June 12, 2009

Mr. Thomas Vilsack  
Secretary of Agriculture  
Jamie L. Whitten Federal Building  
Room 200-A  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250

Dear Secretary Vilsack:

Given your concerns about childhood obesity, we want to bring to your attention two troubling provisions written by the former Administration that have remained in the March 2009 Supplemental Nutrition Assistance Program Education (SNAP-Ed) Plan Guidance. Those provisions undermine the goal of SNAP-Ed “to improve the likelihood that persons eligible for the SNAP-Ed will make healthy food choices within a limited budget…” (USDA, Supplemental Nutrition Assistance Program Education SNAP-Ed Plan Guidance at 1). They also undermine a central premise of the SNAP-Ed program: “that all nutrition messages conveyed . . . are consistent with the Dietary Guidelines for Americans . . .” Id. at 17.

Under the Guidance, “SNAP-Ed funds may not be used to convey negative written, visual, or verbal expressions about specific foods, beverages, or commodities.” (Id.) Nor may funds be used to publicize “[n]utrition education messages which convey negative messages or disparage specific foods, beverages or commodity [sic]. . . .” (Id. at 74). “This includes messages of belittlement or derogation of such items, as well as any suggestion that such foods, beverages or commodities should never be consumed.” (Id. at 17). [Attachment A].

The Guidance has its roots in a January 10, 2003, USDA memorandum to all Directors. The memorandum stated that “. . . Food Stamp Program nutrition education funds may not be used to convey negative, written, visual or verbal expressions about any specific foods, beverages, or commodities. This would include messages of belittlement or derogation of such items, as well as any suggestion that such foods, beverages, or commodities are never to be consumed.” [Attachment B].

That memorandum was issued after an “Enough is Enough” campaign run by what was then the Maine Bureau of Health, now the Maine Center for Disease Control and Prevention (CDC). The campaign, which started on October 19, 2002, included a television ad entitled: “Drink Less Soda, Empty Calories,” as well as a full-page newspaper ad that advised consumers to reduce their soda intake. The TV ad stated that:

In just one 12-ounce soda, there’s up to 10 teaspoons of sugar and 150 empty calories flowing right down your kids’ throat. The typical teenage boy who
drinks soda typically consumes about 870 cans a year. Now that’s way over the top. So cut back, or switch to a healthier drink, such as water. [Attachment C].

After the ads ran, the soft drink industry pressured the Maine Bureau of Health to stop running the ads. (Mark Shanahan, Under Fire, State Dilutes Anti-Soda Ads, Portland Press Herald, November 16, 2002.) Less than three months later, USDA issued the 2003 memorandum. That memorandum has since been incorporated into every subsequent SNAP-Ed Plan Guidance.

Those restrictions have been interpreted in a manner that undermines the goals of the SNAP-Ed program. For example:

- The Maine CDC, according to one official, believed it was prohibited from using SNAP-Ed funds to participate in a successful program developed by the Maine Youth Overweight Collaborative in 2004 to help children to move more and eat better. Known as the “5210” program, it emphasizes the importance of:
  - 5 - Eating at least 5 servings of fruits and vegetables on most days
  - 2 - Limiting screen time to two hours or less daily
  - 1 - Participating in at least one or more hours of physical activity every day
  - 0 - Encouraging water and low-fat or fat-free milk instead of soda and sugar-sweetened drinks

The “0” component was considered to be inconsistent with the USDA SNAP-Ed Guidance.

- The San Francisco Bay Area Nutrition and Physical Activity Collaborative could not use SNAP-Ed funds in 2008 to run its “Soda Free Summer” campaign. [Attachment D]. That program had to be scaled back and revised.

- In May, 2009, the USDA Western Regional Office objected to the California Department of Public Health’s (CDPH) “Be Sugar Savvy & Soda Free Summer Campaign,” despite the fact that it is being funded through non-SNAP-Ed funds. USDA explained that although it had no problem supporting “Be Sugar Savvy,” because it was consistent with a current USDA-supported “Rethink Your Drink” Campaign, the Department was concerned that the title of the new campaign – Be Sugar Savvy & Soda Free – gave the appearance that all the campaigns were part of a single program supported by multiple funders that included USDA. California’s CDPH was asked to provide additional information on “how disparagement is avoided” and to explain how the campaign avoids the perception by the average consumer that USDA is helping to support the elimination of soda from the diet.

- In August 2007, the Wyoming Department of Health was forbidden from using SNAP-Ed funds for a poster stating: “Does your body REALLY need all that Sugar?” The poster
depicts a bottle of soda being poured into a glass. As the soda reaches the glass it is transformed into sugar. Sugar fills up nearly half the glass. The USDA’s Regional Office told the Wyoming Department of Health that it could not use a disparaging message about sugar. The poster was scrapped. [Attachment E].

