



July 12, 2002

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No. 166

FARM BILL GIVES STATES NEW FOOD STAMP OPTIONS

State Senate Health and Human Services Committee adopts recommendations for Texas to improve access to Food Stamps

*In May, President Bush signed the 2002 Farm Bill (The Farm Security and Rural Investment Act of 2002), which reauthorizes the Food Stamp Program through 2007 and includes significant improvements in the program. While certain provisions in the nutrition title of the Farm Bill are mandated changes that states must implement, others give states the **option** to take advantage of them. In June, in its final public hearing before the next legislative session begins in January 2003, the interim Senate Health and Human Services Committee adopted recommendations for Texas to implement several of these options. This Policy Page summarizes the nutrition provisions in the Farm Bill and the options for states to simplify access to Food Stamps.*

OVERVIEW OF NUTRITION PROVISIONS IN FINAL FARM BILL

The nutrition title in the 2002 Farm Bill makes significant changes in the Food Stamp program. These changes are intended to simplify enrollment in the Food Stamp Program, increase benefits for larger families, restore benefits to many legal immigrants, and reform the Quality Control system by which state performance is evaluated.

The Farm Bill also authorizes an increase in funding for The Emergency Food Assistance Program, and provides \$15 million in 2002 for the WIC Farmers' Market Nutrition Program (FMNP). Under current law, annual funding for the WIC FMNP is contingent on leftover WIC program appropriations. This year, as a result of the poor economy, rising WIC caseloads led many advocates to fear that no money would be available for the FMNP. The \$15 million appropriation in the Farm Bill will allow the FMNP to operate in fiscal 2002. In recent decisions over agriculture appropriations for fiscal 2003, the House Agriculture Committee also tentatively approved funding next year of \$25 million for the FMNP that is not conditioned on WIC caseload requirements.

A detailed analysis of all of the provisions in the nutrition title can be found at <http://www.cbpp.org/5-1-02fa.htm>.

MANDATED CHANGES IN THE FOOD STAMP PROGRAM

The following provisions are changes to current law that states must implement by the effective date listed in the bill:

Legal immigrant restorations: The bill restores food stamp eligibility to the following three groups of immigrants:

1. All legal immigrant children regardless of date of U.S. entry with NO sponsor deeming of income. (Effective date: 10/1/03)
2. Legal immigrants who have resided in the country for five years, but sponsor deeming does apply.¹ (Effective date: 4/1/03)
3. Legal immigrants with disabilities who entered the U.S. after August 22, 1996, and receive a disability benefit such as SSI (Supplemental Security Income). **Caveat:** Because legal immigrants are ineligible for federal SSI if they arrived in the country after 8/22/96, this provision is essentially meaningless in Texas and in other states that do NOT offer a state-funded disability benefit. (Effective date: 10/1/02)

Current law generally restricts Food Stamp eligibility to legal immigrant children, seniors, and persons with disabilities who were in the country prior to 8/22/96, with certain exceptions. It is estimated that Texas is home to 47,000 of the 390,000 legal immigrants nationwide who will be eligible under the restorations.

What is "sponsor deeming"?

Under "immigrant sponsor deeming," the income and resources of an immigrant's sponsor (and spouse) are added to those of the immigrant when determining eligibility for benefits.

- For immigrants who entered prior to 8/22/96, sponsor deeming applies for three years.

¹ This provision also effectively removes the 7-year cap on eligibility for refugees and asylees.

- For immigrants who arrived after 8/22/96, deeming applies until the immigrant has 10 years of work experience or becomes a citizen.

In many cases, an immigrant's sponsor is an immediate family member whose income would already have been considered in determining eligibility. But in the case where the sponsor is not part of the immigrant's household, the deeming of sponsor income has the potential to render the immigrant ineligible for benefits if his/her income, when added to the sponsor's income, is too high to qualify for benefits. However, federal Food Stamps regulations issued in November 2000 exempt most immigrants applying for Food Stamps from the deeming provisions.

What is "sponsor liability"?

