

November 28, 2023

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Submitted via regulations.gov

Re: Comments on Expanding the Definition of a Public Assistance Household; FR Doc. 2023–21550

The undersigned organizations that advocate for gender justice and equity write to express our strong support for the Social Security Administration’s proposed rule to “Expand the Definition of a Public Assistance Household.” We are encouraged by this proposed rule, and we believe it will have a positive impact on the women and gender-expansive people for whom we advocate, particularly disabled¹ women and disabled women of color. Women are more likely than men to live in poverty across nearly all races and ethnicities, with Black women, American Indian or Alaska Native (AIAN) women and Latinas facing the highest rates.² Disabled women are more likely than white nondisabled men to live in poverty, with disabled women of color

¹ Overall, the disability community has reclaimed identity-first language (i.e., “disabled”) to acknowledge disability as a critical part of identity in which to take pride. However, not all members of the disability community prefer identity-first language. Others may prefer person-first language (i.e., “person with a disability”). Preferences may also vary by disability. This comment uses identity-first and person-first language interchangeably. However, we will always honor the language a disabled person chooses for themselves.

² Bleiweis, R., Boesch, D., & Cawthorne Gaines, A. (2020, August 3). *The Basic Facts About Women in Poverty*. Retrieved 6 November 2023 from the Center for American Progress website: <https://www.americanprogress.org/article/basic-facts-women-poverty/>

experiencing particularly high rates of poverty.³ Disabled members of the LGBTQI+ community are also more likely to experience poverty.⁴

As a result of these experiences, many women rely on critical benefits such as Supplemental Security Income (SSI). As of 2022, 45.6 percent of SSI beneficiaries were women.⁵ In December 2021, 52 percent of all SSI recipients were women, and about 65 percent of SSI recipients 65 or over were women.⁶ People who are Black and AIAN are more than twice as likely to receive SSI as people who are white.⁷ In a 2020 Center for American Progress survey, 34 percent of disabled LGBTQI+ respondents received SSI benefits, while only 7 percent of nondisabled LGBTQI+ respondents received SSI benefits.⁸

The proposed rule would expand the definition of “Public Assistance Household” for SSI and other Social Security programs by including

³ Author’s calculation using University of Minnesota. (n.d). IPUMS USA: 2017–2021 American Community Survey. Retrieved 29 June 2023, from www.ipums.org. People are identified as having a disability if they responded that they have difficulty in one or more of the following realms: vision, hearing, cognitive, ambulatory, self-care, and independent living. This is a limited definition of disability that excludes a portion of disabled people. For more information on how disability is measured in the American Community Survey, please see U.S. Census Bureau. (2021, November 2). How Disability Data are Collected from The American Community Survey. Retrieved 29 June 2023, from <https://www.census.gov/topics/health/disability/guidance/data-collection-ac.html>

⁴ Human Rights Campaign. (2022, August 12). *Understanding Disability in the LGBTQ+ Community*. Retrieved 16 November 2023, from <https://www.hrc.org/resources/understanding-disabled-lgbtq-people>

⁵ Social Security Administration. (2022, December). Annual Statistical Supplement to the Social Security Bulletin, 2022 (Table 7.E2 and Table 5.A1). Retrieved 16 November 2023, from <https://www.ssa.gov/policy/docs/statcomps/supplement/2022/supplement22.pdf>

⁶ Anderson, C. & Sun, S. (2023, October). *SSI Supports Older and Disabled Women with Very Low Incomes. Improving SSI Would Advance Gender, Racial, and Disability Justice*. Retrieved 16 November 2023 from the National Women’s Law Center website: <https://nwlc.org/wp-content/uploads/2023/10/SSI-Supports-Older-and-Disabled-Women-with-Very-Low-Incomes.-Improving-SSI-Would-Advance-Gender-Racial-and-Disability-Justice.pdf>

⁷ Musumeci, M., & Orgera, K. (2021, June 23). Supplemental Security Income for People with Disabilities: Implications for Medicaid. Retrieved 16 November 2023, from KFF website: <https://www.kff.org/medicaid/issue-brief/supplemental-security-income-for-people-with-disabilities-implications-for-medicaid/>

⁸ Medina, C., Mahowald, L., & Santos, T. (2021, November 3). *The United States Must Advance Economic Security for Disabled LGBTQI+ Workers*. Retrieved 16 November 2023 from the Center for American Progress website: <https://www.americanprogress.org/article/united-states-must-advance-economic-security-disabled-lgbtqi-workers/>

those who receive Supplemental Nutrition Assistance Program (SNAP) benefits. This would update and streamline SSI rules, including “in-kind support and maintenance” (ISM) and income deeming. SSI’s ISM rules reduce benefits dollar-for-dollar for the value of support from family or friends, such as a place to sleep or help with groceries, by up to one-third of benefits. SSI is the only federal program to do so, even though its beneficiaries have extremely low incomes and can ill afford to have their modest SSI benefits reduced.

