The Sargent Shriver National Center on Poverty Law provides national leadership in advancing laws and policies that secure justice to improve the lives and opportunities of people living in poverty.

AARP Foundation
Francis Beidler Foundation

acknowledges with thanks for their generous support in publishing this special issue of Clearinghouse Review.

Hunger in America 2012
A Human Rights-Based Approach
SNAP Application Delay
Litigation Project
The Farm Bill as a Resource
Antihunger and Food Justice
Movements in Arkansas and Mississippi
SNAP Basics
No Kid Hungry Campaign
Preventing SNAP Terminations
Immigrants’ Access to Food from Private Charities
Private Food Banks and Public Programs
Staggered SNAP Issuance
Toward a Healthy, Sustainable Food System
Food Insecurity Among Elders
Climate Change, Food, and Poverty
Solutions to the Failure of Institutional Food
Advocacy Story: Justice for SNAP Recipients Accused of Fraud in Georgia
The global financial crisis that began in 2007 resulted in a palpable increase in hunger in the United States. The U.S. Department of Agriculture (USDA) categorizes hunger into levels of food insecurity in American households. Food insecurity remains at a crisis level. Inadequate access to sufficient food, or food insecurity, occurs in more than 10 percent of households in the United States and can be as high as 80 percent among high-risk populations. Food insecurity is a complex problem that has become what some researchers call a “silent epidemic.” Frequent sufferers are elderly adults or children who do not seek help because they are either too embarrassed to ask or misinformed about the benefits for which they qualify.

Legal aid organizations are in a unique position to help food-insecure populations. The Supplemental Nutrition Assistance Program (SNAP) fights hunger and improves low-income clients’ access to food. Although participation in SNAP in the 2011 fiscal year was the highest it has ever been, at least a third of people eligible for SNAP did not even apply. For certain populations, the numbers of eligible SNAP recipients not receiving benefits are even higher. Here I summarize the eligibility guidelines for SNAP and other federal nutrition programs and cite resources to help low-income clients access federal nutrition benefits.

Characteristics of Food-Insecure Clients

Clients seeking assistance on legal problems such as foreclosure or divorce seldom mention that they do not have enough to eat. Such clients are sometimes not even aware of what nutrition or other benefits they qualify for, or such clients may be too
SNAP Basics

embarrassed to mention that they do not have enough food. Spending as little as seven extra minutes at intake to check which nutrition benefits a client qualifies for can help clients obtain the benefits they may not be receiving. An online benefits check-up tool is available for people of all ages through the National Council on Aging’s website.9 AARP’s customized version of the check-up tool contains guidance for children’s benefits programs and a subset of ten older adult benefits.10 The USDA’s Food and Nutrition Service maintains its own eligibility tools as well.11 These online tools check for programs other than nutrition benefits for which clients may qualify. Advocates who become aware of which clients are more likely to be at risk of food insecurity are apt to identify clients who may need additional help.

Households with children are at a high risk of food insecurity. One-in-five or more American children in forty states and the District of Columbia lived in food-insecure households in 2009.12 Older people are particularly at risk for not having enough to eat.13 About three-quarters of households receiving SNAP benefits included “a child, a person age 60 or older, or a disabled person.”14 Note that, while related, poverty and food insecurity are not the same thing. Some reports say that unemployment can be a stronger predictor of food insecurity than poverty.15 Recent data further reflect that food insecurity is not limited to the people who fall under the federal poverty guidelines. One-in-four people who are at or above 185 percent of the poverty guidelines are food-insecure.16 Several studies link food insecurity to ethnicity, low education, individual health problems, and lack of medical coverage as well as housing and utility costs.17 Some parts of the country have higher incidences of food insecurity than other parts. People who live in central cities of metropolitan areas or in the South have a higher incidence of food insecurity, although people in rural areas also suffer from food insecurity.18 The rates of black (25.1 percent) and Hispanic (26.2 percent) households having food insecurity are far higher than the national average.19 Several academic studies show that low-income women who have increased body mass indexes (i.e., who are overweight or obese) frequently suffer from food insecurity.20

That food insecurity and obesity can coexist within the same population may seem counterintuitive; however, many studies

