

## SNAP-PING OUT OF IT: A CASE FOR REMOVING SENIORS FROM THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

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*Enrollment by seniors in the Supplemental Nutritional Assistance Program (SNAP) has remained low regardless of need and efforts by Congress and local administrations to increase the program's appeal. Cultural and practical barriers influence this lack of appeal. Moreover, looming threats of cuts to SNAP also threaten benefits for those seniors currently obtaining nutritional assistance through SNAP. In this Note, the author identifies the primary reasons why enrollment for SNAP benefits has remained low despite need among seniors qualifying for other government services. The author also explains the substantive threat to seniors' benefits stemming out of cuts to the program. While SNAP has proven inadequate to serve elder Americans, programs within the Department of Health and Human Services Administration on Aging that specifically target seniors have demonstrated an ability to better serve the needs of older populations. Although there exists a degree of overlap in nutritional assistance services through the Elderly Nutrition Program, these services remain limited. To this effect, the author recommends that efforts to serve the needs of seniors be centralized through the Administration on Aging and that funds for nutritional assistance be reallocated to the currently well-functioning Elderly Nutrition Program. This would result in greater administrative efficiency and better serve the needs of elder Americans.*

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## I. Introduction

Better late than never, the 112th Congress prevented America from plunging headfirst off the proverbial “milk cliff” by extending the 2008 Farm Bill.<sup>1</sup> The 2008 Farm Bill originally expired on September 30, 2012.<sup>2</sup> However, the threat of doubling of milk prices with the expiration of the 2008 dairy subsidies on January 1, 2013 ultimately spurred Congress into action.<sup>3</sup> Twenty-four hours after the 2008 dairy subsidies actually expired, Congress approved a nine-month fiscal extension to give Congress more time to craft and enact a new Farm Bill in 2013.<sup>4</sup>

In reality, the extension merely prolonged uncertainty for the very program that killed the 2012 Farm Bill in the first place—the Supplemental Nutrition Assistance Program (SNAP).<sup>5</sup> SNAP (formerly “Food Stamps”) comprised approximately 80 percent of Farm Bill spending in 2010.<sup>6</sup> As the 2008 Farm Bill expired and the “fiscal cliff” loomed, Democrats and Republicans of the 111th Congress remained in political gridlock unable to agree to what extent the SNAP budget should be cut.<sup>7</sup> Now, the 112th Congress continues to hold SNAP’s future hostage as hardline welfare reform looms.<sup>8</sup>

Unfortunately, the 23.2 million seniors living under the federal poverty line are unnecessary casualties of this political subterfuge.<sup>9</sup> The number of food-insecure seniors has continued to increase with the number of seniors.<sup>10</sup> According to the National Council on Aging

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1. Christopher Doering, *Agriculture Leaders Reach Deal on Farm Bill Extension*, USA TODAY (Dec. 30, 2012), <http://www.usatoday.com/story/news/politics/2012/12/30/farm-bill-extension/1799535/>.

2. *Id.*

3. *See id.*; Stephanie Mercier, *Year-end (2012) Farm Bill and Fiscal Cliff Update*, AGREE 1 (Jan. 4, 2013), available at [http://www.foodandagpolicy.org/sites/default/files/AGree%20Farm%20Bill%20Fiscal%20Cliff%20Update%20Jan%204%202013\\_0.pdf](http://www.foodandagpolicy.org/sites/default/files/AGree%20Farm%20Bill%20Fiscal%20Cliff%20Update%20Jan%204%202013_0.pdf).

4. Mercier, *supra* note 3, at 1.

5. Doering, *supra* note 1.

6. *U.S. Farm Bill: Frequently Asked Questions*, SNAPTOHEALTH.ORG, <http://www.snapttohealth.org/farm-bill-usda/u-s-farm-bill-faq/> (last visited Nov. 17, 2013).

7. *Id.*

8. Ron Nixon, *G.O.P. Push to Slash Food Stamps Puts Farm Bill in Jeopardy*, N.Y. TIMES (Aug. 1, 2013), available at [http://www.nytimes.com/2013/08/02/us/politics/gop-push-to-slash-food-stamps-puts-farm-bill-in-jeopardy.html?\\_r=0](http://www.nytimes.com/2013/08/02/us/politics/gop-push-to-slash-food-stamps-puts-farm-bill-in-jeopardy.html?_r=0).

9. NAT'L COUNCIL ON AGING, *SNAP & the Aging Network* (Mar. 3, 2012 9:13 AM), <http://vimeo.com/39049544> [hereinafter *SNAP & the Aging Network*].

10. ALISHA COLEMAN-JENSEN ET AL., U.S. DEP'T OF AGRIC., *HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2011* (2011). In 2011, the USDA reported 8.4 percent of households with elder household members and 8.8 percent of elders

(NCOA), the population of individuals aged 60 years and older will balloon from its current number of 59.5 million to 74.8 million by 2020.

<sup>11</sup> During that period, the number of seniors living under the federal poverty line in the community will also increase by roughly 5 million, from 23.2 million to 28 million.<sup>12</sup> Federal nutrition programs must evolve to accommodate this growing demographic.

American seniors are among those at the greatest risk for hunger and malnutrition.<sup>13</sup> Unlike most SNAP recipients who are working-age or children, elder recipients will permanently rely on their SNAP benefits because they are at or near retirement.<sup>14</sup> Moreover, the pressure of the “big three” cost factors for lower-income households—food, housing, and medical expenses—are particularly acute for seniors.<sup>15</sup> To cope with rising food costs, many seniors forgo medication, adjust the thermostat to decrease energy bills, or simply skip meals.<sup>16</sup> Paradoxically, however, nutrition and medical expenses are inversely correlated: poor nutrition results in higher healthcare costs for seniors.<sup>17</sup> Those most at risk for food insecurity include seniors with low-income,<sup>18</sup> younger seniors,<sup>19</sup> minorities,<sup>20</sup> seniors raising a grandchild,<sup>21</sup>

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living alone suffered from “low food security” or “very low food security.” *Id.* at 11.

11. *SNAP & the Aging Network*, *supra* note 9.

12. *Id.*

13. *See id.*

14. N.S. Wellman et al., *Elder Insecurities: Poverty, Hunger, and Malnutrition*, 97 J. AM. DIETETIC ASS'N S120, S122 (Oct. 1997) (“Although the homeless, women, and children have received the most attention from hunger advocacy groups, churches, and other local programs, the elderly have gone largely unnoticed.”).

15. MARK WINNE, *CLOSING THE FOOD GAP: RESETTING THE TABLE IN THE LAND OF PLENTY* 23 (2008). *Cf.* Karen C. Holden & Timothy M. Sneedbug, *The Poor, the Rich, and the Insecure Elderly Caught in Between*, 68 THE MILBANK QUARTERLY 190, 196 (1990) (“The two largest sources of nonmoney income among the elderly are housing and health-care benefits. Food stamps are important to the poorest elderly, but they are dominated by Medicare, Medicaid, and other health-care subsidies, and by public housing and implicit rent on owner-occupied homes.”).

16. U.S. DEP'T. OF AGRIC., *SENIOR OUTREACH TOOLKIT 1* (2011), available at [http://www.theelderlawjournal.com/members/ebookpull/uploaded\\_files/REISS/2013-09-23\\_19-51-52\\_snap.pdf](http://www.theelderlawjournal.com/members/ebookpull/uploaded_files/REISS/2013-09-23_19-51-52_snap.pdf) [hereinafter *SENIOR OUTREACH TOOLKIT*].

17. JOANNE F. GUTHRIE & BIING-HWAN LIN, U.S. DEP'T OF AGRIC., *OVERVIEW OF THE DIETS OF LOWER- AND HIGHER- INCOME ELDERLY AND THEIR FOOD ASSISTANCE OPTIONS S31* (“Limited economic resources can further increase [elders'] risk [for malnutrition].”).

18. *SNAP & the Aging Network*, *supra* note 9 (living at or below the poverty line).

19. *Id.* (seniors under the age of 70 are at higher risk for hunger than older seniors).

20. *Id.* (including African-Americans and Latinos).

less-educated seniors,<sup>22</sup> seniors living alone, disabled seniors, renters,<sup>23</sup> and seniors living in the South.<sup>24</sup>

This Note questions the one-size-fits-all approach utilized by SNAP. Part II of this Note briefly outlines the history of SNAP, explains its funding, and provides a general overview of what benefits are available for elder SNAP recipients. Part III examines the shortcomings of the inclusion of elder Americans in SNAP in three separate parts. First, Part III analyzes why, despite Congress's best efforts, older Americans underutilize the SNAP benefits for which they qualify. Second, Part III identifies the political fragility of including elders in a federal program, which is currently the target of broad sweeping welfare reform. Third, Part III highlights the present administrative redundancy by examining the similarities of the services provided by an existing federal nutrition assistance program specifically targeted at older Americans. Part IV recommends consolidating federal nutrition assistance programs for elders by removing them from SNAP participation all together and shifting funding and elder nutrition assistance entirely to the Older American Act's (OAA) Elder Nutrition Program (ENP). Part IV explores how the ENP is better equipped, politically stronger, and more efficient than SNAP in addressing the unique needs of older Americans.

## II. Background

### A. History of Food Stamps

A day after his inauguration, former President John F. Kennedy initiated a set of pilot programs that later became the modern day Food Stamp Program.<sup>25</sup> The program strove "to increase the food purchasing power of low-income households to a point where they [could] buy a nutritionally adequate low-cost diet."<sup>26</sup> By 1964, Con-

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21. *Id.* One in five seniors living with a grandchild has an increased risk for food insecurity. *Id.*

22. *Id.* Individuals without a high school diploma have an increased risk of food insecurity. *Id.*

23. *Id.* Facing a rent increase while living on fixed income causes food insecurity. *Id.*

24. *Id.* Household incomes in the South, particularly in Mississippi, South Carolina, and Arkansas, continue to lag behind other parts of the United States. *Id.*

25. S. COMM. ON AGRIC., NUTRITION & FORESTRY, FOOD STAMP PROGRAM: HISTORY, DESCRIPTION, ISSUES, AND OPTIONS 3 (Comm. Print 1985).

26. *Id.* at 1.

gress enacted the Food Stamp Act to enable states to establish a program in all or part of their state.<sup>27</sup> In August of 1964, \$6 million in food stamps were issued, serving over 250,000 people in 22 states, costing the federal government \$2.3 million.<sup>28</sup> Participation grew to almost 2.9 million Americans by 1969.<sup>29</sup> Currently, an estimated 45 million people received SNAP benefits in a given month.<sup>30</sup>

## B. Participation of Elder Americans

Participation of older Americans in food stamps has historically remained low despite the overall, exponential growth of the program over the years.<sup>31</sup> One study estimated in 1980 and 1981, only 48 percent of eligible seniors received food stamps.<sup>32</sup> That same study found lower participation among single, elder individuals as well as decreased probability of participation with increased age.<sup>33</sup>

Over the years, Congress has eased various eligibility requirements in hopes of increasing the number of seniors who would participate in the Food Stamps Program. For example, unlike younger working-aged SNAP applicants who must qualify under both the gross income and the net income tests, elder and disabled participants are exempt from the gross income test.<sup>34</sup> In addition, an elder household member may increase his or her monthly benefits by deducting any out-of-pocket medical expenses (other than those for a special diet) to the extent that they exceed a threshold of \$35 a month, unless an insurance company or someone who is not a household member pays

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27. *Id.* at 3.

28. *Id.* at 3 (“The difference between the cost and the value was known as the bonus cost, and represented the cost to the Federal Government.”).

