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**United States
Department of
Agriculture**

SUBJECT: SNAP – Conforming to the Tri-Agency Guidance through Online Applications

Food and
Nutrition
Service

TO: All Regional Directors
Supplemental Nutrition Assistance Program (SNAP)

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This memo provides guidance on how State on-line applications for SNAP can improve program access for households that opt to apply only for some members of the household. This can occur in households that have a mixture of eligible and ineligible non-citizens, particularly when ineligible non-citizens apply on behalf of their eligible citizen children. Specifically, States may not require information on the citizenship or immigration status or Social Security numbers (SSNs) of any family or household member who is not applying for SNAP. In completing a review of 26 State on-line applications against policy guidance, FNS found that all can be improved, and many may be out of compliance with Title VI of the Civil Rights Act of 1964 by asking for information not needed to establish eligibility. In addition, many States do not comply with the SNAP requirements regarding inquiries into Social Security numbers.

On September 21, 2000, the Department of Agriculture, the Administration for Children and Families, and the Centers for Medicare and Medicaid Services issued joint agency guidance on inquiries into citizenship, immigration status, and SSNs for non-applicants. The guidance (known as the “Tri-agency Guidance”) responded to concerns that citizen children and other eligible household members were not receiving benefits because of inquiries about SSNs and immigration status of persons who were not seeking benefits deterred households from filing applications. SNAP data showed that a large number of citizen children in households with non-citizen adults lost benefits after the implementation of the 1996 restrictions on immigrant eligibility and the participation rate for these children was inordinately low.

Over the past decade, SNAP has realized substantial progress in reaching citizen children living in mixed households. Between 2001 and 2008, the percentage of eligible citizen children living with non-citizen adults rose from 37 to 55 percent. While this shows significant improvement, it remains well below the proportion of all eligible children who participate (86 percent). The participation rate for all eligible noncitizens has hovered around 50 percent for several years while the rate for all eligible persons has increased from 54 to 66 percent.

There are many reasons for this disparity. Improving the on-line application process will not address all the barriers to program access faced by mixed immigration status households, but it is a critical step. Moreover, better aligning on-line applications with the Tri-agency Guidance ensures that State agency enrollment procedures do not inadvertently deter participation on the basis of national origin.

Tri-agency Guidance and SNAP Regulations

What are the key provisions of the Tri-agency guidance?

While there is no substitute for the original guidance that can be accessed at: <http://www.fns.usda.gov/SNAP/rules/Memo/pdfs/triagencyletter.pdf>, the following summarizes the main provisions:

- Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, and national origin.
- State public benefit applications that require SSNs and citizenship/immigration information from persons who are not seeking benefits may be unintentionally violating this requirement.
- The Privacy Act prohibits denying benefits to those who do not disclose their SSNs if the disclosure is not required by law. Also, it requires that agencies seeking SSN's inform applicants whether the disclosure is mandatory, the authority for the request, and how the SSN will be used.
- State agencies may not deny benefits to otherwise eligible individuals simply because other household members do not furnish SSNs or citizenship/immigration information.
- State agencies are encouraged to structure their applications to enable individual household members to declare whether or not they are seeking benefits, and inform applicants that persons who are not seeking benefits (1) do not need to disclose information about SSNs or citizenship/immigration status, but (2) do need to provide information (such as income and resources) that is needed to determine eligibility for those members who are applying for benefits.

Why is the Tri-agency Guidance important?

As mentioned above, the participation rates for immigrants, in general, and children in mixed households, in particular, are well below average. Fear and misinformation may deter many non-citizens from seeking benefits for which they are eligible – particularly if there are other members in the household who may be ineligible because of their immigration status. Asking questions about SSNs, immigration status, national origin, and date of entry for all household members may cause some people not to file or pursue an application.

What does the Tri-agency Guidance mean for an applicant?

The most straightforward method for implementing the Tri-agency Guidance is to allow the applicant to identify which household members are seeking SNAP benefits and which members are not (known as “opting-out”). This separation clearly allows State agencies to request SSN’s and citizenship/immigration status for those persons applying for benefits and not asking about these items for persons who are opting-out.

A key to implementing opt-out is explaining the process so that applicants can make informed decisions. Applicants need to understand:

- Household members may choose not to seek benefits and will not be required to answer questions about SSNs, citizenship/immigration information.
- Household members who are seeking benefits must supply information about SSN’s and citizenship or immigration information.
- The amount of benefits will depend on the number of people requesting benefits, but eligible household members who apply will be able to get benefits even though some people in the household are not seeking benefits.
- Household members who are not seeking benefits must provide their financial information because it is needed to determine eligibility for persons who are applying.

Applicants need to understand these rules before deciding how to proceed; therefore, sequence is important. *The policy needs to be explained before questions about opting-out, SSN’s, or citizenship/immigration status are posed.*

What do SNAP rules and regulations say?

Pursuant to 7 CFR 273.2(f)(1)(ii), the State agency must verify the immigration status of applicant non-citizens. A non-citizen who does not have a verified immigration status is not eligible for SNAP. However, a State agency must give a household the option to either withdraw its application or to apply only for those persons who choose to verify their immigration or citizenship status. State agencies cannot deny benefits to otherwise eligible household members because other members have chosen not to disclose their SSN or citizenship/immigration status.

Household members that opt-out are considered non-applicants and are ineligible for SNAP benefits. However, the individual’s income and resources are still counted to determine eligibility for the remaining household members as set forth in 7 CFR 273.11(c).

