

103D CONGRESS
1ST SESSION

H. R. 1195

To amend the Food Stamp Act of 1977 regarding quality control.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1993

Ms. LONG (for herself and Mr. GUNDERSON, Mr. BROWN of California, Mr. ENGLISH of Oklahoma, Mr. BOEHNER, Mr. DOOLITTLE, Mrs. THURMAN, Mr. ACKERMAN, Mr. CLYBURN, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HINCHEY, Mr. HOBSON, Mr. HOKE, Mr. JACOBS, Ms. KAPTUR, Mr. LAFALCE, Mrs. MALONEY, Mr. MANN, Mr. McCLOSKEY, Mr. MOLLOHAN, Mr. OXLEY, Mr. RAHALL, Mr. RICHARDSON, Mr. ROEMER, Mr. SAWYER, Mr. SCHUMER, Mr. SHARP, Mr. SPRATT, Mr. TRAFICANT, Mr. WALSH, and Mr. WISE) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Food Stamp Act of 1977 regarding quality control.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Food Stamp Quality
- 5 Control System Amendments of 1993”.

1 **SEC. 2. FOOD STAMP QUALITY CONTROL SYSTEM.**

2 (a) COLLECTION AND DISPOSITION OF CLAIMS.—
3 Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C.
4 2022(a)(1)) is amended in the fifth sentence by striking
5 “(after a determination on any request for a waiver for
6 good cause related to the claim has been made by the
7 Secretary)”).

8 (b) ADMINISTRATIVE AND JUDICIAL REVIEW.—Section
9 14(a) of the Food Stamp Act of 1977 (7 U.S.C.
10 2023(a)) is amended by—

11 (1) adding in the sixth sentence, immediately
12 following “pursuant to section 16(c)” the following:
13 “(including determinations as to whether there is
14 good cause for not imposing some or all of the
15 penalty)”;

16 (2) adding following the sixth sentence: “In de-
17 ciding whether to uphold a penalty or any portion
18 thereof (including whether there is good cause for
19 not imposing some or all of the penalty), such judges
20 shall conduct a thorough review of the issues and
21 take into account all relevant evidence.”;

22 (3) adding before the period in the sentence be-
23 ginning with the words “Such judges”, the following:
24 “, and the deliberative process privilege shall not be
25 the basis for the withholding of documents by the
26 State agency or by the Secretary”; and

1 (4) striking the last sentence.

2 (c) ADMINISTRATIVE COST SHARING AND QUALITY

3 CONTROL.—Section 16(c) of the Food Stamp Act of 1977

4 (7 U.S.C. 2025(c)) is amended to read as follows:

5 “(c)(1) The program authorized under this Act shall
6 include a system that enhances payment accuracy by es-
7 tablishing fiscal incentives that require State agencies with
8 high error rates to share in the cost of payment error and
9 provide enhanced administrative funding to State agencies
0 with the lowest error rates. Under such system—

11 “(A) the Secretary shall adjust a State agency’s
12 federally funded share of administrative costs pursu-
13 ant to subsection (a), other than the costs already
14 shared in excess of 50 percent under the proviso in
15 the first sentence of subsection (a) or under sub-
16 section (g), by increasing such share of all such ad-
17 ministrative costs by one percentage point to a maxi-
18 mum of 60 percent of all such administrative costs
19 for each full one-tenth of a percentage point by
20 which the payment error rate is less than 6 percent,
21 except that only State agencies whose rate of invalid
22 decisions in denying eligibility is less than a nation-
23 wide percentage that the Secretary determines to be
24 reasonable shall be entitled to the adjustment
25 prescribed in this subsection;

1 “(B) the Secretary shall foster management im-
2 provements by State agencies pursuant to subsection
3 (b) by requiring State agencies other than those re-
4 ceiving adjustment under subparagraph (A) to
5 develop and implement corrective action plans to
6 reduce payment errors;

7 “(C) if a State agency’s overpayment error rate
8 for a fiscal year exceeds the national average over-
9 payment error rate for the fiscal year, other than for
10 good cause shown, the State agency shall pay to the
11 Secretary a penalty for the fiscal year in an amount
12 equal to—

13 “(i) the product of—

14 “(I) the value of all allotments issued
15 by the State agency in the fiscal year;
16 times

17 “(II) the lesser of—

18 “(aa) the ratio of—

19 “(1) the amount by which
20 the State agency’s overpayment
21 error rate for the fiscal year ex-
22 ceeds the national average over-
23 payment error rate for the fiscal
24 year, to

