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October 3, 2022

Submitted via e-mail to Kimberly.Xavier@delaware.gov

Kimberly Xavier
Division of Social Services (DSS)
1901 N. DuPont Highway
P.O. Box 906
New Castle, DE 19720-0906

Re: Commenting on Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) Proposed Rule Change to the Food Benefit Recertification Periods.

Dear Division of Social Services:

Community Legal Aid Society, Inc. of Delaware (CLASI) appreciates the opportunity to comment on the Delaware Health and Social Services (“Department”)/Division of Social Services (DHSS/DSS)’s proposed amendment to the Division of Social Services Manual (DSSM) regarding Food Benefit Certification. DHSS/DSS has proposed changing Supplemental Nutrition Assistance Program (SNAP) recertification periods from 24 months to 12 months for elderly and disabled households, and from 12 months to 6 months for other households.¹

CLASI is a statewide, nonprofit law firm whose mission is to combat injustice through creative and persistent advocacy on behalf of vulnerable and underserved Delawareans. As a legal aid program, CLASI works directly with low-income individuals and families who qualify for SNAP benefits.

CLASI strongly opposes the proposed amendments to the DSSM regarding Food Benefit Certification, which is contrary to federal SNAP policy that strongly favors longer certification periods, creates barriers to food equality, and significantly harms the very individuals that SNAP is designed to help – low-income households, especially families of color, facing food insecurity. In 2021, SNAP helped 12% of the state’s population, approximately 115,500 Delaware residents;²:

- more than 66% of SNAP participants are in families with children
- almost 38% are in families with members who are older adults or are disabled
- almost 46% are in working families.

¹ 26 Del. Reg. Regs. 159-62 (Sept. 1, 2022).

² Center on Budget and Policy Priorities (April 25, 2022), available at <https://www.cbpp.org/research/food-assistance/a-closer-look-at-who-benefits-from-snap-state-by-state-fact-sheets#Delaware>.



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Although DHSS claims that it is shortening the recertification period to eliminate the periodic review, this move goes against the very nature of the purpose of the program. 7 C.F.R. § 273.10(f) addresses certification periods and states “State agencies must assign the longest certification period possible based on the predictability of the household’s circumstances.” Currently DHSS adheres to this policy by allowing 24-month recertification periods with a periodic review at month 12 for households where all members are elderly or disabled, and for 12-month certification periods with a periodic review at month 6 for other households based on their circumstances. At this review, the SNAP family is required to report certain changes in income, living arrangements and family composition.

The Proposed Rule Will Result in Eligible Families losing SNAP Benefits and Increasing Churn.

Delaware’s proposed changes will result in many eligible families losing SNAP benefits and runs counter to the federal government’s stated policy goals of increasing enrollment by streamlining application and renewal processes and generally trying to reduce unnecessary churn.³ “Churning” in SNAP is defined as when a household exits SNAP and then re-enters the program within 4 months.⁴

SNAP is the nation’s largest mechanism to fight hunger, and Delaware should not seek to limit that access for eligible families but rather should take steps to increase it. Given that SNAP benefits are 100% federally funded, Delaware should be seeking to increase not decrease enrollment of eligible families. The proposed changes will do precisely the opposite.

More than 8 years ago, USDA, the federal agency that administers the SNAP program undertook a study of churn rates, costs and causes. They found that the vast majority of cases that churned exited SNAP at the time of recertification or a required interim report. This study found that among six states, the percentage of SNAP churn cases with a closure and subsequent reopening ranged from 66 to 90. USDA specifically pointed to longer certification periods as a way to reduce churn.⁵ Yet Delaware has proposed the precise opposite – shortened certification periods.

Other studies and reports confirm that increasing rather than reducing certification periods plays an important role in reducing churn. For example, a 2015 study in Maryland recognized that more than half of all churn cases occurred at recertifications. Importantly, families where churn occurred are more likely to include individuals with disabilities. The Maryland study specifically noted lower churn rates with longer recertification periods. “The length of redetermination period is important since frequent redeterminations allow more opportunities for churn to occur.”⁶

³ See for example 87 Fed. Reg. 54760 (Sept. 7, 2022) (proposing multiple changes to simplify Medicaid applications and renewals).