For SSA, these rules are also inefficient and costly to administer, and their complexity leads to many errors, making ISM the third leading cause of overpayments within SSI.⁹ The Social Security Administration (SSA) often experiences delays in detection and notice to these recipients, meaning a beneficiary could be overpaid for months – even years – without their knowledge. It can be extremely difficult to repay these debts when SSI recipients have little to no income, with monthly SSI benefits in 2023 at a maximum of \$914 for individuals and \$1,371 for eligible couples. In December 2021, approximately 57 percent of SSI recipients had no income other than their SSI payments.¹⁰ Women are more likely to experience an overpayment than men; Black and Hispanic recipients are also more likely to experience an overpayment.¹¹

Under SSI’s rules, SSI beneficiaries who live in households that receive certain public benefits (“Public Assistance Households”) are exempt

⁹ Social Security Administration. (n.d). *Payment Integrity* (pp. 193-200). Retrieved 16 November 2023, from <https://www.ssa.gov/finance/2020/Payment%20Integrity.pdf>

¹⁰ Social Security Administration. (2022, September). *SSI Annual Statistical Report, 2021* (p. 29). Retrieved 16 November 2023, from https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2021/ssi_asr21.pdf

¹¹ Hoffman, D., Fischer, B., Jones, J., McGuirk, A., & Loewenberg, M. (2019). *Perspectives: Work-Related Overpayments to Social Security Disability Insurance Beneficiaries: Prevalence and Descriptive Statistics*. Retrieved 16 November 2023, from Social Security Administration website: <https://www.ssa.gov/policy/docs/ssb/v79n2/v79n2p65.html>

from ISM deductions and income deeming¹² — two of the most complicated and burdensome features of SSI. That is because SSA assumes that Public Assistance Households put all of their income and resources toward meeting their own basic needs and do not have the ability to meaningfully support SSI beneficiaries. Exempting more beneficiaries from these rules will reduce needless and complicated paperwork and calculations. This would reduce both beneficiary burdens and SSA staff time, in keeping with the 2021 executive order on improving customer service.¹³

The Notice of Proposed Rulemaking recognizes the need to reexamine the definition of “Public Assistance Household” due to changes in public benefits programs and the shift from providing cash assistance benefits to voucher or in-kind benefits (such as SNAP) since current rules were introduced over 40 years ago.

We support SSA’s expansion of “Public Assistance Household” to include SNAP, a key support program to prevent and reduce food insecurity in low-income households. For myriad reasons – including, but not limited to, higher poverty rates,¹⁴ barriers to employment¹⁵ and insufficient benefit payments¹⁶ – disabled women, particularly disabled women of color, are more likely to experience food

¹² Income deeming is the Social Security Administration’s process of considering another individual’s income as the income of the beneficiary.

¹³ Exec. Order No. 14058, 86 FR 71,357 (2021).

¹⁴ See note #2.

¹⁵ Ditkowsky, M. (2023, July). *Systems Transformation Guide to Disability Economic Justice: Jobs and Employment*. Retrieved 16 November 2023, from <https://nationalpartnership.org/report/disability-economic-justice-systems-transformation/>

¹⁶ The maximum benefit payment for the Supplemental Security Income program in 2023 is \$943 for an eligible individual and \$1,415 for an eligible individual with an eligible spouse. The maximum benefit payment for an individual on Social Security Disability Insurance in 2023 is \$3,627. SNAP and Temporary Assistance for Needy Families (TANF) benefits vary by state, but these benefits are also modest.

insecurity.¹⁷ Sixty percent of individuals facing food insecurity worldwide are women and girls.¹⁸ Households headed by a single mother and women living alone have particularly high rates of food insecurity.¹⁹ Women are also more likely to skip meals so that their children have enough to eat, causing additional health and economic consequences.²⁰ For Black and Latiné disabled people, the likelihood of food insecurity is even greater.²¹

SNAP provides participating households with modest nutrition assistance, based on household size, income and certain expenses including shelter, that plays an important role in combating food insecurity. As SNAP serves households with net income at or below the federal poverty level, it is clear that these households are in no position to provide extensive or significant support to friends or family members who receive SSI and with whom they live.

