

970046

SUBJECT: SNAP – Kentucky – ABAWD Waiver 970046 – 7 CFR 273.24

TO: Peggy Fouts, Director
Supplemental Nutrition Assistance Program
Southeast Region

This is in response to the Kentucky State agency's request of October 20, 2008, to extend and modify its current waiver exempting individuals from the work requirements of 7 CFR 273.24 based on insufficient jobs. Under the waiver, residents of the entire State would be exempt from the work requirements of 7 CFR 273.24, based on the State's eligibility for extended unemployment benefits under DOL Trigger Notice No. 2008-37. Based on the FNS informal policy of not approving ABAWD waiver extensions more than 90 days prior to the expiration of a State's existing waiver, we deferred a decision a decision on the State's waiver request. Since the date of the original request we have modified the previous policy and are now approving Statewide waivers based on DOL Trigger Notices. Because of the time that has elapsed since the State's request, we have evaluated the waiver based on the most recent trigger notice issued by the DOL (2009-4, dated February 8, 2009) rather than the trigger notice cited by the State agency in its request.

The FNS response approving the State agency's request is attached. If you have any questions, please contact Larry Tropp at larry.tropp@fns.usda.gov or at (703) 305-2504.

/s/

Angela Kline
Assistant Chief
Certification Policy Branch
Program Development Division

WAIVER RESPONSE

1. **Waiver serial number:** 970046
2. **Type of request:** Modification and Extension
3. **Primary regulation citation:** 7 CFR 273.24(f)
4. **Secondary regulation citation:** 7 CFR 273.24(f)(2)
5. **State:** Kentucky
6. **Region:** SERO
7. **Regulatory Requirements:** The Supplemental Nutrition Program (SNAP) Regulations at 7 CFR 273.24(f) provide that no individual shall be eligible to participate in the SNAP as a member of any household if, during the preceding 36 month period, the individual received SNAP benefits for not less than 3 months (consecutive or otherwise), during which the individual did not work 20 hours or more per week, averaged monthly, participate in and comply with the requirements of a work program for 20 hours or more per week, or participate in and comply with requirements of a program under Section 20 or a comparable program established by the State.

The SNAP Regulations at 7 CFR 273.24(f) also provide that, upon the request of a State agency, the Secretary may waive the applicability of the above provision for any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.

8. **Description of proposed alternative procedures:** Kentucky is requesting a modification and extension of its existing waiver to exempt residents residing in the entire State from the work requirements of 7 CFR 273.24 on the basis of insufficient jobs based on U.S. Department of Labor data indicating that the State qualifies for extended unemployment benefits. In its request the State agency cited U.S. Department of Labor (DOL) Trigger Notice No. 2008-37, effective September 28, 2008, which provided data indicating that Kentucky's total

unemployment rate (TUR) qualified for extended unemployment insurance benefits based on the provisions of 26 U.S.C. 3304 (P.L. 102-318).

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Because several months have elapsed since the State agency originally submitted this waiver request, we are evaluating the request under DOL Trigger Notice No. 2009-4, issued February 8, 2009, which is based on Public Law 110-449. The trigger notice shows that the State's 3-month average total unemployment rate (TUR) at least 6.0 percent, making Kentucky eligible for extended unemployment benefits.

9. **Action and reason for approval or denial:** The 3-month time limit for ABAWDs is waived for residents of the entire State of Kentucky based on insufficient jobs as indicated by the State's eligibility for emergency unemployment benefits under the Unemployment Compensation Extension Act of 2008, Public Law 110-449. Under P.L. 110-449, a State may qualify for emergency unemployment benefits if its 3-month TUR is at least 6.0 percent or if its Insured Unemployment Rate (IUR) is at least 4 percent for the previous 13 weeks. According to Trigger Notice 2009-4, dated February 8, 2009, the State qualifies for emergency unemployment benefits based a 3-month TUR of 7.2 percent.
10. **Regulatory or legislative basis for action:** This waiver is approved pursuant to 7 CFR 273.24(f), and the State's qualification for emergency unemployment insurance benefits under the Unemployment Compensation Extension Act of 2008, (Public Law 110-449).
11. **Conditions and reasons:** None
12. **Information required for extension:** To receive an extension the State agency must provide verifiable data indicating that there are insufficient jobs in the affected areas.
13. **Expiration date:** As requested by the State agency, this waiver will be effective March 1, 2009 and will expire February 28, 2010.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the Kentucky State Agency.
15. **Quality Control Procedures:** None
16. **Date of national office action:**

17. **Date of State agency's request:** October 20, 2008
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18. **Date of regional office transmittal to the national office:** October 24, 2008

19. **Date of regional office transmittal of response to State agency:**