---

10AARP, AARP Benefits QuickLINK (2012), http://bit.ly/Mo0llA.
13James P. Ziliak & Craig Gundersen, AARP Foundation, Food Insecurity Among Older Adults (Aug. 2011), http://aarp.us/qSD50E.
14FitzGerald et al., supra note 6, at 1.
17Graham, supra note 3.
19Coleman-Jensen et al., supra note 2, at 4; Ziliak & Gundersen, supra note 18.
found a relationship between food insecurity and obesity in low-income women.\textsuperscript{21} Academics began reporting on the correlation between hunger or food insecurity and obesity in the 1990s.\textsuperscript{22} The high rate of obesity among some food-insecure populations has been termed the “food insecurity–obesity paradox.”\textsuperscript{23} Perhaps obesity and food insecurity are interrelated because people are unable to purchase sufficient nutritious food.

SNAP

The Food and Nutrition Service administers SNAP and other domestic food assistance programs authorized in the Farm Bill as well as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and child nutrition programs.\textsuperscript{24} SNAP benefits can be a significant supplement to income for many poor households: “On average, SNAP benefits boosted gross monthly income by 39 percent for all participating households and by 45 percent for households with children.”\textsuperscript{25} SNAP provides food benefits to low-income eligible households on an EBT (electronic benefit transfer) card which can be used like a debit card to receive food at authorized retailers.\textsuperscript{26} Eligible applicants are entitled to SNAP benefits within thirty days after applying.\textsuperscript{27} Expedited SNAP benefits must be provided to eligible households no later than seven days following the date of application.\textsuperscript{28} Some states provide shorter time frames.\textsuperscript{29} USDA’s national office works with regional offices and state agencies to administer SNAP benefits. State program names for SNAP vary because Congress changed the program’s official name in 2008.\textsuperscript{30} States may either refer to the program as SNAP or use a name of their choosing. While most states use the name SNAP, eight states continue to use “Food Stamp Program,” seven states call the program “Food Assistance Program,” and other states use different names.\textsuperscript{31} The specific name of each state’s SNAP program as well as the states’ administrative rules and program policy manuals can be found online through the Center on Budget and Policy Priorities’ website.\textsuperscript{32}

Federal and State Rules. Federal law provides two basic pathways to qualify for SNAP benefits. Applicants can either qualify by meeting federal financial eligibility requirements or qualify automatically (or “categorically”) by receiving benefits from Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or state-run General Assistance programs.\textsuperscript{33} Migrant and seasonal farm-
workers have additional rights under federal law. States have the option to expand categorical eligibility under certain specified state policy options. USDA’s State Options Report details twenty-seven different options and the state and federal rules regarding these options.

A few state policy options actually curtail eligibility for the program. For example, states may choose whether to ban people from receiving SNAP benefits permanently if they have been convicted of a state or federal felony offense involving the possession, use, or distribution of a controlled substance. The State Options Report indicates which states have modified the ban or opted out of the ban altogether. Information about state agency options can frequently change. Advocates should review state regulations and policy manuals regarding specific rules.

State-Specific Resources. Most state program administrative codes, policy manuals, and applications for benefits can be found online through the states’ websites, which are accessible through the Center on Budget and Policy Priorities’ website. A local office directory of the state agencies in charge of processing SNAP applications is also available on that website. The National Council on Aging and AARP maintain websites with access to applications for SNAP benefits in every state, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico. The sites also list local stores that accept SNAP benefits. In many states the application can be processed online or on the phone by contacting the state’s hotline.

Income Standards. Under federal rules, households have to meet income tests unless all members are receiving TANF, SSI, or, in some places, General Assistance. The income caps are posted on the Food and Nutrition Service’s website. Hawaii and Alaska’s gross-income tests are higher than other states. There are other exceptions to the income tests, and households with members who are disabled or 60 years of age or older are not subject to the gross-income test but must have net income (after deductions for certain necessary expenses) at or below 100 percent of the poverty line. States have some flexibility to lift the gross-income test.

SNAP Basics


Falk & Aussenberg, supra note 26, at 2; FitzGerald et al., supra note 6, at 6; Aussenberg & Colello, supra note 24, at 4.


Id. at 19.

Id.

Center on Budget and Policy Priorities, supra note 30.

Id.

Id.

