

State Waiver Request – Waive QC Refusal to Cooperate

1. **Type of Request:** Initial
2. **Regulatory citation(s):**
 - a. 7 CFR 275.12(g)(1)(ii) Disposition of case review - Quality Control cases reported as not completed – household refuses to cooperate
 - b. 7 CFR 273.2(d)(2) Cooperation with QC Reviewer
3. **State:** Oklahoma
4. **Region:** Southwest (SWRO)
5. **Regulatory Requirements:**
 - a. 7 CFR 275.12(g)(1)(ii) requires notice to households refusing to cooperate with the state quality control reviewer of the penalties for refusing to cooperate with respect to termination and reapplication, and of the possibility that its cases will be referred for investigation for willful misrepresentation. For a determination of refusal to cooperate to be made, the household must be able to cooperate but clearly demonstrate that it will not take actions that it can take and that is required to complete the quality control review process.
 - b. 7 CFR 273.2(d)(2) requires households terminated for refusal to cooperate with a quality control reviewer, in accordance with 7 CFR 275.3(c)(5) and 7 CFR 275.12(g)(1)(ii), that the household be shall not be determined eligible until it cooperates with a State quality control reviewer after 125 days from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a State quality control reviewer during the completed review period, but must provide verification in accordance with paragraph (f)(1)(ix) of this section.
6. **Description of proposed alternative procedures:**
 - a. Oklahoma proposes that all households that refuse to cooperate with a State quality control reviewer during the health crisis regarding COVID-19 be considered as a failure to cooperate. No notices of penalties are sent to the household for refusing to cooperate during the health crisis regarding COVID-19, as such notice could inadvertently cause the household to take measures that could expose themselves to potential health risks to try and obtain cooperation.
 - b. Oklahoma proposes not to terminate households from receiving SNAP due to refusal to cooperate with a State quality control reviewer during the COVID-19 national health emergency regardless of sample month.
7. **Justification for Request:**

As of 04/21/2020, per <https://coronavirus.health.ok.gov/>, Oklahoma has **two thousand eight hundred and seven** (2807) persons testing positive for COVID-19 and **one hundred and sixty-four** (164) deaths. In addition, the State of Oklahoma has declared a state of disaster emergency on 03/15/2020 for all 77 counties.

The Center for Disease Control and Prevention “CDC” Coronavirus Disease 2019 (COVID-19), Prevention and Treatment (<https://www.cdc.gov/coronavirus/2019-ncov/summary.html>) continues to monitor this rapidly evolving situation and states the best way to prevent infection is to avoid being exposed to the virus that causes it.

Due to the severity of COVID-19 health crisis, the State quality control reviewer cannot be certain that a household is in a position that it is able to cooperate as household motivations to protect themselves from exposure can be misconstrued as a demonstration that the household will not take actions that it can take and that is required to complete the quality control review process.

FNS’s request for the State quality control reviewer to notify households of the penalties for refusing to cooperate with respect to termination and reapplication, and of the possibility that its case will be referred for investigation for willful misrepresentation and the State agency taking such action to terminate SNAP benefits or prevent reapplication could cause a client to inadvertently expose themselves to the virus in order to prevent or resolve these actions.

Many offices across the state, including OKDHS, have had to make critical decisions to protect vulnerable populations they serve in the communities and minimize the health risks of the workforce, forcing them to restrict visits, operate by appointment only, or close to the public.

On March 25, the State Board of Education amended its first order to direct all accredited public schools to suspend all in-person and extracurricular activities and close buildings for the remainder of the school year, per <https://sde.ok.gov/sites/default/files/documents/files/20200325124831229.pdf>.

The Governor has since issued an executive order closing all businesses not identified as being within a critical infrastructure sector, restricting restaurants in all 77 counties to provide take-out and delivery options only, postponing elective medical procedures, issued a statewide “Safer at Home” order for adults over the age of 65 and vulnerable individuals with serious underlying medical conditions, prohibiting visitation to nursing homes and long-term care facilities, and limiting social gathers, see <https://www.sos.ok.gov/documents/executive/1926.pdf>.

These restrictions and closures further contribute to a household’s ability to cooperate as necessary contact and verification may prove difficult or impossible to obtain. Attempts by the household could prove futile and could lead to possible exposure to the virus. Requests under the threat of penalty could cause the household to choose between risks to their health versus food security.

8. **Anticipated impact on households and State agency operations:** Oklahoma does not anticipate that this waiver will have any negative impact on the clients or State agency operations. This waiver would provide consistency to each case selected for the QC review process.
9. **Caseload information, including percent, characteristics, and quality control error rate for affected portion:** For March 2020, 269,829 households received SNAP in Oklahoma. Since the QC selection process involves a random sample of all active and negative cases, all households have the potential to be affected by this waiver. For FFY 2019, Oklahoma had 1,102 Active cases selected with 148 error cases reported, with a total incorrect payment error rate of 7.93%.

10. **Anticipated implementation date and time period for which waiver is needed:** Oklahoma requests that the implementation of this waiver to be immediate upon FNS approval and continue through June 30, 2020, or the subsequent extension date. This time period may be shorter if the Center for Disease Control determines the virus is no longer a threat or determines that isolation and social distancing protocols are no longer necessary.
11. **Proposed quality control review procedures:** Refusals to cooperate will be coded as a failure to cooperate. Notice of penalties will not be sent to the household, and the State agency will not take any action to terminate or prevent reapplication due to the household's refusal to cooperate with a State quality control reviewer during this waiver time period.
12. **State agency submitting the waiver request and state contact person:** The state agency submitting this waiver request is the Oklahoma Department of Human Services. The state agency contact person is Sondra Shelby, Quality Management Administrator, Adult and Family Services (405-802-7277 / sondra.shelby@okdhs.org).
13. **Signature and title of requesting official:**



Patrick Klein, Adult and Family Services Director, Patrick.Klein@okdhs.org

14. **Date of State agency's request:** 04/27/2020
15. **Regional Office contact person (to be completed by FNS regional office):**