

December 1, 2019

The Honorable Delores G. Kelley  
Chairman, Senate Finance Committee  
Miller Senate Office Building  
3 East Wing, 11 Bladen Street  
Annapolis, MD 21401

The Honorable Maggie McIntosh  
Chairman, House Appropriations Committee  
House Office Building, Room 121  
6 Bladen Street  
Annapolis, MD 21401

**RE: Restaurant Meals Program and "Heat and Eat" Program Report – MSAR #12137**  
*Completed pursuant to Chapter 475 (House Bill 838) of the Acts of 2019*

Dear Madam Chairs Kelley and McIntosh:

The Department of Human Services (DHS) is required to submit to the Maryland General Assembly as well as the Department of Legislative Services the report on the Restaurant Meals and "Heat and Eat" Programs. This report is in accordance with Chapter 475 (House Bill 838) of the Acts of 2019.

If you should require additional information please contact the Office of Government Affairs at 410-767-8543.

Sincerely,



Lourdes R. Padilla  
Secretary

Cc: Sarah Albert, Department of Legislative Services (5 copies)



**REPORT ON THE RESTAURANT MEALS PROGRAM AND THE FEASIBILITY AND COST OF: 1) IMPLEMENTING MOBILE AND WEB-BASED TECHNOLOGY FOR FSP RECERTIFICATION; 2) IMPLEMENTING A HEAT AND EAT PROGRAM; AND 3) EXEMPTING VETERANS FROM THE ABAWD TIME-LIMIT**

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MARYLAND DEPARTMENT OF HUMAN SERVICES

*Completed pursuant to Chapter 475 (House Bill 838), Acts of 2019*

December 1, 2019

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## REPORT REQUIREMENT

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This report is hereby submitted in response to the following reporting requirement found under Chapter 475 (House Bill 838), Acts of 2019:

*Section 2. And be it further enacted, that, on or before December 1, 2019, and each year thereafter, the Department of Human Services shall report to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2-1246 of the State Government Article, on progress toward establishing a Restaurant Meals Program, including:*

- (1) the names and addresses of all approved restaurants;*
- (2) the number of food supplement program recipients participating in the program by county;*
- (3) a plan to extend the number of restaurants participating in the program, particularly in high demand; and*
- (4) barriers to program expansion, including availability of equipment necessary to process electronic benefit transaction card payments at the point of sale.*

*Section 3. And be it further enacted, that the Department of Human Services shall:*

- (1) Evaluate the feasibility and cost of:*
  - (i) Implementing mobile and web-based technology for recertification of food supplement benefits;*
  - (ii) Implementing a “Heat and Eat” program to determine food supplement program benefit levels for eligible households; and*
  - (iii) Exempting veterans from veteran time limits applicable to able-bodied adults without dependents under the food supplement program; and*
- (2) On or before December 1, 2019, report the findings made under item (1) of this section to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2-1246 of the State Government Article.”*

*Source: House Bill 838, sections 2 and 3.*

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## RESTAURANT MEALS PROGRAM

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### **Federal Background and Requirements**

Under current federal regulations, as shown below, states have the option to implement a restaurant meals program.

7 CFR 278.1(d)(3)

(d) *Meal services.* A meal delivery service or communal dining facility desiring to prepare and serve meals to households eligible to use coupons for those meals in addition to meeting the requirements of paragraphs (a) and (b) of this section, must establish that:

- (1) It is recognized as a tax exempt organization by the Internal Revenue Service; or

(2) It is a senior citizens' center or apartment building occupied primarily by elderly persons and SSI recipients, and their spouses; or

*(3) It is a restaurant operating under a contract with a State or local agency to prepare and serve (or deliver) low-cost meals to homeless persons, elderly persons and SSI recipients (and in the case of meal delivery services, to elderly persons or handicapped persons) and their spouses. Such a facility must have more than 50 percent of its total sales in food. The contracts of restaurants must specify the approximate prices which will be charged.*

The U.S. Department of Agriculture (USDA) requires the following from the State and participating restaurants.

### **State Responsibilities**

DHS must notify the USDA that it will exercise the option to run a Restaurant Meals Program via a State Plan amendment. The amendment must include program procedures, program implementation timeline and date, and a draft Memorandum of Understanding (MOU) for use in contracting with participating restaurants.

