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USDA Nutrition Assistance Programs: Response to the COVID-19 Pandemic

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SUMMARY

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USDA Nutrition Assistance Programs: Response to the COVID-19 Pandemic

U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) programs are often part of emergency response efforts, providing foods for distribution, additional benefits for redemption, and program flexibilities. During the COVID-19 pandemic, access to food—particularly in light of increased unemployment and closures of institutions that households rely on for food, such as schools—has been a concern for many people. Some observers also view the programs, particularly the Supplemental Nutrition Assistance Program (SNAP), as a means of economic stimulus. This report discusses related provisions of five laws that supplement FNS's prior response to the COVID-19 pandemic with new funds and authorities:

- Families First Coronavirus Response Act (FFCRA; P.L. 116-127, enacted March 18, 2020);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136, enacted March 27, 2020);
- Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159, enacted October 1, 2020);
- Consolidated Appropriations Act, 2021, Division N, Title VII (P.L. 116-260, enacted December 27, 2020);
- American Rescue Plan Act of 2021, Title I (ARPA, P.L. 117-2, enacted March 11, 2021); and
- Extending Government Funding and Delivering Emergency Assistance Act, Division D, Title I (P.L. 117-43, enacted September 30, 2021).

This report also provides an overview of USDA's implementation of COVID-19 response laws, including the Biden Administration's changes to the implementation of some of the 116th Congress laws' provisions.

Within SNAP, the COVID-19 pandemic response laws have allowed for certain changes to eligibility and benefit amounts. Among other changes, FFCRA authorized an option for states to increase households' benefits up to the maximum amount. More recently, P.L. 116-260 and then ARPA increased the maximum benefit amount by 15% for January through September 2021. In addition, the laws allowed for a variety of administrative flexibilities; for instance, provisions designed to make it easier for states to manage the recertification of participating households during social distancing. The laws also provided additional funding for benefits and specified grants for other SNAP and related functions.

The pandemic response laws supplemented the block grant funding for Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands. These territories do not operate SNAP, but rather their own nutrition assistance programs using block grant funding.

FFCRA first established the Pandemic Electronic Benefit Transfer (P-EBT) program, and subsequent pandemic response laws expanded it. This program provides SNAP-like benefits to households, serving as replacements for meals that normally would have been provided in schools and, following expansion of the program, in child care centers.

The pandemic response laws have also enabled changes within institution-based child nutrition programs, including school and summer meals programs. The pandemic response for these programs has included an expansion of USDA's ability to waive child nutrition program requirements, the temporary ability for providers to serve free meals to all children, and a new program to cover financial losses for meal providers.

The laws have also provided supplemental appropriations for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and a benefit increase through ARPA that was subsequently extended. In addition, they gave USDA authority to issue a wide variety of program waivers, including changes to benefit issuance, product availability, and physical presence requirements.

Supplemental funding was provided to programs that distribute USDA-purchased commodities. The Emergency Food Assistance Program (TEFAP) provides federally purchased foods and administrative funds to states for distribution to emergency feeding organizations, including food banks, food pantries, and soup kitchens. Three of the pandemic response laws together provided over $1.2 billion to TEFAP. Smaller amounts were also provided for the Food Distribution Program on Indian Reservations (FDPIR) and the Commodity Supplemental Food Program (CSFP).

In addition to responding to the COVID-19 pandemic through its existing nutrition assistance programs, USDA launched two new programs to feed people on a temporary basis: (1) the Farmers to Families Food Box program, initially funded under the FFCRA, which has provided food boxes to individuals and households; and (2) the Emergency Meals to You program, which provided food boxes to households with school-aged children in rural areas. FNS also activated emergency food distribution programs in certain states and tribal nations during the early months of the pandemic.

Contents

Introduction 1
Funding Overview 3
Supplemental Nutrition Assistance Program (SNAP) 6
SNAP Benefit Increases and Waivers 7
Emergency Allotment Increases 7
Temporary 15% Increase to Maximum Monthly Benefits (January-September 2021) 8
Administrative Flexibilities 10
Thrifty Food Plan Increase for FY2022 (beginning October 1, 2021) 11
Excluding Federal Pandemic Unemployment Compensation from SNAP Income 11
SNAP Work-Related and Student Eligibility Rules 12
Work-Related Requirements 12
Student Eligibility 13
SNAP-Related Funding 13
Funds in the CARES Act 14
Funds in the FY2021 Consolidated Appropriations Act and ARPA 14
Nutrition Assistance Funding for Certain Territories 15
Pandemic Electronic Benefit Transfer (P-EBT) 15
Establishment of P-EBT 16
P-EBT Extension and Expansion 16
Child Nutrition Programs 17
Overview of Changes to Existing Programs and Waiver Authorities 18
Supplemental Funding for Child Nutrition Programs 19
Program to Cover Financial Losses of School District and Child Care Meal Providers 20
Temporary Funding for Meals Served to Young Adults at CACFP Emergency Shelters 21
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) 21
Supplemental Appropriation 21
Waivers 21
Task Force 22
Temporary Increases to Cash Value Vouchers 22
Funding for Program Modernization 23
Food Distribution Programs 23
The Emergency Food Assistance Program (TEFAP) 23
Food Distribution Program on Indian Reservations (FDPIR) 25
Commodity Supplemental Food Program (CSFP) 25
Other USDA Initiatives 26
Farmers to Families Food Box Program 26
Emergency Meals to You 27
Disaster Household Distribution 28

Tables

Table 1. Supplemental Appropriations for USDA Nutrition Assistance Programs to Respond to the COVID-19 Pandemic 4
Table 2. SNAP Maximum Monthly Benefits Before, During, and After COVID-19 Pandemic Response Laws' 15% Increase..... 9

Contacts

Author Information..... 29

Introduction

The ongoing COVID-19 pandemic has brought food access issues to the forefront in the United States, as businesses and individuals grapple with food shortages and increases in food prices. For many households, the pandemic raised additional challenges in affording and accessing food, including loss of income associated with an initial spike in unemployment and the closure of institutions, like schools, that many Americans rely on for food.[1] However, trends in the food insecurity rate during the pandemic are unclear, possibly reflecting changing conditions (for example, in unemployment and government assistance) and mixed approaches to data collection.[2] Some studies indicate that food insecurity rates increased during 2020 and have since declined.[3] There is also evidence of increased use of food pantries and related organizations.[4]

U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) programs have been seen as a critical component to combatting food insecurity during the pandemic. At the same time, they have had to adjust to unprecedented administrative challenges, such as how to enroll households in benefits remotely and how to reach people who were previously served in institutional settings. Increasing households' food purchasing power may also be a means of economic stimulus.[5] The response of FNS programs to the COVID-19 pandemic has been shaped by new federal laws as well as USDA, states, and providers working under the parameters of the laws.

This report discusses related provisions of six laws that supplement FNS's COVID-19 pandemic response with new funds and authorities:

- Families First Coronavirus Response Act (FFCRA; P.L. 116-127, enacted March 18, 2020);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136, enacted March 27, 2020);

[1] See CRS Report R46554, *Unemployment Rates During the COVID-19 Pandemic*.

[2] See discussion on pages 15-16 of A. Coleman-Jensen, M.P. Rabbitt, C.A. Gregory, and Singh, A., *Household Food Security in the United States in 2020*, U.S. Department of Agriculture (USDA), Economic Research Service, September 2021, https://www.ers.usda.gov/webdocs/publications/102076/err-298.pdf?v=9561.5.

[3] Census launched a new, experimental Household Pulse Survey during the pandemic, collecting data on food insufficiency—a related concept—every few weeks. The Census Household Pulse survey data show an increase in food insufficiency from April 2020 to December 2020, and declining rates since. U.S. Census Bureau, "Household Pulse Survey Data Tables," https://www.census.gov/programs-surveys/household-pulse-survey/data.html. Also see Figure 2 in Center on Budget and Policy Priorities, "Tracking the COVID-19 Economy's Effects on Food, Housing, and Employment Hardships," updated February 10, 2022, https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and; and E. Waxman and P. Gupta, "Food Insecurity Fell Nearly 30 Percent between Spring 2020 and 2021," May 26, 2021, https://www.urban.org/research/publication/food-insecurity-fell-nearly-30-percent-between-spring-2020-and-2021.

[4] A. Coleman-Jensen and M.P. Rabbitt, "Food Pantry Use Increased in 2020 for Most Types of U.S. Households," November 8, 2021, https://www.ers.usda.gov/amber-waves/2021/november/food-pantry-use-increased-in-2020-for-most-types-of-u-s-households; Waxman, E., Gupta, P., and Gonzales, D., "Charitable Food Use Increased Nearly 50 Percent from 2019 to 2020," Urban Institute, March 2021, https://www.urban.org/sites/default/files/publication/103825/charitable-food-use-increased-nearly-50-percent-from-2019-to-2020_0.pdf; and A.T. Byrne and D.R. Just, "Impacts of COVID-19 on Food Banks," *Choices*, Quarter 1, 2022, https://www.choicesmagazine.org/choices-magazine/submitted-articles/impacts-of-covid-19-on-food-banks.

[5] Patrick Canning and Rosanna Mentzer Morrison, "Quantifying the Impact of SNAP Benefits on the U.S. Economy and Jobs," *Amber Waves Magazine*, July 18, 2019, https://www.ers.usda.gov/amber-waves/2019/july/quantifying-the-impact-of-snap-benefits-on-the-us-economy-and-jobs/.

- Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159, enacted October 1, 2020) ("FY2021 Continuing Appropriations Act");
- Consolidated Appropriations Act, 2021, Division N, Title VII (P.L. 116-260, enacted December 27, 2020) ("FY2021 Consolidated Appropriations Act");[6]
- American Rescue Plan Act of 2021, Title I (ARPA, P.L. 117-2, enacted March 11, 2021); and
- Extending Government Funding and Delivering Emergency Assistance Act, Division D, Title I (P.L. 117-43, enacted September 30, 2021; "FY2022 Extending Government Funding Act").

This report also discusses recent Biden Administration plans to implement ARPA and to change the administration of some of the policies included in the 116th Congress laws. On January 22, 2021, President Biden signed an executive order requiring federal agencies to "promptly identify actions they can take within existing authorities to address the current economic crisis resulting from the pandemic."[7] On that date, the White House and USDA, pursuant to this executive order, announced plans to change the implementation of certain provisions of the enacted COVID-19 pandemic response laws, particularly through increasing certain benefit amounts.[8]

The report also discusses some FNS actions taken to facilitate nutrition assistance program operations during the pandemic, including waivers of program requirements and new USDA initiatives to respond to food needs.[9]

Discussion of these laws and actions is organized by program in the sections to follow (e.g., SNAP policies from multiple acts are discussed within the same section).

[6] In between P.L. 116-136 and P.L. 116-260, the House passed two COVID-19 pandemic response bills that were not taken up by the Senate. Each of these contained domestic food assistance provisions. This CRS report only discusses enacted laws.

[7] Executive Order 14002, "Economic Relief Related to the COVID-19 Pandemic," 86 *Federal Register* 7229-7230, January 22, 2021.

[8] The White House, "Fact Sheet: President Biden's New Executive Actions Deliver Economic Relief for American Families and Businesses Amid the COVID-19 Crises," press release, January 22, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/22/fact-sheet-president-bidens-new-executive-actions-deliver-economic-relief-for-american-families-and-businesses-amid-the-covid-19-crises/; USDA, "Biden Administration Expands P-EBT to Benefit Millions of Low-Income and Food Insecure Children During Pandemic: USDA Says SNAP Benefits Are Inadequate for Most Participants and Begins Process to Extend Emergency Allotments to States and Update Thrifty Food Plan Formula," press release, January 22, 2021, https://www.fns.usda.gov/news-item/usda-001521. USDA also announced an update to the Thrifty Food Plan; this an implementation of an earlier, nonpandemic-response law, the 2018 farm bill (P.L. 115-334).

