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August 19, 2022

Eric Williams
Food and Nutrition Service
United States Department of Agriculture
1320 Braddock Place, 5th Floor
Alexandria, VA 22314

Submitted via e-mail to: eric.williams@usda.gov

Re: Serving SNAP Applicants and Participants with Limited English Proficiency (LEP),
Docket Number FNS-2022-0022, OMB Number 0584-NEW.

Dear Mr. Williams:

Thank you for the opportunity to comment on USDA's proposed study, Serving SNAP Applicants and Participants with Limited English Proficiency (LEP), outlined in 87 FR 41101-41106 on July 11, 2022. Empire Justice Center strongly supports using the study proposed in the notice to produce actionable insights to ensure language justice for LEP SNAP applicants and participants, and we write to encourage you to improve the study by requiring submission of additional data and by providing the opportunity for stakeholder input.

Empire Justice Center is a statewide non-profit law firm and advocacy organization in New York State, working to achieve social and economic justice for low-income New Yorkers, including applicants and participants in the SNAP program. Through our impact litigation and administrative and legislative advocacy, we have helped thousands of New Yorkers access SNAP benefits, including people with limited English proficiency. We write to suggest ways to enhance the quality, utility, and clarity of the information to be collected in the proposed study.

To ensure that the LEP population has meaningful access to the SNAP program, language assistance must be provided at a time and place that avoids the effective denial of benefits or imposes an undue burden on or delay in access to benefits. A starting point to measure how much meaningful access is being provided is to collect data. Although the notice indicates that detailed data from all 53 state SNAP agencies will be gathered via a web-based survey, it does not indicate precisely what data will be gathered.

Empire Justice Center encourages you to pursue extensive data collection. Here in New York, unfortunately, the information we need to help us assess the level of language assistance being provided is not publicly available. Of the 2.8 million people in New York who receive SNAP,¹ we do not know if the percent of recipients who are LEP is lower than we would expect because we do not know how many of the recipients are LEP. We also do not know what percentage of SNAP applications denied based on compliance issues (like failure to submit required verifications) are from LEP households versus denials from non-LEP households. Further, data is not publicly available to document if LEP households experience a disproportionate payment error rate, fare worse in fair hearings, or see their cases closed due to failure to timely recertify. The state agency's Language Access Plan indicates that a variety of vital documents have been translated into multiple languages,² but upon information and belief, data does not exist to show how often people with limited English proficiency are provided with those translated documents, and by what mechanism local districts are flagging cases so that notices are automatically sent in the recipient's preferred language.

We believe it is essential for the study to collect data comparing the rates of LEP households versus non-LEP households in each state for the following elements, to name just a few: (1) SNAP applicants; (2) SNAP recipients; (3) basis for denial; (4) payment error rates; (5) fair hearing outcomes; and (6) provision of documents in the applicant's or recipient's preferred language. This detailed data is needed to measure the level of meaningful access more accurately for people with limited English proficiency.

The study plan outlined in the notice also indicates that case studies will be conducted in four states, including only SNAP agency staff and management. FNS is likely to obtain more helpful information from the study if the scope of respondents is broadened to include SNAP applicants and recipients with limited English proficiency, and the advocates who assist them. Data and surveys for agencies will not give voice to people with limited English proficiency who need SNAP benefits to be able to feed themselves and their families. Their voices should be included in the study to provide a more holistic understanding of the diversity of their experiences and the challenges they face in applying and retaining benefits. Similarly, the case managers, attorneys, and other advocates who assist LEP persons as they attempt to access and keep their benefits are likely to add a valuable perspective.

¹ See Temporary and Disability Assistance Statistics May 2022, available at <https://otda.ny.gov/resources/caseload/2022/2022-05-stats.pdf>.

² Language Access Plan for Limited English Proficient Individuals, available at <https://dhr.ny.gov/system/files/documents/2022/04/otda-lap-2021.pdf>, see pages 12-23.

We encourage you to amend the plan for the study on serving SNAP applicants with limited English proficiency by increasing the scope of data collection and by expanding respondents to include LEP applicants and participants in SNAP and their advocates. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Radbord".

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