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Food and Nutrition Service
Office of Employment and Training
1320 Braddock Place
US Department of Agriculture
Alexandria, VA 22314

June 17, 2020

Re: Comments in response to Notice of Proposed Rulemaking: Employment and Training Opportunities in the Supplemental Nutrition Assistance Program RIN 0584-AE68

Dear Food and Nutrition Service:

On behalf of [Heartland Alliance](#), we appreciate the opportunity to comment on the U.S. Department of Agriculture's Notice of Proposed Rulemaking regarding Employment and Training Opportunities in the Supplemental Nutrition Assistance Program.

Headquartered in Chicago and serving over 100 communities nationwide, Heartland Alliance is grounded in over 130 years of experience advancing economic opportunity, safety and justice, and health and healing for individuals living in poverty and extreme poverty. As a result, we have a unique understanding of the program, policy, and systems-level barriers that can prevent people living in poverty from getting ahead.

At Heartland Alliance, we see the difference the SNAP program makes in the lives of our participants every day and across Illinois. We also know that access to supportive services and employment and training available via workforce development programs such as SNAP Employment & Training (E&T) can help open doors to economic opportunity for people facing barriers to employment. Heartland Alliance serves hundreds of jobseekers overcoming barriers to employment every year—and will place hundreds into unsubsidized employment opportunities. We know that employment is a social determinant of health, a harm reduction modality, and that meaningful employment is a human right.

Within Heartland Alliance's [Research & Policy Division](#), we leverage the Alliance's experience designing and implementing direct social service programming—including employment and training programs for individuals who face significant barriers to employment—in combination with our research, policy, and systems change expertise



to identify and advance proven solutions to poverty. Within this division, our Policy and Advocacy Team plays a strong state-level leadership role in advancing anti-poverty work by developing and advancing innovative policy proposals, building strategic alliances and pursuing legislative and budgetary action. Our National Initiatives on Poverty & Economic Opportunity Team is dedicated to ending chronic unemployment and poverty. Through field building work across the country, the National Initiatives Team provides support and guidance that fosters more effective, equitable, and sustainable employment efforts—including employment efforts [funded via SNAP E&T](#). The National Initiatives Team’s federal policy and advocacy work advances solutions to the systemic issues that drive chronic unemployment. Finally, our Social IMPACT Research Center provides cutting-edge research and data analysis to amplify the voices of people with lived expertise of poverty and inequity in order to drive innovation and accountability in the social service sector.

The proposed rule largely implements provisions that were included in the bipartisan Agriculture Improvement Act of 2018 [P.L. 115-334], commonly referred to as the 2018 Farm Bill. On the whole, Heartland Alliance supports the proposed rule. We believe that many of the proposed changes, if well-implemented, have the potential to help SNAP E&T programs better serve their participants through increased accountability and the ability to offer participants a wider range of services and supports that can meet their employment needs and interests.

We are especially pleased to see that the revised definition of work experience includes subsidized employment and that E&T funds can be used to subsidize the wages of E&T participants. As discussed in greater detail on pages 9 to 10, below, we urge the Food and Nutrition Service (FNS) to quickly issue updated guidance allowing states to begin to implement subsidized employment without waiting for additional federal regulations to be released.

In addition to highlighting areas of the proposed rule that we support, our comments offer feedback on components of the proposed rule where we have recommendations for improvement and ideas for ensuring that the implementation of the proposed changes uphold and advance equity and racial equity in particular. Notably, we would like to make two points clear:

- 1) As stated under Article 25 of the [Universal Declaration of Human Rights](#), access to food is a human right. The primary purpose of the SNAP program is to prevent hunger by helping individuals and families keep food on the table. When a SNAP E&T program is structured well, it can benefit SNAP recipients by helping them access employment and economic opportunity. However, the SNAP E&T

program should never act as a barrier to nutrition assistance or detract from the primary purpose of the SNAP program. To this end, we strongly oppose all SNAP E&T policies that sanction SNAP recipients for failing to comply with a work and training requirement.

- 2) People of color experience [poverty](#) and unemployment and disproportionately high rates. As of the date of these comments, the [most recent data](#) show nearly 17 percent unemployment among Black jobseekers and nearly 19 percent unemployment among Hispanic or Latino jobseekers. While these astronomically high unemployment rates are the result of the COVID-19 pandemic, on June 16, 2020, [Congressional testimony](#) from the chair of the Federal Reserve made clear that solutions to the unemployment crisis must be structured and implemented with strict attention paid to race equity. Failing to bring a race equity lens to employment programming will only widen existing and unacceptable inequities during the post-pandemic recovery.

Especially in this moment, the SNAP E&T system has an important role to play in advancing racial equity in access to employment and economic opportunity. Among [other actions the system can take](#), data collection and analysis is critical to identifying and addressing inequities. We urge the Department to hold State agencies accountable for collecting, analyzing, and reporting on the characteristics of jobseekers relative to E&T program access and outcomes. At minimum, State agencies should be required to collect, analyze, and report on characteristics of race, ethnicity, gender, and age relative to the following E&T program access and outcomes: types of participant support offered and amounts distributed, job type placement such as whether jobs are in in-demand sectors or have career pathways, and wages upon placement.¹ Where inequities in E&T access and outcomes are found, the Department should work with State agencies to identify, test, and implement solutions.

