 1980s. See Rosenbaum (2013) and Bolen et al. (2018) for a detailed description of SNAP work requirements. States are not required to assign these participants or provide slots in training programs, so for many participants, this provision functions as a time limit rather than a work requirement.

Exempt from ABAWD work requirements are those outside the age range, those who are medically certified as unfit for employment, those with dependents or who reside in a household with a minor, those who are pregnant, and those who are otherwise exempt. States must exempt certain individuals, such as those who are "unfit" for work, and are permitted to exempt a share of individuals for other reasons.

States are permitted to apply to the U.S. Department of Agriculture (USDA) for waivers to the time limit provisions for the entire State as well as sub-state geographic areas if their economic conditions meet certain standards. The State must be able to provide evidence that the State or a state-determined sub-state area has (1) a recent twelve-month average unemployment rate over 10 percent, (2) a recent three-month average unemployment rate over 10 percent, (3) a historical seasonal unemployment rate over 10 percent, (4) is designated as a Labor Surplus Area (LSA), (5) qualifies for Extended Benefits to Unemployment Insurance (EB), (6) has a low and declining employment-to-population ratio, (7) has a lack of jobs in declining occupations or

industries, (8) is described in an academic study or other publications as an area where there is a lack of jobs, (9) has a 24-month average unemployment rate 20 percent above the national average for the same period, starting no earlier than the start of the LSA designation period for the current fiscal year.

The intent of the work requirement waivers is to ensure that participants are not penalized for not working when it is difficult to find a job. As there is no one way to measure job finding difficulty, there are a variety of ways to measure labor market weakness in the current rules. The current waivers can be at the county, regional, or State level. They are both absolute (above certain levels of unemployment) and relative (compared to national average) as both may be an important signal to a State that economic conditions warrant waiving work requirements.

The USDA proposes to disallow States from applying for statewide waivers except on the basis of the State qualifying for EB (option 5) and from making regional determinations. USDA proposes to maintain options 1 and 5 and eliminate waiver eligibility options 3, 4, 6, 7, and 8 of the preceding paragraph with regard to counties or Labor Market Areas (LMAs). It proposed to modify option 2 (an unemployment rate of 10 percent in a recent three-month period) to only be used in support of “an exceptional circumstance (p. 983),” “the rapid disintegration of an economically and regionally important industry or the prolonged impact of a natural disaster (p. 985).” The USDA proposed to modify option 9 (the so-called “twenty-percent rule”) such that “an area must have an average unemployment rate at least 20 percent above the national average and at least 7 percent for a recent 24-month period (p. 984).” USDA also requests feedback on using 6 and 10 percent unemployment as rate floors.

The proposed rule also reduces States’ ability to use exemptions for individuals by limiting States ability to accumulate those exemptions. The exemptions allow States to shield individuals from work requirements if State administrators feel the work requirements are inappropriate for that individual, for example due to temporary problems with hours, health, caregiving, or other issues that restrict their ability to work.

The USDA proposes new rules that are arbitrary. The USDA and its Regulatory Impact Analysis (RIA) fail to fully consider the costs and benefits of the proposed rule, including the costs and benefits under alternative economic conditions.

The proposed rule limits a State’s ability to apply for work requirement waivers when its economy is weak or relatively weak compared to the overall national economy. The USDA and the RIA do not consider the benefits to program participation for individuals nor SNAP’s role as an automatic stabilizer when weighing proposed changes. The rule is likely to push a considerable number of current beneficiaries who are either in the labor market or unable to work off the SNAP rolls while failing to expand for newly eligible participants at the onset of a recession. It does so absent evidence that labor force attachment among ABAWDs would increase as a result of this proposal even in a strong economy and without consideration to the costs both for individuals and the economy in any circumstance.

The analyses reported in this comment show that the proposed rule would weaken one of the strongest automatic stabilizers in the fiscal policy toolkit. The analysis presented below that

fewer counties would be eligible for waivers at the start of a recession relative to current rules. Instead of SNAP participation expanding promptly, rapidly, and expansively as the unemployment rate rises, the proposed rule would slow eligibility for geographic waivers, and in fact, could cause the program to contract. The proposed rule undermines the role that SNAP plays at the onset of a recession, during poor economic times, and in mitigating the effects of recessions. While the stated goal is to limit waiver eligibility in a strong economy, the proposed rule fails to ensure waivers are available to States in a weak economy. The USDA and its RIA have failed to consider this critical issue, much less weigh the costs and benefits to these changes.

The proposed work requirements would make regional waivers more difficult to obtain and state-wide waivers difficult to obtain in the absence of EB. By making it more difficult for States to apply for a statewide waiver and by limiting State's ability to determine economically-linked areas, USDA reduces the geographic mobility of program participants and ties their benefit receipt to maintained residency in an area that, by its own definition, is economically lagging. This seems likely to reduce employment and labor force participation of SNAP program participants as it effectively traps them in lagging economic areas. No analysis in the RIA is presented to consider these costs.

While proposing to eliminate evidentiary standards that are not based on federally-produced data, the USDA proposes eliminating two that are (LSAs and seasonal unemployment) and introduce uncertainty into what is currently a standard with clear and universal applications (three-month unemployment rate over 10 percent.) No analysis in the RIA is presented to consider these costs.

The analyses reported in this comment suggest that the proposed changes to work requirement regulations will put at risk access to food assistance for millions who are working, trying to work, or face barriers to working. We find the USDA provides no evidence that limiting waivers from work requirements makes this population more likely to work or more self-sufficient. Our analysis shows that the overwhelming majority of SNAP participants subject to work requirements, ABAWDs, are in fact in the labor force; but, most have volatile employment experiences that would leave them failing the work requirements from time to time. Our analysis also shows that labor force participants experiencing a gap in employment do so for work-related reasons outside their control. Furthermore, the vast majority of ABAWDs not in the labor force are not in fact able-bodied, but suffer from serious health problems or have a disability. By further proscribing the individual waiver eligibility pool and the use of exemptions, the proposed rule limits State's discretion to provide food assistance. No analysis in the RIA is presented to consider the work experiences and health conditions of ABAWDs, the benefits to them for SNAP program participation, and the costs to them and to society of time limits.

This comment summarizes and provides evidence relevant to the rulemaking. Based on the research produced and attached herein, we find no evidence of a compelling public need for regulation nor that the benefits outweigh the costs. We ask that the USDA review and address each evidentiary point herein, as well from the research attached, as part of the notice and comment process. The existing rules should be sustained.

II. Supplemental Nutrition Assistance Program

In this section we review published evidence on SNAP and work requirements.

A. SNAP and Incentives to Work

SNAP is the most near universal of means-tested transfer programs in the United States. Certain households' SNAP eligibility is determined by meeting a gross income test whereby all sources of income fall below 130% of the federal poverty level (FPL) for its household size. The net income test requires that a household's net income, i.e. gross income minus the earnings disregard and other deductions, is below 100% FPL.

Subject to meeting the income and asset limits, benefits are allocated to households through the following formula:

$$\text{Household SNAP benefit} = \text{maximum benefit} - 0.3 * \text{net income.}$$

Households without any net income receive the maximum benefit for their household composition. Those with positive net income see their benefit levels reduced by 30 cents on the dollar of net income.

While one might worry that providing income support decreases the incentive to work, SNAP currently addresses work disincentives in a variety of ways. SNAP has an earnings disregard of 20 percent as part of the net income calculation, meaning that the value of the earnings disregard increases as income does and that those with earned income receive larger SNAP benefits than those with no earned income (Wolkomir and Cai 2018). This means that when a person moves from being a labor force nonparticipant to working while on SNAP, total household resources will increase; as a beneficiary earns more up to the eligibility threshold, total household resources continue to increase. The combination of the earnings disregard and a gradual phase-out schedule—that States have the option to further extend and smooth—ameliorate but do not eliminate work disincentives.

Work requirements in SNAP are meant to force work-ready individuals to increase their work effort and maintain that work effort every month by threatening to withhold and subsequently withholding food assistance if a person is not working a set number of hours. In practice, the application of work requirements sanctions many groups: those who are unable to work, those who are able to work but who do not find work, those who are working but not consistently above an hourly threshold, and those who are meeting work or exemption requirements but fail to provide proper documentation.

During the Food Stamp Program's introduction in the 1960s and 1970s, reductions in employment and hours worked were observed, particularly among female-headed households (Hoynes and Schanzenbach 2012). But in general, there is little evidence that SNAP receipt itself depresses work effort substantially (Fraker and Moffitt 1988; Hoynes and Schanzenbach 2012). Whether work requirements could offset the small work disincentive would depend on their targeting and whether those who are not working could readily increase their labor supply. In

fact, the evidence suggests that work requirements decrease SNAP participation, including at times when roll expansion is aligned with automatic stabilization (Ganong and Liebman 2018; Harris 2019; Ziliak, Gundersen, and Figlio 2003). Recent analysis published as a working paper suggests that SNAP participation by ABAWDs is substantially reduced by work requirements but that increase in work is minimal (Harris, 2019). Even the specifications that find the largest increases in work suggest 5 participants would lose SNAP benefits for every 1 that becomes employed due to work requirements.

The USDA and RIA provided no evidence that there would be any increase in labor supply resulting from a change in what areas would qualify to apply for a waiver. Projections for increased labor supply are tied to the 2019 President’s Budget projections for an ever-decreasing national unemployment rate. In fact, because there is no evidence that ABAWDs will increase their labor supply in response to work requirements, USDA also “estimated the impacts under an alternate scenario that assumes instead that rate of employment remains at 26 percent (p. 26).” Failure to prove that labor supply would increase as a result of the proposal in good economic times, much less bad, suggests that there is no compelling public need for new regulation.

B. SNAP Effectiveness

Several studies have found that SNAP reduces the likelihood that a household will experience food insecurity or very low food security (Collins et al. 2014; Kreider et al. 2012; Mabli et al. 2013; Nord and Prell 2011; Ratcliffe, McKernan, and Zhang 2011; Shaefer and Gutierrez 2013; Schmidt, Shore-Sheppard, Watson 2016). Moreover, evidence from safety net expansions—such as the temporary benefit increase under the American Recovery and Reinvestment Act of 2009 (ARRA) and a pilot program that provided additional benefits to families of children during the summer months when school meals were not available—shows reductions in rates of food insecurity and very low food security (Collins et al. 2013; Schanzenbach, Bauer, and Nantz 2016; Smith and Valizadeh 2018). Recent studies have shown that SNAP improves health outcomes and households’ financial well-being, and even improves the later-life outcomes of individuals who had access to the program as children (Almond, Hoynes, and Schanzenbach 2011; Hinrichs 2010; Hoynes, Schanzenbach, and Almond 2016; Shaefer and Gutierrez 2013).

