



August 27, 2024

To: Community Meals Policy Division  
Food and Nutrition Service (FNS)  
Department of Agriculture (USDA)  
1320 Braddock Place  
Alexandria, VA 22314

Re: Interim Final Rule: Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs (RIN) 0584-AE96

Dear Administrator Long and the Food and Nutrition Service:

Thank you for the opportunity to submit feedback on the United States Department of Agriculture's Food and Nutrition Services (USDA FNS)'s Interim Final Rule establishing a permanent summer electronic benefits transfer for children program (Summer EBT program) to provide basic food security for children from families with lower incomes.<sup>1</sup>

For more than 50 years, the Southern Poverty Law Center has been a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. We focus on five states in the Deep South: Alabama, Georgia, Mississippi, Louisiana, and Florida. Our core impact issues include eradicating poverty, decriminalizing and decarcerating Black and Brown people, protecting voting rights and civic engagement, and dismantling white nationalism and extremism. We aim to eradicate poverty specifically by tearing down discriminatory systems that perpetuate poverty and eliminating racial and economic inequality in all facets of life -- including access to food and water, healthy and affordable housing, high-quality health care, free and equitable education, safe working conditions, fair wages, and government support to meet basic needs.

The Summer EBT program is a vital tool for meeting the nutritional needs of children experiencing food insecurity. Summer EBT program supplements other congregate, and some limited non-congregate, group meals services under the USDA's Summer Food Program for Kids while also supporting families' autonomy to purchase meals that best meet their children's dietary and nutritional needs. The FNS's Interim Final Rule provides important agency requirements for implementing the program. There are various motivations beyond USDA's control as to why the governors in Alabama, Florida, Georgia, Mississippi, and Louisiana chose not to submit their Notice of Intent to the USDA for 2024; however, we believe there were administrative and funding barriers that made it harder for states in the Deep South to fully

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<sup>1</sup> USDA, *Interim Final Rule: Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs*, Effective Dec. 29, 2023, <https://www.fns.usda.gov/summer/fr-122923>



participate, leaving an estimated 4.7 million eligible children in our Deep South states who currently do not get the nutrition they need.<sup>2</sup> Ensuring the Summer EBT is implemented effectively in our Deep South states is among one of the top priorities for our organization. Thus, this comment will highlight the importance of the nutrition programs in the Deep South, support the proposed program changes, and recommend more administrative support and data collection.

### *The Importance of Nutrition Programs in the Deep South*

As a result of systemic inequity, our Deep South states have some of the highest rates of poverty in the nation, as well as a high need for housing, health care, and nutrition support. In recent years, the food insecurity rate was highest in the South,<sup>3</sup> and the burden of food insecurity fell disproportionately on Black children. Roughly 1.8 million children under the age of 18 were living in poverty in our Deep South states in 2022, and approximately 800,000 of those were Black children.<sup>4</sup> In 2022, 1 in 3 Black children went without reliable access to food.<sup>5</sup>

The Summer EBT program is a lifeline for countless families, ensuring that children in households experiencing food insecurity have enough food to eat, even when schools are closed. For thousands of children, summer break signifies the loss of access to school lunches, which often serve as their primary source of nutrition. Research finds that food insecurity can lead to a decline in mental and physical health outcomes, standardized testing scores, and overall classroom readiness for the upcoming academic year.<sup>6</sup> The Summer EBT program would help to fill this gap. The program has been shown to both reduce hunger and support healthier diets for children, not only increasing the consumption of fruits, vegetables, and whole grains but also decreasing the consumption of sugary beverages.<sup>7</sup>

### *Improvements in Timelines and Deadlines*

The timing of USDA FNS guidance and related deadlines hampered state participation in the inaugural 2024 Summer EBT program. In June 2023, the USDA FNS released its Initial Guidance that announced states would be responsible for 50 percent of the program's administrative operating expenses and set the opt-in deadline for January 1, 2024.<sup>8</sup> This guidance

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<sup>2</sup> USDA, *Estimated Number of Summer EBT Eligible Children and Total Benefit Amounts*, <https://www.fns.usda.gov/sebt/estimated-children-eligible>.

<sup>3</sup> FOOD RESEARCH & ACTION CENTER, *Data & Statistics on Hunger*, <https://frac.org/hunger-poverty-america#data>.

<sup>4</sup> THE ANNIE E. CASEY FOUNDATION, *Children in Poverty by Age Group and Race and Ethnicity in the United States*, <https://datacenter.aecf.org/data/tables/8447-children-in-poverty-by-age-group-and-race-and-ethnicity?loc=1&loct=2#detailed/2/2,11-12,20,26/false/1095/6640,4087,3654,3301,2664|122/17079,17080>.

