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# Should States Allow Poor People to Use Supplemental Nutrition Assistance Program Benefits at Fast-Food Chains?

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**D**ata released earlier this year by the U.S. Department of Agriculture show an alarming increase in the number of people suffering from hunger in the United States. Nearly fifty million people live in food-insecure households.<sup>1</sup> From 2007 to 2009 food insecurity (the inability to acquire enough food) rose across all age groups, and people over 40 were particularly hard hit.<sup>2</sup> The rates of African American, Hispanic, and disabled households having food insecurity are also far higher than the national average.<sup>3</sup>

The fast-food industry, eager for increased business, argues that fast-food restaurants can help alleviate America's growing hunger problem if Supplemental Nutrition Assistance Program (SNAP) recipients may use benefits at fast-food restaurants. Many antihunger advocates agree, noting that a consumer's participation in SNAP is severely limited if the recipient cannot store or cook food.<sup>4</sup> The fast-food industry, led by Yum! Brands (owner of Taco Bell, Pizza Hut, and Kentucky Fried Chicken, among others), is lobbying states and undecided antihunger advocates to convince them that fast food can help alleviate disabled, elderly, and homeless people's hunger problems.

Most health advocates strongly oppose the use of SNAP benefits at fast-food restaurants. They emphasize the serious health consequences of frequent fast-food consumption, particularly among poor people, who have higher incidences of high blood pressure, diabetes, and cardiovascular disease. At a minimum, fast-food restaurants that participate in the U.S. Department of Agriculture's Restaurant Meals Program should be required to offer healthier food, reduce their sodium intake, and eliminate trans fats.

<sup>1</sup>Alisha Coleman-Jensen et al., U.S. Department of Agriculture, Household Food Security in the United States in 2010, at 10 (2011), <http://1.usa.gov/o8LJmc>.

<sup>2</sup>JAMES P. ZILIAK & CRAIG GUNDERSEN, AARP FOUNDATION, FOOD INSECURITY AMONG OLDER ADULTS 1 (2011), <http://aarp.us/nSzHA5> ("Food insecurity for 40–49 year olds increased an astounding 68 percent between 2007–2009 ... 38 percent for 50–59 year-olds, and 25 percent among those over 60").

<sup>3</sup>Coleman-Jensen et al., *supra* note 1; ZILIAK & GUNDERSEN, *supra* note 2, at 45.

<sup>4</sup>Jonathan Ellis & Megan Luther, *Restaurants Want a Piece of Food Stamp Pie*, USA TODAY, Sept. 7, 2011, <http://usat.ly/qbbGcw>; Congressional Hunger Center, CHC's Position on the SNAP Restaurant Meals Program (Sept. 16, 2011), <http://bit.ly/reJUqM>.

### The Restaurant Meals Program

The Restaurant Meals Program was created several decades ago as a component of the federal Food Stamp Program.<sup>5</sup> The Restaurant Meals Program was initially designed for elderly and disabled people.<sup>6</sup> The program was later expanded to include the homeless.<sup>7</sup> Elderly, disabled, and homeless SNAP recipients are still the only SNAP recipients who are allowed to use SNAP benefits in restaurants.<sup>8</sup>

The Restaurant Meals Program has recently become very controversial. The fast-food industry is trying to capitalize on it, lobbying states and even some antihunger advocates to allow SNAP recipients to use SNAP benefits at fast-food restaurants. Only a few states (Arizona, Michigan, and a handful of counties in California) allow elderly, homeless, and disabled SNAP recipients to use SNAP benefits at fast-food restaurants.<sup>9</sup> There are pilot restaurant meal programs in

Rhode Island and Puerto Rico.<sup>10</sup> Florida has a pilot program limited to serving the homeless.<sup>11</sup>

Yum! leads in lobbying both states and welfare advocates to allow fast-food restaurants to participate in the Restaurant Meals Program.<sup>12</sup> Yum! has succeeded in convincing some local governments to allow the use of SNAP benefits at fast-food restaurants. The Los Angeles County Department of Public Social Services, for example, allows food-stamp use at Taco Bell, Kentucky Fried Chicken, Pizza Hut, Burger King, Jack-in-the-Box, and Domino's Pizza, among others.<sup>13</sup> Some antihunger activists see this as increasing access to food.<sup>14</sup> Many people disagree. *Black Voices*, an Internet source, recently posted an article suggesting that the joining of fast food and food stamps is a "recipe for disaster"<sup>15</sup> Most health advocates are vehemently opposed to the entry of the fast-food industry into the Restaurant Meals Program.

