



August 27, 2024

Community Meals Policy Division
Food and Nutrition Service
U.S. Department of Agriculture
1320 Braddock Place
Alexandria, VA 22314

Dear Community Meals Policy Division:

We appreciate the opportunity to comment on the U.S. Department of Agriculture's (USDA) Interim Final Rule (IFR) Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs. Our comments focus on ways to support Summer EBT access and operations in order to better serve families in California and throughout the nation.

Nourish California is a statewide, non-profit organization that collaborates with diverse community partners to advance policies to ensure all Californians have equitable access to food, health, and well-being. In California, we have over [5 million children](#) automatically eligible for Summer EBT in 2024, and there are about **1.5 million additional eligible children** who are not streamline certified and will need to submit an application.

For the 1.5 million children who must submit an application instead of being automatically eligible, this process poses significant challenges, particularly for families who may face language barriers, limited access to technology, or a lack of familiarity with the application process. These barriers can result in eligible children missing out on essential benefits during the summer months, further exacerbating food insecurity in vulnerable communities. It is crucial that the newly established Summer EBT program ensures that **all** children who return to school after the long summer break are well-nourished and ready to learn.

We commend USDA for their community engagement in developing the IFR and their focus on supporting access and program operations. We recommend the following to further strengthen the rule to support ongoing Summer EBT operations and future implementation.

Definition of 'School-Age'

Children must be considered school-age to be streamline-certified for Summer EBT. Direct certification offers an opportunity to ensure that eligible children are not missed, allows children in great need to receive benefits regardless of the school they attend, and reduces the



administrative burden for families, school districts, and states. USDA defines school-age as the age at which children are compelled to attend school according to each state's requirements. However, this approach is inconsistent with the ages most children attend school.

While we understand that many of the children outside of these compulsory ages will be captured through National School Lunch Program (NSLP) enrollment data, there are still a significant number of children outside of their state's compulsory education range who are "school-age," do not attend an NSLP school, and would be directly certified, but will miss out on benefits, as they will be ineligible.

We ask that instead of using the ages states have set for compulsory education, USDA allows states to define school-age as the age that the state is required to provide free education to children. This data is tracked by the [National Center for Education Statistics](#). We further ask that USDA allows states to adjust those age ranges, if they can demonstrate that a significant number of children at a certain age are enrolled in school (e.g., states that have a significant percentage of children enrolled in pre-K programs).

Statewide Application

Time constraints have made implementing a statewide Summer EBT application challenging in California, making the policy to not require one for summer 2024 understandable. For states that require additional time to develop a comprehensive statewide application, we ask USDA to grant the flexibility to continue the use of alternate modes of application in 2025, such as a school meals application or alternative income form, to provide families an opportunity to enroll in the program and receive benefits.

However, an eventual statewide application would create less burden and confusion for families, and we support a timely implementation for a statewide Summer EBT application. We have heard from families about their challenges with applying for Summer EBT in 2024, such as difficulty contacting their school about submitting an alternative income form during the summer, school staff not knowing about the Summer EBT program, and not being able to access either the school meal application or alternative income form, or find any mention of the program on their school websites. A centralized application is essential, especially in California where there are over 1,000 school districts, each with different school meal applications and alternative income forms.

Additionally, statewide Summer EBT applications should be easy to access, simple to understand, available in different formats (online and on paper), and available in several languages. We



understand that USDA has provided the minimum components required in order to streamline Summer EBT applications. We applaud USDA for simplifying the application so that families are easily able to apply for the benefit. We also thank USDA for noting that states cannot require a Social Security Number (SSN) field in the application. However, some state applications continue to have a field for SSN, or the last four digits of the SSN, despite it not being a required field, which has created confusion for families. We ask USDA to mandate that applications that are being used solely for Summer EBT benefit purposes not include a field for SSN.

Expungement

The statutory expungement timeline of 122 days from issuance may be a barrier for families to use their benefits. In California, families are not informed of when their cards expire on initial mailing information that is sent to them, and must contact our state's Summer EBT helpline to find out the exact date they expire. In instances where cards are sent to the wrong address or lost in mailing, families lose valuable time to fully utilize their cards before the benefits are removed. Families that request replacement cards may sometimes wait upwards of weeks to get their request to process and be mailed out new cards.

Many states reset the timeline for expungement of Supplemental Nutrition Assistance Program (SNAP) benefits after every use to allow families more time to fully utilize their benefits and reduce confusion. We ask that USDA allow expungement timelines to reset after each card use. Resetting the timeline after each use of the card, as some states do with SNAP benefits, would give families more time to fully use their benefits and reduce confusion.

Replacement Benefits

We applaud USDA for requiring that states issue replacement benefits in situations of household misfortune or disaster. However, the IFR does not allow for federal funds to support the replacement of benefits in situations of skimming or otherwise stolen benefits, but states are allowed to use state dollars to provide replacement benefits.

When it comes to skimming and Summer EBT benefits, there is no statutory language prohibiting USDA from replacing skimmed benefits. USDA has been clear that Summer EBT is not SNAP, and it is not covered by the language in the Food and Nutrition Act or in SNAP regulations, or referenced in the Consolidated Appropriations Act 2023 (CAA) section that discusses replacement benefits for SNAP. In addition, many states do not have the resources to replace these stolen benefits.



We ask USDA to reconsider their position on stolen Summer EBT benefits and provide replacement benefits when these situations occur. We received a call from a parent who had her children's Summer EBT cards taken from her community mailroom, and the children's birth dates were changed in the system so that the cards could be pinned and the benefits could be used. By the time the parent was made aware and reported the stolen cards, one card had \$5 and the other had \$17 left, and those benefits were unable to be replaced. Families should not lose their essential food benefits due to no fault of their own.

Hearing Procedure for Families

The absence of a formal appeals process in California for Summer EBT eligibility decisions undermines the principles of equity and justice that are foundational to public assistance programs. Ensuring that families have a clear and accessible process to appeal eligibility determinations is essential for safeguarding beneficiary rights and maintaining public confidence in both the program and the administering agencies. Without such a process, there is a significant risk that eligible children may be unjustly denied benefits, perpetuating disparities and eroding trust in the system. We urge USDA to establish a robust and timely hearing and appeals procedure to guarantee that every eligible child receives the support they deserve.

Claims

The IFR states that the Summer EBT administering agency is ultimately responsible for erroneous payments (e.g., payments made to ineligible children, overpayments/duplicate payments, or fraudulent payments). However, there is no language in the rule that protects families from being penalized or held accountable for claims from the state agency. Claims would pose a significant challenge on families who unknowingly use benefits issued in error, especially if they are streamline certified and were unaware of the error. Additionally, there are no parameters on what could be considered fraudulent activity, allowing states to set their own standards.

The Summer EBT benefit in most states is \$120 per child. The current floor set by USDA for states to recoup money from erroneous SNAP payments is \$125. As the Summer EBT amount is below the current floor for SNAP claims, USDA should mandate that the Summer EBT benefit is too low for states to submit a claim against a household.

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We commend USDA for its hard work to implement the Summer EBT Program and encourage USDA to take the steps described above. Thank you for your consideration of these comments.