

State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2019



Public Assistance
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Recent Proposed and Final Changes to Public Assistance Programs

There have been several proposed and pending changes made recently to public assistance programs. These policy changes have occurred at the Federal and State level, and could have divergent effects depending on final implementation of the policies. This article will give some information on recent caseload data and current policies, and will summarize recent proposals.

The State of Michigan administers several public assistance programs dealing mainly with the provision of Federal funds. The main program that this article will cover is the Food Assistance Program (FAP). Two of the other programs that will be influenced by the changes are the Family Independence Program (FIP) and State Emergency Relief (SER). In Michigan, the Department of Health and Human Services (DHHS) administers the Federally funded Supplemental Nutrition Assistance Program (SNAP) for food-based public assistance through the FAP program. In this article, references to SNAP will use the name of Michigan's program, FAP. The DHHS also administers the Federally funded Temporary Assistance for Needy Families (TANF) through the FIP program, which is the State's cash-welfare program. The SER program funds services that are of immediate concerns to households such as heat/utilities, home repairs, and burial assistance. Some of Michigan's share of the Federal Low-Income Home Energy Assistance Program (LIHEAP) grant is dedicated to the SER program.

Over the past 15 years, the caseloads for the FAP and FIP have decreased significantly. The caseload for the Food Assistance Program and Family Independence Program are shown in [Figure 1](#) and [Figure 2](#).

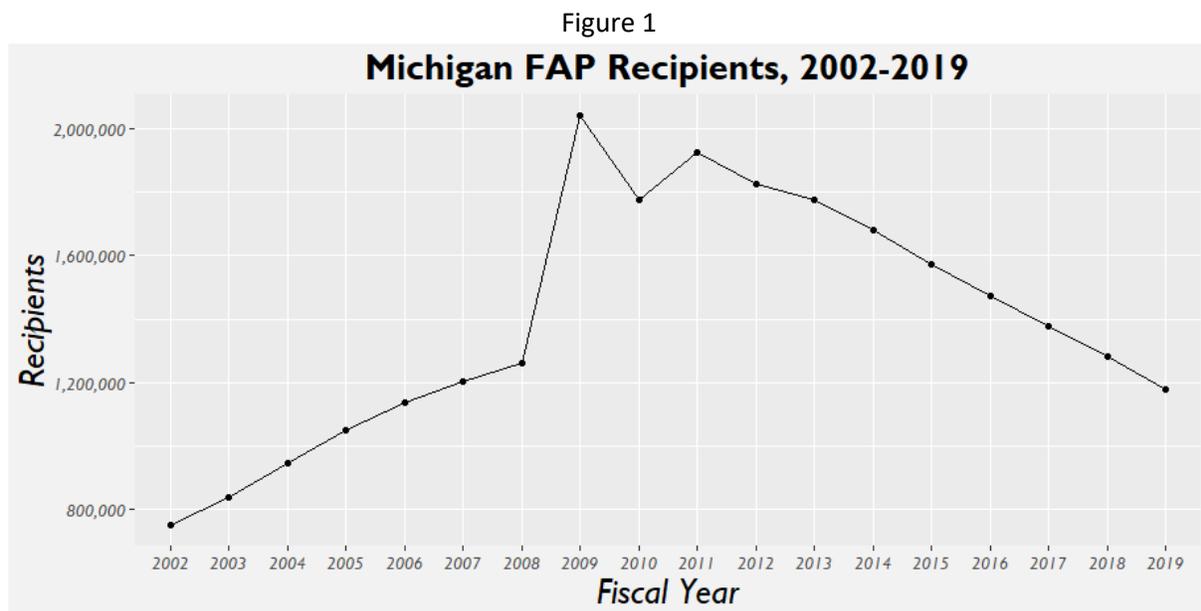
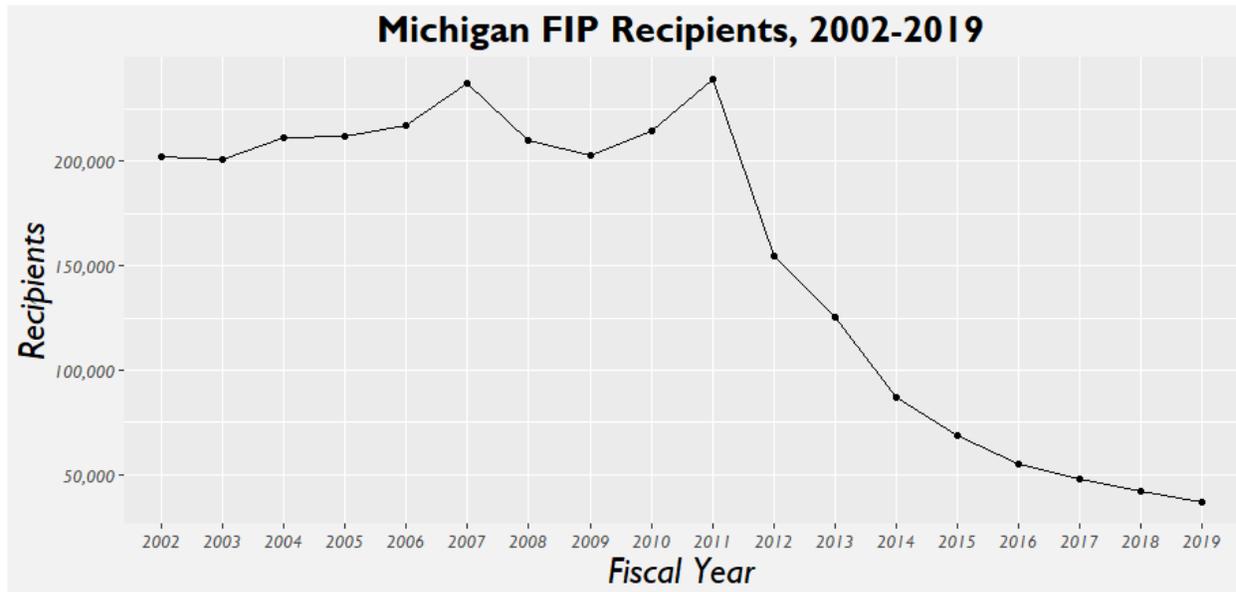