National Council on Aging, supra note 9; AARP, supra note 10.

See supra note 42.


A household is a person living alone or a group of people who buy food and live together whether or not they are related (7 C.F.R. § 273.1(a) (2012)). If members of a household buy and prepare food separately, they may constitute a separate SNAP household (see Food and Nutrition Service, U.S. Department of Agriculture, Supplemental Nutrition Assistance Program: Eligibility (April 11, 2012), http://1.usa.gov/MhTDzd).

Food and Nutrition Service, supra note 45.


7 C.F.R. § 273.10(e)(2)(ii)(A)–(B) (2012); 7 U.S.C. § 2014(c)(1) (net income test for all households); id. § 2014(c)(2) (gross-income test for households that do not include individual with disability or individual 60 or over); 7 C.F.R. § 271.2(2) (2012) (defining elderly as 60 years of age or older).
test by “aligning SNAP policy with TANF or Medicaid policy.”

Income not counted toward Medicaid or TANF may be excluded with some exceptions.

**Categorical Eligibility.** Some states have raised the gross-income test as high as 200 percent for categorically eligible recipients. Households in which all members are authorized to receive means-tested cash assistance from TANF or General Assistance funds are categorically eligible for SNAP benefits. SSI recipients in all states, except California, are categorically eligible for SNAP benefits. Since 1996, states have been able to expand categorical eligibility if an applicant receives a TANF “benefit,” not just TANF cash welfare. A household with an income too high to qualify for TANF cash assistance benefits may typically still obtain TANF benefits other than cash assistance.

State agency decisions simplifying income or resource asset rules are subject to frequent changes. The Food and Nutrition Service intermittently surveys state agencies to determine which policy options are in use. The most recent State Options Report, published in 2009, details which states chose to raise the gross-income and resource limits. The report is being updated; a new version is expected to be published in October 2012.

**Resources and Assets.** In most states, categorically eligible families are not subject to asset tests for SNAP eligibility. Generally households that are not categorically eligible may have no more than $2,000 in countable resources (such as a bank account or $3,250 in countable resources) if at least one person is 60 or older or disabled. However, certain resources are not counted—a home and lot, most retirement or pension plans, and the resources of people who receive SSI and TANF benefits. In all states, except California, the resources of people who get SSI and TANF are not counted at all. In California SSI applicants whose applications are pending and have not yet begun receiving benefits may receive SNAP benefits while their application is pending.

States are allowed to determine the rules regarding how vehicles are counted toward a household’s resource limits. If a vehicle is needed to transport a physically disabled household member, its value is not counted.

**Immigrant Eligibility.** Immigrant eligibility for SNAP benefits has changed throughout the years. There was a sharp decline in immigrant enrollment in SNAP after passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, including a decline in the

---

49Food and Nutrition Service, State Options Report, supra note 36, at 5.

50Id.

51Falk & Aussenberg, supra note 26, at 13–15 (no state has gross-income limit above 200 percent).


537 U.S.C. § 2014(a); 7 C.F.R. § 273.20 (2012) (because California Supplemental Security Income (SSI) recipients receive cash supplement for food added to their SSI benefits, they are not eligible for SNAP).

54Falk & Aussenberg, supra note 26, at 3–4.

55Id.

56Food and Nutrition Service, State Options Report, supra note 36.

57Id. at 6; Falk & Aussenberg, supra note 26, at 6–7.

587 U.S.C. § 2014(g)(1); 7 C.F.R. § 273.8(b) (2012); Food and Nutrition Service, supra note 45.

597 U.S.C. § 2014(g)(6)–(7); 7 C.F.R. § 273.8(3).


617 C.F.R. § 273.20.

62Food and Nutrition Service, supra note 45.

enrollment of U.S. citizen children with immigrant parents. Some lawful immigrants and U.S. citizen children have been deterred from applying for benefits because of concerns that the state agency that processes SNAP benefits may report other family members to immigration services. To ensure that eligible people receive benefits, USDA and the U.S. Department of Health and Human Services have issued policy guidance noting that applicants need not disclose their non-applicant relatives’ immigration status or social security numbers.

