

John McCleskey  
Branch Chief, Quality Control Branch  
Program Administration and Nutrition Division  
Food and Nutrition Service  
1320 Braddock Place, 5<sup>th</sup> Floor  
Alexandria, VA 22314

November 20, 2023

RE: Notice of Proposed Rulemaking on Provisions to Improve the Supplemental Nutrition Assistance Program's Quality Control System

**Dear Mr. McCleskey,**

The American Public Human Services Association is the bipartisan membership association representing state, county, and city human services agencies and their teams, including those that administer SNAP policy and quality control (QC), respectively. SNAP serves as a vital resource to over 40 million households across the country, supporting them in increasing their food and nutrition security through strengthened purchasing power. To best serve the needs of families, SNAP agencies work tirelessly to provide households with benefits to help put food on the table and rely on QC teams to provide data on how timely and accurately benefits are provided. The notice of proposed rulemaking to improve SNAP QC offers sweeping changes to quality control rules, some of which will yield positive benefits and others that could lead to negative outcomes for state agencies and the customers they serve. The following comments provide specific feedback that have been aggregated through numerous discussions with our members about the concerns and considerations for how these proposed changes will impact both the implementing agencies and SNAP customers. As FNS works to finalize a rule on this topic, APHSA shares three overarching recommendations:

- 1. Provide transparency in accompanying updates to the FNS 310 Handbook.** The impact of many of the suggested changes in this proposed rule will largely depend on the guidance that follows in an update to the FNS 310 Handbook – the policy manual delineating detailed QC rules that can have significant impacts on state administration and customer requirements. Unlike in the regulatory rulemaking process, there is no mandatory public comment period for the 310 Handbook. However, with changes as extensive as those in this proposed rule, it is imperative that SNAP agencies, QC teams, and other partners be offered the ability to comment on proposed changes to the 310 Handbook before they go into effect;
- 2. Offer an opportunity to test the impact of changes before they go into effect.** As outlined in this proposed rule, many changes would go into effect at the same time, making it challenging to understand their individual impact on the QC process. To support states as they implement and adjust to these significant changes, we recommend conducting pilots of individual significant changes in states before the final rule goes into full effect; and
- 3. Create a hold harmless period and restart financial liability for state agencies after final rule implementation.** The impacts of the final rule will be sweeping for the QC process and will take years for states to reach a steady state after adjusting to the full implementation. States will be required to implement several significant changes to their processes all at once, which will require systems

changes, hiring, and training. Given all these changes, the first year of implementation would be statistically incomparable to the prior fiscal year, and thus inappropriate to serve as a second year of liability. At minimum, FNS should provide a 1-year hold harmless period in addition to resetting first-year liability for states.

### **Moving Reviews to a Certification Action Month**

The proposed rule would shift from a two-comparison process where QC reviewers first review a random sample month before reviewing a certification action month if inaccuracies are found in the sample, to a single review process where the QC reviewer would only review a certification action month. The current state of a two-comparison review process has brought up questions among SNAP agencies around efficiency and effectiveness because sample months can be up to 11 months after a household's last full certification, and reviewers are very commonly needing to go through the second comparison process. The proposal to move to a review only in the certification action month rather than a sample month could both streamline review processes as well as potentially increase responsiveness from SNAP participants. The assumption is that because customers would have more recently completed their certification or reporting procedures, they would be more likely to respond to a QC reviewer, and that verification would likely be easier to obtain from customers and third parties due to the recency of the certification. However, state agencies have expressed concerns that because these assumptions have not been widely tested, they are not confident of the full impacts this change could have to the error rate. Additionally, states agency leaders have cautioned that while reviewing after a certification action month will indeed be a shorter time, they will still have 115 days to review, so there could still be significant time in between a customer submitting their paperwork for the last reporting period and the QC review to take place.

One clarification that states need in a final rule is exactly what month the QC reviewers would be viewing as the certification action month, especially for expedited SNAP cases, including those with postponed verifications. For expedited cases, it is unclear if the review would take place in the first month of benefits that includes the prorated expedited benefit amount, or the month when the household is fully certified for benefits, or both options. Another examples it that there is a lack of clarity around whether the certification action month would be the month in which a recertification or periodic report was due, or the month after when any necessary change in benefits occurred. After discussion with members, APHSA recommends that the certification action month be consistently regarded as the first month in which a benefit has been approved and issued for a full certification period, and that clarity for both expedited and non-expedited cases be provided in a final rule.