Figure 2



Recently the House Fiscal Agency published a Fiscal Brief on the FAP program that provides an informational background about FAP.¹

Public Assistance Eligibility Requirements and Broad-Based Categorical Eligibility

Under Federal rules, there are a series of financial tests related to the income and assets that a household or group must meet to qualify for public assistance. There are two classifications of households and those classifications determine which testing criteria are applied to eligibility. The first household is an "ordinary household eligibility" requirement for a given public assistance program and the second allows qualification under a "categorical eligibility", through which meeting the requirements for one public assistance program will provide eligibility for other programs. Specifically, for the FAP program, "broad-based categorical eligibility" (BBCE) allows households to receive a non-cash TANF benefit.

The concept of a categorical eligibility or an expedited eligibility determination has existed in some form since 1971. It serves as an administrative burden reduction policy to reduce paperwork as individuals who met stricter eligibility thresholds for cash welfare to be approved for food stamp benefits which had higher eligibility limits.² In 1996, the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act(also referred to as "welfare reform"), replaced the traditional cash assistance welfare program known as Aid to Families with Dependent Children with a per state block grant known as Temporary Assistance for Needy Families, which created opportunities for a broader recipient base for public assistance or human services programs. With a larger base of potential recipients, the Federal government issued regulations in 2000 outlining how households that received a nominal

TANF benefit could become categorically eligible for FAP benefits.³ Someone could qualify under BBCE in many states and the household could become eligible for TANF after receiving a nominal benefit, such as a brochure or a referral to telephone hotline. In Michigan, the information is included on the application for public assistance so the applicant has been deemed to have received this TANF noncash benefit. The information included in the application booklet also contains a hotline for information on domestic violence. This is how households in Michigan are deemed to have received a noncash TANF benefit.

In ordinary eligibility determination situations, when determining eligibility for these programs, the tests are ordered in the following way: first the household must meet a gross income test, then an asset test, and finally a net income test.

The gross income test is the monthly income of a household before any taxes or deductions (reductions to monthly income are allowed for certain necessary household expenses). Under an ordinary eligibility situation for FAP, the gross income cannot exceed 130% of the poverty rate. For a three-person household, this would be a monthly income of approximately \$2,300. In Michigan, under a BBCE, the highest gross income that can qualify for FAP is 200% of the poverty level, or a monthly household income of approximately \$3,500.

Next the household must meet an asset limit, which, under the Federal standard for FAP, is \$2,250. For a household with an elderly or disabled member, the limit is \$3,500.⁴ Under a broad-based eligibility process, states may set their own asset limit. In Michigan, State law requires an asset test for FIP and FAP.⁵ The current FAP asset limit in Michigan under BBCE is \$5,000; for FIP, it is \$3,000.⁶

The last eligibility test is a net income test. The net income is the gross income with certain types of expenses excluded, reflecting that a portion of income will be used to pay for certain nonfood items (e.g. high housing and utility costs, child care, and medical expenses), which are not available to be used to cover costs of food or other nondiscretionary items. This is the strictest aspect of assistance eligibility. For FAP, under both ordinary eligibility and BBCE, the net income cannot exceed 100% of the poverty guidelines. The net income requirement places a strict limitation on the universe of eligible persons. The BBCE gross income limit of 200% in Michigan reflects the fact that there may be certain households with high necessary expenses that limit the amount available for food. Therefore, it is possible that someone has expenses for childcare, medical care, and heating that amount to 50% of their total household income. It is also possible for a household to be considered BBCE, but have a net income that is too high to receive a benefit.

