



November 28, 2023

Social Security Administration
Submitted Online via <https://www.regulations.gov>

Re: Notice of Proposed Rulemaking: Docket No. SSA-2023-0015
Expanding the Definition of a Public Assistance Household

Dear Acting Commissioner Kijakazi:

Thank you for the opportunity to address the proposed expansion of the definition of “public assistance household” in the Supplemental Security Income program (SSI). These comments are submitted on behalf of the Social Security Task Force of the Consortium for Citizens with Disabilities (CCD). CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. Our Social Security Task Force focuses on disability policy issues in the Title II Social Security Disability Income (SSDI) program and the Title XVI Supplemental Security Income (SSI) program. The SSI and Title II income supports, along with the related Medicaid and Medicare benefits, are the means of survival for millions of people with severe disabilities. They rely on SSA to adjudicate their applications promptly and fairly for disability benefits and to handle many other government functions that are critical to their well-being.

I. The Task Force Support SSA’s Expansion of Public Assistance Household to Include Supplemental Nutrition Assistance Program (SNAP), a Key and Well-Utilized Safety Net Program for Low Income Households.

From its inception, the purpose of the public assistance (PA) exclusion has been to identify SSI recipients who lived in households that had already been determined by other agencies to need all their income as well as support from a needs-based program for their own needs. 45 Fed. Reg. 65542 (October 3, 1980). Thus, other agencies *have already determined* that these public assistance households require assistance to meet their own basic needs. By imputing some of that low-income household’s resources to the SSI recipient by way of the in-kind support and maintenance benefit reductions, SSA undermines the other household members’ ability to meet their own needs, thwarting the underlying purpose of the public assistance programs and the purpose of SSA’s PA exclusion.

The fact that only 4% of SSI recipients in January 2023 lived in public assistance households¹ demonstrates just how far from the initial intent of exempting low-income households from In-Kind Support and Maintenance (ISM) reductions we have come. Expansion of the PA household policy to include SNAP reflects the changing reality of needs-based assistance programs since the 1980s. As noted in the proposed rule, as a nation we provide much less cash-based assistance today to poor households than we did over 40 years ago. Specifically, “the share of families with children in poverty who received AFDC/TANF decreased from 82% in 1979 to 21% in 2020,”² a change that has basically gutted SSA’s PA exclusion.

At the time the original regulations were promulgated, Food Stamps (now SNAP) were not included, and the failure to include such benefits in 1980 is not a bar on expanding the definition now. The Food Stamp Program was in transition at that point, having only implemented the major provisions of the Food Stamp Act of 1977 a year earlier. Prior to that implementation, Food Stamps were mostly an additional complementary benefit for AFDC families and most SSI recipients. Thus, inclusion of Food Stamps at that time would have been duplicative and unnecessary to achieve the intended purpose of excluding low-income households from In-Kind Support and Maintenance reductions.

The proposed rule recognizes the need to reexamine the definition of public assistance household due to the shift in providing cash assistance benefits to voucher or in-kind payments (such as SNAP) and to extending nutrition assistance to low-income working families since the rule was introduced over 40 years ago. SNAP brings participating households to a modest baseline of food security based on household size, income, and certain expenses including shelter. As SNAP assists households with net income at or below the federal poverty level, like other PA programs, it is clear that SNAP recipients are in no position to support friends or family members who receive SSI and with whom they live.

We agree that with SNAP’s nationwide reach and high proportion of program participation among eligible households, that SNAP fits squarely within a “public assistance” household and the original intent of the exclusion. SNAP is provided to households with resources that are so low that they limit the household members’ ability to obtain an adequate and nutritious diet. About 92% of SNAP benefits go to households with incomes at or below the poverty line.³

II. The Proposed Rule Would Simplify Needlessly Complex SSI Rules.

SSA’s proposed rule would take an important step toward updating some of the most complicated rules governing the SSI program. 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, up to one-third of benefits. SSI is the only federal program to do so. While fewer than 1 in 10 SSI beneficiaries receive ISM, the current ISM rules affect nearly every SSI beneficiary. SSA staff typically ask detailed questions about living arrangements, other household members, and budgeting, as well as requiring a detailed accounting of shelter expenses (e.g., rent, heat, water, and electricity) to determine whether and how much help beneficiaries receive — and then repeat

¹ 88 Fed. Reg. at 67155.

² 88 Fed. Reg. at 67152.

³ Center on Budget and Policy Priorities, “Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)”, June 2022, available at: <https://www.cbpp.org/research/policy-basics-the-supplemental-nutrition-assistance-program-snap>

the process as beneficiaries' circumstances change. This process places an undue burden on beneficiaries, requiring time-consuming, intrusive, and complicated paperwork. For SSA, the 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.

The proposed rule would update and streamline SSI rules, including ISM and income deeming. It would expand the definition of “public assistance household” for SSI and other Social Security programs by including those who receive Supplemental Nutrition Assistance Program (SNAP) benefits. Public assistance households are exempt from ISM development and income deeming — two of the most complicated and burdensome features of SSI. 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. In the NPRM, SSA estimates that the rule would save nearly 79,000 hours. The agency estimates a 50 percent reduction in the number of people who need to complete burdensome paperwork, relieving both beneficiaries and SSA staff from detailed development of household expenses and budgeting, as well as ISM calculations.

