



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

B-294386

August 11, 2004

The Honorable Thad Cochran
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Bob Goodlatte
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: Vehicle and Maximum Excess Shelter Expense Deduction Provisions of Public Law 106-387*

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 (USDA), Food and Nutrition Service, entitled "Food Stamp Program: Vehicle and Maximum Excess Shelter Expense Deduction Provisions of Public Law 106-387" (RIN: 0584-AD13). We received the rule on July 26, 2004. It was published in the Federal Register as a final rule on July 29, 2004. 69 Fed. Reg. 45225.

The final rule implements sections 846 and 847 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001. The rule allows state agencies the option to use their Temporary Assistance for Needy Families (TANF) Program vehicle allowance rules rather than the vehicle rules ordinarily used in the Food Stamp Program where doing so will result in a lower attribution of resources to food stamp households. The rule also increases the maximum amount of the Food Stamp Program excess shelter expense deduction and indexes it each fiscal year to the Consumer Price index for all Urban Consumers for the 12-month period ending the previous November 30. Finally, the rule will increase benefits for some participants, make additional households eligible for food stamps and provide greater flexibility for states in determining the value of vehicles.

Enclosed is our assessment of the USDA'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 the USDA complied with the applicable requirements.

In addition, our Office has published a report entitled "Means-Tested Programs: Determining Financial Eligibility is Cumbersome and Can Be Simplified" (GAO-02-58, November 2001) dealing with the subject area of the final rule.

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 Sigurd Nilsen, Director, Education, Workforce, and Income Security. Mr. Nilsen 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: VEHICLE AND
MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION
PROVISIONS OF PUBLIC LAW 106-387"
(RIN: 0584-AD13)

(i) Cost-benefit analysis

The Department of Agriculture estimates that the maximum excess shelter expense deduction provisions of the final rule will increase the cost to the government in fiscal year (FY) 2004 by \$148 million and \$883 million over the 5 years between FY 2004 through FY 2008. The vehicle provisions of the rule will increase the cost to the government in FY 2004 by \$289 million and \$1.527 billion over the same 5-year period.

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

The Under Secretary 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 drafted using the notice and comment procedures found at 5 U.S.C. 553. On August 29, 2003, USDA published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 51932. USDA received 36 comments in response and discusses those in the preamble to the final rule.

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

The paperwork burden associated with the food stamp certification process is approved under Office of Management and Budget (OMB) Control No. 0584-0064. The maximum excess shelter expense deduction provision of the final rule will not result in any change in the burden for either applicants or state agencies.

Statutory authorization for the rule

The final rule was promulgated under the authority found 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)

The USDA states that it considered the impact of the final rule on state agencies while drafting the rule and consulted with state and local agencies.