Certain issues related to "sponsor liability"—whether and when a sponsor may be required to repay benefits received by the sponsored immigrant—still need to be resolved. Starting in December 1997, sponsors have been required to sign legally enforceable "affidavits of support" stating that they will financially support the immigrant they are bringing into the United States. Although there is no precedent when a government agency has actually enforced the new affidavit of support by requiring a sponsor to repay benefits lawfully received by the sponsored immigrant, sponsor liability is an unresolved legal issue that makes it hard for immigration attorneys to advise their clients whether to apply for benefits. Prior to the recent restorations in the 2002 Farm Bill, sponsor liability was not an issue in the Food Stamp Program, because post-1996 immigrants were not eligible to get Food Stamps until they worked for 10 years, at which point sponsor deeming/liability no longer would have applied. Now that certain newly arrived immigrants will be immediately eligible for Food Stamps (starting in October 2003), sponsor liability will have to be addressed. CPPP will keep its readers posted of any developments in this area.

Restructured standard deduction: This provision increases the standard deduction to recognize that larger families have greater expenses than smaller ones. Under current law, households receive a \$134 deduction regardless of family size. The new law sets the standard deduction at 8.31 percent of each year's (inflation adjusted) federal poverty level (FPL) for each household size, but not less than the current standard deduction of \$134. (Effective date: 10/01/02)

Changes in Food Stamp "quality control:" Under the current system, states face fiscal penalties if their payment error rate (ratio of benefits issued in error to total amount of benefits issued) exceeds the national average. Conversely, states receive enhanced funding if their error rate is below the national average. States are not evaluated

in other performance areas, such as customer service or timely processing of applications. The new law decreases greatly the change that states will be penalized for having a high error rate by:

1. Increasing the threshold for potential liability to 105 percent of the national average error rate (current threshold is anything above the national average),
2. Imposing a liability only if there is a 95 percent statistical probability that the state is above the threshold, and
3. Imposing liabilities only on states whose error rates have been above the threshold for two consecutive years.

The Farm Bill also reforms the reward process by replacing the current system of enhanced funding with \$48 million each year for new performance bonuses to states. Starting in fiscal 2003, bonuses will be provided to states with the best or most improved performance in the following areas: measures to correct errors, measures to reduce rates of error, actions taken to improve eligibility determinations, and other indicators of effective administration that will be determined by USDA in consultation with organizations representing state interests. The current system of penalties and rewards will be used to judge state performance in fiscal 2002, with the new system taking effect in fiscal 2003.

The Emergency Food Assistance Program (TEFAP): The bill increases funding available for commodity purchases from \$100 million to \$140 million each year beginning in 2002. It also increases from \$50 million to \$60 million the annual appropriation for direct and indirect costs related to processing, storing, transporting, and distributing commodities, including gleaned commodities. (Effective date: 10/01/02)

NEW STATE OPTIONS IN THE FOOD STAMP PROGRAM

The following list is not comprehensive, but represents the most significant new state options allowed in the Food Stamp Program:

Transitional Food Stamps: Gives states the option to offer families that leave TANF a five-month transitional Food Stamp benefit (current law allows a three-month benefit) without additional paperwork requirements. Although almost all families who leave TANF due to increased earnings still qualify for Food Stamps, research shows that many may not receive the benefit, either because they don't know they are eligible or because it's too time consuming to comply with Food Stamp requirements. Under this provision, families would receive a fixed benefit (once adjusted for loss of TANF) for five months after leaving TANF without having to report any changes in their circumstances or attend a recertification for benefits. The household's benefit can be adjusted if the family

reports a change that would increase benefits. (Effective date: 10/01/02)

Determination of amount of deductions: This provision gives states the option to freeze most deductions between scheduled reviews of a household's eligibility for benefits. Benefits must still be adjusted for changes in earnings, which affect the 20% earned income deduction, and recalculated when a household moves, which affects the shelter deduction. Under current policy, Food Stamp recipients must report within 10 days any change in their circumstances that would affect their deductions. Implementing this option will reduce reporting requirements for Food stamp recipients and decrease the likelihood for error on the part of both client and eligibility worker, which will improve payment accuracy in the Food Stamp Program. The Texas Department of Human Services (DHS) estimates that, currently, eligibility workers devote almost 57 percent of their time to Food Stamp application processing and case management, which means less time is available to process applications for other programs such as Medicaid and TANF. Taking advantage of this option will mean that eligibility workers have adequate time to manage their non-Food Stamp workload. (Effective date: 10/01/02)

