

National Indian Health Board



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May 16, 2016

Vicky Robinson
Chief, Retailer Management and Issuance Branch,
Retailer Policy and Management Division, Room 418,
3101 Park Center Drive
Alexandria, VA 22302

Re: Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP) Clarification of Proposed Rule and Extension of Comment Period

Dear Ms. Robinson:

On behalf of the National Indian Health Board (NIHB), I write to submit comments on the Food and Nutrition Service's proposed changes to the Supplemental Nutrition Assistance Program (SNAP). NIHB is grateful for the extension of the comment period.

Established in 1972, the NIHB is an inter-Tribal organization that advocates on behalf of Tribal governments for the provision of quality health care to all American Indians and Alaska Natives (AI/ANs). The NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service (IHS) Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with the NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), or continue to also rely on IHS for delivery of some, or even most, of their health care — the NIHB is their advocate.

American Indians and Alaska Natives (AI/AN) have long experienced lower health status when compared to other Americans and they continue to experience disproportionate health disparities. These health disparities are only partially exemplified by the staggering chronic disease rates that pervade across nearly all AI/AN reservation and Tribal jurisdiction area-based communities in the lower 48 states and Alaska. Statistically, the Indian Health Service in 2011 reported that roughly 80% of AI/AN adults are classified as being either overweight and/or obese, and 1 in 2 youth are slated to develop diabetes in adulthood. In a landmark report released by Peggy Halpern, Ph.D. of the U.S. Department of Health and Human Services, (HHS), the Office of the Assistant Secretary for Planning and Evaluation reported how since 1990, obesity rates have doubled for AI/AN children between the ages of twelve to nineteen, and tripled for youth between the ages of six and eleven. These numbers are exacerbated by the prevalence of food deserts, exceedingly high rates of

poverty, lack of critical infrastructure and a transition from an agrarian to sedentary lifestyle. For instance, the USDA has classified the entire Navajo Nation, which encompasses over 27,000 square miles— a landmass roughly the size of West Virginia—as a food desert with merely 10 fully operable grocery stores. Moreover, it is not uncommon for residents to travel upwards of 240 miles roundtrip to access a supermarket. Furthermore, while averages for homes without electricity, indoor plumbing, adequate sewage disposal or complete kitchen facilities hovers at 1% nationwide, the 1995 U.S. Census Bureau demonstrated how 14% of homes on reservations nationwide lack electricity, 20% lack indoor plumbing, and 18% live without adequate sewage disposal or complete kitchen facilities. These factors, amongst many others, have collectively beset Tribal communities with living standards that are shockingly reminiscent of a developing country—and yet they permeate through nearly every reservation within the United States.

We bring these disheartening realities to your attention as they pertain directly to the changes outlined for SNAP. Given the stark realities around food insecurity and inadequate nutrition in Indian Country, many AI/ANs living on reservations have come to rely entirely on food assistance programs such as SNAP and others. Indeed, the United States Department of Agriculture (USDA) estimated that 540,000 reservation-based Tribal members were enrolled in SNAP benefits in 2008 alone. For many Tribal members, inconsistent access to transportation limits their ability to shop at grocery stores, while lack of fresh produce, dairy and meats beleaguer efforts to obtain a balanced nutrition. Further compounding these facts are the infrastructural deficiencies that make it difficult for Tribal households to safely prepare and store perishable foods, even if they had access to them. Additionally, no environmental scans have analyzed whether convenience stores or small-scale grocery stores have the infrastructure to properly transport and safely store perishable foods. For many residents, local convenience stores that are predominately filled with calorically dense and inexpensive foods remain one of the only options against starvation.

Ideally, there would be easy and sufficient access to locally-sourced fresh produce, meats and dairy for every Tribal member, in addition to access to the necessary utilities such as electricity, refrigeration, heating and storage to safely handle and prepare such foods—but in reality, this couldn't be further from the truth. FNS' proposed new provisions requiring SNAP eligible retail stores to increase their supply of more nutritious foods are laudable goals; however, they neglect the fundamental disparities in access that persist throughout most of Indian Country. By imposing strict requirements for SNAP eligible retail stores to comply with these new provisions without taking the significant barriers in access into consideration, FNS is offering SNAP eligible businesses in Indian Country an inequitable and categorically infeasible ultimatum. This undue burden will only further complicate the exorbitantly high levels of food insecurity and malnutrition, and further punish local stores and their customers instead of offering a viable solution. Moreover, without an analysis of current perishable foods storage and transport capacity, or an assessment of the obstacles in access, these new provisions are slated to produce more harm rather than good.