<sup>5</sup>Food Stamp Act of 1977, 7 U.S.C. §§ 2011–2036(a), 2012(k)(3) (2011).

<sup>6</sup>*Id.*

<sup>7</sup>Food, Agriculture, Conservation and Trade Act of 1990, Pub. L. No. 101-624, § 1713(a), 104 Stat. 3359, 3783 (1990) (current version at 7 U.S.C. § 2012(k)(9) (2011)); Carrie Lewis, *Recent Developments Affecting the Food Stamp Program*, 26 CLEARINGHOUSE REVIEW 1069, 1070 (Jan. 1993).

<sup>8</sup>See, e.g., Arizona Department of Economic Security, Family Assistance Administration Policy Manual, Restaurant Meals Program: Revision 14 (Oct. 1–Dec. 31, 2010), <http://bit.ly/oufyi5>; California Office of Systems Integration, Restaurant Meals Program (n.d.), <http://bit.ly/nLXIQ3>; Michigan Department of Human Services, Active Michigan EBT Authorized Restaurants (n.d.), <http://1.usa.gov/qHSm03>.

<sup>9</sup>See Arizona Department of Economic Security, Arizona Restaurants/Retailers Participating in USDA/FNS Restaurant Meals Program (n.d.), <http://1.usa.gov/o3eJAa>; Michigan Department of Human Services, Michigan Restaurants Participating in the Restaurant Meals Program (n.d.), <http://1.usa.gov/ndn4av>; Rhode Island Department of Human Services et al., Eat Better Today, Restaurant Meals Program (n.d.), <http://www.eatbettertoday.com/225-2/>; E-mail from Jean Daniel, Director of Public Affairs, Office of Communications and Governmental Affairs, U.S. Department of Agriculture, to Kyra Clipper, Legal Intern, AARP Foundation Litigation (Sept. 8, 2011) (in my files).

<sup>10</sup>Daniel, *supra* note 9. Other states have also expressed interest in the program (see *id.*); see also Mark Hamstra, *Retailer Groups Wary of SNAP Pilots for Restaurants*, SUPERMARKET NEWS (May 30, 2011), <http://bit.ly/u9mwTa>.

<sup>11</sup>Alachua County Nutritional Alliance, Implementation Report, Gainesville-Alachua County Hunger-Abatement Plan 10 (Nov. 10, 2010).

<sup>12</sup>See e.g., Tom Loftus, *Yum! Brands Lobbies Kentucky to OK Food Stamps for Restaurant Use*, COURIER-JOURNAL, April 2, 2011. See also Hamstra, *supra* note 10; Ellis & Luther, *supra* note 4.

<sup>13</sup>See County of Los Angeles Department of Public Social Services, Restaurant Meals Participating Restaurants (Oct. 2011), <http://bit.ly/qwEol2>.

<sup>14</sup>Letter from Edward Barnes, Practice Director, East Bay Community Law Center, to Nate Miley, President, Alameda County Board of Supervisors (Feb. 4, 2011), <http://bit.ly/qmaweS>; see also Congressional Hunger Center, *supra* note 4.

<sup>15</sup>Jam Donaldson, *Fast Food and Food Stamps: A Recipe for Disaster*, HUFFPOST BLACKVOICES (Feb. 19, 2010), <http://aol.it/ok9yY8>. Kelly Brownell, food policy expert and director of Yale's Rudd Center for Food Policy and Obesity, finds the inclusion of fast food in a supplemental nutrition program "preposterous" (see Ellis & Luther, *supra* note 4). Michelle Gouridine, a faculty member at the Johns Hopkins School of Public Health, agrees and thinks it would be "absurd" to subsidize the purchase of food that contributes to disease and increased health care costs (see Michelle Gouridine, *No Funds for Fast Food*, NEW YORK TIMES (Sept. 28, 2011), <http://nyti.ms/oN35tB>).

