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United States General Accounting Office
Washington, DC 20548

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July 17, 2002

The Honorable Tom Harkin
Chairman
The Honorable Richard G. Lugar
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Larry Combest
Chairman
The Honorable Charles W. Stenholm
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: Department of Agriculture, Food and Nutrition Service: Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Food Stamp Provisions of the Balanced Budget Act of 1997

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture, Food and Nutrition Service (FNS), entitled “Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Food Stamp Provisions of the Balanced Budget Act of 1997” (RIN: 0584-AC45). Our Office received the rule on July 2, 2002. It was published in the Federal Register as a final rule on June 19, 2002. 67 Fed. Reg. 41589.

The final rule follows the issuance of an interim rule and a proposed rule that incorporated provisions of the Balanced Budget Act of 1997 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The rule finalizes provisions dealing with enhanced state flexibility in exempting portions of a state agency’s caseload from the food stamp time limit and to increase the funding available to create work opportunities for recipients who are subject to the time limit. It also makes changes to current work rules, including requirements for the Food Stamp Employment and Training Program and the optional workfare program, as well as simplifying disqualification requirements for failure to comply with work rules.

The final rule has an announced effective date of August 19, 2002. The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). While the final rule was published in the Federal Register on June 19, 2002, the House of Representatives did not receive the rule until July 9, 2002. The Senate received the rule on July 3, 2002. Therefore, the final rule does not have the required 60-day delay in the effective date to allow for congressional review.

Enclosed is our assessment of the FNS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that, with the exception of the failure to allow the 60-day delay in the effective date, the FNS complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Cindy Fagnoni, Managing Director, Education, Workforce, and Income Security. Ms. Fagnoni can be reached at (202) 512-7215.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

Cc: Eric M. Bost
Under Secretary
Food, Nutrition, and Consumer
Services
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE
ENTITLED
"FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL
RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996
AND FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997"
(RIN: 0584-AC45)

(i) Cost-benefit analysis

According to FNS, since all of the provisions of the final rule, except the elimination of the maximum slot reimbursement rate, were already in effect, they will have no new cost effects resulting from them. Depending on state agency actions, FNS estimates that the elimination of the maximum slot reimbursement rate will increase Food Stamp Program expenditures by a range of \$25.3 million to \$62 million over the period of fiscal years 2002-2012.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Undersecretary for Food, Nutrition, and Consumer Services has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On September 3, 1999, an interim rule with request for comments dealing with two food stamp provisions of the Balanced Budget Act of 1997 was published in the Federal Register. 64 Fed. Reg. 48246. On December 23, 1999, a proposed rule was published to amend the Food Stamp Act to incorporate provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. 64 Fed. Reg. 72196.

FNS received 234 comments on the interim rule and 24 on the proposed rule, which are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The information collections contained in the final rule have already been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and assigned OMB Control No. 0584-0339. When these collections are revised to eliminate the maximum slot reimbursement rate, public comments will be solicited and OMB approval obtained.

Statutory authorization for the rule

The final rule is issued pursuant to the authority contained at 7 U.S.C. 2011-2036.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

In accordance with the order, the preamble to the final rule contains a discussion of the numerous steps taken by FNS to work with state officials regarding the final rule to resolve their concerns including greater flexibility in implementing the Food Stamp Program.