29. *Id.* at 23.

30. *SNAP Monthly Data, Food and Nutrition Services*, U.S. DEP’T OF AGRIC. (Nov. 8, 2013), <http://www.fns.usda.gov/pd/34snapmonthly.htm>.

31. See GEN. ACCOUNTING OFFICE, OVERVIEW AND PERSPECTIVES ON THE FOOD STAMP PROGRAM (1986).

32. *Id.*

33. *Id.* The study concluded that informational barriers were to blame for low elder participation, finding that 33 percent of eligible seniors did not think that they were eligible for food stamps, and another 36 percent did not know whether they were eligible for food stamps. *Id.* at 54.

34. 7 U.S.C. § 2014 (2012). Elder Americans can take the same deductions from their net monthly income available to all households. *Id.* at § (e). There are six deductions to income available to all households: standard deduction, earned income deduction, dependent care deduction, child support payments, excess medical expenses, and excess shelter expense. *Id.*

for them.<sup>35</sup> Included as medical expenses are Medicare (or other insurance) premiums, most dental care including dentures, and medically related expenses such as transportation to and from medical appointments.<sup>36</sup> Moreover, households with elder or disabled members may deduct all of their excess shelter expenses, whereas other households without elder members may deduct only up to a set limit that changes each year.<sup>37</sup>

In addition to the exemption from the gross income test and special deductions for seniors, Congress gave households with elder members a more generous asset limit because the liquid asset constraint has a greater impact on limiting elderly households' eligibility as "they tended to have larger amounts of liquid assets than did younger households."<sup>38</sup> The asset limits for households with an elder or disabled member is \$3,250—versus the \$2,000 limit for households without an elder or disabled member.<sup>39</sup>

Despite their best efforts, Congress's attempts to increase senior enrollment by alleviating eligibility requirements have not proven effective. Currently, only 8 percent of all SNAP participants are age 60 or older. Yet, 66 percent of eligible seniors—with income at or below 130 percent of the poverty line—do not receive any SNAP benefits.<sup>40</sup>

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35. *Id.* at § (e)(5)(B)(ii)(1) (The method used by state agencies to claim such a deduction should "be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method").

36. 7 U.S.C. § 2014 (2012).

37. *Id.* at § (e)(6)(B)(vi). ("[F]or fiscal year 2002 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.")

38. GENERAL ACCOUNTING OFFICE, *supra* note 31, at 56 (citation omitted); RANDY ALISON AUSSENBERG, CONG. RESEARCH SERV., R42505, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP): A PRIMER ON ELIGIBILITY AND BENEFITS 3 (2013).

39. RANDY ALISON AUSSENBERG, CONG. RESEARCH SERV., R42505, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP): A PRIMER ON ELIGIBILITY AND BENEFITS 7 (2013).

40. U.S. DEP'T OF AGRIC., BUILDING A HEALTHY AMERICA: A PROFILE OF THE SUPPLEMENTAL NUTRITION 6 (2012). Additionally, the USDA reported that only 4.1 percent of households with elder members utilize food pantries—well below the national average. U.S. DEP'T OF AGRIC., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2011 STATISTICAL SUPPLEMENT 25 (2012).

### C. SNAP Funding

Although locally administered,<sup>41</sup> SNAP is federally funded.<sup>42</sup> Since 1973, the Farm Bill has been the authorizing legislation for the Food Stamp Program and, subsequently, SNAP.<sup>43</sup> The 2008 Farm Bill approved \$300 billion in mandatory spending.<sup>44</sup> About 80 percent of all Farm Bill spending is used for domestic food assistance programs.<sup>45</sup>

SNAP is a mandatory spending program, which means that Congress must approve set appropriations annually.<sup>46</sup> Appropriations can allow for a program, like SNAP, to continue even if the underlying legislation has not been extended.<sup>47</sup> The appropriations for a given year cover the cost of providing benefits to all applicants who are eligible.<sup>48</sup> If an appropriation is insufficient, a program may still continue if additional funding is authorized or appropriated.<sup>49</sup> In the event that the annual appropriation was insufficient and Congress refused to appropriate additional funds in a given year, SNAP benefits would expire.<sup>50</sup>

### D. SNAP Benefits Available to Elder Americans

Elder households receive among the lowest SNAP benefits.<sup>51</sup> As a result, Congress, the U.S. Department of Agriculture (USDA), and local agencies have developed various avenues for seniors to use their SNAP benefits to maximize nutrition assistance.

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41. The total cost of administering the program is split equally between the federal government and the states. CONG. BUDGET OFFICE, THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM 2 (2012), available at <http://www.cbo.gov/sites/default/files/cbofiles/attachments/04-19-SNAP.pdf>. Food and Nutrition Service (FNS), an arm of the U.S. Department of Agriculture (USDA), administers SNAP. *Id.* at 7.

42. *Id.*

43. Agriculture and Consumer Protection Act of 1973, Pub. L. No.93-86, 87 Stat. 221-250 (1973).

44. *U.S. Farm Bill: Frequently Asked Questions*, *supra* note 6.

45. *Id.*

46. See CONG. BUDGET OFFICE, *supra* note 41, at 7; BILL HENIFF JR., CONG. RESEARCH SERV., R520129, ENTITLEMENTS AND APPROPRIATED ENTITLEMENTS IN THE FEDERAL BUDGET PROCESS (2010).

47. See JIM MONKE, MEGAN STUBBS, & RANDY ALISON AUSSENBERG, CONG. RESEARCH SERV., R42442, POSSIBLE EXTENSION OR EXPIRATION OF THE 2008 FARM BILL 12 (2012).

48. *Id.*

49. *Id.* at 13.

50. *Id.* at 12.

51. U.S. DEP'T OF AGRIC., TRENDS IN SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION RATES: FISCAL YEAR 2002 TO FISCAL YEAR 2009 8 (2011) [hereinafter TRENDS IN SNAP].

## 1. ELECTRONIC BENEFITS TRANSFERS

In the early 1980s, the USDA spearheaded a demonstration program to test a food stamp “cashout” program for elder Americans.<sup>52</sup> The participating households, which consisted entirely of individuals 65 years or older who were eligible for food stamps, received their monthly food stamp allotments in checks over the course of two years.<sup>53</sup> The study concluded that there was no evidence that the “cashout” alternative to food stamps weakened the nutritional impact of the program on food consumption.<sup>54</sup> The early 1980s marked the beginning of the phasing out of the traditional “stamp” benefits.<sup>55</sup> Legislation enacted in 1988 permitted one or more pilot programs to determine the efficiency and effectiveness (for both program administrators and recipients of all ages) of using benefit cards or other automated or electronic benefit delivery systems.<sup>56</sup>

In 1990, Electronic Benefit Transfer (EBT) was established as an available issuance alternative.<sup>57</sup> At the start of the twenty-first century, EBT cards began replacing all traces of traditional “stamps.”<sup>58</sup>

EBT allows households to pay for groceries at authorized food stores by using the card at the checkout counter, much like they would a bank debit card.<sup>59</sup> Not only does the EBT card make the use of SNAP benefits more discrete, it also saves elder households from traveling to and from the state agency to collect their SNAP benefits.<sup>60</sup> Instead, the benefits are automatically loaded onto the card on a designated date each month.<sup>61</sup>

EBT is now the sole means of distributing and utilizing “food stamps.” Since mid-2005, all 50 states (as well as the District of Columbia, the Virgin Islands, and Guam) issued SNAP benefits through EBT systems.<sup>62</sup> State agencies were eventually prohibited from issuing paper “stamps” in 2008, and EBT cards were established as the sole

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52. Darrell Hollonbeck et al., *The Effects of Cashing Out Food Stamps on Food Expenditures* 67 AMER. J. AGR. ECON. 609, 609 (1995).

53. *Id.* at 610.

54. *Id.* at 612.

55. *A Short History of SNAP*, U.S. DEP'T OF AGRIC., <http://www.fns.usda.gov/snap/rules/Legislation/about.htm> (last visited Nov. 17, 2013).

56. Hunger Prevention Act of 1988, Pub. L. No. 100-435, 102 Stat. 1645 (1988).

57. Mickey Leland Memorial Domestic Hunger Relief Act of 1990, Pub. L. No. 101-624, 104 Stat. 3359-4078 (1990).

58. *A Short History of SNAP*, *supra* note 55.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*



method of benefit delivery.<sup>63</sup> Additionally, since 2002, group homes and institutions are permitted to redeem EBT benefits directly through banks rather than going through authorized wholesalers or other retailers.<sup>64</sup>

## 2. MEALS-ON-WHEELS

Elders can use their EBT cards to purchase meals-on-wheels.<sup>65</sup> A provision of the 1970 Amendment to the Food Stamp Act of 1964 enabled incapacitated elder food stamp recipients to use their stamps to purchase home-delivered meals (“meals-on-wheels”).<sup>66</sup> Although seniors initially had to show they were unable to adequately prepare all of their meals,<sup>67</sup> the Food and Agriculture Act of 1977 removed this requirement.<sup>68</sup> Instead, all elder Americans (and disabled persons, regardless of age) can now use food stamps to purchase meals from authorized home meal delivery services.<sup>69</sup>

## 3. CONGREGATE MEALS

Elders can use their EBT cards to purchase meals at congregate meal sites.<sup>70</sup> The Agriculture and Consumer Protection Act of 1973 allowed household members 60 years of age or older and their spouses to use food stamps to purchase meals from certain community organizations.<sup>71</sup> Approved sites include senior citizens’ centers, apartment buildings occupied primarily by elder persons, any public or nonprofit private school which prepares meals for elder persons, public or nonprofit private eating establishments which prepare meals for elder persons, and any other public or nonprofit establishment approved for such purposes.<sup>72</sup>

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63. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651 (2008).

64. Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 134 (2002).

65. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221 (1973).

66. Act of Jan. 11, 1971, Pub. L. No. 91-671, 84 Stat. 2048–2052 (1971); S. COMM. ON AGRIC., NUTRITION & FORESTRY, *supra* note 25, at 41.

67. Act of Jan. 11, 1971, 84 Stat. 2048–2052.

68. *See* Food and Agriculture Act of 1977, Pub. L. No. 95-113, 91 Stat. 913–1045 (1977).

69. *Id.*

70. Agriculture and Consumer Protection Act of 1973, Stat. at 221–250.

71. *Id.*

72. *Id.* (noting that these establishments were added to the definition of “retail food stores” to achieve this end).

#### 4. SENIOR FARMERS' MARKET NUTRITION PROGRAM

Senior Farmers' Market Nutrition Program (SFMNP) provides low-income seniors with coupons that can be exchanged for eligible foods (fruits, vegetables, honey, and fresh-cut herbs) at farmers' markets, roadside stands, and commodity-supported agriculture programs.<sup>73</sup> The 2008 Farm Bill allocated \$20.6 million in grants to the SFMNP each year.<sup>74</sup> The underlying goals were two-fold: improve elder nutrition and incentivize development of farmers' markets.<sup>75</sup> In 2012, nearly 900,000 seniors received SFMNP coupons.<sup>76</sup>

#### 5. COMMODITY SUPPLEMENTAL FOOD PROGRAM

The Commodity Supplemental Food Program (CSFP) aims at positively impacting the major health indicators for elders, as well as post-partum mothers.<sup>77</sup> A private, nonprofit sponsor agency distributes a monthly package of surplus commodities to CSFP recipients, using a carefully drawn dietary plan.<sup>78</sup> The program is relatively small and as a result, limited in geographic scope, as "the program has never been authorized beyond a few nonprofit outlets nationwide."<sup>79</sup>

Both the House and Senate versions of the 2012 Farm Bill proposed (but did not pass) a provision that would consolidate the CSFP with the Senior Farmers' Market Nutrition Program.<sup>80</sup> As amended, the CFSP would limit eligibility to low-income elder participants,<sup>81</sup>

73. U.S. DEP'T OF AGRIC., SENIOR FARMERS' MARKET NUTRITION PROGRAM FACT SHEET 1 (June 2012), available at <http://www.fns.usda.gov/wic/SFMNP-Fact-Sheet.pdf> [hereinafter SENIOR FARMERS' MARKET PROGRAM].