Nationwide, approximately 5% of food assistance caseload feature gross income above the 130% gross income limitation, reflecting the number of individuals who are eligible via BBCE and not the ordinary eligibility process.⁷

Proposed Federal Rule Changes

Throughout 2019, the Federal government, specifically the Food and Nutrition Service (FNS) in the United States Department of Agriculture (the administrating agency for the food

assistance program), has issued several proposed rule changes to the food assistance program.

Work Requirements for Able-Bodied Adults without Dependents

The first proposed rule change was published in the Federal Register on February 1, 2019. This rule would change the way work requirements are applied to FAP recipients who are considered an "able-bodied adult without dependents (ABAWD)". Currently, ABAWD recipients can receive benefits for only three months in a 36-month period unless the recipient meets certain work requirements.⁸ States can seek a waiver of these work requirements if a county has an unemployment rate above 10% or where there is a lack of sufficient jobs. [Nationwide, it was estimated that 755,000 ABAWDs could lose their benefits.⁹] Since October 2018, the State has removed the waivers for every county and all ABAWDs are subject to the work requirements.

Benefits Eligible for the Determination of Broad-Based Categorical Eligibility

The second proposed rule was published on July 24, 2019, and effectively would end "broad-based eligibility" by requiring FAP recipients to receive a "substantial" TANF benefit. Instead of receiving reference information from a brochure or a hotline to qualify for the broad-based categorical eligibility, the household would have to receive a "substantial and ongoing" TANF benefit. Food and Nutrition Service puts the value of a substantial benefit at a minimum of \$50.00 per month.¹⁰ As of July 2019, 39 states use a categorical eligibility policy.¹¹ The estimated reduction to caseload by FNS is 1.7 million households, which is 4% of the total nationwide caseload.

Adjustments to the Calculation of Standard Utility Allowance for Net Income

The third proposed rule was published on October 3, 2019, and would modify the way in which a recipient's net income is calculated. As discussed previously, utility expenses are excluded from the income available for food purchase, as those are necessary expenses for the household. For many households, especially if they are renters, there is not a separately billed amount for utility costs. Instead, the Federal government allows States to determine a standard utility amount for administrative ease. These standard amounts vary from state to state based on climate and temperature variations. The proposed rule would create a single standard amount for the entire country based on the 80th percentile of low-income household utility costs.¹² It is estimated that this would decrease benefits for 19% of recipients, increase benefits for 16% of recipients, and cause 8,000 households to lose benefits.

This rule change is related to the "Heat and Eat" policy, as covered in The "Heat and Eat" Policy in Michigan State Notes Article¹³ but it does not appear to directly change the qualifications of this policy.

Poverty Level Inflationary Changes

On May 6, 2019, the Office of Management and Budget published a proposed rule that could affect nearly all public assistance programs.¹⁴ Currently, the Official Poverty Measure is

published by the Census Bureau, which is used in poverty guidelines in determining eligibility thresholds for public assistance programs. Instead of using one inflation measure, the Consumer Price Index (CPI), the poverty measurement would use a different inflation adjustment. The proposed replacement inflation calculations include the "chained" CPI and the Personal Consumption Expenditures Price Index. These proposed indices, would have grown at a slower rate than the traditional CPI. If slower-growing indices are used, it would mean that income eligibility limits would not increase as much as in the past, which could limiting the number of eligible recipients.

Proposed State Changes

Raising the asset limit for individuals who receive eligibility as broad-based categorical eligible

On October 17, 2019, Governor Whitmer and the DHHS announced that the State would be increasing various asset limits and changing verification requirements, effective December 1, 2019.¹⁵ Under Michigan law, when the Department changes policies associated with income or asset limits, the Department must submit the policies to the Legislature at last 30 days before their implementation date.¹⁶ The effective date for these policy meets this statutory requirement.

The proposed policy changes involve increasing asset limits for FIP, State Disability Assistance (SDA), and Refugee Cash Assistance (RCA) to \$15,000 (increased from \$3,000) and \$200,000 for real property assets. The types of assets counted for these programs include cash (e.g. savings and checking accounts), investments, retirements plans, and trusts.