[9] USDA, Food and Nutrition Service (FNS), "FNS Responds to COVID-19," https://www.fns.usda.gov/coronavirus.

USDA FNS COVID-19 Pandemic Response Website

FNS has maintained a website throughout the pandemic that provides a hub for its pandemic guidance and resources: https://www.fns.usda.gov/coronavirus.

Many of the policies discussed in this report vary state-by-state. For example, not every state applied for every available program waiver. The website shows which options a particular state is implementing, or allows users to check how common a particular option is.

For nearly every statutory provision, FNS has issued guidance, including question-and-answer documents that elaborate upon the requirements in law. The website is a resource for consulting these further policy details.

In some cases, FNS has offered program flexibilities under existing authority. For example, the Commodity Supplemental Food Program offered new COVID-19 pandemic flexibilities without policy changes in the pandemic response laws. The FNS website is a place to check on program operations aside from those enacted in the new laws.

Funding Overview

The COVID-19 pandemic response laws included supplemental funding for USDA nutrition assistance programs. Some of this funding was a finite, specified amount. In other cases, open-ended funding was authorized and appropriated in such sums as necessary. A specific ceiling was not provided in the laws for the open-ended funding. The Congressional Budget Office (CBO) has estimated or is to estimate how that funding is expected to impact direct spending, but those estimates do not dictate a ceiling or floor to the spending. **Table 1** provides an overview of the funding provided by the laws, and related policies are discussed in subsequent sections. Open-ended funding and CBO scores, when available, are noted but the totals in the table reflect only the finite funding provided. While the pandemic response laws did not designate funds specifically for the Farmers to Families Food Box Program, USDA used some of the commodity funds listed for this purpose.

In the case of P.L. 116-159 and P.L. 116-260, the table only displays the relevant policies and provisions in the divisions noted. These two laws included a continuation of annual funding and FY2021 appropriations for FNS programs respectively, but these funding levels are not included in the table or this report. Some of the open-ended funding requires subsequent appropriations action, while some of it is directly appropriated in the pandemic response laws' provisions.

Table 1. Supplemental Appropriations for USDA Nutrition Assistance Programs to Respond to the COVID-19 Pandemic

(Dollars in millions)

Nutrition Assistance Program or Activity	FFCRA (P.L. 116-127) (March 18, 2020)	CARES Act (P.L. 116-136) (March 27, 2020)	FY2021 Continuing Appropriat-ions Act (P.L. 116-159), Division D (October 1, 2020)	FY2021 Consolidated Appropriat-ions Act (P.L. 116-260), Division N (December 27, 2020)	ARPA (P.L. 117-2) (March 11, 2021)	FY2022 Extending Government Funding Act (P.L. 117-43, September 30, 2021)
Supplemental Nutrition Assistance Program (SNAP) account						
Pandemic EBT	Open-ended funding[a]		Open-ended funding[b]	Open-ended funding[c]	Open-ended funding[d]	
SNAP time limit suspension, emergency allotments	Open-ended funding[e]					
SNAP contingency reserve		$15,510				
SNAP administrative flexibilities			Open-ended funding[b]			
SNAP administrative expenses				$100	$1,150	
SNAP 15% increase				Open-ended funding[c]	Open-ended funding[f]	
SNAP income exclusion, and student provisions				Open-ended funding[c]		
SNAP online purchasing				$5	$25	
Northern Mariana Islands, Puerto Rico, American Samoa	$100	$200		$614	$1,000	
Food Distribution Program on Indian Reservations		$100				

Nutrition Assistance Program or Activity	FFCRA (P.L. 116-127) (March 18, 2020)	CARES Act (P.L. 116-136) (March 27, 2020)	FY2021 Continuing Appropriat-ions Act (P.L. 116-159), Division D (October 1, 2020)	FY2021 Consolidated Appropriat-ions Act (P.L. 116-260), Division N (December 27, 2020)	ARPA (P.L. 117-2) (March 11, 2021)	FY2022 Extending Government Funding Act (P.L. 117-43, September 30, 2021)
Child Nutrition Programs		$8,800	Open-ended funding for waivers[bg]	Open-ended funding for new program option[ch]	Open-ended funding for new program option[i]	Open-ended funding for waivers[g]
The Emergency Food Assistance Program[j] (TEFAP)	$400	$450		$400	[n]	
USDA commodity purchases	Open-ended funding[m]	$1,000[n]		$1,400[k]	$100[l]; open-ended funding[m]	
Commodity Supplemental Food Program (CSFP)				$13[o]	$37	
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)						
Supplemental funding	$500					
Waivers			Open-ended funding			
Cash-Value Voucher Increase					$490	[p]
Program Modernization					$390	
Gus Schumacher Nutrition Incentive Program (GuSNIP)				$70		
Total (not including open-ended funding estimates)	**$1,000**	**$26,060**	**(only open-ended)**	**$2,602**	**$3,192**	**(only open-ended)**

Source: Compiled by the Congressional Research Service (CRS) based on the specified laws. Congressional Budget Office cost estimates for H.R. 6201 (April 2, 2020); H.R. 748 (April 16, 2020); H.R. 8337 (September 23, 2020); H.R. 133, P.L. 116-260, Division N (January 14, 2021); Reconciliation Recommendations of the House Committee on Agriculture (February 13, 2021); Reconciliation Recommendations of the House Committee on Education and Labor (February 15, 2021).

Notes: All funding in this table is designated as emergency and does not count against budget caps. Emergency Meals to You funding is included in the Child Nutrition Program row. Funding for the Disaster Household Distribution program is not available and not included in the table.

a. CBO stated in its estimate that this spending is expected to replace spending on child nutrition programs and therefore does not have a net cost.

b. For *all* open-ended mandatory funding nutrition provisions in P.L. 116-159 listed in the table, CBO estimated a total of $8.063 billion in budget authority for FY2021 and $8.121 billion for the 10-year budget window (FY2021-FY2030).

c. CBO has estimated that P.L. 116-260, Division N, Title VII (Nutrition and Agriculture Relief) provisions increase direct spending by $24.917 billion in budget authority for FY2021 and $25.697 billion for the 10-year budget window (FY2021-FY2030). These estimates include nutrition and agriculture provisions, and include open-ended and capped funding.

d. CBO estimated that these changes would cost $5.560 billion over the 2021-2030 period.

e. CBO estimated that together these changes would increase open-ended spending for benefits by a total of $21.2 billion in FY2020 and FY2022. The provision did not appropriate this funding.

f. CBO estimated that these changes would cost $3.54 billion in FY2021.

g. P.L. 116-159 provided open-ended mandatory funding for waivers issued under Section 2202 of FFCRA through September 30, 2021; P.L. 117-43 extended this funding authority through June 30, 2022, with the restriction that such waivers apply only to school year 2021-2022.

h. P.L. 116-260 provided open-ended mandatory funding for a program to cover a proportion of financial losses experienced by some child nutrition program providers during the early months of the pandemic.

i. P.L. 117-2 provided open-ended mandatory funding for meal and snack reimbursements for individuals ages 19-24 served by CACFP-participating emergency shelters. CBO has estimated that this policy would cost a total of $180 million, spent in FY2021 and FY2022.

j. States may use up to $100 million of the funding provided by P.L. 116-127, up to $150 million of the funding provided by P.L. 116-136, and up to 20% ($80 million) of the funding provided by P.L. 116-260 for food storage and distribution costs.

k. Section 751 of P.L. 116-260 (Division N) provided no less than $1.5 billion for USDA to, among other purposes, "purchase and distribute agricultural products … to individuals in need, including through delivery to nonprofit organizations that can receive, store, and distribute food items." Using this authority, USDA spent $1.4 billion on the Farmers to Families Food Box program.

l. USDA used $100 million in funding under P.L. 117-2 (§1001(b)(4)) ("Food Supply Chain and Agriculture Pandemic Response") for TEFAP Reach and Resiliency grants.

m. USDA has open-ended funding authority to "purchase commodities for emergency distribution in any area of the United States during a public health emergency designation" under P.L. 116-127 (§1101(g)) as extended by P.L. 117-2 (§1108). Using this authority, USDA spent nearly $4 billion on the first three rounds of the Farmers to Families Food Box Program.

n. USDA used $500 million in unobligated funds for the Office of the Agricultural Secretary from the CARES Act (P.L. 116-136, Division B) for the Farmers to Families Food Box Program, and $500 million from the same account for TEFAP entitlement purchases in FY2022.

o. Up to 20% ($2.6 million) of the funding may be used for state administrative expenses.

p. Section 118 of P.L. 117-43 (Division A) provides authority to continue to increase cash-value vouchers for the first quarter of FY2022, although the policy differs from that included in ARPA. Spending from the WIC account is authorized by the provision.

Supplemental Nutrition Assistance Program (SNAP)

The COVID-19 pandemic has posed a number of challenges for SNAP. To address the economic downturn and increased unemployment, the laws have included temporary benefit increases as well as a requirement for the partial suspension of certain work-related eligibility rules. The laws also have granted USDA authority to offer administrative flexibilities to SNAP state agencies, responding to the constraints of social distancing, remote work, and higher rates of new SNAP participants.

FY2020 participation and spending data for SNAP reflect increases in participation and spending during the pandemic.[10] Focusing on participation in March 2020 (the month the pandemic was declared) through September 2020 (the end of the fiscal year), a monthly average of 41.7 million people received SNAP benefits, as compared to the first months of FY2020 (October 2019 through February 2020) when an average of 37.3 million people received SNAP benefits. SNAP participation was roughly sustained through FY2021, with a monthly average of 41.5 million people receiving benefits. Program costs were $60.4 billion in FY2019 and $78.9 billion in FY2020, an $18.5 billion (31%) increase for the full year. Costs further increased to $112.6 billion in FY2021 (a 42% increase from FY2020), reflecting a full year of the pandemic and pandemic response, including nine months of a 15% increase to the maximum benefit.

SNAP's funding is largely open-ended mandatory appropriations. To the extent to which the COVID-19 pandemic response laws change eligibility for SNAP benefits or the calculation of those benefits, the laws create the budget authority to expend already appropriated funds for those benefits. In some cases, supplemental funding for policies was appropriated within the same law authorizing a change in policy; in others, funding was provided for the purpose in subsequent laws. These issues are discussed below.

SNAP Benefit Increases and Waivers

Over the course of the 116th and 117th Congresses, COVID-19 response laws provided several increases to SNAP benefits. First, FFCRA provided emergency allotments up to the maximum benefit amount; these particular increases were expanded under the Biden Administration's interpretation of the law. Then, the FY2021 Consolidated Appropriations Act increased the maximum benefit amount, and ARPA extended the duration of this increase through September 30, 2021. Separate from the pandemic response laws, the Biden Administration implemented a provision of the 2018 farm bill creating an across-the-board increase to SNAP benefits that went into effect October 1, 2021.

Emergency Allotment Increases

FFCRA provided for temporary SNAP benefit increases during the COVID-19 public health emergency; this provision applies only when both (1) a public health emergency under Section 319 of the Public Health Service Act and (2) a state emergency have been declared.[11] Prior to this policy, SNAP benefits were calculated by subtracting a share of the household's net income from a maximum benefit; some but not all households received the maximum benefit.[12] With emergency allotments, the law required USDA to grant SNAP state agencies' requests that are supported "with sufficient data (as determined by [USDA])." The increases are "to address temporary food needs not greater than the applicable maximum monthly allotment for the household size." For much of the pandemic, all 53 SNAP state agencies were providing these

[10] Data in this paragraph is from USDA, FNS, Keydata Report (September 2020 data), available at https://www.fns.usda.gov/data/september-2020-keydata-report.