<sup>5</sup> Rabbitt, M. P., Hales, L. J., Burke, M. P., & Coleman-Jensen, A. (2023). *Statistical Supplement to Household Food Security in the United States in 2022* at 5 (Report No. AP-119). USDA, Economic Research Service, Oct. 2023, <https://www.ers.usda.gov/webdocs/publications/107710/ap-119.pdf?v=1282.9>.

<sup>6</sup> See, *i.e.* No Kid Hungry, *How Does Hunger Affect Learning*, April 24, 2023, <https://www.nokidhungry.org/blog/how-does-hunger-affect-learning>

<sup>7</sup> USDA, *Summer EBT — A Tested and Effective Strategy for Ending Summer Hunger (FNS-1026)*, <https://www.fns.usda.gov/sebt/evidence>.

<sup>8</sup> USDA, *Guidance for State Implementation of Summer EBT in 2024*, <https://www.fns.usda.gov/sebt/state-implementation-of-summer-ebt-2024>



came both *after* state legislative budget cycles had already concluded for 2023 and *before* states initiated the 2024 budgeting cycle. The difficult timing of the guidance and deadlines prevented states from being able to secure funding. For example, an Alabama official referred to issuance of guidance after the 2023 legislative session as “eliminating the potential for securing state funds” for Summer EBT.<sup>9</sup> The January 1, 2024, deadline also proved infeasible in Louisiana, where changeover in governor’s office took place on January 8, 2024.<sup>10</sup> Our advocates in Alabama were able to secure funding for Summer 2025, but the timing of the federal rollout prevented the ability to fund for Summer 2024.

We are pleased that the interim rule has provided a more feasible deadline for the Plan for Operations and Management for Summer 2025. The Interim Final Rule sets the deadline for notification and submission of the interim Plan for Operations and Management (POM) as February 15 of the year of administration, with an option to submit an interim plan by August 15<sup>th</sup> of each year for the following program year. The USDA FNS must continue considering state budgeting cycles, elections, and other possible constraints. States may still face challenges ahead of the deadline given the increased share of administrative funding and the information required for inclusion in the interim POM. To ensure the maximum number of kids receive critical nutrition support, the USDA FNS must work with states, create channels of communication, and provide flexibility in the opt-in process.

*Provide more administrative and technical support*

States face barriers to adopting and implementing the Summer EBT program because agencies tasked with administering the program are overburdened and understaffed. These state agencies provide a wide array of supportive programs, yet they lack adequate capacity and resources to meaningfully fulfill the obligations of their office—especially in states like Alabama, Florida, and Georgia.<sup>11</sup> For example, in Alabama, the Department of Human Resources had a staff turnover rate of 23.5% in fiscal year 2023 amid challenges in employee recruitment and retention. The Medicaid unwinding process has also exacerbated already

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<sup>9</sup> Trisha Powell Crain, *Most States Will Offer Summer EBT Meal Money for Kids. Will Alabama?*, AL.COM (Jan. 13, 2024), <https://www.al.com/educationlab/2024/01/alabama-wont-offer-summer-ebt-meal-money-for-kids-in-2024-heres-why.html>.

<sup>10</sup> Emily Woodruff, *A New Program could Feed Hungry Kids Over the Summer. Will Louisiana Join?*, NOLA.COM (Jan. 12, 2024), [https://www.nola.com/news/healthcare\\_hospitals/a-new-program-could-feed-hungry-kids-over-the-summer-will-louisiana-join/article\\_e8c61580-b0c9-11ee-a265-57232e18e92f.html#:~:text=Louisiana%20is%20one%20of%2015,the%20U.S.%20Department%20of%20Agriculture](https://www.nola.com/news/healthcare_hospitals/a-new-program-could-feed-hungry-kids-over-the-summer-will-louisiana-join/article_e8c61580-b0c9-11ee-a265-57232e18e92f.html#:~:text=Louisiana%20is%20one%20of%2015,the%20U.S.%20Department%20of%20Agriculture).

