

# Clearinghouse REVIEW

March–April 2011  
Volume 44, Numbers 11–12

Journal of  
Poverty Law  
and Policy



**SNAP**  
FOR COLLEGE STUDENTS

Reasonable Accommodations in Assisted Living

Negotiated Rulemaking

Medical-Legal Partnerships

Welfare Privatization

Child Welfare Financing Reform

LGBT Elders' Economic Security and Health Care



Sargent Shriver National Center on Poverty Law



# Low-Income College Students' Eligibility for the Supplemental Nutrition Assistance Program

By David A. Super

**David A. Super**  
*Professor of Law*

University of Maryland School of Law  
500 W. Baltimore St.  
Baltimore, MD 21201  
410.706.7365  
dsuper@law.umaryland.edu

In the late 1970s, reports of college students from upper-middle-income families receiving food stamps caused widespread consternation. Critics complained that, although those students' cash incomes and resources might be temporarily low, most had parents or other relatives who would ensure that they did not go hungry. Not wanting to subsidize middle-income families through food stamps, Congress established a special set of eligibility rules for college students.<sup>1</sup>

Because these rules were designed to exclude middle-income students, Congress made an exception for students living in families so poor that they received aid to families with dependent children (AFDC).<sup>2</sup> At the time this legislation was enacted, the exception for AFDC recipients protected a large proportion of low-income parents. The student disqualification rule's primary impact in most states therefore was on childless students, low-income and otherwise.

In the years after the enactment of the food stamp student rule, and particularly since the enactment of the 1996 welfare law, states' cash assistance programs have served much smaller percentages of low-income families. Moreover, in contrast to the Work Incentive Program and the Job Opportunities and Basic Skills (JOBS) training program, which encouraged AFDC recipients to attend higher education in many states, the work participation requirements associated with the Temporary Assistance for Needy Families (TANF) block grant make it relatively difficult for states to obtain credit for students in postsecondary education. The Deficit Reduction Act of 2005 exacerbated this problem.<sup>3</sup> To meet the work participation rates, states often require recipients of cash assistance to participate in activities that may conflict with class schedules. As a result, many parents financially eligible for benefits under TANF-funded programs find that they must forgo cash assistance in order to continue educational programs that are crucial to their long-term self-sufficiency. Without cash assistance checks, the Food Stamp Program—now known as the Supplemental Nutrition Assistance Program (SNAP)—can make an even more crucial difference in these low-income parents' ability to feed their families.

<sup>1</sup>7 U.S.C. § 2015(e); 7 C.F.R. § 273.5 (2010).

<sup>2</sup>7 U.S.C. § 2015(e)(6) (1994); 7 C.F.R. § 273.5(b)(3).

<sup>3</sup>Deficit Reduction Act of 2005 § 7102, 42 U.S.C. §§ 601 *et seq.*

Advocates have worked tirelessly to create opportunities within cash assistance and child care programs for parents to attend college. To date, however, SNAP has rarely played a major part in such advocacy efforts. Omitting SNAP may reflect the belief that the program's student prohibition is rigid and impermeable to advocacy in most cases.

Here I seek to correct these misperceptions. I focus primarily on exemptions from the rule disqualifying otherwise eligible low-income people from SNAP based solely on their status as college students. I find that these exceptions are much broader than is commonly understood and that a large proportion of low-income college students can legitimately qualify for SNAP. (See table on page 517 for a summary of the bases on which college students may qualify for SNAP.) In many instances low-income students' ability to get SNAP depends on the willingness of either SNAP agencies or the students' schools to take steps to help the students qualify for one of the exceptions to the disqualification rule. Officials from colleges and universities that serve large numbers of low-income students and state administrators that recognize the value of higher education may be ripe targets for advocacy.

A section below also takes up how college financial aid can affect financial eligibility for SNAP and the benefit levels of eligible households. I do not attempt to review SNAP's general eligibility requirements, most of which apply to students in the same way they apply to other low-income people.<sup>4</sup>

## I. SNAP and Students in Postsecondary Education

Although an advocate's natural instinct when assisting a student seeking food aid is to begin with the exemptions to SNAP's disqualification, the first question to ask is whether lifting the disqualification would benefit the student's SNAP household.