[11] P.L. 116-127, Division B, Title III, §2302(a). This provision is authorized only when both federal and state emergencies are in place, specifically: "in the event of a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) *and* the issuance of an emergency or disaster declaration by a State based on an outbreak of COVID-19." (emphasis added).

[12] For a summary of income eligibility and benefit calculation, see CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*.

emergency allotments, but the number of states doing so has fluctuated as some state emergency declarations have ended or ended and resumed.[13]

The Trump and Biden Administrations implemented the emergency allotments policy differently. During the Trump Administration, USDA interpreted the emergency allotments increase as available for any household that would have been eligible for less than the maximum benefit. These households then would receive the maximum benefit amount. Under this interpretation, households already receiving the maximum allotment did not receive any emergency allotment increase. This interpretation was the subject of litigation.[14]

The Biden Administration reviewed its authority to allow states to provide emergency allotments on top of the regular maximum benefit[15] and ultimately implemented an increase for the households that were receiving the maximum pre-emergency allotment.[16] Under April 1, 2021, guidance, the Biden Administration updated the prior Administration's guidance to provide an emergency allotments minimum increase of $95 to all households.[17] Those that received no prior increase would get $95 and those with a prior increase of less than $95 would receive the difference.

Temporary 15% Increase to Maximum Monthly Benefits (January-September 2021)

The FY2021 Consolidated Appropriations Act provided the authority and funding for a 15% increase to FY2021 maximum SNAP benefit amounts for January through June 2021.[18] ARPA extended this increase through September 2021.[19] The basis for SNAP's maximum benefit is a USDA-created and -calculated set of market baskets called the *Thrifty Food Plan*, a way to

[13] For example, 53 SNAP state agencies provided emergency allotments in December 2020, and 37 SNAP state agencies provided them in February 2022. USDA-FNS website, https://www.fns.usda.gov/snap/covid-19-emergency-allotments-guidance (accessed February 15, 2022).

[14] See, for example, *Gilliam v. United States Dep't of Agric.*, 2020 U.S. Dist. LEXIS 166171 at 1 (E.D. Pa. Sept. 11, 2020), *Hall v. United States Dep't of Agric.*, 467 F.Supp.3d (N.D. Cal. June 17, 2020). See also Kate Giammarise, "'Just Scraping By': Families in PA Waiting on Additional Food Stamps as Court Fight Continues," *WESA*, December 3, 2020, https://www.wesa.fm/post/just-scraping-families-pa-waiting-additional-food-stamps-court-fight-continues#stream/0.

[15] The White House, "Fact Sheet: President Biden's New Executive Actions Deliver Economic Relief for American Families and Businesses Amid the COVID-19 Crises," press release, January 22, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/22/fact-sheet-president-bidens-new-executive-actions-deliver-economic-relief-for-american-families-and-businesses-amid-the-covid-19-crises/; U.S. Department of Agriculture, "Biden Administration Expands P-EBT to Benefit Millions of Low-Income and Food Insecure Children During Pandemic: USDA Says SNAP Benefits Are Inadequate for Most Participants and Begins Process to Extend Emergency Allotments to States and Update Thrifty Food Plan Formula," press release, January 22, 2021, https://www.fns.usda.gov/news-item/usda-001521.

[16] USDA, FNS, Supplemental Nutrition Assistance Program (SNAP) – Emergency Allotments, memo to All SNAP State Agencies et al., April 1, 2021, https://www.fns.usda.gov/sites/default/files/resource-files/fns-determination-regarding-enhanced-emergency-allotments.pdf.

[17] See further details at USDA, FNS, Supplemental Nutrition Assistance Program (SNAP) – Emergency Allotments, memo to All SNAP State Agencies et al., April 1, 2021, https://www.fns.usda.gov/sites/default/files/resource-files/fns-determination-regarding-enhanced-emergency-allotments.pdf.

[18] P.L. 116-260, Division N, Title VII, §702(a).

[19] P.L. 117-2, §1101(a), amending P.L. 116-260, Division N, Title VII, §702(a).

determine the contents and therefore costs of meeting dietary needs under low resource constraints.[20]

Table 2 displays, in the middle column, the temporary maximum benefit amounts for households in 48 states and the District of Columbia based on household size, under this January-September 2021 increase.[21] As discussed above, under the Trump Administration's implementation of the emergency allotments, especially at the height of the pandemic, virtually all SNAP participants received this maximum benefit. During the Biden Administration, states with active emergency allotments policies provided amounts greater than those displayed in the middle column. (Increases displayed in the last column are discussed later in this section under "Thrifty Food Plan Increase for FY2022.")

The enacted law also required USDA to carry out the temporary increase in particular ways, allowing flexibility for states.[22] For example, USDA was to require a simple process for states to notify households of the increase, and errors in the implementation of this section are not to be included in the calculation of a state's payment error rate.

Table 2. SNAP Maximum Monthly Benefits Before, During, and After COVID-19 Pandemic Response Laws' 15% Increase

48 States and the District of Columbia

Household Size	FY2021 Maximum Benefit Before Increase (October 1, 2020-December 31, 2020)	Maximum Benefit Under Temporary Increase[a] (January 1, 2021-September 30, 2021)	FY2022 Maximum Benefit (Thrifty Food Plan update) (October 1, 2021-September 30, 2022)
1	$204	$234	$250
2	$374	$430	$459
3	$535	$616	$658
4	$680	$782	$835
5	$807	$929	$992
6	$969	$1,114	$1,190
7	$1,071	$1,232	$1,316
8	$1,224	$1,408	$1,504
Each additional person	$153	$176	$188

Sources: USDA, FNS, *SNAP-Temporary Increase in Maximum Allotments due to COVID-19*, Memo to All State Agencies, December 28, 2020, https://www.fns.usda.gov/snap/temporary-increase-maximum-allotments-due-covid-19-revised-12282020; USDA, FNS, SNAP–Fiscal Year 2022 Cost-of-Living Adjustments, August 16, 2021, https://www.fns.usda.gov/snap/fy-2022-cost-living-adjustments.

Notes: Alaska, Guam, Hawaii, and the U.S. Virgin Islands each had higher FY2021 benefit amounts and therefore higher amounts under the temporary increase. FY2022 benefit amounts reflect the Administration's recent (August 16, 2021) action reevaluating the "Thrifty Food Plan," SNAP law's basis for household benefit amounts.

[20] See USDA, FNS, "SNAP and The Thrifty Food Plan," August 17, 2021, https://www.fns.usda.gov/snap/thriftyfoodplan.

[21] Alaska, Guam, Hawaii, and the U.S. Virgin Islands each had higher FY2021 benefit amounts and therefore higher amounts under the temporary increase. USDA, FNS, *SNAP-Temporary Increase in Maximum Allotments due to COVID-19*, Memo to All State Agencies, December 28, 2020, https://www.fns.usda.gov/sites/default/files/resource-files/SNAP%20Temp%20Increase%20in%20Max%20Allotments%20COVID_12.28.20.pdf.

[22] P.L. 116-260, Division N, Title VII, §702(b).

FY2022 amounts have been increased for all participating SNAP jurisdictions while development of Alaska and Hawaii Thrifty Food Plan is ongoing. See table sources for Alaska, Hawaii, Guam, and U.S. Virgin Islands benefit amounts.

a. Under April 2021 Biden Administration revised emergency allotments guidance, some households may receive as much as $95 above these amounts.

Administrative Flexibilities

FFCRA allowed USDA to adjust (through guidance and based on states' requests) administrative requirements like benefit issuance and household reporting requirements.[23] In initially implementing this provision, USDA offered and extended blanket waivers for states' recertification requirements, providing additional flexibility on interview timelines, certification periods, and protocols for the program's Quality Control system, a state-federal system established to measure payment accuracy in the program. Beginning in July and August 2020, USDA, under the Trump Administration, declined states' requests to continue these waivers.[24]

The FY2021 Continuing Appropriations Act required USDA to extend specified administrative flexibilities, creating a variety of administrative flexibilities for states to operate SNAP, particularly in recertifying currently participating households.[25] Examples of these state options include extending certification periods for households whose SNAP benefits were set to expire on or before June 30, 2021, and allowing simplified reporting requirements for SNAP households with recertification set to expire on or before December 31, 2021. States are required to notify USDA of their selected options, but the options are not subject to USDA approval. The provision also authorized and appropriated open-ended mandatory funding for these policy changes.

USDA under the Biden Administration has continued to offer administrative flexibilities. The agency does so most recently in December 8, 2021 guidance, where USDA provides for a policy and process for continuing administrative flexibilities through the FFCRA authority and through specific regulatory waivers.[26] This guidance requires the requesting state to confirm with FNS the presence of a state emergency or disaster declaration at three-month intervals in order to extend flexibilities. The policy has been in place since the beginning of January 2022 and is to last through the end of the month subsequent to the month in which the federal public health emergency declaration related to COVID-19 is lifted by the Secretary of Health and Human Services. The guidance notes the temporary nature of the flexibilities.

[23] P.L. 116-127, Division A, Title I, §1101(b).

[24] See, for example, Julie Zauzmer, "USDA will end coronavirus exception, making SNAP recipients prove their income again to get food stamps," *Washington Post*, July 31, 2020, https://www.washingtonpost.com/dc-md-va/2020/07/31/usda-will-end-coronavirus-exception-making-snap-recipients-prove-their-income-again-keep-getting-food-stamps/.

[25] P.L. 116-159, Division D, Title VI, §4603(a).

[26] USDA, FNS, *Supplemental Nutrition Assistance Program (SNAP) – Extension of COVID-19 Administrative Flexibilities January 2022 and Beyond*, Memo to All SNAP State Agencies and All Regions, December 8, 2021, https://www.fns.usda.gov/snap/extension-covid-19-administrative-flexibilities-january-2022-and-beyond. ("[T]hese flexibilities are temporary and FNS expects states to actively prepare to operate under normal program rules in the future, especially with regard to interviews and certification periods.... Resuming regular operations will require thoughtful planning, especially for states that have used certain adjustments for extended periods, and FNS is prepared to provide technical assistance. FNS does not expect to approve these COVID-19 flexibilities beyond the duration of the federal public health emergency. This guidance does not signal or confirm when the federal public health emergency declaration will end.")

Thrifty Food Plan Increase for FY2022 (beginning October 1, 2021)

Separate from the implementation of the COVID-19 pandemic response laws discussed in this report, on August 16, 2021, the Biden Administration announced its reevaluation of and update to the Thrifty Food Plan, ultimately increasing benefits for FY2022 and future years.[27]

The contents of the Thrifty Food Plan were last updated by USDA in 2006, and the 2018 farm bill required USDA to reevaluate the Thrifty Food Plan by FY2022 and every five years thereafter.[28] While the maximum benefit amounts were announced for FY2022 (displayed in **Table 2**), sustained increases relative to FY2021 can be expected for future years, as the law states that this new base is adjusted for inflation yearly. The Administration's update increased the maximum benefit, creating maximum benefit amounts slightly greater than those afforded during the 15% increases in FY2021. USDA's analysis estimates that the cost of this nutritious lowest-cost diet is 21% higher than that used in the current Thrifty Food Plan (i.e., the amounts pre-January 1, 2021). Some of the factors that explain the increase are the inclusion of more convenience foods, higher caloric assumptions, and more nutrient-dense foods.[29] The exact increase per person or per household will vary case-by-case. USDA estimates an average increase of over $36 per person per month as compared to the maximum benefits in place prior to the pandemic response increases.[30] Despite this permanent increase to the maximum benefit, some households may still experience reductions in their specific benefit amount, if and when their states' emergency allotments policy ends.[31]

Excluding Federal Pandemic Unemployment Compensation from SNAP Income

The FY2021 Consolidated Appropriations Act excluded Federal Pandemic Unemployment Compensation (FPUC) payments from being counted as income or resources in SNAP applications.[32] It also provided the associated open-ended funding for benefit increases.