I. Consultation with Workforce Development Boards and Coordination with the Workforce Innovation and Opportunity Act (WIOA)

Pursuant to provisions within the 2018 Farm Bill, the proposed rule seeks to implement the new statutory requirement that State agencies design their SNAP E&T programs in consultation with their State workforce development board (or with employers or employer organizations, if the State agency demonstrates such consultation would be more effective or efficient). The proposed rule also seeks to require State agencies to

¹ Our comments similarly urge the Department to hold states accountable for the same analyses relative to employability assessments (see pages 6 to 8) and ill-suited determinations (see pages 13 to 15).



describe in their E&T State plans how they met this consultation requirement and the outcomes from the consultation. Finally, the proposed rule seeks to implement the new statutory requirement that State agencies include in their E&T State plans the extent to which they will coordinate with Workforce Innovation and Opportunity Act (WIOA) title I activities.

Heartland Alliance approves of the provisions for State agencies to consult with the State workforce development board, to document the outcomes of the consultation, and include in their E&T State plans the extent to which SNAP E&T and WIOA Title I activities will coordinate. Decades of experience in both the policy and programmatic space has taught us that public systems are better at opening doors to economic opportunity for jobseekers who face barriers to employment when they work together. Leveraging the combined resources and expertise of the SNAP E&T and WIOA programs in complementary ways would better help eligible participants in both systems access the employment, training, education, and supportive services that meet their needs and interests.

For example, although WIOA funding can be used to provide jobseekers with supportive services such as child care subsidies, these resources are rarely offered due to limited available WIOA dollars. SNAP E&T, however, is required to provide child care and transportation assistance and allowed to pay for other supports. At the same time, the WIOA system is often better connected to labor market information and employer partners than many SNAP E&T programs. Better alignment across SNAP E&T and WIOA Title I can help reduce service duplication, generate cost savings, and increase access to resources for jobseekers.

We would suggest adding that the Department also encourage SNAP agencies to engage with employers and industry representatives to discuss the potential for becoming SNAP E&T providers, in partnership with local workforce development boards, WIOA business service teams, community-based organizations, and postsecondary institutions that are SNAP E&T providers. We believe there may be significant unrecognized potential for partnerships with employers and sector partners. States could also incentivize employers' participation in hosting SNAP E&T participants in work experience through weighted scoring on procurement contracts by vendors that support SNAP E&T.

II. Supervised Job Search

The 2018 Farm Bill replaced the SNAP E&T job search component with supervised job search and defined supervised job search as "an E&T component that occurs at State-approved locations at which the activities of participants shall be directly supervised,



and the timing and activities of participants tracked in accordance with guidelines issued by the State agency.” The proposed rule seeks feedback on how to further define “supervised” and “State-approved location,” including whether supervision shall be provided in-person, and whether a “State-approved location” shall be a set geographic point, or whether State agencies may be able to meet this requirement in a virtual or telephonic environment.

Heartland Alliance encourages giving states maximum flexibility in their definitions of “supervised” and “State-approved location” in order to take into the account the needs and interests of SNAP E&T participants and the significant role of technology in current job search, job application and—especially in light of the COVID-19 pandemic—job functions. Participants’ engagement in remote services prepares them to succeed in this evolving employment market, including in jobs that offer more sustainable wages. Employers have shared with Heartland Alliance staff who serve jobseekers that the ability to engage in a remote employment interview, submit applications and onboarding documents online, and leverage technology for other job functions will be critical as the economy rebuilds.

Aligned with our support for flexibility in these definitions, we believe SNAP E&T services could be provided in-person to participants in a number of different physical locations, including but not limited to SNAP offices, American Job Centers, E&T providers’ offices, and libraries. However, requiring SNAP E&T participants to engage in job search while in the same physical location as SNAP E&T program staff should not be required and is not necessary. Given significant gaps and inequities in access to transportation, even with client support, having to engage in services in-person may pose an insurmountable barrier to access services. Scheduling constraints for participants engaged in multiple systems further hampers their success in meeting program expectations or achieving their goals. Virtual environments such as websites or mobile apps should also be included in the definition of “State-approved location.” Similarly, supervision could occur through in-person oversight or through remote check-ins that leverage technology such as by phone, text, mobile app, or other virtual environments. Hours spent in supervised job search could also be tracked a number of different ways both in-person and virtually.

In addition, states should also be able to use different approaches for different types of services as well as allow SNAP E&T participants to choose to participate in services in-person or online in accordance with their interests and needs. For example, many E&T participants face significant challenges with housing instability, domestic violence, and reliable access to child care, transportation, and physical and behavioral health care. These challenges can interfere with participants’ ability to engage in in-person services.