### A. The Consequences of Being an Exempt Student

Exemption from the SNAP rule disqualifying college students has several consequences, and not all of them are beneficial. On the positive side, exempt students remain eligible for SNAP, and SNAP considers their needs when determining the household's benefit level. College students exempt from the student disqualification rule are almost always exempt from SNAP work requirements.<sup>5</sup> This means that they cannot have their (or their household's) SNAP benefits reduced, terminated, or denied for failure to comply with job search or other work activities, for leaving a job, or for failing to take a job that is offered to them. They are also exempt from the three-month time limit that the 1996 welfare law imposed on childless individuals between the ages of 18 and 50.<sup>6</sup>

While disqualified students receive no SNAP benefits, their income and resources do not affect other members of their household's eligibility or benefit levels.<sup>7</sup> When a student with substantial countable income lives in a household containing people with little or no income, exempting the student from disqualification can actually *reduce* the household's SNAP benefits. Indeed, if the student has re-

<sup>4</sup>Note, e.g., that residents of most institutions are ineligible for the Supplemental Nutrition Assistance Program (SNAP) (7 U.S.C. § 2012(i); 7 C.F.R. § 273.1(e)). Thus a student who lives in a dormitory or other institution that ordinarily offers or provides over half of the student's meals would be ineligible for SNAP whether or not the student is covered by the disqualification rule for college students.

<sup>5</sup>7 U.S.C. § 2015(d)(1)(D); 7 C.F.R. § 273.7(b)(1)(viii). A college student enrolled less than half-time is exempt from the student disqualification rule but is still subject to work requirements (see I.B.1 Exemptions Based on the Nature of the Educational Program below).

<sup>6</sup>7 U.S.C. § 2015(o)(3)(D); 7 C.F.R. §§ 273.24(c)(5), 273.7(b)(1)(vii). Here also students enrolled less than half-time would be exempt from the rule disqualifying some college students but subject to the three-month time limit (unless some other exemption from the time limit applies).

<sup>7</sup>SNAP regulations at 7 C.F.R. §§ 273.5(d), 273.8(j)(2), and 273.11(d) exclude ineligible students from consideration as household members and their incomes and resources from calculations of the eligibility and benefit levels of the remaining members of their households. If a student is eligible, the usual household composition, income, and resource rules apply.

sources that exceed eligibility limits, the household can lose all of its SNAP benefits. Therefore, although obtaining an exemption from the student disqualification rule will often help and never hurt a low-income student living alone, students living with others can be either helped or hurt by being exempt from the disqualification rule. Students who have significant unsubsidized earnings and live with their minor children in many instances will see their families' SNAP benefits decline if they become exempt from the student rule.<sup>8</sup> A disqualified student whose car has a fair market value exceeding limits that the student's state applies in SNAP could cause the entire household to lose its eligibility for SNAP if the student becomes exempt.

In most states, persons who enroll in college after they have been approved to receive SNAP need not report that change until the household reapplies for SNAP.<sup>9</sup> Some households may, however, be required to report changes in income that result from enrollment.<sup>10</sup> Similarly recipient households may, but generally need not, report to the SNAP office between reapplications when a member ceases to be enrolled in a college or university.

### B. Exemptions from the SNAP Rule Disqualifying Students

Recognizing education's importance in achieving self-sufficiency, Congress included several exemptions from the student disqualification rule.

### 1. Exemptions Based on the Nature of the Educational Program

Many postsecondary students fall outside the purview of SNAP's rule restricting college students' eligibility because of the nature of the programs they are pursuing:

- The disqualification rule does not apply to students enrolled less than half-time.<sup>11</sup> Half-time status is determined by the educational institution, and the definition can vary from program to program within an institution; a course load that might be considered half-time in some program of study might not be in others.
- The disqualification rule does not apply to a student in programs that do not absolutely require a high school diploma.<sup>12</sup> This is true even if the student in question is a high school graduate. The SNAP disqualification rule applies only to students in "institutions of higher education," which are defined as programs that require a high school diploma or the "regular" programs of colleges and universities.<sup>13</sup> A student's ability to obtain an exemption may therefore depend on whether the student's institution designates the student's course of study as part of its regular program or as a specialized program for which high school diplomas may not always be required. For example, a community college may apply one set of requirements to students in its general bachelor of

<sup>8</sup>As discussed in II. The Interaction of SNAP and Financial Aid below, SNAP income calculations do not include federal work-study earnings or most other educational assistance.

<sup>9</sup>In most states, households are required to report between reapplications only about certain specified subjects. Enrollment and disenrollment in college are not in the listed types of changes (7 C.F.R. § 273.12(a)(1), (a)(5)(iii)(B)). All information relevant to the household's eligibility and benefit level, including student status, must be reported each time the household reapplies for continued SNAP benefits (7 C.F.R. § 273.14(a)(2)(i)).

<sup>10</sup>7 C.F.R. §§ 273.12(a)(1)(i), 273.21(h)(2)(ii).

<sup>11</sup>7 U.S.C. § 2015(e); 7 C.F.R. § 273.5(a).

<sup>12</sup>7 U.S.C. § 2015(e). SNAP regulations state that "[a]n individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required" (7 C.F.R. § 273.5(a)).

