

FEB 19 1999

970147

SUBJECT: FSP - Colorado - Request to Waive Section 6(o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

TO: Allan C. Nickels, Regional Director
Food Stamp Program
Mountain Plains Regional Office

This is in response to the Colorado State Agency's request for a waiver for individuals residing on the Southern Ute Indian Reservation and an extension of its current waiver exempting individuals residing on the Ute Mountain Indian Reservation from the work requirement for able-bodied adults without dependents.

Our response is attached. If you have any questions, please contact James A. Walsh of my staff at 703-305-2531.

Signed

Arthur T. Foley,
Director
Program Development Division

Attachment

cc: John Knaus, Maurice Tracy, Fran Heil, All Regions (except MPRO)
Civil Rights, CPB (circulate), Michael DePiro, OAE

FNS:FSP:PDD:CPB:JWalsh:FINA:2/18/99:va

FILE: ABAWDs

DIR: I:970147.MEM(ext)

Symbol	Surname	Date	Symbol	Surname	Date
PDD	Walsh	2-18-99			
CPB	Walsh	2-18-99			
PD	Walsh	2-18-99			

OFFICIAL RECORD COPY

Waiver Response

1. **Waiver serial number:** 970147
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:**
5. **State:** Colorado
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), 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. **Description of proposed alternative procedures:** The State agency is requesting a waiver for individuals residing on the Southern Ute Indian Reservation and an extension of its current waiver exempting individuals residing on the Ute Mountain Indian Reservation from the work requirement provision of Section 6(o) of the Food Stamp Act, as amended by Section 824 of the PRWORA because the unemployment rate on the reservations exceeds 10 percent.
9. **Action and reason for approval or denial:** The State agency did not furnish any data. However, we analyzed unemployment on the reservations using census share data from the Bureau of Labor Statistics (BLS). Based on this data, which indicated an unemployment rate of 12.8 percent for the reservation, we are

approving the waiver for individuals residing on the Ute Mountain Indian Reservation. Data for the Southern Ute Indian Reservation indicated an unemployment rate of 4.8 percent; therefore, we are not approving the waiver for individuals residing on the Southern Ute Indian Reservation

10. **Regulatory or legislative basis for action:** This waiver is approved pursuant to Section 6(o) of the Food Stamp Act, as amended by Section 824 of the PRWORA, which allows the Secretary to waive the applicability of the work requirement provision in Section 6(o) for any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside have an unemployment rate over 10 percent or has insufficient jobs.
11. **Conditions and reasons:** N/A
12. **Information required for extension:** Please submit data that indicates that these Indian Reservations have insufficient jobs.
13. **Expiration date:** This waiver will expire on February 29, 2000.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the Colorado State Agency.
15. **Quality Control Procedures:** There are no special quality control procedures needed in conjunction with this waiver.
16. **Date of national office action:**
17. **Date of State agency's request:** January 14, 1999.
18. **Date of regional office transmittal of response to State agency:**



United States
Department of
Agriculture

Food and
Consumer
Service

Mountain
Plains
Region

1244 Speer Boulevard
Suite 903
Denver, CO 80204-3585

Reply to
Attn. of:

MPFS-300:FS.10-1-1

JAN 28 1999

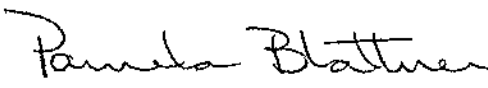
Subject: FSP - Waiver Extension Request - Colorado

To: Arthur T. Foley
Director
Program Development Division
Food Stamp Program
Food and Nutrition Service, USDA
Alexandria, Virginia 22302-1594

Attached is a letter from Colorado requesting an extension of Waiver No. 970147. This waiver allows an exemption for individuals living on the Ute Mountain and Southern Ute reservations in Colorado based on the fact that these areas have an unemployment rate over 10 percent.

Colorado states that statistics from the Bureau of Indian Affairs (BIA) were not included with this extension request since they were unacceptable when the waiver was initially requested February 21, 1997. Since we do not have recent information from the BIA, we are forwarding this request to your office to do the calculations.

