



## PRESS RELEASE

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### **Attorney General Frosh Joins Multistate Lawsuit to Stop Elimination of Food Assistance for Nearly 700,000 Struggling Americans**

#### ***15 Attorneys General and New York City Allege the USDA Attempted to Circumvent Congress with Unlawful Food Stamp Rule Change***

**BALTIMORE, MD (January 16, 2020)** – Maryland Attorney General Brian E. Frosh today joined a group of 15 attorneys general and New York City in a [lawsuit](#) to stop the Trump administration from eliminating food assistance for nearly 700,000 Americans. The lawsuit challenges a United States Department of Agriculture (USDA) rule that would limit states' ability to extend benefits from the Supplemental Nutrition Assistance Program (SNAP), commonly known as "food stamps," beyond a three-month period for certain adults.

The coalition of attorneys general asserts that the rule directly undermines Congress' intent for SNAP, and that the USDA violated the federal rulemaking process. Further, they argue that the rule would impose significant regulatory burdens on the states and harm states' residents and economies. The coalition is urging the court to declare the rule unlawful and issue an injunction to prevent it from taking effect.

"SNAP is the country's most important anti-hunger program; it lifts people out of poverty and food insecurity. This rule will cause Marylanders to go hungry. It is unnecessary and heartless," said Attorney General Frosh.

SNAP has served as the country's primary response to hunger since 1977, and is a critical part of federal and state efforts to help lift people out of poverty. The program provides access to nutrition for millions of Americans with limited incomes who would otherwise struggle with food insecurity. While the federal government pays the full cost of SNAP benefits, it shares the costs of administering the program on a 50-50 basis with the states, which operate the program.

Congress amended SNAP in 1996 with the goal of encouraging greater workforce participation among beneficiaries. The changes introduced a three-month time limit on SNAP benefits for unemployed individuals aged 18 to 49 who are not disabled or raising children (i.e., "able-bodied adults without dependents" (ABAWDs)). Congress understood that states were best positioned to assess whether local economic conditions and labor markets provided ABAWDs reasonable employment opportunities. As a result, the law allows a state to acquire a waiver of the ABAWD time limit for areas where the unemployment rate is above 10 percent, or if it presents data demonstrating that the area lacks sufficient jobs for ABAWDs. States also were given a

limited number of one-month exemptions for individuals who would otherwise lose benefits under the time limit and were permitted to carry over unused exemptions to safeguard against sudden economic downturns.

Over the last 24 years, Congress has maintained the criteria for states to obtain waivers and to carry over unused exemptions. It has reauthorized the statute four times without limiting states' discretion over these matters. House Republicans considered adding restrictions on waivers and carryovers in the 2018 Farm Bill, but a bipartisan coalition expressly rejected them in the final legislation.

Shortly after President Trump signed the 2018 Farm Bill into law, USDA announced a proposed rule seeking changes almost identical to those Congress rejected. USDA received more than 100,000 comments in total—the majority of which reflected strong opposition from a broad range of stakeholders. Regardless, USDA's final rule went even further in restricting state discretion over waivers and exemptions than what it had initially proposed.

In the lawsuit, the states collectively argue that the administration's rule:

- **Contradicts statutory language and Congress's intent for the food-stamp program:** When Congress amended SNAP and added the ABAWD time limit in 1996, it included a waiver process explicitly providing for relief from the time limit if insufficient job opportunities were available for ABAWDs and clearly indicating that states were best equipped to make this determination based on local economic and employment conditions. Congress has reaffirmed this position multiple times, most recently in 2018. Yet USDA's new rule severely restricts states' discretion over these matters and essentially writes this basis for waiver out of the statute, contrary to law and congressional intent. Major aspects of the rule mirror proposed changes that Congress explicitly rejected in 2018.
- **Raises healthcare and homelessness costs while lowering economic activity in the states:** For SNAP recipients, losing benefits means losing critical access to food, raising the risk of malnutrition and other negative health effects. Studies have shown that SNAP can counteract food insecurity and lower healthcare costs for recipients by about [\\$1,400 per person](#)—costs that state governments will likely bear in the absence of SNAP assistance. Without SNAP benefits, many will be forced to choose between having food to eat or a place to live. Their purchasing power will decrease, harming state economies. As USDA concedes in the rule, these impacts will be most concentrated among lower-income communities of color
- **Amends the law for arbitrary and capricious reasons:** The APA requires agencies to offer a reasoned explanation for changing long-held policies and address why the facts and circumstances supporting the prior policy should be disregarded. For over two decades, USDA has accepted Congress's premise that a state should define the geographic scope of its waiver request and support that request with a wide range of data sources that are together best able to capture employment prospects for ABAWDs. Yet the new rule strictly defines the area for which waivers may be sought and rejects data beyond general unemployment figures without any justification.
- **Violates the federal rulemaking process:** The Administrative Procedure Act (APA) governs internal procedures for federal agencies, including rulemaking. Among other requirements, agencies must solicit and consider public comments on the substance of a

rule. USDA broke from this process by issuing a final rule that diverged from its proposed rule in significant ways. For example, while the proposed rule maintained that a state could receive a waiver if it qualified for extended unemployment benefits under Department of Labor policies, the final rule eliminated this basis. Thus, commenters did not receive meaningful opportunity to comment on the full extent of the agency's changes.

The lawsuit was filed in United States District Court for the District of Columbia. The States filed a Motion for Preliminary Injunction concurrently with the complaint to prevent the rule from going into effect on April 1, 2020.

Joining Maryland in the lawsuit are the attorneys general of California, Connecticut, the District of Columbia, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia, along with the City of New York.