<sup>13</sup>The Food and Nutrition Act and its implementing regulations use the terms "institution of higher education" and "institution of post-secondary education" differently. As noted, an "institution of higher education" is defined narrowly as either an institution that requires a high school diploma (or its equivalent) or a degree-granting institution's general program. "Postsecondary education," by contrast, includes any program open to persons beyond the state's age of compulsory school attendance even if that program commonly takes persons without a diploma or the equivalent. Thus educational grants and loans can be excluded from SNAP income calculations even if they are provided to help a student attend a program that is not an institution of "higher education" (compare 7 U.S.C. § 2015(e) and 7 C.F.R. § 273.5(a) with 7 U.S.C. § 2014(d)(3) and 7 C.F.R. § 273.9(c)(3)(ii)(A)(1)).

arts program but waive some of those requirements for students in a specialized program for computer technicians. If the program for technicians does not insist that entering students have high school diplomas, none of the students enrolled in that program would be classified as attending an institution of higher education, even if most actually had diplomas.

- The disqualification rule does not apply during periods when a student is not currently enrolled if it is uncertain when the student may reenroll.<sup>14</sup> SNAP rules continue to apply the disqualification during short breaks in enrollment between semesters if the student intends to enroll for the next regular term (excluding summer). Many low-income students, however, are unable to complete their education without one or more interruptions. Therefore, even if during a break a student would like to enroll in the following semester, the student may not know whether financial or family circumstances will make that possible. Where a student's reenrollment is not certain, the student should be considered exempt from SNAP's disqualification rule.

## 2. Exemptions Based on Association with a TANF-Funded Program

Students receiving monthly cash assistance payments from a program funded under the TANF block grant are exempt from the SNAP disqualification rule.<sup>15</sup> For the reasons described already, many states may discourage or prevent students from receiving cash assistance from their TANF-funded programs. Other kinds of connections with TANF-funded programs, however, may be sufficient to confer an exemption from the

SNAP disqualification rule. To understand how this might work, one needs to understand some of the basic choices that states have in establishing programs with the TANF block grant.

**Benefits Other than Monthly Assistance Checks.** Although the primary benefit that the old AFDC program offered was monthly cash assistance, states today spend only a small fraction of their TANF funds on cash aid. Even if a family is not receiving monthly cash assistance from a state's TANF-funded program, it may still be receiving other benefits, such as case management or child care referrals, from a program that receives support from the TANF block grant. These noncash benefits can help low-income students juggle the demands of classes and their families while these students are still eligible for SNAP benefits. Some low-income students may receive "diversion" assistance—referrals to other service providers or onetime payments to help resolve particular crises such as an inoperative vehicle on which the family depends—from their states' TANF-funded programs. These types of benefits also exempt recipients from the SNAP disqualification rule. Specifically, if the student receives *any* benefit under a state's TANF-funded program—including a noncash benefit such as a service—that student's family is exempt from SNAP's rule limiting the eligibility of college students.<sup>16</sup>

### Students Who Previously Participated in TANF- or MOE-Funded Programs.

Even if a college student has no current connection with a TANF-funded program, the student may still be exempt if the student attended school while receiving benefits under a TANF-funded program or a program funded by maintenance of effort

<sup>14</sup> 7 C.F.R. § 273.5(c).

<sup>15</sup> 7 U.S.C. § 2015(e)(6); 7 C.F.R. § 273.5(b)(3).

<sup>16</sup> Congress' decision to tie the exemption from the restrictions on the students' eligibility to receive any "benefits" under a program funded by Temporary Assistance for Needy Families (TANF) appears deliberate. In other parts of the Food and Nutrition Act, Congress used different language to limit those provisions to persons receiving benefits that meet the definition of "assistance." E.g., participation in the simplified SNAP program is limited to households containing at least one member receiving assistance under a TANF-funded program (7 U.S.C. §§ 2035(c)(1)–(3); see also 7 U.S.C. § 2014(d)(5) (excludability of clothing allowances from income calculations); 7 U.S.C. § 2026(b)(1)(B)(v) (cash-out demonstration projects)). Note that households in which all members receive Supplemental Security Income or benefits from a TANF-funded program are "categorically eligible" for SNAP and are hence exempt from the rule disqualifying some college students (7 U.S.C. § 2014(a); 7 C.F.R. § 273.2(j)(2)). Certain recipients of general assistance (GA) benefits also may be categorically eligible for SNAP, but the GA version of categorical eligibility does not override the student disqualification rule (7 U.S.C. § 2014(a); 7 C.F.R. § 273.2(j)(4)(iv)(B)).

