



October 13, 2023

Attention: Polly Fairfield
Food and Nutrition Service
United States Department of Agriculture
1320 Braddock Place
Alexandria, Virginia 22314

RE: Proposed Rule: Improving Access and Parity in Food Distribution Programs

Dear Deputy Under Secretary Stacy Dean and Administrator Cindy Long:

The Food Bank Council of Michigan (FBCM) welcomes the opportunity to submit comments regarding the proposed rule entitled "Food Distribution Programs: Improving Access and Parity" ((FNS-2023-0026) RIN 0584-AE92) published in the August 14, 2023 edition of the Federal Register.

FBCM is the state association representing the seven Feeding America affiliated food banks that collectively serve all 83 counties in Michigan. Programs like TEFAP and CSFP are critical in enabling our food banks to provide nutritious food to communities and households across our state, and we appreciate the opportunity to inform and influence the policies that govern these important programs. FBCM is supportive of opportunities to strengthen and streamline these programs to best serve people experiencing food insecurity in Michigan and across the nation, and we offer these comments detailing our views on the proposed rules.

Commodity Supplemental Food Program (CSFP):

Eligibility Requirements

FBCM strongly supports USDA's proposal of increasing the maximum income eligibility guidelines, and we urge USDA to increase to 185% FPL. The proposal of 150% FPL still leaves the average social security recipient over the income eligibility limit for the program. As USDA has acknowledged, raising the limit to 185% would align CSFP with the Senior Farmers Market Nutrition Program (SFMNP), and this would provide increased parity between the two programs. **We also strongly encourage USDA not to allow states the option to set their income eligibility guidelines to less than 185% FPL.**

FBCM supports allowing CSFP applicants to be categorically eligible via participation in other federal means-tested programs, as long as USDA continues to allow participants to self-declare their income as another option for eligibility. Michigan uses federal means-tested



programs with income limits at or under TEFAP eligibility guidelines for participants in that program. By allowing CSFP applicants to be categorical eligibility via participation in programs including but not limited to SNAP, FDPIR, Supplemental Security Income (SSI), SFMNP, Medicaid, Medicare Savings Program, Section 8, the Low Income Home Energy Assistance Program (LIHEAP), and any state means-tested program within the income guidelines, it would ease burden on both participants and partner agencies. **FBCM also urges USDA to remove the requirement that federal means-tested programs have income limits at or below the CSFP threshold to be considered for categorical eligibility**, and encourages USDA to model the CSFP categorical eligibility regulations after the National School Lunch Program (NSLP) language, which confers eligibility based on participation in other programs without reference to the income limits of the other programs.

FBCM recognizes that any changes in eligibility requirements for the program will have an impact on caseload utilization. While USDA anticipates returning to the practice of reallocating caseload from those programs that do not meet the 95% utilization requirement, we urge USDA to consider at least preserving existing caseload allocations while the proposed rules are finalized and implemented, recognizing that increased eligibility will make it more likely that higher caseload utilization rates will occur as a result. This would allow states to better prepare to serve newly eligible CSFP participants without delay.

Changes to Identification Check at Distribution

While FBCM strongly supports the intent of the proposed rule to allow state and local agencies greater flexibility when determining how to verify participants' identity before distributing USDA foods, it does not address the larger issue of requiring participants to prove their identity in order to participate in the program. **If USDA seeks to ensure that CSFP is a more accessible and equitable program, FBCM strongly encourages USDA to move towards removing the identification verification requirement in its entirety.** Many older adults face barriers to picking up food and the current identification requirement is challenging for partner agencies and participants, especially for those that offer home delivery as an option to address barriers to access. It is necessary to modernize CSFP to better support the needs of today's older adults. Participants already provide personal information during certification and recertification, which meets the same objective of verifying that the USDA Foods are distributed to the eligible participants. **Should USDA determine identity verification must be required, FBCM supports the proposed rule to allow CSFP state and local agencies to establish additional methods of verifying the identity of participants.**



Referral Materials for the Senior Farmers' Market Nutrition Program

While FBCM supports the intent of this proposed rule, we have concerns on making this a requirement for CSFP agencies to share "written" information and referrals for SFMNP.

Partner agencies receive limited administrative funding and requiring agencies to print and distribute materials for other programs, without providing additional resources to do so, will further exhaust already limited administrative funds. FBCM proposes that USDA allow flexibility regarding information sharing and referrals to other programs, and unless additional administrative resources are made available, make this optional but strongly encouraged, for those with the capacity and funding for additional outreach.

