



North Carolina Department of Health and Human Services
Division of Social Services

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Wayne E. Black
Division Director

May 5, 2014

RE: Section 4018 of the Agricultural Act of 2014

Dear County Directors of Social Services:

On February 7, 2014, the Supplemental Nutrition Assistance Program (SNAP) or Food and Nutrition Services (FNS) in North Carolina was reauthorized as part of The Agricultural Act of 2014, P.L. 113-79. This letter describes the Food and Nutrition Services related provisions prohibiting government-sponsored recruitment activities. Provisions in the Act related to FNS are effective as of the date of enactment.

Section 4018 of The Agriculture Act makes several changes to recruitment activities allowed with federal funding; some of the changes will be implemented immediately by States, whereas, others will require rulemaking before implementation. Effective immediately, federal funds are banned from being used for television, radio, or billboard advertisements that are designed to promote FNS benefits and enrollment of the program. In addition, federal funding is banned from being used for any agreements with foreign governments designed to promote FNS. These prohibitions do not apply to Disaster Food and Nutrition Services.

Attached are questions and answers intended to address county agencies and community partners concerns about the effects of The Agricultural Act of 2014 regarding outreach efforts in the Food and Nutrition Services Program. If you have questions, contact Ivy Murphy at 919-527-6315 or Ivy.Murphy@dhhs.nc.gov.

Sincerely,

A handwritten signature in cursive script that reads "David Locklear".

David Locklear, Acting Section Chief
Economic and Family Services

EFS-FNSEP-07-2014

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Questions and Answers on Section 4018: Prohibiting Government-Sponsored Recruitment Activities.

Implementation of Section 4018

Q: When does Section 4018 of the Agricultural Act of 2014 go into effect?

A: State agencies and their partners must immediately cease using funds authorized to be appropriated by the Food and Nutrition Act of 2008 (the Act), as amended, to pay for television, radio, or billboard advertisements that promote the Supplemental Nutrition Assistance Program (SNAP) and to pay for any agreements with foreign governments designed to promote SNAP benefits and enrollment. The ban on other activities that are "designed to persuade an individual to apply for SNAP" and the ban on entities receiving funds under the Act from compensating individuals for outreach activities based on the number of people who apply for SNAP will be implemented upon final rulemaking.

Q: How should SNAP outreach providers proceed until rulemaking?

A: The Department of Agriculture (USDA) believes the majority of currently approved outreach activities are acceptable as long as they do not actively persuade potential applicants to apply. However, until final regulations are issued, providers are advised to carefully review their outreach activities and materials, using their own discretion, to ensure they do not violate the intent of the new provisions. States and other entities receiving funds under the Act should proceed carefully in entering into any new long-term agreements for outreach.

As mentioned above, outreach providers must cease activities that use Federal funds authorized under the Act for television, radio, or billboard advertisements, or for entering into agreements with foreign governments.

States, outreach providers, and other interested parties will have the opportunity to comment on all proposed rules affecting this provision. Ban on Television, Radio and Billboard Advertisements.

Q: How should States and their outreach partners proceed if the currently approved outreach plan uses Federal funds to pay for television, radio, or billboard advertisements? Can they use non-Federal (State or private) funds for television, radio, or billboard advertisements that promote SNAP?

A: States and their outreach partners should immediately halt all activities that use Federal funding authorized under the Act to pay for television, radio, or billboard advertisements.

This ban applies only to activities funded under the Act.

Q: Are public service announcements (PSAs) prohibited since they are not buying air time with Federal funds?

A: The Agricultural Act of 2014 prohibits using Federal funds authorized under the Act for radio or television advertisements, including PSAs, designed to promote SNAP benefits and enrollment. PSAs promoting SNAP benefits and enrollment that use outside funding for development or production are allowable as long as no Federal funds authorized under the Act were used. State spending for this type of activity is not subject to Federal match.

Q: Would SNAP outreach staff be prohibited from working on an outreach project related to television advertisements? Would it be allowable if we separately tracked the hours and expenditures for the SNAP Outreach staff involved in the project, and they weren't paid out of the Federal match?

A: The Agricultural Act of 2014 prohibits using Federal funds authorized under the Act to pay for television, radio, or billboard advertisements. This ban includes paying staff involved in the development of these types of advertisements if funded under the Act. The ban does not apply to paying staff involved in the development of these types of advertisements if funded by other sources.

Q: Can States and their outreach partners repurpose television, radio and billboard advertisements (e.g. images, video footage, etc.) that were previously paid for with Federal dollars? Can this repurposed material be used for allowable outreach activities under current laws?

A: Yes, materials created before the enactment of the Agricultural Act of 2014 on February 7, 2014, may be repurposed for currently allowable outreach activities. Outreach providers should not use Federal funds authorized under the Act to create materials after February 7, 2014, for television, radio or billboard advertisements or for activities that are designed to promote SNAP benefits and enrollment.

Until final regulations are issued, providers are advised to carefully review their outreach activities and materials, using their own discretion, to ensure they do not violate the intent of the new provisions. States and other entities receiving funds under the Act should proceed carefully in entering into any new long-term agreements for outreach.

Q: How does USDA define a billboard? Do advertisements on the side of a bus count as billboards? What about posters hung in an office?