The 2002 Farm Bill restored SNAP eligibility to legal immigrant children. Legal immigrants of any age who receive disability-related assistance or benefits regardless of entry date now qualify for SNAP. Legal immigrants who have lived in the country for five years also qualify for SNAP benefits. Certain noncitizens who gained entry for humanitarian reasons are also eligible. “Undocumented noncitizens” do not qualify for SNAP. Noncitizens who are in the United States temporarily—such as students or tourists—are not eligible for SNAP benefits.

67 Id. § 273.4(a)(6)(ii)(H).
68 Id. § 273.4(a)(6)(iii)(A).
70 7 C.F.R. § 273.4; U.S. Department of Agriculture, supra note 69, at 9 (“Undocumented non-citizens … are not eligible for SNAP benefits.”).
71 U.S. Department of Agriculture, supra note 69, at 9.
72 Id. at 1–55.
73 7 C.F.R. § 273.1(e) (2012).
74 U.S.C. § 2015(e); 7 C.F.R. § 273.5. For a more detailed discussion of low-income students’ eligibility, see David A. Super, Low-Income College Students’ Eligibility for the Supplemental Nutrition Assistance Program, 44 CLEARINGHOUSE REVIEW 508 (March–April 2011).
75 7 C.F.R. § 273.24(b) (2012) (six exceptions to this three-month rule are outlined in id. § 273.24(c) (2012)).
76 Id. § 273.24(c)(1).
77 Id. § 273.24(f)(1) (“On the request of a State agency, [Food and Nutrition Service] may waive the time limit for a group of individuals in the State if we determine that the area in which the individuals reside: (i) Has an unemployment rate of over 10 percent; or (ii) Does not have a sufficient number of jobs to provide employment for the individuals.”).
78 Id. § 273.24(c)(2).
Other Nutrition Programs

Food stamps were never intended by the government to provide an indigent family with food for a full month. SNAP recipients are supposed to use one-third of their net income to supplement SNAP benefits and afford a basic, nutritionally adequate diet. Food assistance is allotted on a low-cost diet plan called the Thrifty Food Plan. Accordingly food assistance benefit levels are lower than actual food costs for nearly all low-income households. For the 2011 fiscal year, the maximum monthly food benefit for a single person is $200. American hunger experts note that these resources are insufficient to meet an impoverished family’s need for food. The nation’s largest organization of emergency food providers, Feeding America (formerly America’s Second Harvest), reports that SNAP benefits generally last from 2.5 to 2.7 weeks per month and many families cannot supplement the benefits with their own resources.

Special Supplemental Nutrition Program for Women, Infants, and Children. WIC provides supplemental foods (through WIC food packages), health care referrals, and nutrition education to low-income pregnant, breast-feeding, and non-breast-feeding postpartum women and to infants and children up to 5 years of age who are at nutritional risk. Approximately 25 percent of American children under 5 and 29 percent of pregnant women participate in the program. The supplemental food benefits are in addition to the SNAP benefits for the women and children who qualify for SNAP. To offer healthier foods as well as cash-value vouchers for fruits and vegetables, USDA recently revised WIC food packages. State agencies have discretion to set the income guideline for WIC between 100 percent and 185 percent of the federal poverty guidelines. Individuals who received SNAP benefits, Medicaid, or TANF benefits, or other state programs can be determined, on their participation in those programs, to be income-eligible for WIC.

WIC participants also receive fresh, nutritious, unprepared, locally grown fruits and vegetables through farmers’ markets in the Farmers’ Market Nutrition Program. The program not only assists WIC participants but also expands awareness and use of farmers’ markets. To WIC participants the program can give coupons worth $10 to $30 to be redeemed at farmers’ markets.

School Meal Programs. Low-income children are eligible for free or very low-
cost school meals through the School Breakfast and Lunch Program.\textsuperscript{93} All children and teens 18 and under may also eat free meals when school is not in session through the Summer Lunch Program.\textsuperscript{94} Meals and snacks are served at schools, parks, and recreation centers in areas where at least half the children qualify for free or reduced price meals in school.\textsuperscript{95} Any children under 19 may eat there for free regardless of where they live or their family’s income.\textsuperscript{96} Disabled students who attend a public or nonprofit private school established for students who have a disability qualify for free meals even if they are older than 18.\textsuperscript{97}

