



441 G St. N.W.
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B-334675

October 17, 2022

The Honorable Debbie Stabenow
Chairwoman
The Honorable John Boozman
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable David Scott
Chairman
The Honorable Glenn Thompson
Ranking Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Food and Nutrition Service: Supplemental Nutrition Assistance Program: Requirement for Interstate Data Matching To Prevent Duplicate Issuances*

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 "Supplemental Nutrition Assistance Program: Requirement for Interstate Data Matching To Prevent Duplicate Issuances" (RIN: 0584-AE75). We received the rule on October 3, 2022. It was published in the *Federal Register* as an interim final rule on October 3, 2022. 87 Fed. Reg. 59633. The effective date is December 2, 2022.

The interim final rule, according to FNS, requires Supplemental Nutrition Assistance Program (SNAP) state agencies to provide information to the National Accuracy Clearinghouse (NAC) regarding individuals receiving SNAP benefits in their states in order to ensure they are not already receiving benefits in another state. FNS also stated the rule requires state agencies to take appropriate action with respect to each indication from NAC that an individual may already be receiving SNAP benefits from another state agency. Further, FNS stated that the rule aims to enhance program integrity by reducing the risk of improper payments and improve customer service by incorporating best practices and lessons learned from the NAC pilot to require that state agencies take appropriate and timely action to resolve NAC matches. Lastly, FNS stated the rule establishes safeguards to ensure households receive benefits for which they are eligible and are not incorrectly removed from the program.

The Congressional Review Act (CRA) 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). The *Congressional Record* does not yet reflect Congress's receipt of this interim final rule. However, FNS provided documentation to GAO showing the Senate and House of Representatives received the rule on October 6, 2022.

Email from Branch Chief of the Planning and Regulatory Affairs Office, FNS, to Senior Attorney, GAO, *Subject: Response to GAO - RE: For GAO - CRA and Published Interim Final Rule for "Supplemental Nutrition Assistance Program: Requirement for Interstate Data Matching to Prevent Duplicate Issuances" (0584-AE75) (Oct. 12, 2022)*. The rule has a stated effective date of December 2, 2022. Therefore, the rule does not have the required 60-day delay in its stated effective date.

Enclosed is our assessment of 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. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Maureen Lydon
Chief of Planning and Regulatory Affairs Office
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE
ENTITLED
“SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM:
REQUIREMENT FOR INTERSTATE DATA MATCHING
TO PREVENT DUPLICATE ISSUANCES”
(RIN: 0584-AE75)

(i) Cost-benefit analysis

The Department of Agriculture, Food and Nutrition Service (FNS), prepared an accounting statement showing the annualized estimates of benefits, costs, and transfers associated with this interim final rule. Specifically, FNS stated that the qualitative benefit of the rule is that it will result in the identification and prevention of actual and potential duplicate participation in the Supplemental Nutrition Assistance Program (SNAP) nationally, thereby improving program integrity.

FNS stated that the annualized monetized cost of the rule is \$10 million per year in 2022 dollars at the seven percent discount rate for the period of fiscal year 2022 to 2026, and \$10.17 million per year in 2022 dollars at the three percent discount rate for the period of fiscal year 2022 to 2026. FNS stated that the costs are associated with federal implementation and maintenance of the National Accuracy Clearinghouse (NAC); state administrative expenses for implementing NAC matches, staff training on new procedures, notices, and verification of circumstances for identified potential matches; and household administrative burden. Lastly, FNS noted that the rule will have annualized monetized transfers of -\$92.86 million per year in 2022 dollars at the seven percent discount rate for the period of fiscal year 2022 to 2026, and -\$96.60 million per year in 2022 dollars at the three percent discount rate for the period of fiscal year 2022 to 2026. FNS stated that transfers are associated with reduced SNAP benefit payments due to the prevention of duplicate participation.

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

FNS certified that this interim final rule will not have a significant 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

FNS determined that this interim final rule contains no federal mandates for state, local and tribal governments, or the private sector, of \$100 million or more in any one year and, therefore, the rule is not subject to the requirements of the Act.

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

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

FNS did not discuss the Act in this interim final rule. FNS stated that it will issue a final rule after considering public comments and obtaining additional information during the initial implementation.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FNS determined that this interim final rule contains information collection requirements under PRA. FNS stated that it requested new Office of Management and Budget (OMB) Control Number 0584-NEW and, upon approval, FNS intends to merge a portion of these burden estimates into OMB Control Number 0584-0064. FNS estimated the total annual burden hours for state, local or tribal agencies, and individuals/households on an ongoing basis to be 881,952.44.

Statutory authorization for the rule

FNS promulgated this interim final rule pursuant to sections 2011–2036 of title 7, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

FNS determined that this interim final rule is economically significant and stated that OMB reviewed the rule.

Executive Order No. 13132 (Federalism)

FNS determined that this interim final rule has federalism impacts. FNS stated that the rule is required by statute and, under section (6)(b) of the Order, a federalism summary is not required.