USDA’s refusal during the previous administration to permit state officials from conducting effective campaigns to reduce soft drink consumption is especially egregious considering that soft drinks are the only specific food or beverage that has been shown to contribute to overweight and obesity. Over the last several years, several published studies examined the relationship between the intake of sugar-sweetened beverages and rates of overweight and obesity.1 While those studies acknowledge that many factors contribute to overweight and obesity, they establish a relationship between the increasing consumption of sugar-sweetened beverages, including soft drinks, and rising rates of overweight and obesity. Excessive consumption of soft drinks can also displace healthier foods and beverages and contribute to nutrient deficiencies.2

Moreover, the Department’s own Dietary Guidelines for Americans repeatedly emphasize the value of limiting the consumption of soft drinks. The Dietary Guidelines state: “Choose and prepare foods and beverages with little added sugars or caloric sweeteners, such as amounts suggested by the USDA Food Guide and the DASH Eating Plan” (p. ix). Table 13 of the Dietary Guidelines reveals that soft drinks contain the most added sugar per serving of any food or beverage.

Further, the Dietary Guidelines state:

At 29 percent of calories from total fat (including 18 g of solid fat), if no alcohol is consumed, then only 8 teaspoons (32 g) of added sugars can be afforded. This is less than the amount in a typical 12 ounce calorically sweetened soft drink. If fat is decreased to 22 percent of calories, then 18 teaspoons (72 g) of added sugars is allowed. If fat is increased to 35 percent of calories, then no allowance remains for added sugars, even if alcohol is not consumed. [p. 36, emphasis added].

We urge USDA to drop its limits on SNAP-Ed campaigns using direct nutrition education messages involving soft drinks. There are a number of specific foods and nutrients that Americans must consume less of in order to comply with the Dietary Guidelines. The Department should inform state officials that its policy is being revised and that the campaigns that were prohibited in the past are now considered permissible.

The current limits pose unfair restrictions on nutrition educators and limit the effectiveness of SNAP-Ed messages with regard to advice included in the Dietary Guidelines and stated forcefully by countless nutrition experts. States should be able to provide accurate dietary advice, using the same effective mechanisms employed by nutrition educators throughout the country without having to worry about offending specific segments of the food industry or violating USDA rules.
Sincerely,

Michael F. Jacobson, Ph.D.
Executive Director

Bruce Silverglade
Director of Legal Affairs

Ilene Ringel Heller
Senior Staff Attorney

Endnotes


Supplemental Nutrition Assistance Program Education
SNAP-Ed
Plan Guidance

SNAP
Supplemental Nutrition Assistance Program
Putting Healthy Food Within Reach
• The SNAP-Ed Guidance and any subsequent policy memoranda serve as the reference source for allowable materials questions.

• States should ensure that all nutrition messages conveyed as a part of SNAP-Ed are consistent with the Dietary Guidelines for Americans and the goal and focus of SNAP-Ed as described on pages 1 and 5 of this Guidance. FNS encourages States to focus on messages related to the three behavioral outcomes listed on page 6.

• Materials developed or purchased with SNAP-Ed funds should have vocabulary that is familiar with a minimal use of jargon and technical terms. Materials should be designed to address cultural, literacy, language and income barriers faced by many SNAP eligibles.

• SNAP-Ed funds may not be used to convey negative written, visual, or verbal expressions about any specific foods, beverages, or commodities. This includes messages of belittlement or derogation of such items, as well as any suggestion that such foods, beverages, or commodities should never be consumed (see Appendix C). FNS regional office staff may ask to review media messages and materials prior to their release, particularly when States are planning large media campaigns and productions.

• FNS reserves a royalty-free, non-exclusive right to reproduce, publish, use or authorize others to use videos, computer programs such CD-ROMs and related source codes, literature, or other products produced, in whole or in part, with SNAP funds for government purposes (7 CFR 272.5(a)(4)). For more information, see Appendix C.

• Curricula and social marketing campaigns should be science-based and behaviorally focused as defined under Principle 4 of the SNAP-Ed Guiding Principles (see Appendix H). They should incorporate general educational features that have demonstrated effectiveness such as behaviorally focused messages; use of motivators and reinforcers that are personally relevant to the target audience; use of multiple channels of communication to convey messages; approaches that provide for active personal engagement; and intensity/duration that provides opportunity for multiple exposures to the message.

• Materials with subject matter that is beyond the scope of SNAP-Ed, including the screening for diseases and the treatment and management of diseases, are not allowable.

• We encourage States to submit their materials to the SNAP-Ed Connection Web site for consideration and inclusion in the Resource Finder Database. Appendix F provides detailed information about the SNAP-Ed Connection.

(Continued on page 18)
### C.4 Examples of Allowable and Unallowable Costs

The following table provides some examples of allowable and unallowable costs.