SNAP recipients are disproportionately women or disabled. From October 2019 to February 2020, 63 percent of adult SNAP recipients were women.²² Four out of five households that receive SNAP include a

¹⁷ Goodman, N., Morris, M., & Boston, K. (2019, February). *FINANCIAL INEQUALITY: Disability, Race and Poverty in America* (pp. 16-17). Retrieved 16 November 2023, from National Disability Institute website: <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/02/disability-race-poverty-in-america.pdf>

¹⁸ U. N. World Food Program USA.(n.d.) *Women Are Hungrier*. Retrieved 16 November 2023, from <https://www.wfpusa.org/women-are-hungrier-infographic/>

¹⁹ Rabbitt, M., Hales, L., Burke, P., & Coleman-Jensen, A. (2023, October). *Household Food Security in the United States in 2022*. Retrieved 16 November 2023 from the U.S. Department of Agriculture, Economic Resource Service website: <https://www.ers.usda.gov/webdocs/publications/107703/err-325.pdf?v=2797.9>

²⁰ Jorss, M. (2019, March 22). *Beyond Missing Meals: How Food Insecurity Affects Women*. Retrieved 16 November 2023, from Share Our Strength website: <https://www.nokidhungry.org/blog/beyond-missing-meals-how-food-insecurity-affects-women>

²¹ See note #17, p. 18.

²² Hassmer, S., Matsui, A., & Sun, S. (2023, May) *By the Numbers: Data on Key Programs for the Well-Being of Women & Their Families* (p. 4). Retrieved 16 November 2023, from the National Women's Law Center website: https://nwlc.org/wp-content/uploads/2023/05/2023_NWLC_ByTheNumbers_Brief-1.pdf

disabled person.²³ SNAP is also a critical support for disabled members of the LGBTQI+ community. In a 2020 Center for American Progress survey, 42 percent of disabled LGBTQI+ respondents received SNAP, while only 18 percent of nondisabled LGBTQI+ respondents received SNAP.²⁴

SNAP benefits are important to households of color, especially Black households. While Black households, for example, are more likely to face food insecurity than white households, they are less likely to be food insecure when receiving SNAP benefits.²⁵ While white people are the largest number of SNAP recipients, Black and Indigenous populations are disproportionately likely to rely on SNAP. 25.5 percent of SNAP participants are Black (only 11.8 percent of the U.S. population is Black) and 1.3 percent of recipients are Native American (only 0.5 percent of the U.S. population is Native American).²⁶ Still, barriers to SNAP access due to policies based in systemic racism may play a role in lowering SNAP benefit uptake by people of color.²⁷

As noted in the NPRM, there is significant overlap between households receiving SNAP and SSI beneficiaries. Women make up 53 percent of

²³ United States Department of Agriculture, Office of Policy Support. (2022, June). *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2020* (p. xix). Retrieved 16 November 2023, from <https://fns-prod.azureedge.us/sites/default/files/resource-files/Characteristics2020.pdf>

²⁴ See note #8.

²⁵ Samuel, L., Crews, D., & Swenor, B, et al. (2023, June 26). Supplemental Nutrition Assistance Program Access and Racial Disparities in Food Insecurity. *JAMA Network Open* 6(6):e2320196. doi:10.1001/jamanetworkopen.2023.20196; United States Census. (n.d.). *Quick Facts*. Retrieved 16 November 2023, from <https://www.census.gov/quickfacts/fact/table/US/PST045222>

²⁶ United States Department of Agriculture, Office of Policy Support. (2022, June). *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2020*. (p. 32). Retrieved 16 November 2023, from <https://fns-prod.azureedge.us/sites/default/files/resource-files/Characteristics2020.pdf>; Overall population statistics American Community Survey 2021. Table DP05 Retrieved 15 November 2023 from <https://data.census.gov/table/ACSDP1Y2021.DP05?d=ACS+1-Year+Estimates+Data+Profiles>.