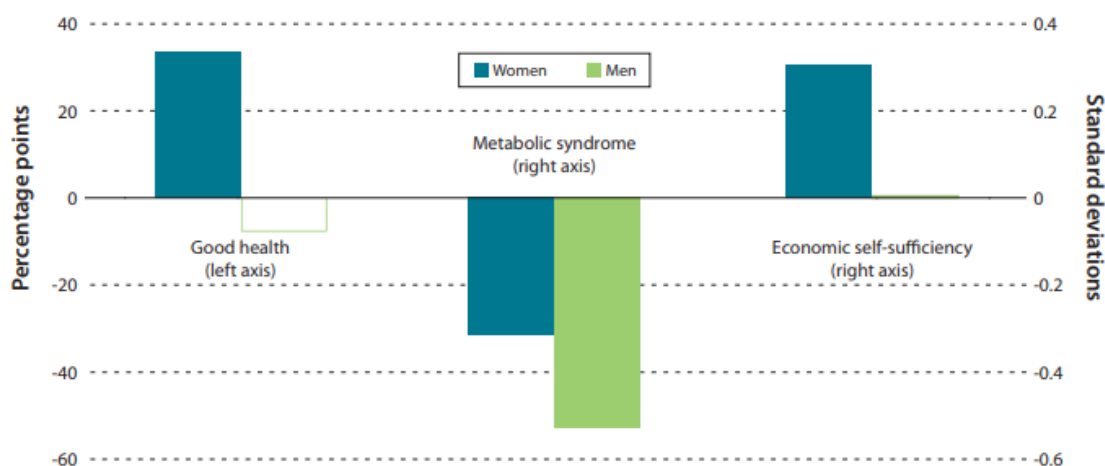
For example, a recent study by Hoynes, Schanzenbach, and Almond (2016) finds long-term positive effects from consistently providing access to the Food Stamp Program (now called SNAP) during early life. Taking advantage of the relatively long rollout period when the program was originally introduced, the study compares children who lived in different counties within a State and who were born at different times to measure the long-term impacts of access to the program. Access to the Food Stamp Program at early ages—starting before birth in cases where the mother received food stamps during pregnancy, and continuing through age five—leads to a number of positive long-run health and economic outcomes.

As shown in figure 1, access to the Food Stamp Program over this age range has substantial positive impacts on later health, lowering women’s and men’s incidence of metabolic syndrome—a health measure that includes diabetes, high blood pressure, obesity, heart disease, and heart attack—by 0.3 and 0.5 standard deviations, respectively. Women are also 34

percentage points more likely to report excellent or very good health if they had access to food stamps from before birth through age five.

These gains also extend to economic outcomes. Women with access to the Food Stamp Program over the full early life period have much higher economic self-sufficiency—a measure that includes completed education, employment status, earnings, and financial success—than those who did not. Furthermore, access to food stamps increased high school graduation rates by more than 18 percentage points.

Figure 1. Impact of Access to Food Stamps During Early Life on Adult Health and Economic Outcomes.



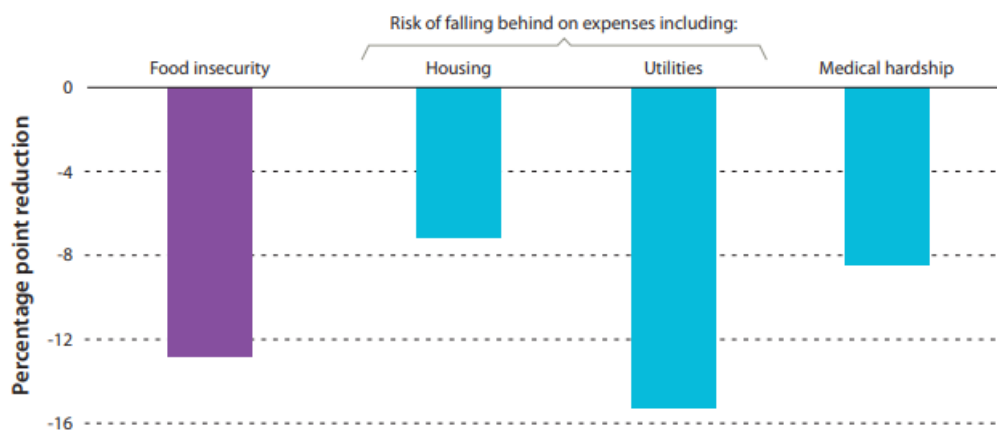
Source: Hoynes, Schanzenbach, and Almond 2016.

Note: Hollowed bars are not statistically significant.

In addition to reducing food insecurity, SNAP participation may also reduce households' risk of suffering financial hardships (Figure 2). Shaefer and Gutierrez (2013) use variation in state-level policies that affect SNAP access to study the impact of SNAP participation on a variety of outcomes. They find that receiving SNAP reduces the likelihood of food insecurity by 13 percentage points.

SNAP also has spillover impacts on other aspects of families' financial well-being. Households have more resources available for other essential expenses, such as housing, utilities, and medical bills. Shaefer and Gutierrez estimate that SNAP participation reduces the risk of falling behind on rent or mortgage payments by 7 percentage points and on utility bills (gas, oil, and electricity) by 15 percentage points. Participants are also less likely to experience medical hardship: SNAP participation decreases the likelihood of forgoing a necessary visit to a doctor or hospital by 9 percentage points.

Figure 2. Impact of SNAP Participation on Food Insecurity and Other Financial Hardships



Source: Shaefer and Gutierrez 2013.

Note: Sample includes low-income households with children. Medical hardship is measured as whether the interviewee reported that in the past 12 months someone in the household chose not to see a doctor or go to the hospital when needed because of cost.

The USDA and RIA fail to consider the costs and benefits to restricting access to SNAP on food security, economic security, and health. While labor force attachment is a path to economic self-sufficiency as the rule states, the evidence shows that SNAP benefit receipt also leads to economic self-sufficiency, household budget stabilization, and improved health. The rule states that imposing additional work requirements “would also save taxpayers’ money (p. 982)” but does not provide an analysis that considers the countervailing costs to limiting access to SNAP. The USDA and RIA fail to consider the costs to nonparticipation on both individual households and, as we will show throughout, the economy as a whole.

C. Macroeconomic Stabilization

While the safety net should expand to provide resources to households experiencing firsthand economic losses, governments may use fiscal policy—additional government spending or tax cuts—to stimulate the economy during a recession. A fiscal multiplier is an estimate of the increased output caused by a given increase in government spending or reduction in taxes. Any multiplier greater than zero implies that additional government spending (or reduced taxes) adds to total output. Fiscal multipliers greater than one indicate an increase in private-sector output along with an increase in output from government spending. This can occur because the additional spending can turn into increased employment or wages which subsequently increase output.

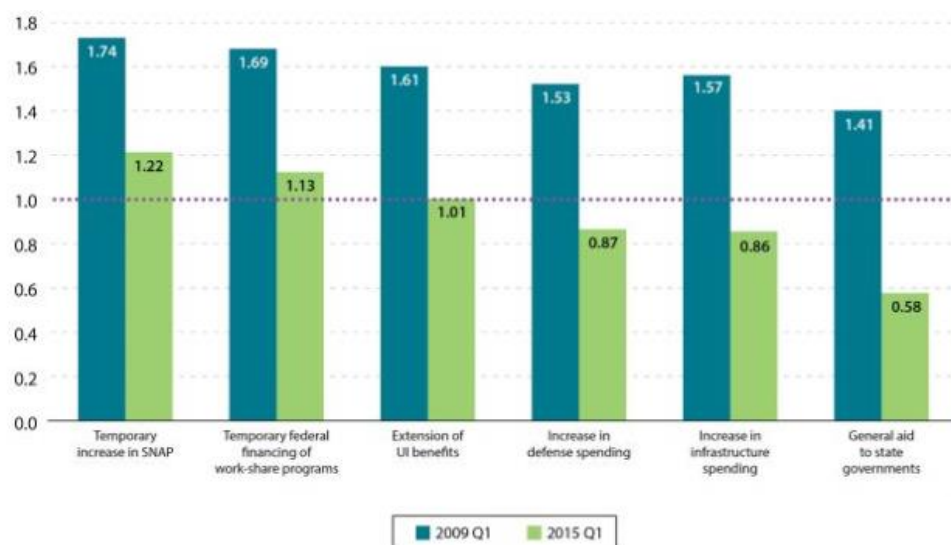
Although there is disagreement among economists over the exact size of various fiscal multipliers (see Auerbach, Gale, and Harris [2010] for a discussion), multipliers are generally believed to be higher during recessions than they are under normal economic conditions when the economy is near its full potential, and they are in particular thought to be higher when the central bank is not raising rates in response to economic fluctuations (Auerbach and

Gorodnichenko 2012; Fazzari, Morley, and Panovska 2014; see Ramey and Zubairy 2014 for a dissenting view). This is likely because downturns are characterized by slack in both labor and capital markets (i.e., available resources are not fully employed), thereby allowing fiscal stimulus to increase total output. Multipliers are also higher when the spending program or tax cut targets lower-income people, who are more likely to spend the stimulus (Parker et al. 2013; Whalen and Reichling 2015).

Not all spending or tax cuts are created equal, as indicated by the variation in fiscal multipliers shown below in Figure 3. But during the depths of the recession, each spending multiplier analyzed by Blinder and Zandi (2015) was greater than one, indicating that spending on these programs raised output by more than their costs. Note that the multipliers reported here are broadly similar to those estimated by CBO (Whalen and Reichling 2015).

As shown in the below figure, the most stimulative type of spending during the recession was a temporary increase in the SNAP maximum benefit: for every \$1 increase in government spending, total output increased by \$1.74. Work-share programs and UI benefit extensions were also relatively stimulative. Consistent with economic theory, the programs with the largest multipliers were those directed at low-income or newly unemployed people. More recently, as the economy has improved, the multipliers have diminished. However, the multipliers for SNAP benefits, workshare programs, and UI benefits remain above one, indicating that these programs remain highly effective as forms of stimulus, generating additional private-sector economic activity. SNAP multipliers were also estimated to be greater than 1 in 2015Q1, well after the recession had ended.

Figure 3. Fiscal Stimulus Multipliers (Spending Programs), 2009 and 2015



Source: Blinder and Zandi 2015.

Poverty and economic hardship typically increase in recessions and decrease in economic expansions. In particular, households with few resources are especially affected by the business cycle. Among poor households, the effect of the Great Recession was particularly severe relative

to previous recessions. The unemployment rate rose notably more for lower education workers. This is a typical feature of recessions: less-educated workers face larger employment losses when the economy turns down (see Aaronson et al. 2019 for a review). The safety net plays an important role in mitigating these effects, partly by automatically expanding during economic downturns as eligibility for safety net programs increases.

Over the course of the Great Recession, SNAP rightly expanded to provide more benefits to eligible and newly eligible participants, including ABAWDs. Part of this expansion was the result of Bush Administration, Congressional, and Obama Administration action at several points over the course of the recession to expand waiver eligibility because existing policy was not sufficient to meet economic goals. These actions were necessary for macroeconomic stabilization and because the existing rules for “lack of sufficient jobs evidence” in applying for ABAWD work requirement waivers insufficiently responded to economic circumstances.

The USDA and its RIA fail to model and consider the costs and benefits to the proposed rule during any alternate economic conditions. USDA proposes making changes to existing policy that would weaken responsiveness to indicators of an economic downturn (statewide waiver; 20 percent rule; 3-month lookback), its persistence (statewide waiver; 3-month lookback), and sluggish recoveries in particular places (statewide waiver; 20 percent rule). Our analysis provides evidence that existing policy (20 percent rule without a floor, 10 percent rule with two lookback periods) provided coverage more in keeping with the economic conditions at various points in time than the proposed changes. Furthermore, the USDA fails to offer proposals, such as linking waiver eligibility to Emergency Unemployment Compensation (EUC) in the event that EUC is authorized, that would make waiver eligibility more responsive during the onset of a recession.