In order to address or overcome these barriers, E&T participants may also be involved in other systems and services with conflicting scheduling requirements, such as shelter, child, or family services. For each of these services, efficient scheduling is nearly impossible and the conflicting demands adversely impact retention in the E&T program. For these reasons, having virtual or telephonic environments for E&T services can help support the success of participants who are managing multiple barriers and promote equitable service delivery by ensuring that E&T programming reaches those who need it most.

Importantly, any SNAP E&T providers that choose to offer services virtually must consider that many low-income jobseekers lack reliable access to the technology necessary for their full participation. For example, SNAP E&T participants may not have a mobile phone, sufficient mobile phone minutes or data, reliable access to high-speed internet, or a personal desktop or laptop. As a result, similar to how transportation assistance may be necessary to help SNAP E&T participants attend in-person activities, SNAP E&T providers must equip their participants with the necessary technological tools, devices, access (e.g., wireless hot spots, data plans, and phone minutes), and coaching) to complete virtual activities. As noted above, the COVID-19 pandemic is transforming the nature of work and widening the digital divide. To support meaningful access to employment and economic mobility for E&T participants, it is paramount that E&T providers bolster the technological capacity and digital capability of the people they serve.

III. Employability Assessments

The 2018 Farm Bill eliminated the use of “job skills assessments” as part of a SNAP E&T job search training component and replaced it with “employability assessments.” The proposed rule would update existing regulations to reflect this statutory change.

The Department notes that: “employability assessments are more comprehensive and provide a more in-depth assessment than job skills assessments. Employability assessments should help determine an individual’s readiness for employment, which includes assessing a set of cross-cutting skills such as, applied academic, interpersonal, critical thinking, and communication skills, as well as barriers to work.” The stated purpose of an employability assessment is “to improve and individualize services to E&T participants.”

Heartland Alliance urges the Department to offer additional opportunities for public feedback about the design and delivery of employability assessments. In particular, our experience consulting on the design of employment programming for external stakeholders as well as designing and implementing our own in-house programming

tells us that, even when well-intentioned, an employability assessment often acts as a tool to screen people out of services rather than into services. Heartland Alliance promotes a human rights approach to work, so our perspective is that all participants who want to work are employable and it is the role of the program and the provider to identify strategies for overcoming employment barriers. Our belief is that anyone who identifies employment as a goal should be offered supports to realize that goal. Moreover, research tells us that many if not most chronically unemployed people [can and will work](#) if provided access to employment and the proper supports and barrier mitigation services.

Employability assessments are also subject to racial bias. The determination as to whether or not an individual is “ready” for employment is subjective and therefore inherent or explicit racial bias among staff plays a role in deciding who is or isn’t a good candidate for services. Academic skills assessments are also inherently racist due to the vast racial inequities in the country’s education system. As a result of [centuries of historic and still-ongoing systemic racism](#), assessing barriers to employment will reveal that people of color—and Black people in particular—are disproportionately over-represented as it relates to the experience of homelessness, involvement in the criminal legal system, and chronic unemployment. Finally, determining if an individual is employable or meets certain professionalism standards by assessing that individual’s “interpersonal” or “communication skills” is an idea deeply rooted in white supremacy culture. [As described by scholars in the field](#), “In the workplace, white supremacy culture explicitly and implicitly privileges whiteness and discriminates against non-Western and non-white professionalism standards related to dress code, speech, work style, and timeliness.” An employability assessment must not perpetuate the privileging of white values.

Heartland Alliance urges the Department to proceed carefully and mindfully in the design and delivery of employment assessments. The purpose of any assessment should be to determine service needs, not to screen out participants. We recommend that the Department urge states to take a [“zero exclusion” approach](#) to employability assessments—as well as services offered—that assumes employability and worker motivation and makes every effort to accept and accommodate all jobseekers receiving SNAP with employment programming that is appropriate, effective, meets their needs, and aligns with their preferences. The evidence-based practice of [Individualized Placement and Support](#) (IPS) demonstrates that a “zero-exclusion approach” is effective even for persons who are overcoming multiple barriers.

Finally, we urge the Department to hold State agencies accountable for collecting, analyzing, and reporting on the characteristics of jobseekers determined “not ready” for



employment by existing or soon-to-be-implemented employability assessments. At minimum, State agencies should be required to collect, analyze, and report on characteristics of race, ethnicity, gender, and age so that inequities in how assessments function can be identified and remedied.

IV. Job Retention

The 2018 Farm Bill modified the job retention SNAP E&T component to require that State agencies choosing to provide job retention services must offer a minimum of 30 days of services. The proposed rule would update existing regulations to reflect this statutory change.

In addition, Department proposes that State agencies offering job retention services must make a good faith effort to provide these services for a minimum of 30 days. At minimum, this good faith effort must include communicating the 30-day minimum to all job retention participants at enrollment in job retention services and creating a case management plan for each job retention program participant that extends at least 30 days.