**Programs for Low-Income Seniors.**

About 950,000 low-income older adults who are at least 60 receive coupons for fresh, locally grown fruits, vegetables, herbs, and honey from farmers’ markets, roadside stands, and community-supported agriculture programs through the Senior Farmers’ Market Nutrition Program.\textsuperscript{98} In some states, Native Americans who are at least 55 qualify. In some states, disabled individuals younger than 60 qualify if they are living in housing facilities which are occupied by older individuals and where congregate nutrition services are provided.\textsuperscript{99} To qualify, the recipient’s household income cannot exceed 185 percent of the federal poverty income guidelines.\textsuperscript{100} The coupons are not considered income, and any benefit is not considered to be income or resources under any federal, state, or local law. The coupons—generally worth between $20 and $50 per person—can supplement SNAP or other nutrition benefits.\textsuperscript{101}

Older Americans can also obtain nutrition benefits through the Older Americans Act. The Act authorizes home-delivered meals to homebound individuals as well as congregate meals in senior centers, adult care centers, community centers, and other facilities to eligible individuals.\textsuperscript{102}

---

Legal aid and legal services programs are in a unique position to help low-income people receive the nutrition benefits to which they are entitled but about which they may not know. A few extra minutes of entering your clients’ financial information into such as the USDA’s prescreening eligibility tool or the National Council on Aging’s BenefitsCheckUp can make a tremendous difference in your clients’ lives.

**Author’s Note**

_The views expressed in this article are strictly mine and do not necessarily reflect the opinion of AARP or its affiliates, including the AARP Foundation._

---

\textsuperscript{93}Id. §§ 1758, 1773.  
\textsuperscript{94}Id. § 1761(f)(3) (“Meals described in paragraph (1) shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section.”); id. § 1761(a)(1)(B) (defining “children” as individuals 18 and younger and individuals over 18 who participate in school programs for individuals with disabilities).  
\textsuperscript{95}Id. § 1761(a)(1)(A)(i)(I).  
\textsuperscript{96}Id. § 1761(a)(1)(B)(i).  
\textsuperscript{97}Id. § 1761(a)(1)(B)(ii).  
\textsuperscript{99}7 C.F.R. § 249.6(a)(1) (2012).  
\textsuperscript{100}Id. § 249.6(a)(3).  
\textsuperscript{101}7 U.S.C. § 3007(c); 7 C.F.R. § 249.8(b)(1) (2012).  
\textsuperscript{102}42 U.S.C. §§ 3002 et seq., 3030(e)–3030(f); 45 C.F.R. § 1321.67(c) (2012). For additional information about nutrition programs for older Americans, see Susan Ann Silverstein, *Overcoming Food Insecurity Among Elders*, in this issue.
CLEARINGHOUSE REVIEW: JOURNAL OF POVERTY LAW AND POLICY is the advocate’s premier resource for analysis of legal developments, innovative strategies, and best practices in representing low-income clients. Each issue of the Review features in-depth, analytical articles, written by experts in their fields, on topics of interest to lawyers who represent low-income people. The Review covers such substantive areas as civil rights, family law, disability, domestic violence, housing, elder law, health, and welfare reform.

Get Your Online Subscription Today!

- CLEARINGHOUSE REVIEW: JOURNAL OF POVERTY LAW AND POLICY is published online six times per year.
- Your subscription includes online access to the current issue and the archive of articles published since 1967. With this online access—your “site license”—your organization’s entire staff will enjoy fully searchable access to a wealth of poverty law resources, accessible from any computer or mobile device.
- Newly subscribing nonprofit programs are entitled to special discounts on our Training Programs.

Please fill out the following form to receive more information about subscribing to CLEARINGHOUSE REVIEW.

Name ________________________________
Organization ________________________________
Street address ________________________________ Floor, suite, or unit ________________
City ________________________________ State ______ Zip ________________
E-mail ________________________________

Subscription pricing varies with the type of program:

- Nonprofit................................................................. $300−$1,800 (depending on size of operating budget)
- Law School Library........................................................... $500
- Individual................................................................. $400

Please e-mail this form to subscriptions@povertylaw.org.
Or fax this form to Ilze Hirsh at 312.263.3846.

Sargent Shriver National Center on Poverty Law
50 E. Washington St. Suite 500
Chicago, IL 60602