Many of the COVID-19 pandemic response laws contained expansions and extensions of unemployment insurance.[33] The SNAP exclusion in the FY2021 Consolidated Appropriations Act applies to a portion of the payments, the "pandemic unemployment compensation" payments,

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[27] USDA, "USDA Modernizes the Thrifty Food Plan, Updates SNAP Benefits," press release, August 16, 2021, https://www.usda.gov/media/press-releases/2021/08/16/usda-modernizes-thrifty-food-plan-updates-snap-benefits. This report contains a reevaluation of the thrifty food plan for the 48 states and the District of Columbia. Reevaluation of Alaska and Hawaii Thrifty Food Plans is expected in 2022. The August 2021 report includes an interim adjustment made for the purposes of FY2022 benefits. Ibid. at 50.

[28] P.L. 115-334, Section 4002, amending Section 3(u) of the Food and Nutrition Act of 2008 (codified at 7 U.S.C. §2012(u)).

[29] USDA, FNS, *Thrifty Food Plan, 2021*, August 2021, pp. 34-35, https://www.fns.usda.gov/resource/thrifty-food-plan-2021.

[30] USDA, "USDA Modernizes the Thrifty food Plan, Updates SNAP Benefits," press release, August 16, 2021, https://www.usda.gov/media/press-releases/2021/08/16/usda-modernizes-thrifty-food-plan-updates-snap-benefits.

[31] This dynamic is discussed and illustrated in USDA, "Thrifty Food Plan Re-evaluation Puts Nutrition in Reach for SNAP Participants," August 30, 2021, https://www.usda.gov/media/blog/2021/08/30/thrifty-food-plan-re-evaluation-puts-nutrition-reach-snap-participants.

[32] P.L. 116-260, Division N, Title VII, §702(d). FPUC is summarized in CRS In Focus IF11723, *Unemployment Insurance Provisions in the Consolidated Appropriations Act, 2021 (Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020)*, by Katelin P. Isaacs and Julie M. Whittaker.

[33] See the "Enacted Laws in the 116th Congress" section in CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*, by Julie M. Whittaker and Katelin P. Isaacs.

which are the additional $300 per week provided under this law, and enacted earlier in the CARES Act at $600 per week. Until the FY2021 Consolidated Appropriations Act, these payments were counted as income for SNAP households. FPUC, under ARPA's extension of the program, continues to be excluded from SNAP income.[34] Under current Unemployment Insurance law, though, no FPUC benefits were payable for weeks of unemployment that began after September 4, 2021.[35]

SNAP eligibility and benefit calculation is primarily determined using a household's gross income and, in some states, resources (also called assets) are counted as well. Gross income is all household income with the exception of a limited list of income sources that are excluded in statute. Prior to the change made by the FY2021 Consolidated Appropriations Act, all unemployment insurance was counted as income in a household SNAP application.

SNAP Work-Related and Student Eligibility Rules

Work-Related Requirements

SNAP's authorizing law has long included work-related eligibility requirements, the strictest being a time limit for "able bodied" (nondisabled) adults (ages 18 to 49) without dependents (ABAWDs) who work less than 80 hours per month.[36] FFCRA partially suspended this time limit nationwide during the period of the Secretary of Health and Human Services' public health emergency declaration, allowing new and continuing participants who would have lost eligibility due to the time limit to continue to receive benefits.[37]

Separately, on March 13, 2020, a federal court temporarily blocked part of a December 2019 USDA final rule that would have narrowed states' authority to waive the time limit, and which would have taken effect in part on April 1.[38] The court acknowledged that the global pandemic highlighted the need to provide government officials with flexibility to address their constituents' nutritional needs "and ensure their well-being through programs like SNAP."[39] Following the preliminary injunction, on October 18, 2020, the court struck down the rule in its entirety.[40] On March 24, 2021, the Biden Administration announced that the U.S. Court of Appeals for the D.C.

[34] See treatment of FPUC and other American Rescue Plan economic payments discussed in Jessica Shahin, *SNAP Provisions in the American Rescue Plan Act of 2021*, USDA, FNS, Memo to SNAP State Agencies and Regions, March 12, 2021, pp. 2-3 https://www.fns.usda.gov/snap/provisions-american-rescue-plan-act-2021.

[35] September 5, 2021, in New York. See CRS Report R46687, *Unemployment Insurance (UI) Benefits: Permanent-Law Programs and the COVID-19 Pandemic Response*.

[36] For this population, time limit is 3 months of SNAP benefits in a 36-month period if work rules are not met. Time limits are summarized in CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*.

[37] P.L. 116-127, Division B, Title III, §2301. FNS guidance, March 20, 2020, available at https://www.fns.usda.gov/snap/ffcra-impact-time-limit-abawds. Regarding public health emergency background, see CRS Report R46219, *Overview of U.S. Domestic Response to Coronavirus Disease 2019 (COVID-19)*.

[38] *District of Columbia v. United States Dep't of Agric.*, 444 F. Supp. 3d, 1, 6-7 (D.D.C. 2020).

[39] Ibid at 5.

[40] *District of Columbia, et al. v. United States Dep't of Agric.*, __ F. Supp. 3d __, 2020 U.S. Dist. LEXIS 192508 at 5-11 (D.D.C. Oct. 18, 2020). On December 16, 2020, the Trump Administration appealed the District Court decision (see House Committee on Agriculture, "Fudge Slams Administration for Appealing ABAWD Ruling," press release, December 16, 2020, https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=2069).

Circuit has allowed it to withdraw the Trump Administration's appeal; the Administration plans, after the COVID-19 suspension, to return to long-standing time limit rules.[41]

Student Eligibility

Many students attending higher education programs *less than half-time* are also subject to the time limit for nondisabled adults discussed above. During the pandemic, the suspension enacted by FFCRA would apply to them. However, students of higher education attending *half-time or greater* are subject to a different requirement, a student disqualification rule.[42] Students working 20 hours or more per week, or students meeting one of a list of other exceptions, may be eligible for SNAP benefits;[43] otherwise, students attending half-time or greater are not eligible for SNAP. FFCRA's suspension in March 2020 did not suspend the student disqualification rule, leaving the student disqualification in place for students attending half-time or greater until the FY2021 Consolidated Appropriations Act was passed in December.

The FY2021 Consolidated Appropriations Act then suspended the student disqualification rule for certain students during the public health emergency.[44] The suspension of the rule applies to students enrolled at least half-time in an institution of higher education who

- are eligible to participate in a state or federally financed work study program, or
- have an expected family contribution of $0 on their Free Application for Federal Student Aid (FAFSA).

These students would not be subject to the student disqualification rule, but would still need to meet SNAP's other eligibility rules, such as income eligibility.

This provision also requires that the Secretary of Education, in consultation with the Secretary of Agriculture and institutions of higher education, carry out activities to inform students of these temporary student eligibility requirements.

The law appropriates funding for the provision.

SNAP-Related Funding

For the most part, the SNAP provisions discussed above provide such sums as are necessary or authorize an eligible purpose for funding in the SNAP account. Of the four COVID-19 pandemic response laws, the CARES Act and FY2021 Consolidated Appropriations Act appropriated finite sums of funding for SNAP. These are discussed below.

Funding provided to Puerto Rico, American Samoa, and the Northern Mariana Islands is discussed in the "Nutrition Assistance Funding for Certain Territories" section.

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[41] U.S. Department of Agriculture, "Statement by Agriculture Secretary Tom Vilsack on D.C. Circuit Court's Decision Regarding ABAWDs Rule," press release, March 24, 2021, https://www.usda.gov/media/press-releases/2021/03/24/statement-agriculture-secretary-tom-vilsack-dc-circuit-courts.

[42] Section 6(e) of the Food and Nutrition Act of 2008 (7 U.S.C. §2015(e)). See also CRS Report R46817, *Food Insecurity Among College Students: Background and Policy Options*.

[43] Exceptions for students (1) under 18 years old or age 50 or older; (2) disabled; (3) enrolled in school because of participation in specified programs; (4) employed at least 20 hours per week or participates in a work-study program during the school year; (5) certain parent (based largely on age of the child); or (6) receiving TANF benefits.

[44] P.L. 116-260, Division N, Title VII, §702(e). The provision is in effect for initial applications until 30 days after the COVID-19 public health emergency is lifted. It is in effect for recertification until no earlier than 30 days after the COVID-19 public health emergency is lifted.

Funds in the CARES Act

The CARES Act provided $15.8 billion for the SNAP account. This includes $15.5 billion in contingency reserve for SNAP participation should earlier budget estimates be exceeded.

According to information provided by FNS, the $15.5 billion contingency was all obligated in FY2020. The funds were primarily used to support providing the emergency allotments, authorized in FFCRA, to SNAP households.[45]

Funds in the FY2021 Consolidated Appropriations Act and ARPA

- **State administrative expenses**. State administrative costs are typically shared 50/50 between SNAP state agencies and the federal government. P.L. 116-260 provided $100 million in federal funding for FY2021.[46] This is 100% federal funding and does not require a match. The provision allocates the funds according to a formula that considers primarily the state's share of SNAP households and secondarily the increase in the state's SNAP participation over 12 months. ARPA added $1.15 billion to this funding.[47] The funding is to be obligated in FY2021, FY2022, and FY2023.
- **Additional assistance for SNAP online purchasing and technological improvements**.[48] Prior to the pandemic, FNS had begun to pilot online redemption of SNAP benefits. In the first months of the pandemic, FNS expanded the number of states able to participate in the pilot; for most of 2020, large national retailers were able to take part. P.L. 116-260 provided $5 million to be split among three purposes: (1) additional support for FNS to test systems and provide technical assistance to retailers; (2) cooperative agreements or grants to provide assistance to direct-marketing farmers and farmers' markets; and (3) issuance innovation and technology improvement support (this includes development work regarding the mobile technologies projects authorized by the 2014 farm bill and testing methods to modernize EBT).[49] ARPA provided $25 million to USDA, available through FY2026, for four purposes: (1) to make technological improvements to SNAP online purchasing, (2) to modernize EBT technology, (3) to support mobile technology projects, and (4) to provide specified technical assistance to retailers.
- **Gus Schumacher Nutrition Incentive Program (GuSNIP)**.[50] This program, administered by USDA's National Institute of Food and Agriculture (NIFA),

[45] Email communication with USDA, FNS, October 2020.

[46] P.L. 116-260, Division N, Title VII, §702(c).

[47] P.L. 117-2, §1101(b). For state-by-state allocations of ARPA funding, see USDA, FNS, *Supplemental Nutrition Assistance Program (SNAP) – Disbursement of SNAP State Administrative Expense Funding Provided by American Rescue Plan of 2021*, Memo to All SNAP State Agencies and All Regions, April 29, 2021, https://www.fns.usda.gov/snap/administrative-funding-allocations-american-rescue-plan-act-2021.

[48] P.L. 116-260, Division N, Title VII, §703; P.L. 117-2, §1102. For background and current retailers authorized for online purchasing, see USDA, FNS, "SNAP: Stores Accepting SNAP Online," available at https://www.fns.usda.gov/snap/online-purchasing-pilot.

