



Food and
Nutrition
Service

February 2, 2021

Braddock
Metro Center

Ms. Mary Anne Burghardt, Director
Nutrition Services Branch
North Carolina
Department of Health and Human Services
1914 Mail Service Center
Raleigh, NC 29699

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Alexandria
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Dear Ms. Burghardt:

This letter is in response to the January 20, 2021, waiver request from the North Carolina Department of Health and Human Services (NCDHHS). NCDHHS requested to waive the following statutory and regulatory requirements:

Child and Adult Care Food Program (CACFP)

- 42 USC 1766(d)(2)(C)(i) and 7 CFR 226.6(m)(6)(i)-(ii) Frequency and number of required institution reviews;
- 42 USC 1766(d)(2)(B)(i)(I) & 7 CFR 226.16(d)(4)(iii) Frequency and type of required facility reviews;
- 42 USC 1766(d)(2)(B)(ii) & 7 CFR 226.16(d)(4)(iii)(A) At least two of the three reviews must be unannounced; and
- 7 CFR 226.16(d)(4)(iii)(B) At least one unannounced review must include observation of a meal service.

The Food and Nutrition Service (FNS) recognizes that due to Program operation changes as the result of *COVID 19: Child Nutrition Response #59*, allowing the Summer Food Service Program and the National School Lunch Program Seamless Summer Option to continue to operate through June 30, 2021, many Child Nutrition Program monitoring requirements will be difficult for State agencies and local operators to meet. In light of this, FNS will waive program monitoring requirements when a State agency provides a waiver request with an alternative plan that ensures program integrity is continued this year.

In its waiver request, NCDHHS proposed to conduct announced reviews using a risk management criteria in lieu of traditional monitoring procedures. NCDHHS plans to follow all other requirements in the CACFP per regulation. To ensure program integrity in the CACFP, NCDHHS plans to implement procedures to prioritize compliance reviews during fiscal year (FY) 21. The following prioritization criteria will be applied: institutions found to be seriously deficient in FY 20, institutions utilizing COVID-19 waivers, newly approved institutions, high risk institutions, and sponsoring organizations scheduled to be reviewed in FY 21. The State Agency has developed a FY 21 monitoring schedule using prior year compliance logs with a total of 222 reviews assigned. NCDHHS plans to conduct reviews offsite using virtual means and

will provide a record request checklist to the facility based on facility type, including a provision regarding virtual meal observation.

Given the numerous flexibilities and waivers that FNS has provided during the novel coronavirus public health emergency, many of the current monitoring requirements and regulations do not efficiently address the oversight of the Child Nutrition Programs. Since these flexibilities alter the normal operations of the Programs, monitoring strategies must adapt. This waiver request, and activities within, does not increase the overall costs of the Program(s) to the Federal Government, rather it allows the State agency to alter its oversight activities in order to strengthen program integrity and conduct efficient monitoring. Through implementation of this waiver, the State agency will continue to fulfill its oversight responsibilities and provide technical assistance which is critical to ensure that current program requirements are met.

Pursuant to section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), (42 USC 1760(l)), FNS approves NCDHHS's waiver request effective through September 30, 2021. FNS has determined that, in light of the exceptional circumstances of the current novel coronavirus public health emergency and other program flexibilities provided by FNS, waiving the above statutory and regulatory requirements will facilitate NCDHHS's ability to successfully carry out the purpose of the Programs.

NCDHHS's oversight plan, as discussed above, provides assurance that NCDHHS will continue to conduct oversight and provide technical assistance upon approval of this waiver. These actions will help Program operators effectively operate Child Nutrition Programs that meet the nutritional needs of eligible Program participants. In addition, as part of this waiver, NCDHHS must take program integrity measures to identify any misuse of Federal funds and identify fraudulent activities.

The waiver authority at section 12(l)(5) of the NSLA requires that FNS review the performance of any State that is granted a waiver and terminate the waiver if the performance of the State has been inadequate to justify a continuation of the waiver. Beginning on April 1, 2021, FNS is requiring that, for the duration of this waiver, NCDHHS provide the FNS Southeast Regional Office (SERO) a quarterly written report. The report must provide information on how NCDHHS is implementing its oversight plan and quantify the impact of the waiver, as described below.

The report must include:

- A description of how the waiver impacted meal service operations and eligible participants access to nutritious meals and snacks;
- A description of how the waiver has facilitated the State agencies oversight abilities and responsibilities;

- A summary of program integrity measures taken to identify any misuse of Federal funds and identify fraudulent activities, and, if anything was identified, any actions taken;
- A description of how the waiver impacted the quantity of paperwork necessary to administer the Program(s); and
- A summary of any technical assistance measures that were provided.

Should NCDHHS determine this waiver is no longer necessary prior to September 30, 2021, please notify the FNS SERO.

FNS understands that these are challenging times for all and that many State agencies and Program operators face significant resource and time constraints. We are committed to supporting State agencies and Program operators as they strive to run successful programs and meet Child Nutrition Program requirements in order to provide nutritious food to eligible participants.

If you have any questions or concerns, please contact the FNS SERO.

Sincerely,



Jessica Saracino
Acting Director
Program Monitoring and Operational Support Division
Child Nutrition Programs