### Why Antihunger Advocates Support Expansion of the Restaurant Meals Program

A large number of low-income people who qualify for food stamps do not participate in the SNAP program. In California only 10 percent of eligible older people are actually receiving the food nutrition benefits for which they qualify.<sup>16</sup> While the reasons for the low participation are complex, many people recognize that as a practical matter, if poor persons cannot store food or cook, they are less likely to participate in SNAP. In a letter urging Alameda County, California, to adopt the Restaurant Meals Program, Edward Barnes of the East Bay Community Law Center says that the program “provides an important alternative that broadens food options for vulnerable groups, and can boost [SNAP] participation levels by making it easier for these eligible groups to use their benefits in ways that are a practical alternative for them. Increased participation ... helps to address hunger among those most at risk.”<sup>17</sup>

Antihunger advocates recognize that adding fast-food restaurants to the list of qualified restaurants may not be ideal, but they argue that it is better than going hungry. After all, in many poor communities “fast food is the only restaurant game in town.”<sup>18</sup> Fast-food restaurants have more access to food because supermarkets are fewer in poor areas.<sup>19</sup> Moreover, the benefits of the program go

beyond enabling the homeless population to eat a meal. Purchasing a meal at a fast-food restaurant gives homeless people access to a bathroom and a temporary haven from bad weather.<sup>20</sup> There is also an argument to be made about autonomy and dignity; poor people should have the right to choose what they eat without others judging them.<sup>21</sup>

### Fast Food Not the Answer to Hunger Problem

While allowing fast-food restaurants to participate in the Restaurant Meals Program would give poor people more food options, those options are not necessarily healthy. Fast-food consumption has been linked to diet-related illnesses such as diabetes, hypertension (high blood pressure), and cardiovascular disease.<sup>22</sup> Health advocates argue that “[i]t makes no sense to use government funds to purchase foods that contribute to disease and increased health care costs. Food stamps [or SNAP benefits] should pay for foods that help recipients maintain good health and fight disease.”<sup>23</sup> Fast food can be particularly harmful for disabled and elderly people, who have a higher incidence of high blood pressure and cardiovascular disease than the general population.<sup>24</sup> Recent reports indicate that the percentage of people older than 65 who suffer from hypertension is approximately 70 percent.<sup>25</sup> Heart disease is also endemic among homeless people. As one group of scholars noted,

<sup>16</sup>California Food Policy Advocates, Fact Sheet: CalFresh (Jan. 12, 2011), <http://bit.ly/pR8UE8>. See also Senior Food Security Act of 2011 § 1(d), A.B. 69, 2011–2012 Sess., Reg. Sess. (Cal. 2011).

<sup>17</sup>See Barnes, *supra* note 14. See also Congressional Hunger Center, *supra* note 4.

<sup>18</sup>Tom Laskawy, *A Hobson's Choice*, NEW YORK TIMES (Sept. 27, 2011), <http://nyti.ms/ofZ6pf>; see also *Should Food Stamps Buy Fast Food?* (National Public Radio broadcast Oct. 10, 2011), <http://n.pr/nlOH6A>.

<sup>19</sup>*Should Food Stamps Buy Fast Food?*, *supra* note 18.

<sup>20</sup>Regina Austin, *Super Size Me and the Conundrum of Race/Ethnicity, Gender and Class for the Contemporary Law-Genre Documentary Filmmaker*, 40 LOYOLA LOS ANGELES LAW REVIEW 687, 703–4 (2007).

<sup>21</sup>Sherrie Tussler, *Yes: Poor People Need Access, Dignity, Choices*, MILWAUKEE JOURNAL SENTINEL (Sept. 24, 2011), <http://bit.ly/nd0ZFs>.

<sup>22</sup>Austin, *supra* note 20, at 706.

