



DEPARTMENT OF SOCIAL SERVICES

FOOD STAMPS

700 Governors Drive

Pierre, South Dakota 57501-2291

(605) 773-3493

FAX (605) 773-6834

March 25, 1999

Allan C. Nickels
Food and Consumer Services
Food Stamp Program
Regional Director
Mountain Plains Region
1244 Speer Boulevard
Suite 903
Denver, Colorado 80204-3585

Dear Mr. Nickels:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 amends the Food Stamp Act to limit benefits to able-bodied, childless, unemployed adults. PRWORA added Section 6 (o) to the Food Stamp Act to implement the time limited provision. PRWORA also allowed waivers of the time limited provisions via Section 6 (o)(4) of the Act.

Attached please find South Dakota's waiver request to allow us to exempt able-bodied, childless adults from time limited benefits if the individual resides on reservation/tribal government counties.

Prompt approval of the waiver is appreciated.

Thank you.

Sincerely,

Julie Osnes,
Administrator

att.

WAIVER REQUEST

1. **Waiver serial number:** 980061 & 980062
2. **Type of request:** Extension and Modification
3. **Primary regulation citation:** Section 6(o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193.
4. **Secondary regulation citation, if any:**
5. **State:** South Dakota
6. **Region:** MPRO
7. **Regulatory requirements:** Section 6(o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193, provides that no individual shall be eligible to participate in the Food Stamp Program as a member of any household if, during the preceding 36 month period, the individual received food stamp 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; did not participate in and comply with the requirements of a work program for 20 hours or more per week; or did not participate in and comply with requirements of a program under Section 20 or a comparable program established by the State.

Section 6(o) of the Food Stamp Act, as amended by Section 824 of the PRWORA, also provides 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. **Proposed alternative procedures:** We are requesting a waiver of Section 6(o) for all individuals residing on or adjacent to South Dakota's reservation or tribal government land.

We are requesting expansion of the current approval to exempt the entire counties listed below:

Waived Counties Request: Bennett, Buffalo, Charles Mix, Corson, Day, Dewey, Gregory, Hyde, Jackson, Lyman, Marshall, Mellette, Moody, Roberts, Shannon, Todd, Tripp, and Ziebach

9. **Justification for request:**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) allows States to waive specific areas with unemployment rates above 10 percent or areas that do not have a sufficient number of jobs to provide employment for individuals. The law provided FNS authority to waive ABAWD provisions to recognize the challenges that individuals may face in finding and keeping permanent employment. USDA specifically identified rural areas and Indian reservations as areas that should be waived. (12-3-96 Guidance Letter).

As per 142 Congressional Record H7905, Rep. Kasich, one of the sponsors of the amendment, testified: "This provision applies only if the individual is able-bodied, childless, and lives in an area where you are getting food stamps and there are jobs available." Rep. Ney, another sponsor, testified: "...it is an amendment that provides some safety, it provides a safety net, it has the ability to have waivers..." as per H7904. As the testimony indicates, individuals should be protected by a waiver if there are insufficient jobs and workfare slots for them. Individuals on or near reservation/tribal government land must be waived because there are not sufficient jobs or workfare slots available for them.

Reservation/tribal government and adjacent areas are the most economically depressed areas in South Dakota. Some reservation counties are among the poorest in the nation. They are unique from other South Dakota areas because of the scarcity of transportation, jobs, and economic opportunities.

Approximately half of all American Indians reside on reservation and other restricted and trust lands. Approximately 31% of American Indians reside in poverty compared to 13% of the U.S. population. In 1980, 28% of American Indians were living below the poverty level compared to 12% of the U.S. population. Research indicates the decline in American Indian's overall income is because the educational progress has not kept up with the general population, which in turn made it harder for American Indians to remain employed. Another factor could be the decrease in Federal expenditures because employment has historically relied on Federal and Tribal jobs.

We are requesting, therefore, that counties in South Dakota that contain reservation land or are adjacent to reservation land be waived. (Attachment 1)

AREAS WITH UNEMPLOYMENT RATES ABOVE 10 PERCENT:

The 12-3-96 Guidance for States stated "USDA will allow States broad discretion to decide if a waiver request is appropriate for a particular locale or location".

Waivers will be granted for any area in which the average unemployment rate in the preceding 12 months is greater than 10 percent. Based on the Bureau of Labor Statistics data for July, 1997 to June, 1998, the counties of **Dewey**, **Shannon**, and **Ziebach** qualify under this criteria. (Attachment 2)

The guidance also stated a 12 month average of unemployment rates has shortcomings because the 12 month average will mask portions of the year when the unemployment rate rises above or falls below 10 percent, and will require a sustained period of high unemployment before an area would become eligible for a waiver. To avoid those situations and ensure waivers are granted as quickly as possible, states have the option of using a shorter moving average of at least three months. The counties of **Buffalo** and **Corson** qualify under these criteria, having a shorter moving average during 1998 that exceeded 10 percent. (Attachment 3)

AREAS WITHOUT SUFFICIENT JOBS:

The US Department of Labor Employment & Training Administration compiles an annual list of labor surplus areas. As the name implies, these are areas in which it has been determined that the number of workers is relatively larger than the number of jobs available. Using the FY99 ETA list of labor surplus areas, **Mellette** and **Todd** Counties qualify.