Figures are not for multiracial people and do not include people who identify as Hispanic.

²⁷ See note #25.

SSI recipients ages 18-60 who live in households that receive SNAP.²⁸ Over one-third of SNAP recipients are in households with older adults or disabled people.²⁹ Therefore, penalizing SSI beneficiaries for having family or other household members who receive SNAP benefits harms women, particularly disabled women and women of color, and their families.

For example, if a woman has a disabled child eligible for SSI, and that mother receives SNAP benefits, under current rules, the child's SSI benefits would be reduced. This proposed rule eliminates that concern. This example is not simply theoretical – it is supported by data. In 2021, 68.8 percent of SSI recipients under 18 had only one parent in their household.³⁰ According to U.S. Census Bureau Data, 80 percent of single-parent households are headed by women.³¹ The official poverty rate for households headed by a single woman was 32.0 percent in 2022.³² Many single women supporting SSI-eligible children on their own are therefore likely to be eligible for SNAP – and trigger SSI benefit reductions for their child. Children are more likely to have disabilities of all types when they have at least one disabled parent.³³ This means that disabled single parents, who are more likely to be women, may be more likely to face such a scenario.

²⁸ Authors' analysis using the 2023 Current Population Survey Annual Social and Economic Supplement accessed via IPUMS CPS, University of Minnesota, www.ipums.org.

²⁹ Center on Budget and Policy Priorities. (2022, June 9). *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*. Retrieved 16 November 2023, from <https://www.cbpp.org/research/food-assistance/the-supplemental-nutrition-assistance-program-snap>

³⁰ Social Security Administration. *SSI Annual Statistical Report, 2021* (p. 57). Retrieved 16 November 2023, from https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2021/ssi_asr21.pdf

³¹ United States Census Bureau. (2022, November 17). *Census Bureau Releases New Estimates on America's Families and Living Arrangements* [Press Release]. Retrieved 16 November 2023, from <https://www.census.gov/newsroom/press-releases/2022/americas-families-and-living-arrangements.html>

³² Sun, S. (2023, November) *National Snapshot: Poverty Among Women & Families in 2022* (p.4). Retrieved 16 November 2023, from <https://nwlc.org/wp-content/uploads/2023/02/National-Snapshot-Poverty-Among-Women-Families-in-2022-1.pdf>

³³ Lakdawala, L. & Bharadwaj, P. (2022, November). *The relationship between parental disability and child outcomes: Evidence from veteran Families*. Retrieved 16 November 2023, from <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0275468#:~:text=Children%20are%20much%20more%20likely,one%20parent%20with%20a%20disability>

The undersigned organizations also wished to respond to SSA’s solicitation for public comment, specifically Questions 1, 3 and 7.

We also strongly support SSA expanding the definition of “Public Assistance Household” to include households in which any other (as opposed to every other) member receives public assistance (Question 1) for both simplification of administration and equity reasons. It will be administratively simpler for both SSI recipients and SSA to verify that one, rather than several, additional household members receives public assistance. Under this proposal, moreover, SSA would not have to reconfirm public assistance household status each time a new person moves into (or is born into) the household, and could dedicate that time to other priority workloads. This simpler process is also likely to reduce errors, and thus overpayments, which, as discussed above, would benefit affected SSI recipients, among whom women and people of color may be overrepresented.

This expansion would ensure that families with very low incomes who rely on public benefits, and the SSI beneficiaries with whom they live, would have more resources to meet their basic needs. Some individuals are ineligible for public benefits programs for reasons unrelated to need, even when the excluded person’s income is used to determine household eligibility. In addition to the examples of excluded individuals given in the NPRM, most college students are excluded from participation in the SNAP program.³⁴ SNAP, in general, also has work-reporting requirements for non-disabled people without dependents. SNAP has a very narrow definition of disability³⁵ and requires ample documentation to certify a disability. That requires access to health care and transportation, among other services and supports that might be involved in accessing health care. It also assumes specialists and diagnoses are readily available – and without waitlists. A disabled person who cannot meet SNAP’s stringent requirements would be unable to receive SNAP for more than three months without complying

³⁴ 7 C.F.R. § 273.5.