Based on the information provided by the State Agency, we are recommending approval. If there are any questions, Jo Ellen Collin may be contacted at (303) 844-0347.


for ALLAN C. NICKELS
Regional Director
Food Stamp Program

Attachment

DD-
P11/4

STATE OF COLORADO

COLORADO DEPARTMENT OF HUMAN SERVICES

1575 Sherman Street
Denver, Colorado 80203-1714
Phone (303) 866-5700
TDD (303) 866-6293
FAX (303) 866-4214



January 14, 1999

Allan Nickels, Director
USDA/FNS
Food Stamp Program
1244 Speer Blvd.
Denver, CO 80204

Dear Mr. Nickels:

Attached is a request for an extension to waiver 970147. The waiver is requesting to exempt the Indian Reservations in Colorado from the ABAWD provisions of PRWORA.

The State of Colorado is not submitting data from the Bureau of Indian Affairs which reflects that the reservations have insufficient jobs for the population. The State was advised that information on determining the unemployment rate on Indian Reservations would be provided by the national office. This information has not been received and so we are unable to provide data related to this request. The State is assuming that this will be calculated at the national level.

If you have any questions please contact me at (303) 866-2538.

Sincerely,

Ron Rice
Food Stamp Program Manager
Office of Self Sufficiency

cc: M. Tandberg
K. Mahoney
B. Warden
M. Westmoreland
R. Shaw

WAIVER REQUEST

1. **Waiver Serial Number** 970147
2. **Type of Request** Extension
3. **Primary Regulation Citation** Section 6 (o) of the Food Stamp Act
4. **Secondary Regulation Citation** NA
5. **State** Colorado
6. **Region** Mountain Plains
7. **Regulatory Requirements**

Food stamp benefits are limited to three months in a 36-month period for able-bodied adults without dependents (ABAWDs) who are not working, participating in a work program for at least 20 hours a week, in workfare, or otherwise exempt.

8. **Proposed Alternative Procedures**

The State of Colorado requests a waiver of Section 6 (o) for all individuals residing on the Colorado Indian reservations tribal government land. This would involve the Southern Ute and Ute Mountain reservations.

9. **Justification**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) allows states to waive specific areas with unemployment rates above 10% or areas that do not have a sufficient number of jobs to provide employment for individuals. The law provided FCS 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.)

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

Unemployment rates vary but are traditionally higher than non-reservation/tribal government land 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.

As stated above, the unemployment rate does not provide an accurate measure of the lack of sufficient jobs for those wanting to work. This is especially true on reservations. The unemployment rate measures the number of residents who are available and looking for work. In many reservations areas the residents do not look for work because not many jobs are available.

The previous submission of this waiver request included statistics from the BIA. BIA agencies collected the data through surveys, school records, employment records, tribal election statistics, tribal membership rolls, BIA service records, and from the tribes. Their data is, therefore, more reflective of the actual realities and statistics on reservations. Colorado believes credence should be given to the use of BIA statistics. The use of BIA statistics was not acceptable until the FCS office received additional Bureau of Labor Statistics (BLS) data which supported the fact that unemployed rate was over 10% on the reservations.

10. Anticipated Impact on Households and State Agency Operation

Approval will have a positive impact on individuals residing on reservations/tribal government land. Waiver approval will also simplify state agency administration.

11. Caseload Information Including Percent, Characteristics, and Quality Control Error Rate for Affected Portion

Colorado currently has 80,000 households consisting of 189,000 individuals receiving food stamp benefits statewide. Individuals from reservations who would be considered a nonexempt ABAWD, equates to less than .1% of the total caseload.

12. Anticipated implementation Date and Time Period for which Waiver is needed.

Colorado is requesting an indefinite approval of this WAIVER. This would allow an update to the waiver if the situation should change. Colorado also requests up-to-date statistics from the BLS when FCS receives the update.

13. Proposed Quality Control Review Procedures

The waiver does not affect quality control review procedures.