[49] Of the $5 million, no more than $1 million may be used for the first purpose and no more than $1 million may be used for the second purpose.

[50] P.L. 116-260, Division N, Title VII, §755. For program background, see CRS Report R46538, *Local and Urban Food Systems: Selected Farm Bill and Other Federal Programs*.

provides grants for SNAP bonus incentive projects as well as fruit and vegetable prescription programs. P.L. 116-260 provided an additional $75 million for GuSNIP, which USDA is authorized to use to reduce grantees' match rate, waive maximum grant amounts, and provide additional funding to ongoing grants.

Nutrition Assistance Funding for Certain Territories

Puerto Rico, American Samoa, and the Northern Mariana Islands, do not operate a SNAP program. Instead, they operate programs funded by Nutrition Assistance Program block grants in lieu of SNAP.[51] Whereas SNAP is open-ended mandatory spending and can expand and contract with economic need, these block grants are limited in their spending without supplemental appropriations. The SNAP policies that expand eligibility or increase benefit amounts do not apply to these territories—they apply to the states or territories that operate SNAP.

FFCRA provided $100 million for grants to these territories for nutrition assistance "in response to a COVID-19 public health emergency."[52]

The CARES Act provided $200 million for these territories' nutrition programs.

The FY2021 Continuing Appropriations Act did not provide additional funding to the nutrition assistance block grants. However, it did expand the definition of *state* in the Pandemic Electronic Benefit Transfer (P-EBT) program. Until this change, only jurisdictions operating SNAP had been authorized and funded to operate the program (P-EBT is discussed further in the next section).

The FY2021 Consolidated Appropriations Act provided $614 million for USDA to fund nutrition assistance in response to a COVID-19 public health emergency.[53] The funds are available through FY2021, and $14 million is set aside for the Commonwealth of the Northern Mariana Islands.

ARPA provided an additional $1 billion, with $30 million set aside for Commonwealth of the Northern Mariana Islands.[54]

Pandemic Electronic Benefit Transfer (P-EBT)

FFCRA established the new P-EBT program, and subsequent laws extended and expanded it. According to USDA-FNS data, the program issued benefits to an average of 6.9 million people per month in March through September 2020 and cost $10.7 billion. Under expanded eligibility rules, including summer eligibility, in FY2021, the program issued benefits to an estimated 8.8 million people, on average, per month and cost $28.2 billion.[55]

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[51] For program history, see Anne Peterson, Bryan Johnson, and Benjamin E. Moulton et al., *Implementing Supplemental Nutrition Assistance Program in Puerto Rico: A Feasibility Study*, USDA, FNS, June 2010, pp. 7-16, https://www.fns.usda.gov/snap/implementing-supplemental-nutrition-assistance-program-puerto-rico-feasibility-study.

[52] P.L. 116-127, Division A, Title I, §1102.

[53] P.L. 116-260, Division N, Title VII, §704.

[54] P.L. 117-2, §1103.

[55] USDA, FNS, September 2020 Keydata Report, available at https://www.fns.usda.gov/data/january-keydata-report-september-2020-data. USDA, FNS, October 2021 Keydata Report, available at https://www.fns.usda.gov/data/october-2021-keydata-report. P-EBT benefits are typically issued for multiple months at one issuance and are often issued retroactively, so some FY2022 issuances, for instance, could be for FY2021 months' eligibility and a participant may have benefits for a given month though they did not receive an issuance in that month.

Establishment of P-EBT

FFCRA created P-EBT as an option for states to provide a SNAP-like benefit, when a school is closed five or more days, to households with children who would have received free or reduced-price school meals if not for the closure.[56] The new program was initially authorized to operate until September 30, 2020, though it was later extended.[57]

The benefit amount is equal to at least five days of free meal reimbursements per week. The Trump Administration authorized this minimum five-day amount. The Biden Administration increased P-EBT benefit amounts by 15% by including the cost of a free snack reimbursement, raising the daily rate to $6.82 in the contiguous states.[58]

Like SNAP, households can use these benefits to purchase groceries at SNAP-authorized retailers. FFCRA authorized this program for FY2020. FNS's guidance on the program answers a variety of questions about program operations.[59] In order to identify eligible children and issue benefits, the P-EBT program is typically administered as a partnership between a state's SNAP and child nutrition agencies.

FFCRA authorized and appropriated open-ended funding for P-EBT. FNS interpreted the provision as funding 100% of P-EBT benefits and 50% of state administrative costs.[60] As of July 10, 2020, 50 states, the District of Columbia, and the U.S. Virgin Islands were approved to operate P-EBT in school year 2019-2020.[61]

P-EBT Extension and Expansion

Though the program expired September 30, 2020, it was extended shortly thereafter in the FY2021 Continuing Appropriations Act.[62] This law originally extended the program through FY2021, and then ARPA removed date limits to the program, instead authorizing P-EBT for any

[56] P.L. 116-127, Division A, Title I, Section 1101.

[57] This program was last available in FY2010 (during the H1N1 flu pandemic), having been enacted in an FY2010 appropriations law (P.L. 111-80, §746). It was called P-SNAP in agency guidance at that time. However, unlike what is happening during the current pandemic, no SNAP state agencies ever administered P-SNAP.

[58] The White House, "Fact Sheet: President Biden's New Executive Actions Deliver Economic Relief for American Families and Businesses Amid the COVID-19 Crises," press release, January 22, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/22/fact-sheet-president-bidens-new-executive-actions-deliver-economic-relief-for-american-families-and-businesses-amid-the-covid-19-crises/; U.S. Department of Agriculture, "Biden Administration Expands P-EBT to Benefit Millions of Low-Income and Food Insecure Children During Pandemic: USDA Says SNAP Benefits Are Inadequate for Most Participants and Begins Process to Extend Emergency Allotments to States and Update Thrifty Food Plan Formula," press release, January 22, 2021, https://www.fns.usda.gov/news-item/usda-001521; and Jessica Shahin and Cindy Long, *Pandemic EBT - State Plans for 2020-2021*, USDA, FNS, Memo to SNAP State Agencies and Child Nutrition State Agencies, January 29, 2021, https://www.fns.usda.gov/sites/default/files/resource-files/Pandemic%20EBT%20%E2%80%93%20State%20Plans%20for%202020-2021%20Schools%20and%20Child%20Care%20January%202021%20Attachment%202%20Template.pdf. Guidance allows states to increase benefits retroactively for school year 2020-2021.

[59] See FNS guidance at https://www.fns.usda.gov/snap/state-guidance-coronavirus-pandemic-ebt-pebt.

[60] See USDA, FNS, Pandemic EBT (P-EBT) Questions and Answers, April 15, 2020.

[61] FNS has interpreted the FFCRA provision, as originally enacted, as only applying to SNAP jurisdictions. Guam is the only SNAP-operating jurisdiction that had not been approved. Puerto Rico, American Samoa, and the Northern Mariana Islands receive block grants for nutrition assistance in lieu of SNAP.

[62] P.L. 116-159, Division D, Title VI, Section 4601.

school year in which there is a COVID-19 public health emergency declaration.[63] ARPA also amended the program to allow operation during summer months.

Among other changes, the FY2021 Continuing Appropriations Act expanded the program to include

- schools with reduced attendance hours due to the pandemic (expanding the program beyond only closed schools); and
- children in SNAP households enrolled in child care facilities affected by pandemic closures and reduced hours, as specified in the law.

The FY2021 Continuing Appropriations Act also amended the definition of *state* in the P-EBT provisions to include Puerto Rico, American Samoa, and the Northern Mariana Islands. ARPA elaborated that young children participating in these programs are also eligible for the child care expansion.

Following the initial extension and expansion of the program, the FY2021 Consolidated Appropriations Act included program flexibilities to simplify administration of the potential expansions beyond closed schools and to young children.[64] The law allows states to deem children under six years old in households receiving SNAP benefits as enrolled in covered child care facilities. Also, the law allows for states to use "best feasibly available" data to determine school closures and reduced attendance. The Biden Administration published guidance for state plans, including guidance for implementing the expanded options for the FY2021 Consolidated Appropriations Act.[65]

As of November 16, 2021, according to the FNS website, 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, the Northern Mariana Islands, and the U.S. Virgin Islands were approved to operate P-EBT for school year 2020-2021. Forty-six states, American Samoa, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands have been approved to operate Summer P-EBT. As of February 22, 2022, 16 states were approved to operate P-EBT for school year 2021-2022.[66]

Child Nutrition Programs

The federal child nutrition programs include the National School Lunch Program (NSLP) and School Breakfast Program (SBP) (together, the *school meals programs*), the Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) (together, the *summer meals programs*), and the Child and Adult Care Food Program (CACFP), among others.[67] The pandemic response for these programs has included an expansion of USDA's ability to waive child nutrition program requirements, the temporary ability for providers to serve free meals to all children, and a new program to cover financial losses for meal providers.

[63] P.L. 117-2, §1108, amending P.L. 116-127, §1101.

[64] P.L. 116-260, Division N, Title VII, §721.

[65] Resources available at USDA, FNS, "State Guidance on Coronavirus Pandemic EBT (P-EBT)," https://www.fns.usda.gov/snap/state-guidance-coronavirus-pandemic-ebt-pebt.

[66] Ibid. School year 2020-2021 and summer 2021 information available at https://www.fns.usda.gov/snap/state-guidance-coronavirus-pandemic-ebt-pebt-schools.

[67] For background on child nutrition programs, see CRS Report R46234, *School Meals and Other Child Nutrition Programs: Background and Funding*.

Overview of Changes to Existing Programs and Waiver Authorities

When schools started closing in March 2020 due to the COVID-19 pandemic, many school districts and nonprofit organizations began operating the summer meals programs, which, per existing program regulations and guidance, could operate during "unanticipated school closures" between October and April with state agency approval (USDA subsequently waived this requirement for school year 2020-2021, enabling the summer meal programs to operate regardless of a school's closure status).[68] Other school districts continued operating the school meals programs, which USDA clarified could operate during periods of virtual learning.[69]

Also starting in March 2020, USDA issued waivers of certain child nutrition program requirements in response to the pandemic. For example, one of the first waivers USDA issued was to suspend the requirement that children consume meals in group settings.[70] USDA issued some of these initial waivers using authority under Section 12(l) of the Richard B. Russell National School Lunch Act (codified at 42 U.S.C. §1760(l)), which gives USDA the authority to approve waiver requests from state agencies and institutions on a case-by-case basis.[71]

Enacted on March 18, 2020, FFCRA expanded the types of child nutrition program waivers that USDA is allowed to issue during the pandemic:

- Section 2102 of FFCRA allows USDA to grant waivers that increase federal costs for the purpose of providing meals and snacks during a COVID-19 pandemic-related school closure. There is no specific expiration date for this authority. However, USDA has not used this authority to grant recent waivers.[72]
- Section 2202 of FFCRA allows USDA to issue waivers on a nationwide (rather than individual state or provider) basis, allows USDA to waive nutritional requirements in child nutrition programs if there is a food "supply chain disruption" due to the COVID-19 pandemic, and specifies that USDA may grant waivers to allow noncongregate feeding in CACFP. The authority to issue waivers under Section 2202 was originally set to expire on September 30, 2020, but was extended by the FY2021 Continuing Appropriations Act (through September 30, 2021) and the FY2022 Extending Government Funding and Delivering Emergency Assistance Act (through June 30, 2022), with the restriction that such waivers apply only to school year 2021-2022.[73] These extensions also provided open-ended funding for such waivers (discussed below).