(MOE). Section 6(e)(7) of the Food and Nutrition Act exempts students whose attendance resulted from their participation in a successor program to the old Work Incentive Program under Title IV-A of the Social Security Act.<sup>17</sup> The Family Support Act of 1988 replaced the Work Incentive Program with the JOBS training program, and the 1996 welfare law in turn created the TANF block grant to replace both the AFDC program and the JOBS training program (as well as several smaller programs).<sup>18</sup> The federal funding that had been provided for the JOBS training program is now in the TANF block grant. TANF's MOE requirement includes states' JOBS training program funding in determining the amount they must continue to spend.<sup>19</sup> Thus, for purposes of employment or training, any program that receives any funds from the TANF block grant, or any funds that the state counts toward its MOE requirement, should be thought of as a successor to the JOBS training program and therefore to the Work Incentive Program. If such a program placed the student in a college or university, or allowed one to place herself, that student remains exempt from the disqualification rule whenever the student is enrolled in the college or university. This is true whether the student has a current connection with the TANF- or MOE-funded program. Similarly, if the TANF- or MOE-funded program recognized the student's course of study as a valid means of complying with or being exempt from a work or training requirement, the student may remain exempt for SNAP purposes even after the student's relationship with the TANF- or MOE-funded program has ended.

### 3. Exemptions for Parents with Children

SNAP's disqualification rule exempts students caring for children under any of the following circumstances:

- The student is living with and caring for a child under age six.<sup>20</sup> The student need not be the *only* person responsible for the child, although the student should be playing some significant role in the care and oversight of the child. In a two-parent family a student-parent could be exempt if the other parent's responsibilities prevent the other parent from exercising full-time care of the child.
- The student is responsible for a child between 6 and 12 years old and cannot obtain adequate child care to allow the parent to take courses and to work twenty hours per week.<sup>21</sup> For this exemption to apply, the student need not show that the student has a twenty-hour-per-week job or even that the student would be able to find one. The student need only to show that the student lacks adequate child care to allow the student to attend class and work a half-time job if one were available. In determining whether adequate child care is available to allow a parent to remain in school and to work twenty hours per week, the SNAP office should take into account transportation time between the parent's home, the student's child care provider or providers, the college or university, a potential job, and the difficulty of scheduling hours of work efficiently around the student's classes. SNAP regulations exempt a student unless the student has sufficient child care. Even if a child care subsidy is available, a student may still be exempt if the student is unable to locate a provider willing to care during the hours necessary to accommodate the student's class, transportation, and potential work schedule. Since the statute and regulations allow an exemption where *adequate* child care is not available, that substandard, unlicensed care might be available should not be enough to deny the student an exemption.

<sup>17</sup> U.S.C. § 2015(e)(7); see 7 C.F.R. § 273.5(b)(4).

<sup>18</sup> Family Support Act of 1988, 42 U.S.C. §§ 681 *et seq.*; Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, §§ 103(a)(1), 106(e), 110 Stat. 2105 (1996).

<sup>19</sup> 42 U.S.C. § 607(a)(7)(B)(iii)(I).

<sup>20</sup> U.S.C. § 2015(e)(5)(A); 7 C.F.R. § 273.5(b)(8). The federal regulations do not limit this exemption to parents, although they do require that the student and the dependent child be members of the same household.

<sup>21</sup> U.S.C. § 2015(e)(5)(B); 7 C.F.R. § 273.5(b)(9). Here again federal regulations do not limit this exemption to parents.

■ The parent is a full-time student with primary responsibility for a child under 12.<sup>22</sup> In contrast to the prior two exemptions, SNAP regulations carrying out this provision limit the exemption to cases where only one parent is living with a child, although they treat step-parents and adoptive parents as the equivalent of birth parents.<sup>23</sup> Where a child is living with no birth, step, or adoptive parent, another adult full-time college student may be exempted from the SNAP disqualification rule on this basis if the student is living separately from the student's spouse.<sup>24</sup> The college or university is responsible for determining whether the parent is enrolled as a full-time student; if the student parent's enrollment meets the institution's definition of full-time, the SNAP office has no authority to reject that designation based on another definition of full-time enrollment.<sup>25</sup>

In effect, therefore, all parents of children under 6 are exempt from SNAP's disqualification rule for college students, and the parents of children between 6 and 12 are exempt if they *either* are a single parent and enrolled full-time *or* cannot find sufficient child care to allow them to pursue their educational program and work twenty hours per week simultaneously.

#### 4. Exemptions for Programs Likely to Increase Employability

In many cases, a student also can be exempt from the SNAP disqualification rule

if the student's attendance can be described as part of a program to increase the student's employability. The Food and Nutrition Act exempts students who are "assigned to or placed in an institution of higher education through or in compliance with the requirements of"

- a Job Training Partnership Act program,<sup>26</sup>
- certain retraining programs for workers adversely affected by foreign trade,<sup>27</sup>
- a SNAP employment and training program,<sup>28</sup> or
- "another program for the purpose of employment and training operated by a State or local government."<sup>29</sup>

The full implications of this provision may not be immediately apparent. Quite obviously, a student assigned to attend a college or university by one of the listed programs will be exempt from the SNAP disqualification rule. But SNAP regulations also note that "self-initiated placements" can confer an exemption upon a student if an employment and training program of one of the four types listed agrees to accept the student's placement.<sup>30</sup> Thus if an otherwise nonexempt low-income college student applies for SNAP, the SNAP office can approve the application if it first determines that the student's college enrollment can count as an employment and training placement.<sup>31</sup>

<sup>22</sup> U.S.C. § 2015(e)(8); 7 C.F.R. § 273.5(b)(10).