Like the Department, Heartland Alliance recognizes that job retention services can play an important role in helping a jobseeker transition into work and manage any barriers that may arise once that individual is in the workplace. To that end, we believe that a good faith effort to provide these services should also include a reasonable number of documented outreach attempts to the participant. It is important to offer job retention services during alternative hours such that they do not interfere with a participant's work, family, and systems schedules, which may change frequently. Where job retention services are delivered also matters. It is important that E&T staff are able to provide these services virtually or in-person at an agreed upon convenient location, keeping accessible transportation in mind.

In order to recognize the value of participants' time and promote ongoing engagement in job retention activities, we recommended that E&T providers of this component be allowed to use funds to provide small, consistent financial or in-kind incentives to participants. Offering incentives is way to [maintain contact with participants](#) who may otherwise disengage from job retention services and offers E&T providers an opportunity to leverage time spent with participants who are redeeming incentives to ask about their jobs, brainstorm solutions to any workplace challenges that may have surfaced, and connect participants to additional supports or reemployment services if necessary.



V. Subsidized Employment and Apprenticeships

The 2018 Farm Bill added subsidized employment and apprenticeship as examples of allowable activities under a work experience program. Work experience programs are designed to improve the employability of SNAP E&T participants through actual work experience, training, or both and to enable jobseekers to move into the competitive labor market.

Heartland Alliance fully supports this revised definition of work experience and the inclusion of E&T funds to subsidize the wages of E&T participants. However, in FNS' [March 6, 2019 memo to state agencies](#), FNS said that the addition of subsidized employment as an allowable E&T activity is only effective *after* rulemaking occurs. This rulemaking has not yet occurred. Given the unprecedented unemployment resulting from the COVID-19 pandemic, Heartland Alliance urges FNS to allow states to incorporate subsidized employment into their SNAP E&T programs with remote opportunities and, when it is safe for people to return to work, in-person opportunities. To this end, FNS should quickly issue updated guidance allowing states to begin to implement subsidized employment without waiting for additional federal regulations to be released.

Heartland Alliance generally supports FNS' proposal to define SNAP E&T components by drawing from the Workforce Innovation and Opportunity Act (WIOA), the Perkins Act, and the Temporary Assistance for Needy Families (TANF) program. For the record, however, Heartland Alliance is opposed to work requirements in exchange for any form of basic assistance, including SNAP. As a result, we reject the premise of the new E&T definition of a work activity, which states that work activities are "performed in exchange for SNAP benefits." People experiencing hunger should not have to "perform activities" in exchange for food. Our objection to work requirements is discussed in greater detail on pages 18 to 19, below.

With the recognition that eliminating work requirements from SNAP is outside of the scope of the proposed rule, we do believe that streamlined definitions across different public systems may help promote much-needed public systems coordination and collaboration aimed at helping jobseekers facing barriers to work access employment, training, education, and support services. We are especially pleased to see the inclusion of "work-based learning" and FNS' assertion that work-based learning should lead to the attainment of industry-recognized certificates or credentials and should be explicitly linked to increased earnings. The proposed rule notes that work-based learning models include transitional jobs. In keeping with applying existing definitions from other public systems to SNAP E&T, we urge FNS to adopt the definition of transitional jobs from WIOA (see [20 CFR 680.190 and .195](#)). Heartland Alliance also



appreciates FNS' encouragement to states to partner with other programs in order to leverage the expertise, infrastructure, and services of existing work-based learning providers.

Finally, one area of concern for Heartland Alliance is that for the purposes of determining SNAP eligibility, section 5(d) of the Food and Nutrition Act (FNA) requires that "household income must include all income from any source, including subsidized wages earned through E&T, that is not otherwise excluded in the FNA or any other Federal statute." Because FNS is not aware of any existing laws that would allow income from subsidized employment to be excluded when determining eligibility for SNAP, SNAP E&T participants who take part in a paid work-based learning model (e.g., subsidized employment) run the risk of losing their SNAP eligibility and thus their SNAP E&T eligibility.

We agree with FNS' assertion that it is a best practice for the State agency to advise participants that earnings from a work-based learning activity under SNAP E&T could potentially decrease their SNAP benefit or make their household ineligible for SNAP and SNAP E&T. However, including subsidized wages in the SNAP eligibility determination is a significant disincentive to SNAP recipients to participate in paid work-based learning activities in the first place. Therefore, the inclusion of subsidized wages in the SNAP eligibility determination undermines the stated purpose of a paid work-based learning activity, which is to "help [SNAP participants] gain skills while also meeting their immediate need to earn income." The goal of allowing SNAP E&T funds to be used to subsidize the wages of E&T participants should be to help these participants earn immediate income, gain work experience and new skills, and move toward economic opportunity. Participants should be allowed to retain their access to basic food assistance while participating in subsidized employment via SNAP E&T. While Heartland Alliance recognizes that addressing this issue may be outside of the scope of this proposed rule, we urge FNS to support amending the eligibility criteria for SNAP to disregard income earned through subsidized wages.

VI. Case Management

Pursuant to provisions within the 2018 Farm Bill, the rule proposes that case management be a required part of all State E&T programs. The Department believes that providing case management services will help State E&T agencies better support the success of E&T participants as they move through E&T programming.