<table>
<thead>
<tr>
<th>ALLOWABLE</th>
<th>UNALLOWABLE</th>
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<tbody>
<tr>
<td>Literature/Materials/Audiovisuals</td>
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<tr>
<td>- The purchase of FNS nutrition education/promotion materials that address SNAP-Ed topics and are for use with SNAP eligibles.</td>
<td></td>
</tr>
<tr>
<td>- The purchase of other nutrition education materials, when there are no FNS materials available that address SNAP-Ed topics and will be used with persons eligible for the SNAP.</td>
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<tr>
<td>- The production of nutrition education materials, for which there is no other existing comparable material that support the State’s goals and objectives for SNAP-Ed and will be distributed to SNAP eligibles. It is encouraged that States collaborate with other FNS programs on the messages conveyed in and the costs of education materials. The State agency shall (7CFR 277 (OMB Circular A-87)) describe the method used for allocating costs between the programs.</td>
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<tr>
<td>- Costs for any nutrition education materials that have already been charged to another Federal or private program or source.</td>
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<tr>
<td>- Any material that endorses or promotes brand name products or retail stores.</td>
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<td>- Manufacturer’s or store (cents off) coupons.</td>
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<td>- Influencing a store’s pricing policy.</td>
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<tr>
<td>- Any activity or material to lobby or influence Federal, State or local officials to pass or sign legislation or to influence the outcomes of an election, referendum or initiative.</td>
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<tr>
<td>- Negative written, visual, or written expressions about specific foods, beverages, or commodities.</td>
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#### Social Marketing Campaigns

<table>
<thead>
<tr>
<th>ALLOWABLE</th>
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<tbody>
<tr>
<td>- Local radio and television announcements of nutrition education events for SNAP eligibles.</td>
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<tr>
<td>- Appropriate social marketing campaigns that target nutrition messages to SNAP eligibles and are delivered, with an approved exclusivity waiver, in areas/venues where at least 50 percent of persons have incomes equal to or less than 185% of poverty guidelines or thresholds.</td>
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<tr>
<td>- Social marketing campaigns that target the general population. In some instances, prorated costs based upon the number of likely SNAP eligibles (≤ 130% of poverty guidelines/thresholds, with certain exceptions) that will be reached with the campaign may be allowed.</td>
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<tr>
<td>- Nutrition education messages which convey negative messages or disparage specific foods, beverages or commodity, or which are not consistent with the Dietary Guidelines for Americans and MyPyramid.</td>
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<tr>
<td>- Television and radio announcements/advertisements that do not include a brief message about the SNAP, its benefits and how to apply.</td>
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January 10, 2003

DIRECTORS MERGE

The Food and Nutrition Service is committed to the goal of improving the Nation’s nutrition and health status through the domestic nutrition assistance programs. These programs, the largest of which is the Food Stamp Program, can have a positive influence and impact on dietary choices and healthy lifestyles for the millions of people served by them. The purpose of this letter is to provide clarification about the appropriate use of Food Stamp Program funds to support nutrition education messages as part of a State nutrition education campaign.

Food Stamp Program funds may be used to provide nutrition messages about dietary choices and physical activity consistent with the Dietary Guidelines for Americans. These Guidelines are the foundation for nutrition education in all nutrition assistance programs. Fact-based communications that convey the importance of variety, balance and moderation in the diet, and promote physical activity as keys to combating health concerns and obesity, consistent with the nutrition advice conveyed by the Guidelines, are appropriate and allowable. In nutrition education campaigns, these messages must clearly be targeted to low-income audiences.

However, Food Stamp Program nutrition education funds may not be used to convey negative written, visual, or verbal expressions about any specific foods, beverages, or commodities. This would include messages of belittlement or derogation of such items, as well as any suggestion that such foods, beverages, or commodities are never to be consumed.
In summary, States must carefully and thoughtfully construct fact based nutrition messages that are consistent with the Dietary Guidelines for Americans and appropriately targeted to low-income audiences. State Plan Guidance for Federal Fiscal Year 2004 (to be issued in March 2003) will elaborate on this clarification. In the interim, should you have any questions or concerns about allowable campaigns, please contact Mark E. Johnson at 617-565-6405.

Sincerely,

/s/ Robert L. Canavan

Robert L. Canavan, Director
Food Stamp Program
Northeast Region

Cc: CT – William Ruffeth
    MA – Lauren Arms
    ME – Rick Morrow
    NH – Terry Smith
    NY – Ruth Ann Pickering, Sandy Borrelli
    RI – Robert McDonough
    VT – Renee Richardson
(MUSIC IN) MALE ANNCR: Fill er up right to the brim.

Sweet enough for you?

In just one 12-ounce regular soda,

there's up to 10 teaspoons of sugar.

and 150 empty calories flowing right down

your kids' throat.

The typical teenage boy who drinks soda

consumes about 870 cans a year.

Now that's way over the top.

So cut back,

or switch to a healthier drink, such as water. (MUSIC OUT)
Summer

Soda

Have a...

For your health,
Does your body REALLY need all that SUGAR?