III. Modeling Waiver Eligibility

A. Regulatory Impact Analysis

The USDA’s proposed rule makes several changes for which the Regulatory Impact Analysis must account. The USDA proposes to disallow States from applying for statewide waivers except in the case of EB eligibility and to define regions at their discretion. The USDA proposed maintaining eligibility for geographic areas qualifying for EB and with twelve-month unemployment rates above 10 percent. USDA proposes to modify eligibility for those places with an unemployment rate of 10 percent in a recent three-month period to only be used in support of “an exceptional circumstance p. 985.” USDA proposes to put an unemployment rate floor of 7 percent to the 20-percent rule. We provide evidence that the RIA does not properly analyze the effects of these proposed changes, thus substantially underestimating the impacts.

1. Waiver Take-up

The Regulatory Impact Analysis (RIA) is based on areas that have taken up a waiver in a single contemporaneous period. The RIA failed to consider *eligibility* for waivers in its analysis for the single time period it did analyze. The RIA did not consider the effect of their proposal under alternative macroeconomic conditions, either in actual take-up or in eligibility. In doing so, it

materially underestimates the number of program participants who would be subject to time limits during recessions.

The RIA writes that they chose to model actual waiver take-up rather than eligibility because “States do not always seek waivers for eligible areas. Some States seek no time limit waivers; others only seek waivers for a portion of qualifying areas within the State. Therefore, the Department assumed that if a county was not currently waived, the State would not seek a waiver for that area under the revised criteria (p. 20).”

This logic is faulty and false by recent evidence. States that have declined to take-up waivers for which they are eligible are assumed to have made a choice that they would never make differently – even if economic conditions in their State deteriorated. Similarly, States that have applied for waivers for which they are eligible are assumed to be the only places where the impacts of more stringent eligibility would be felt in perpetuity.

By this logic, we could look at waiver status in any preceding year as the expression of a State’s policy preference – preferences that change based on economic conditions. As USDA noted in the RIA, in July 2013, 44 States and DC applied for statewide waivers and 6 States had waivers for part of their State. Had the RIA used recently expressed actual preferences for rather than the single time period that they considered or modeled the effect based on eligible areas, they would have found larger impacts in federal spending and the number of individuals denied access to resources to purchase food.

In 2017¹, each of the 17 States that did not avail themselves of time limit waivers had at least one county that was eligible. This does not mean they would always choose to decline to use waivers. In fact, of the 17 States currently eligible for waivers that are not using them, 14 were using waivers to cover counties not individually eligible in 2008 (shown later in figure 8) and every State received waivers for at least a part of the State in 2009. The existing waiver process allows States to determine when it makes sense to apply for them based on their understanding of their local economy. It is incumbent on the NPRM to explain why limiting that discretion furthers program goals.

2. Statewide Waivers and Geographic Areas

The RIA does not consider the effect of eliminating statewide waivers except as downstream to other policy changes. It does not model whether a State would ever qualify for a waiver based on each underlying geographic unit’s qualification. It does not model State eligibility for EB, or in relation to EUC. In doing so, the NPRM and RIA fail to justify proposed restrictions on statewide waivers.

Statewide waivers are particularly critical during serious economic downturns. Any heterogeneity in the use of waivers impedes the geographic mobility of program participants. Unlike in UI, where individuals retain benefits if they move to a better labor market, SNAP ties benefit receipt to their place of residence. In order to maintain benefits, participants are incentivized not to move to find work, but to maintain residency in an area that is economically

¹ 2017 is the last year for which there is publicly available data on waiver take-up by county.

lagging but waiver eligible. This reduces employment and labor force participation of SNAP program participants and does not increase economic self-sufficiency. USDA does not provide analysis to consider these costs.

The RIA does not consider Labor Market Areas (LMAs) in its analysis, though a county can become eligible for a waiver due to being a part of an LMA. It writes, “Because a small number of areas estimated to lose eligibility may actually qualify as part of a larger LMA, the Department rounded the impact from 77.4% down to 76 percent (p. 22).” There is no justification for this rounding nor for excluding counties eligible as part of an LMA from their analysis. The result is misattribution of some counties otherwise eligible to the state-selected geographic group or statewide standard and an unspecified effect on policy impacts. Our analyses show that more than 5 percent of counties qualify only through being a part of an LMA.

The RIA does not include most of New England – Connecticut, Maine, Massachusetts, New Hampshire, and Vermont – in its analysis. Failure to do so both affects the validity of the estimates and calls into question whether counties and LMAs are an appropriate level of geography as is argued.

3. 20 Percent Rule

The Regulatory Impact Analysis failed to correctly model the 20 percent rule. They write: “The Department obtained monthly unemployment and labor force data from BLS...for the 24-month period from January 2016 to December 2017 for 3,077 counties and county-equivalents (p. 21).” The Department therefore determined that any waived county that was waived but not by the 20-percent rule was part of a contiguous state-determined geographic group or through a statewide waiver.

This is incorrect because the RIA fails to accurately model the 20-percent rule or consider other paths to eligibility. The 20-percent rule states that the first month of the 24-month period used to identify whether an area’s unemployment rate is 20 percent above cannot be earlier than the first month BLS uses to determine LSAs. The RIA does not say what period it is calculating 20-percent eligibility, but it does so using only one 24-month period. Within a window for applications, there are in fact 10 distinct 24-month periods against which a State can submit a waiver application.

The RIA states that in linking the 20 percent rule to LSA designations States will be prevented “from using older data (p. 16).” This is false. The proposed rule does not make any changes with regard to the time period over which data can be taken, only that the waiver expiration date would be proscribed.

The NPRM defends a 6 percent unemployment rate floor by noting that if there is agreement the “natural rate” of unemployment hovers near 5 percent, then 20 percent above that would be 6 percent. But, the Department does not choose a 6 percent floor, instead preferring a 7 percent floor (in part because of a concern that “too few individuals would be subject to ABAWD work requirements” without explaining why the number would be too few.) In addition, the Administration’s forecast suggests the unemployment rate will stabilize at 4.2 percent and never rise above it this decade. Twenty percent above that rate would be a floor of 5 percent. No

attempt to justify a higher floor like 7 percent is made beyond noting it will subject more people to work requirements.

4. Labor Surplus Areas

By failing to provide sufficient evidence for the 7 percent floor to the 20 percent rule, the USDA consequently fails to justify removing Department of Labor (DOL) designation as a Labor Surplus Area (LSA) as a waiver qualification. Essentially, LSAs are also determined by the 20 percent rule and the 10 percent rule, but have a floor of 6 percent unemployment. A city with a population of at least 25,000, a town or township of at least 25,000, counties, balances of counties, and county-equivalents can all qualify as LSAs. Under exceptional circumstances, civil jurisdictions, Metropolitan Statistical Areas and Combined Statistical Areas are geographies that could qualify as LSAs. The justifications for removing LSAs run counter to stated goals: high-quality and federally-produced data and clear standards for areas with insufficient jobs should determine waiver eligibility. The USDA and RIA fail to provide sufficient evidence for removing waiver eligibility based on LSA designation.

5. Effect on Society and Uncertainties

The RIA acknowledges that it fails to consider actual impacts under any alternative economic conditions, “(including cyclical (p. 29).” They also acknowledge that meeting work requirements is a function of both the availability of jobs and the “extent that States offer qualifying E&T or workfare opportunities (p. 29).”

The RIA acknowledges that “there may be increases in poverty and food insecurity (p. 28)” for those who fail to meet work requirements, “those ABAWDs who become employed will likely see increased self-sufficiency and an overall improvement in their economic well-being (p. 28),” and that “a number of those affected by strengthened work requirements are able to secure employment in a wide range of different industries (p. 28).”

The effect of the proposed regulatory changes were inadequately analyzed, failing to take into account the costs and benefits of restricting access to the program. The RIA does not provide estimates for increases in rates of poverty or food insecurity and its attendant costs. In particular, it does not engage with the evidence of the long-run benefits of SNAP, the effect of SNAP on reductions in food insecurity and poverty, nor with the concerns regarding reducing resources to the children of non-custodial parents. It does not provide evidence for increased labor supply among ABAWDs, and in fact the RIA acknowledges elsewhere that employment rates may not increase at all as a result of the policy change. “A number of those affected (p. 28)” is not a specific analysis on which to base a regulatory change.

Without evidence that any affected program participant would become employed as a result of the policy, it remains unclear whether there are any benefits to the proposed rules.

B. Analysis Based on Eligibility

In this section, we provide evidence for the share of counties that would have been eligible for a waiver based on each trigger from 2007 to the present (1) in existing regulation, (2) through policy changes throughout the Great Recession, and (3) in the proposed rules including for each unemployment rate floor to the twenty-percent rule. Modeling eligibility and take-up over time is appropriate for identifying program effects.

The geographic unit considered in each of the following models are the share of counties eligible for a waiver. These counties can gain eligibility individually, as a county in a labor market area (LMA) that is eligible, or because the county is in a State that has a statewide waiver.²

We are unable to show the share eligible based on State-selected geographic areas under current rules.³ We do not model triggers based on the following rules: a historical seasonal unemployment rate above 10 percent; Labor Surplus Area designation by the Department of Labor’s Employment and Training Administration; a low and declining employment-to-population ration; a lack of jobs in declining occupations or industries; or, is described in an academic study or other publication as an area where there is a lack of jobs.

In our model, a geographic unit can be eligible for a waiver based on three unemployment rate thresholds (in addition to other policy mechanisms discussed below). First, a geographic unit is eligible if it has a 24-month average unemployment rate that is 20 percent above the national average for the same 24-month period.⁴ Second, a geographic unit is eligible for a waiver if it has a 12-month average unemployment rate above 10 percent. Third, a geographic unit is eligible for a waiver if it has a 3-month unemployment rate above 10 percent. A State can generally request a 12-month waiver and specify the implementation date on the waiver request.⁵

If a State qualifies under any of these triggers or if a State’s unemployment insurance extended benefits program triggers on, then the State is eligible for a statewide SNAP waiver. In this

² To understand maximum eligibility, we look at county eligibility based on the county-level data as well as the LMA-level data. Because the LMAs in New England States are made up of minor civil divisions and not counties, eligibility in counties in ME, MA, NH, VT, and CT is only modeled on county data.

³ The Regulatory Impact Analysis conducted by USDA also does not model sub-State groups for eligibility optimization.

⁴ We follow the USDA guidance and rounded national and local unemployment rates to the nearest tenth.

⁵ The window for a waiver application based on the 20 percent rule is based on Section V of the USDA guidance. We assume that States will apply for waivers on the last possible application date, i.e., the end of a fiscal year period as defined in the guidance. The guidance States that “For example, the 24-month period for the Fiscal Year 2017 LSA list runs from January 1, 2014 through December 31, 2015. Thus, a waiver that would start in Fiscal Year 2017 could be supported with a 24-month period beginning any time after (but not before) January 1, 2014.” Therefore, if a geographic unit has a 24-month average that starts on January 1, 2014 and ends on January 1, 2016, the latest they could apply for the waiver would be September 30, 2017. The waiver period extends 12 months from the application date. We therefore assume that the geographic unit in question is eligible for a waiver from January 1, 2016 through September 30, 2018.

analysis, we model EB eligibility based on the first date that a State is shown to be eligible on a Department of Labor EB trigger notice.⁶ We also model eligibility based on EUC and ARRA.

In the following sections, we model waiver eligibility and waiver take-up as a share of counties from 2007 to present.