<sup>11</sup> *Florida Agencies Grapple with Worker Shortage*, CBS NEWS MIAMI (Jan. 19, 2022), <https://www.cbsnews.com/miami/news/florida-agencies-grapple-with-worker-shortage/>; Liza Lucas, *Documents Show Staffing Issues Are Root Cause of ‘Unacceptable’ SNAP Delays in Georgia*, 11 ALIVE NEWS, Dec. 29, 2023, <https://www.11alive.com/article/news/state/snap-delays-georgia-staffing-issues-root-cause-documents-show/85-8f9798e8-c35e-4d35-afd4-466d0b0a513d>; Alander Rocha, *Alabama Health Agencies Say They’re Seeing Increased Need, Staffing Shortages*, ALABAMA REFLECTOR (Feb. 6, 2024), <https://alabamareflector.com/2024/02/06/at-budget-hearing-alabama-health-agencies-say-theyre-fighting-inflation-staffing-shortages/>.



strained caseloads at these agencies.<sup>12</sup> Additionally, in Georgia, the state’s Department of Human Services faces significant delays in processing a backlog of SNAP renewals in part because staff have been diverted to training in Medicaid administration.<sup>13</sup>

The USDA FNS must recognize this reality and provide proactive technical assistance to states and administering agencies. While the Interim Final Rule states that USDA FNS stands ready to support agencies implementing the Summer EBT program, it does not indicate how and what kind of assistance will be provided, or how the USDA FNS will respond to barriers that may arise. At the opt-in stage, USDA FNS should offer assistance for the development of state POMs including trainings, templates, and samples from successful states as well as contact information for additional support. During implementation, USDA FNS should provide information on possible challenges to the operation of Summer EBT and how FNS will support agencies and program operators to overcome them.

*Collect relevant data and provide resources*

Additionally, the USDA FNS should collect and make publicly available prior state administrative costs for implementing the program to both help states allocate the appropriate amount for implementation of the program and improve transparency and accountability. Throughout the operation of the program, USDA FNS should also collect and subsequently publish data on the impact and benefits of Summer EBT, including the potential impact on states that are not currently utilizing the program, to make clear the benefit of states’ investment in the program and encourage both participating and non-participating states to opt into Summer EBT in future years. Targeted outreach to states like Mississippi, where the state did not take any actions to attempt to fill the gap in the summer food programs, to reiterate the impacts and benefits of Summer EBT could help improve future take-up or accountability.

*Streamline the application and re-enrollment process*

The USDA FNS should also consider methods to streamline the application process for Summer EBT. While the Interim Final Rule partly centralizes applications by prohibiting state agencies from delegating to local education agencies the responsibility of making a Summer EBT application available, it would reduce the state’s administrative burden if USDA FNS created a national application portal for individuals to apply instead of requiring each state to create, implement and run its own portal and application process.<sup>14</sup> In the future, USDA FNS should consider establishing and maintaining a system of automatic reenrollment of eligible individuals and a nationwide application for the Summer EBT program to streamline the process

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<sup>12</sup> See *i.e.* Kathryn Houghton, *Medicaid ‘Unwinding’ Makes Other Public Assistance Harder to Get*, KFF Health News, Nov. 29, 2023, <https://kffhealthnews.org/news/article/medicaid-unwinding-public-assistance-access-problems/>

<sup>13</sup> Liza Lucas, *Documents show staffing issues root cause of ‘unacceptable’ delays in Georgia*, 11Alive, Dec. 29, 2023. <https://www.11alive.com/article/news/state/snap-delays-georgia-staffing-issues-root-cause-documents-show/85-8f9798e8-c35e-4d35-afd4-466d0b0a513d>

<sup>14</sup> Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs, 88 Fed. Reg. 90230, Dec. 29, 2023, (to be codified at 7 C.F.R. pt. 292.13(b)).



and alleviate some of the strain on state agencies. For example, autorenewals based on data matching from SNAP eligibility was successfully used by some states to increase continued eligibility for Medicaid enrollment,<sup>15</sup> and this type of renewal based on existing eligibility for other means-tested need-based program determinations could be successfully implemented within USDA.

We commend USDA FNS for your work to strengthen the safety net and lift children experiencing food insecurity out of hunger. We urge you to modify the existing Interim Final Rule establishing the Summer EBT program to remove barriers to full state participation and enable children to get the nourishment they need over the summer. Please feel free to reach out to Theresa Lau, Senior Policy Counsel, Eradicating Poverty at (Theresa.lau@splcenter.org) or (571) 609-1890 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Lau', written in a cursive style.

Theresa Lau  
Senior Policy Counsel, Eradicating Poverty  
Southern Poverty Law Center

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<sup>15</sup> MACPAC Issue Brief, Advising Congress on Medicaid and CHIP Policy, *Increasing the Rate of Ex Parte Renewals*, Sept. 2023, <https://www.macpac.gov/wp-content/uploads/2023/09/Increasing-the-Rate-of-Ex-Parte-Renewals-Brief.pdf>