

June 28, 2024

David Gagliardi, Regional Director
Supplemental Nutrition Assistance Program
USDA, Food and Nutrition Service
Mid-Atlantic Region
300 Corporate Boulevard
Robbinsville, New Jersey 08691-1598

Dear Director Gagliardi:

The Commonwealth of Pennsylvania is requesting to modify our ABAWD Waiver #2150045 to extend the waiver for 58 counties, two balances of county, and four civil subdivisions for the period from September 1, 2024 – August 31, 2025. This waiver request is labeled “1A”. In addition, the Commonwealth is requesting an additional two-year ABAWD waiver (“1B”) for two civil subdivisions for the period from September 1, 2024 – August 31, 2026. These requests are submitted with the support of Governor Josh Shapiro, the chief executive officer of the Commonwealth of Pennsylvania.

Enclosed please find the justification for the waiving of a 13-jurisdiction contiguous area, a 44-county contiguous area, a three-jurisdiction contiguous area, a three-civil subdivision contiguous area, and a single municipality based upon the following:

- The average, or aggregate average, unemployment rate which exceeded the average U.S. unemployment rate by at least 20 percent.

Enclosed please find the justification for the two-year waiver of two municipalities based upon the following:

- For Lancaster City: Designation as a labor surplus area by the Department of Labor’s Employment and Training Administration for a minimum of 2 consecutive fiscal years (the fiscal year of the request and the fiscal year prior to the request).
- For Lebanon City: An unemployment rate greater than 20 percent above the national average for a 36-month period, ending no earlier than 3 months prior to the request.

In Waiver “1A”, the Commonwealth proposes that FNS approve a waiver for the “balance of county” (BC) geography, combined with adjacent contiguous counties, under the 20 percent criteria. The Commonwealth understands that such a request may be novel, but asserts that FNS should approve such waivers for the following compelling reasons:

1. FNS already permits waivers for areas designated Labor Surplus Areas (LSAs) by the Department of Labor, Employment and Training Administration (ETA). ETA defines BC areas across the nation and calculates the unemployment rates for these areas by disaggregating the BLS labor force and unemployment statistics for all civil subdivisions with a population of 25,000 or more from the countywide totals. Thus, while BC unemployment rates are not BLS statistics themselves, they can readily be



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DEPARTMENT OF HUMAN SERVICES

derived from BLS figures for the relevant counties and civil subdivisions, which meets the requirements of 7 CFR 273.24(f)(2).

2. BCs already qualify for waivers under the criterion at 7 CFR 273.24(f)(3)(ii). However, to allow BCs to *only* qualify under this criterion (and not also the 20 percent criterion) would put rural areas at an unfair disadvantage. The methodology for calculating LSAs considers only one 24-month period, and further requires that areas with an unemployment rate that is 20 percent above the national average must meet an *additional* requirement — a 6% unemployment rate floor. The BC geography was developed by ETA so “areas of counties that do not meet [the] BLS population threshold for keeping employment statistics can be represented.” To require this type of geography to meet the stricter LSA standard while allowing more populous areas (cities with a population of 25,000 or more) to be waived based on the more relaxed 20 percent criterion would be contrary to USDA’s departmental mandate to promote equity and prosperity for rural Americans.
3. Allowing BCs to be combined with adjacent counties treats states more equitably. Some states like Virginia designate cities as “independent cities,” allowing both the city and the adjacent county (which would be a balance of county in most other states) to be treated as two distinct county-equivalents. In the New England states, BLS collects data for civil jurisdictions with populations of less than 25,000 – allowing these states to create waivers by grouping small rural civil jurisdictions in a way which is simply not available to states like Pennsylvania, where BLS only collects data for civil jurisdictions with populations of 25,000 or more. Moreover, allowing states to group BCs with adjacent counties gives states the flexibility to acknowledge rural communities of interest that share economic bonds. For example, while most of Butler County is rural and shares bonds with its neighboring rural counties, Cranberry Township is a very affluent suburb of Pittsburgh. In Waiver 1A, the Commonwealth proposes creating a contiguous area composed of rural Armstrong and Clarion counties, and the balance of Butler County (Butler County except for Cranberry).
4. Under federal regulations, states are given absolute discretion to “define areas to be covered by waivers” (7 CFR 273.24(f)(6)). Moreover, this is rooted in broad statutory authority to waive “*any* group of individuals in the State” (7 U.S.C. §2015(o)(4)(A)). Provided a state can provide data that “correspond[s] to the defined area” — which the Commonwealth can do for BCs using a USDOL-sanctioned methodology — the state should be permitted to receive waivers for any geography or contiguous combination of geographies, since every such permutation represents an area “define[d]” by the state, and a unique “group of individuals.”

The Commonwealth has also attached two contingent waivers. If FNS were to disapprove of Waiver 1A, we would urge you to consider Waiver 2A instead. If FNS were to disapprove of Waiver 1B, we would urge you to consider Waiver 2B instead. We are providing these contingent waivers now out of deference to FNS’s 60-day period for considering waiver requests. We request that whichever waivers FNS approves, it does so in time for a September 1, 2024 implementation.

We have sent, via electronic copy, the analysis and source documents to support this request. This information was compiled from the Pennsylvania Department of Labor and Industry, Center for Workforce Innovation and Analysis, a BLS cooperating agency.



Thank you for your consideration of this waiver request. If you have any questions or concerns, please feel free to contact Ms. Jolene Reid, Director, Bureau of Employment Programs, at: (717) 787-8307.

Sincerely,

A handwritten signature in black ink, appearing to be "Hoa Pham", written over a horizontal line.

Hoa Pham
Deputy Secretary

Enclosures

cc: Mr. Carl Feldman, Director, Bureau of Policy
Ms. Jolene Reid, Director, Bureau of Employment Programs



bcc: Dr. Arkoosh Mr. Serafin
Ms. Pham Mr. Cawthern
Mr. Butson Mr. Fertenbaugh
Mr. Smith Mr. Whorl
Ms. Garvick Ms. Hynes
Mr. Prihar Mr. Walker