1 “(2) the national average
2 overpayment error rate for the
3 fiscal year; or
4 “(bb) 1; times
5 “(III) the amount by which the State
6 agency's overpayment error rate for the
7 fiscal year exceeds the national average
8 overpayment error rate for the fiscal year;
9 reduced by
10 “(ii) the product of—
11 “(I) the ratio of—
12 “(1) the amount by which the
13 State agency's overpayment error rate
14 for the fiscal year exceeds the national
15 average overpayment error rate for
16 the fiscal year; to
17 “(2) the State agency's overpay-
18 ment error rate for the fiscal year;
19 times
20 “(II) the overpayments recovered by
21 the State agency in the fiscal year; and
22 “(D) a State agency may, at its option, pay a
23 penalty established pursuant to subparagraph (C) in
24 quarterly payments over a period not to exceed 30
25 months, in amounts sufficient to pay the penalty

1 with interest by the end of such period. The amount
2 of liability shall not be affected by corrective action
3 under subparagraph (B).

4 “(2) As used in this section—

5 “(A) the term ‘payment error rate’ means the
6 sum of the overpayment error rate and the
7 underpayment error rate;

8 “(B) the term ‘overpayment error rate’ means
9 “(i) the percentage of the value of all allot-
10 ments issued in a fiscal year by a State agency
11 that are either—

12 “(I) issued to households that fail to
13 meet basic program eligibility require-
14 ments; or

15 “(II) overissued to eligible households,
16 “(ii) reduced by the amount by which the
17 national average underpayment error rate for
18 the fiscal year exceeds the underpayment error
19 rate of the State agency for the fiscal year. At
20 the request of a State agency, the Secretary
21 shall apply such reduction in determining the
22 State agency’s overpayment error rate for ei-
23 ther of the two following fiscal years instead of
24 in determining the State agency’s overpayment

1 error rate for the fiscal year to which the reduc-
2 tion would otherwise apply;

3 “(C) the term ‘underpayment error rate’ means
4 the ratio of the value of allotments underissued to
5 recipient households to the total value of allotments
6 issued in a fiscal year by a State agency;

7 “(D) the term ‘national average overpayment
8 error rate’ for a fiscal year means the ratio of—

9 “(i) the total value of allotments issued by
10 all State agencies in the fiscal year that are
11 either

12 “(I) issued to households that fail to
13 meet basic program eligibility require-
14 ments, or

15 “(II) overissued to eligible households;

16 to

17 “(ii) the total value of all allotments issued
18 by all State agencies in the fiscal year.

19 “(E) the term ‘national average underpayment
20 rate’ for a fiscal year means the ratio of—

21 “(i) the total value of all allotments
22 underissued by all State agencies to recipient
23 households in the fiscal year; to

24 “(ii) the total value of all allotments issued
25 by all State agencies in the fiscal year; and

1 “(F) the term ‘good cause’ shall include, but
2 not be limited to, the following factors:

3 “(i) uncontrollable, significant caseload
4 fluctuations that substantially disrupt food
5 stamp program administration;

6 “(ii) natural disasters that substantially
7 disrupt food stamp program administration;

8 “(iii) Federal or State program changes
9 that substantially disrupt food stamp program
10 administration;

11 “(iv) strikes that substantially disrupt food
12 stamp program administration;

13 “(v) uncontrollable client-caused errors;

14 “(vi) demographic factors, such as literacy,
15 homelessness, unemployment, poverty and rural
16 composition of population, that contribute sub-
17 stantially to an excessive error rate and depart
18 substantially from national averages for such
19 factors;

20 “(vii) state program improvements reason-
21 ably designed to reduce error rates in the longer
22 term, but that uncontrollably cause short-term
23 increases in the error rate; and

24 “(viii) other circumstances beyond the con-
25 trol of a State agency.

1 “(3) The following errors may be measured for
2 management purposes but shall not be included in
3 the overpayment or underpayment error rate:

4 “(A) any errors resulting from the applica-
5 tion of new regulations promulgated under this
6 Act during the first 120 days from the required
7 implementation date for such regulations;

8 “(B) errors resulting from the use by a
9 State agency of correctly processed information
10 concerning households or individuals received
11 from Federal agencies or from actions based on
12 policy information approved or disseminated, in
13 writing, by the Secretary; and

14 “(C) cases found by quality control reviews
15 to have involved, but later found in a fair hear-
16 ing not to have involved, overpayments, under-
17 payments, or payments to ineligible recipients.