⁴ Understanding the Rates, Causes, and Costs of Churning in the Supplemental Nutrition Assistance Program (SNAP), Mills, Vericker, Koball, Lippold, Wheaton, Elikn (November 2014, available at <https://www.fns.usda.gov/snap/understanding-rates-causes-and-costs-churning-supplemental-nutrition-assistance-program-snap>).

⁵ *Id.*

⁶ A Profile of TANF Churn in Maryland, Passarella (December 2015), available at <https://www.ssw.umaryland.edu/media/ssw/fwrtg/welfare-research/life-on-welfare-special-issues/churnprofile.pdf>.

The Proposed Rule Imposes Unnecessary Bureaucratic Hurdles

DHHS is replacing the less burdensome process with one that is substantially more difficult, complicated and time consuming. During the periodic review, SNAP families are required to report certain changes in income, living arrangements and family composition. Unlike a full application, the periodic review, is much less burdensome than the documentation that must be provided at recertification. In addition, there are more robust protections for families when the periodic review is submitted late.

Here at CLASI, we have seen many examples where clients have completed recertification papers and submitted them to DHHS, but they have been lost or misplaced. These difficulties have resulted in benefits being lost only to be reinstated when the missing paperwork is found. This scenario has repeated itself time and again during the pandemic. The halving of recertification time periods will just exacerbate this problem.

In the meantime, eligible families who lose benefits will be forced to choose between putting food on the table and paying for shelter or other necessities in an environment where affordable housing is severely lacking. Depending on how long it takes to complete the recertification, have an interview, and provide additional verifications, an eligible family may be without benefits for months, and those lost benefits are not recouped. Delaware should not be placing food insecure families in this impossible position.

The Proposed Rule Contributes to Racial Injustice

Making SNAP benefits more accessible is a racial justice issue. It is well established that families of color bear the brunt of hunger in America. Adopting policies that restrict or reduce eligibility will have a disproportionate effect on those families. Food insecurity also plays an important role in physical and mental health. Delaware should not adopt policies that only worsen food insecurity.

A recent report, co-authored by Center for Law and Social Policy (CLASP) in collaboration with the Community Partnership Group (CPG) recommends longer certification periods. It also addresses the consequences of short certification periods: “These short certification periods add burden and create more opportunities for human error, causing families to lose their benefits. One-year renewal periods – nothing less – should be the national standard.”⁷

While racial inequities and its connection to food insecurity have always existed, the pandemic has brought such injustices to the forefront and has shown us firsthand the needs that are not being met. Rather than exacerbating the situation by creating additional roadblocks through the shortening of the certification periods, the report provides several other factors to focus on to truly address food insecurity. Delaware should be seeking creative and innovative ways to expand the reach of SNAP not narrow it.

⁷ Center for Law and Social Policy, “A Community-Driven Anti-Racist Vision for SNAP,” (September 2022), available at https://www.clasp.org/wp-content/uploads/2022/09/2022.9.28_A-Community-Driven-Anti-Racist-Vision-for-SNAP.pdf

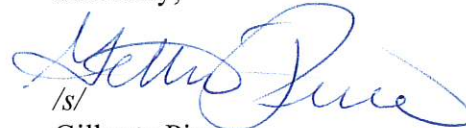
Instead of implementing these harmful changes, DHSS should create educational materials that simplify the larger application and periodic review process by engaging the community, creating public service announcements and publishing and widely distributing educational fact sheets. These materials should be readily available and understandable and must be in multiple languages.

Conclusion

CLASI strongly opposes Delaware's proposal to double the number of certifications by reducing the certification period. This change will only bring unnecessary harm to vulnerable food insecure households in Delaware. Shortening the recertification periods only acts as an additional obstacle for eligible families to remain on SNAP. It will result in increased churn and eligible families being bogged down with a more time-consuming process of reapplying for benefits. At a time where Delawareans are already struggling due to the rising cost of food, rising level of inflation, and housing instability, DHSS should abandon this proposal that runs directly counter to the federal government's stated policy goals of increasing enrollment by streamlining application and renewal processes.

We appreciate your consideration of CLASI's comments and recommendations. Please do not hesitate to contact me at gpierre@declasi.org or 302-575-0695 with questions or to discuss further.

Sincerely,



/s/

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