For FAP the asset limit is proposed to increase from \$5,000 to \$15,000 and most types of retirement accounts are excluded. Previously, the first vehicle was excluded from the asset limit and the second vehicle was excluded if its fair market value was less than \$15,000. The policy change will exclude all vehicles from the asset limit.

Asset Verification Requirements

Along with the announced changes to the asset limits, Governor Whitmer and the DHHS announced that initial verification of assets will not be required for FIP, SDA, RCA, and FAP. Previously, the DHHS required a verification of the value of countable assets at application, redetermination, and when a change is reported. After the new policy takes effect, the new asset verification process will verify countable assets at application, [semi-annual, mid-certification, redetermination] and when a change is reported, if questionable. From the proposed changes to the DHHS policy manual, it not clean what "if questionable" means.

Conclusion

Both Federal and State-proposed and-issued changes could have a disparate impact on the number of people who qualify for benefits. It is somewhat easier to project the changes based on Federal policy modifications than the State changes. As part of the Federal rulemaking process, FNS provided the estimated changes to the budget, caseload, and background information addressing the various potential outcomes due to the proposed rule change.



For Michigan, two of these three proposed Federal changes to FAP likely would reduce the number of households receiving benefits or the amount of benefits received. The work requirement regulation likely would not have any change to caseloads, since all counties in the State no longer are covered by the waiver.

The poverty level proposed rule likely would change the number of eligible people as well, but that is not solely a FAP change. Also, as a part of the proposed rule change, there was no estimate given on the overall estimated changes to the public assistance programs.

In fiscal year 2017-18, the total average nationwide caseload for food assistance was approximately 39.8 million and Michigan's average caseload during the same fiscal year was approximately 1.3 million. This was 3% of the total nationwide share. The proposed rule for changing broad-based eligibility estimated that 3.1 million individuals would lose food assistance. Using Michigan's share of overall caseload in past years, approximately 100,000 recipients could lose coverage because of a change to BBCE.

The State changes are more difficult to project because when the proposed policy changes were issued, there was not much detail provided as to the current levels of households denied for exceeding asset limits. Independent of any final Federal changes to FAP, it is likely there will be increases to the caseloads for the programs that will see asset limits raised and a less rigorous asset verification process implemented. It is possible that Federal changes, specifically the BBCE changes, would supersede the State changes as the proposed requirements which essentially would end the program, and would require individuals to meet ordinary income and asset limits.

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- ¹ "Fiscal Brief: Food Assistance Program Eligibility and Oversight", Michigan House Fiscal Agency, www.house.mi.gov/hfa, 3-4-2019. Retrieved on 10-22-2019.
- ² "The Supplemental Nutrition Assistance Program (SNAP): Categorical Eligibility", Congressional Research Service, www.fas.org, 8-1-2019. Retrieved on 10-21-2019.
- ³ *Id.*
- ⁴ "SNAP Eligibility", Food and Nutrition Service, U.S. Department of Agriculture, www.fns.usda.gov. Retrieved on 10-21-2019.
- ⁵ Public Act 279 of 2012
- ⁶ "Eliminating Asset Limits: Creating Savings for Families and State Governments", The Center for Law and Social Policy, www.clasp.org, April 2018. Retrieved on 10-21-2019.
- ⁷ "The Supplemental Nutrition Assistance Program (SNAP): Categorical Eligibility", Congressional Research Service, www.fas.org, 8-1-2019. Retrieved on 10-21-2019.
- ⁸ "Able-Bodied Adults Without Dependents (ABAWDs)", Food and Nutrition Service, U.S. Department of Agriculture, www.fns.usda.gov. Retrieved on 10-21-2019.
- ⁹ 84, Federal Register 980, 2-1-2019.
- ¹⁰ 84, Federal Register 35570, 7-24-2019.
- ¹¹ "Broad-Based Categorical Eligibility", Food and Nutrition Service, U.S. Department of Agriculture, www.fns.usda.gov, July 2019. Retrieved on 10-18-2019.
- ¹² 84, Federal Register 52809, 10-3-2019.
- ¹³ Carley, Frances, "The 'Heat and Eat' Policy in Michigan", Senate Fiscal Agency, *State Notes*, Fall 2014. Retrieved on 10-23-2019.
- ¹⁴ 84, Federal Register 19961, 5-7-2019.
- ¹⁵ BPB 2019-016, Michigan Department of Health and Human Services, www.dhhs.michigan.gov, 11-1-2019. Retrieved on 10-18-2019.
- ¹⁶ MCL 400.6(5).