³⁵ Food and Nutrition Service, U. S. Department of Agriculture. (2021, October 1). *SNAP Special Rules for the Elderly or Disabled*. Retrieved 16 November 2023, from <https://www.fns.usda.gov/snap/eligibility/elderly-disabled-special-rules>

with work-reporting requirements. This is one example of how this expansion likely would increase equity.

We also encourage SSA to add other key public benefits programs to the definition of “Public Assistance Household” (Question 3). The rationale for immediately including WIC within this exception is particularly strong. The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is another public benefit program established to address food insecurity among families with low incomes. This program is for income-eligible pregnant, post-partum and breastfeeding women; infants; and children at nutrition risk. Medical and dietary restrictions may qualify as nutritional risk, including disabilities such as anemia, gastrointestinal disorders, diabetes and food allergies, among others. Recipients, therefore, may have disabilities that contribute to their nutritional risk.³⁶ WIC provides in-kind nutrition assistance rather than cash benefits. What is more, WIC requires specific types of food in order to meet the particular nutritional needs of WIC recipients³⁷ – making it even more unlikely that households receiving WIC benefits would provide ISM to SSI beneficiaries. Given the nature and purpose of WIC, including WIC in the definition of “Public Assistance Households” would be especially beneficial to women. Ideally, if, and when, SSA adopts the proposed rule to eliminate food from ISM calculations, SSI beneficiaries would seemingly no longer be penalized by household receipt of WIC benefits. However, it may still be helpful for SSA to provide clarity and definitive guidance.³⁸

We also encourage SSA to enter into data-sharing agreements with state agencies that administer SNAP to confirm SNAP participation and ease verification burdens on SSI recipients (Question 7). Applying for SSI is already a deeply burdensome process

³⁶ Henchy, G. (2019, May). *Making WIC Work Better: Strategies to Reach More Women and Children and Strengthen Benefits Use* (p. 14). Retrieved 16 November 2023, from Food Research & Action Center website: <https://frac.org/wp-content/uploads/Making-WIC-Work-Better-Full-Report.pdf>

³⁷ Center on Budget and Policy Priorities. (2022, October 5). Policy Basics: Special Supplemental Nutrition Program for Women, Infants, and Children. Retrieved 16 November 2023, from <https://www.cbpp.org/research/policy-basics-special-supplemental-nutrition-program-for-women-infants-and-children>

³⁸ Omitting Food from In-Kind Support and Maintenance Calculations, 88 Fed. Reg. 9,779 (proposed February 15, 2023) (to be codified in 20 C.F.R. pt. 416).

for disabled people. SSA has the resources and capacity to confirm much of this information without requiring additional effort, time and resources of SSI recipients.

* * *

The undersigned organizations appreciate the opportunity to comment in strong support of SSA’s proposed regulations to expand the definition of “Public Assistance Household.” If you have any questions about this comment, please feel free to contact Marissa Ditkowsky (mditkowsky@nationalpartnership.org), Disability Economic Justice Counsel at the National Partnership for Women & Families or Amy Matsui (amatsui@nwlc.org), Director of Income Security and Senior Counsel at the National Women’s Law Center.

Sincerely,

National Partnership for Women & Families
National Women’s Law Center
Access Living
American Association of University Women
Autistic Self Advocacy Network
California Alliance for Retired Americans
Caring Across Generations
Center for Economic and Policy Research
Center for Law and Social Policy (CLASP)
Center for Popular Democracy
Coalition on Human Needs
Community Legal Aid Society, Inc. (Delaware)
COVID-19 Longhailer Advocacy Project
Economic Opportunity Institute
Equality Federation
Family Values @ Work
Food Research & Action Center
Health Care for America Now (HCAN)
Johns Hopkins Disability Health Research Center
JustLeadershipUSA

Labor Campaign for Single Payer
Law Foundation of Silicon Valley
MAZON: A Jewish Response to Hunger
Movement Advancement Project
National Association of Councils on Developmental Disabilities
National Employment Law Project
National Health Law Program
National Organization for Women
National Resource Center on Domestic Violence
National Disability Rights Network (NDRN)
New Disabled South
New Disabled South Rising
Nicholson
Parable of the Sower Intentional Community Cooperative
PFLAG National
Prosperity Now
Shattering Glass
The Kelsey
The Myalgic Encephalomyelitis Action Network
The National Center for Law and Economic Justice
The National Domestic Violence Hotline
Tzedek DC