Unemployment rates vary but are traditionally higher than non-reservation/tribal government rates. Historically the unemployment rate

has been used to measure the economic well-being of the nation, the state, and substate areas. However it does not always reflect joblessness for all areas. The usefulness of the unemployment rate in reflecting joblessness is directly related to the actual or perceived availability of employment for job seekers in the areas. These rates do not include the discouraged worker who has dropped out of the labor force because there are no jobs. Therefore, the unemployment rate does not provide a very good measure of the lack of sufficient jobs for those wanting to work. This is especially true on reservation and adjacent areas.

The unemployment rate measures the number of residents who are available and looking for work. In many reservation areas, the residents do not look for work because not many jobs are available. When firms are hiring, the word is quickly spread and many residents do apply for those jobs. A better indicator of insufficient jobs for some areas would be a statistic called the jobless rate. The jobless rate indicates the percentage of persons who may apply for jobs if they were available.

The jobless number is calculated by determining the resident population and then subtracting out the residents employed, residents with work disabilities, and students (pre-kindergarten to high school). The jobless rate is calculated by dividing the jobless by the sum of the jobless and the employed. The population number includes all residents and represents a July 1, 1997 estimate, which is the latest county number available from the US Bureau of Census (Attachment 3). The employed number includes all employed residents 16 years and older and is for July 1997. The disabled figure includes those residents 16-64 years of age who are not in the labor force because of a work disability and is from the 1990 Census. The school figure includes all residents who are enrolled in school and is also from the 1990 Census (because more current student enrollment figures are by school district and not county of residence).

In calculating South Dakota's jobless rate, we determined the statewide rate is 29% (Attachment 4). When calculating the jobless rate for reservation/tribal government and adjacent areas based on Dept. of Labor statistics, the average rate is 40% (Attachment 5). Based on the Department of Labor analysis, the reservation/tribal government rate is 11% greater than the rate statewide which is a convincing indicator of the lack of sufficient jobs.

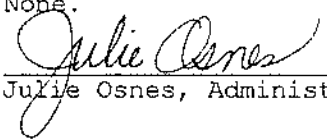
The 1995 Indian Service Population and Labor Force Estimates authored by the US Department of the Interior, Bureau of Indian Affairs further supports the lack of sufficient jobs on South Dakota reservations. To arrive at a joblessness percentage using BIA statistics, the jobless number is calculated showing total population of potential employment individuals [age 16-64] less the number employed, students, and disabled individuals. The jobless rate is calculated by dividing the jobless number by the sum of the jobless and the employed. Please note that the 1995 data is the most recent published data.

BIA agencies collected the data through surveys, school records, employment records, tribal election statistics, tribal membership rolls, BIA service records, and from the tribes. They gathered the data based on American Indians residing on or adjacent to Indian Reservations governed by Federally recognized tribes or who are one fourth degree or more of blood quantum. Their data is, therefore, more reflective of the actual realities and statistics on reservations and adjacent areas. We believe credence should be given to the BIA statistics because they have been reviewed and certified accurate by BIA.

The statistic verify South Dakota reservations and adjacent areas have a scarcity of jobs. The rate meets criteria to prove our reservation/tribal government and adjacent areas do not have sufficient jobs and waiver approval should be granted because each of the reservation areas show a jobless rate in excess of 10%. (Attachment 6)

In comparing State Jobless Rates, BIA Jobless Rates, and the State Unemployment 12 Month Rate, Bennett, Charles Mix, Day, Gregory, Hyde, Jackson, Marshall, Moody, Roberts, and Tripp have average jobless rates in excess of 10%. The jobless rates confirm South Dakota reservation and adjacent areas have a surplus number of employable workers that is extremely larger than the number of job slots available.

Attachment 7, South Dakota Waiver Request Criteria, is a chart compiling the statistics we have gathered through SD Department of Labor, Labor Market Information, Bureau of Labor Statistics, US Census Bureau, and the Bureau of Indian Affairs. The chart conclusively shows that South Dakota reservation counties have an extremely high degree of joblessness compared to non-reservation counties and supports waiving county residents from ABAWD time limits.

10. **Anticipated impact on households and State agency operations:** Approval will have a positive impact on individuals residing on reservation/tribal government land. Waiver approval will also simplify state agency administration.
11. **Caseload information, including percent, characteristics, and quality control rate for affected portion:** We currently have 16,824 households consisting of 44,460 individuals receiving food stamp benefits in South Dakota. [29.1% of these individuals reside on reservation/tribal government or adjacent land.] For Federal Fiscal Year 98, we have identified an average of 1058 individuals who were non-exempt able-bodied adults without dependents (ABAWD) receiving Food Stamp benefits in South Dakota. 648 of this population (61%) reside on reservation/tribal government land and are currently excluded from the time limits based on the initial waiver approval.
12. **Anticipated implementation date and time period for which waiver is needed:** We are requesting approval March 1, 1999 and forward. We also believe approval should be granted for more than one year. The unemployment numbers submitted with each waiver request have remained very stable. We believe the stability of the statistics supports a longer time approval time frame.
13. **Proposed quality control review procedures:** None.
14. **Signature and title of requesting official:** 
Julie Osnes, Administrator
15. **Date of request:** 03-25-99