FBCM is strongly supportive of cross-enrollment efforts across federal nutrition programs, and it is often necessary to connect CSFP participants to additional resources whenever possible, as CSFP does not currently offer fresh produce. While there are nearly 300 farmers markets across Michigan that offer fresh, local produce, many older adults face barriers to accessing these resources. Referrals to programs like SFMNP to offer access to fresh produce is important, but it does not address the greater need to reevaluate the USDA Foods currently offered through CSFP and seek opportunities to include fresh produce in CSFP to bring the program more in alignment with offerings provided in other food distribution programs, such as TEFAP, to better support the health and well-being of our nation's older adults.

Public Posting of Availability of USDA Foods and State Plans

FBCM strongly supports making the CSFP State plan publicly available on the State agency's website, which would be informative and increase transparency of the program. FBCM encourages USDA to implement a firm deadline in which the most current State plan must be posted on the State agency's public website to ensure that it is shared in a timely and consistent manner annually. In addition to requiring States to publish their State plan on their website, **FBCM also urges USDA to post all State plans on the USDA website to make these plans even more accessible to further increase transparency and allow for potential information sharing across states to learn best practices from one another.**

In addition, FBCM encourages USDA to include language requiring State agencies to provide emergency feeding organizations or eligible recipient agencies within the State an opportunity to provide input in the creation of the annual State plan, which may include the use of a State advisory board to accomplish this. Currently USDA encourages State agencies receiving TEFAP foods to establish a State advisory board representing all types of entities in the State, both public and private, interested in the distribution of USDA Foods, to provide valuable input on how resources should be allocated among various eligible outlet types, what areas have the greatest need for food assistance, and other important issues that will help



States to use their program resources in the most efficient and effective manner possible. FBCM urges USDA to strengthen this regulatory language for TEFAP and to add mirroring language for CSFP.

FBCM supports the listing of information about CSFP distribution sites online. Potential CSFP participants should have easy access to the most up-to-date information about food distributions in their local community. **However, posting *all* distribution sites on the State agency's website might not be a practical requirement,** given that State agencies do not oversee the daily operations of distributions. This requirement can quickly create an issue with outdated listings since distribution sites change periodically. Furthermore, if State agencies only update information about each site once a year, it leaves opportunities for participants to become frustrated about the program when provided outdated information.

The Michigan Department of Education (MDE) currently [offers a list on its website](#) with information provided for the primary CSFP partners that the State agency works with directly in each county, where interested participants can then access information directly from those partners to learn more about what sites distribute CSFP and how to apply. Similarly, **we encourage USDA to require the lists provided on the State agency websites contain the primary TEFAP partners in each county or region. We also urge USDA to ensure that States prioritize how this information can be shared in an accessible and inclusive manner,** such as not posting as a separate attachment since not all devices can easily access documents, and considering font types and sizes that can make for easier reading of the information. **FBCM also recommends that USDA encourage State agencies to prioritize making this information available in other State and partner resource websites and helplines that older adults may already be familiar with and utilizing,** such as 2-1-1, or [MI Bridges](#) (a public benefits and community resource portal operated by the Michigan Department of Health and Human Services, another State agency in Michigan), rather than expecting seniors to know to search for the information on the specific State agency's website.

The Emergency Food Assistance Program (TEFAP):

Requirement for the Public Posting of Availability of USDA Foods Through TEFAP

FBCM supports efforts to make TEFAP more accessible by sharing information on State agency websites about TEFAP eligibility requirements and distribution sites, but we have similar concerns as we listed above under "CSFP - Public Posting of Availability of USDA Foods and State Plans". We want the information posted on the website to be accurate, up-to-date, and practical to maintain, so instead of requiring that *all* TEFAP distribution sites be listed on a



public website, **we encourage USDA to require the lists contain the primary TEFAP partners in each county or region**, avoiding added administrative burdens on TEFAP distribution sites and State agencies, and preventing potential confusion or frustration for participants that could otherwise encounter inaccurate or outdated information.

FBCM also strongly urges that USDA require State agencies to post their current TEFAP state plan annually on their State website. This mirrors a current proposed rule change for CSFP and would help bring transparency and parity to both programs. **FBCM also urges USDA to post all State plans on the USDA website** to make these plans more accessible to further increase transparency and allow for potential information sharing across States to learn best practices from one another.