The proposed rule is a straightforward way to simplify needlessly complex SSI rules. Streamlining SSI policy within SSA's statutory authority is critical for an agency struggling to serve its applicants and beneficiaries at current resource levels. Declines in SSA's real funding and staffing has driven some of these problems, but SSI's overly complex rules also consume significant staff time, require extensive training, clog up the queue for service, and cause payment errors — all of which disproportionately absorb the agency's resources. Administration of SSI benefits requires 33 percent of the SSA's budget, compared to 45 percent for the much larger Social Security program. ISM rules are perhaps the most complicated that SSA must administer and streamlining them makes sense.

III. The Task Force Strongly Encourages SSA to Expand the Definition of Public Assistance Household to Include Households in Which *Any Other* (as opposed to *Every Other*) Member Receives Public Assistance for both Simplification and Equity Reasons.

With housing costs that far outpace the SSI benefit, many SSI recipients have no choice but to double up and live with family or friends. Doubled up households are more likely to be poorer than other households.⁴ And as noted in the proposed rule, most SSI recipients live in poor or near-poor households, with 70% of all SSI recipients living in households with family income below \$30,000.⁵ For SSI recipients who are living in another person's household – SSA must undertake complex determinations of whether they pay their pro rata share of nine separate costs *unless* SSA determines that they live in a “public assistance household.”

Our experience suggests that it will be administratively simpler for both SSI recipients and SSA to verify that one, rather than several, additional household member receives public assistance. Half of all SSI recipients live in households of more than 2 people. More than 1 in 6 SSI

⁴ “Richard, Dworkin, Rule, Farooqui, Glendening, & Carlson, “Quantifying Doubled-Up Homelessness”, available at: <https://tandfonline.com/loi/rhpd20> ; Table A-2: Families and People in Poverty by Type of Family: 2021 and 2022, U.S. Census, available at: <https://www.census.gov/library/publications/2023/demo/p60-280.html>

⁵ 88 Fed. Reg. at 67154

recipients lives in households of 5 or more people.⁶ Because SNAP considers individuals to be living in a household together if they purchase and prepare food together,⁷ it is reasonable to infer that in most cases, all members of the household are low income and need their income and resources for their own needs. By requiring only that *any other* member of the household receives public assistance, SSA will be able to more efficiently verify status of public assistance households. Finally, under this proposal 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.

Additionally, some individuals are excluded from participation in SNAP for reasons unrelated to need. This would lead to disparate treatment of similarly situated SSI recipients. In addition to the examples of excluded individuals given in the NPRM, most college students are excluded from participation in the SNAP program.⁸ If SSA maintains its requirement that *all* other household members receive public assistance, it would disadvantage those SNAP-receiving low-income households with a member who is in post-secondary education. This runs contrary to overwhelming support for individuals to obtain post-secondary education that increases their employability and future economic prospects. Expanding the definition of PA household to include households in which *any* other household member receives public assistance would ensure that all qualified and similarly situated SSI beneficiaries are treated equally.

We note that although SSA anticipates a net administrative cost to SSA of \$105 million over 10 years to implement this proposal, this reflects largely up-front system costs to change the overly complex ISM system. The costs over time will be outpaced by the time saved by agency staff in developing household expenses and contributions and in dealing with ISM related overpayments.⁹

IV. We Encourage SSA to Enter Into Data-sharing Agreements with State Agencies who Administer SNAP to Confirm SNAP Participation and Ease Verification Burdens on SSI Recipients.

In response to a question posed in the proposed rule, SSA could further reduce respondent burden, by confirming SNAP (and other public assistance programs) receipt directly with the state agencies charged with administering these programs. Under current policy, SSA is permitted but not required to confirm public assistance household status by contacting the administering state agency. POMS SI 00835.130. SSA has entered into data-sharing agreements with at least 3 state agencies to enable SSA access to state records online. See POMS GN BOS00301.035 (Connecticut), GN BOS00301.037 (Massachusetts), and GN BOS00301.040 (Vermont). In these state-specific operations instructions, SSA staff can directly confirm receipt of public assistance with the administering agency. SSA should explore creating agreements with all states to provide for the direct verification of public assistance and SNAP receipt so as to reduce the burden on respondents to provide such proof.

⁶ Messel and Trenkamp, 2022. “Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update.” Research and Statistics Note No. 2022-01. Washington DC: SSA. Available at <https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html>

⁷ See 7 CFR § 273.1 (household concept).

⁸ See 7 CFR § 273.5 (students).

⁹ ISM is the third leading cause of SSI overpayments. See SSA, “Payment Integrity,” 2020, <https://www.ssa.gov/finance/2020/Payment%20Integrity.pdf>.

V. We Encourage SSA to Consider Expanding Public Assistance Households Further, In Future Rulemaking, to Include Receipt of Medicaid.

The Administration should move quickly to finalize this rule, but policymakers should also consider further expanding the number of public assistance programs in future rulemaking. Specifically, SSA should consider adding Medicaid to the PA household definition. Like SNAP, Medicaid is a key non-cash assistance program that reviews household income and resources to determine eligibility. Like SNAP, it is available for all eligible individuals, and does not use wait lists or enrollment caps, thereby ensuring equitable outcomes for similarly situated households.

Respectfully submitted,

American Association on Health and Disability
American Academy of Pediatrics
Center for Law and Social Policy (CLASP)
Community Legal Services of Philadelphia
Family Voices
Justice in Aging
Lakeshore Foundation
National Association of Councils on Developmental Disabilities
National Association of Disability Representatives (NADR)
National Committee to Preserve Social Security and Medicare
National Disability Rights Network
National Down Syndrome Congress
National Organization of Social Security Claimant's Representatives (NOSSCR)
National PLAN Alliance
Paralyzed Veterans of America
The Arc of the US
The Kelsey
United Spinal Association