



NOV 21 2008

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

SUBJECT: Utah Able-Bodied Adults without Dependents (ABAWD) Waiver
Temporary Extension

TO: Jody Cornwell, Regional Director
Supplemental Nutrition Assistance Program
Mountain Plains Regional Office

This is in response to your email of August 28, 2008 forwarding the Utah State agency's request to reconsider our denial of their February 15, 2008 request to modify and extend their able-bodied adults without dependents (ABAWD) waiver. The State requested to change the counties covered under their ABAWD waiver and to set the period for this waiver to May 2008 through June 2009, a 14-month period. The Food and Nutrition Service (FNS) is again denying this request. In order to allow the State agency to develop a new ABAWD waiver request, FNS is extending the current waiver through January 30, 2009 and requests that the State submit a waiver modification to FNS for review by December 30, 2009.

We originally denied the State agency's request to modify its current waiver on April 23, 2008 because the State failed to provide sufficient supporting data. Federal rules require 36 months of unemployment data for waiver periods of over 12 months; the Utah State agency provided only 24 months of data in support of its request for a 14 month waiver period. The State is requesting that FNS reconsider our denial and provide retroactive approval of the denied waiver for an amended waiver period of May 2008 to April 2009, a 12-month period.

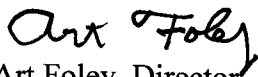
As you are aware, we recently learned that Utah proceeded to implement the February waiver despite the lack of Federal approval and has been operating under the terms of that waiver since May 2008. Utah has stated that they implemented the modification without FNS approval because the State assumed the request would subsequently be approved. In anticipation of this the State agency programmed the modified provisions into their system. After the request was denied, the State agency continued to operate under the modified provisions because it believed that the unemployment data submitted with their request supported the requested counties. The State believed that FNS had only denied the request because the data did not support the 14-month waiver period. However, subsequent analyses of the data also failed to support the specific counties included in the modification request. FNS is again denying Utah's request for retroactive approval and extension of the terms of the waiver that was previously denied, based on the lack of supporting data. Department of Labor (DOL) data provided by the State agency do not support a waiver of ABAWD requirements in the counties identified in the modification through May 2009, as requested by the State. FNS requires that State agencies support their waiver requests with appropriate DOL data so that ABAWD waivers are targeted only to geographic areas that can demonstrate insufficient jobs.

Jody Cornwell, Regional Director
Page 2

Additionally, FNS will not consider any retroactive modification to this waiver. We reserve retroactive approvals for cases in which the delays were caused by the National Office or in which there are significant extenuating circumstances. While we recognize the strain that implementing new systems can put on State resources, the State must be able to operate the program during this period. FNS is concerned that the State agency proceeded to implement the terms of a waiver modification without FNS approval and without the required supporting data and strongly discourages such actions in the future.

The State's current ABAWD waiver expired on September 30, 2009. In order to resolve this issue and to allow the State sufficient time to develop a new waiver modification based on current data, FNS is extending Utah's current approved waiver through January 30, 2009. The State agency must submit a revised waiver request for FNS review by December 30, 2008. The State's new ABAWD waiver will be effective February 1, 2009.

If you have any questions, please contact me.



Art Foley, Director
Program Development Division
Supplemental Nutrition Assistance Program