### **Participating Restaurants**

Restaurants that want to participate must receive USDA approval. They must complete a USDA Food and Nutrition Service (FNS) Application 252-2, which requires:

- Copy of a government issued photo identification card and a copy of a Social Security card, or other verification of Social Security Number\*, for:
  - all owners/partners
  - all officers of private corporations
- Copy of the contract with DHS
- Copy of a valid business license

\*Photo identification and social security cards are not required for principals of publicly-owned corporations.

Separate USDA authorization is required for each site operating under the same ownership.

In addition to the above, the restaurant:

1. must offer meals at concessional prices
2. must serve an area with an eligible population
3. must be fully accessible to the disabled
4. must have more than 50% of total sales in food
5. may not be set up exclusively for carry-out
6. may not be operating as a bar/tavern

\*Photo identification and social security cards are not required for principals of publicly-owned corporations.

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## IMPLEMENTATION PLAN FOR THE RESTAURANT MEALS PROGRAM

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Below is a list of actions and activities that have been taken or will be taken to implement this program:

1. Activity: Create an internal workgroup to coordinate implementation planning.  
Status: This workgroup was created in June 2019 and consists of policy, systems, program oversight representatives and DHS's Electronic Benefit Transfer (EBT) program manager. It meets monthly to review assigned action items and next steps.
2. Activity: Draft program regulations.  
Status: DHS is working with its Office of Attorney General in drafting Code of Maryland Regulations (COMAR) specific to this program. It is anticipated that program regulations will be submitted to the Joint Committee on Administrative, Executive, and Legislative Review for review and publication prior to December 31, 2019.
3. Activity: Discuss best practices and program implementation with states that have restaurant meals programs.  
Status: On September 9, 2019, DHS coordinated a conference call with Rhode Island and Arizona representatives to discuss their programs and program implementation.

Rhode Island implemented its program as a pilot in September of 2011 with five Subway restaurants as participating restaurants. In May 2016, they expanded to 10 Subway locations, and those are the only restaurants participating to date. Arizona implemented its program in July 2013. To date, there are about 400 participating restaurants.

Both states coded the customer's current EBT card so that they could be used at participating restaurants. Both states also only partnered with corporate restaurants. Arizona shared that their reasoning was that they were more heavily regulated and utilized consistent standards at every location. Both states created specific logos for the program so that participating restaurants could post them in visible areas so that customers could easily identify them as program participants. Lastly, both states created an application packet that the restaurant would complete, which included the FNS application. Once the restaurant completed the packet, the state then submitted to USDA for review and approval.

Arizona and Rhode Island shared that it took them about six to nine months to operationalize the program in order to begin issuing and accepting applications to interested restaurants.

4. Activity: Work with DHS's Communication Department and SNAP Outreach partners to assist with advertising the program.  
Status: DHS is currently developing a marketing plan with our Communications Department. DHS will provide SNAP Outreach partners with marketing material to assist with advertising the program to both restaurants and recipients.

5. Activity: Create an application packet for interested restaurants, which will include both the federally required MOU between DHS and the restaurant and the U.S. Department of Agriculture (USDA) Supplemental Nutrition Assistance Program Application for Meal Services form.

Status: DHS will work with its Office of Attorney General to create the MOU. It is anticipated that this document will be finalized prior to January 31, 2020.

Once all the above steps have been completed, DHS will submit the Restaurant Meals Program details with the MOU template between DHS and participating restaurants to USDA for review and approval. Upon receipt of federal approval, which may be as early as Spring 2020, DHS will begin marketing and accepting restaurant applications.

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### **THE RESTAURANT MEALS PROGRAM REPORTING REQUIREMENTS**

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The data for the four reporting requirements, as of October 2019, is as follows:

1. The names and addresses of all approved restaurants: 0, no restaurants have been approved at this time.
2. The number of Food Supplement Program (FSP) recipients participating in the program: 0, no program recipients at this time.
3. A plan to extend the number of restaurants participating in the program: refer to the Implementation Plan in the above section.
4. Barriers to program expansion: DHS is in the process of upgrading our eligibility system, and effective and efficient implementation of this program is dependent on the new system. To implement this program prior to December 2020 (the anticipated statewide implementation date of the new system) will require time and resources (both of which are limited because the main focus is on the development of the new system) to program the current legacy system.

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### **MOBILE AND WEB-BASED TECHNOLOGY FOR FSP RECERTIFICATION**

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The Department of Human Services recognizes the importance of improving customer accessibility to the eligibility systems and is in the process of modernizing its legacy eligibility system. The DHS Eligibility and Enrollment (E&E) System, which is in its development and testing phase, will be web-based and mobile-accessible. Customers will be able to apply, recertify, report changes, and monitor the status of their cases through the new system. Statewide system implementation is scheduled for Winter 2020.

