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To Whom It May Concern:

The American Public Human Services Association (APHSA) respectfully submits these comments in response to the Notice of Proposed Rulemaking (NPRM) titled *Employment and Training Opportunities in the Supplemental Nutrition Assistance Program*, Docket ID Number [FNS-2019-0008]. APHSA is a bipartisan, nonprofit membership organization representing state and local health and human service agencies that seeks to advance effective policies and practices that support the health and well-being of all children and families leading to stronger communities. The following comments were gathered through written and verbal feedback from our affinity group, the American Association of SNAP Directors (AASD), which provides the collective voice and insights of state and local SNAP offices on federal policies that effect the delivery of SNAP E&T services and the families that participate in the program.

APHSA would like to take this opportunity to reaffirm our commitment to providing pathways to economic mobility for SNAP recipients and acknowledge the progress that has been made in recent years by states with the support of USDA. The proposed rule's implementation of the Farm Bill continues this progress by increasing opportunities for SNAP recipients and integrating proven workforce development techniques, such as case management and supervised job search, into SNAP E&T. However, the rules intended to align E&T services, and the methods in which states must implement them, must also be grounded in outcomes that work for SNAP recipients. When rules are overly prescriptive, states are forced to divert efforts focused on meeting client's needs to administrative compliance. The proposed rule must also take into account the realities faced by state agencies that have had to divert resources to pandemic response and looming budget deficits. With that in mind APHSA puts forth the following comments for consideration by Food and Nutrition Services (FNS):

Expanded Opportunities for Work Participation and Supportive Services

APHSA supports providing SNAP E&T participants with more, quality options to meet work requirements which will lead to better outcomes for individuals in the long-term. The proposed rules codifies provisions from the Farm Bill that allow for the use within SNAP E&T of proven techniques in workforce development, including case management, supervised job search, employability assessments,

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and creating minimum time-limits for job-retention services. Furthermore, the proposed rule creates additional opportunities for fulfilling work requirements, including adding subsidized employment as allowable activities as part of an E&T work experience and adding workforce partnerships as a way for SNAP participants to meet general E&T and ABAWD work requirements. APHSA would like to lift up these provisions within the proposed rule. That being said, as noted in the sections below regarding supervised job-search and subsidized employment, FNS should carefully consider how to implement these techniques in a way that provides the greatest benefit for SNAP participants.

Notice and Information Provision Requirements

The proposed rule includes several requirements to explicitly provide notice to SNAP clients or otherwise make information available, including providing households subject to work requirements with a comprehensive written and oral explanation of all work requirements, providing notice to SNAP clients who have been deemed “ill-suited”, providing an electronic or written list of workforce partnerships to SNAP clients, and codifying the existing requirement to provide some households with a written or electronic list of available E&T services.

In implementing these requirements, FNS should consider reasonable implementation timelines for state compliance. Some states may be well positioned to provide information and notices to SNAP E&T participants as dictated in the proposed rule. However, other states will require time to coordinate information systems and compile the necessary information in electronic and written form. In a previously submitted comment [letter dated March 2, 2020 addressing timelines to implement FNS rules](#), APHSA detailed the challenges of meeting timelines that do not take into consideration states utilizing legacy systems, using integrated technology systems, and navigating budgeting rules when implementation projects exceed a certain number of staff hours. This is especially likely to be true as states have shifted focus and resources in response to COVID-19. APHSA has received direct feedback from states that their ability to implement technology changes previously planned for the remainder of 2020 will now need to be extended by periods as much as two years due to substantial budget impacts and reprioritization of technology resources.

Consolidated Notice of Work Requirements - While many notice and information provision requirements in the proposed rule explicitly allow for delivery in an electronic form, the requirement to provide a comprehensive explanation of all work requirements explicitly states it must be in written and oral form. FNS should clarify that the comprehensive explanation can be delivered in electronic form without a waiver, consistent with USDA memorandum issued on November 3, 2017 *Electronic Notice Waivers and Options*. The allowance of electronic notices is beneficial to clients who prefer accessing information through electronic devices, may allow for greater access to information if physical documents are lost, and may also provide for greater accessibility of the information itself through tools such as a “read this to me” function available on many electronic platforms.

Notice of E&T Participation Change - The proposed rule establishes a new notice for individuals deemed ill-suited for an E&T component. Although the Farm Bill does establish the general process for re-referral when an individual is deemed ill-suited, it does not explicitly prescribe the notice requirement. The proposed rule is overly prescriptive in establishing a new form of written notice to SNAP participants. FNS should consider providing basic guidance that requires notice to be given in some form, but acknowledges that state agencies are in the best position to identify how and when notice should be given to accomplish the goal of effectively communicating critical decisions to clients. This in

part alleviates the burden for state agencies to establish a new written notice form and procedure, but it also allows for state agencies to ensure that clients are communicating with their direct service providers and case managers first regarding critical decisions in the services they are receiving. This can help to reduce confusion on the part of the SNAP client by ensuring the necessary conversations are had with front-line workers who have a relationship with and knowledge of the client.

