



June 24, 2010

Ms. Laura Castro, Branch Chief
Policy Branch
Food Distribution Division
Food and Nutrition Service
U.S. Department of Agriculture
Room 500
3101 Part Center Drive
Alexandria, VA 22302-1594

RE: RIN 0584–AD12 Food Distribution Program on Indian Reservations: Resource Limits and Exclusions, and Extended Certification Periods

Dear Ms. Castro:

CFED (Corporation for Enterprise Development) is a national, nonpartisan nonprofit that works to expand economic opportunity to all Americans by promoting savings for emergencies, education, entrepreneurship, home ownership and retirement. While we have not traditionally worked on the Food Distribution Program in Indian Reservations (FDPIR), we have long and successfully advocated the lifting of asset limits on the eligibility for public benefits. Thus, we were deeply concerned by the proposed rule which would maintain the traditional asset limits for FDPIR eligibility. Such a proposal is out of step with USDA's own advocacy for eliminating asset tests in the Supplemental Nutrition Assistance Program (SNAP). We strongly encourage you to extend to FDPIR the same asset policy as exists in SNAP.

FDPIR is an alternative to SNAP for low-income households, including the elderly, living on Indian reservations, and to American Indian families residing in designated areas near reservations and in Oklahoma. The program, which is an entitlement to these individuals, provides participants with commodities in lieu of SNAP benefits. FDPIR fills a vital need for the nearly 100,000 people who rely on the commodities received through the program to feed their families every month. The program is particularly important to families that are not well served by Supplemental Nutrition Assistance Program (SNAP), typically because they live in remote areas without good access to SNAP offices or authorized food stores. These individuals choose to receive commodities through FDPIR rather than receive EBT benefits through SNAP.

USDA has traditionally aligned FDPIR rules with those governing SNAP, both for administrative convenience and as a matter of fairness. By maintaining parallel eligibility standards between the two programs, USDA ensures that the program is a comparable alternative to SNAP. The proposed

rule includes numerous updates to FDPIR eligibility to reflect changes that were adopted in SNAP as a part of the 2008 Farm Bill. The preamble to the regulation states that the purpose proposed rule is to “improve program service to applicants and participants and ensure consistency between FDPIR and the Supplemental Nutrition Assistance Program (SNAP).” We fully support both the policy goal to conform the rules. Unfortunately, in the area of asset tests, the proposal fails to achieve consistency between FDPIR and SNAP. The proposal fails because it does not eliminate the asset test in FDPIR which has long been an option in the SNAP program.

Since 1999, states have had the option to eliminate or to set their own asset test in the SNAP program. This option has been adopted by 35 states and the District of Columbia with the vast majority of these states eliminating the asset test. Native American households who chose FDPIR in these states are now subject to stricter eligibility standards than those who choose SNAP. Some households in those states will be ineligible for the program of their choice due to resources.

Similarly, FDPIR program administrators must administer more complex program rules than their SNAP counterparts. In the first of three recent guidances on the issue, USDA said the following of the SNAP option to lift the asset test, referred to as “categorical eligibility”:

In these times of rising caseloads and shrinking State budgets, expanded categorical eligibility can benefit States by simplifying policies, by reducing the amount of time States must devote to verifying resources, and by reducing errors. It can benefit families hurt by the economic crisis. For example, families with low incomes and modest assets will be eligible for benefits. It can extend food assistance to families with high expenses but gross incomes slightly higher than the normal gross income test. Applicants will not need to provide documentation verifying their resources. Finally, adopting expanded categorical eligibility can promote asset accumulation among low-income families. (see: <http://www.fns.usda.gov/snap/rules/Memo/2009/093009.pdf>.)

Although each of these reasons for lifting the asset test in SNAP would apply to FDPIR as well, the guidance did not address FDPIR. The Administration provided no explanation for limiting the access of tribal members to FDPIR while encouraging expanded access to SNAP. Nothing in the FDPIR authorizing statute (7 U.S.C. 2013(4)(b)) mandates that USDA impose an asset test within the FDPIR eligibility structure. We can find no reason for why USDA would maintain an asset test in FDPIR when it encourages states to eliminate the test in SNAP. If this regulation goes forward, FDPIR would be the only federal nutrition program that requires an asset test as a part of eligibility.

By reinforcing the asset test under FDPIR without providing an opportunity for tribes to lift the eligibility restriction in the same way that many states have done, USDA is failing to maintain the consistency between FDPIR and SNAP that it claims to support. In effect, this rule denies many American Indian families the benefits offered to similarly situated families throughout the country. As a result, this regulation defeats the purpose of creating consistency between FDPIR and SNAP and disadvantages the very Native Americans for whom FDPIR was created.

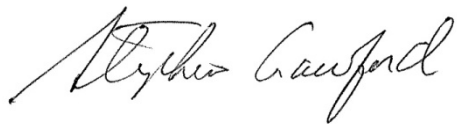
We do not believe that USDA desires any of these results, and therefore recommend that that USDA policy be changed to ensure that American Indians have the same access to FDPIR benefits that other American families have to SNAP.

We recommend that the final rule be amended to ensure that American Indian families living in states that have lifted the asset test for SNAP should not be subject to an asset test under FDPIR.

Further, tribes in all states must have the ability to lift the FDPIR asset test for tribal members in the same way that states have eliminated this test for many other Americans. We urge you to take the opportunity presented by these proposed amendments to correct this inequity.

Many thanks in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Stephen Crawford". The signature is written in a cursive style with a large, sweeping initial "S".

Stephen Crawford, Ph.D.
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