



Office of the General Counsel

B-275317

October 31, 1996

The Honorable Richard G. Lugar
Chairman
The Honorable Patrick J. Leahy
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Pat Roberts
Chairman
The Honorable E (Kika) de la Garza
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: Department of Agriculture: Food Stamp Program—Child Support
Deduction

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Department of Agriculture, entitled "Food Stamp Program: Child Support Deduction." We received the rule on October 7, 1996. It was published in the Federal Register as a final rule on October 17, 1996. 61 Fed Reg. 54282.

Section 13921 of Public Law 103-66, the Mickey Leland Childhood Hunger Relief Act, amended section 5(e) of the Food Stamp Act to add a deduction for household members who make legally obligated child support payments to or for an individual living outside of the household.

The child support deduction allowed by this rule encourages payment of child support by increasing a household's food stamp allotment if a member is paying child support. This final rule gives State agencies various options for requiring households to report changes in payments during the certification period and allows budgeting the deduction either prospectively or retrospectively.

Enclosed is our assessment of the Department of Agriculture's compliance with the procedural steps required by sections 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule.

If you have any questions about this report, please contact Kathleen E. Wannisky, Associate General Counsel for Operations, at (202) 512-8326. The official responsible for GAO evaluation work relating to the rule is Robert A. Robinson, Director, Food and Agriculture Issues, Resources, Community and Economic Development Division. Mr. Robinson can be reached at (202) 512-5138.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Ellen Haas
Under Secretary for Food, Nutrition,
and Consumer Services
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. §§ 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE DEPARTMENT OF AGRICULTURE
ENTITLED
"FOOD STAMP PROGRAM: CHILD SUPPORT DEDUCTION"

(i) Cost-benefit analysis

Although the Department did not prepare and submit to us a separate cost-benefit analysis, it did include a brief discussion of the benefits and costs associated with this rule in its regulatory impact analysis. According to the Department, this action increases the number of potentially eligible food stamp recipients and increases the benefit level of certain households that are affected by these provisions. The Department estimates that this action will increase the annual cost of the Food Stamp Program by as much as \$145 million by fiscal year 1998.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607 and 609

The Department reports that it reviewed this rule in relation to the requirements of the Regulatory Flexibility Act, 5 U.S.C. § 601-612. The Under Secretary for Food, Nutrition, and Consumer Services has certified under section 605 of the Act that this rule does not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

According to the Department, this rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under Acts and Executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Department promulgated this rule under the notice and comment procedures of 5 U.S.C. § 553. An initial Notice of Proposed Rulemaking was published in the Federal Register on December 8, 1994 (59 Fed. Reg. 63265). The Department received comments from 27 State and local welfare agencies, State child support enforcement agencies, and State employers. The Department did not discuss comments beyond the scope of the rule or comments on the requirement to establish a deduction since the requirement was mandated by statute. The

Department indicates that it addresses all other comments and actions taken in response to them in the supplementary information provided when the Final Rule was published in the Federal Register on October 17, 1996. 61 Fed. Reg. 54282.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

This Final Rule contains information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. §§ 3501–3520). The reporting and recordkeeping burden associated with the application, certification and continued eligibility of food stamp applicants was approved by OMB in 1995 under No. 0584–0064. The added information required by this rule was included in the estimated burden in 1995. In the supplementary information the Department requests comments on the necessity of the new information requirement, the accuracy of the burden estimate, ways to enhance the use of the information collected, and ways to further minimize the burden.

Executive Order No. 12866

This rule was determined to be economically significant and is therefore subject to Executive Order No. 12866. According to the Department, the Office of Management and Budget has reviewed the rule.

Executive Order No. 12778

According to the Department, this rule was reviewed under Executive Order No. 12778, Civil Justice Reform. We note that the Executive Order has been replaced by Executive Order No. 12998, effective May 5, 1996. However, the requirements now found at section 3(b)(2)(A), (D), and (E) were similarly included in the previous version of the Executive Order and it appears that the Department meets those requirements. The supplementary information published with the Final Rule clearly states the preemptive effect to be given to the rule; what, if any, retroactive effect its provisions may have; and the administrative procedures to be followed prior to any judicial challenge to provisions of the rule.

Executive Order No. 12372

According to the Department, this rule was reviewed under Executive Order No. 12372, Intergovernmental Review of Federal Programs, and the Department determined that it was not covered by the Order.

Statutory Authorization for the rule

Section 13921 of Public Law 103-66, the Mickey Leland Childhood Hunger Relief Act, amended section 5(e) of the Food Stamp Act of 1977, as amended, 7 U.S.C. § 2011-2032, to add a deduction for household members who make legally obligated child support payments to or for an individual living outside of the household.