As a workforce development provider, Heartland Alliance supports the inclusion of case management as a mandatory component of SNAP E&T programming. We are also pleased to see that the Department encourages SNAP E&T agencies to provide



individualized, ongoing case management services that are aligned with best practices in workforce development and human services.

In order to provide individualized, ongoing case management services that are aligned with best practices, it is important that the Department give State agencies flexibility with regard to the supports and services they can offer E&T participants. Heartland Alliance recognizes that many SNAP E&T participants face significant barriers to success. These barriers can include, among others, experiencing homelessness or housing instability, experiencing domestic violence, having limited access to reliable childcare and transportation, unmet physical and behavioral health care needs, having a criminal record that results in employment-related permanent punishments (collateral consequences), literacy and English-language challenges, and experiencing chronic unemployment. State agencies and SNAP E&T providers will be best positioned to support the success of a wide array of SNAP E&T participants if given flexibility in the types of services and supports they can provide participants.

In addition, we recognize that earned income is important and that meaningful work is a human right. However, many of the jobs available to SNAP E&T participants who face barriers to employment are low quality and do not pay a sustaining wage or provide regular or sufficient hours. Moreover, holding one or more of these types of jobs can reduce eligibility for other vital supports such as subsidized child care, health care, and SNAP assistance. At Heartland Alliance, we have seen that in some cases, underemployment actually makes families *more* vulnerable than complete unemployment. We recommend that State agencies take steps to ensure that, when paired with other E&T components, SNAP E&T case management services assist participants in: understanding how different employment options will impact their access to basic assistance; upgrading from a “survival job” or underemployment to a higher quality-job; securing stackable credentials; and navigating a career pathway. State agencies should incentivize E&T providers to offer these kinds of robust case management services in order to mitigate generational poverty and address inequities. Failure on the part of SNAP E&T programs to assist E&T participants from accessing high-quality jobs only leads to these individuals cycling through underemployment, needing basic assistance to make ends meet, and poverty or extreme poverty.

Heartland Alliance agrees that requiring case management services should support, not impede, SNAP E&T participants’ success in programming. Therefore, we agree with the proposed inclusion of regulatory language stating that “the provision of case management services must not be an impediment to the participant’s successful participation in E&T.” We urge the Department to consider and clarify how it will determine if engagement in case management services is having the unintended



consequence of impeding an individual from successfully participating in E&T. We believe such a determination should include input from the SNAP E&T participant. We also urge the Department to specify that 1) when a determination is made that a SNAP E&T participant does not need or want case management and 2) the participant is still engaged in other SNAP E&T activities, the participant may **not** be sanctioned for noncompliance solely for not participating in case management activities. This type of non-punitive approach aligns with the proposed rule's assertion that "case management should be tailored to the needs of the individual, and be adaptable to the individual's changing support requirements."

We appreciate the Department's offer of technical assistance to State agencies to assist in developing case management services that align with the needs of participants and best practices. However, it is important to note that high-quality case management involves a significant amount of program staff capacity and skilled supervision. To this end, Heartland Alliance believes that requiring case management as a SNAP E&T component must be accompanied by additional funds to State agencies specifically for case management activities and associated infrastructure support. Without these dollars, states may need to reduce their caseloads in order to provide more intensive services to fewer SNAP E&T participants. Additionally, the failure to fund case management downplays the importance of these services and the significant staff time, skill, and other resources that will be necessary to offer high-quality case management services to all SNAP E&T participants. Asking states to fund case management with their existing funds is unlikely to result in the provision of high-quality, equitably-resourced case management services for jobseekers receiving SNAP.

In addition, case management funds should be structured such that service providers can bill for case management in advance of securing an employment placement for their participants. The proposed rule permits case management and other E&T components to be provided by separate entities, and therefore the organization offering case management could be different from the provider credited with a job placement. Under current compensation structures, however, SNAP E&T providers are paid out the majority of their funds as job "placement bonuses" for their participants. If the organization providing case management is different from the organization that makes a job placement, the case management service providers could not easily be reimbursed for services rendered that make the placement possible. In addition, attaching funds to case management rather than solely to job placement incentivizes provider to work with individuals who face greater barriers to employment rather than opt to work with jobseekers facing fewer barriers cream in order to more easily make job placements.



Finally, the proposed rule would require that State agencies include of a description of the case management services they intend to offer as a part of their E&T State plan. Heartland Alliance supports including a description of case management practices in the state E&T plan because doing so acts as an accountability mechanism to the public. However, we also recognize that states may choose to use different practices in different parts of the state, or with different E&T providers. As discussed above, we also know that flexibility is important when it comes to delivering case management services to E&T participants who face significant barriers to employment. So that SNAP E&T providers can have the flexibility to tailor case management to the needs and interests of their clients, we urge the Department not to issue overly-strict guidance about how case management services should be structured and delivered.