Therefore, the National Indian Health Board has set forth several recommendations to augment these new provisions in consideration of the impediments facing residents of Indian Country.

1. Provide technical assistance, capacity building and agricultural development grants to Tribal communities.

- As of now, USDA has only one rural development grant exclusively available to AI/AN communities. Without adequate access to funds, Tribes will be unable to meet these new provisions nor will they be able to harness the full potential of the roughly 42 million acres of agricultural land in Indian Country. Additionally, the USDA is required by federal law to meet the trust responsibilities of the United States federal government to Tribes— which given USDA’s mission, purpose and jurisdictions—obligates them to provide adequate resources for Tribes to engage in agricultural development. These funding requirements are also outlined in the American Indian Agriculture Resource Management Act (AIARMA) of 1993, wherein the USDA is required to “...*(3) provide for the development and management of Indian agricultural lands; and (4) increase the educational and training opportunities available to Indian people and communities in the practical, technical, and professional aspects of agriculture and land management to improve the expertise and technical abilities of Indian tribes and their members.*

2. Fund Cooperative Extension educational programs (FRTEP) in Tribal communities at \$10 million a year.

- According to a report released by Brewer et al. in the *Society for Range Management*, less than 10% of AI/AN communities receive funding for Cooperative Extension programs, despite the various provisions of the Morrill Act of 1862 (which established land-grant institutions); the Smith Lever Act of 1914 (which required off-campus agricultural development education); the 1990 Farm Bill (which established FRTEP); and the 1994 Elementary and Secondary Education Reauthorization Act (which established Tribal colleges as land-grant institutions). Current funding, set at \$3 million, has not been adjusted for inflation in nearly 25 years despite a tripling in size of FRTEP’s budgeting requirements. Brewer et al. estimated that non-Tribal communities average 3 full-time employees per county, whereas AI/AN reservations average 0.1 agents. Funding FRTEP will greatly assist Tribal communities in developing their agricultural resources, bolstering their economies, and increasing their access to fresh foods.

3. Impose flexible timelines for compliance and adjust requirements based on local needs.

- The food crisis in Indian Country will not be resolved overnight. However, if these provisions were to go into effect without the necessary exemptions or adjusted requirements that correspond to the issues facing Indian Country, the results could be

disastrous. Therefore, we recommend that FNS work with Tribal communities and assign timelines that are sensitive to current standards. Additionally, not all retail stores are created equal. While some may have greater access to fresh foods, others may have significantly less. Therefore, a graduated system of compliance should be imposed that meets retailers where they are at, and works with them to impose incremental improvements that are representative of geographic and environmental barriers.

4. **Increase SNAP nutrition education funding to \$3 million and streamline Tribal access.**
 - Currently, nutrition education programs are funded at less than \$1 million annually in Indian Country. Although USDA has made strides towards improving access to such education—including increases in nutrition education funding for AI/AN residents on reservations through the Food Distribution Program on Indian Reservations (FDPIR)—Tribes remain woefully underfunded in this regard. Additionally, portions of SNAP-Education monies are not allocated specifically for Tribes, which means that Tribes are forced to compete with states and counties to receive funding. FNS can convey its dedication towards better health outcomes in Indian Country by increasing funding for nutrition education programs and creating programs that are tailored specifically for Tribes.

We would like to emphasize our recognition of FNS' efforts to improve the nutritional quality of foods sold at SNAP qualifying retail stores. We believe that although it is absolutely a step in the right direction, additional measures must be taken to ensure that the positives these new provisions impose are not outweighed by its potential detriments. Therefore, we hope that FNS will consider working with Indian Country and arriving at a mutually equitable solution. Indeed, federal law mandates that FNS engage Tribes in active, meaningful consultation by virtue of **Executive Order 13175**. This consultation must occur prior to the passage of any new regulations or policies that have implications for Indian Country.

We appreciate the USDA FNS for their continued efforts to engage Tribes and improve the livelihood of Indian Country. Additionally, we encourage the FNS to maintain and build on their relationship with key Tribal stakeholders, and continue striving for better health outcomes. Thank you again for this opportunity to comment. Please contact Devin Delrow, NIHB Federal Relations Director at ddelrow@nihb.org if you have any questions on the concerns raised above.

Sincerely,



Lester Secatero
Chairman, National Indian Health Board