



Food and
Nutrition
Service

August 26, 2020

SUBJECT: Request for WIC Flexibility in Response to COVID-19

1320
Braddock
Place
Alexandria,
VA
22314

TO: Cheryl Kennedy
Regional Administrator
Mountain Plains Regional Office

This letter is in response to information Colorado WIC sent as follow up to its Compliance Investigation Waiver requesting a regulatory waiver from a requirement of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) that the State agency cannot meet due to COVID-19.

Colorado WIC requests a waiver of the federal requirement that the State agency must conduct compliance investigations of a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year, as outlined in 7 CFR 246.12(j)(4)(i). Pursuant to the authority granted in section 2204(a)(1) of the Families First Coronavirus Response Act (P.L. 116-127), USDA's Food and Nutrition Service (FNS) waives this annual requirement for the current federal fiscal year.

Given the recommendations by the Centers for Disease Control and Prevention to control the impact of the COVID-19 epidemic through means of social distancing, USDA FNS understands that on-site investigations of vendors requiring WIC and vendor employees to interact creates an undesirable risk. Additionally, USDA FNS recognizes that State and local travel restrictions may also affect the State agency's ability to complete compliance investigations. A waiver of the annual minimum requirement for vendor investigations removes a requirement that the State agency cannot currently meet due to COVID-19, and is necessary to ensure participant access to supplemental foods.

This waiver is only applicable to regulations at:

- 246.12(j)(4) which requires that WIC State agencies conduct compliance investigations of a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year.

Please note, while the five percent minimum requirement is being waived, the State agency is still required to identify high risk vendors and complete at least one compliance investigation on a high risk vendor each fiscal year to meet the statutory requirement at 42 U.S.C. 1786(f)(24).

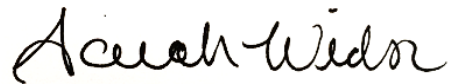
While operating under this waiver, the State agency is expected to ensure continued quality oversight of its authorized vendors, and to begin developing and/or implementing alternative methods to investigate vendors for compliance with program requirements. Within 30 days of the public health emergency and applicable State and local travel orders being lifted, the State

agency must resume compliance investigations. The State agency must notify the Regional Office when it resumes compliance investigations.

The waiver authority of P.L. 116-127 requires, at section 2204(b), that the State agency submit a report which includes a summary of the use of this waiver and a description of whether this waiver resulted in improved services to women, infants, and children. The State agency shall provide the Regional Office with this report no later than 1 year after the date of approval.

USDA FNS appreciates Colorado WIC's commitment to addressing the operational challenges impeding the delivery of WIC benefits to women, infants, and children in need.

Sincerely,

A handwritten signature in black ink that reads "Sarah Widor". The signature is written in a cursive, flowing style.

SARAH WIDOR
Director
Supplemental Food Programs Division