74. 7 U.S.C. § 3007(a) (2012).

75. § 3007(b) ("The purposes of the seniors farmers' market nutrition program are— (1) to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, honey, and herbs from farmers' markets, roadside stands, and community supported agriculture programs to low-income seniors; (2) to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and community supported agriculture programs; and (3) to develop or aid in the development of new and additional farmers' markets, roadside stands, and community supported agriculture programs.").

76. SENIOR FARMERS' MARKET PROGRAM, *supra* note 73, at 1.

77. Michael Lipsky, *Domestic Food Policy in the United States*, 15 J. HEALTH POL. POL'Y & L. 319, 328 (1990).

78. *Id.*

79. *Id.*

80. RALPH M. CHITE, CONG. RESEARCH SERV., R 42552, THE 2012 BILL: A COMPARISON OF SENATE-PASSED S. 3240 AND THE HOUSE AGRICULTURE COMMITTEE'S H.R. 6083 WITH CURRENT LAW 7 (2012).

81. *Id.*

phasing out low-income pregnant and post-partum women, infants, and children<sup>82</sup> who are eligible for similar benefits under WIC.<sup>83</sup> The consolidation would not have affected the benefit options available to older Americans under SNAP.<sup>84</sup>

### III. Analysis

#### A. Underutilized SNAP Benefits by Elder Americans

There are three primary reasons why older Americans do not participate in SNAP. First, the transactional costs are too high for the SNAP benefits elders perceive they will receive. Second, there is a lack of effective outreach for seniors. Third, certain generations are particularly sensitive to the welfare stigma and the related psychological effects.<sup>85</sup>

##### 1. COST-BENEFIT ANALYSIS OF APPLYING FOR SNAP

Elder enrollment in SNAP is low in part because even if seniors suspect they are eligible for SNAP, they often perform a cost-benefit analysis before applying.<sup>86</sup> This issue is two-fold. On the one hand, many seniors believe they would only be eligible for the minimum monthly benefits—currently \$16 per month.<sup>87</sup> On the other hand, seniors face high transactional costs—practical barriers imposed by federal mandates that ultimately deter seniors from enrolling or recertifying in SNAP.<sup>88</sup>

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82. *Id.*

83. *Id.*

84. *See id.*

85. SHEENA MCCONELL & MICHAEL PONZA, MATHEMATICA POLICY RESEARCH, REACHING THE WORKING POOR AND THE POOR ELDERLY STUDY: WHAT WE LEARNED AND RECOMMENDATIONS FOR FUTURE RESEARCH (1999).

86. SENIOR OUTREACH TOOLKIT, *supra* note 16, at 9–10; U.S. DEP'T OF AGRIC., MYTHS AND FACTS ABOUT FOOD STAMP BENEFITS AND THE ELDERLY 1–2 (2007), available at <http://www.fns.usda.gov/snap/outreach/pdfs/myths-elderly.pdf> [hereinafter MYTHS]; FOOD RESEARCH & ACTION CTR., SENIORS AND SNAP/FOOD STAMPS, <http://frac.org/initiatives/addressing-senior-hunger/seniors-and-snap-food-stamps/> [hereinafter FRAC] (last visited Nov. 17, 2013).

87. *SNAP & the Aging Network*, *supra* note 9.

88. Sukriti Issar, *Multiple Program Participation and Exits from Food Stamps among Elders*, 84 SOC. SERV. REV. 437, 455 (2010).

*i. Projected Benefits*

Many seniors believe they are only eligible for the minimum monthly benefit of \$16 dollars, which would have a minimal impact on a household's monthly grocery bill.<sup>89</sup> In fact, one-fifth of older Americans enrolled in SNAP receive only \$16 per month in SNAP benefits.<sup>90</sup> For most Americans—elder or not—\$16 dollars a month is not worth going through the application process.<sup>91</sup> To bring awareness to how limited SNAP benefits actually are, organizations are hosting and advocating various versions of a “SNAP Challenge,” where individuals pledge to only spend the average monthly benefits for a specified period of time.<sup>92</sup> In November of 2012, for example, Cory Booker, the mayor of Newark, New Jersey, pledged on Twitter to live on SNAP benefits for a month in response to another user's tweet stating that “nutrition is not a responsibility of the government.”<sup>93</sup> This and other stories have increased public education of the hardships SNAP recipients face.<sup>94</sup>

A senior's belief that they are only eligible for the minimum monthly benefit is generally misinformed. Indeed, elder households receive among the highest amounts of SNAP benefits.<sup>95</sup> The average SNAP benefit in 2010 for recipients over 60 years old was actually \$119 per month.<sup>96</sup> Additionally, many seniors are unaware of the steps Congress has taken to increase the monthly benefit amounts for an elder participant.<sup>97</sup> For example, the NCOA reported that although about 55 percent of seniors eligible for SNAP qualify for medical deductions (for determining eligibility and benefit amounts), only 14

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89. *SNAP & the Aging Network*, *supra* note 9.

90. *Id.*

91. *Id.*

92. See, e.g., FOOD RESEARCH & ACTION CTR., FRAC 101: SNAP CHALLENGE TOOLKIT 1, available at [http://frac.org/pdf/snap\\_challenge\\_toolkit\\_frac.pdf](http://frac.org/pdf/snap_challenge_toolkit_frac.pdf) (last visited Nov. 17, 2013) [hereinafter FRAC 101] (providing examples of SNAP Challenges hosted by the Community Food Bank of New Jersey, Texas Association of Food Banks, and Three Square Food Bank in Las Vegas).

93. Sarah Parnass, *Newark Mayor Cory Booker's Food Stamp Challenge*, ABC NEWS (Nov. 20, 2012), <http://abcnews.go.com/blogs/politics/2012/11/newark-mayor-cory-bookers-food-stamp-challenge/> (tweeting “Lets you and I try to live on food stamps in New Jersey (high cost of living) and feed a family for a week or month. U game?”) (citation omitted).

94. FRAC 101, *supra* note 92, at 1.

95. See TRENDS IN SNAP, *supra* note 51, at 8.

96. *Id.*

97. See, e.g., *id.*

percent of SNAP recipients have taken advantage of these deductions.<sup>98</sup>

Even so, it is only the perceived benefit amount that matters at the time elders conduct their cost-benefit analysis to determine whether applying for SNAP is “worth it.”

*ii. Transaction Costs*

There are various transaction costs that deter seniors from completing their SNAP application.<sup>99</sup> Transportation is a concern because it may not be easily accessible.<sup>100</sup> Application forms are long and complex.<sup>101</sup> Acronyms and jargon used by the local SNAP agents may be difficult to understand.<sup>102</sup> Applicants may have trouble understanding the agent because the applicant is hard of hearing.<sup>103</sup>

There may be long wait times at the local SNAP office.<sup>104</sup> Long lines or waiting in a noisy lobby might deter some elders from applying for SNAP.<sup>105</sup> For example, in St. Louis, Missouri, security officers had to interfere when one woman needed to use a pair of scissors as a weapon after an argument over a spot in line escalated.<sup>106</sup> Long wait times, coupled with an elder’s limited mobility or lack of transportation, may make applying for SNAP appear daunting.<sup>107</sup>

For example, in San Diego, California, where SNAP participation is among the lowest in the nation, SNAP agencies initiated a phone service in 2009 where applicants could call to start or amend their application.<sup>108</sup> The phone line is more convenient than an office visit, especially for elder applicants who may have mobility issues or are house-ridden.<sup>109</sup> Still, most callers face long hold times or hear the same automated message: “[d]ue to unexpected high volume, we are

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98. *Id.*

99. SENIOR OUTREACH TOOLKIT, *supra* note 16, at 9–10.

100. *Id.* at 10.

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. Becket Adams, *Dispute over Line at Food Stamp Office Turns into an All-out Brawl*, THE BLAZE (Jan. 24, 2013 10:33AM), <http://www.theblaze.com/stories/2013/01/24/dispute-over-line-at-food-stamp-office-turns-into-a-all-out-brawl/>.

107. SENIOR OUTREACH TOOLKIT, *supra* note 16, at 9–10.

108. Adrian Florido, *Long Waits Persist for Food Stamps Applicants*, VOICE OF SAN DIEGO (Oct. 23, 2011), [http://www.voiceofsandiego.org/survival/article\\_50c90b56-fc55-11e0-8c34-001cc4c002e0.html](http://www.voiceofsandiego.org/survival/article_50c90b56-fc55-11e0-8c34-001cc4c002e0.html).

109. *See id.*

unable to answer your call. Please try again later.”<sup>110</sup> The message plays first in English, then in Spanish.<sup>111</sup> The line then goes dead.<sup>112</sup> Repeated failed calls discourage some eligible, elder San Diegans from completing their SNAP applications.<sup>113</sup>

Over the years, Congress has taken steps to alleviate special burdens faced by elder Americans to encourage them to apply for SNAP.<sup>114</sup> Agencies can waive or modify the interview requirement for older Americans.<sup>115</sup> If a senior is unable to travel to the local agency for the required interview, an authorized representative may go on their behalf.<sup>116</sup> Many people qualify as an authorized representative, including a relative, pastor, or neighbor.<sup>117</sup> In the event that no such person is available, the agency can conduct a home or telephone interview with the senior.<sup>118</sup> Applicants for and recipients of Social Security’s Supplemental Security Income (SSI) may also apply for SNAP benefits at the Social Security Office in order to consolidate the effort elder Americans must exert in order to apply.<sup>119</sup> In the event that none of these options work, agencies can altogether waive the interview requirement for the elderly;<sup>120</sup> currently, 14 states waive face-to-face interviews for elder applicants as a policy.<sup>121</sup>

Additionally, Congress cut the number of times that elder recipients must renew their SNAP eligibility by lengthening the certification period for elder households.<sup>122</sup> Unless there is a change in their circumstance, elder households where all adults are 60 years old or older are eligible to receive SNAP benefits for up to 24 months, rather than six months for mixed or non-elder households.<sup>123</sup>

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110. *Id.*

111. *Id.*

112. *Id.*

113. *See id.*

114. *See generally* ROBERT E. ROBERTSON, U.S. GOV’T ACCOUNTABILITY OFFICE, RCED-00-223R, ELDERLY PARTICIPATION IN FOOD STAMPS 4 (2000) (listing state practices targeted at elder food stamp recipients). *See also* *SNAP Special Rules for the Elderly or Disabled*, U.S. DEP’T OF AGRIC., [http://www.fns.usda.gov/snap/rules/elderly\\_disabled.htm](http://www.fns.usda.gov/snap/rules/elderly_disabled.htm) (last visited Nov. 17, 2013).

115. MYTHS, *supra* note 86, at 1–2.

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. ROBERTSON, *supra* note 114, at 3.

121. *Id.*

122. *See* 7 U.S.C. § 2012(f) (2008).