1. Work Requirement Waiver Eligibility during the Great Recession

Work requirement waivers in a recession are important for two reasons. First, job finding rates fall in recessions and difficulty finding work may mean many individuals who are trying to be labor force participants will be sanctioned for failure to work the required number of hours. This is counter to program goals. It is well-known that recessions strike marginalized populations in the labor force more harshly than higher income, higher education individuals. Because during a recession more people become eligible for and would benefit from program participation due to recent job or income loss as well as the inability to find sufficient work, it is particularly important to waive time limits for the SNAP-eligible population. Second, removing individuals from SNAP during a recession shrinks SNAP's role as an automatic stabilizer by providing spending in depressed areas during a downturn.

In order to expand access to geographic waivers in response to the recession, executive and congressional action was necessary. None of the automatic triggers were sufficient to turn on the waivers for much of the country promptly. The Bush and Obama administrations, Congress, and States took action throughout the Great Recession to increase geographic eligibility for waivers, directly and through clarifying ties to Unemployment Insurance (UI).

During the Great Recession, Congress enacted Emergency Unemployment Compensation (EUC), a temporary program that extended the amount of time during which an eligible UI participant could retain benefits. Congress authorized EUC on June 30, 2008, extending the expiration date to January 1, 2014 (American Taxpayer Relief Act of 2012).

Additionally, the Bush Administration clarified on January 8, 2009 that eligibility for Emergency Unemployment Compensation (EUC) also qualified States for SNAP waivers.⁷ EUC established several tiers of additional weeks of UI benefits, with each tier contingent on a State having a total unemployment rate that exceeded a given threshold. EUC tier qualifications interacted in different ways with SNAP Waiver eligibility over the EUC period. Importantly, States were eligible for SNAP waivers if they were eligible for particular tiers of EUC, and not just if they took EUC (see table 1 for eligibility thresholds and the interaction of SNAP waivers and EUC tiers).

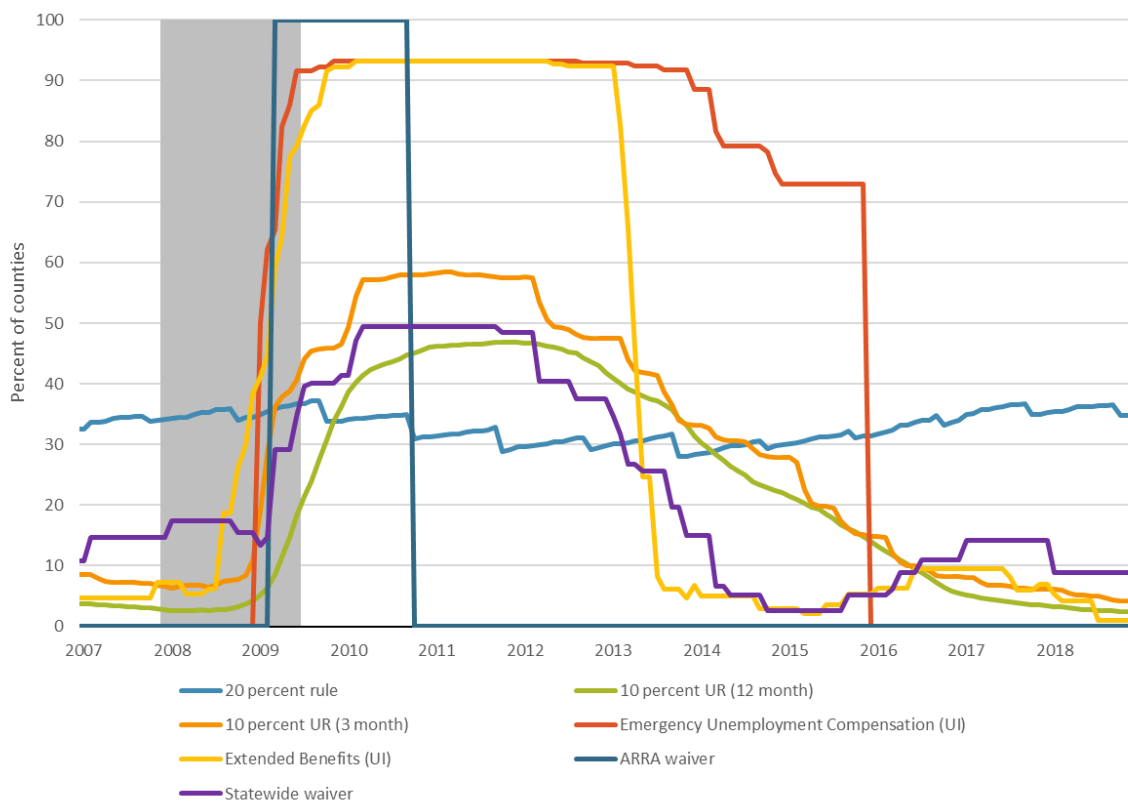
⁶ We follow USDA guidance with regard to EB-based eligibility. A State is eligible for a work requirement waiver based on EB if a State has (1) a 13-Week Insured Unemployment Rate (IUR) of 5 percent and 120 percent of each of the last two years; (2) an IUR of 6 percent; (3) a 3-Month Total Unemployment Rate (TUR) of 6.5 percent and 110 percent of either of the last two years.

⁷ EUC trigger notices are issued on a weekly basis. Our analysis is on a monthly basis. If a State was eligible for EUC in at least two weeks in a month, we consider it to be eligible for EUC in that month.

ARRA was enacted on February 17, 2009. It stated that for the remainder of FY2009 and through FY2010 ABAWDs were waived from work requirements to maintain access to the program. While a few localities declined this authorization, every county in the U.S. was eligible for waiver from February 17, 2009 to September 30, 2010.

Figure 4 models each component of work requirement waiver eligibility that was operational from 2006 to present. The unit is the share of counties eligible for a waiver, whether individually, as part of an LMA, or as part of an eligible State. The set of triggers and eligibility standards are based on standing regulation as well as policy changes made over the course of the Great Recession to increase waiver eligibility. The criteria that did not change over the course of the Great Recession were eligibility based on EB, the twenty-percent rule, and the 10 percent unemployment rate by two look-back period rules.

Figure 4. Counties Eligible for A Work Requirement Waiver by Trigger, 2007–present



Source: Local Area Unemployment Statistics, BLS (2000–2018); EB and EUC Trigger notices (DOL); Bureau of Labor Statistics (2000–2018).

The 20 percent rule (light blue) slowly increases the availability of waivers at the start of the recession in the absence of Congressional action as some parts of the country had its unemployment rate rising before the rest. This analysis shows that the vast majority of areas

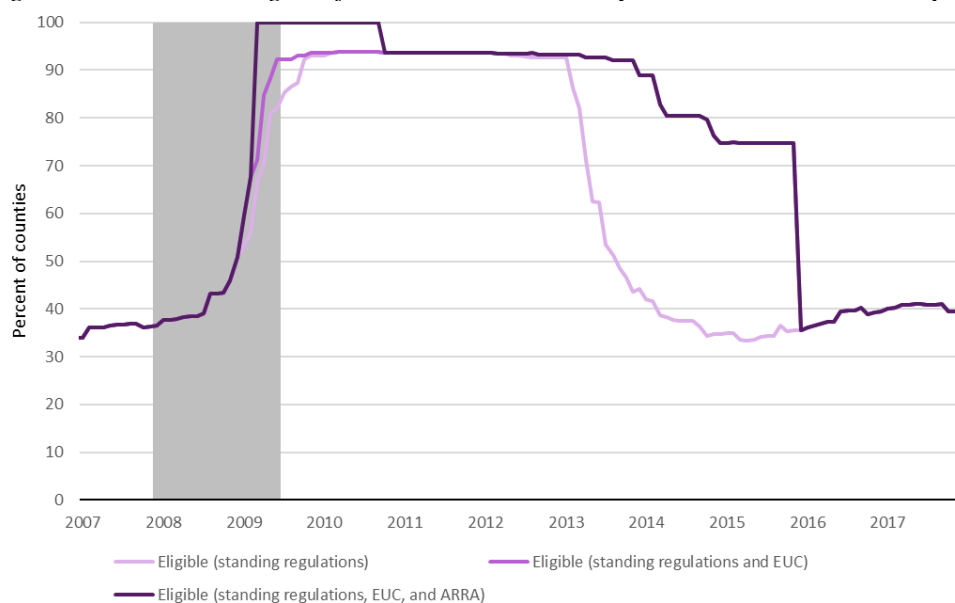
waived from the rules in the third quarter of 2008 – a period when the economy was losing over 300,000 jobs a month – was due to the 20 percent rule. Since 2016, the vast majority of counties eligible for an ABAWD waiver is due to qualifying under the 20 percent rule. Still, it is not a perfect trigger. If the entire country is facing rising unemployment rates, the waivers would not be available anywhere until local 3-month (or 12-month) unemployment rates exceed 10 percent or EB-based triggers come on under standing rules. This analysis shows that the 20 percent rule plays a critical part in SNAP’s role as an automatic stabilizer and should not be weakened.

Standing policy with regard to statewide waivers would have provided wider coverage in the event that eligibility based on EUC and ARRA did not occur. The Extended Benefit (EB) trigger for UI in-law has failed to trigger on during recessions without Congressional and State action since its enactment (Wandner 2018), though work requirement waivers are based on eligibility by USDA-determined thresholds that ameliorate this issue. For a short period of time in late 2008 and the first week of 2009, EB eligibility provided the widest amount of coverage, but its acceleration in 2008 was not sufficiently early or fast enough to reduce the value of the 20 percent rule. USDA proposes to maintain EB-based eligibility, and the evidence presented here shows this is a necessary but not sufficient waiver eligibility condition.

During the Great Recession, Emergency Unemployment Compensation was authorized in June 2008 but it was not until January 2009 that the Bush Administration clarified that States eligible for a particular tier of EUC were also eligible for SNAP work requirement waivers. About 90 percent of counties became eligible based on this measure, and through ongoing memorandums linking work requirement waiver eligibility to different EUC tiers, a high level of waiver eligibility was maintained through 2016. Given that roughly 35 percent of counties were already eligible based on the 20 percent rule in 2008, the expansion of waiver eligibility based on EUC dramatically expanded waiver eligibility. Had waiver eligibility been tied to EUC upon enactment, work requirement waivers would have been an even more effective counter-cyclical tool. An improvement to the rules would be to clarify that in the event EUC is authorized, States become immediately eligible for work requirement waivers.

Combining these indicators into three bins – eligibility based on standing policy as of 2006, additional eligibility based on EUC, and additional eligibility based on ARRA – we can model the effect of existing waiver policy and of the policy preferences of Administrations of both parties and Congress with regard to waiver eligibility (figure 5).

Figure 5. Counties Eligible for ABAWD Work Requirement Waiver, 2007-present



Source: Local Area Unemployment Statistics, BLS (2000–2018); EB and EUC Trigger notices (DOL), Bureau of Labor Statistics (2000–2018).

Current policy with regard to waiver eligibility provided all the coverage until the Bush Administration linked waiver eligibility to EUC. Existing and recession-responsive policy functioned to provide close to 100 percent waiver eligibility from 2009 to 2014. The scope of coverage was driven by policy actions taken at the federal and State levels to increase eligibility for EUC and EB, which had downstream effects on SNAP work requirement waivers. In the absence of such actions, the 20 percent rule is the most effective of standing rules at providing waiver eligibility at the start of the recession and EB is the most effective during recovery. No standing rules provide coverage of the scale and speed instigated by policy actions taken during the Great Recession.