VII. Referral of Individuals

The 2018 Farm Bill added a new requirement for State agencies regarding any E&T participant—not otherwise exempted from the work requirement—who is determined by an E&T component provider to be “ill-suited” to participate in that component. For an individual who is found to be “ill-suited” for that component, the State agency must do the following: 1) refer the individual to an appropriate E&T component; 2) refer the individual to an appropriate workforce partnership, if available; 3) re-assess the individual’s physical and mental fitness; or 4) to the maximum extent practicable, coordinate with other Federal, State, or local workforce or assistance programs to identify work opportunities or assistance for the individual. Additionally, the State agency must ensure that an individual undergoing and complying with the process described above shall not be found to have refused without good cause to participate in an E&T program. The proposed rule seeks to codify these changes. The Department believes that the intention of these statutory changes was to increase State agencies’ accountability for their E&T programs.

Heartland Alliance supports the Department’s efforts to increase State agencies’ accountability to jobseekers receiving SNAP. However, we have some concerns with and suggestions for improving the Department’s proposed new processes for implementing this provision, discussed below:

i. “Ill-Suited” Determinations

At Heartland Alliance, we believe in taking a strengths-based approach to service delivery. We also know that language matters. The way that we speak about people receiving basic assistance has an impact on how individuals view themselves, how they are perceived by others, and how the public understands the root causes of poverty and inequity. Therefore, on principle, we believe that describing an individual as “ill-suited” for an employment program is not acceptable. This language is stigmatizing,



demoralizing, deficit-based, and places blame on that jobseeker for not being well-served by the E&T component to which the State referred them. Put simply, people are not “ill-suited” for programs, but programs can be ill-suited for people.

We recommend that the Department take accountability for the referral process and use a different phrase in these instances, such as “revised referral” or “reassigned referral.” Also, we ask that the Department recognize that even if this concerning language is changed, a revised or reassigned referral is a significant burden on the time and hopefulness of a jobseeker and can be a demoralizing process. State agencies should help prevent the need for a revised or reassigned referral by ensuring that referral processes on the front end are done with care and consideration.

The rule also proposes that E&T providers have the authority to determine what constitutes being “ill-suited” for a particular E&T component, with the State agency being responsible for overseeing the E&T provider and ensuring that the “ill-suited” determinations that are made are reasonable and nondiscriminatory.

As discussed in our response to Employability Assessments (see pages 6 to 8, above), we strongly urge the Department to offer additional opportunities for public feedback about how “ill-suited” determinations are made. Although the end goal of the “ill-suited” determination process may be to match a jobseeker with more appropriate programming, in practice the determination screens a jobseeker out of an available E&T component with the hope that the State will have another, better option available for them down the line. Because receiving an “ill-suited” determination would harmfully impact a jobseeker by disconnecting them from services and supports, it is critical that the Department take steps to make the criteria that inform an “ill-suited” determination transparent and to offer opportunities for feedback and revision of these criteria. In addition, we are concerned that deferring sole authority to SNAP E&T providers to make these determinations could result in a patchwork of unaligned and confusing approaches that are subject to staff discretion and therefore subject to staff’s implicit or explicit racial biases.

We are pleased to see that State agencies will play an oversight role in ensuring that the “ill-suited” determinations that are made are reasonable and nondiscriminatory. We urge the Department to hold State agencies accountable for collecting, analyzing, and reporting on the characteristics of jobseekers determined to be “ill-suited” for SNAP E&T components. At minimum, State agencies should be required to collect, analyze, and report on characteristics of race, ethnicity, gender, and age so that inequities in how “ill-suited” determinations function can be identified and remedied.

To enhance State agencies' ability to provide oversight, we also recommend that the Department build out accountability mechanisms for situations in which the E&T provider notifies the State agency of an "ill-suited" determination for an individual but fails to provide the reason for that determination. As written, the proposed rule states: "The Department also proposes that, when the E&T provider notifies the State agency of an ill-suited determination for an individual, the E&T provider also include the reason for the ill-suited determination...If the State agency is unable to obtain the reason for the ill-suited determination from the E&T provider, the State agency must continue to act on the ill-suited determination." This lack of accountability on the part of E&T providers may increase the likelihood that E&T providers will not provide the reasons behind their "ill-suited" determinations, which makes will undermine the State agency's ability to conduct effective oversight.

Finally, we believe that anyone who has been deemed "ill-suited" for an E&T component should have the right to appeal that decision. We also encourage to the Department to consider that E&T participants should have a reciprocal right to request re-assignment if they believe the provider is "ill-suited" to their needs and interests.

ii. Notice of E&T Participation Change (NETPC)

Once the State agency receives a notification from the E&T provider that an individual has been determined "ill-suited" for an E&T component, the proposed rule would require the State agency to send a Notice of E&T Participation Change (NETPC) to the household member as soon as possible. The NETPC will inform the individual of the "ill-suited" determination. If the "ill-suited" individual is an Able-Bodied Adult Without Dependents (an "ABAWD"), the NETPC should explain that regardless of the determination, the ABAWD will begin to accrue countable months toward their 3-month SNAP participation time limit as of the date of the NETPC unless the ABAWD fulfills work requirements in accordance with existing regulations. The NETPC should also provide contact information for the E&T program.