123. *Id.*

Nevertheless, these attempts to streamline and simplify the SNAP application process for elder Americans have largely failed. Similar to the rate of working-age SNAP participants, the number of elders who exit the program spikes after six months when they must re-certify their eligibility.<sup>124</sup> This evidence suggests these transactional costs are still particularly high for seniors, who presumptively are not exiting from SNAP due to a new job like their working-age counterparts.<sup>125</sup> Increases in online applications, mail-in renewals, and phone interviews in the last few years have simplified applying and receiving monthly benefits and caused an overall increase in SNAP participation.<sup>126</sup> However, while these policies should have theoretically increased senior enrollment, participation amongst individuals over age 60 remains as low as ever.<sup>127</sup>

## 2. COMMUNITY OUTREACH

Seniors are a “priority audience” for community outreach because they are less likely to be aware of their eligibility than younger, eligible nonparticipants.<sup>128</sup> Only one in three seniors who qualify for SNAP actually receives SNAP benefits, largely because of inadequate outreach.<sup>129</sup> For example, 2.5 percent of households with seniors do not know how or where to apply.<sup>130</sup> In a nationwide survey, respondents from households with at least one elder member were more likely than other households to consider themselves uninformed about the Food Stamp Program and the application process.<sup>131</sup> That same survey found that “households with elder members were less likely to have previously received food stamps, know anyone who had received food stamps, or to know where to go to apply.”<sup>132</sup>

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124. Issar, *supra* note 88, at 447–48.

125. *Id.* at 448.

126. *Id.*

127. CONG. BUDGET OFFICE, *supra* note 41, at 4.; *SNAP & the Aging Network*, *supra* note 9 (“Even as SNAP enrollment rates have risen to record levels among all eligible households during the recession, senior rates have remained low.”).

128. FRAC, *supra* note 86; U.S. DEP’T OF AGRIC., COMMUNITY PARTNER OUTREACH TOOLKIT [http://www.fns.usda.gov/snap/outreach/tool-kits\\_partners.htm](http://www.fns.usda.gov/snap/outreach/tool-kits_partners.htm) (last visited Nov. 17, 2013), [hereinafter, COMMUNITY PARTNER OUTREACH TOOLKIT].

129. KEN SCHWARTZ, NAT’L COUNCIL ON AGING, *Cuts to SNAP Food Program Would Be Devastating for Struggling Older Adults* (July 10, 2012), <http://www.ncoa.org/press-room/press-release/cuts-to-snap-food-program.html>.

130. FRAC, *supra* note 86.

131. *Id.*

132. *Id.*

The USDA and local SNAP agencies have initiated community outreach programs to improve exposure to and education about SNAP.<sup>133</sup> In fiscal year 2012, the Farm Bill allocated about \$100 million to providing education and training to SNAP recipients and an additional \$388 million for nutrition education.<sup>134</sup> Senior outreach efforts typically fall within two categories: suggestions made by organizations and policies that the local agencies actually implement.

At a local level, SNAP agencies across the nation have adopted various policies to target elder households' enrollment in SNAP.<sup>135</sup> In 2000, an access guide provided over 27 policies that SNAP agencies should adopt in order to strengthen the safety net for elder and disabled citizens.<sup>136</sup> Twenty-seven states target nutritional education programs to elder Americans.<sup>137</sup> Rhode Island, for example, has a specific elder advisory committee that engages in outreach and includes elder persons and elder advocates.<sup>138</sup> More than half of the states distribute flyers at locations where elder Americans are likely to go, such as grocery stores.<sup>139</sup> In Nevada, elders can apply for SNAP at a senior services center in Las Vegas, where about 70 percent of the state's elder population resides.<sup>140</sup> Twenty-three states have adopted a policy that SNAP agents follow-up with seniors who do not use their EBT cards to find out if they need assistance or training in accessing their benefits.<sup>141</sup>

*i. SNAP Branding*

One tool the USDA has recently employed to increase community outreach is the dissemination of a catchy logo throughout the community to increase "brand" exposure.<sup>142</sup> The USDA has author-

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133. See, e.g., SENIOR OUTREACH TOOLKIT, *supra* note 16, at 4.

134. CONG. BUDGET OFFICE, *supra* note 41, at 11.

135. See ROBERTSON, *supra* note 114, at 1.

136. See *id.* at 4.

137. *Id.* at 3.

138. *Id.* at 4.

139. *Id.* at 3.

140. *Id.* at 4.

141. *Id.* at 3.

142. U.S. DEP'T OF AGRIC., USING THE SNAP LOGO 4 (2012), available at <http://www.fns.usda.gov/snap/roll-out/logo.pdf> (last visited Nov. 17, 2013) [hereinafter USING THE SNAP LOGO]. The USDA logo consists of a stylized paper, grocery bag with "SNAP" superimposed thereon, filled with various colorful groceries—including, an egg carton, a loaf of bread, a carton of milk and fruits and vegetables. *Id.* Immediately adjacent to the grocery bag is "USDA" and "Supplemental Nutri-



ized the SNAP logo to be applied only to program materials used for identification, public notification, awareness, nutritional education, and outreach.<sup>143</sup> In addition, the USDA has authorized other organizations engaged in SNAP outreach or nutritional education to use the SNAP logo for outreach in order to contribute to public information and education regarding SNAP.<sup>144</sup> For example, nonprofits may use the SNAP logo to reinforce SNAP nutritional messages and raise awareness about the support SNAP provides to low-income individuals.<sup>145</sup>

While “branding” SNAP with a logo will definitely make the SNAP program more mainstream, it will likely have minimal impact upon older Americans. Using the SNAP logo in community outreach efforts may confuse older Americans who have only ever been familiar with “food stamps.” Older Americans may either pay little attention to the logo, thinking it does not apply to them or be turned off when they discover that SNAP is merely “food stamps” disguised under a different name. Moreover, while local SNAP agencies are permitted to use the SNAP logo and program name, they are free to use an alternative name or logo, which further adds to the confusion.

*ii. Toolkits*

While the logo may merely be ineffective, the USDA’s “Engaging Special Populations” toolkit is comical at best—and insulting at worst.<sup>146</sup> The goal of the toolkit is to “build [agencies’] understanding of this demographic as well as provide guidance on how to customize events and outreach for seniors.”<sup>147</sup> Some of the recommendations—such as collaborating with other organizations serving elders to avoid duplication of efforts—are constructive.<sup>148</sup>

The USDA, more controversially, proposes that SNAP agencies “[t]hrow a Great Party” to reach and increase SNAP participation of “Members of the Silent Generation.”<sup>149</sup> The USDA toolkit goes so far as to suggest local SNAP agencies:

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tion Assistance Program.” *Id.* Below the grocery bag is the SNAP tagline: “Putting Healthy Food Within Reach.” *Id.*

143. *Id.* at 4–5.

144. *Id.* at 5.

145. *Id.*

146. COMMUNITY PARTNER OUTREACH TOOLKIT, *supra* note 128.

147. *Id.*

148. *See* SENIOR OUTREACH TOOLKIT, *supra* note 16, at 12.

149. *Id.* at 6.

Host social events where people mix and mingle. Make it fun by having activities, games, food, and entertainment, and provide information about SNAP. Putting SNAP information in a game format like BINGO, crossword puzzles, or even a 'true/false' quiz is fun and helps get your message across in a memorable way.<sup>150</sup>

Indeed, some states have taken these suggestions to heart.<sup>151</sup> Rhode Island actually does host SNAP-themed bingo games and three states in the Midwest throw food stamp parties.<sup>152</sup>

These outreach tools for increasing enrollment in the "silent generation" are, indeed, "out-of-the-box." However, bingo, crossword puzzles, and quizzes are not likely to entice hoards of older Americans out of their homes.<sup>153</sup> The USDA itself advises in its toolkit that the silent generation is comprised of "readers" who "tend to turn to print sources as a primary reference" and "plac[e] the most trust in interpersonal sources," for example "health care and other professionals."<sup>154</sup> Accordingly, games and SNAP-themed parties seem, by the USDA's own logic, too much of a gimmick to adequately educate the silent generation who are inherently distrusting of welfare programs.<sup>155</sup> In fact, even if such tactics were effective, they would actually offend some members of the silent generation because they may feel tricked into attending a "party" that is actually a ploy to enroll them in welfare.<sup>156</sup>

These and other similar outreach tactics provide fodder for conservative political groups who advocate for smaller or the abolishment of federal need-based programs. Currently, *any* attempts to increase SNAP participation is both politically and generally unpopular because one in seven Americans already receives SNAP benefits.<sup>157</sup> However, using public funds to throw a "party" with bingo, crossword puzzles, and quizzes makes a mockery of welfare applicants

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150. *Id.*

151. See Eli Saslow, *In Florida, a Food-Stamp Recruiter Deals with Wrenching Choices*, WASH. POST (Apr. 23, 2013), available at [http://articles.washingtonpost.com/2013-04-23/national/38763705\\_1\\_food-stamps-supplemental-nutrition-assistance-program-local-food-bank](http://articles.washingtonpost.com/2013-04-23/national/38763705_1_food-stamps-supplemental-nutrition-assistance-program-local-food-bank).

152. *Id.*

153. See SENIOR OUTREACH TOOLKIT, *supra* note 16, at 1.

154. *Id.* at 14–15.

155. See *id.* at 9, 14–15.

156. *Id.* at 9.

157. CONG. BUDGET OFFICE, *supra* note 41, at 4.

and the U.S. taxpayers alike. According to one conservative group, the toolkit was using bingo “as a means to get seniors hooked.”<sup>158</sup> Although well-intentioned, the USDA and local SNAP administrators should have foreseen a backlash from fiscal conservatives who already view SNAP participation as something to be minimized rather than encouraged.<sup>159</sup>

*iii. Missed Outreach Opportunity*

There may still be untapped opportunities to reach seniors by targeting Supplemental Security Income (SSI) recipients. Elder SNAP participants are less likely to exit the program than their working-age counterparts because they are less likely to secure paid work.<sup>160</sup> However, those who do exit the SNAP program often do so at or after age 65 because at that age, they can qualify for Social Security’s Supplemental Security Income without having to pass a disability test.<sup>161</sup> Scholars believe this is because SSI recipients may be unaware that they are eligible for both SNAP and SSI once enrolled in SSI.<sup>162</sup> Indeed, seniors, age 65 or older, who enroll in both SSI and SNAP are more likely to exit SNAP than those who participate in SNAP alone.<sup>163</sup>

Elder participation in SNAP may increase if SNAP staff were positioned at Social Security Administration offices to accept SNAP applications and answer questions.<sup>164</sup> SSI recipients are categorically eligible for SNAP, meaning they automatically qualify without having to meet any further requirements. Social Security offices have a special application for both SSI and SNAP benefits for those households composed entirely of SSI benefit applicants.<sup>165</sup> However, currently,

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158. Mytheos Holt, *Party Like It’s 1937: Obama Administration Suggests Parties As Way To Hook Seniors On Food Stamps*, THE BLAZE (June 28, 2012 7:35AM), <http://www.theblaze.com/stories/2012/06/28/party-like-its-1937-obama-administration-suggests-parties-as-a-way-to-hook-seniors-on-food-stamps/>.

159. See, e.g., Jim Hoft, *One In Seven Americans Gets Food Stamps. That’s Not Enough For Obama*, GATEWAY PUNDIT (June 27, 2012, 10:11PM), <http://www.thegatewaypundit.com/2012/06/unreal-usda-urges-americans-to-throw-food-parties-to-get-more-people-on-food-stamps/> (“One in seven Americans gets food stamps. That’s not enough for Obama. The USDA is urging Americans to throw a party to get more people on food stamps.”).