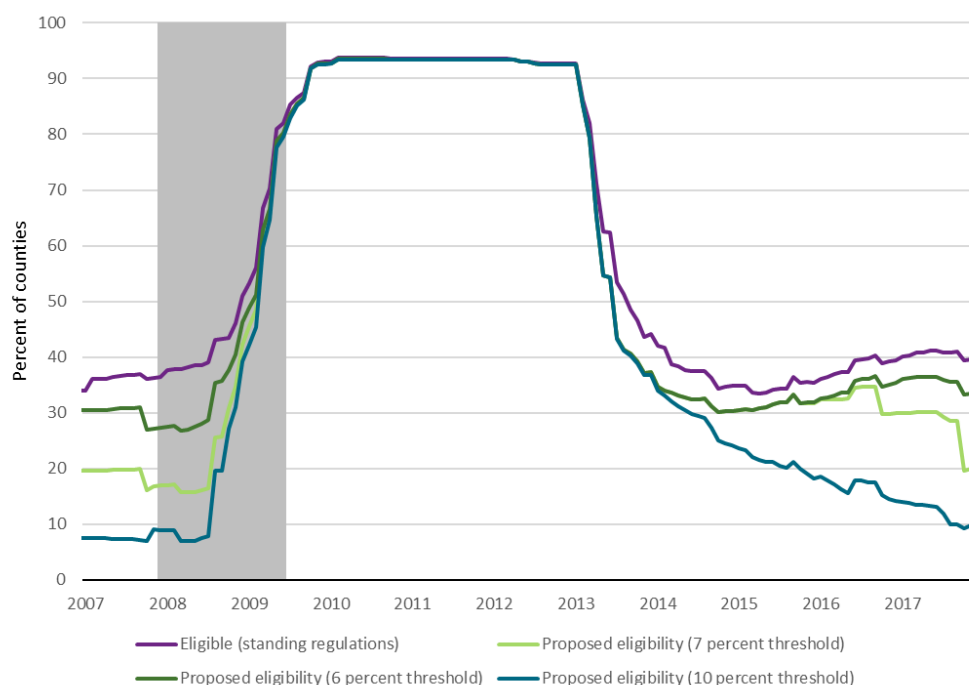
2. Modeled Eligibility Versus the Proposed Rule

We compare existing standing policy (purple) for waiver eligibility with the proposed rules including three options proposed by the USDA for the 20 percent rule as they would have performed not just “now,” as the RIA showed, but over the course of the Great Recession (figure 6). The model for the proposed rule also maintains eligibility for areas having an unemployment rate above 10 percent over a recent 12 month period and for areas in which EB would have triggered eligibility.

Because eligibility based on EB is consistent across standing and proposed rules, we focus on how the different floors to the 20 percent rule (no floor, 6, 7, and 10 percent unemployment floors) affect access to SNAP at the onset and during the Great Recession before discussing considerations of when, whether, and how to have waivers trigger off.

USDA’s preferred modification is to implement a 7 percent floor for the 20 percent rule and eliminate the 3-month lookback and statewide waivers (light green).⁸ Had this rule been in place in the first quarter of the Great Recession, when the economy was losing 300,000 jobs a month and when SNAP rolls should be expanding, waivers would have been limited to less than 20 percent of counties. The 10 percent floor (teal) would have performed worse, with less than 10 percent of counties eligible. The 6 percent standard (dark green) covered less than 30 percent of counties.

Figure 6. Counties Eligible for ABAWD Work Requirement Waiver, Existing and Proposed Regulations



Source: Local Area Unemployment Statistics, BLS (2000–2018); EB and EUC Trigger notices (DOL), Bureau of Labor Statistics (2000–2018).

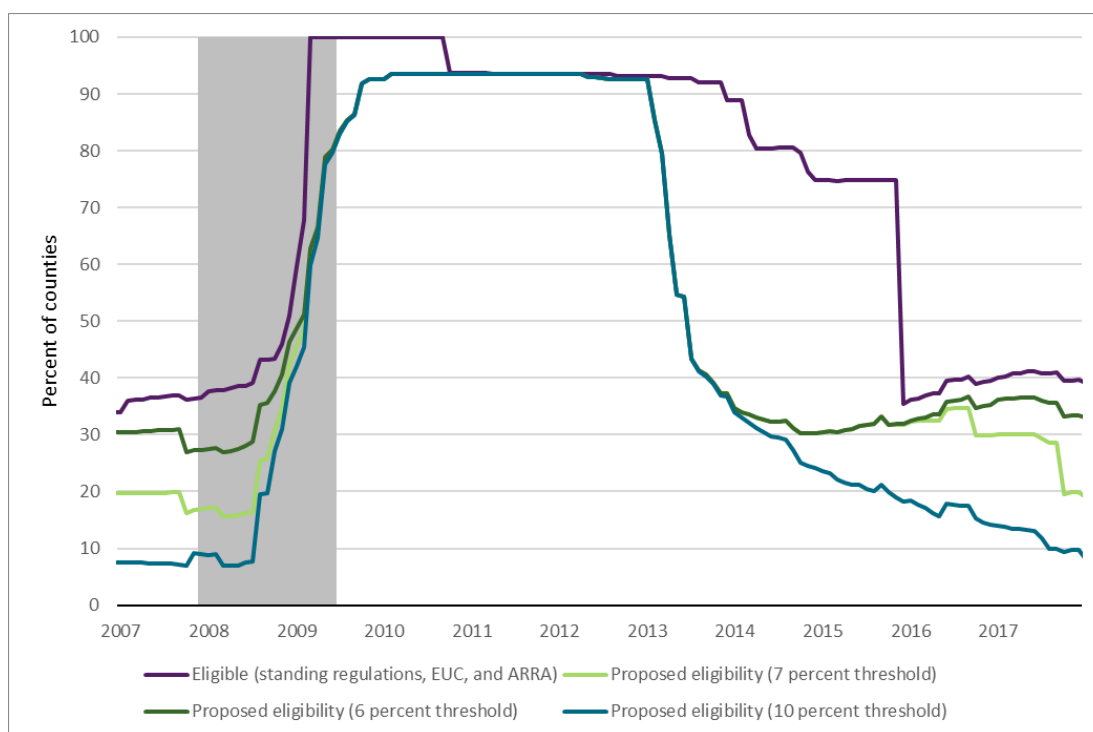
Note: Because eligibility for waivers due to EB status is included in each line, the lines converge once widespread EB status occurs in early 2009.

By standing and proposed rules, waiver eligibility dissipate measurably in 2013. But, the revealed preference of the policymakers at the time was that the current rules were too restrictive and needed to be relaxed. A number of decisions were made to expand and extend waiver eligibility, both early in the recession and afterwards. Figure 7 highlights the difference between the revealed preferences of policymakers working to stabilize the economy during the recession and how waiver eligibility would have worked based on the proposed rules.

⁸ The new regulations State that for the 20 percent rule, the period of eligibility for a State will only last through the end of the fiscal year in which a State applied, as opposed to 1 year from the date of the application. We have assumed that the waiver application limits are the same as the current regulations, and have extended the period of waiver through the end of the fiscal year. Additionally, we have applied the same rounding standards to the respective floors as to the 20 percent cutoff above.

The purple line shows eligibility for work requirement waivers based on standing regulations, EUC, and ARRA. This line contrasts with eligibility for the proposed rules: EB eligibility, 10 percent unemployment with a twelve-month lookback, and the 20 percent rule with varying floors. The revealed preferences on policymakers during the Great Recession was to use policy tools relevant to identifying areas with insufficient jobs to expand SNAP work requirement waiver eligibility, in part because existing rules were insufficient to the task. Both at the start of the recession and in the event of a sluggish recovery, the proposed rules diminish SNAP's role as an economic stabilizer and safety net.

Figure 7. Counties Eligible for ABAWD Work Requirement Waiver, Proposed Regulations versus Actual Eligibility during the Great Recession



Source: Local Area Unemployment Statistics, BLS (2000–2018); EB and EUC Trigger notices (DOL); Bureau of Labor Statistics (2000–2018).

As this analysis emphasizes, if there is a problem with the current rules, it is in the beginning of a recession because existing rules do not allow States to respond promptly to a recession. The proposed rule does not address or fix waiver responsiveness to the onset of an economic downturn. Thus, the fact that the proposed rule would make the waiver process less responsive to an economic downturn and less able to accomplish the goals of the program is absent from considerations of costs and benefits. It is incumbent on the proposed rule to ensure that it does not make responsiveness to an economic downturn worse.

3. Eligibility Versus The Proposed Rule

In the preceding sections, we have modeled waiver eligibility to the extent possible and clearly articulated the ways in which we would not be able to model legitimate features of the existing rules. Most notably, we were unable to model regional eligibility and were unable to model eligibility based on Labor Surplus Areas. By adding to these models data from publicly available maps produced by the Center on Budget and Policy Priorities, we are able to identify counties that are eligible for work requirement waivers by triggers that we were unable to model through our method for those States that implemented these standards.⁹

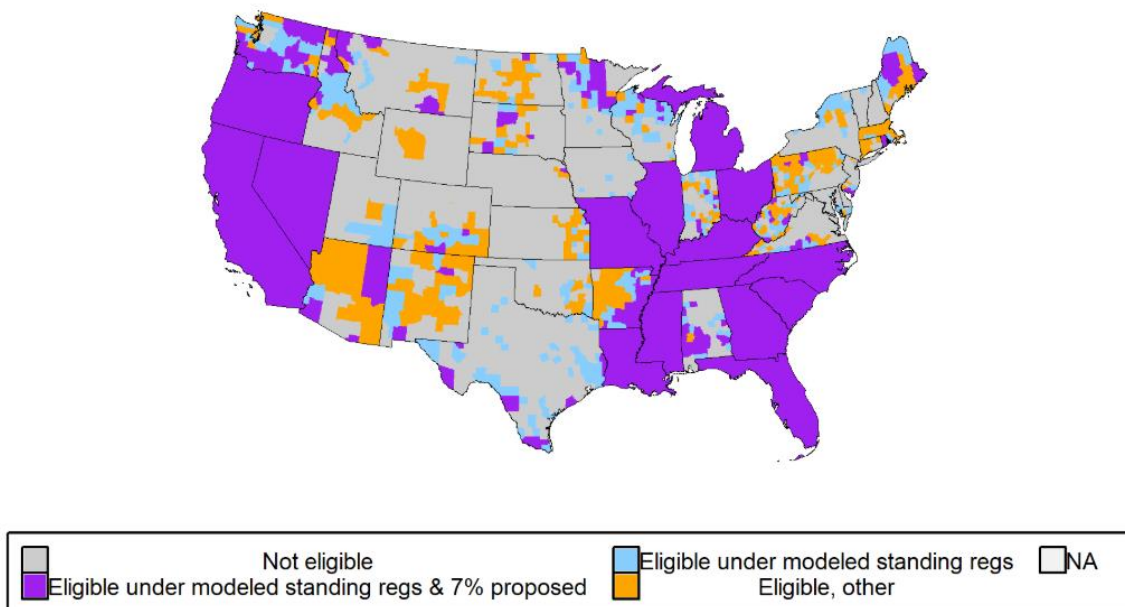
For focal years 2008 and 2017, we produce maps of the continental United States to identify differences in waiver eligibility by the proposed rule, the existing rules as modeled, and the existing rules as waived. Figures 8 and 9 are maps showing which counties would be eligible for work requirement waivers under both current rules (which do not model eligibility based on grouping of contiguous areas) and the proposed rules (EB, 10 percent rule with a 12-month lookback, 20 percent rule with the 7 percent unemployment rate floor [purple]), which counties would lose eligibility due to changes in standing rules (blue), and which counties would lose eligibility because they are regionally eligible or eligible by one of the criteria (like LSAs) that we are unable to model (orange).