A: Until final regulations are published, States should use their discretion to define a billboard, keeping in mind the intent of the new provisions. States and other entities receiving funds under the Act should proceed carefully in entering into any new long-term agreements for outreach.

Q: Does this provision prohibit the use of television, radio, or billboards for the Disaster Supplemental Nutrition Assistance Program (D-SNAP)?

A: No, the Agricultural Act of 2014 allows the use of television, radio, and billboard advertisements for programmatic activities undertaken with respect to D-SNAP.

Ban on Agreements with Foreign Governments

Q: Can organizations conduct SNAP outreach activities at events sponsored by foreign consulates as long as there is not a formal agreement between the organization and the foreign government?

A: No. The Agricultural Act of 2014 prohibits Federal funds authorized under the Act to be used for any agreement with foreign governments designed to promote SNAP benefits and enrollment. Agreeing, formally or informally, to conduct SNAP outreach activities at an event sponsored by a foreign consulate constitutes an agreement with a foreign government designed to promote SNAP benefits and enrollment. Therefore, organizations are prohibited from using any federal funds authorized under the Act to agree to conduct SNAP outreach activities at events sponsored by foreign consulates.

Q: Does the Agricultural Act of 2014 prohibit any entity from using SNAP outreach funds to enter into agreements with foreign governments, or does it only apply to the USDA entering into such agreements?

A: The ban on agreements with foreign government applies to any use of funds authorized to be appropriated under the Act. If an entity is receiving Federal funds authorized under the Act as part of a formal outreach plan, it is prohibited from using those funds to enter an agreement with a foreign government.

Designed to Persuade

Q: What does the term "designed to persuade" mean and how will it affect allowable outreach activities? There is concern that entities will interpret the intention differently. Will this definition be concise and definitive?

A: USDA will define activities that are "designed to persuade" to apply uniformly across all States as part of the rulemaking process. The goal of the rulemaking process will be to provide a definition of "designed to persuade" that will be concise and definitive.

USDA believes the majority of currently approved outreach activities are acceptable as long as they do not actively persuade potential applicants to apply. However, until final regulations are issued, providers are advised to carefully review their outreach activities and materials, using their own discretion, to ensure they do not violate the intent of the new provisions. States and other entities receiving funds under the Act should proceed carefully in entering into any new long-term agreements for outreach.

Q: Does the new legislation ban organizations from using funds authorized under the Act for brochures, print outreach materials, or newspaper ads? Does the restriction on persuading someone to apply refer to printed materials (e.g. pamphlets)?

A: The Agricultural Act of 2014 prohibits funds authorized under the Act from being used for recruitment activities designed to persuade an individual to apply for SNAP benefits. This restriction does apply to printed materials. FNS will define recruitment activities designed to persuade an individual to apply for SNAP during the rulemaking process.

USDA believes the majority of currently approved outreach activities, including brochures, print outreach materials and newspaper ads, are acceptable as long as they do not actively persuade potential applicants to apply. However, until final regulations are issued, providers are advised to carefully review their outreach activities and materials, using their own discretion, to ensure they do not violate the intent of the new provisions. States and other entities receiving funds under the Act should proceed carefully in entering into any new long-term agreements for outreach.

Q: Does the Agricultural Act of 2014 forbid outreach providers from using social media to promote SNAP? Does it matter if the outreach provider must pay to post or if the posting is free (e.g. Twitter or YouTube)?

A: The Agricultural Act of 2014 prohibits funds authorized under the Act from being used for recruitment activities designed to persuade an individual to apply for SNAP benefits. Please note that this ban includes paying staff involved in the development of these types of recruitment

activities if funded under the Act. The ban does not apply to paying staff involved in the development of these types of advertisements if funded by other sources.

Until final regulations are issued, providers are advised to carefully review their outreach activities and materials, using their own discretion, to ensure they do not violate the intent of the new provisions. States and other entities receiving funds under the Act should proceed carefully in entering into any new long-term agreements for outreach.

Compensation based on the number of individuals who apply to receive SNAP

Q: Are State agencies allowed to enter into agreements with organizations that conduct outreach if they reimburse the organization for increasing the number of SNAP applications submitted?

A: The Agricultural Act of 2014 requires USDA to issue regulations that prohibit entities that receive funds under the Act from compensating individuals for outreach activities based on the number of people who apply for SNAP. This part of Section 4018 of the Agricultural Act of 2014 will be implemented upon final rulemaking.

Q: If a State uses an integrated application for SNAP, Temporary Assistance for Needy Families, and/or Medicaid, can an outreach provider be reimbursed based on the number of applications submitted?

A: The Agricultural Act of 2014 requires USDA to issue regulations that prohibit entities that receive funds under the Act from compensating individuals for outreach activities based on the number of people who apply for SNAP. FNS will address how this ban affects integrated applications during the rulemaking process.

Q: If a local organization receives funding under the Act, but does not use that funding for outreach, can the organization use another source of funding (not authorized under the Act) to compensate employees for the number of SNAP applicants they assist in applying for SNAP benefits?

A: The Agricultural Act of 2014 requires USDA to issue regulations that prohibit entities that receive funds under the Act from compensating individuals for outreach activities based on the number of people who apply for SNAP. This part of Section 4018 of the Agricultural Act of 2014 will be implemented upon final rulemaking.