



Food and  
Nutrition  
Service

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Alexandria, VA  
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July 15, 2020

Mr. David Locklear  
Deputy Director  
Division of Social Services, Economic and Family Services  
North Carolina Department of Health and Human Services  
Hargrove Building  
820 South Boylan Avenue  
Raleigh, North Carolina 27603-2420

RE: Supplemental Nutrition Assistance Program (SNAP) – NC request for  
Flexibility on Administrative Disqualification Hearings (ADH) Time Frames  
due to COVID-19 – Approval

Dear Mr. Locklear:

This letter transmits approval of the North Carolina Department of Health and Human Services request for flexibility on time frames for administrative disqualification hearings in response to State office closures and staff reductions due to COVID-19. The Food and Nutrition Service (FNS) is approving this request under the authority of 7 CFR 272.3(c)(1)(i), which allows FNS to authorize temporary waivers to deviate from specific regulatory provisions when they cannot be implemented due to extraordinary temporary situations.

FNS is approving flexibility on 7 CFR 273.16(e)(2), which states that, within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision, and notify the household member and local agency of the decision. This regulation also states that the accused individual has until 10 days before the scheduled hearing to request a postponement, but the hearing may not be postponed by more than 30 days.

FNS is authorizing the State agency to extend the time frame for the full ADH process to a maximum of 180 days from the time of the hearing notification and the potential postponement period up to 60 days. This flexibility would be allowed for ADH processes initiated by a hearing notice sent before July 1, 2020 and, would have continued beyond July 1 under the standard 90-day time frame, and for any new ADH processes initiated in July and August 2020.

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Approval of this waiver is contingent on the State agency meeting the following conditions. The State agency must notify households affected by this flexibility. All other rights of households and responsibilities of the State agency to ensure full due process, as described in the regulations, remain regardless of a potential extended timeline to meet these requirements. State agencies are expected to maintain ADH hearings as capacity allows and, if a State elects to use this flexibility, they should prioritize the highest dollar value cases during and upon completion of the waiver time period.

If you have questions or need additional information, please contact your Regional Office representative.

Sincerely,

X

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for Ronald K. Ward  
Director, Program Accountability and Administrati...

Enclosure

## **FLEXIBILITY ON TIME FRAMES FOR ADMINISTRATIVE DISQUALIFICATION HEARINGS**

- 1. Regulatory citation:** 7 CFR 273.16(e)(2)
- 2. Regulatory requirements:** Supplemental Nutrition Assistance Program regulations at 7 CFR 273.16(e)(2) state that within 90 days of the date the household member is notified in writing that a State or local administrative disqualification hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and notify the household member and local agency of the decision.
- 3. Description of alternative procedures:** State agencies are allowed flexibility in the time frame for administrative disqualification hearings that have already been held for which the follow up steps are unable to be completed on time due to office closures or staff shortfalls. State agencies will reschedule hearings for which they cannot meet the required time frames.
- 4. Action and reason for approval or denial:** The Food and Nutrition Service (FNS) recognizes the need for flexibilities in response to State office closures and staff reductions due to COVID-19. FNS is approving this request under the authority of 7 CFR 272.3(c)(1)(i), which allows FNS to authorize temporary waivers to deviate from specific regulatory provisions when they cannot be implemented due to extraordinary temporary situations. FNS is approving the flexibility for a period of 2 months, effective July 1, 2020, through August 31, 2020
- 5. Conditions of approval:** FNS is approving this flexibility subject to the following conditions:
  - State agencies will notify households affected by this flexibility
  - State agencies will prioritize completing the process on hearings that have already been held over scheduling new hearings.
  - All rights of households and other responsibilities of the State agency to ensure full due process as described in the regulations around disqualifications for intentional program violations remain in place regardless of a potential delay in completing the process.
  - State agencies will reschedule hearings that have not yet been held for a time when the required time frames can be met.
  - State agencies will adhere to the required time frames for any newly scheduled hearings
- 6. Evaluation Data Requirements:** The State agency must provide to FNS the data and analysis listed below required for evaluation of this flexibility:
  - The number of households whose hearings were already held that were affected by this flexibility and the average delay experienced.
- 7. Expiration date:** August 31, 2020
- 8. Quality control procedures:** Allowing flexibility in hearings time frames should have no impact on quality control procedures.