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### **HEAT AND EAT PROGRAM BACKGROUND AND REPORTING REQUIREMENTS**

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#### **a. Background: Policy**

Prior to passage of the 2014 Farm Bill, the law was silent on the minimum amount of Low Income Home Energy Assistance Program (LIHEAP) benefits a household had to receive in order to get extra Supplemental Nutrition Assistance Program (SNAP) via an enhanced income deduction. As a result, 16 states were providing SNAP households minimal LIHEAP benefits

(as little as \$1) in order to automatically qualify them for the deduction, and increase their SNAP benefits. This “policy” or “loophole” is commonly referred to as “Heat and Eat.”

During the Congressional debate on the 2014 reauthorization of the Farm Bill, Heat and Eat policy ultimately became the source of a projected \$8.6 billion cut to the SNAP program. The 2014 Farm Bill changed the rules so that in order for states to give the Standard Utility Allowance (SUA) deduction (a flat allowance to offset income) on a SNAP application, a client must have received at least \$20 in LIHEAP benefits (changed from the \$1 minimum that many states were using). Maryland’s LIHEAP program is called the Maryland Energy Assistance Program, or MEAP.

After the implementation of the 2014 Farm Bill, 10 states and the District of Columbia continued a Heat and Eat program.

#### **b. Background: Heat and Eat Program**

Both SNAP and LIHEAP benefits are 100 percent federally funded. Under current federal law, if a SNAP household receives a LIHEAP payment, then that household may receive a higher SNAP benefit than if the household had not received LIHEAP. These households receive higher SNAP benefits because they automatically qualify for the Standard Utility Allowance (SUA).

The SUA allowance is calculated as part of the shelter deduction when determining countable gross income for SNAP eligibility. The SNAP eligibility formula uses deductions in a way similar to income tax calculations.

Each state has a SUA that reflects typical utility costs. Maryland’s allowance is \$404. A state can use a household’s receipt of assistance under LIHEAP to show that a household incurs utility costs and therefore qualifies for the SUA.

#### **c. Potential Impact of Heat and Eat in Maryland**

In a 2016 analysis of implementing this program in Maryland, we reported that approximately 32,690 Marylanders could receive additional FSP benefits if we chose to utilize the loophole by applying a \$20 MEAP payment to that household. The largest category of affected households would be public housing and Section 8 households that currently do not pay a separate heating bill.

In the analyzed 2016 random sample, it is estimated that the average increased benefit would be \$59 per household per month. At \$59 per month per household, the collective increase in FSP benefits would be \$23.1 million.

The cost to Maryland for leveraging these additional FSP funds would be an annual expenditure of \$1.6 million in MEAP funds plus significant one-time information technology costs for changes to our eligibility systems if we are to implement before December 2020. Reducing MEAP benefits for eligible low income households who pay a separate heating bill by \$1.6

million would reduce the average MEAP benefit to these households. These eligible households could be unable to adequately heat their homes.

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### **VETERANS EXEMPT FROM ABAWD TIME LIMITS**

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There are approximately 105 SNAP recipients who are both veterans and able-bodied adults without dependents (ABAWDs). The average monthly SNAP benefits for this population is \$119. The United States Department of Agriculture allots each state with an annual allocation of exemptions from the ABAWD time limit based on the State's ABAWD population. As of federal fiscal year (FFY) 2019, Maryland has 39,382 exemptions from the ABAWD time limit (this total includes unused allotments from previous years that carried over). Maryland received the following ABAWD exemptions over the last few years:

- FFY19: 14,244
- FFY18: 15,204
- FFY17: 18,048

Each exemption slot represents one month. Thus, one veteran may use 12 slots in one year.

Maryland can use the ABAWD exemption allotments towards this population, which will have a cost neutral impact. If we were to implement this for calendar year 2020, a potential total of 1,260 exemption slots would be used (9% of our FFY19 allotment or 3% of our current total available allotment, which includes carryover exemptions).

Without the allotments, exempting the SNAP veteran ABAWD population could cost approximately \$150,000 in State General Funds for each fiscal year. Moreover, it would create a separate Maryland SNAP Program; by exempting a specific population, Maryland would be diverging from federal program requirements and eligibility. This will require additional administrative cost of personnel to oversee this specific program's population. The total cost would be approximately \$550,000, an administrative cost of \$200,000 and a one-time CARES implementation cost of approximately \$350,000.