160. Issar, *supra* note 88, at 442.

161. *Id.* at 443–44.

162. *Id.* at 455.

163. *Id.* at 454.

164. See ROBERTSON, *supra* note 114, at 3. Only 19 work with the Social Security Administration to increase elder participation in SNAP. *Id.*

165. See GEN. ACCOUNTING OFFICE, *supra* note 31, at 25.

only four states do so.<sup>166</sup> Additionally, providing a uniform application that can be used to apply for multiple assistance programs has also increased the number of elders taking advantage of the program.<sup>167</sup> Accordingly, with proper outreach and training at Social Security offices, the USDA could easily capture these SSI recipients who would otherwise never have applied to receive SNAP benefits.<sup>168</sup>

### 3. WELFARE STIGMA

SNAP has battled, and lost, a public relations battle, resulting in low enrollment of elders in the program.<sup>169</sup> Elder Americans are particularly sensitive to the “welfare stigma” and the psychological effects associated with it.<sup>170</sup> For many elder Americans, relying on “welfare” is viewed as socially unacceptable because they grew up between 1938 and 1945, a period when self-reliance was encouraged as a result, in part, of the Great Depression.<sup>171</sup> This is especially true for the silent generation, who stereotypically are characterized by self-sacrifice, independence, and self-reliance.<sup>172</sup> These individuals perceive accepting SNAP would cause them to “lose face” in front of their peers.<sup>173</sup> In addition to embarrassment, seniors also feel a sense of failure because they “[expect] their ‘golden years’ to be just that . . . golden.”<sup>174</sup> All of these symptoms of “welfare stigma” contribute to the low number of eligible seniors enrolling in SNAP programs.<sup>175</sup>

One way the USDA is trying to combat the stigma of welfare is by distancing itself from the perception that SNAP is, in fact, “welfare.” The USDA claims that it is a common “myth” that food stamps are a form of welfare.<sup>176</sup> Instead, the USDA claims that “[t]he Food Stamp Program is a nutrition assistance program. It helps low income people buy nutritious foods. It is not welfare.” In 2008, Congress renamed the “Food Stamp Program” the “Supplemental Nutrition As-

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166. See ROBERTSON, *supra* note 114, at 3.

167. See *id.*

168. See Issar, *supra* note 88, at 454.

169. MYTHS, *supra* note 86, at 1–2; FRAC, *supra* note 86.

170. FRAC, *supra* note 86.

171. SENIOR OUTREACH TOOLKIT, *supra* note 16, at 9.

172. *Id.*

173. *Id.*

174. *Id.* at 1.

175. *Id.* at 1–3; FRAC, *supra* note 86.

176. MYTHS, *supra* note 86, at 1.

sistance Program” (SNAP) in part to combat this stigma.<sup>177</sup> The USDA operates on the view that the new SNAP name and logo, combined with other efforts, will eliminate welfare stigma and “replace it with the reality of a well-managed, helpful nutrition assistance program that puts healthy food within reach.”<sup>178</sup>

Additionally, the USDA suggests that SNAP representatives respond to the elder American’s concerns of welfare stigma with, “you worked hard and the taxes you paid helped to create SNAP. Now it’s time to let it help you buy the healthy foods you like to eat.”<sup>179</sup> However, this will likely not satisfy seniors whose feelings on welfare are complex and deeply ingrained in their upbringing. Accordingly, despite the USDA’s best public relations efforts, welfare stigma and the psychological effects associated with it remain the primary reason for low participation of seniors in SNAP.<sup>180</sup>

To this effect, Alabama SNAP administers hand out fliers that read: “Be a patriot. Bring your food stamp money home.”<sup>181</sup> To increase elder participation in SNAP, administrators are focusing on the stimulus effect SNAP has on local economies.<sup>182</sup> Some SNAP brochures now tout, “[e]very \$5 in SNAP generates \$9.20 for the local economy.” The USDA’s Economic Research Service (ERS) determined that an increase of \$1 billion in SNAP expenditure would grow Gross Domestic Production by \$1.79 billion.<sup>183</sup>

Some organizations have suggested extreme marketing to shake off elder Americans’ view of SNAP as welfare.<sup>184</sup> The NCOA recently suggested local SNAP agencies market the minimum \$16 in SNAP benefits, not as welfare, but as an extra \$192 dollars a year that could be spent on a “special holiday meal.”<sup>185</sup> Such a marketing tool is objectively outrageous, regardless of politics. SNAP is a monthly benefit meant to supplement needy individual’s grocery bill<sup>186</sup>—not allow in-

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177. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, §§ 4001, 4002, 122 Stat. 1651 (2008).

178. USING THE SNAP LOGO, *supra* note 142, at 3.

179. SENIOR OUTREACH TOOLKIT, *supra* note 16, at 9.

180. MYTHS, *supra* note 86, at 1-2; FRAC, *supra* note 86.

181. Saslow, *supra* note 151.

182. SCHWARTZ, *supra* note 129.

183. KENNETH HANSON, U.S. DEP’T OF AGRIC., THE FOOD ASSISTANCE NATIONAL INPUT-OUTPUT MULTIPLIER (FANIOM) MODEL AND THE STIMULUS EFFECTS OF SNAP 2 (2010), [http://www.ers.usda.gov/media/134245/err103\\_reportsummary\\_1\\_.pdf](http://www.ers.usda.gov/media/134245/err103_reportsummary_1_.pdf).

184. See SNAP & the Aging Network, *supra* note 9.

185. See *id.*

186. AUSSENBERG, *supra* note 39, at 8.

dividuals who are generally food secure throughout the year to play host or hostess during the holiday season on the American taxpayers' dime.<sup>187</sup>

Ultimately, despite these efforts, SNAP benefits are still commonly considered "welfare." Even Black's Law Dictionary defines "welfare" as "[a] system of social insurance providing assistance to those who are financially in need, as *by providing food stamps* and family allowances."<sup>188</sup>

## B. Political Fragility

As the United States approaches its debt ceiling, Republican politicians have pushed welfare reform front-and-center as a means to cut federal spending.<sup>189</sup> A resurgence of President Reagan's two-fold welfare reform was prevalent in the 112th and 113th Congress, which pushed for both cost cutting and reducing the size of the federal government.<sup>190</sup> While past welfare reform has also placed further restrictions on food stamp eligibility, the 2012 and 2013 brand of welfare reform came solely in the form of broad budget cuts.<sup>191</sup>

### 1. THE 2008 FARM BILL BUDGET

A line of scholarly thought claims that recipients of SNAP are a class of the "morally unworthy" welfare recipients, which breeds animosity and graphic stereotyping by its opponents.<sup>192</sup> Indeed, Republicans point to the surge in SNAP participation across the nation that resulted after the passage of the 2008 Farm Bill as a symptom of an "entitlement culture" that needs to be combated by shrinking federal programs.<sup>193</sup> In 2010, a Republican candidate for governor in South Carolina, Andre Bauer, analogized SNAP recipients to stray animals,

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187. See *SNAP & the Aging Network*, *supra* note 9.

188. BLACK'S LAW DICTIONARY (9th ed. 2009) (emphasis added).

189. *Democrats Offer New Proposals to Avoid Sequester Cuts*, NAT'L COUNCIL ON AGING (Feb. 19, 2013), <http://www.ncoa.org/public-policy-action/policy-news/democrats-offer-new-proposals.html>.

190. Kathleen A. Kost & Frank W. Munger, *Fooling All of the People Some of the Time: 1990's Welfare Reform and the Exploitation of American Values*, 4 VA. J. SOC. POL'Y & L. 3, 20 (1996).

191. See *id.*; Nixon, *supra* note 8 (including mandatory drug testing and work requirements in the 2013 proposals); Federal Agriculture Reform and Risk Management Act of 2013, H.R. 1947, 113th Cong. (2013).

192. Kost & Munger, *supra* note 190, at 5.

193. See CONG. BUDGET OFFICE, *supra* note 41, at 1.

saying his grandmother “told [him] as a small child to quit feeding stray animals. You know why? Because they breed.”<sup>194</sup>

Indeed, SNAP participation has ballooned in the years following the 2008 Farm Bill.<sup>195</sup> In 2011, an estimated 45 million people received SNAP benefits (1 in every 7 Americans).<sup>196</sup> This figure represents a 70 percent increase from the reported 26 million participants in 2007 (1 in every 11 Americans).<sup>197</sup> The drastic increase in SNAP participation led Newt Gingrich, one of the final candidates in the Republican primary election, to call Obama “the food-stamp president” because “[the President’s policies] have put more Americans on food stamps than any president in history.”<sup>198</sup>

## 2. 2012 AND 2013 FARM BILL’S SNAP CUTS

Although most of the increase in the SNAP budget can be attributed to a poor economy,<sup>199</sup> the backlash from the size of the SNAP

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194. Jason Deparle & Robert Gebeloff, *Once Stigmatized, Food Stamps Find Acceptance*, N.Y. TIMES (Feb.10, 2010), <http://www.nytimes.com/2010/02/11/us/11foodstamps.html?pagewanted=all&r=0>.

195. CONG. BUDGET OFFICE, *supra* note 41, at 4.

196. *Id.*

197. *Id.*

198. Alan Bjerga & Jennifer Oldham, *Gingrich Calling Obama ‘Food Stamp President’ Draws Critics*, BUSINESS WEEK (Jan. 25, 2012), <http://www.businessweek.com/news/2012-01-25/gingrich-calling-obama-food-stamp-president-draws-critics.html>. However, Gingrich’s characterization is not entirely fair because the growth in SNAP participation is due primarily to the nation’s tumultuous economic climate between 2007 and 2011. CONG. BUDGET OFFICE, *supra* note 41, at 3-4. The remainder of the increase can be attributed to miscellaneous factors, including higher food prices and lower income among beneficiaries. *Id.* at 4. Another possible contribution to increased participation could be changes in the administration of SNAP. *Id.* Increased online applications, mail-in renewals, and phone interviews in the last few years have simplified applying and receiving monthly benefits. *Id.*

199. SNAP is an “automatic stabilizer,” meaning that during an economic depression, the number of beneficiaries automatically will increase. *Id.* With the plummet of the U.S. labor market and the slow recovery since, both the number of eligible and enrolled Americans increased by 20 percent and 3 percent respectively. *Id.* at 4. This automatic stabilization characteristic of SNAP is also responsible for a majority of the growth in the SNAP budget between 2007 and 2011. *Id.* at 5. As a result of this increase in participation, the federal annual budget for SNAP benefits more than doubled during this period. *Id.* Not including administrative costs, SNAP outlays have increased by about 135 percent to \$72 billion in 2011, from \$30 billion in 2007. *Id.* at 5. However, the growth in participation resulting from the 2008 economic downturn can account for 65 percent of the growth in spending on SNAP benefits between 2007 and 2011. *Id.* at 1.