14. Signature and Title of Requesting Official

Ron Rice, Manager
Food Stamp Program Section
Office of Self-Sufficiency

15. Date of Request

Reservation	State	93 BIA Totals			95 BIA Totals		
		16-64 Pop.	Employed	E/P Ratio	16-64 Pop.	Employed	E/P Ratio
Southern Ute	CO	1469	432	29.4%	1080	290	26.9%
Ute Mountain	CO	807	663	82.2%	807	663	82.2%

BLS Census-Share Generated data

	ST	COUNTY	CLF	EMP	UMP	UR
1997-98	CO	MONTEZUMA	11270	10557	714	6.4
24 MOUNT ACS.	CO	La PLATA	24602	23552	1073	4.4
Ute Mountain Census-Share Ratios (Montezuma Co.)				0.047873	0.104135	
Ute Mountain Census-Share Ratios (La Plata Co.)				0	0	
EMP,UMP estimates				505	74	
Est. CLF			580			
Est. UR						12.8

BLS Census-Share Generated data

	ST	COUNTY	CLF	EMP	UMP	UR
1997-98	CO	ARCHULETA	3961	3760	200	5.1
24 MOUNT ACS.	CO	La PLATA	24602	23552	1073	4.4
	CO	MONTEZUMA	11270	10557	714	6.4
Southern Ute Census-Share Ratios (Archuleta Co.)				0.123077	0.07907	
Ute Mountain Census-Share Ratios (La Plata Co.)				0.198128	0.223762	
Ute Mountain Census-Share Ratios (Montezuma Co.)				0	0	
EMP,UMP estimates				5129	256	
Est. CLF				5385		
Est. UR				4.8		

County	Month	1997				1998			
		CLF	EMP	UMP	UR	CLF	EMP	UMP	UR
Archuleta	Jan	3722	3413	309	8.3	4010	3766	244	6.1
	Feb	3596	3294	302	8.4	3995	3758	237	5.9
	Mar	3636	3384	252	6.9	4043	3790	253	6.3
	Apr	3551	3358	193	5.4	3987	3796	191	4.8
	May	4014	3848	166	4.1	3877	3694	183	4.7
	Jun	4136	3938	198	4.8	4040	3813	227	5.6
	Jul	4157	3991	166	4	4038	3844	194	4.8
	Aug	4200	4016	184	4.4	4003	3835	168	4.2
	Sep	4121	3951	170	4.1	3910	3767	143	3.7
	Oct	4121	3929	195	4.7	3936	3802	134	3.4
	Nov	4086	3872	214	5.2	3914	3779	135	3.4
	Dec	4061	3857	204	5	3901	3752	149	3.8

	Month	1997				1998			
		CLF	EMP	UMP	UR	CLF	EMP	UMP	UR
La Plata	Jan	23174	21880	1294	5.6	25433	24187	1246	4.9
	Feb	23167	21898	1271	5.5	25340	24142	1198	4.7
	Mar	23338	22076	1262	5.4	25392	24119	1273	5
	Apr	22841	21842	999	4.4	24176	23656	1060	4.3
	May	23288	22296	992	4.3	24803	23750	1053	4.2
	Jun	24490	23193	1297	5.3	25308	24011	1297	5.1
	Jul	24537	23567	970	4	25379	24357	1022	4
	Aug	24381	23388	993	4.1	25572	24519	1053	4.1
	Sep	24346	23440	906	3.7	25139	24171	968	3.9
	Oct	24667	23818	849	3.4	25388	24382	1006	4
	Nov	24559	23626	933	3.8	25439	24475	964	3.8
	Dec	24955	24044	911	3.7	25342	24412	930	3.7

	Month	1997				1998			
		CLF	EMP	UMP	UR	CLF	EMP	UMP	UR
Montezuma	Jan	10302	9252	1050	10	11018	10184	834	7.6
	Feb	10298	9319	979	9.5	11144	10217	927	8.3
	Mar	10438	9555	883	8.5	11118	10240	878	7.9
	Apr	10633	9899	734	6.9	11012	10297	715	6.5
	May	11403	10802	601	5.3	11258	10515	743	6.6
	Jun	11869	11002	867	7.3	12036	11287	749	6.2
	Jul	11955	11273	682	5.7	11938	11311	627	5.3
	Aug	11954	11333	621	5.2	12017	11475	542	4.5
	Sep	11637	11077	560	4.8	11777	11245	532	4.5
	Oct	11351	10854	497	4.4	11470	10925	545	4.8
	Nov	11102	10487	615	5.5	11188	10539	649	5.8
	Dec	10853	10188	665	6.1	10719	10088	631	5.9