<sup>23</sup>See Gourdine, *supra* note 15.

<sup>24</sup>See Nora L. Keenan & Kimberly A. Rosendorf, *Prevalence of Hypertension and Controlled Hypertension—United States, 2005–2008*, MORBIDITY AND MORTALITY WEEKLY REPORT, Jan. 14, 2011, at 95, <http://1.usa.gov/qle3l7>; CENTERS FOR DISEASE CONTROL AND PREVENTION, SUMMARY HEALTH STATISTICS FOR U.S. ADULTS: NATIONAL HEALTH INTERVIEW SURVEY, 2009, at 19 (2010), <http://1.usa.gov/ohMHpi>.

<sup>25</sup>Keenan & Rosendorf, *supra* note 24, at 95.

cardiovascular diseases are “a major cause of mortality in homeless adults between 45 and 64 years old and are three times more common in the homeless aged 25 to 44 years when compared to an age-matched general population.”<sup>26</sup>

The concern about fast food from health advocates goes beyond its high caloric content. Fast food is extremely high in sodium.<sup>27</sup> Fast food can contain dangerous levels of trans fats.<sup>28</sup> Extensive academic research indicates that diets high in salt increase hypertension, a leading risk factor of heart attacks and stroke.<sup>29</sup> Scientific evidence demonstrates a clear association between increased trans fat intake and the risk of coronary heart disease.<sup>30</sup> The New York City Department of Health and Mental Hygiene estimates that these conditions have resulted in 23,000 deaths in New York City alone each year and more than 800,000 deaths nationwide.<sup>31</sup>

The amount of sodium consumption and trans fats in restaurant and packaged food is not a matter of personal choice. Restaurant patrons do not have a choice about which fats are used to cook their food. Moreover, nearly 80 percent of American sodium consumption is added to foods before they are sold.<sup>32</sup> One study that analyzed the nutritional content of fast food found that “[o]nly 1 in 36 purchased meals met the Food and Drug Administra-

tion ‘healthy’ sodium level for meals (600 mg), whereas 1 in 5 exceeded the daily limit” (current recommendations of daily salt consumption is limited to 1,500 milligrams for demographic groups such as middle-aged and older adults, people with hypertension, and African Americans).<sup>33</sup> The same study emphasized that “excess sodium intake was not simply the result of large portion size. Average sodium density was 2136 mg sodium per 1000 calories purchased, so even a patron who was mindful of calorie intake would likely exceed standards for healthy sodium intake.”<sup>34</sup>

### Nutritious Food and Restaurants in the Meals Program

Fast-food restaurants wanting to participate in the Restaurant Meals Program should, at a minimum, be required to reduce their foods’ sodium levels and eliminate trans fats. On a per-calorie basis, trans fats appear to increase the risk of heart disease more than any other macronutrient.<sup>35</sup> Several state and local initiatives already limit the amount of trans fat that may be used in restaurant food.<sup>36</sup> Throughout the nation restaurants receiving money to serve SNAP recipients should be required to eliminate trans fats. A recent study indicates that trans fats can be reduced in restaurant food without affecting “the quality, cost, or availability of food.”<sup>37</sup>

<sup>26</sup>Charlotte A. Jones et al., *Cardiovascular Disease Risk Among the Poor and Homeless—What We Know So Far*, 5 CURRENT CARDIOLOGY REVIEWS 69, 70 (2009), <http://1.usa.gov/ps4Ktr>.

<sup>27</sup>Christine M. Johnson et al., *Sodium Content of Lunchtime Fast Food Purchases at Major U.S. Chains*, 170 ARCHIVES OF INTERNAL MEDICINE 732 (2010).

<sup>28</sup>See, e.g., Steen Stender et al., *High Levels of Industrially Produced Trans Fat in Popular Fast Foods*, 354 NEW ENGLAND JOURNAL OF MEDICINE 1650 (2006) (discussing analysis of high levels of trans fatty acids in food purchased at McDonald’s and Kentucky Fried Chicken in twenty countries between November 2004 and September 2005).