Additionally, about 20 percent of the growth in SNAP overlay can be attributed to a temporary cause. *Id.* at 5. The American Recovery and Reinvestment Act of 2009 (ARRA) temporarily increased maximum benefit for SNAP recipients’ benefits by 13.6 percent relative to 2009 amounts and will hold them at that level until infla-

budget has resulted in demands to cut or eliminate the SNAP budget across the board.<sup>200</sup>

Neither the Senate-passed nor the House-proposed versions of the 2012 Farm Bills adjusted the mechanisms of SNAP; in fact, both made broad cuts to the SNAP budget.<sup>201</sup> A Democratic-led Senate passed a bill that would cut \$4 billion from the SNAP budget.<sup>202</sup> The Republican-led House proposed a version with a \$16 billion cut to the SNAP budget.<sup>203</sup> At the time, House conservatives complained that this proposed two percent cut to the overall SNAP budget was even too small.<sup>204</sup> In 2013, House leaders proposed a \$40 billion cut to SNAP, which was twice the amount of cuts proposed in the House bill that failed in June of 2013.<sup>205</sup>

A primary driver for the cuts to the SNAP budget stemmed from a resurgence of public criticism of SNAP recipients.<sup>206</sup> Critics of SNAP and other welfare programs argue SNAP participants do not use SNAP as a safety net but rather as a paycheck.<sup>207</sup> Rick Santorum, another Republican-hopeful, commented during a debate in the 2012 Republican Presidential primary elections that President Obama's administration's approach was to "[g]ive them more food stamps" rather than create more jobs.<sup>208</sup> Many conservatives believe that receiving SNAP benefits reduces some Americans' incentive or willingness to work, breeding an entitlement culture.<sup>209</sup> The advocates of deep cuts to the SNAP budget focus on the majority of SNAP recipients

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tion catches up. *Id.* The ARRA caused the maximum monthly benefit in 2009 for a three-member household to increase from \$463 to \$526. *Id.* However, this stimulus—and the resultant spike in the SNAP budget—will expire at the beginning of the 2014 fiscal year. *Id.*

200. Nixon, *supra* note 8.

201. *Id.*

202. Mary Clare Jalonick, *Farm Bill Could Hinge on Budget Talks*, BUSINESS WEEK (Nov. 10, 2012), <http://www.businessweek.com/ap/2012-11-10/farm-bill-could-hinge-on-budget-talks>.

203. *Id.*

204. *Id.*

205. Nixon, *supra* note 8.

206. See CONG. BUDGET OFFICE, *supra* note 41, at 3 ("[R]eceipt of SNAP benefits may reduce some people's incentive to work or their willingness to ask for help from family members or informal community networks, although research on those effects over the past 10 to 20 years is scant.").

207. See *id.*

208. Bjerga & Oldham, *supra* note 198.

209. CONG. BUDGET OFFICE, *supra* note 41, at 3. However, these stereotypes are largely baseless as there is no conclusive research finding a reserve correlation between people's work ethic and receipt of SNAP benefits.



while turning a blind eye to the impact broad budget cuts will have on the minority of SNAP recipients—namely, elder Americans.

However, seniors are not the cause of the ballooning SNAP budget. Rates of enrollment among elder Americans have continued to remain low even as overall enrollment has reached record levels.<sup>210</sup>

### 3. ADVERSE IMPACTS ON “WORTHY” WELFARE RECIPIENTS

Federal welfare programs are founded on social judgments about the reasons for a recipient’s poverty.<sup>211</sup> There are two recognized types of recipients in poverty relief programs: those deemed morally worthy and those deemed morally unworthy.<sup>212</sup> The general rule is “the deserving ‘earn’ benefits that are relatively generous, long-term, and secure, while the underserving receive short term, conditional benefits consisting of services and below-poverty financial support administered by local officials who exercise a great deal of discretion.”<sup>213</sup>

To the American public, seniors are, for the most part,<sup>214</sup> “worthy,” unlike most other SNAP recipients.<sup>215</sup> Elder SNAP recipients are different from their working-age counterparts.<sup>216</sup> Historically, Americans have supported the notion that elder Americans deserve federal welfare benefits to maintain a minimum quality of life free from the political games.<sup>217</sup>

Broad budget cuts, however, ignore that the two classes of SNAP participants are different.<sup>218</sup> Congress has included elders in SNAP based on a “worthiness” principle, perceiving elder Americans as more worthy than working-age individuals to receive social assistance.<sup>219</sup> However, while the budget cuts proposed by the 2012 Farm Bill could wean working-age individuals off SNAP by incentivizing them to seek employment, elders have no alternative avenues to subsidize their grocery bill.

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210. *SNAP & the Aging Network*, *supra* note 9.

211. Kost & Munger, *supra* note 190, at 14.

212. *Id.*

213. *Id.* at 18.

214. *Id.* at 4. Some elders—namely, elders with marginal work history—fall into the morally ambiguous category and are judged based on past or continuing conduct. *Id.*

215. *See id.* at 20–21.

216. Issar, *supra* note 88, at 438.

217. *See id.*

218. *See id.*

219. *Id.*

Welfare reformers lose sight that overbroad welfare reform historically hurt elders at a disproportionate rate.<sup>220</sup> For example, in 1981, Ronald Reagan's administration made severe budget cuts to the Food Stamps Program.<sup>221</sup> The Reagan food stamp cuts amounted to \$1 billion, primarily executed by creating many minor adjustments to the formulas to establish food stamp eligibility.<sup>222</sup> These adjustments to food stamp eligibility were not specifically aimed at curbing seniors' participation.<sup>223</sup> In fact, the only provision of the 1981 Act that was aimed directly at seniors made retirement accounts count as resources for the purpose of determining eligibility for food stamps.<sup>224</sup> Even so, Reagan's overhaul of the Food Stamp Program is associated with a subsequent rise in hunger during the 1980s.<sup>225</sup> Reagan's welfare reform particularly impacted elder Americans.<sup>226</sup>

Similarly, Congress has not actually targeted elders in their 2012 and 2013 SNAP-based welfare reform. However, broad budgetary cuts can hurt all SNAP recipients by decreasing benefit amounts. Health Impact Project (HIP) found that 5.1 million people would lose their benefits altogether under the House's June 2013 proposal, which proposed millions in cuts to SNAP.<sup>227</sup>

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220. See *The History of SNAP*, SNAPTOHEALTH.ORG, <http://www.snaptohealth.org/snap/the-history-of-snap/> (last visited Nov. 17, 2013).

221. *Id.*

222. WINNE, *supra* note 15, at 23. To accomplish this end, legislation during the Reagan Administration made changes to the eligibility rules of the Food Stamp Program, such as: a gross income eligibility test in addition to the net income test for most households; annual, rather than semi-annual, adjustments in food stamp allotments; consolidation of non-elderly parents who live with their children and non-elderly siblings who live together into one household; periodic reporting; retrospective budgeting; prohibition against using federal funds for outreach; state options to require job search of applicants and participants; and longer disqualification periods for voluntary quitters.

223. See *The History of SNAP*, *supra* note 220.

224. *Id.*

225. *Id.*

226. WINNE, *supra* note 15, at 23.

227. Federal Agriculture Reform and Risk Management Act of 2013, H.R. 1947, 113th Cong. (2013); HEALTH IMPACT PROJECT, WHITE PAPER: HEALTH IMPACT ASSESSMENT OF PROPOSED CHANGES TO THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM 2 (2013), <http://www.rwjf.org/content/dam/farm/reports/reports/2013/rwjf407284>.

#### 4. THE DEATH OF THE 2012 FARM BILL

Ultimately, it was not concern for elder Americans but public opinion that killed Congress's attempts to stymie the SNAP budget.<sup>228</sup> Data released by the Food Research and Action Center (FRAC) during September 2012, leading up to the 2012 Presidential and Congressional elections, suggested that most Americans opposed cuts to SNAP.<sup>229</sup> FRAC reported that 75 percent said cuts to the program were the wrong way to reduce spending.<sup>230</sup> While Americans are "disapproving and punitive in their policy preferences," they appear to have a more developed understanding of the issues underlying stereotypes of welfare recipients and remain hesitant to cut funding to SNAP.<sup>231</sup> Ultimately, the Republican-led House refused to enact legislation that would make sweeping budget cuts to SNAP so close to the November 2012 Presidential Election for fear of the American public's retribution.<sup>232</sup> Instead, Congress let the 2008 Farm Bill lapse on October 1, 2012, almost a month before the 2012 election.<sup>233</sup> By postponing a congressional vote until after the election, House leaders "avoided a nasty and what would have been a highly visible pre-election floor fight over food stamps."<sup>234</sup>

The threat of the "fiscal cliff"<sup>235</sup> following the 2012 Presidential Election was Congress's last opportunity to enact the proposed 2012 Farm Bill's deep cuts to the SNAP budget.<sup>236</sup> However, neither Repub-

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228. See Alan Silverleib, *House GOP Punts on Farm Bill*, CNN (Sept. 20, 2012), <http://www.cnn.com/2012/09/20/politics/washington-farm-bill-gop/>. The House Committee on Agriculture voted 35 to 11 to approve the Bill and ordered it to be reported on the House floor. *Id.* However, the House Republican leader announced that they would not take any action on a new farm bill until after the November election. *Id.*

229. FOOD RESEARCH & ACTION CTR., *NEW POLLING DATA FROM FRAC REVEAL OVERWHELMING SUPPORT FOR FOOD STAMPS, OPPOSITION TO CUTTING THE PROGRAM* (Sept. 5, 2012), available at [http://org2.democracyinaction.org/o/5118/p/salsa/web/common/public/content?content\\_item\\_KEY=10417](http://org2.democracyinaction.org/o/5118/p/salsa/web/common/public/content?content_item_KEY=10417).

230. FOOD RESEARCH & ACTION CTR., *FOOD STAMPS TACK-ON SURVEY 1* (2012), available at [http://frac.org/pdf/polling\\_data\\_snap\\_sep2012.pdf](http://frac.org/pdf/polling_data_snap_sep2012.pdf).

231. See Kost & Munger, *supra* note 190, at 118.

232. See Silverleib, *supra* note 228.

233. *Id.*

234. Mary Clare Jalonick, *Farm Bill Could Hinge on Budget Talks*, BUSINESS WEEK (Nov. 10, 2012), <http://www.businessweek.com/ap/2012-11-10/farm-bill-could-hinge-on-budget-talks>.

235. *Id.* The "fiscal cliff" refers to the congressional scramble in 2012's final weeks to address tax increases and automatic spending cuts due in January—which could plunge the economy into another recession. *Id.*

236. Erik Wasson, *Fiscal Cliff is Now Best Shot for Farm Bill Lobbyists Say*, THE HILL (Oct. 27, 2012, 8:24 PM), <http://thehill.com/blogs/on-the-money/budget/264393-fiscal-cliff-is-now-best-shot-for-farm-bill-lobbyists-say>.

licans nor Democrats could come to a consensus during the lame duck session.<sup>237</sup> Instead of enacting a new Farm Bill as a package deal, Congress ultimately extended the 2008 Farm bill funding through September 30, 2013, to prevent sending the dairy industry into a tailspin.<sup>238</sup> The American Taxpayer Relief Act solved at least part of the “fiscal cliff” dilemma and returned the Farm Bill to its 2008 state.<sup>239</sup> The Bill cut State SNAP Education by \$110 million for 2013 to pay for a corresponding increase in dairy producer payments.<sup>240</sup> However, this is just a temporary fix.<sup>241</sup> As Congress revisits drafting a new Farm Bill in 2013, SNAP will once again be the divisive issue as the new deadline looms.<sup>242</sup>

##### 5. TAKEAWAYS FROM THE 2012 FARM BILL FOR THE 2013 FARM BILL

In drafting the 2012 Farm Bill, Congress disregarded alternatives to cutting the size of SNAP; alternatives which could have addressed the perceived problems with SNAP participants without harming older Americans.<sup>243</sup> For example, the 2013 Farm Bill could have changed eligibility rules that would cut the overall number of people in the program or modify the amount of benefits individuals receive.<sup>244</sup>

Congress could have focused work-related policies to limit eligibility for SNAP like the 1996 law did.<sup>245</sup> The 1996 law was a result of President Bill Clinton’s pledge to “end welfare.”<sup>246</sup> Although President Clinton’s pledge was aimed at eliminating cash aid, Republicans in Congress classified food stamps as welfare too.<sup>247</sup> As a result, the 1996 law cut major food stamp benefits and restricted food stamp eligibility by imposing harsher work standards.<sup>248</sup> One of the major changes imposed by these eligibility restrictions was establishing the

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237. *Fiscal Cliff Deal: What It Means for Seniors*, NAT’L COUNCIL ON AGING (Jan. 2, 2013), <http://www.ncoa.org/public-policy-action/policy-news/fiscal-cliff-deal-positives.html>.

