



Food and
Nutrition
Service

December 23, 2020

Braddock
Metro Center

Dr. Homa Anooshehpoor
Administrator, Food and Nutrition Division
Nevada Department of Agriculture
405 South 21st Street,
Sparks, NV 89431

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Dear Dr. Anooshehpoor:

This letter is in response to the waiver request received November 19, 2020, from the Nevada Department of Agriculture's Food and Nutrition Division (NDA-FND). NDA-FND requested to waive the following statutory and regulatory requirements:

National School Lunch Program (NSLP):

- 42 USC 1769c(b)(1)(C)(i) and 7 CFR 210.18(c)—Timing of administrative reviews and cycle;
- 7 CFR 210.19(a)(5)—Food Service Management Company (FSMC) review cycle requirements;

Summer Food Service Program (SFSP):

- 7 CFR 225.7(d)(2)(ii)(B)—Annually review sponsors whose reimbursements count as half the aggregate from the previous year; and
- 7 CFR 225.7(d)(2)(ii)(D)—Review every sponsor at least once every three years.

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, NDA-FND proposes an alternative oversight plan that includes moving from the three-year NSLP Administrative Review Cycle to a four-year cycle and aligning FSMC reviews with that four-year cycle. Additionally, NDA-FND will extend the SFSP review cycle to a four-year cycle, while waiving the requirement that a State agency to annually review sponsors whose reimbursements count as half the aggregate from the previous year. The alternative procedures will be utilizing virtual monitoring and observation of closed campuses in place of onsite visits for school year 20-21 school nutrition reviews. NDA-FND will continue to provide annual training and technical assistance as needed and will also develop any internal procedures needed for

conducting, completing, and documenting ARs under this waiver. NDA-FND will provide technical assistance and training topics to sponsors by hosting monthly School Nutrition Operator's Forums and by providing technical assistance and training on newly released guidance from USDA and other areas, as requested. For SFSP, sponsors will receive annual training and NDA-FND will provide technical assistance and training on any topic to sponsors at the sponsor's request. All new SFSP sponsors also have the option for monthly recurring technical assistance calls on all program requirements.

To ensure program integrity in NSLP, NDA-FND uses fraud-related prevention and detection activities that include collecting weekly meal counts to help verify monthly meal counts submitted. During administrative reviews, NDA-FND staff request daily and monthly meal counts for each site to verify the claim submitted for the month of review, and during video monitoring, NDA-FND staff count daily meals served and compare these to the typical number of meals served as indicated on production records.

To ensure program integrity in SFSP, NDA-FND's new web-based Nutrition Programs System has business rules in place to protect program integrity. In addition, NDA-FND will randomly require documents to support claims throughout their first year, including meal count records, monitoring records, actual meal service times, etc. In addition, NDA-FND may conduct more frequently due to identified potential integrity or compliance concerns. NDA-FND will review all new SFSP sponsors and/or those that had operational issues in the prior fiscal year.

For the Child and Adult Care Food Program (CACFP), NDA-FND will conduct CACFP reviews as required per regulations; technical assistance and trainings will continue to be conducted.

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 do 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(1) of the Richard B. Russell National School Lunch Act (NSLA), (42 USC 1760(1)), FNS approves NDA-FND's waiver request effective through June 30, 2023, for the administrative review and FSMC-review cycle extensions, and September 30, 2024, for the SFSP-review cycle extension. Please note that this only extends the review cycles and does not waive the requirement itself for review cycle.

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 NDA-FND's ability to successfully carry out the purpose of the Programs.

NDA-FND's oversight plan, as discussed above, provides assurance that NDA-FND 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, NDA-FND 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 January 1, 2021, FNS is requiring that for the duration of this waiver, NDA-FND provide the FNS Western Regional Office (WRO) a quarterly written report. The report must provide information on how NDA-FND 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 NDA-FND determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the FNS WRO.

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 WRO.

Sincerely,

A handwritten signature in black ink that reads "Sarah E. Smith-Holmes". The signature is written in a cursive style with a large initial 'S'.

Sarah Smith-Holmes
Director
Program Monitoring and Operational Support Division
Child Nutrition Programs