In addition, FBCM urges USDA to strengthen current language from “encouraging” to “requiring” State agencies to provide emergency feeding organizations or eligible recipient agencies within the State an opportunity to provide input in the creation of the annual State plan, which may include the use of a State advisory board to accomplish this. Currently USDA encourages State agencies receiving TEFAP foods to establish a State advisory board representing all types of entities in the State, both public and private, interested in the distribution of USDA Foods, but many states are not taking advantage of this opportunity. Emergency feeding organizations and eligible recipient agencies can provide valuable input on how resources should be allocated among various eligible outlet types, what areas have the greatest need for food assistance, and other important issues that will help to ensure States use their program resources in the most efficient and effective manner possible. **FBCM urges USDA to strengthen this regulatory language for TEFAP and to include mirroring language for CSFP.**

TEFAP Maximum Income Eligibility Range and State Agency Option for Alternative Income Eligibility Thresholds

FBCM strongly supports USDA’s proposal to require states to set their income eligibility guidelines at a minimum of 185% FPL, as this will help increase access to the program and modernize eligibility standards.

However, **we do not support the proposal to implement a federal maximum income eligibility threshold for TEFAP.** States should be able to set income eligibility guidelines based on firsthand knowledge of their unique service area, the local cost of living, population needs, resource management and other factors. We are concerned this would create additional administrative burden for States already operating above that threshold to provide



justification, and be a potential deterrent for States to adapt their thresholds in the future due to the added administrative burden.

If USDA determines there must be a federally established income eligibility maximum, it should be no less than 400% FPL, to be inclusive of all current State administrative practices and to be mindful of financial realities of those seeking food assistance. **We strongly recommend that USDA retains the proposed option for State agencies to submit a request to establish guidelines at a higher level, with justification,** to continue to allow States to make adjustments based on state-specific needs and economic conditions.

Methods for Verifying Residency

FBCM strongly supports USDA's proposal to disallow the requirement that individuals provide their address or identification to prove residency to receive USDA Foods through TEFAP. This aligns with Michigan's current practices that allow for self-declaration of residency by the applicant, that has proven to be an efficient and effective method in our state.

Establishing Confidentiality Protections for Applicant and Participant Household Information

FBCM supports efforts to establish confidentiality requirements to ensure protection of information collected from households, and to align recordkeeping and retention requirements with those of other food assistance programs. We encourage USDA to ensure confidentiality regulations are aligned with ongoing best practices, including the use of state-approved electronic intake platforms.

Household Distribution Participation Reporting

The proposed language requires State agencies to collect information on the number of participants served by TEFAP and report it to the USDA on a quarterly basis. **FBCM supports USDA's proposal to collect just one data point on TEFAP: the number of participants served by the program. We also support aligning the timing of this report with other required quarterly reporting from State agencies to USDA, in order to minimize reporting burden for State agencies.**

Additionally, state-approved electronic intake platforms operating at eligible recipient agency distribution locations are approved for the data collection and reporting required by this section and USDA has encouraged the use of such platforms to improve data accuracy. We encourage USDA to highlight best practices and examples of how electronic intake platforms help eligible recipient agencies report data to State agencies and better serve their communities to encourage further buy-in from State agencies.



Rural, Remote and Tribal Expansion

FBCM supports this proposal to expand access to TEFAP in tribal communities and to historically underserved populations. This would align regulatory language with that of TEFAP Reach and Resiliency grants. The proposed language encourages State agencies and eligible recipient agencies to implement or expand USDA Food distributions in rural, remote, and Tribal areas of the State wherever possible, and FBCM encourages USDA to provide further guidance and best practices as to how this may be achieved.

USDA Foods in Disasters and Situations of Distress:

Limitation on Impacts to Other Programs

FBCM appreciates USDA's efforts to better understand when USDA Foods are being used in disaster response and replace them, so as not to reduce the amount of USDA Foods available in other programs. **However, FBCM asks that USDA provide further clarification on the proposed language related to limiting impact on other programs, specifically providing details and examples of how the Department intends to define "ongoing negative impact".** It is important that the preferences of distributing agencies like food banks are a priority when deciding whether disaster response activities may negatively impact the distribution of foods through other programs, to ensure that resources can still be allocated in a way that best addresses the unique needs of the those impacted by a particular disaster, while still considering the needs of individuals experiencing food insecurity outside of the disaster area.

