



Food and
Nutrition
Service

April 9, 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 the April 9, 2020 correspondence from North Dakota WIC 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.

North Dakota WIC requests a waiver to 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) approves this waiver request through **May 31, 2020**.

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 onsite investigations of vendors requiring WIC and vendor employees to interact creates an undesirable risk. A waiver of the requirement for onsite vendor monitoring reviews removes a requirement that the State agency cannot currently meet due to COVID-19.

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.

This waiver only allows for cessation of investigative activities through the waiver period. By May 15, 2020, if North Dakota WIC does not believe it will meet the five percent compliance investigation requirement by the end of the fiscal year, the State agency must report to FNS the status of North Dakota WIC's progress towards meeting the requirement, including:

- The number of vendors that must be investigated in fiscal year (FY) 2020.
- The number of vendors that have already received completed investigations in FY 2020.
- The date on which the State agency believes it will be able to resume investigative activities.

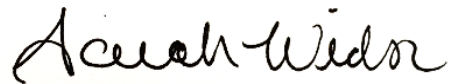
FNS will determine if a waiver from the annual requirement is needed at that time. Please note that while the five percent compliance investigation requirement is being waived until May 31, 2020, the State agency must still identify high risk vendors and complete at least

one compliance investigation on a high risk vendor in FY 2020 to meet the statutory requirement at 42 U.S.C. 1786(f)(24).

The waiver authority of P.L. 116-127 requires, at section 2204(b)(1), 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 North Dakota 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