In 2008, during the Great Recession, most States used the flexibility afforded to them by standing rules to quickly respond to changing economic conditions and cover areas that would not be individually eligible – either by applying for statewide waivers or through regional eligibility. For example, Ohio applied for and was granted a two-year statewide waiver in June of 2008 to cover July 1, 2008 to June 30, 2010 based on the State qualifying under the 20 percent rule (Ohio Job and Family Services 2008) and parts but not all of Pennsylvania qualified regionally (Pennsylvania Department of Human Services 2008). As economic conditions deteriorated, existing flexibility with regard to both geographic unit and economic indicators allowed States to respond more quickly to the recession than Congress or the Executive Branch.

⁹ The data on work requirement waiver eligibility can be found at <https://www.cbpp.org/research/food-assistance/States-have-requested-waivers-from-snaps-time-limit-in-high-unemployment>. The data on county eligibility was copied by hand and duplicated by a second researcher using mapchart.net to produce a JSON, which converted the visualization into data used to produce the analyses. We did not have access to any waiver application information or to USDA-produced information regarding waiver eligibility. If any area of a county received a waiver, we counted the entire county as receiving a waiver due to an inability to be more precise. These maps are predicated on waiver take-up; we continue to be unable to identify waiver eligibility based on regional eligibility or LSAs for states that chose not to apply.

Figure 8. Waiver Eligibility by Standing and Proposed Rules, 2008

2008



The NPRM states “a significant number of States continue to qualify for and use ABAWD waivers under the current waiver standards (p. 981).” Based on the USDA waiver status notifications, over the course of 2017, 8 States and DC were approved to receive a statewide waiver, 26 States had a partial waiver, and 16 States were implementing time limits statewide. Figure 10 shows that six States would have no eligible areas for work requirements under the proposed rules, of which three (Vermont, New Hampshire, Connecticut) have currently eligible areas that would lose coverage. The States who submitted waiver applications, in doing so expressing their preference for waiver flexibility, and who would have seen coverage reduced based on the proposed rules had they been implemented in 2017 are Alabama, Arizona, California, Colorado, Connecticut, Georgia, Idaho, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, and Washington. According to USDA and affirmed in our analysis, 17 States declined to submit a waiver for eligible areas: Alabama, Arkansas, Delaware, Florida, Indiana, Iowa, Kansas, Maine, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, Texas, Wisconsin, and Wyoming (USDA 2017a).

Figure 9. Waiver Eligibility and Take-up, 2017

2017

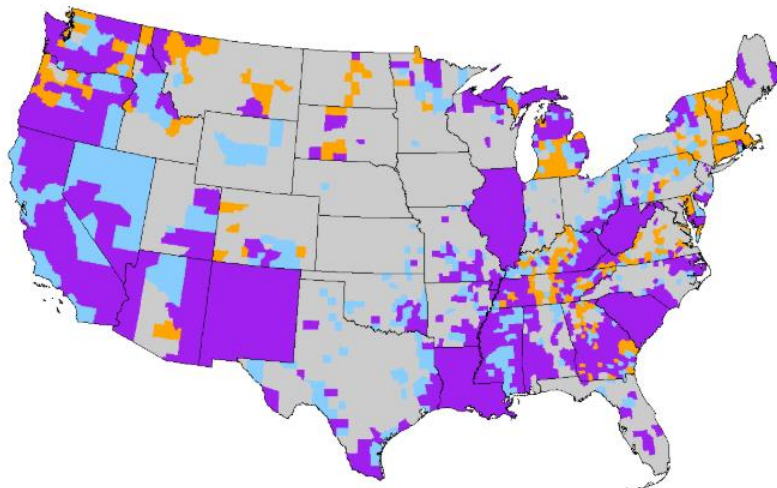


Table 1 shows where in the U.S. and through which eligibility trigger would counties have lost eligibility in 2017. We show RIA Table 3 for comparison and assume that Table 3 refers to 2018. By our calculations, in 2017, 1,322 counties were eligible and 1,012 counties took up a waiver.

Table 1. Impact of Rule Provisions

RIA Table 3. Impact of Rule Provisions on Currently-Waived Areas			
	Areas still qualifying for waivers	Reduction in waived areas	Percent reduction
Currently waived areas = 975			
Eliminate other eligibility criteria	621	-354	-36%
Eliminate statewide waivers	582	-39	-4%
Implement 7% UR threshold	220	-362	-37%
TOTAL	220	-755	-76%
Impact of Rule Provisions on Take-up Areas, 2017			
	Areas still taking up waivers	Reduction in waiver areas, take-up	Percent reduction
Current areas taking up waivers = 1,012			
Eliminate 10% UR, 3 month lookback	1,011	-1	0%
Implement 7% UR threshold	853	-158	-16%
Eliminate EUC	853	0	0%
Eliminate ARRA-related triggers	853	0	0%
Eliminate statewide waivers	820	-33	-4%
Eliminate other eligibility criteria	574	-246	-30%
TOTAL	574	-438	-43%

Looking first at counties that would qualify individually or as part of an LMA, 1 county would lose eligibility due to the elimination of the three-month lookback on 10 percent unemployment and 158 counties would lose eligibility based on the implementation of a 7 percent floor to the 20 percent rule. This is substantially smaller than the 362 counties that the RIA states would lose eligibility due to the implementation of a 7 percent unemployment rate floor to the 20 percent rule. This is evidence that the RIA incorrectly modeled the 20 percent rule and that failing to account for LMA-based eligibility has substantially affected their estimates.

Next, we look at the effect of eliminating statewide waivers on eligibility. In 2017, the following States had statewide work requirement waivers: Alaska, California, District of Columbia, Illinois, Louisiana, Nevada, and New Mexico. Alaska would maintain statewide eligibility based on EB, but 33 counties would lose eligibility because of the loss of these statewide waivers.

Like the RIA, we do not directly model the remaining eligibility criteria. Unlike the RIA, we assign the remainder of take-up counties to this category, rather than starting with it. We find that 246 counties taking up waivers would lose eligibility by eliminating the remaining eligibility criteria, compared with 354 for the RIA. We find that 574 counties among those actually waived in 2017 would retain eligibility, while the RIA finds that 220 counties would.

The NPRM has misspecified the justification for the NPRM and has failed to properly analyze the regulatory impact. This analysis finds a deleterious effect of the new rules at the onset of a recession and less reduction in coverage “today.” For these reasons, the current rules should be maintained.

IV. Employment Status Changes

When an area is not subject to a waiver, work requirements subject Able-bodied Adults without Dependents (ABAWDs) to a time limit for receiving SNAP benefits under the law. The exemptions to this rule are at the participant level, for example, those receiving disability income or who are “unfit” for employment based on a physical or mental disability, those who have dependent minor children, and those outside the targeted age range are not subject to the work requirements.

This section provides evidence that suggests waivers from work requirements at both the individual and geographic area should be more readily available. We show that economic conditions beyond the control of program participants are driving whether they can meet the 20 hour a week standard consistently, as work-related reasons explain a substantial share of gaps in working for pay. ABAWDs also appear to be in substantially poorer health than non-SNAP recipients. Furthermore, about 20 percent of ABAWDs are non-custodial parents, potentially exposing children to benefit loss from which the law protects them.¹⁰

The proposed rule would make it more difficult for geographic areas to qualify to apply for waivers. This will mean that some areas where States have weak enough economies to warrant the waivers would not be able to use them. We show that during 2013 and 2014, when only 7 States and the District of Columbia had annual unemployment rates above 7 percent:

- A plurality of ABAWDs experience labor force status transitions over an extended period of time that would expose workers to benefit loss even though they are in the labor force;
- More than a third of workers who experienced a period of not working said that it was due to a work-related reason, such as failure to find work or being laid off while less than one half of one percent of ABAWDs were not working due to lack of interest; and,
- Four out of five ABAWDs who are out of the labor force are not in fact able-bodied: while they do not receive disability income, they report health or disability as the reason for not working.

The decline in labor force participation—especially among prime-age males—has drawn extensive attention in academic and policy circles (e.g., Abraham and Kearney 2018; Juhn 1992; White House 2016). Some recent academic work has emphasized the fact that participation may be declining in part because an increasing number of labor force participants cycle in and out of the labor force: a pattern with direct relevance to proposed work requirements. The most comprehensive look at the behavior of people cycling through the labor force is Coglianesse (2018). He documents that, among men, this group he refers to as “in-and-outs” take short breaks between jobs, return to the labor force fairly quickly (within six months), and, crucially, are no more likely than a typical worker to take another break out of the labor force. See also Joint

¹⁰ 20 percent of ABAWDs in the SIPP reported having a child under the age of 21 who lived in a different household or who reporting being a parent but who did not have a child living at home.

Economic Committee (2018) for a discussion of the in-and-out behavior of nonworking prime-age men and reasons for their nonemployment.

SNAP participants who are employed but who work in jobs with volatile employment and hours would be at risk of failing work requirements. This group includes those who lose their job, sanctioning those who were recently employed and are searching for a new job. Similarly, those who work in jobs with volatile hours would be sanctioned in the months that their average hours fell below 20 hours per week, whether due to illness, lack of hours offered by the employer, or too few hours worked by the participant if they fail to receive a good-cause waiver. By making it more difficult for States to provide waivers when they feel conditions warrant, the proposed rule will cause more people to lose SNAP benefits.

Low-wage workers in seasonal industries such as tourism would potentially be eligible for SNAP in the months when they are working, but not in the months without employment opportunities. In other words, while benefits are most needed when an individual cannot find adequate work, under proposed work requirements these are the times that benefits would be unavailable. Disenrollment could make it more difficult for an individual to return to work—for example, if a person with chronic health conditions is unable to access needed care while they are between jobs. Any work requirement that banned individuals from participation for a considerable amount of time after failing the requirements would be even more problematic for those facing churn in the labor market.

In a set of analyses, Bauer (2018), Bauer and Schanzenbach (2018a, 2018b) and Bauer, Schanzenbach, and Shambaugh (2018) found that although many SNAP beneficiaries work on average more than 20 hours a week every month, they frequently switch between working more than 20 hours and a different employment status over a longer time horizon.

For this comment, we examine labor force status transitions and the reasons given for not working among ABAWDs over 24 consecutive months, January 2013–December 2014. The data used are from the first two waves of the Survey of Income and Program Participation (SIPP). By using a data set that allows us to track workers over time, we identify the share of program participants who are consistently out of the labor force, the share who would consistently meet a work requirement, and the share who would be at risk of losing benefits based on failing to meet a work requirement threshold.

