

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Health and Human Services

Bureau name:

Economic Stability Administration

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2023-41 HS

Title of proposed rule set:

Food Assistance Program

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

The proposed rules do not parallel any other federal rules or standards set by a state or national licensing agency or accreditation association. The proposed rules are a state option in the federal regulations.

A. Are these rules required by state law or federal mandate?

These rules are not required by state law or federal mandate. The federal government gives states the option of requiring cooperation with the child support program when applying for FAP.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed any federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Per Supplemental Nutrition Assistance Program (SNAP) this federal regulation is a state option. Michigan is only one of six states that continues to require cooperation in child support as a condition of receiving SNAP. The other five states are Mississippi, Florida, Idaho, Kansas, and South Dakota. With the removal of the child support requirement, Michigan will join the majority of the United States and territories that follow similar rules and regulations to allow SNAP benefits without the requirement of child support and reinstate those benefits that are currently suspended.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

These rules do not exceed standards since this is a state option in the federal regulations. The rules would bring us in line with the majority of states that do not require child support cooperation in exchange for SNAP benefits.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules. Per SNAP federal regulation, child support cooperation requirements are a state option and are not federally required.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The rules provide the eligibility and expectations by the Department for the food benefit recipient in order to continue to receive food assistance monthly. The child support cooperation standard will be rescinded in the Food Assistance Program (FAP) rules as it has been found to create barriers, and the suspension of the food assistance program is a detriment to the families in need monthly. See <https://www.cbpp.org/research/food-assistance/child-support-cooperation-requirements-in-snap-are-unproven-costly-and-put> for research and findings conducted on the correlation between child support cooperation and the receipt of SNAP benefits. Further, the Department's Office of Child Support will go above and beyond to offer services to people referred to it. Child support services are valuable, but they may not be appropriate for every family. Families referred can self-select if they believe child support services will be helpful.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The current rules require additional work for families and have a potential impact on a family's ability to receive the full food assistance benefit for their group size monthly. The Department would rescind this rule, making food assistance available to these families on a monthly basis. Currently, there are 14,560 grantees who have been disqualified for FAP for non-cooperation with child support who could potentially be reinstated for benefits. Child support services would continue to be available to these recipients whenever they choose to receive those services.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently food assistance is suspended for the grantee who does not cooperate with the child support program. By rescinding this rule and leaving the option to pursue child support to the grantee, families would receive the full benefit of food assistance and prevent hardship to the family.

C. What is the desired outcome?

Michigan would rescind this rule and allow families to receive the full amount of food benefits they qualify for due to their family size. Families could always seek child support assistance at any time if and when they desire it.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

No harm will result in changing this rule, but harm will and is occurring under the current rule. By changing this rule, it will allow low-income families to receive much needed food assistance and protect the health, safety and welfare of Michigan citizens. Further, the Department's Office of Child Support will continue to provide child support services for any person who desires it. Without the rule, the family remains in non-cooperation status, resulting in reduced food assistance for those low-income families who need the assistance.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The rationale for changing this rule is to remove barriers to receiving food assistance for families who do not feel working with the child support program is in their families' best interest at this time. The current rule requires additional work for families and has a potential negative impact on a family's ability to receive the full amount of food benefits. Additionally, by changing this rule, it will allow local office eligibility and the child support professionals to concentrate on those families who do desire child support services, remove the backlog of FAP non-cooperation families in both the eligibility and child support offices, and continue to offer child support services to FAP family recipients who desire those services.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

Providing food to families protects the health, safety, and welfare of Michigan citizens. The child support cooperation requirement can be cumbersome and often difficult for the department as well as the client. Further, removing cooperation requirements for FAP will significantly lower burden on individuals as they will no longer need to participate in a program that may disrupt family dynamics in order to receive food for their families. They will still be able to request child support services at any time. Finally, the Department's Office of Child Support will continue to make strong efforts to inform individuals about the services available to them and offer them those services.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The overall rule set is needed. The two proposed rules identified, R 400.3009 has been reworded and R 400.3010 has been rescinded and is no longer needed.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The positive fiscal impact to the agency involves additional participation in the FAP program now that the cooperation requirement is no longer needed. During economic downturns, every \$1 in new SNAP benefits issued can increase gross domestic product by \$1.54. Further, the amount of time currently being spent by eligibility and child support professionals on the non-cooperation process will be minimized and allow both professional groups to concentrate on providing quicker benefit services to those who may sign up for FAP with the cooperation barrier removed and child support services to those who actually want that service. The negative impact may be experienced by the child support programs in a reduction of its federal incentives in collection of child support. However, this impact is speculative and child support services will remain available for any applicant who chooses them. There will be agency costs in reconfiguring the Department's MiCSES system and associated interface with the Bridges system in complying with the rules. Further the agency will incur costs of training staff on the new rule impact. Costs are approximated at MiCSES unit of work, including training in support of this change is \$483,121.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