Updated Reporting Requirements for Distribution of USDA Foods to Households During a Disaster

FBCM has concerns regarding the proposal to require a weekly report that State distributing agencies must complete if disaster household distribution persists for longer than 14 calendar days. Reducing the current 45-day threshold to 14 days would create additional

administrative burden for State distributing agencies and recipient agencies during times of already heightened administrative burden. While FBCM understands and agrees with the importance of timely data, we ask that USDA consider alternative methods such monthly reporting, as that is more in line with how many agencies generally report household participation, or utilizing the data of other, on-the-ground sources (such as FEMA) to collect this additional information during times of duress.



Removal of Prohibition on Simultaneous Provision of USDA Foods and D-SNAP During a Disaster

FBCM strongly supports the proposed language to allow for the simultaneous provision of Disaster SNAP (D-SNAP) and USDA Foods in disaster response, which is currently prohibited by federal regulation.

The ability to access food distributions or grocery stores can vary based on the type of disaster or emergency, so allowing options to access resources that best meets the needs of those impacted is important. In addition, some households may need to access both resources at some point given the severity and duration of a disaster's impact.

Food Distribution Program on Indian Reservations (FDPIR)

FBCM supports increasing access and equity to FDPIR, and encourages USDA to prioritize and uplift public comment from Indian Tribal Organization staff and Tribal leaders on the proposed rules.

Removal of Urban Place Definition

FBCM supports the proposed rule that any urban place outside of the reservation boundaries may be served by the Indian Tribal Organization (ITO), without justification. Removing this barrier reflects the contemporary living situations of Tribal members and descendants and is necessary to meet their needs. **We also encourage USDA to retain the language "may be served" instead of "must be", to preserve Tribal sovereignty in offering this program** and eliminate burdensome and needless administrative requirement at the same time.

Establishment of Administrative Waiver Authority in FDPIR

FBCM supports the proposed rule that would allow FNS to waive or modify specific regulatory requirements for ITOs in certain situations. This would give ITOs authority and flexibility to apply to FNS for waivers to regulatory requirements to help ensure programs are best serving their communities, and brings FDPIR waiver circumstances in line with SNAP, supporting parity between the two programs.

FBCM encourages USDA to continue seeking programmatic flexibility that respects Tribal sovereignty in programs and to continue dialogue with Tribal leaders to determine the conditions under which a Tribe might be granted a waiver.



Revisions to Shelter/Utility Deductions

FBCM supports the proposed rule to increase FDPIR shelter and utility standard deductions to align with SNAP maximum deduction levels and allowing FDPIR households to use actual expenses to calculate the deductions. This change to the deduction calculation will increase FDPIR access for Tribal citizens and begins to acknowledge and take into account the varying circumstances in many Tribal communities.

Household and Dependent Status

The proposed rule would allow for separated household status to be granted to separated spouses who are living apart. Through this regulation, requirements for determining parental control of minor children would mimic SNAP regulations. This provision would allow for greater flexibility for tribal families who, due to various circumstances, live in separate households and have previously been denied separate access to the program in a way that will help feed their whole family. **Maintaining parity between SNAP and FDPIR requirements would help participants have a more seamless opportunity to transition between the programs through commonly held verification standards, and FBCM supports this proposed rule change.**

Periodically Assessing the FDPIR Food Package

FBCM supports the proposal to require FNS to periodically assess how USDA foods provided through FDPIR compare to federal dietary guidelines and to adjust food package contents to ensure they are consistent with basic dietary needs. FBCM applauds USDA for incorporating feedback from ITOs through regular consultation to incorporate more nutritious, culturally preferred foods for American Indian and Alaska Native participants, and we encourage USDA to ensure that this provision promotes reviews on an as-needed basis, with no limitations to how often they can occur.

The proposal clearly prohibits the FDPIR package benefit from being reduced through review and analysis, meaning participants would not be at risk of losing food, which FBCM supports. **We also urge USDA to increase parity between FDPIR and SNAP by ensuring any adjustments to SNAP benefit calculation methods are accompanied by adjustments to FDPIR food package amounts.**



We thank USDA for taking this opportunity to make meaningful improvements to strengthen our nation's food distribution programs.

The Food Bank Council of Michigan appreciates the opportunity to submit public comment on USDA's Proposed Rule Changes: Improving Access and Parity in Food Distribution Programs, and we thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Anna Almanza".

Anna Almanza
Director of Public Policy & Government Relations
Food Bank Council of Michigan