<sup>23</sup> 7 C.F.R. § 273.5(b)(10)(i); see also 7 C.F.R. § 273.1(a)(2)(i)(B).

<sup>24</sup> 7 C.F.R. § 273.5(b)(10)(ii).

<sup>25</sup> Of course, if the student is enrolled less than half-time as defined by the college or university, the student is exempt from the student disqualification rule on that basis (see I.B.1 Exemptions Based on the Nature of the Educational Program). Thus a single parent or other single caretaker of a child under 12 is vulnerable to disqualification only if the parent is enrolled at least half-time but less than full-time and then only if the parent has plentiful child care and does not meet any of the other exemptions under the rule.

<sup>26</sup> 29 U.S.C. §§ 1501 *et seq.*

<sup>27</sup> Specifically these are programs under Section 236 of the Trade Act of 1974 (19 U.S.C. § 2296).

<sup>28</sup> U.S.C. § 2015(d)(4); 7 C.F.R. § 273.7(f).

<sup>29</sup> U.S.C. § 2015(e)(3); see 7 C.F.R. § 273.5(b)(11).

<sup>30</sup> 7 C.F.R. § 273.5(b)(11).

<sup>31</sup> Employment and training programs may serve applicants as well as persons already receiving SNAP (7 U.S.C. § 2015(d)(4)(B)). Employment and training programs also may include components that are purely voluntary (7 U.S.C. § 2015(d)(4)(G)). One parsing of the statute would exempt a student who is "in compliance with the requirements of" one of those four programs whether or not those programs assigned or placed the student.

Moreover, a wide range of programs can qualify as “another program for the purpose of employment and training operated by a state or local government.” SNAP regulations require only that “one or more of the components of such a program is at least equivalent to an acceptable SNAP employment and training program component.”<sup>32</sup> In general, the amount of time the student spends in classes will be sufficient to meet this requirement.<sup>33</sup>

Thus the main requirement is that the student be participating in a program that is operated by a state or local government and seeks to improve the employability or training of its participants. Where the institution of higher education—such as a community college—is publicly funded for that purpose, it will qualify as such a program.<sup>34</sup> A student who has self-enrolled in a community college therefore should be exempt from the SNAP disqualification rule since the student will be attending “in compliance with” the college’s requirements and will be enrolled in a regular program, or component, of that college.

Moreover, where the SNAP office declines to make exemptions from disqualification available through employment and training, a county or city with no direct role in administering SNAP can establish a program whose purpose is to improve residents’ employability or training through higher education and, by enrolling low-income students in that program, can confer on them exemptions from the SNAP disqualification rule. Indeed, where a state has created a family cash assistance program funded entirely with state moneys to help low-

income parents complete college without using up months under the TANF time limit, that program should be considered a state program for the purpose of employment and training and should therefore confer an exemption on participating parents notwithstanding that the program is not TANF-funded.

## 5. Other Exemptions from the Student Disqualification Rule

Several additional broad categories of low-income students with no connection to TANF-funded programs are exempt from the SNAP student disqualification rule:

- Persons over 50 or under 18.<sup>35</sup> SNAP regulations are clear that once a student has reached the student’s 50th birthday, the student becomes exempt from the SNAP disqualification rule.
- Persons with physical or mental incapacities.<sup>36</sup> To be eligible on this basis, a student need not be so extensively disabled as to qualify for Supplemental Security Income or other disability benefits. Where the incapacity is obvious, the SNAP office can determine the student eligible on that basis alone. In other cases, the student may need to submit a note from the student’s physician or other health care professional.
- Persons working twenty hours per week.<sup>37</sup> Some jobs that students may hold—such as research assistantships or teaching assistantships—may not be measured by hours so much as they are by responsibilities. A teaching assistant, for example, may be in class only six hours each week but may have to spend three times that amount of time

<sup>32</sup>7 C.F.R. § 273.5(b)(11)(iv).

<sup>33</sup>The regulation defining “another program for the purpose of employment and training operated by a State or local government” cross-references 7 C.F.R. § 273.7(f)(1) for the minimum standards for an appropriate employment and training component. The latter regulation, however, requires only a “level of effort [...] comparable to spending approximately 12 hours a month for two months [...] making job contacts.” Any student enrolled at least half-time in an institution of higher education (i.e., any student enrolled in enough of a course load to be potentially affected by the SNAP disqualification rule) will almost certainly have to spend more than twelve hours per month in class.