### **Counting All Incomplete or Dropped Cases as a Payment Error**

State agencies have expressed strong opposition to the proposed change to count the full benefit of all incomplete or dropped cases toward the payment error rate for a state because it would increase error rates, distract from solving the root causes of incorrect benefit determinations, and have long-term impacts of states' ability to test policy options to modernize the program and improve customer access.

The rule will inevitably result in an increased payment error rate due to a technical change absent any other changes in the error rate calculation or the payment error rate threshold. This would create a financial burden for states who are pushed into liability because of the change and would require states to focus their attention on reducing error rates that have been artificially inflated by cases that may be due to no fault of the state agency or customer. The need to respond to these penalties has the significant potential to distract states from addressing



the root causes of inaccurate benefit determinations that they have the power to solve. Further, it will force states to take more intrusive strategies to obtain information from customers that do not reflect our shared commitment toward prioritizing customer experience. The unrealistic payment error rate targets that states will struggle to meet as a result of this rule will also trickle into states being obligated to pull back on customer-friendly policy options to streamline the eligibility and enrollment process. Because QC reviews follow the standard, default policy rules when reviewing cases, states accept certain levels of risk to their payment error rate when adopting customer-friendly policy options, and the mounting pressure on error rates will make states much more risk averse.

To fully understand the potential impact of this proposed change, there needs to be more information provided on how the FNS 310 Handbook would be adjusted to define complete versus incomplete cases. APHSA recommends that minimum requirements of a complete case be explicitly defined in the 310 Handbook, and that they mirror the minimum requirements of a SNAP eligibility worker in the same state. The Likely Conclusion section of the 310 Handbook should also be edited to be more explicit in examples of how states are able to use it, and to what extent, to complete a case. This would ensure that the QC reviewer can check that the certification actions were conducted correctly by the eligibility worker without requiring additional or varied verifications that could be the cause of a case being dropped and counted toward a payment error rate. It would also better align the SNAP eligibility and QC processes in a case and mitigate harmful impact to a customer because of differing policies. Furthermore, the explicit explanations of how to complete a case could help mitigate the risk of over-verification done by state agencies to compromise personal privacy of a household.

APHSA also recommends that instead of all dropped cases being counted toward an error rate, FNS should calculate a threshold for which it is reasonably assumed that states will drop cases, and only count dropped cases above that threshold toward the payment error rate. For example, currently states are held to a standard of a 95% completion rate before a Corrective Action Plan is required, which reasonably assumes that 5% of cases will be dropped each year. FNS should use past data from states to calculate a percentage that states are reasonably assumed to have to drop because of errors outside of their control. The final rule and 310 edits should also explicitly say that these dropped cases will not result in overpayment claims to the customer unless there is clear evidence that a higher benefit was paid in error.

### **Sample Size**

At present, several states have waivers to reduce their required sample size because they are unable to meet the current requirements. Thus, the proposal to further increase the sample size by over 30% is concerning for state agencies and their already strained capacity. As states attempt to increase their capacity to account for an increased sample size over the first couple of years of implementation, they should not be financially penalized for not being able to reach their required sample size each month. APHSA also agrees with the suggestion in the proposed rule to establish circumstances for which a financial penalty would be waived in the future when the inability to meet the sample size is out of the state's control, such as during a disaster or other public health emergency.

The proposed rule suggests that, coupled with the changes of moving from a two comparison to one review month process and other changes intended to streamline reviews, the increased sample size should approximately even out the staff time necessary for a higher number of samples. However, states believe that



the other changes will only partially reduce time spent per case, and that the 30%+ increases in sample size will still require them to significantly increase their staffing to complete the reviews especially as staff adjust to the new processes for QC reviews. The increased staffing requirements will increase both the cost of the QC program and the administrative burden in hiring and training. Furthermore, states who have conducted individual analyses of their sample size feel that it is appropriate and statistically representative. APHSA recommends that FNS maintain current sampling requirements and that if the sample size is increased, to update its cost and time burden estimates for states and to incrementally increase sample size requirements starting at the effective date, rather than all at once.

### **FNS Access to State Systems**

The proposal to mandate that states provide FNS full and continuous access to their QC system poses significant challenges for states with integrated eligibility systems. For states with joint systems that also hold information on other program participation such as Medicaid, FNS would not be allowed to access the system as-is because of the Protected Health Information (PHI) that is stored. Therefore, states would have to create an entirely separate system access point that disaggregates data only for SNAP for the sole purpose of FNS review. This process would not only require significant, dedicated funding from state agency budgets that are already being stretched for other system modernizations, but it would also take significant time and be added to the years-long backlogs in technology improvements that many state SNAP agencies are already facing. By threatening to remove or delay state reimbursement for other system improvements, states would be forced to prioritize this change and delay any other systems improvements that may have already been in the works and hold great promise for other outcomes such as improved customer experience. Further, several states expressed that when FNS staff have been given system access in the past, they have often rarely used it or failed to use it at all.