Re-referral After Ill-Suited Determinations

The proposed rule goes beyond what is specified in the Farm Bill to dictate that decisions made regarding appropriate next steps after an ill-suited determination are a function of eligibility staff. Although the proposed rule does state that eligibility staff may make decisions in consultation with E&T case managers and providers in deciding the most appropriate next steps, eligibility staff may not have the necessary knowledge or relationship with the SNAP participant to make the most informed decisions. FNS should not assign this as a function of eligibility staff and should allow for states to identify which parties within the SNAP E&T program are the most appropriate to be involved in the decision making and communication with the clients. In doing so, states may build effective procedures for re-referral, and empower front-line staff to be engaged in the process without placing the onus on eligibility staff to seek out case managers or providers for additional information. Moreover, states expressed a desire to reduce the number of different people and offices that must be involved in the process with the client, which can help reduce confusion and inconvenience on the part of the client and establish a seamless transition to more appropriate services.

In addition, the rule should not require ABAWDs to accrue countable months during months in which there is an ill-suited determination in effect. Otherwise, ABAWDs would be unduly penalized for a decision that is ultimately outside of their control, and the work that ABAWDs did complete within those months would go unacknowledged. This would also allow states adequate time to react, re-assess and reassign ABAWDs who might be ill-suited for an activity.

Other Considerations

Supervised Job Search - FNS should consider how state agencies can include supervised job search in their E&T State Plans in a way that empowers individual providers or counties, dependent on the structure of the state's E&T programs, to have meaningful options in how supervised job search is tracked and supervised. This allows for providers to figure out what works best for the clients in their programs, but also accomplishes appropriate supervision and tracking. Additionally, FNS should consider clarifying if supervised job search occurring within a WIOA program or workforce partnership must also be tracked hourly for purposes of SNAP E&T. This was not clear in the proposed rule, however, clarity may be helpful for purposes of aligning WIOA and workforce partnership with SNAP E&T.

Fourth Quarter Reporting- The proposed rule would require the E&T Program Activity Report for the fourth quarter to include the unduplicated number of SNAP participants required to participate in an E&T program during the fiscal year and, of those, the number who actually began to participate. Participation would include participants who completed an assessment or attended an orientation. FNS should consider breaking down the reported numbers to capture those participants who were actually enrolled in an E&T component or case management. This may be a more meaningful reporting number

since sometimes SNAP clients complete assessments or attend orientations for programs, but do not actually enroll in a component or case management. The proposed level of tracking may not provide an accurate picture of required E&T participants that actually participate.

Subsidized Employment- While APHSA recognizes that existing statute does not allow income from subsidized employment to be excluded when determining eligibility for SNAP benefits, we also would like to point out the potential disincentive for agencies to utilize SNAP E&T funding for subsidized employment when it potentially offsets benefits or could even disqualify a participant from SNAP eligibility. Additionally, for purposes of aligning standards for workforce development, it is worth noting that states may exclude subsidized employment from income eligibility criteria for TANF cash assistance.¹ Allowing for subsidized employment to be disregarded for purposes of determining SNAP eligibility could encourage participants to engage in work activities that could bridge the gap to long-term, sustainable employment and build job skills and history at the same time. FNS should consider this as a future policy agenda that could potentially be addressed with legislative action.

Eligibility Verification - The supplemental information for the proposed rule included a request for input into eligibility verification processes. States provided feedback to APHSA that if the timeline for eligibility verification in SNAP E&T were extended to be longer than on a monthly basis, SNAP E&T participants would be less likely to have participation in a component disrupted due to becoming ineligible prior to completion of the component. When clients are found ineligible midstream it can create a drop in services that does not facilitate a smooth transition to long-term economic mobility. Curbing this by extending the timeline for eligibility verification gives participants the best chance of receiving the full benefit of SNAP E&T components, providing a greater chance for long-term economic success.

Thank you for the opportunity to comment on this proposed rule. We look forward to working together in the future to ensure we are advancing sound and effective policies. For additional information please contact Matt Lyons at mlyons@aphsa.org or Mary Nelson at mnelson@aphsa.org.

Sincerely,

Matthew Lyons



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Chair
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¹ See, for example, Georgetown Law Center on Poverty and Inequality, LESSONS LEARNED FROM 40 YEARS OF SUBSIDIZED EMPLOYMENT PROGRAMS, p. 69 (2016) (Washington State Community Jobs Program allows for a 50% wage disregard against TANF).