<sup>34</sup>See 20 U.S.C. §§ 1058(f)(1), (3)(B), 1161w, 2352, 2373. Some state laws establishing community colleges also may be interpreted as treating them as employment and training programs.

<sup>35</sup>7 U.S.C. § 2015(e)(1); 7 C.F.R. § 273.5(b)(1).

<sup>36</sup>7 U.S.C. § 2015(e)(2); 7 C.F.R. § 273.5(b)(2).

<sup>37</sup>7 U.S.C. § 2015(e)(4); 7 C.F.R. § 273.5(b)(5).

preparing for class and grading papers. In cases of this kind, a statement from the employer that the job requires at least twenty hours of work in an average week should exempt the student-employee from the SNAP disqualification rule. Self-employed students whose weekly earnings are at least twenty times the federal hourly minimum wage are exempt on this basis if they spend at least twenty hours per week on their self-employment venture.<sup>38</sup>

- Participants in federal or state work-study programs.<sup>39</sup> Work-study participants are exempt without regard to the number of hours they work.

Students participating in federal work-study programs should be easy to identify because the Higher Education Act establishes a specific, formally defined program.<sup>40</sup> SNAP rules do not, however, define a “state work-study program.” Certainly participation in a program that closely parallels the federal work-study program would exempt a student from the SNAP’s disqualification rule.<sup>41</sup> More broadly, however, any work program for college students ought to qualify as a state work-study program. Thus a college or university can make it possible for a student to receive SNAP either by providing a federal work-study position or, if none is available, by offering a work slot with other funding and designating it a “state work-study program.”

## II. The Interaction of SNAP and Financial Aid

Although SNAP benefits and college financial aid can complement each other,

eligibility and benefit levels in each program are generally determined independently. The Food and Nutrition Act prohibits considering SNAP benefits in any way when determining eligibility for, or the amount of, any other federal, state, or local means-tested benefits.<sup>42</sup> That a student may be eligible for, or receives, SNAP benefits cannot be taken into account when determining that student’s financial aid package.

Conversely, federal rules generally make student financial aid irrelevant to SNAP eligibility and benefit determinations as well. The amount of SNAP benefits generally depends on the size of a household and the amount of its income. The greater the household’s countable income, the smaller its SNAP benefit. Once a household’s countable income exceeds a certain level, it loses eligibility for SNAP altogether. SNAP rules, however, exclude certain moneys from income calculations. As a practical matter, these rules should keep most or all educational assistance from affecting a family’s SNAP eligibility.

Specifically SNAP rules exclude from income calculations:

- All educational assistance under Title IV of the Higher Education Act or by the Bureau of Indian Affairs. This includes Pell Grants, Federal Supplemental Educational Opportunity Grants, major loan programs (direct, Federal Family Education Loans, Stafford, Parent Loan for Undergraduate Students, consolidation, and Perkins loans), federal work-study programs, and some smaller programs.<sup>43</sup> The Food and Nutrition Act

<sup>38</sup>7 C.F.R. § 273.5(b)(5).

<sup>39</sup>7 U.S.C. § 2015(e)(4); 7 C.F.R. § 273.5(b)(6). An exemption may be granted on this basis if the student has been approved for work-study even if the student’s work has not actually begun so long as the student anticipates being assigned to a work-study job (7 C.F.R. § 273.5(b)(6)(i)). Students participating in work-study programs remain exempt during interruptions in their work of up to one month (7 C.F.R. § 273.5(b)(6)(ii)).

<sup>40</sup>See also 42 U.S.C. § 2751.

<sup>41</sup>See generally Clifford M. Johnson & Esther Kaggwa, Center on Budget and Policy Priorities, Work-Study Programs for Welfare Recipients: A Job Creation Strategy that Combines Work and Education (Aug. 18, 1998), <http://www.cbpp.org/cms/index.cfm?fa=view&id=2104>.

<sup>42</sup>7 U.S.C. § 2017(b).

<sup>43</sup>Section 479B of the Higher Education Act (20 U.S.C. § 1087uu) provides that “[n]otwithstanding any other provision of law, student financial assistance received under this [Title IV of the Higher Education Act or other work-study programs] or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.”

applies this exclusion to SNAP income determinations.<sup>44</sup>

- Educational assistance from any source to the extent that it does not exceed the amount determined by the grantor, school, or program as necessary for tuition, mandatory fees, the rental or purchase of any equipment, materials, or supplies related to the course of study, books, transportation, or miscellaneous personal expenses other than living expenses.<sup>45</sup>

As a practical matter, the SNAP office should apply educational assistance received under programs that are *not* under Title IV of the Higher Education Act to tuition, fees, and other educational expenses *other than* living costs while assuming that moneys provided under Title IV of the Higher Education Act (or by the Bureau of Indian Affairs) are used for living expenses.<sup>46</sup> College financial aid offices have broad discretion to determine how much financial assistance will be designated for costs other than living expenses and hence excluded from the SNAP office's income calculations.