Instead of requiring that FNS staff be given full and ongoing system access, APHSA recommends that FNS consider using only temporary access on an as-needed basis such as during Management Evaluation reviews and require that states provide this access as needed. If FNS must have ongoing access, APHSA recommends that FNS work with CMS and other partners to provide alternative options for states with integrated systems to provide access that does not require costly and time-consuming system redesigns, such as a legal agreement for FNS staff to view PHI in their professional duties and prohibits their ability to use the private information of a case for any other manner.

### **Mandating the Use of QCS**

The proposed rule would require that all state agencies use the full capacity of the SNAP QC System (QCS), that is operated by the FNS team, for their QC processes. Approximately half of state agencies fully use SNAP QCS, while the other half use a combination of other systems to collect, store, and process their QC reviews. During focused discussions, some states shared that they have been using a different system for QC for several years or even decades and have been able to fully customize their system for their unique state, including incorporating QC for other programs such as Medicaid and TANF as well. States who have very positive experiences with their other system strongly oppose the need to switch to SNAP QCS, citing that it would move their QC processes in a siloed and ineffective way that is antithetical to their workflows and intentional modernization of their program. While SNAP QCS is currently in a redesign process, states do not know what changes are being made and how the system will look and work after the changes have been made.



## **Other Areas of Support**

### ***Personal Interviews***

All state SNAP and QC leaders expressed strong approval for the change to default to telephonic interviews for QC reviews in place of in-person interviews. Individuals cited reasoning including that it has worked well since the waivers have been offered during and after the COVID-19 pandemic, that it wouldn't require any large changes to their current processes, and that it would be more customer-centered.

### ***Staffing Standards***

In general, states support the outlined proposal to separate SNAP Eligibility and SNAP QC staff at the state level by requiring that they do not report to the same supervisor. This would support a clearer delineation of roles and responsibility of teams, including for Corrective Action Plans. Some states shared that they would like to see an additional layer of separation to ensure that there is no conflict of interest between SNAP Eligibility and QC teams. Even with states being generally supportive, it is still important to note that this would cause multiple states to have to reorganize their agency staffing model, which takes time to finalize and ensure all the proper changes and training is completed.

APHSA would also like to note that even with a required separation of leadership across eligibility and QC, it is still important for these teams to regularly communicate so that SNAP eligibility leadership can learn from QC about why payment accuracy may be spiking in relation to policy or program changes and QC staff can understand and stay connected to the roll-out of policy decisions. This communication helps create feedback loops so that SNAP policy staff can make informed decisions and understand the relationship between policy choices and QC.

### ***Timeline for Implementation of the Final Rule***

States shared that the proposal of at least two full fiscal years to implement changes outlined in a final rule would be sufficient. However, as previously noted, this is contingent upon specific approaches to enforcement of requirements and associated penalties, including resetting first year liability, holding harmless during early implementation, and phasing in sample size requirement changes.

### ***RFQCC***

States support the creation of the RFQCC process to provide additional flexibility for SNAP customers to respond to a QC reviewer before having their case closed and terminated.

### ***Arbitration***

State QC representatives shared their appreciation for the ability to send questions directly to the FNS Arbitrator rather than needing to send it through their region and then up to the national office.

## **Conclusion**

APHSA and its members appreciate FNS' efforts to improve the accuracy and experience of the quality control system for SNAP and QC teams at the state and local level, as well as for SNAP customers. As FNS continues to refine the rule, APHSA strongly recommends that further transparency be provided in accompanying edits to the FNS 310 Handbook, that further evidence of intended impact be collected through pilot projects, and that



when a final rule goes into effect, states be given a hold harmless period and a restart to their liability for payment error rates.

We look forward to continuing to partner with FNS through the rulemaking and implementation process to promote a more customer-centered and effective SNAP. To further discuss any of the points in these comments, or for opportunities to further partner with state SNAP and QC teams, please reach out to Chloe Green, Senior Policy Associate for Food and Nutrition Services, at [cgreen@aphsa.org](mailto:cgreen@aphsa.org).

Sincerely,



**Matt Lyons**

Senior Director, Policy & Practice

American Public Human Services  
Association (APHSA)

*Linda Schroeder*

**Linda Schroeder**

Chair

American Association of SNAP  
Directors (AASD)



**Leslie Henderson**

Chair

National Association for Program  
Information and Performance  
Measurement