The Department specifically asks for feedback on: 1) any additional information that should be included in the final regulations regarding information printed in the NETPC and 2) any additional language the Department should include in the final rule addressing required actions the State agency would be expected to take following the notice being sent, including if the final rule should specify when the State agency would be expected to take one of the four actions required by the State agency following an ill-suited determination² and how to ensure an individual with an ill-suited determination is

² Again, for an individual who received an "ill-suited" determination for an E&T component, the State agency must: 1) refer the individual to an appropriate E&T component; 2) refer the individual to an

moved into a more suitable activity as soon as reasonably possible.

Heartland Alliance finds it unconscionable that in the case of an “ill-suited” determination by a SNAP E&T provider that an ABAWD would begin to accrue countable months toward their 3-month SNAP participation time limit unless they are able to fulfill the work requirement. In effect, the Department is saying that it is acceptable to disconnect an ABAWD from the E&T services and supports that were allowing that individual to fulfill the work requirement and then expect that individual to fulfill the work requirement on their own while the State agency—on an as-of-yet undetermined time frame—takes one of the four required action steps to match that ABAWD to an appropriate service. We know that ABAWDs in particular [face significant barriers to employment](#). Moreover, the ABAWD jobseeker is not at fault if their E&T component provider makes the determination that the ABAWD is “ill-suited” for the services offered by the provider. While doing so may be outside of the scope of this particular rulemaking process, we strongly encourage the Department to reconsider its requirement that ABAWDs begin accruing countable months toward their 3-month participation time limit after having received an “ill-suited” determination. In response to the question about additional information that should be included in the NETPC, we believe the NETPC should clearly articulate the reason for the “ill-suited” determination, the next steps that the State agency will take to match the jobseeker to another opportunity, the time frame in which those next steps will occur, and how the jobseeker can appeal the decision.

Because these types of notices are virtually always confusing and hard to understand, we urge the Department to take steps to ensure that the NETPC is accessible to all SNAP E&T participants. For example, a NETPC should be written at a widely-accessible reading level, such as Grade Level 3 to 6. The NETPC should be translated as needed and be accessible to people with disabilities. The Department may want to consider also providing the NETPC to participants via an explanatory video. In alignment with this rule’s proposal to provide SNAP participants with a “comprehensive oral explanation” of SNAP’s work requirements, we encourage the Department to offer a similar service with regard to the NETPC. The Department should provide the oral explanation in the SNAP participant’s spoken language of choice. The Department should also be prepared to offer the explanation via sign language as needed.

In response to the question about any additional language the Department should include in the final rule addressing the required actions the State agency would be

appropriate workforce partnership, if available; 3) re-assess the individual’s physical and mental fitness; or 4) to the maximum extent practicable, coordinate with other Federal, State, or local workforce or assistance programs to identify work opportunities or assistance for the individual.



expected to take following the NETPC, we believe the final rule should specify a reasonable timeframe for when the State agency will take one of the four required actions on behalf of the individual who has received the “ill-suited” determination. We recommend that the State agency be required to take one of the four actions at the next recertification, when the State will already be scheduled to contact the participant.

Finally, we also believe the final rule should specify steps the State agency can take to ensure that an individual with an “ill-suited” determination is moved into a more suitable activity as soon as reasonably possible. Some of these steps might include having State agency staff speak with the SNAP E&T participant about their employment goals and interests, requiring the State agency to maintain an up-to-date database of existing workforce development programming specifically targeted to jobseekers who face more significant barriers to employment, or having the State agency employ system navigators who can better coordinate options on behalf of jobseekers.

VIII. Prioritized Reallocation of Employment and Training Federal Grant Funds

The 2018 Farm Bill introduced priorities for the reallocation of unobligated and unexpended Federal E&T funds to other State agencies requesting additional E&T funds. One priority is that at least 30 percent of the unobligated and unexpended funds should be available to State agencies requesting funds for E&T programs and activities targeted to individuals with high barriers to employment. The proposed rule would update existing regulations to reflect this statutory change.

The Act specified that this 30 percent reallocation may include programs and activities targeted to: Individuals 50 years or older; formerly incarcerated individuals; individuals participating in a substance abuse treatment program; homeless individuals; people with disabilities seeking to enter the workforce; other individuals with substantial barriers to employment; or households facing multi-generational poverty, to support employment and workforce participation through an integrated and family-focused approach in providing supportive services. The proposed rule also seeks to update existing regulations to reflect this statutory change.

Heartland Alliance is pleased to see a funding reallocation priority targeted to jobseekers facing significant barriers to employment. One point of consideration is that, in general, almost all E&T programs serve people who face barriers to employment. Therefore, it may be advantageous for reallocated funds to serve a specific target population of jobseekers (e.g., individuals experiencing homelessness) who are disproportionately under-represented among existing E&T participants in the state seeking additional E&T funds.



Prioritizing funds toward a specific target population may help redress inequities in E&T service provision. For example, because homelessness [disproportionately impacts people of color](#), and [Black people in particular](#), targeting funds to this population would help address systemic inequities. In addition, prioritizing a specific target population could provide an opportunity for the State to test, refine, and improve employment and training components targeted to those jobseekers' particular needs and interests as well as build out robust cross-system partnerships with another public system (e.g., the homeless response system or the Continuum of Care in every community or region).