18 “(4)(A) Except as provided in subparagraph (B), in
19 determining whether a payment is an erroneous payment,
20 the State agency and the Secretary shall apply all relevant
21 provisions of the State plan approved under section 11.

22 “(B)(i) If a provision of a State plan approved under
23 section 11 is inconsistent with a provision of Federal law
24 or regulations, and the Secretary has notified the State

1 agency of the inconsistency in writing, the provision of
2 Federal law or regulations shall control.

3 “(ii) Clause (i) shall not apply with respect to a pay-
4 ment of the State agency if—

5 “(I) it is necessary for the State to enact a law
6 in order to remove an inconsistency described in
7 clause (i), the Secretary has advised the State agen-
8 cy that the State will be allowed a reasonable period
9 in which to enact such a law, and the payment was
10 made during such period; or

11 “(II) the State agency made the payment in
12 compliance with a court order.

13 “(5) If the Secretary, directly or indirectly, receives
14 from a State agency part or all of the amount of a penalty
15 imposed under paragraph (1)(C) and part or all of the
16 penalty is finally determined not to have been payable, the
17 Secretary shall promptly refund to the State agency the
18 amount determined not to have been payable, with interest
19 which shall accrue from the date of receipt at the rate
20 described in section 13(a)(1).

21 “(6) Each State error rate for purposes of this sub-
22 section shall be determined on the basis of a review of
23 a single statistical sample of each State agency’s food
24 stamp cases for the fiscal year (without sub-sampling, re-
25 reviews, or statistical regression analyses), and national

1 average error rates for purposes of this subsection shall
2 be derived from State error rates so determined. Said re-
3 views shall be conducted by State agency personnel under
4 the direction of the Secretary pursuant to regulations
5 adopted by the Secretary, or, if a State agency so elects
6 as to any particular review, shall be conducted by the Sec-
7 retary. No penalty shall be collected under paragraph
8 (1)(C) if the width of the 95 percent confidence interval
9 of any error rate on which it is based exceeds 50 percent
10 of the point estimate of said error rate, unless the State
11 to which a particular error rate pertains agreed in writing
12 to a sample size that precludes meeting this requirement.
13 All error rates, incentive payments, and penalty claims for
14 a fiscal year shall be determined by the Secretary and
15 communicated to State agencies within nine months
16 following the end of the fiscal year.

17 “(7) If the Secretary asserts a financial claim against
18 a State agency under paragraph (1)(C), the State may
19 seek administrative and judicial review of the action
20 pursuant to section 14.”.

21 **SEC. 3. FISCAL YEAR 1992.**

22 No penalty, disallowance, or other similar action shall
23 be applied to or collected from any State agency admin-
24 istering the food stamp program for fiscal year 1992
25 under section 16(c) of the Food Stamp Act of 1977 (7

1 U.S.C. 2025(c)) or any predecessor law or regulation re-
2 lating to penalties, disallowances, or other similar actions
3 for erroneous issuances in the food stamp program.

4 **SEC. 4. STUDY OF QUALITY CONTROL STATISTICAL SYS-**

5 **TEM.**

6 The Secretary of Agriculture and the State agencies
7 that administer the food stamp program shall jointly un-
8 dertake a study of measurement error, and of geographical
9 and temporal uniformity of measurements, in the food
10 stamp program quality control error-rate estimation sys-
11 tem, and shall report the results and recommendations of
12 such study to the Committee on Agriculture of the House
13 of Representatives and the Committee on Agriculture, Nu-
14 trition, and Forestry of the Senate no later than one year
15 after the date of enactment of this Act. As part of the
16 study, the Secretary and the State agencies shall jointly
17 conduct controlled experiments under which various re-
18 viewers review identical cases, with the objective of deter-
19 mining the degree of uniformity in quality control error-
20 rate measurements and the extent to which different levels
21 of investment of resources in the review process affect
22 measurement error. The study report shall include rec-
23 ommendations as to what measures would best reduce
24 measurement error and increase uniformity of quality
25 control error-rate measurements at reasonable cost.

1 **SEC. 5. EFFECTIVE DATE.**

2 The amendments made by section 2 shall be effective
3 as of October 1, 1992.

4 **SEC. 6. BUDGET NEUTRALITY REQUIREMENT.**

5 None of the provisions of this Act shall become effec-
6 tive unless the costs are fully offset in each fiscal year
7 through fiscal year 1995. No agriculture price support or
8 income support program administered through the Com-
9 modity Credit Corporation under the Agricultural Act of
10 1949 may be reduced to achieve such offset.

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