<sup>29</sup>Johnson et al., *supra* note 27.

<sup>30</sup>New York City Department of Health and Mental Hygiene, Board of Health, Notice of Adoption of an Amendment (§ 81.08) to Article 81 of the New York City Health Code (n.d.), <http://on.nyc.gov/rJ0RBn> (see section titled “Basis for Restricting Service of Products Containing Artificial Trans Fat”).

<sup>31</sup>New York City Department of Health and Mental Hygiene, *Cutting Salt, Improving Health* (n.d.), <http://on.nyc.gov/nupkco>. See also New York City Department of Health and Mental Hygiene, *supra* note 30.

<sup>32</sup>*Id.*

<sup>33</sup>Johnson et al., *supra* note 27.

<sup>34</sup>*Id.*

<sup>35</sup>Dariusz Mozaffarian et al., *Trans Fatty Acids and Cardiovascular Disease*, 354 NEW ENGLAND JOURNAL OF MEDICINE 1601, 1604 (2006).

<sup>36</sup>See, e.g., CAL. HEALTH & SAFETY CODE § 114377 (West 2011); N.Y. CITY, N.Y., HEALTH CODE art. 80, § 81.08 (2011).

<sup>37</sup>New York City Department of Health and Mental Hygiene, *supra* note 30, at 3 (citing Mozaffarian et al., *supra* note 35, at 1609–10 (2006)).

Restaurants participating in the SNAP Restaurant Meals Program should also be required to reduce the amount of salt in their food. The New York City Health Department is coordinating a national effort to reduce unhealthy sodium levels in prepared food. The National Salt Reduction Initiative is a coalition of local and state health authorities and health organizations working to help food manufacturers and restaurants voluntarily reduce the amount of salt in products.<sup>38</sup> The project's goal is to prevent heart attacks and strokes by reducing the amount of salt in packaged and restaurant foods. The project is modeled on a program in the United Kingdom, where food makers have reduced salt levels by 40 percent or more in products. Unlike past salt reduction efforts in the United States, the National Salt Reduction Initiative has mechanisms to monitor sodium in the food supply and to track companies' progress. The initiative will also use urinalysis to monitor changes in people's actual salt intake.<sup>39</sup> Notably, with the exception of Subway, most fast-food restaurants have not signed onto the initiative.<sup>40</sup> In light of the high incidence of heart disease and high blood pressure among the elderly, disabled, and homeless population, restaurants wanting to participate in the program should be required to adhere to the guidelines of the National Salt Reduction Initiative.

However, even if the fast-food industry reduces salt levels in its products and eliminates trans fats, the Restaurant Meals Program will not solve the U.S. hunger problem. A lot more can and should be done to increase access to healthy food in poor communities.

### Increasing Access to Healthy Food in Poor Communities

What needs to be done first to increase access to healthy food in poor communities is to help qualified people obtain the food benefits for which they qualify. Millions of eligible people do not receive their SNAP benefits.<sup>41</sup> Applications for SNAP benefits and information about the program are available through the National Council on Aging's website, BenefitsCheckUp.<sup>42</sup> AARP also has a customized version of the Benefits CheckUp that contains children's benefits and a subset of ten older adult benefits.<sup>43</sup>

Public policy opportunities to increase access to healthy foods in poor communities should be encouraged as well. Zoning and tax incentives have been introduced to attract supermarkets to low-income neighborhoods.<sup>44</sup> Some communities have passed initiatives increasing bus routes to supermarkets, and others have passed legislation allowing land allocation for community gardens and farmers' markets.<sup>45</sup>

<sup>38</sup>Cutting Salt, Improving Health, *supra* note 31.

<sup>39</sup>*Id.*

<sup>40</sup>National Salt Reduction Initiative, NSRI Corporate Commitments and Comments (n.d.), <http://on.nyc.gov/sZ179y>.

<sup>41</sup>JOSHUA LEFTIN, U.S. DEPARTMENT OF AGRICULTURE, TRENDS IN SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION RATES: 2001 TO 2008, at 13 (June 2010), <http://1.usa.gov/vytTJU>; AARP Foundation, Poverty and Aging: Older Americans and SNAP (June 2, 2010), <http://aarp.us/uA11za>.