At a high-level, the Department wants to ensure eligible individuals receive food assistance, reduce the administrative burden of cooperation which creates hardship for families, including exacerbating food insecurity, mandated government intervention in family relationships, and additional work for eligibility and child support professionals who could be assisting clients who want services productively. The rule aligns with those goals.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The requirements in the proposed rules are needed. They reduce the burdens imposed on individual families and professional workers by allowing continued FAP benefits, having professionals concentrate on assisting more clientele with services who want them if the burden of cooperation is removed, and continue to offer child support services permissively to those who want to use them in the future.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

This rule change would not impact state or local government units on the FAP changes. There may be an impact to the child support incentives as fewer collections may occur without the establishment of these child support cases which could impact county revenues. However, this impact may be only temporary and countered with the ability for state and local governmental units to now concentrate on backlogs for those who do want child support services and establish those cases that could potentially cancel out that non-cooperation impact. Further, child support referrals will continue to be made and an applicant/recipient of FAP may always take advantage of the child support services available to them from the Office of Child Support.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There would not be any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

Both the FAP program and the child support program will be impacted by operational changes. Eligibility professionals would no longer have to designate a case in non-cooperation and send out correspondence indicating this adverse action. Similarly, the child support program would not have to communicate the non-cooperation adverse action with a FAP member. Both the Bridges system and the MiCSES systems would need changes to no longer be programmed to designate non-cooperation against the FAP member and MiCSES would communicate the new changes to FAP members in that child support services are permissive and available to the FAP member at any time.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriation to state or local governmental units or a funding source provided for any additional expenditures associated with the proposed rules will be needed.

Rural Impact

14. In general, what impact will the rules have on rural areas?

Families in rural areas will be able to receive the full amount of food benefits for their family size, which may increase sales for those rural areas providing farmers market services for healthier alternatives for their families. Everyone, rural or urban, will be able to seek child support services without fear of a reduction in their benefits.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

There will be increased opportunities to use the full amount of FAP benefits at rural “Mom and Pop” stores and farmers markets that will provide benefits to both families and small business owners in those rural areas.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The rules have no impact on the environment.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The agency did not consider exempting any businesses, large or small, from the proposed rules.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

There will be a positive impact on small businesses. Mom and Pop grocery and party stores, grocery stores, farmers markets, both rural and those with the urban cities would see positive impact in more increased spending when the cooperation requirement is removed. Others may apply for FAP who would not have applied due to the cooperation requirement. An average of \$128 million in SNAP benefits were issued each month in MI in FY 2020. SNAP benefits are spent on food, so they support farmers, processors, distributors, and retailers. Approximately 9,387 food retailers accept SNAP benefits in MI. During economic downturns, every \$1 in new SNAP benefits issued can increase gross domestic product by \$1.54.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

There are 431 supermarkets in the State of Michigan. (<http://supermarketpage.com/state/MI/>) Of the 431, 287 may be considered “small businesses” due to their geographical locations or numbers in the State. The probable effect on these businesses is increased business by removing the cooperation requirement for families and the incentive to apply for FAP benefits for those who would not ordinarily apply but for the cooperation requirement.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

There will be no compliance or reporting requirements or timetables for small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The agency did not consolidate or simplify the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements as none are needed with this rule change.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

There will be no performance standards to replace design or operation standards required by the proposed rules.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There would be a positive impact on smaller businesses over bigger businesses as more spending would occur in rural and urban inner city small stores for food with the proposed change in removing the mandatory cooperation and encouraging others to sign up for FAP who would not have otherwise would done so.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There will be no reporting and corresponding costs to small businesses to comply with these proposed rules.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There will be no cost for equipment, supplies, labor, and increased administrative costs of compliance for small businesses.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There will be no cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There will be no adverse actions affecting competition in the marketplace with small businesses with these proposed rules.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There will be no costs to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses..

