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To: The Honorable Maggie McIntosh
Chair, House Appropriations Committee

From: The Office of the Attorney General

Re: House Bill 1532 – Human Services – Food Supplement Program – Eligibility (Protect Against Hunger Act) – **SUPPORT**

The Office of the Attorney General urges the favorable report of House Bill 1532, which would ensure Maryland students and families have access to the Food Supplement Program, even if there are rule changes at the federal level.

Since July 1, 2019, the Attorney General has challenged the federal government's changes to the SNAP program and food assistance programs, which resulted in nearly one million children without access to free school meals.¹

One of the proposed federal rules would change "broad-based categorical eligibility." Currently, states (including Maryland) are allowed to convey automatic categorical eligibility for SNAP to households in which at least one member receives or is authorized to receive cash benefits or non-cash services or benefits funded under a Temporary Assistance for Needy Families (TANF) program. This "broad-based categorical eligibility" (BBCE) has been implemented by at least 43 states. The proposed rule would restrict BBCE to only those households that receive "ongoing" or "substantial" assistance.

In response to the changes, the Attorney General signed onto a public comment letter to the United States Department of Agriculture in September 2019,² and argued that this change

¹ United States House Committee on Education and Labor, *Chairman Scott Responds to USDA Analysis Showing Nearly 1 Million Kids Would Lose Automatic Access for Free Schools Under Proposed Cuts to SNAP* (Oct. 16, 2019), <https://edlabor.house.gov/media/press-releases/chairman-scott-responds-to-usda-analysis-showing-nearly-1-million-kids-would-lose-automatic-access-for-free-schools-under-proposed-cuts-to-snap>.

² Attorney Generals of the District of Columbia, New York, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Vermont, Virginia, Washington, and Wisconsin, Comment Letter on

would, among other things, increase the administrative burden on states administering SNAP, reducing access to school nutrition programs, and impair public health and decreasing economic activity. Although the percentage of SNAP benefits distributed under BBCE eligibility is small—only an estimated 0.7% of the total—the size of the program means that it is still a sizable amount of money that will be lost. And, the consequences to the free/reduced school lunch program will be outsized due to the eligibility criteria for that program. Maryland Hunger Solutions estimated that 50,000 Marylanders could lose their benefits under the proposed rule.

In addition, the Attorney General’s Office is currently litigating the second federal proposed rule change in District of Columbia District Court.³ The rule restricts the availability of SNAP funds for those deemed “Able-Bodied Adults Without Dependents” or “ABAWDs.”⁴ When Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, it introduced a new time limit on how long ABAWDs can collect SNAP benefits over a three-year period. However, recognizing that the time limit would not properly incentivize individuals to enter the work force if too few jobs were available where they lived, Congress granted states broad authority to seek waivers from the time limit for “any group of individuals” if their area “does not have a sufficient number of jobs.” For decades, in accord with this broad statutory language, USDA guidance has allowed states to use multiple and flexible measures to support applications for ABAWD waivers. The Rule would create much stricter standards for waivers and exemptions, including setting a six percent unemployment minimum floor for states that seek waivers, as opposed to the previous measure of twenty percent above the national average.

Currently, thirteen jurisdictions in Maryland are waived from the time limit: Allegany, Caroline, Cecil, Dorchester, Garrett, Harford, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester counties, and Baltimore City. According to Maryland Department of Human Services, there are 23,664 ABAWDs in waived counties.⁵ Past experience from when other counties transitioned off of waivers shows that something like 70-100% lose their eligibility after the waiver expires. Assuming an average monthly benefit of \$130 per month, the annual fiscal impact is estimated to be \$115 million.

As written, House Bill 1532 would require eligibility to be determined for the Food Supplement Program under State eligibility requirements, notwithstanding changes to federal law. This bill would require the State to provide Food Supplement Program benefits to individuals for whom federal funding is not available, to ensure no Maryland child or individual in need goes without food.

Proposed Rule on the Revision of Categorical Eligibility in the Supplemental Assistance Program (Sept. 23, 2019), http://www.marylandattorneygeneral.gov/News%20Documents/092419_SNAP_Eligibility_Comment_Letter.pdf.

³ See DC v. USDA, No. 20-cv-00119 (D.D.C., filed Jan. 16, 2020).

⁴ Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents, 84 Fed. Reg. 66,782 (Feb. 1, 2019) (to be codified at 7 C.F.R. pt. 273).

⁵ Food Policy Action Coalition, Baltimore City Department of Planning (Feb. 5, 2020), <https://planning.baltimorecity.gov/sites/default/files/Food%20PAC%20Slides%202.5.20.pdf>.

For the reasons stated above, the Attorney General urges the Committee to favorably report House Bill 1532.

cc: Members of the House Appropriations Committee