SNAP should count educational assistance as income only to the extent that the amount of *non*-Title IV assistance (such as veterans' educational benefits) that a student received exceeds the amount that the student's school determines is needed for costs other than normal living expenses. This seems likely to be a relatively rare occurrence. Even in

those rare cases where some educational assistance is counted as income, SNAP benefits generally decline by only about thirty cents for each additional dollar of countable income that a household receives.<sup>47</sup> Unless a student is receiving an extremely generous stipend from a source other than the Higher Education Act, receiving financial aid is unlikely to disqualify an otherwise eligible poor household from receiving SNAP.



Because a few exemptions from SNAP's rule disqualifying college students—principally those for cash assistance recipients and for students working twenty hours per week—have been so important, some people who work with low-income students may not be fully aware of the opportunities afforded by other provisions of the Food and Nutrition Act. SNAP administrators, financial aid officers in schools serving large numbers of low-income students, and others may benefit from reviewing the other exemptions from the student rule to ensure that eligible low-income students receive the food assistance they need. When working with a low-income student who lives with others and who has substantial income from sources other than educational benefits, however, the household's circumstances should be reviewed to ensure that making the student eligible for food stamps does not reduce the household's total SNAP allotment.

<sup>44</sup>7 U.S.C. § 2014(d)(10); 7 C.F.R. § 273.9(c)(10).

<sup>45</sup>7 U.S.C. § 2014(d)(3), (5); 7 C.F.R. § 273.9(c)(3), (5)(ii)(B). If the student must pay educational expenses from other income before the student's financial aid arrives, the student may still exclude that financial aid as if it were used to pay those expenses (7 C.F.R. § 273.9(c)(3)(iii)). To be considered in calculating the amount of financial aid to be excluded, an educational expense must relate to the same semester or other period for which the financial aid was provided (*id.*). Over forty states exclude all educational assistance under the option provided at 7 U.S.C. § 2014(d)(16).

<sup>46</sup>Failing to count an educational expense for purposes of disregarding non-Higher Education Act or non-Bureau of Indian Affairs educational assistance because it could be covered with Higher Education Act or Bureau of Indian Affairs assistance would have the effect of "tak[ing] into account [that Higher Education Act or Bureau of Indian Affairs assistance] in determining the need or eligibility" of the student's household for SNAP, in violation of Section 479B of the Higher Education Act.

<sup>47</sup>Any amount of educational assistance that may not be excluded completely is prorated over the period for which it is offered (7 C.F.R. § 273.10(c)(3)(iii)). Thus if a student received veterans' educational benefits that exceeded all educational expenses by \$400, the student may elect to have \$100 counted as income during each month of a four-month semester in determining the student's eligibility and benefits for SNAP. If the student receives some nonexcluded financial aid after part of the semester has passed, the nonexcluded amount is still prorated over the entire semester but only those amounts prorated to months for which SNAP calculations have not been completed are counted. In other words, if a student receives \$400 in financial aid that may not be excluded in late October for a four-month fall semester, \$100 may be counted as income in determining the student's household's SNAP for November and another \$100 may be counted in December, but no adjustment may be made to the SNAP allotments already issued for September and October (7 C.F.R. § 273.10(c)(3)(iii)).