238. *Id.*

239. *Id.* (explaining the dilemma of significant spending cuts and increased taxes).

240. *Id.*

241. *Id.*

242. *Id.*

243. See CONG. BUDGET OFFICE, *supra* note 41, at 8.

244. *Id.*

245. Deparle & Gebeloff, *supra* note 194.

246. *Id.*

247. *Id.*

248. *Id.*

work-first or work-training policies.<sup>249</sup> Currently, to gain or retain eligibility, most adult recipients are required to register for work; accept a suitable job if offered, fulfill job search or training requirements established by state SNAP agencies, provide governing agencies with sufficient information to allow a determination on their job availability, and not voluntarily reduce work effort below 30 hours per week or quit an existing job without good cause.<sup>250</sup>

Exploring similar, more stringent options would have allowed Congress to limit SNAP participation while protecting seniors. The current SNAP framework exempts elder Americans, who generally are near or at retirement, from work requirements.<sup>251</sup> It is estimated that 60 percent of SNAP participants were not expected to work,<sup>252</sup> and 47 percent of those participants were children. Only, eight percent were seniors, and five percent were disabled.<sup>253</sup> Other classes of adults who are exempt from the work requirements are only temporarily exempt.<sup>254</sup> The only adult participants who indefinitely are exempt from the work requirement include elder participants, disabled participants, and caretakers of a disabled person.<sup>255</sup> Accordingly, more stringent work requirements, if proposed by the 2013 Farm Bill, would limit SNAP participation without affecting senior eligibility.

Another alternative to indiscriminate cuts would be to change how the program is funded—namely, by replacing the annual appropriation with a block grant.<sup>256</sup> Indeed, Republican Vice Presidential candidate Paul Ryan proposed this type of reform.<sup>257</sup> He backed the State Nutrition Assistance Flexibility Act (NAFA), which attempted to condense Farm Bill nutrition programs into one block grant to the states.<sup>258</sup> Proponents of the NAFA argue that one block grant would maximize state's flexibility to address state-specific nutrition issues by

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249. Issar, *supra* note 88, at 438.

250. AUSSENBERG, *supra* note 39, at 8.

251. Issar, *supra* note 88, at 438.

252. AUSSENBERG, *supra* note 39, at 8.

253. *Id.*

254. *Id.* Temporary exemptions for adult participants include: persons caring for dependents who are under age 6; persons caring for children between 6 and 12 if adequate child care is not available (limited to allowing these persons to refuse a job offer if care is not available); persons already subject to and complying with another assistance program, or training, or job search requirement; eligible post-secondary students; and residents of substance abuse treatment programs. *Id.*

255. *Id.* at 8.

256. CONG. BUDGET OFFICE, *supra* note 41, at 12.

257. See H.R. 6567, 112th Cong. (2012).

258. *Id.*

allowing them to set their own eligibility requirements, benefit amounts, employment conditions, or nutritional education depending upon their needs.<sup>259</sup>

NAFA and similar proposals, however, threaten seniors' access to nutrition programs because they focus on the broader demographic of SNAP recipients. Conservatives backing NAFA not only aim at shrinking the federal government, but also aim at allowing states to impose stricter employment requirements on welfare recipients.<sup>260</sup>

Additionally, SNAP participants may receive lower benefits than they currently receive under the federal program, depending upon the federal and state standards of the block grant.<sup>261</sup> Still, because the NAFA's focus is on the majority of working-age SNAP recipients, not elder Americans, it bears the risk of weakening federal policies set in place to protect the elderly. Moreover, NAFA proposed repealing programs—such as Seniors Farmers' Market Nutrition program and the Commodity Supplemental Food Program—that are geared specifically at providing seniors with healthier options for nutrition assistance.<sup>262</sup> Moreover, NAFA focused on making "aid contingent on work or job training,"<sup>263</sup> completely ignoring elder SNAP participants who are retired and will never work again.

### C. Overlapping Federal Programs

The current SNAP framework for seniors overlaps with a major federal program—the Elderly Nutrition Program (ENP). The ENP was established in 1972 when Congress created the National Nutrition Program for the Elderly in enacting the Older Americans Act (OAA).<sup>264</sup> Fifty-seven state agencies, 655 area agencies, and thousands of local providers comprises the U.S. Department of Health and Human Ser-

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259. See *Strengthening the Safety Net Before the H. Comm. on the Budget*, 112th Cong. 24 (2012) ("Transforming welfare, among other things, instituting meaningful work requirements, setting time limits, and empowering states to design more effective programs, just like we did in Wisconsin, cut case loads in half against a backdrop of falling poverty rates.").

260. *Id.*

261. CONG. BUDGET OFFICE, *supra* note 41, at 12.

262. H.R. 6567, 112th Cong. § 8 (2012) (noting along with the Supplemental Nutrition Assistance Program, Emergency Food Assistance Program, the Community Food Project, and the Fresh Fruit and Vegetable Program).

263. HOUSE BUDGET COMM., FISCAL YEAR 2013 BUDGET RESOLUTION 43 (2013), available at <http://budget.house.gov/uploadedfiles/pathtoprosperity2013.pdf>.

264. N.S. Wellman et al., *Thirty Years of the Older Americans Nutrition Program*, 102 J. OF THE AM. DIETETIC ASS'N 348, 348 (2002). The ENP began as a three-year demonstration project in 1968. *Id.*

vices' Administration on Aging (AOA), through an "aging network."<sup>265</sup> The purpose of the ENP is to alleviate hunger and food insecurity, promote health and well-being, and reduce social isolation among all older Americans.<sup>266</sup> The ENP provides congregate and home-delivered meals as well as an array of supportive and health services.<sup>267</sup>

Historically, almost half of the OAA's annual budget has supported the ENP;<sup>268</sup> however, even that does not cover the costs of the ENP.<sup>269</sup> The OAA appropriations fund 44 percent of the cost of congregate and 30 percent of the cost of home-delivered meals.<sup>270</sup> Additionally, the USDA provides \$150 million in cash and commodities through the Nutrition Services Incentive Program.<sup>271</sup> ENP participant contributions comprise about 20 percent of the cost of congregate and home-delivered meals.<sup>272</sup> Congregate and home-delivered meals cost, on average, \$5.17 and \$5.31 respectively, after factoring donated labor and supplies.<sup>273</sup>

Both SNAP and the ENP have overlapping purposes and programs. Both programs share a common purpose—"reduc[ing] hunger and food insecurity."<sup>274</sup> Additionally, the two programs promote similar mechanisms to fulfill this goal: both offer congregate and home-delivered meals.<sup>275</sup>

This redundancy creates administrative inefficiency. Critics have correctly identified that government assistance programs "create a complex situation in which many agencies within numerous departments perform distinct but overlapping functions. This situation

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265. *Id.*

266. *Id.*

267. *Id.*

268. *Id.* ("In 1975, the appropriation was about \$125 million, or 49 percent of total OAA funds. Of the 48.5 million meals served in 1975, home-delivered meals (HDMs) were limited to approximately 10 percent of the total. In 2002, the appropriation is \$592.2 million, or 54 percent of the \$1.1 billion budget.")

269. *See id.*

270. *Id.*

271. *Id.*

272. *Id.*

273. *Id.*

274. 42 U.S.C. § 3030d-21(a) (2012).

275. *See* 42 U.S.C. §§ 3030e-f (2012); Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651 (2008).

has given rise to a cumbersome welfare bureaucracy at State and local levels as well as the Federal level.<sup>276</sup>

Moreover, the ENP currently is more successful in providing the most nutritional assistance to seniors of any federal, state, or local program.<sup>277</sup> The ENP provides about 250 million congregate and home-delivered meals, serving about 2.6 million older Americans.<sup>278</sup> Participating seniors receive between 40 percent and 50 percent of their required nutrients from meals provided by the ENP.<sup>279</sup> Additionally, the ENP provides a range of related services, such as nutrition screening, assessment, education and counseling, and health assessments for hypertension and diabetes through the network's nutrition service providers.<sup>280</sup> On average, 1.65 times the number of elder individuals participating in SNAP participated in the ENP during the 1995–2004 period.<sup>281</sup> Moreover, the value of meals served by the ENP only equals about 70 percent of food stamp benefits actually received by elder Americans.<sup>282</sup>

The key difference between SNAP and the ENP is that, unlike SNAP, the ENP is available to all individuals age 60 and over, regardless of household means.<sup>283</sup> However, because of limited funding, the AOA targets seniors with the greatest economic or social need, particularly low-income minorities and rural individuals.<sup>284</sup> The ENP encourages participants to make voluntary contributions for services they receive but will not deny services for failure to contribute.<sup>285</sup>

In light of the ENP's success, it becomes clear that the current SNAP framework is ineffective, ill-secured, and inefficient at address-

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276. S. COMM. ON AGRIC., NUTRITION & FORESTRY, *supra* note 25, at 151 (commentary by President Regan's Task Force on Food Assistance regarding need-based programs).

277. Wellman et al., *supra* note 264, at 348. There were, on average, about 1.65 times more the number of elder individuals participating in the ENP during the 1995–2004 period, and the value of meals served by the ENP equals about 70 percent of food stamp benefits received by elder Americans. *Id.*

278. *Id.*

279. ADMIN. ON AGING, ELDERLY NUTRITION PROGRAM FACT SHEET 2 (June 2009).

280. *Id.*

281. April Yanyuan Wu, *Why do so Few Elderly Use Food Stamps?* 4 (Harris Sch. of Pub. Policy Studies, Univ. of Chi., Working Paper No. 10.01, 2009), available at [http://harrisschool.uchicago.edu/sites/default/files/working-papers/wp\\_10\\_01.pdf](http://harrisschool.uchicago.edu/sites/default/files/working-papers/wp_10_01.pdf).

282. *Id.*

283. *Id.*

284. *Id.*

285. *Id.*



ing and serving America's aging population with the nutrition assistance it needs.

#### IV. Recommendation

To alleviate food insecurity and maximize senior enrollment in nutrition programs, Congress should reallocate the funding currently being spent on programs for elder SNAP participation to the OAA in order to expand the ENP. Consolidating SNAP under the OAA's Elderly Nutrition Program would address the problematic SNAP framework currently inhibiting elder Americans' enrollment. First, seniors have embraced the ENP, alleviating the need to battle welfare stigma and providing an ideal position for outreach to needy seniors. Second, the OAA provides more security for nutrition programs for seniors because it caters specifically to a very powerful constituency and is not in the forefront of welfare reform. Third, allocating additional funding to the ENP would create a comprehensive nutrition program that would maximize efforts to alleviate food insecurity in elder Americans.