<sup>42</sup>National Council on Aging, BenefitsCheckUp (2011), <http://bit.ly/vNUnSx>. See also Food and Nutrition Service, U.S. Department of Agriculture, Supplemental Nutrition Assistance Program: To Apply (Nov. 2, 2011), <http://1.usa.gov/tCHwkC>; Food and Nutrition Service, U.S. Department of Agriculture, Supplemental Nutrition Assistance Program (SNAP) Pre-Screening Eligibility Tool (n.d.), <http://1.usa.gov/shIP7H>.

<sup>43</sup>AARP.org, AARP Benefits QuickLINK (2011), <http://bit.ly/uJPaUD>.

<sup>44</sup>See, e.g., N.Y., N.Y., ZONING RESOLUTION art. VI, ch. 3 (2011) (special regulations applying to Fresh food stores), <http://on.nyc.gov/uNL2px>; N.Y. City Economic Development Corp., Financing and Incentives, Food Retail Expansion to Promote Health (Fresh) (n.d.), <http://bit.ly/u3SF5i>. See also L.A., CAL., ORDINANCE 180103 (July 29, 2008) (limiting number of new fast-food restaurants in South Central Los Angeles).

<sup>45</sup>Rudd Center for Food Policy and Obesity, Yale University, Rudd Report, Access to Healthy Foods in Low-Income Neighborhoods: Opportunities for Public Policy 4 (Fall 2008), <http://bit.ly/oNxtwl>. The Los Angeles Planning Commission also recently passed a proposed ordinance that would open the door for vegetable vendors to set up shop between apartment complexes in residential neighborhoods (see L.A., CAL., Department of City Planning, Recommendation Report (Sept. 22, 2011), <http://bit.ly/rfhguu> (proposed farmers' market ordinance)).

Happily “the number of farmers’ markets licensed to accept SNAP benefits is increasing nationwide.”<sup>46</sup>

Several cities, including Oakland, New York City, and Kansas City, have passed ordinances making operating in poor areas easier for mobile fruit and vegetable vendors.<sup>47</sup> More cities should facilitate the sale of fruit and vegetables by mobile vendors. Mobile vending is loosely defined as selling food out of any portable vehicle or stand. Mobile vendors can increase poor people’s access to fruits and vegetables. Oakland fruterios (or fruit vendors) can now obtain business licenses; the health department regulates and inspects them like other food establishments.<sup>48</sup> New York City passed a green cart vendor initiative to set aside a thousand permits for street vendors who sell only fresh fruits and vegetables in underserved communities.<sup>49</sup> Green cart vendors also have preference on the city’s permit waiting list.<sup>50</sup>

Providing nutritious food for poor people has always been a primary goal of the U.S. Department of Agriculture’s Food Stamp Program. Elderly, homeless, and disabled people are particularly vulnerable to such health problems as high blood pressure and heart disease. Restaurants that are authorized to accept food stamp or SNAP benefits should be required to reduce the sodium in their food products and eliminate trans fats. A lot more should be done to bring healthy food to poor communities.

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<sup>46</sup>Food and Nutrition Service, U.S. Department of Agriculture, Supplemental Nutrition Assistance Program: Learn How You Can Accept SNAP Benefits at Farmers’ Markets (Oct. 12, 2011), <http://1.usa.gov/ryww47>.

<sup>47</sup>National Policy and Legal Analysis Network to Prevent Childhood Obesity, Healthy Mobile Vending Policies (Oct. 2009), <http://bit.ly/rzyaAA>.

<sup>48</sup>OAKLAND, CAL., MUNICIPAL CODE §§ 5.49.010–5.49.080 (2011).

<sup>49</sup>N.Y., N.Y., ADMINISTRATIVE CODE § 17-307(b)(4) (2011).

<sup>50</sup>N.Y., N.Y., ADMINISTRATIVE CODE § 17-307(b)(4)(e) (2011).



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