## Exemptions from Rule Limiting Students' Eligibility for the Supplemental Nutrition Assistance Program

Basis of Exemption from Student Disqualification	Special Notes	May Require Action by	
		State/County	College
Enrolled less than half-time (7 U.S.C. § 2015(e); 7 C.F.R. § 273.5(a) (2007))	Half-time status determined under standards set by college		✘
Enrolled in program not requiring high school diploma (7 U.S.C. § 2015(e); 7 C.F.R. § 273.5(a))	Exemption can apply even if student (and most others) have diplomas		✘
During break when reenrollment is uncertain (7 C.F.R. § 273.5(c))	Not exempt if student clearly expects to enroll in next regular (nonsummer) semester		
Receiving cash assistance from program funded by Temporary Assistance for Needy Families (TANF) (7 U.S.C. § 2015(e)(6); 7 C.F.R. § 273.5(b)(3))	Exempt even if aid comes exclusively from segregated state funds	✘	
Receiving noncash benefits from TANF-funded program (7 U.S.C. § 2015(e)(6); 7 C.F.R. § 273.5(b)(3))	Includes child care referral services, case management, diversion, etc.	✘	
Previously attended college in compliance with work program funded by TANF or MOE (maintenance of effort) (7 U.S.C. § 2015(e)(7); 7 C.F.R. § 273.5(b)(4))	Includes enrollments required by program as well as self-placements accepted by program as satisfying its requirements	✘	
Caring for and living with child under 6 (7 U.S.C. § 2015(e)(5)(A); 7 C.F.R. § 273.5(b)(8))	Need not be single or birth parent; can be other caretaker		
Caring for and living with child between 6 and 12 for whom adequate child care is unavailable (7 U.S.C. § 2015(e)(5)(B); 7 C.F.R. § 273.5(b)(9))	Not exempt only if licensed or other adequate child care is available for all times student would need to attend class and to work twenty hours per week; travel time included		
Single parent enrolled full-time with child under 12 (7 U.S.C. § 2015(e)(8); 7 C.F.R. § 273.5(b)(10))	Need not be birth parent; college determines full-time status		✘
Enrolled under Job Training Partnership Act or trade adjustment program (7 U.S.C. § 2015(e)(3)(A) and (C); 7 C.F.R. § 273.5(b)(11)(i), (iii))	Includes self-initiated enrollments if approved by programs		
Enrolled under Supplemental Nutrition Assistance Program (SNAP) employment and training program (7 U.S.C. § 2015(e)(3)(B); 7 C.F.R. § 273.5(b)(11)(ii))	SNAP employment and training program can approve students' enrollments when students apply for SNAP, thus conferring an exemption	✘	
Enrolled in other state or local employment and training program (7 U.S.C. § 2015(e)(3)(D); 7 C.F.R. § 273.5(b)(11)(iv))	Community colleges may qualify as employment and training programs; cities and counties may develop their own employment and training programs to help low-income people attend college	✘	✘
Working twenty hours per week (7 U.S.C. § 2015(e)(4); 7 C.F.R. § 273.5(b)(5))	Teaching assistants may be exempt if their preparation and class hours together average twenty per week		✘
Participating in federal or state work-study (7 U.S.C. § 2015(e)(4); 7 C.F.R. § 273.5(b)(6))	No minimum hours of work; many work programs may qualify as state-funded work-study	✘	✘
Over 50 or under 18 years old (7 U.S.C. § 2015(e)(1); 7 C.F.R. § 273.5(b)(1))	Exemption begins on 50th birthday		
Physically or mentally "unfit" (7 U.S.C. § 2015(e)(2); 7 C.F.R. § 273.5(b)(2))	Need not be fully disabled or receiving any disability benefits; may need doctor's statement		



# Subscribe to CLEARINGHOUSE REVIEW!

CLEARINGHOUSE REVIEW: JOURNAL OF POVERTY LAW AND POLICY is the advocate's premier resource for analysis of legal developments, innovative strategies, and best practices in representing low-income clients. Each issue of the REVIEW features in-depth, analytical articles, written by experts in their fields, on topics of interest to poor people's and public interest lawyers. The REVIEW covers such substantive areas as civil rights, family law, disability, domestic violence, housing, elder law, health, and welfare reform.

## Subscribe today!

We offer two ways to subscribe to CLEARINGHOUSE REVIEW.

A **site license package** includes printed copies of each monthly issue of CLEARINGHOUSE REVIEW and online access to our archive of articles published since 1967. With a site license your organization's entire staff will enjoy fully searchable access to a wealth of poverty law resources, without having to remember a username or password.

Annual site license package prices vary with your organization size and number of printed copies.

- Legal Services Corporation-funded programs: \$170 and up
- Nonprofit organizations: \$250 and up
- Law school libraries: \$500

A **print subscription** includes one copy of each of six issues, published bimonthly. Annual rates for the print-only subscription package are as follows:

- Legal Services Corporation-funded programs: \$105
- Nonprofit organizations: \$250
- Individuals: \$400

A print subscription for Legal Services Corporation-funded programs and nonprofit organizations does not include access to the online archive at [www.povertylaw.org](http://www.povertylaw.org).

Please fill out the following form to receive more information about subscribing to CLEARINGHOUSE REVIEW.

Name \_\_\_\_\_

Organization \_\_\_\_\_

Street address \_\_\_\_\_ Floor, suite, or unit \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

My organization is

- Funded by the Legal Services Corporation
- A nonprofit
- A law school library
- None of the above

What is the size of your organization?

- 100+ staff members
- 51-99 staff members
- 26-50 staff members
- 1-25 staff members
- Not applicable

Please e-mail this form to [subscriptions@povertylaw.org](mailto:subscriptions@povertylaw.org).

Or fax this form to Ilze Hirsh at 312.263.3846.

Sargent Shriver National Center on Poverty Law  
50 E. Washington St. Suite 500  
Chicago, IL 60602

CUT HERE