Semi-annual reporting: This provision gives states the option to adopt a semi-annual reporting system for all households. Under this provision, Food Stamp benefits are frozen for six months at a time, with households only having to report if their income exceeds 130 percent of the FPL, the maximum income limit for Food Stamps. At the end of six months, clients would be required to file a report, and recertify for benefits at least once every 12 months. A semi-annual reporting system has the potential to reduce paperwork requirements for clients and caseworkers and eliminate much of the potential for error. However, DHS staff have expressed a number of concerns related to the semi-annual reporting option. For one, the system would be costly to implement from an automation perspective. In addition, staff are concerned that semi-annual reporting could lead to more denials if households fail to file the six-month report. DHS does intend to implement a "simplified reporting" system for its Food Stamp clients with earned income this summer. Under simplified reporting, these clients would only need to report when their income exceeds 130 percent of FPL (the maximum allowed for Food Stamps) and when they move. These clients would not be required to report any other changes in their circumstances and would all be placed on six-month certification periods. Although federal regulations do not permit states to adopt simplified reporting for Food Stamp households WITHOUT earnings, DHS staff feel that simplified reporting for its earned income caseload combined with the option to freeze deductions between scheduled reviews for all households would be a more effective system than semi-

annual reporting for both clients and caseworkers. (Effective date: 10/01/02)

Food Stamp Employment and Training Program: The new law expands state flexibility in the administration of FSE&T funds, but reduces the total amount of funding available for the program. Unfortunately, the final bill does not relax the three-month time limit on participation of unemployed childless adults, which was proposed in the Senate's version of the bill. (Effective upon enactment)

SENATE HHS COMMITTEE RECOMMENDATIONS

In June, the interim Senate Committee on Health and Human Services, chaired by outgoing Senator Mike Moncrief, voted in favor of recommendations directing DHS to exercise the following Food Stamp options in the Farm Bill:

- To implement a transitional Food Stamp benefit for clients leaving TANF,
- To freeze deductions between scheduled eligibility reviews, and
- To use child support information from the Attorney General office to determine the amount of child support paid by an applicant (under current law, clients must provide this information directly).

In addition, the committee voted in favor of a higher vehicle allowance for all TANF clients. Under current policy, two-parent households can own a car worth up to \$15,000 without its value being counted against their total allowable resources (\$2,000), while one-parent households only receive an exemption on the first \$4,650 of their vehicle value. The committee's recommendation would extend the more generous allowance to one-parent families, as well.

These recommendations will be included in the committee's final interim report and will serve as the basis for legislation to be filed in the upcoming legislative session, which begins in January 2003.

IMPLEMENTATION ISSUES

Although the options in the Farm Bill are *administrative* options, which means DHS could elect to exercise them without legislative approval, in general the agency will seek approval from the legislature prior to making any program changes that significantly alter policy, affect enrollment, or increase the amount of state funds needed for the program. While none of these options increase eligibility for Food Stamps, they are likely to increase enrollment by creating a program that is easier to access, and in certain circumstances increase the benefits that families receive. Although enrollment growth and higher benefits in the Food Stamp Program will mean more federal funds for Texas (Food Stamp benefits are 100% federally funded),

significant caseload growth will also require more DHS caseworkers to process applications, which means more state funds must be appropriated to pay for them (Texas pays 50% of the cost of administering the Food Stamp Program, which includes personnel costs). There are also significant automation costs associated with making some of these changes, largely because DHS will begin piloting a new automated eligibility determination system in November 2002, known as TIERS (Texas Integrated Eligibility Redesign System). During the two-year roll-out of the new system, DHS will be forced to run two systems concurrently, which will double any automation costs associated with making policy changes (in some cases, this may mean a delayed effective date—later than that allowed

under federal law—will accompany the legislation proposing these changes). For these reasons, there is likely to be both ideological opposition to exercising these new Food Stamp options as well as budgetary concerns. Low-income advocates can help to counter this opposition during the session by reinforcing for legislators the importance of Food Stamps as both a nutrition program and a work support for Texas' low-income families.

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