##### A. Increased Participation

By moving the SNAP benefits to the ENP, the federal government would be better equipped to reach more vulnerable elders, thanks to the absence of welfare stigma and the implementation of more effective tools to reach this population. The ENP is in an ideal position to absorb SNAP benefits for seniors because research suggests that the ENP is already a substitute rather than a supplement for SNAP.<sup>286</sup> A study from the University of Chicago's Harris School of Public Policy, in fact, found a strong negative correlation exists between participation of eligible seniors in SNAP and the ENP.<sup>287</sup> This means that elders are more likely to use the ENP instead of SNAP, rather than using SNAP in addition to the ENP.<sup>288</sup>

Agencies can avoid the uphill welfare stigma by packaging benefits as a community program.<sup>289</sup> The greatest impact of the ENP is achieved through home-delivered meals, which homebound or disa-

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286. *Id.*

287. *Id.*

288. *Id.*

289. See SENIOR OUTREACH TOOLKIT, *supra* note 16, at 9–10; MYTHS, *supra* note 86, at 1–2; FRAC, *supra* note 86.

bled seniors rely upon.<sup>290</sup> Because the ENP allows and even encourages participants to contribute to the cost of meals, seniors who are sensitive to welfare stigma may not feel like they are receiving a “hand out.” The OAA also packaged the ENP as a community program, rather than just a nutritional lifeline.<sup>291</sup> Although a primary purpose of the ENP is to reduce hunger and food insecurity, the other two stated purposes—promotion of socialization of older individuals and “delay[ing] the onset of adverse health conditions resulting from . . . sedentary behavior”—are achieved by community-based programs.<sup>292</sup> In addition to the actual benefits available, the ENP provides a network to access other community-based services.<sup>293</sup> The ENP presents elders with opportunities for active social engagement and meaningful volunteer roles.<sup>294</sup>

Furthermore, the ENP’s Congregate Nutrition Services and Home-Delivered Nutrition Services provide a built-in audience for federal nutrition assistance.<sup>295</sup> SNAP recipients can already use the EBT cards to redeem congregate and home-delivered meals.<sup>296</sup> By serving seniors who already attend congregate meals or have meals delivered, the AOA has a built-in audience to educate those seniors in need of their eligibility for EBT benefits.<sup>297</sup>

In addition, the OAA’s Administration on Aging is better equipped than the USDA to reach seniors in need of nutrition assistance who may not know they are eligible.<sup>298</sup> The AOA’s Aging Network has a person-centered approach to helping elder Americans access federal benefits, which puts the Aging Network in a perfect position to help overcome the barriers faced by SNAP agencies.<sup>299</sup> The Aging Network has expertise in reaching out to older adults, credibility and trustworthiness in the senior community, and a well-established relationship with older adults.<sup>300</sup> The high level of contact and trust between the Aging Network and older adults in the com-

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290. See Wellman et al., *supra* note 264, at 348–49.

291. See *id.* at 348.

292. 42 U.S.C. § 3030d–21 (2012).

293. Wellman et al., *supra* note 264, at 349.

294. *Id.*

295. See *id.* at 348–49.

296. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221–250 (1973).

297. See Wellman et al., *supra* note 264, at 348–49.

298. See *SNAP & the Aging Network*, *supra* note 9.

299. *Id.*

300. *Id.*

munity puts the Aging Network in a perfect position to identify those seniors who would benefit from assistance.<sup>301</sup> Elder Americans who are missing out on SNAP are generally the same individuals who are already enrolled in other federal benefits.<sup>302</sup> Individuals who are eligible for the Low Income Subsidy, Low Income Heating and Energy Assistance Program, SSI, and Medicare Savings Program are generally eligible for SNAP.<sup>303</sup> In sum, a senior can receive, on average, about \$12,947 a year in benefits.<sup>304</sup> Additionally, 86 percent of seniors who are receiving one federal benefit are missing out on at least one other federal benefit for which they are eligible.<sup>305</sup> NCOA estimates that older adults are missing out on about \$20 billion in benefits for prescriptions, health care, food, and utilities.<sup>306</sup> The personal assistance in navigating the vast web of public benefits available to seniors already offered by the AOA would increase elder food security.<sup>307</sup> AOA staff members are in a unique position to identify nutritional neediness in an interpersonal setting, to which many elder Americans are responsive.<sup>308</sup>

## B. Increased Political Security

The OAA is a more advantageous place for providing nutrition assistance to elder Americans in part because its intended recipients have already been deemed “socially worthy.”<sup>309</sup> The passage of the OAA suggests that the American public and Congress support the underlying principle that elders “deserve a minimum quality of life, free from the harassment of state-administered welfare programs.”<sup>310</sup> There is a “striking difference” between welfare programs deemed morally worthy and morally unworthy.<sup>311</sup>

Because Americans perceive this social dessert, the recipients of the OAA—older Americans—are better protected from congressional budget cuts and welfare reform rhetoric.<sup>312</sup> By removing elder nutri-

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301. *Id.*

302. *Id.*

303. *Id.*

304. *Id.*

305. *Id.*

306. *Id.*

307. *Id.*

308. *Id.*

309. Kost & Munger, *supra* note 190, at 17–18.

310. *Id.* at 20.

311. *Id.* at 14.

312. See *id.* at 14.

tion assistance from SNAP and moving it to the ENP, Congress could safely focus on cutting the SNAP budget without harm to elders. Older Americans in need of nutrition assistance would then be protected from any future, broad-sweeping budget cuts. For example, the reauthorization of the OAA was the top identified issue for older adults to understand, track, and speak out about during the 2012 election.<sup>313</sup> Furthermore, the public sentiment that elders are deserving of public aid and that their welfare is the responsibility of the federal government has made proposed cuts to programs for elder Americans “political suicide.”<sup>314</sup> The growing elder population further strengthens the voting power of this older demographic.

### C. Comprehensive Nutrition Service

By adding an EBT component, the ENP could offer a comprehensive nutrition program. Such a program would maximize efforts to alleviate food insecurity for elder Americans by complementing existing programs and eliminating administrative inefficiency.

An EBT component for needy elder Americans would complement the ENP’s current programs. The EBT component for low-income seniors would also help to achieve Congress’s stated purposes in establishing the ENP.<sup>315</sup> It would provide low-income seniors with the financial means to implement ENP programs that help “older participants learn to shop, plan, and prepare nutritious meals that are economical and enhance their health and well-being.”<sup>316</sup> Older Americans can already use their SNAP benefits towards two ENP programs: Congregate Nutrition Services and Home-Delivered Nutrition Ser-

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313. *Top 6 Policy Issues Affecting Seniors in 2012*, NAT’L COUNCIL ON AGING (Jan. 23, 2012), available at <http://www.ncoa.org/press-room/press-release/top-6-policy-issues-affecting.html> (“The OAA is up for reauthorization, which offers a prime opportunity to strengthen and modernize aging services to ensure that we meet the diverse needs of our growing older population—especially those who are vulnerable and disadvantaged. The OAA funds critical, cost-effective programs that allow seniors to stay healthy and independent in their communities. These include job training and placement (under the Senior Community Service Employment Program - SCSEP), health promotion and disease prevention, senior nutrition programs, senior centers, caregiver support, and more. Action in the Senate is expected soon.”).

314. Kost & Munger, *supra* note 190, at 21 (noting that the same sentiment made the Supplemental Security Income and Medicaid programs politically feasible.)

315. 42 U.S.C. § 3030d-21 (2006).

316. ADMIN. ON AGING, *supra* note 279, at 2.

vices.<sup>317</sup> Accordingly, by shifting funding from the SNAP budget currently utilized by elder Americans to the ENP, federal nutrition assistance for seniors could be streamlined.<sup>318</sup> Additionally, visits to the grocery store enabled by an EBT component would give ENP participants both an outlet to promote social interaction in the local community and autonomy.<sup>319</sup>

Another benefit of consolidating SNAP into the ENP is the ability to increase efficiency by eliminating administrative redundancy. Not only do the ENP and SNAP have common goals and benefits available to elder Americans, the AOA's Aging Network already overlaps with the USDA. Recently, three SNAP Pilot Projects have had success in consolidating the duties of the USDA into the AOA in a limited capacity.<sup>320</sup> The AOA's existing Aging Network has been able to conduct outreach and promote SNAP applications in Delaware, Pennsylvania, and New Jersey.<sup>321</sup> Because the Aging Network already helps elder Americans apply for other state and federal aid, they have the resources to streamline the application process and determine if an applicant is in need of nutrition.<sup>322</sup>

Through the Nutrition Services Incentive Program (NSIP), the USDA provides cash or commodity foods, or a combination of the two.<sup>323</sup> The NSIP provides additional funding to states, territories, and eligible tribal organizations for the exclusive purpose of purchasing food.<sup>324</sup> The funds for the NSIP were originally appropriated to the USDA, but Congress transferred the appropriations to the Administration on Aging in 2003.<sup>325</sup> In addition to providing support to help the ENP absorb the SNAP program, the NSIP has similar goals as to the Commodity Supplemental Food Program.<sup>326</sup>

Ultimately, the only service currently available to SNAP participants that is not available to ENP participants is EBT benefits—which,

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317. See 42 U.S.C. §§ 3030e–f (2012); The Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651 (2008).

318. See §§ 3030e–f.

319. See ADMIN. ON AGING, *supra* note 279.

320. *Id.*

321. *Id.*

322. See 42 U.S.C. § 311 (2012).

323. *Nutrition Services (OAA Title IIIC)*, ADMIN. ON AGING, [http://www.aoa.gov/AoA\\_programs/HCLTC/Nutrition\\_Services/index.aspx](http://www.aoa.gov/AoA_programs/HCLTC/Nutrition_Services/index.aspx) (last visited Nov. 17, 2013).

324. *Id.*

325. *Id.*

326. Lipsky, *supra* note 77, at 328.

under this recommendation, would also be available to eligible, low-income seniors.<sup>327</sup> Even so, funding for an EBT component would merely expand the opportunity state and area agencies already have to strengthen the decision-making roles of elder Americans regarding the type, amount, management, and budgeting of the home and community-based services they receive.<sup>328</sup> Because such agencies already have the opportunity to issue cash vouchers, funding for an EBT component would provide further access for services already authorized by the OAA.<sup>329</sup> In conclusion, by adding funding and shifting the EBT component of SNAP to the ENP, one administration could efficiently and effectively handle all aspects of elder nutrition.<sup>330</sup>

## V. Conclusion

Even as overall SNAP participation soars, senior participation continues to lag, missing millions of older Americans who are food insecure and in need of nutrition assistance. As this Note has explored, low SNAP participation in elders is primarily a result of a low-benefit to high-cost ratio, insufficient outreach, and welfare stigma. Moreover, elders' SNAP benefits are fragile in light of the recent focus of working-aged SNAP recipients in the welfare reform debate. Finally, the SNAP framework is currently inefficient in administering benefits to seniors, as it overlaps with the ENP.

Accordingly, this Note arrives at the conclusion that the best recommendation for providing elder Americans with nutrition benefits is by shifting funding from the Farm Bill to the OAA. Channeling nutritional assistance resources through the ENP would increase senior participation, shelter such assistance from broad budget cuts to SNAP, and eliminate administrative redundancy by providing one comprehensive nutrition program specifically tailored for elder Americans. Although there is no "silver bullet" in fixing federal nutrition assistance for elders, consolidating SNAP benefits into the OAA's Elderly Nutritional Program is the best chance to ensure that the most vulnerable of American citizens do not go hungry the last years of their lives.

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327. See 42 U.S.C. §§ 3030e–f (2012).

328. *Frequently Asked Questions*, ADMIN. ON AGING, [http://www.aoa.gov/AoARoot/AoA\\_Programs/OAA/resources/Faqs.aspx#Nutrition](http://www.aoa.gov/AoARoot/AoA_Programs/OAA/resources/Faqs.aspx#Nutrition) (last visited Nov. 17, 2013).

329. *Id.*

330. *Id.*