[68] For SFSP periods of operation, see, for example, 7 C.F.R. §§225.6(b)(4) and 225.14(a). For SSO periods of operation, see USDA, FNS, "Comparison of Programs: SFSP/NSLP/Seamless Option," January 22, 2015, https://fns-prod.azureedge.net/sites/default/files/SFSP_SeamlessComparisonChart.pdf. If a school meets the definition of having a *continuous school calendar* (7 C.F.R. §225.2), then SFSP or SSO may be operated during an unanticipated school closure at any time of the year with state agency approval. The summer meal programs normally operate between May and September for children on school vacation. USDA, FNS, "Nationwide Waiver to Allow SFSP and Seamless Summer Option Operations through SY 2020-2021–Extension," October 9, 2020, https://www.fns.usda.gov/cn/covid-19-response-59.

[69] USDA, FNS, "COVID-19 Congregate Meal Waivers & Q&As on Summer Meal Delivery Using Existing Authority," April 4, 2020, https://www.fns.usda.gov/sfsp/covid-19/covid-19-meal-delivery.

[70] Ibid.

[71] Section 12(l) prohibits certain types of waivers, including waivers that increase federal costs, relate to the nutritional content of meals served, and/or relate to the provision of free and reduced price meals.

[72] CRS correspondence with FNS on February 28, 2022.

[73] P.L. 116-159, Division D, Title VI, §4602(a); P.L. 117-43, Division D, Title I, §3102.

USDA has used the authority under Section 2202 of FFCRA to issue a number of waivers during the pandemic.[74] One of these—the *area eligibility* waiver—allowed school districts and nonprofits to serve free meals to all children (without eligibility determinations) in school year 2020-2021 through the Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) (which is normally only allowed in areas where at least 50% of children qualify for F/RP meals).[75] USDA under the Trump Administration made this option available to all states starting on May 6, 2020, and continued the option through school year 2020-2021.[76]

For school year 2021-2022, USDA under the Biden Administration announced that school districts in states that opt into the waiver may choose to operate under a different policy; specifically, they may choose to operate SSO through June 30, 2022, serve free meals to all children without eligibility determinations, and receive the higher SFSP reimbursement rates.[77] School districts are not required to participate under the SSO waiver, and may instead choose to operate NSLP and/or SBP, which require eligibility determinations for F/RP meals. School districts that choose to operate NSLP/SBP in school year 2021-2022 receive the NSLP/SBP reimbursement rates. (USDA subsequently raised reimbursement rates for all school districts, discussed in the "Supplemental Funding for Child Nutrition Programs" section.)

USDA has also issued national waivers of requirements that meals be served at certain times of day, rules that meals be served to children (enabling parents/guardians to pick up meals), and nutritional requirements for meals, among other waivers.[78] Many of these waivers have pertained to multiple child nutrition programs.

Supplemental Funding for Child Nutrition Programs

In addition to policy changes, the COVID-19 pandemic response laws have provided supplemental funding for child nutrition programs. In March 2020, the CARES Act provided an $8.8 billion supplemental appropriation for these programs.[79] FNS allocated CARES Act funds to states in proportion to their share of total child nutrition program reimbursements in the prior year.[80]

Subsequently, the FY2021 Continuing Appropriations Act provided "such sums as may be necessary" for child nutrition waivers issued under Section 2202 of FFCRA through September 30, 2021.[81] The FY2022 Extending Government Funding Act extended the availability of this

[74] For a list of child nutrition program waivers that USDA has issued during the pandemic, see USDA FNS, "Child Nutrition COVID-19 Waivers," https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers.

[75] USDA, FNS, "COVID–19: Child Nutrition Response #77," FNS-GD-2021-0017, March 9, 2021, https://www.fns.usda.gov/cn/covid-19-child-nutrition-response-77.

[76] USDA, FNS, "Nationwide Waiver to Extend Area Eligibility Waivers–Extension 3," October 9, 2020, https://www.fns.usda.gov/cn/covid-19-response-60; and USDA, FNS, "COVID–19: Child Nutrition Response #73," FNS-GD-2021-0013, March 9, 2021, https://www.fns.usda.gov/cn/covid-19-child-nutrition-response-73.

[77] CRS communication with FNS in June 2021. For a list of waivers specific to the 2021-2022 school year, see USDA, FNS, "School Year 2021-22 Waivers and Flexibilities," https://www.fns.usda.gov/disaster/pandemic/cn-2021-22-waivers-and-flexibilities. For more information about SSO, see CRS In Focus IF11633, *Summer Meals for Children: An Overview of Federal Aid*.

[78] USDA, FNS, "Child Nutrition COVID-19 Waivers," https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers.

[79] P.L. 116-136, Division B, Title I.

[80] CRS correspondence with FNS in June 2021.

[81] P.L. 116-159, Division D, Title VI, §4602(d). According to CRS communication with FNS in August 2021, the

funding through June 30, 2022, for waivers that apply to the 2021-2022 school year. USDA had not used these funding sources as of the cover date of this report.[82]

During school year 2021-2022, USDA provided two additional sources of funding for school meals:[83]

- In December 2021, USDA announced it would distribute $1.5 billion in commodity aid through the Commodity Credit Corporation in response to supply chain issues reported by school districts.[84] This included $1 billion for school districts to purchase their own foods (limited to "unprocessed and minimally processed domestic food such as fresh fruit, milk, cheese, frozen vegetables and ground meat"), $200 million for states to purchase local foods for distribution to schools, and $300 million for USDA Food purchases.[85]
- In January 2022, USDA announced the annual reimbursement rate adjustment for SFSP, which affects school districts using the SFSP reimbursement rates in school year 2021-2022 (discussed previously in the "Overview of Changes to Existing Programs and Waiver Authorities" section).[86] Based on inflation, the SFSP reimbursement rates increased 5.8% starting on January 1, 2022, which USDA estimated would result in roughly $750 million in additional funding for school districts from January to June (however, this amount will likely change based on actual participation).[87]

Program to Cover Financial Losses of School District and Child Care Meal Providers

The FY2021 Consolidated Appropriations Act provided "such sums as are necessary" for a program to cover financial losses experienced by some child nutrition program providers during the early months of the pandemic.[88] Specifically, the program is to reimburse 27.5% of the difference between meal reimbursements in March 2019 and March 2020 and 55% of the difference between reimbursements in April, May, and June 2019 and the same months in 2020

agency has not used this authority to fund waivers in FY2020 or FY2021.

[82] CRS correspondence with FNS on February 28, 2022.

[83] For a list of estimated funding by state, see USDA, FNS, "Estimated Amount USDA Provided to School Districts to Support Pandemic Operations and Supply Chain Challenges," January 6, 2022, https://www.fns.usda.gov/cn/total-amount-support-to-school-districts.

[84] USDA, "USDA Distributes $1.5 Billion to Strengthen School Meal Program," December 17, 2021, https://www.usda.gov/media/press-releases/2021/12/17/usda-distributes-15-billion-strengthen-school-meal-program. For an introduction to supply chain issues affecting schools, see, for example, Madeleine Ngo, "No Veggies, No Buns, Few Forks: Schools Scramble to Feed Students Amid Shortages," *New York Times*, September 27, 2021, https://www.nytimes.com/2021/09/27/us/politics/schools-labor-supply-shortages.html.

[85] Ibid.

[86] USDA, FNS, "Summer Food Service Program; 2022 Reimbursement Rates," 87 *Federal Register* 1107, January 10, 2022, https://www.federalregister.gov/documents/2022/01/10/2022-00120/summer-food-service-program-2022-reimbursement-rates; USDA, "USDA Announces Increased Funding to Support School Meals and to Help Continue Serving Healthy Meals to Kids," January 7, 2022, https://www.usda.gov/media/press-releases/2022/01/07/usda-announces-increased-funding-support-school-meals-and-help.

[87] USDA, FNS, "Estimated Amount USDA Provided to School Districts to Support Pandemic Operations and Supply Chain Challenges," January 6, 2022, https://www.fns.usda.gov/cn/total-amount-support-to-school-districts.

[88] P.L. 116-260, Division N, Title VII, §722.

for providers participating in the school meals programs and/or CACFP.[89] States may opt in to the program and participating state agencies are allowed to retain 1% of funds for administrative costs. The law required USDA to issue guidance implementing the program within 30 days of enactment.[90]

Temporary Funding for Meals Served to Young Adults at CACFP Emergency Shelters

ARPA temporarily allows homeless shelters participating in CACFP to receive federal reimbursements for meals and snacks served to individuals ages 19 through 24 during the COVID-19 public health emergency.[91] Normally, CACFP emergency shelters are reimbursed for meals and snacks served to children ages 18 and under.[92] This policy applies both to emergency shelters participating in regular CACFP (for young adults residing at the shelter) and/or the CACFP At-Risk Afterschool component (for young adults residing at or receiving assistance from the shelter).[93]

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

Supplemental Appropriation

FFCRA provided a $500 million supplemental appropriation, available through FY2021, for WIC.

Waivers

In addition, FFCRA gave USDA further authority to grant waivers allowing WIC participants to get certified (or recertified) without being physically present at the WIC clinic (which is normally required).[94] Waiver requests are to be made by state agencies to USDA. Also, FFCRA authorized USDA to grant waivers from program administrative requirements that a state determines "cannot be met due to COVID-19" and are "necessary to provide assistance" under WIC.[95] USDA's authority to issue these and the physical presence waivers was initially scheduled to sunset after September 30, 2020.

For implementation, USDA provided a wide variety of waiver opportunities to states, including waivers from physical presence and supplemental food package item flexibility. On September

[89] The program establishes an alternative process for new providers with no reimbursement data for 2019.

[90] USDA, FNS, "Child Nutrition Program Emergency Operating Costs During COVID-19: Implementation Guidance for State Agencies," January 26, 2021, https://www.fns.usda.gov/cn/emergency-operating-costs-during-covid-19-implementation-guidance.

[91] P.L. 117-2, §1107.

[92] For more information on CACFP emergency shelters, see USDA, FNS, "Child and Adult Care Food Program: Emergency Shelters," https://www.fns.usda.gov/cacfp/emergency-shelters.

[93] For more information on CACFP, see CRS Report R46234, *School Meals and Other Child Nutrition Programs: Background and Funding*.

[94] P.L. 116-127, Division B, Title II, §2203.

[95] P.L. 116-127, Division B, Title II, §2204.

21, 2020 (in advance of the authority's sunset), USDA announced that it was extending certain waivers for the duration of the public health emergency.[96]

Shortly thereafter, the FY2021 Continuing Appropriations Act included an extension of the FFCRA waiver authorities through September 30, 2021, and provided open-ended funding authority for the waivers.[97] USDA's September 20, 2021, guidance extends certain WIC waivers until 90 days after the end of the nationally declared public health emergency.[98] On December 21, 2021, USDA published a preliminary report on waivers granted during the COVID-19 pandemic, with emphasis on the physical presence and remote benefit issuance waivers.[99]

Task Force

The FY2021 Consolidated Appropriations Act required USDA to establish a task force on supplemental foods delivery in WIC.[100] The task force, with certain representations specified, was to study measures "to streamline the redemption of supplemental food benefits that promote convenience, safety, and equitable access." These include online and telephonic ordering with curbside pickup and payment; and online and telephonic purchasing, home delivery, and self-checkout. The task force was required to convey its findings and recommendations to the Secretary of Agriculture by September 30, 2021, and submitted its report on December 9, 2021 (and terminated on that date).[101]

Temporary Increases to Cash Value Vouchers

Non-infant WIC participants receive a cash value voucher or cash value benefit (CVV/B), redeemable for fruits and vegetables, as part of their WIC food package. ARPA authorizes an increase for the CVV/B.[102] Under prior regulation, WIC participants receive $9 per month per child and $11 per month for mothers.[103] During the COVID-19 public health emergency, the ARPA provision authorized USDA to approve state requests for increasing the CVV/B up to a $35 maximum for a four-month period; state increases could only be made for FY2021 benefits.[104] ARPA authorized and appropriated $490 million for this purpose, available through FY2022.