Finally, prioritizing funds toward a particular population could also complement WIOA Title I funding. For example, one of the WIOA system's populations for priority of service is jobseekers experiencing homelessness, but on its own the WIOA system does not have the resources to meet the case management and other needs of this population. As discussed on pages 3 to 4 of these comments, above, the 2018 Farm Bill statutorily requires that State agencies design their SNAP E&T programs in consultation with the WIOA system. If the State agency can come to the WIOA system with reallocated SNAP E&T funds targeted to a specific population of jobseekers that falls under WIOA's priority of service, the availability of complementary funds will likely incentivize and improve coordination and collaboration across these systems aimed at helping SNAP E&T participants achieve employment.

IX. Informing SNAP Participants About Their Work Requirements

To help streamline and improve communication between the State agency and the household, and to better serve SNAP participants, the rule proposes to consolidate the State requirement to inform individuals of their applicable work requirements (*i.e.*, the general work requirement, the mandatory E&T requirement, and the ABAWD work requirement). This consolidation would take two forms: A single written statement and a comprehensive oral explanation of all the work requirements that would pertain to individuals in a particular household. The consolidated requirement would merge two existing requirements to inform individuals about their work requirements (*i.e.*, the general work requirement and mandatory E&T) with a new more clearly delineated requirement to inform ABAWDs regarding their ABAWD work requirement and time limit.

On principle, Heartland Alliance opposes requiring that individuals be subject to work requirements in exchange for any form of basic assistance, including nutrition assistance. [Access to food is a human right](#). Additionally, in Heartland Alliance's experience as a former SNAP E&T provider, mandating that an individual engage in employment services if doing so is not aligned with that individual's current goals strains SNAP E&T providers and SNAP offices in terms of their having to monitor, sanction, or



re-assign individuals determined to be “ill-suited” for that SNAP E&T component to other services.

As the Department has already been made aware numerous times in response to other SNAP E&T rulemaking processes, [work requirements are ineffective, punitive, racist, and based on the false premise that individuals and families living in poverty are “not motivated” to work](#). That said, to the extent that work requirements have been deemed administratively necessary—despite their disproven and harmful nature—we agree with the Department’s proposal to streamline communications about SNAP’s work requirements. We urge the Department to ensure that such notices are sent in a timely manner. Similar to our suggestions about the NETPC (see pages 15 to 17, above), such notices should be written at a widely-accessible reading level, such as Grade Level 3 to 6. The notices should be translated as needed and be accessible to people with disabilities. The Department may want to consider also providing participants with an explanatory video about the information contained in the notices. With regard to the “comprehensive oral explanation,” it should be provided in the SNAP participant’s spoken language of choice. The Department should also be prepared to offer the explanation via sign language as needed.

X. SNAP E&T Eligibility

The proposed rule change specifically asks for feedback about the process to regularly verify SNAP eligibility for E&T participants. Verification of SNAP eligibility on a monthly basis is an ineffective process in that it is extremely time-intensive for service providers and may disincentivize the expansion of SNAP E&T programming. In Illinois, SNAP E&T providers must verify a prospective participant’s enrollment in SNAP with the Illinois Department of Human Services (IDHS) before they can begin billing for services provided to that individual. The monthly eligibility check requirement is a burden at the beginning of and throughout the duration of services. In Illinois, it is common for the verification process to happen through in-person “staffing” meetings between SNAP E&T program staff and IDHS staff. Unfortunately, slow state response times can interfere with provision of services.

We urge the Department to provide additional technical assistance and funding to improve data systems so that E&T providers could check eligibility and enrollment in SNAP in real time without having to contact IDHS agency staff. Using specific identifying variables to retrieve the eligibility and/or enrollment status of particular individuals would help eliminate the administrative challenges and time delays presented by back and forth correspondence between State agencies and program providers.



In addition, we believe that providers should be able to serve prospective participants with a presumption of eligibility for a period of at least 30 days with funding support. This would allow prospective participants to get started in programming quickly without providers taking the significant risk of being unable to bill for those services. If an individual's self-reported income falls in the SNAP eligibility income range and that individual reports to be a SNAP recipient or plans to enroll in SNAP, SNAP E&T programs should be able to enroll that individual instantly. Instant enrollment in SNAP E&T could give a person time to enroll in SNAP without having to delay the start of employment and training services. By being able to instantly enroll in SNAP E&T via presumed eligibility rather than going through a waiting period, an individual may be able to prevent homelessness or other crises. If it turns out the individual is not eligible to receive SNAP, the Department should develop a process for how to allow a program to receive payment for services rendered during the period of presumed eligibility.

On behalf of Heartland Alliance, thank you very much for the opportunity to submit comments in response to this Notice of Proposed Rulemaking. We welcome the opportunity to discuss any of our thoughts in greater detail. Caitlin C. Schnur is the primary person to contact in response to these comments.

Sincerely,

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