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There will be no impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The agency has not involved small businesses in the development of these rules as business input was not needed.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not involved in the development of these rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There will be agency costs in reconfiguring the Department's MiCSES system and associated interface with the Bridges system in complying with the rules. Further the agency will incur costs of training staff on the new rule impact. Costs are approximated at MiCSES unit of work, including training in support of this change is \$483,121. These are agency costs only, and there are not any costs affecting businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Small businesses, food stores in general, and families will directly benefit from the rule. Removing the cooperation requirement and reinstating benefits provides for more funds to use for family's groceries that will be spent at both rural and urban stores. During economic downturns, every \$1 in new SNAP benefits issued can increase gross domestic product by \$1.54. Others who are not filing for FAP benefits if not for the cooperation requirement can now submit applications for their own families' needs. And child support services will always be available for any applicant who chooses.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No additional costs will be imposed on businesses or other groups.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no costs associated to individuals who are receiving FAP benefits. There may be costs to businesses in more labor costs if more Michigan residents apply for FAP benefits given the cooperation requirements are no longer needed. That cost is speculative until such time those numbers are known.

A. How many and what category of individuals will be affected by the rules?

All FAP grantees in non-cooperation. There are currently 14,560 disqualified for FAP benefits due to non-cooperation for child support. There are approximately 287 small businesses that are Mom and Pop grocery/party stores that could potentially see an increase in sales due to the reinstatement of all FAP benefits to the family.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Full benefits will be restored to the family once the grantee is moved out of non-cooperation, which allows more funds for food purchases and better living conditions for families. Small businesses will see an increase in business by both families restored to full FAP benefits and may allow families considering applying for FAP to do so once the cooperation requirement is removed. Child support services will remain available to all applicants who desire them.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no quantitative cost reductions as a result of this rule. FAP family households will see an increase in FAP benefits and businesses should see an increase in profits due to the full benefits being provided to the family.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

There are currently 14,560 grantees who have been disqualified for FAP benefits due to non-cooperation. These grantees would directly benefit from these rules as their benefits would be reinstated to the original group FAP amount. Businesses will experience a direct benefit of increased sales through reinstated benefits. The indirect benefit is the increased number of families who need food assistance but for the cooperation aspect will now sign up for FAP without fear of being denied or found non-cooperative. Further, child support services will always be available to these families at any time the family chooses to use those child support services.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

With the removal of cooperation requirement, more FAP dollars will be reinstated to families, which will increase money spent in grocery stores, small and large, which improves economic business interests. Further, there may be an increase in families signing up for FAP with the removal of the cooperation requirement. Food businesses could see an increase in business, which may create jobs to handle the increase in additional customers making food purchases.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Any impact would be positive in the industrial sector, small grocery stores/party stores in rural areas and urban city areas with the increase in FAP brings on the increase in sales to Michigan families and businesses.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

MiCSES and Bridges system statistics on non-cooperation grantees;

Federal statistics regarding states and cooperation/FAP requirements -<https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program>

“Child Support Cooperation Requirements in SNAP Are Unproven, Costly, and Put Families at Risk”, Center of Budget and Policy Priorities- <https://www.cbpp.org/research/food-assistance/child-support-cooperation-requirements-in-snap-are-unproven-costly-and-put>.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The resources in the answer to question 32 above are actual numbers. The rules are needed as we currently have 14,560 people who are not receiving needed FAP benefits based on a requirement that is becoming obsolete throughout the United States as only 6 states require cooperation in child support. And as stated throughout this Statement, businesses stand to gain from the reinstatement of these 14,560 being reinstated, not to mention those who may apply for FAP benefits now that the cooperation requirement is no longer needed.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no other reasonable alternatives to the proposed rules. The decision to remove the cooperation requirement also requires an amendment and rescission of the current FAP rules associated with the cooperation requirement to come into compliance with that decision.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments are necessary. There already is federal law that allows the States to remove the cooperation aspect and it is binding on the States.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

FAP is a federal program (SNAP) administered by the States. There is no private market-based mechanisms that can be used, and no other states use a private market-based system.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The agency did not consider alternatives during rule development. The federal regulation allows the states to remove the cooperation requirements, studies were completed on the impact (or lack thereof) of continuing the cooperation requirement and how it relates to family wellbeing. Michigan decided to follow the other 44 states in removing the cooperation requirement for Michigan families.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Office of Child Support policy, Bridges policy, Training documents, FAP administrative rules, and public materials will be updated and provided.