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[96] USDA, FNS, "USDA Extends WIC COVID-19 Flexibilities for Duration of the COVID-19 Public Health Emergency," news release, September 21, 2020, https://www.fns.usda.gov/news-item/usda-038020.

[97] P.L. 116-159, Division D, Title VI, §4602.

[98] USDA, FNS, *Updated Expiration Schedule for Existing FNS-Approved WIC COVID-19 Waivers*, Memo to Regional Directors and WIC State Agency Directors, September 20, 2021, https://www.fns.usda.gov/wic/policy-memorandum-2021-10.

[99] USDA, FNS, *Changes in WIC Operations During the COVID-19 Pandemic: A First Look at the Impact of Federal Waivers*, December 21, 2021, https://www.fns.usda.gov/wic/operations-impact-federal-waivers-during-covid-19-pandemic. "These findings represent a first, high-level look at select survey data collected to fulfill FFCRA WIC waiver reporting requirements. Further reporting, including findings on the impacts of other FFCRA WIC waivers, will be published in a forthcoming report."

[100] P.L. 116-260, Division N, Title VII, §723.

[101] Task force membership and the report to Congress are available at https://www.fns.usda.gov/wic/task-force-supplemental-foods-delivery.

[102] P.L. 117-2, §1105.

[103] See USDA, FNS, *Increase in the Cash Value Voucher for Pregnant, Postpartum, and Breastfeeding Women*, Memo to All State Agencies, All Regions, et al., June 25, 2015, https://www.fns.usda.gov/wic/increase-cash-value-voucher-pregnant-postpartum-and-breastfeeding-women.

[104] See also USDA, FNS, Implementation of the American Rescue Plan Act of 2021 State Agency Option to

The FY2022 Extending Government Funding Act continued an increase through the first quarter of FY2022 (December 31, 2021), but changed the policy in several key aspects.[105] First, as opposed to ARPA's creation of a state option, the more recent law required USDA to implement increased CVV/B throughout the program. Second, the amount of the benefit increase changed; rather than a $35 maximum for all, there are now three different increased amounts that vary by participant type. This law required USDA to increase the CVV/B "to an amount recommended by the National Academies of Science, Engineering and Medicine [NASEM] and adjusted for inflation." USDA has implemented this as $24 for child participants, $43 for pregnant and postpartum women participants, and $47 for fully and partially breastfeeding women participants.[106]

Funding for Program Modernization

ARPA authorized and appropriated $390 million for USDA "to carry out outreach, innovation, and program modernization efforts, including appropriate waivers and flexibility, to increase participation in and redemption of benefits under programs in WIC." Funds are available through FY2024 and waivers are not allowed to WIC food package and nondiscrimination regulations. The funding is not contingent on the public health emergency. USDA has shared plans for the funds, and has formally requested feedback on a potential Center for WIC Modernization and Delivery.[107]

Food Distribution Programs

The Emergency Food Assistance Program (TEFAP)

TEFAP provides federally purchased foods and administrative funds to states for distribution to emergency feeding organizations, including food banks, food pantries, and soup kitchens.[108]

In addition to its usual sources of funding,[109] TEFAP received dedicated funding to respond to the COVID-19 pandemic under three pandemic response laws (all of which had to be obligated by September 30, 2021):

Temporarily Increase the Cash-Value Voucher/Benefit for Fruit and Vegetable Purchases, Memo to All State Agencies, All Regions, et al., March 24, 2021, https://www.fns.usda.gov/wic/policy-memorandum-2021-3.

[105] P.L. 117-43, Division A, §118. The provision authorizes the funding required for the increase by requiring USDA to apportion WIC account funds at a rate necessary to accommodate the increase.

[106] USDA, FNS, *Implementation of the Extending Government Funding and Delivering Emergency Assistance Act Temporary Increase in the CVV Benefit for Fruit and Vegetable Purchases*, Memo to All State Agencies, All Regional Offices, October 6, 2021, https://www.fns.usda.gov/wic/extending-government-funding-and-delivering-emergency-assistance.

[107] See USDA, FNS, *The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and WIC Farmers' Market Nutrition Program (WIC FMNP) Outreach, Innovation, and Program Modernization Strategy*, Memo to All State Agencies, September 29, 2021, https://www.fns.usda.gov/wic/outreach-innovation-and-program-modernization; USDA, FNS, "Request for Information: Center for WIC Modernization and Delivery," 86 *Federal Register* 6172, November 8, 2021.

[108] For background on TEFAP, see CRS Report R45408, *The Emergency Food Assistance Program (TEFAP): Background and Funding*.

[109] Ibid (see "Table 1. TEFAP Funding, FY2021").

- FFCRA provided $400 million for TEFAP, up to $100 million of which can be used for food distribution costs;[110]
- the CARES Act provided $450 million for TEFAP, up to $150 million of which can be used for food distribution costs;[111] and
- the FY2021 Consolidated Appropriations Act provided a supplemental appropriation of $400 million for TEFAP, up to 20% of which ($80 million) can be used for food distribution costs.[112]

FNS allocated these funds using the state allocation formula specified in TEFAP regulations.[113]

In addition to this specific funding for TEFAP, USDA used emergency authorities to make additional foods and funds available for TEFAP in FY2022. Using authority under the CARES Act, which provided funding for USDA "to prevent, prepare for, and respond to coronavirus by providing support for agricultural producers," USDA announced an additional $500 million in entitlement commodity funding (up to $100 million of which may be used for administrative costs) for TEFAP in FY2022.[114] States (in consultation with emergency feeding organizations) may use the food funding toward fresh produce boxes (continuing an initiative USDA announced earlier in 2021) or for staple items including vegetables, meats, dairy, and eggs.[115] In addition, USDA announced the use of $100 million in ARPA funding for new TEFAP Reach and Resiliency competitive grants.[116] These grants are set up to fund TEFAP state agencies in expanding the reach of TEFAP to "underserved remote, rural, Tribal, and/or low-income communities" and cover expenses such as equipment, warehouse, staff, and training.[117] USDA expects to award the first round of funding ($50 million) in spring 2022.[118]

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[110] P.L. 116-127, Division A, Title I.

[111] P.L. 116-136, Division B, Title I.

[112] P.L. 116-260, Division N, Title VII, §711.

[113] For TEFAP's state allocation formula, see 7 C.F.R. §251.3(h) or the "State Allocation Formula" section of CRS Report R45408, *The Emergency Food Assistance Program (TEFAP): Background and Funding*. For USDA's guidance on the distribution of supplemental funds, see USDA, FNS, "Additional Information on FY 2020 Funding Sources for TEFAP," June 12, 2020, https://www.fns.usda.gov/tefap/additional-information-fy-2020-funding-sources; USDA, FNS, "The Emergency Food Assistance Program (TEFAP): Allocation of Coronavirus Aid, Relief, and Economic Security Act Supplemental Appropriations," April 24, 2020; USDA, FNS, "2020 TEFAP FFCRA Allocation Worksheet," April 17, 2020, https://www.fns.usda.gov/disaster/pandemic/covid-19/tefap-ffcra-allocation-worksheet; USDA, FNS, "Fiscal Year 2021 Food and Administrative Funding for The Emergency Food Assistance Program," February 16, 2021, https://www.fns.usda.gov/tefap/fiscal-year-2021-funding; and USDA, FNS, "FY2022 USDA Explanatory Notes – Food and Nutrition Service," p. 34-129, https://www.usda.gov/sites/default/files/documents/34FNS2022Notes.pdf.

[114] P.L. 116-136, Division B, Title 1, "Office of the Secretary"; USDA, FNS, "TEFAP: Allocation of Supplemental Food and Administrative Funds from Division B of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)," August 4, 2021, https://www.fns.usda.gov/tefap/allocation-cares-act-build-back-better.

[115] USDA, AMS, "Pre-Solicitation Announcement for Cares Act TEFAP Purchase Plan," August 18, 2021, https://www.ams.usda.gov/content/cares-act-tefap-purchase-plan-pre-solicitation-announcement; and USDA, FNS, "TEFAP Fresh Produce," March 30, 2021, https://www.fns.usda.gov/tefap/fresh-produce.

[116] P.L. 117-2, §1001(b)(4); and USDA, "USDA Establishes Food Purchase Program to Transform the Food System, Build Back Better via Local Food Purchase," December 6, 2021, https://www.usda.gov/media/press-releases/2021/12/06/usda-establishes-food-purchase-program-transform-food-system-build.

[117] USDA, FNS, "The Emergency Food Assistance Program (TEFAP) Reach and Resiliency Grants: Fiscal Year 2022 Request for Applications (RFA)," CFDA 10.568, December 6, 2021, https://www.grants.gov/web/grants/view-opportunity.html?oppId=336843.

[118] Ibid; and USDA, FNS, "TEFAP Reach and Resiliency Grant Initiative," https://www.fns.usda.gov/tefap/reach-resiliency-grant.

In addition to allocating supplemental funding, during the pandemic, FNS has issued guidance explaining options that states have under current law to adjust program rules, such as expanding eligibility rules for participants and waiving signature requirements for the receipt of TEFAP foods.[119]

Local Food Purchase Assistance Cooperative Agreement Program

While not a TEFAP program, but intended to support local feeding organizations, USDA also announced in December 2021 that it would use $400 million in ARPA funding for a new Local Food Purchase Assistance (LFPA) cooperative agreement (noncompetitive) program administered by the Agricultural Marketing Service (AMS).[120] This program is to fund state and tribal governments in making local and regional food purchases from socially disadvantaged farmers and ranchers.[121] Foods are to be delivered to underserved communities, with the help of nonprofit organizations when desired, including communities not served by traditional food distribution networks like TEFAP.[122]

Food Distribution Program on Indian Reservations (FDPIR)

The CARES Act provided $100 million to the FDPIR, of which $50 million was for facility improvements and equipment upgrades and $50 million was for the costs related to additional food purchases.

In FY2020, FNS awarded over $40 million in grants for facility improvements and equipment upgrades to 97 Indian Tribal Organizations (ITOs) and state agencies (SAs) that administer FDPIR.[123] These grants were awarded for purposes such as changes to physical space to accommodate social distancing and computer system upgrades to accommodate remote work.

Commodity Supplemental Food Program (CSFP)

In addition to the annual funding provided, the FY2021 Consolidated Appropriations Act included $13 million in supplemental funding for CSFP, available through FY2021.[124] Up to 20% of the funding is available for state administrative expenses.

ARPA provided $37 million for CSFP, to remain available through FY2022.[125]

[119] USDA, FNS, "Questions and Answers related to COVID-19 and the Emergency Food Assistance Program (TEFAP)," May 22, 2020, https://www.fns.usda.gov/tefap/covid-19-qas.

[120] P.L. 117-2, §1001(b)(4); and USDA, "USDA Establishes Food Purchase Program to Transform the Food System, Build Back Better via Local Food Purchase," December 6, 2021, https://www.usda.gov/media/press-releases/2021/12/06/usda-establishes-food-purchase-program-transform-food-system-build.

[121] For the purposes of LFPA, USDA defines *local and regional food* as a distance of no more than 400 miles between the producer and delivery destination, or where the product is distributed in the same state, territory, or tribal land in which it originates. Similar definitions have been used in other USDA programs, including the Business and Industry (B&I) loan program, which has a definition of *locally or regionally produced agricultural food products* codified at 7 U.S.C. Section 1932.