We assume that to comply with a program's work requirement, beneficiaries would have to prove each month that they are working for at least 20 hours per week, or at least 80 hours per month, which is the typical minimum weekly requirement among the SNAP work requirement proposal. We calculate the share of program participants who would be exposed to benefit loss because they are not working sufficient hours over the course of 24 consecutive months. Among those who would be exposed to benefit loss and who experienced a gap in employment, we describe the reasons given for not working to help quantify potential waiver eligibility.

We remove from the analysis all those who have a categorical exemption, excluding those outside the targeted age range, those with dependent children, full- or part-time students, and those reporting disability income. Program participants are those who reported receiving SNAP

at any point between January 1, 2013, and December 31, 2014. The vast majority of States over time period covered by the analysis had unemployment rates below 7 percent in either 2013, 2014, or both¹¹. The preponderance of evidence presented shown here is thus occurring in labor markets that the proposed rule says has sufficient jobs available to ABAWD SNAP participants.

We categorize each individual in each month into one of four categories: (1) employed and worked more than 20 hours a week, (2) employed and worked less than 20 hours a week, (3) unemployed and seeking employment, or (4) not in the labor force. If a worker was employed at variable weekly hours but maintained hours above the monthly threshold (80 hours for a four-week month and 120 hours for a five-week month) then we categorize them as (1) employed and worked more than 20 hours a week for that month. Individuals are considered to have a stable employment status if they do not change categories over two years, and are considered to have made an employment status transition if they switched between any of these categories at least once. There is no employment status transition when a worker changes jobs but works more than 20 hours a week at each job.

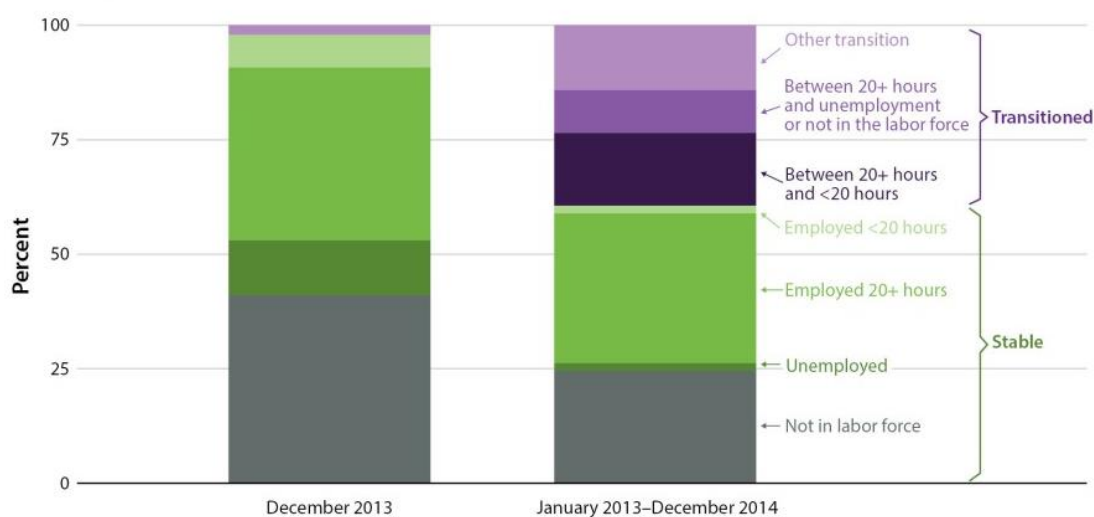
Among working-age adults, SNAP serves a mix of the unemployed, low-income workers, and those who are not in the labor force ([USDA 2017b](#)). Figure 10 describes employment status of ABAWDs. Those receiving SNAP benefits who are in the demographic group currently exposed to work requirements—adults aged 18–49 with no dependents—generally participate in the labor market, with just 25 percent consistently not in the labor force (discussed below). While 58 percent worked at least 20 hours per week in at least one month over two years, 25 percent were over the threshold at some point but fell below the 20-hour threshold during at least one month over two years. Very few are always working less than 20 hours a week or always unemployed (less than 2 percent in either case), and 14 percent move across these categories.

These findings give a markedly different impression than a snapshot in time – one month. When we compare the one month (December 2013) against 24 months (January 2013-December 2014), we find that using one month of data, more program participants appear to be labor force nonparticipants and more appear to meet the work requirement threshold. That is, looking only at one month of data, an observer would both think there is a bigger problem of labor force non-participation in SNAP than there really is, and would think that fewer labor force participants would lose benefits in a State or county with work requirements.

There is a meaningful portion of SNAP participants in the labor force and working, but not all are working above the monthly work requirement threshold consistently. Coglianese's (2018) finding that workers who are in and out of the labor force are not more likely to take another break later on suggests it is unclear how much more consistently work requirements would attach these people to the labor force. In our work, too, we find that frequent movement between labor status categories over time increases the number of people exposed to losing benefits for failing to consistently meet a work requirement and decreases the number of people who are entirely out of the labor market.

¹¹ The States which had an unemployment rate above 7 percent in both 2013 and 2014 were: Georgia, Illinois, Michigan, California, Mississippi, Rhode Island, Washington DC, and Nevada.

Figure 10. Employment Status in One Month versus Two Years, SNAP Participants 18-49 with No Dependents

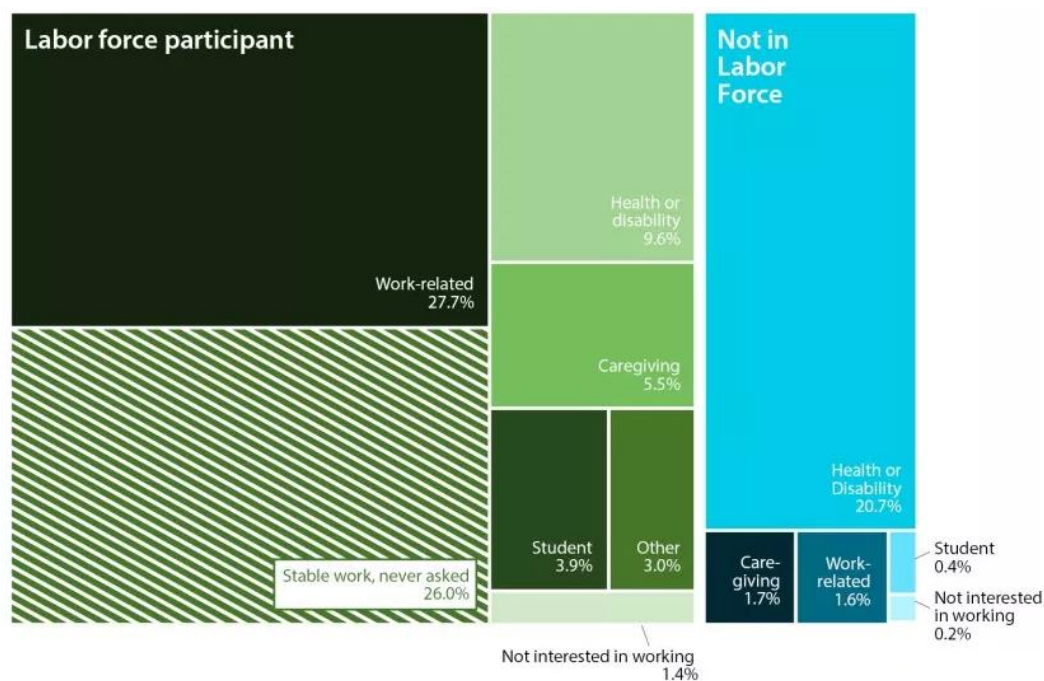


Source: Survey of Income and Program Participation; authors' calculations.

It is helpful to consider specifically what types of individuals would be affected by proposed work requirements and why they are not currently working if they are not in the labor force to better understand the possible impacts of expanded work requirements. It is clear that some people face barriers to working outside the home and as such, many work requirements exempt people receiving disability income, people with young dependents, or students; but, accurately exempting all those who are eligible can be challenging and is likely to result in terminating coverage for many people with health conditions or caregiving responsibilities that fall outside of States' narrow definitions.

We next examine the reasons ABAWDs gave for not working over the two-year period (figure 11). Those in solid green were in the labor force but experienced at least one spell of unemployment or labor force nonparticipation. Among the labor force participants who were asked why they were not working for pay during at least one week, we report the reason for not working in months they were not working. For perspective, the share of the population that worked consistently over the two years and therefore was never asked why they were not working, are shown in the green crosshatch. Those in the blue were out of the labor force for the entire two-year period. Each person is assigned one reason—their most frequent reason—for not working.

Figure 11. Most-Frequent Reason for Not Working for Pay, SNAP Participants 18-49 with No Dependents

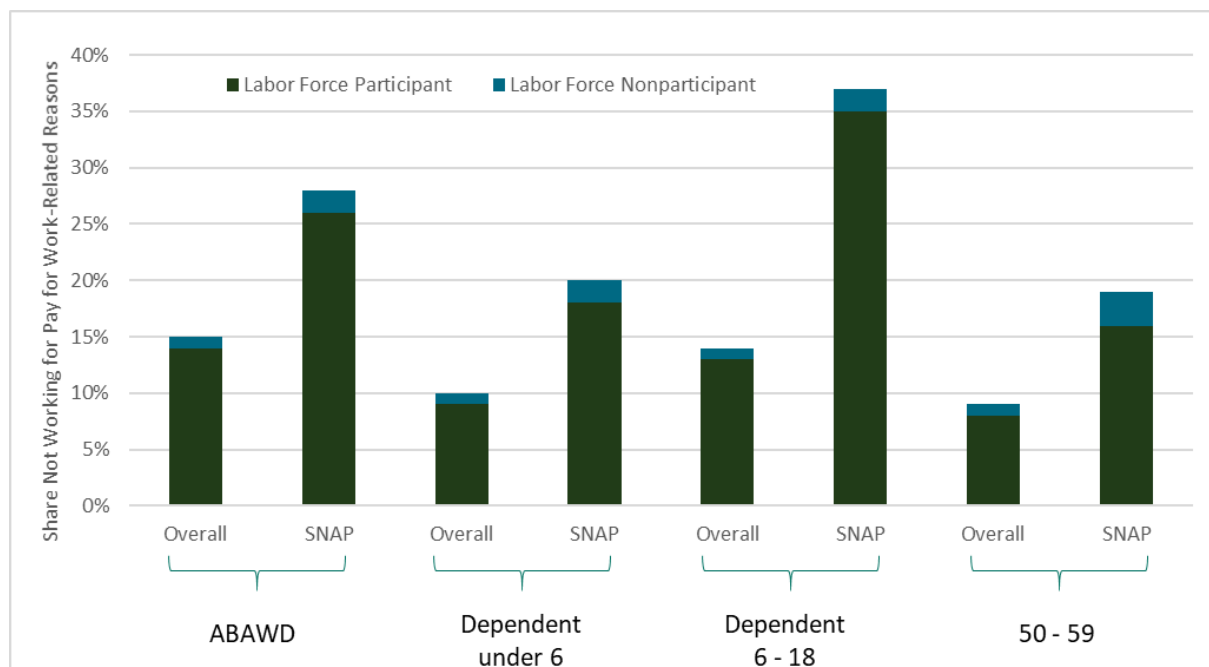


Source: Survey of Income and Program Participation; authors' calculations.

Focusing first on the 25 percent of the SNAP ABAWD population that was not in the labor force over the full sample, we find almost 85 percent reported that the reason that they were not working was poor health or disability (this is about 20 percent of all ABAWDs). Another quarter of the sample is in stable work. The remaining 50 percent, though, were in the labor force at some point, but at other times not working. Among that group, more than a half (28 percent of all ABAWDs) reported that a work-related reason, such as not being able to find work or being laid off, was their reason for not working for pay.

