

August 26, 2024



USDA Food and Nutrition Service
Community Meals Policy Division
Attn: Division Director Kevin Maskornick
1320 Braddock Place
Alexandria, VA 22314

Submitted via [regulations.gov](https://www.regulations.gov) online portal

RE: Summer EBT Interim Final Rule [FNS-2023-0029] RIN 0584-AE96

Dear Mr. Maskornick,

The United Council on Welfare Fraud (UCOWF) is grateful for the opportunity to respond to the December 29, 2023, Notice of Interim Final Rule (IFR) for the Establishment of the Summer EBT Program as published in the Federal Register at 88 FR 90230. UCOWF is the exclusive national organization with a singular focus on detecting, preventing, prosecuting, and recovering welfare fraud. Our member jurisdiction includes, but is not limited to, program integrity staff in the Medicaid, Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Families (TANF), and the Women Infant Children (WIC) programs.

Without opining on the several Governors and state education officials who have already spoken to the burdensome creation of yet another safety net program¹, we regret that we will not be able to support this Interim Final Rule for several reasons:

1. **Unhealthy Foods** – The IFR contains no new healthy food guidelines or food restrictions within the Summer EBT program, despite research showing the unhealthy impacts to children health and contributions to diabetes without restrictions of soda, candy, and other junk foods. This program specifically targets vulnerable children, and the USDA FNS has missed an opportunity to reassert and commit to the “Nutrition” component of the food assistance program.
2. **No Anti-Fraud Program Integrity Initiatives** – The IFR is silent on stringent measures to prevent and detect fraudulent activities, such as synthetic children’s identities. While the IFR mentions cross-matching with regular SNAP, there is no perceived additional improvements to the utter lack of identity guidelines that plague SNAP and have contributed to massive identity fraud and account takeover of legitimate client accounts.
3. **Replacing Stolen Benefits** – Should Congress instruct USDA FNS to continue replacing stolen benefits, the additional \$120 per child should be addressed. The IFR is silent on resolution of stolen benefits. Further, separating SNAP from Summer EBT on the same card is not possible under current EBT platforms.
4. **Inadequate Oversight** – The IFR does not include any new language regarding quality control, audits, or third-party reviews that address program performance and state/county administration. The overly burdensome and cumbersome QC process has long been largely criticized in SNAP, yet USDA FNS has decided to pass on the opportunity to make improvements with the inclusion of Summer EBT to the SNAP QC regulations in existence.

¹ Examples include: <https://flaglerlive.com/summer-food-program-desantis/> and <https://cowboystatedaily.com/2024/01/19/degenfelder-rejects-biden-program-to-expand-food-stamps-in-wyoming/>

ASHLEY WILKES

FL – President

CHRISTOPHER O’NEIL

FL – Vice-President

ELLIS BRYSON

WV – Secretary

ANDREW PETITT

WV – Treasurer

LAURA LINDSEY

KS – Business Manager

UCOWFmail@gmail.com

ANDY McCLENAHAN

DAWN ROYAL

Co-Chair Directors

Intergovernmental Committee

Dawn.Royal.UCOWF@gmail.com

Andrew.K.McClenahan@gmail.com

United Council on

Welfare Fraud

PO Box 164

Westmoreland, KS 66549

785.477.5424

www.ucowf.net





ASHLEY WILKES
FL – President

CHRISTOPHER O’NEIL
FL – Vice-President

ELLIS BRYSON
WV – Secretary

ANDREW PETITT
WV – Treasurer

LAURA LINDSEY
KS – Business Manager
UCOWFmail@gmail.com

ANDY McCLENAHAN
DAWN ROYAL
Co-Chair Directors
Intergovernmental Committee
Dawn.Royal.UCOWF@gmail.com
Andrew.K.McClenahan@gmail.com

United Council on
Welfare Fraud
PO Box 164
Westmoreland, KS 66549
785.477.5424
www.ucowf.net



- Insufficient Data Tracking and Reporting** – The IFR fails to include robust data tracking and mandatory reporting requirements, hindering the ability to make informed policy guidance and decisions. While the IFR addresses Application Processing Times, Payment Error Rates, and Program Participation Percentages, we are still left asking the question, “How does FNS measure success in Summer EBT?”
- Lack of Enforcement** – The IFR stays consistent in its “copy/paste all SNAP regulations” approach, yet it offers nothing new or innovative to antiquated regulations relating to Intentional Program Violations (IPVs). UCOWF has previously argued and advocated that trafficking of SNAP benefits does not belong under the broad entitlement burden of proof of Clear and Convincing evidence for an IPV. By including Summer EBT with the flawed trafficking burden of proof in regular SNAP, the USDA FNS has ensured that States will continue to largely ignore trafficking as clearly demonstrated in the State Activity Reports.

UCOWF contends that trafficking and fraudulent use of SNAP (and now Summer EBT) benefits is not an entitlement and should instead use the Preponderance threshold. It should not be easier to arrest a household member using Probable Cause, than it is to administratively disqualify them for trafficking. This sends a troubling message and UCOWF continues to advocate for a more lenient and common-sense approach by separating trafficking IPVs from eligibility IPVs.²

Due to the inadequacies mentioned and the missed opportunities to address regular SNAP issues, UCOWF respectfully declines the opportunity to comment in support of this IFR.

If you have any questions, please contact us at UCOWFmail@gmail.com.

Sincerely,

Ashley Wilkes
President
United Council on Welfare Fraud

² <https://crsreports.congress.gov/product/pdf/R/R45147> 2018 Congressional Research Service report: “Errors and Fraud in the Supplemental Nutrition Assistance Program”, pp. 37-38:

“Retailer and recipient trafficking proceedings have different burdens of proof; therefore, governments will not necessarily prevail in both cases with the same evidence. Accepting SNAP benefits as a form of payment is not an entitlement for retailers. To disqualify a SNAP retailer for a violation of SNAP rules, USDA-FNS must only meet a lower-level burden of proof—the “preponderance of the evidence” standard. Receiving SNAP benefits is an entitlement for eligible individuals. To disqualify a SNAP recipient for fraud, a state agency must meet a higher-level burden of proof—the “clear and convincing evidence” standard. This means that evidence deemed sufficient to prove retailer trafficking may not be sufficient to prove recipient trafficking. Indeed, over 84% of the USDA-FNS retailer trafficking cases that resulted in a permanent disqualification in FY2016 relied primarily on an analysis of suspicious transaction patterns based on Anti-fraud Locator using EBT Retailer Transactions (ALERT) system data. These EBT transaction data, on their own, are not generally considered sufficient grounds for the disqualification of SNAP recipients. For this reason, state agencies often have difficulty disqualifying recipients whose EBT cards were used in transactions flagged as trafficking by ALERT transaction data analysis, absent other evidence of recipient trafficking.”

See also, “Top Ten Initiatives in Recipient Integrity”, Recommendation #3, pp. 3-4:

https://www.ucowf.net/assets/pdf/UCOWF_Improving+SNAP_Program+Integrity+Initiatives+2024+FINAL/