[122] USDA, AMS, "Local Food Purchase Assistance Cooperative Agreement Program (LFPA): Fiscal Year 2022 Request for Applications," December 6, 2021, https://www.ams.usda.gov/sites/default/files/media/LFPA_RFA.pdf.

[123] USDA, FNS, "USDA Foods from Farm to Plate: FDPIR Connection," e-bulletin, October 2020.

[124] P.L. 116-260, Division N, Title VII, §712.

[125] P.L. 117-2, §1104.

Other USDA Initiatives

In addition to using existing nutrition assistance programs, USDA carried out two new programs to feed people during the COVID-19 pandemic: the Farmers to Families Food Box program, which provided food boxes to individuals and households, and the Emergency Meals to You program, which provided food boxes to households with school-aged children. Both programs used funding provided in the COVID-19 pandemic response laws (discussed further below). FNS also activated Disaster Household Distribution programs in certain states and tribal nations during the early months of the pandemic.

Farmers to Families Food Box Program

AMS, in consultation with FNS, operated the Farmers to Families Food Box program from May 2020 to May 2021.[126]

On April 17, 2020, USDA announced a Coronavirus Food Assistance Program (CFAP) to provide direct relief to farmers and ranchers for lost commodities markets.[127] A smaller part of CFAP was a new program, the Farmers to Families Food Box program, to facilitate the distribution of in-kind foods to households during the pandemic. Specifically, the program provided fresh fruits and vegetables, dairy, and meat products from local and regional suppliers to public and nonprofit organizations, including food banks, schools, tribal organizations, and faith-based organizations.[128] The stated goals of the program were to expedite federally sponsored food deliveries to food banks and other feeding organizations and to "sell food previously destined for restaurants and bulk purchasers to distributors, preventing waste."[129]

Unlike other USDA nutrition assistance programs, state agencies did not play a direct role in the administration of the Farmers to Families Food Box program.[130] Instead, AMS awarded contracts directly to suppliers through a solicitation process. According to the terms of the contracts, suppliers packaged products into "family-sized boxes" and distributed the boxes to food banks and other recipient organizations selected by the supplier.[131] Recipient organizations were nonprofits with 501(c)(3) tax exemption status or local government agencies that could "demonstrate that they have the operational and financial capability to receive, store and distribute requested food items."[132] Nonprofit recipients also agreed to serve only "needy people, or the food insecure population."[133] Contents of the boxes differed over time, but included fresh

[126] USDA, AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on August 3, 2021.

[127] For more information on the Coronavirus Food Assistance Program, see CRS Report R46347, *COVID-19, U.S. Agriculture, and USDA's Coronavirus Food Assistance Program (CFAP)*; and CRS Report R46348, *COVID-19: Supply Chain Disruptions in the U.S. Fruit and Vegetable Industry: In Brief*.

[128] USDA, "USDA Announces Coronavirus Food Assistance Program," April 17, 2020, https://www.usda.gov/media/press-releases/2020/04/17/usda-announces-coronavirus-food-assistance-program.

[129] USDA, Agricultural Marketing Service (AMS), "Farmers to Families Food Box Infographic," https://www.ams.usda.gov/sites/default/files/media/FarmerstoFamiliesFoodBox.pdf; USDA, AMS webinar on April 21, 2020, recording available at https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box.

[130] See CRS Report R42353, *Domestic Food Assistance: Summary of Programs*.

[131] USDA, AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on August 3, 2021.

[132] USDA, AMS, "Farmers to Families Food Box Program FAQs," April 27, 2020, https://www.ams.usda.gov/publications/content/farmers-families-food-box-program-faqs .

[133] USDA, AMS, Solicitation 12-3J14-20-B-0588, p. 30, https://www.ams.usda.gov/sites/default/files/media/FFFB_

fruit and vegetables, dairy products, fluid milk, precooked meats (initially pork and poultry, and later beef and seafood), or a combination of these items.[134]

The Biden Administration ended the Farmers to Families Food Box program on May 31, 2021.[135] Over the course of the program, USDA allocated approximately $6 billion on five separate rounds of contracts and deliveries. That includes $4 billion in funding for the first three rounds of the program funded under FFCRA, which gave the Secretary of Agriculture "such amounts as are necessary" to "purchase commodities for emergency distribution in any area of the United States during a public health emergency designation" in FY2020.[136] Actual expenditures were closer to $3.57 billion, which funded 120.5 million food boxes distributed between May 2020 and October 31, 2020.[137] On October 23, 2020, USDA announced $500 million for a fourth round of awards under the program for deliveries through December 31, 2020, funded with unobligated funds from the CARES Act.[138] Actual expenditures for the fourth round were approximately $463 million, which funded 12.4 million food boxes.[139] The fifth round of the program, announced on January 4, 2021, used $1.4 billion in FY2021 Consolidated Appropriations Act funds and sponsored deliveries through the end of May 2021.[140]

Emergency Meals to You

FNS created and operated the Emergency Meals to You program from March 2020 to August 2020 in response to the COVID-19 pandemic.[141] Modeled off the Summer Meals-to-You

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solicitationRound3.pdf.

[134] USDA, AMS, Solicitation AG-12-3J14-20-R-0377, April 24, 2020, p. 5, https://www.ams.usda.gov/sites/default/files/media/RFP_ERAcquisition.pdf; USDA, "USDA Announces Continuation of the Farmers to Families Food Box Program, Fifth Round of Food Purchases," January 4, 2021, https://www.usda.gov/media/press-releases/2021/01/04/usda-announces-continuation-farmers-families-food-box-program-fifth.

[135] USDA, AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on August 3, 2021. The Administration also communicated its intentions to apply "lessons learned" from the food box program into future activities, including announcing a fresh produce box option through TEFAP.

[136] P.L. 116-127, Division A, Title I, §1101(g). Section 1108 of ARPA subsequently reauthorized open-ended funding under Section 1101(g) of FFCRA for USDA to purchase and distribute commodities during a public health emergency. USDA, AMS, "Notice of Funds Availability (NOFA); Purchase of Fruit, Vegetable, Dairy, and Meat Products Due to COVID-19 National Emergency-USDA Food Box Distribution Program," 85 *Federal Register* 23325, April 27, 2020, https://www.federalregister.gov/documents/2020/04/27/2020-08979/notice-of-funds-availability-nofa-purchase-of-fruit-vegetable-dairy-and-meat-products-due-to.

[137] Data as of January 11, 2021. USDA, AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on August 3, 2021.

[138] USDA, "USDA Announces Fourth Round of the Farmers to Families Food Box Program," Release No. 0429.20, October 23, 2020, https://www.usda.gov/media/press-releases/2020/10/23/usda-announces-fourth-round-farmers-families-food-box-program. According to CRS correspondence with AMS on November 19, 2020, the fourth round of purchases is funded from unobligated funds under the CARES Act (P.L. 116-136), Division B, Agricultural Programs, Office of the Secretary that were previously available for payments to farmers in another part of the CFAP.

[139] USDA AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on August 3, 2021.

[140] USDA, "USDA Announces Continuation of the Farmers to Families Food Box Program, Fifth Round of Food Purchases," January 4, 2021, https://www.usda.gov/media/press-releases/2021/01/04/usda-announces-continuation-farmers-families-food-box-program-fifth. The funding authority for the fifth round of purchases was P.L. 116-260, Division N, Title VII, §751; expenditures as provided by USDA, AMS, on August 4, 2021.

[141] According to FNS, the Emergency Meals to You demonstration was established using authority from Section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (P.L. 111-80) and Section 2202(a) of FFCRA (P.L. 116-127). CRS correspondence with USDA, FNS, on July 24,

demonstration, the Emergency Meals to You program worked with private partners (Baylor University's Collaborative on Hunger and Poverty, McLane Global, and PepsiCo) to mail food boxes to children in participating school districts in rural areas nationwide who would normally receive free or reduced-price school meals but were not receiving them due to an emergency school closure.[142] School districts were eligible to participate in Emergency Meals to You if they (1) participated in the NSLP, (2) had at least 50% of students qualified for free or reduced-priced meals (or participated in the Community Eligibility Provision [CEP]), (3) were closed for at least four weeks, and (4) were located in a rural area.[143] Households with eligible children that signed up for the program were to receive a box containing 10 breakfasts and 10 lunches, including a combination of shelf-stable items, every two weeks by mail.[144] Total expenditures were approximately $123 million, which FNS said funded more than 40 million meals delivered to approximately 400,000 children across the United States.[145]

Disaster Household Distribution

During a presidentially declared disaster or emergency, states may be able to repurpose existing local inventories of USDA Foods intended for other nutrition assistance programs (e.g., TEFAP and NSLP) for disaster/emergency feeding efforts.[146] Under one program option, Disaster Household Distribution, USDA may approve requests from states and tribes to repurpose USDA Foods for direct distribution to households in areas affected by an emergency or disaster.[147] USDA later replenishes or reimburses federal nutrition assistance programs for USDA Foods reprogrammed for disaster/emergency feeding during a presidentially declared disaster or emergency.[148] Disaster Household Distribution facilitates faster distribution to households by reducing administrative requirements (e.g., removing eligibility determinations); however, it temporarily results in lower USDA Foods inventory for other federal nutrition assistance programs.

Following the presidential emergency declaration for COVID-19, USDA approved requests from 21 states, Guam, and 33 tribal nations to operate Disaster Household Distribution programs

2020. For a list of school districts that participated in Emergency Meals to You by state, see Mealstoyou.org, "Emergency Meals-to-You School Districts," https://mealstoyou.org/emergency-meals-to-you-school-districts-2/.

[142] USDA, "USDA Meals to You Partnership Delivers Nearly 30 Million Meals," July 16, 2020, https://www.fns.usda.gov/news-item/usda-032420; USDA, FNS, "Meals to You Frequently Asked Questions (FAQs)," https://mealstoyou.org/emtyfaqs/. For more information on the Summer Meals-to-You program, see CRS In Focus IF11633, *Summer Meals for Children: An Overview of Federal Aid*.

[143] Ibid.

[144] Sample items include "Protein: Milk, Chicken Salad, Hummus, Beef Stick, Bean Dip, Cheese, Sunflower Kernels; Whole Grains: Tortilla Chips, Corn Chips, Crackers, Oatmeal Bars, Cereal; Vegetables: Salsa Cup, Marinara Cup, 100% Veg/Fruit Juice; Fruit: Applesauce, Raisins, Craisins, Fruit Cup, 100% Fruit Juice."

[145] CRS correspondence with FNS in February 2021; USDA, "Secretary Perdue Applauds USDA's 2020 Accomplishments," December 16, 2020, https://www.usda.gov/media/press-releases/2020/12/16/secretary-perdue-applauds-usdas-2020-accomplishments.

[146] For more information on Disaster Household Distribution and related USDA emergency food distribution options, see CRS Report R46432, *Food Banks and Other Emergency Feeding Organizations: Federal Aid and the Response to COVID-19*.

[147] 7 C.F.R. §250.69; USDA, FNS, Food Distribution Division, "USDA Foods Program Disaster Manual," revised September 2017, https://fns-prod.azureedge.net/sites/default/files/fdd/disaster-manual.pdf.

[148] 7 C.F.R. §250.69(g).

during the early months of the pandemic.[149] These approvals had different timeframes but typically ended by July 2020.

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[149] USDA, FNS, "Disaster Household Distribution," June 11, 2020, https://www.fns.usda.gov/usda-foods/covid-19-disaster-household-distribution.