As shown in figure 12 below, a substantially larger share of adult SNAP participants were not working due to work-related reasons than the overall population, even during this time period (2013-14) when the economy was on an upswing. More than a quarter of ABAWDs experienced a period of not working for pay or nonparticipation due to labor market conditions outside their control. This share is 80 percent larger than the share of work-related reasons among the overall population. That is, even when the economy is improving, SNAP participants may be in particularly vulnerable occupations and find themselves frequently unable to work due to their local job markets. This is the group that a waiver for economic reasons is most directly intended to help, and this evidence shows that even when the economy is over four years after a recession, this group may still be at risk of losing benefits not because they do not want to work, but because they are unable to either find a job or get the requisite number of hours.

Figure 12. Share Not Working for Pay for Work-Related Reasons Overall versus SNAP, by Demographic Characteristics



Source: Survey of Income and Program Participation; authors' calculations.

This evidence presented thus far shows that those who are most at risk to losing benefits under the proposed rules are workers experiencing normal labor market fluctuations and those who should be eligible for exemptions but often fail to receive them. Among persistent labor force nonparticipants, we find that health issues are the predominant reason given for not working even though the analysis excludes program participants who reported disability income because they would be eligible for a categorical exemption from a work requirement. This group would also lose SNAP benefits if work requirement waivers were removed.

Some have questioned whether survey respondents are likely to provide accurate information about their health. This criticism stems from social desirability bias; survey respondents might feel pressure to report a more publicly acceptable reason for not working than what might actually be true. In this case, a respondent who simply does not want to work would say that they are not working because of a health condition; a health problem is a socially acceptable reason for not working, but the real reason is not.

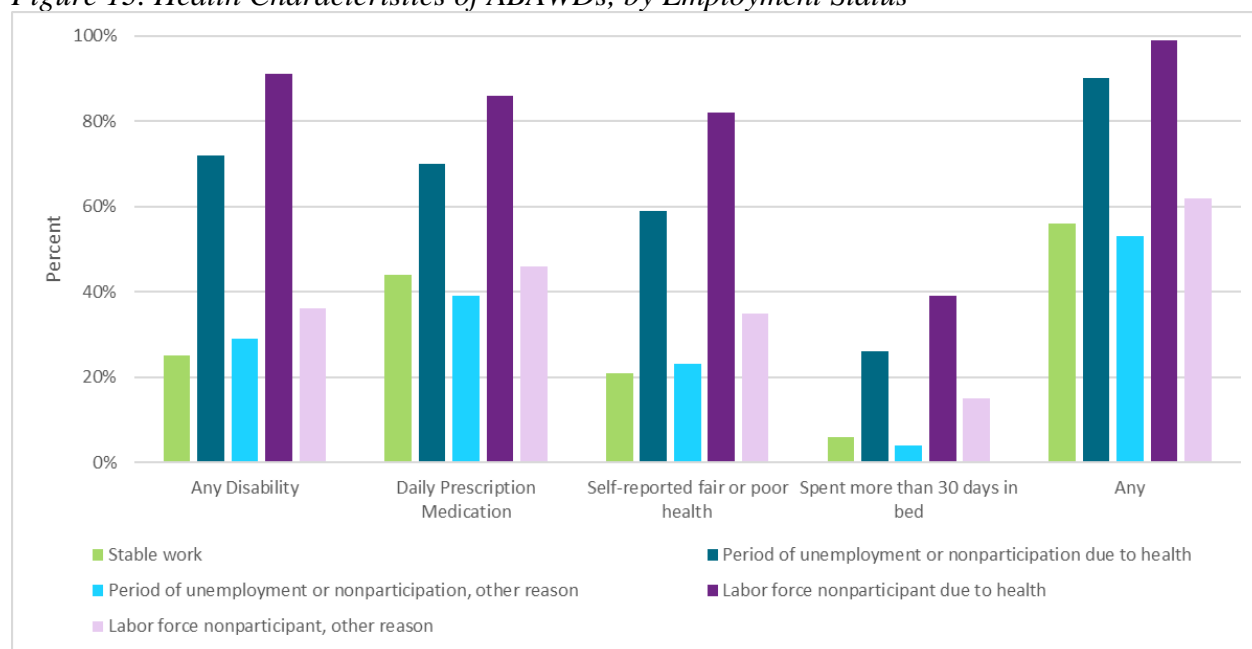
In this analysis, we show that those reporting health as a reason for not working do appear to be in poor health. We investigate the prevalence of reported health conditions among ABAWD SNAP participants¹².

¹² Those who were not working due to health or disability reported that they were not working for pay because they were unable to work because of chronic health condition or disability, temporarily unable to work due to injury, or temporarily unable to work due to illness. Those in the stable work category did not experience a period of unemployment or nonparticipation over the two-year period. Those in the period of unemployment or

Using the information from the prior analyses, we divide the SNAP participants into five groups:

- Stable work – those who worked consistently for two years;
- Transitioned in and out of work due to health – those who were in the labor force but experienced a period of unemployment or nonparticipation due to a health condition or disability;
- Transitioned in and out of work, other – those who were in the labor force but experienced a period of unemployment or nonparticipation for a reason other than health or disability;
- Labor force nonparticipant due to health – those who did not work at all for two years due to a health condition or disability; and,
- Labor force nonparticipation, other – those who did not work at all for two years for a reason other than health or disability.

Figure 13. Health Characteristics of ABAWDs, by Employment Status



Source: Survey of Income and Program Participation; authors' calculations.

We look at whether SNAP participants who would be exposed to work requirements are in self-reported fair or poor health, take a prescription medication daily, respond affirmatively to at least one in a battery of questions about disability, or spent more than 30 days over a two-year period in bed due to ill health.¹³ These questions about health are self-reported, but are

nonparticipation group were at least once not working for pay during the two year period. Labor force nonparticipants did not work for pay at all during the two year period. Those in the labor force nonparticipant due to health group did not work for pay at all during the two year period and the most frequent reason given for their nonparticipation was health.

¹³ Those in self-reported poor health responded "poor" to the question "what is your health status?" Those in the daily prescription medication group responded affirmatively to the question "Did you take prescription medication on a daily basis?" Those in the any disability responded affirmatively to at least one of the following questions: Do you have serious difficulty walking or climbing stairs; do you have difficulty dressing or bathing; do you have

considerably less subject to the social desirability bias that may affect how a respondent answers the question as to why they are not working. In fact, these questions are asked in the survey long before the respondent is asked about their labor force status, reducing the likelihood they are manipulating their response to justify not working.

Ninety-nine percent of ABAWD labor force nonparticipants who reported the reason for their nonparticipation was due to health in fact reported health problems; 91 percent reported a disability, 86 percent reported taking medication daily, 82 percent reported being in self-reported fair or poor health, and 39 percent reported spending more than 30 days in bed. For those labor force nonparticipants reporting a different reason for their nonparticipation, 3 in 5 reported a health problem. More than a third reported a disability, almost half took daily medication, and 15 percent spent more than 30 days in bed. Among those who were labor force participants but experienced a period of unemployment or nonparticipation due to health, nine out of ten reported a health condition. About 7 in 10 reported a disability and taking a daily prescription, about 60 percent were in self-reported fair or poor health, and a quarter spent more than 20 days in bed.

The prevalence of health conditions among ABAWD labor force nonparticipants as well as labor force participants working unstably due to health contrasts with those working stably. But to be clear, even among this group, a quarter report a disability, 44 percent are taking a daily prescription medication, a fifth are in self-reported fair or poor health, and 6 percent spent substantial time in bed.

Those who are SNAP participants with health issues who are unable to work and who would be exposed to work requirements would be required to obtain documents verifying their health problems frequently in order to retain an exemption. These people could lose access to the program due to paperwork requirements unless administrative capacity were expanded greatly to monitor and adjudicate these health concerns. Even then, administrative failures could lead to loss of access to food benefits.

There may be some SNAP participants who might join the labor force if they were threatened with the loss of benefits. Recent evidence shows that this group is very small relative to those who would be improperly sanctioned by work requirements who are already working or are legitimately unable to work. This evidence is directly relevant to claims in the NPRM and RIA that exposing more areas to work requirements would increase self-sufficiency. The USDA has failed to provide evidence that this would be the case, and the evidence produced in this section make it clear that work requirement would harm labor force participants who experience market volatility and labor force nonparticipants, the vast majority of whom have a health condition.

serious difficulty concentrating, remembering, or making decisions; do you have a serious physical or mental condition or a developmental delay that limits ordinary activity; do you have difficulty doing errands alone; do you have difficulty finding a job or remaining employed; are you prevented from working; are you deaf or do you have serious difficulty hearing; are you blind or do you have serious difficulty seeing? Those who spent more than 30 days in bed responded to the question “How many days did illness or injury keep you in bed more than half of the day” for at least 30 days over the two-year period.

V. Conclusion

Executive Order 12866 states that agencies, such as USDA, may issue regulations when there is a compelling public need and when the benefits outweigh the costs in such a way as to maximize net benefits. We find that both the NPRM and its RIA insufficiently analyze the proposed rule and fail to consider the costs and benefits under alternate economic conditions or to the participants in any circumstance. In this comment, we have provided evidence and analysis that the USDA has proposed a rule that is arbitrary, that the rule runs counter to the compelling public need for waivers to work requirements during economic downturns, and fails to consider much less prove that the benefits outweigh the costs. The existing rule should be sustained.

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VII. Appendix

Appendix Table 1. Interactions between Emergency Unemployment Compensation and SNAP Waiver Eligibility

Date range	EUC threshold for SNAP Waiver eligibility	Tier eligibility	Source
January 8, 2009–November 5, 2009	Tier II	3-month seasonally adjusted total unemployment rate (TUR) of at least 6 percent; or 13-week insured unemployment rate (IUR) of at least 4.0 percent (CRS 2014)	The Bush Administration <u>clarified</u> that EUC counted for SNAP waivers on January 8, 2009. Any state that was eligible for Tier II EUC was eligible for SNAP waivers based on EUC eligibility. From January 9, 2009 to November 6, 2009, eligibility for Tier II was conditional on having a TUR of at least 6 percent or an IUR of at least 4 percent. Tier II was not universal among states before November 6, 2009 (Table 1 in Rothstein 2011).
November 6, 2009–May 31, 2012	Tier III	3-month seasonally adjusted TUR of at least 6 percent; or 13-week IUR of at least 4.0 percent (CRS 2014)	When all states were eligible for Tier II benefits, states had to additionally qualify for Tier III benefits in order to be eligible for a SNAP waiver application (CBPP 2018). State eligibility for EUC tier II became unconditional on November 6, 2009 (Rothstein 2011).
June 1, 2012–Dec 31 2013	Tier II	3-month seasonally adjusted TUR of at least 6 percent (CRS 2014)	On <u>June 1, 2012</u> Tier II qualifications go back to a 3-month seasonally adjusted TUR of at least 6 percent and therefore Tier II is no longer a universal tier. According to DOL, as of January 12, 2014 EB is not currently available in any State (DOL). ¹⁴

¹⁴ Because we round to the nearest month, we end the EUC eligibility period in December 2013. Waivers based on EUC were granted through 2016.