SNAP regulations at 7 CFR 273.2(b)(4) further provide that the Privacy Act requires State agencies to notify households applying for or receiving SNAP of the following: that providing a SSN is voluntary but failure to provide an SSN will result in individual ineligibility, the reason for collecting the SSN, the authority for the request, and how the SSN will be used. In addition, a State agency must notify households that unless good cause is established, failure of a household member to provide a SSN will result in the denial of program benefits for that individual.

Online Application Survey Results

Generally, the majority of the States allow applicants to apply without providing SSNs or information on immigration status. Most of the on-line applications allow applicants to navigate to another screen without providing information on social security numbers or immigration status. However, less than half gave applicants the necessary details as to why information on SSNs or immigration status was requested, or provide the relevant statutory authority or policy for requesting this information in order for the applicant to make an informed decision regarding opting-out.

What issues did FNS find regarding citizenship and immigration information?

FNS followed its review of State on-line applications described in a December 17, 2010, memorandum with a separate review that focused on Tri-agency guidance issues. While most on-line applications did not require non-applicants to respond to questions about citizenship/immigration status, there were a number of inappropriate and unnecessary mandatory questions. For example, one application requires all household members to declare whether or not they are citizens. Others require country of birth, date of entry, or sponsorship information.

Although most online applications allow the client to apply without providing information about immigration status, many applications solicit detailed information about the immigration status of all household members, including those who are not applying for program benefits. Only about half of the online applications surveyed explained opting-out.

In order to calculate the correct amount of benefits non-applicants must provide financial information to determine the eligibility and benefit levels for applicant household members. At least one application did not permit recording financial information from non-applicants and did not meet this requirement.

What issues did FNS find regarding SSNs?

As stated earlier, most States did not require SSN's as a mandatory field. Eleven States explain why the SSN is being requested. However, most did not inform the applicant whether they must provide an SSN before being asked to provide it, and most did not provide applicants with the statutory or regulatory authority for this request.

There were other significant problems as well. One State required that applicants declare whether or not each household member had an SSN. This type of question may have a chilling effect on the pursuit of the application. Another required giving "000-00-0000" as an SSN for persons without a SSN, which could be deemed as requiring an applicant to submit a false SSN. Others allowed the SSN field to be left blank but would prompt the applicant to reconsider whether an SSN was available. While this type of reminder may be helpful if the number was inadvertently omitted it may undermine a prior message that SSN's are not required for non-applicants.

A more pervasive issue was the failure to explain the impact of SSNs on eligibility. The Privacy Act and SNAP regulations at 7 CFR 273.2(b)(4) require notice that providing the SSN is mandatory for applicants. Some States use asterisks to identify mandatory fields (questions) and do not asterisk SSNs but do not explain the policy. This practice aims at but does not fully comply with the requirement.

Here the obligation under the Privacy Act responsibility to explain reasons for the mandatory request for SSNs dovetails with the Tri-agency Guidance by explaining that the lack of SSN information from non-applicants cannot be a basis for denying applicants who furnish this information. As noted earlier, SSN and citizenship/immigration information present the same issues from the standpoint of the Tri-agency Guidance, so there are advantages to explaining both issues together in a discussion of opting-out. A key to this presentation is location of this information within the application: *users need to be able to understand the implications of the policy for their household before providing information.*

There is also an extensive need for better compliance with the Privacy Act provisions and SNAP regulations on SSN authority and use. These requirements are codified at 273.2(b)(4). While the notice does not need to be this formal, it is mandatory. The application may state that "Providing a SSN is required by law for applicants seeking benefits. It will be used to help the State agency determine eligibility and benefit levels."

What can State agencies do to improve their on-line applications?

FNS will work with State agencies with the aim to build more secure and well-defined paths for households with both eligible and ineligible members so that those who are eligible can access benefits to which they are entitled. The questions that will be posed for on-line applications are:

SSN's:

- Is the SSN mandatory or voluntary?
- Is the applicant informed that giving this information is mandatory/voluntary before being asked to provide an SSN?
- Is the statutory authority provided?
- Are the uses of the SSN explained?

Citizenship/immigration status:

- Is opt-out explained?
- Where in the process is it explained?
- Can the user proceed without answering questions on these items for members who do not seek benefits?
- What questions on this status are required for all household members?
- Can required financial information be provided for a non-applicant?

A starting point is to review the application from the perspective of a user for a mixed applicant/non-applicant household. To successfully implement the Tri-agency Guidance, the application needs to clearly explain the policy before the user is confronted by relevant questions, and allow the user to continue with the application without responding to certain questions.

This memo should not discourage State agencies that currently have online applications or wish to develop an online application form for SNAP. FNS recognizes there are clear advantages to implementing an online application form, with the most obvious advantage being improved access. Clients can apply for SNAP benefits at any hour on any day from any computer with internet access. Interactive design can enable answers to certain questions triggering or omitting other questions.

In terms of Tri-agency Guidance issues, the greatest barriers with online applications can be mandatory screens which compel answering questions about household members who are not seeking benefits or abandoning the application. Therefore, the sequencing of information provided and requested is critical. For example, some States provided information on opting out at the end of the application process instead of at the beginning

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or at the place where the information on citizenship/immigration status or SSN is being requested.

FNS is ready to work with State agencies in improving program access to eligible individuals and families, particularly U.S. citizen and eligible non-citizen children. FNS will provide any policy support needed to ensure that those who are eligible to participate are not dissuaded from applying for or receiving program benefits. We are asking Regional Offices to work with State agencies to improve or provide a detailed plan for improving their on-line applications within 90 days of this memorandum.



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