

970142 & 970170

SUBJECT: FSP - Minnesota - Request to Extend Waivers of 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: David M. Mikelson, Regional Director  
Food Stamp Program  
Midwest Region

This is in response to your memorandum of March 3, 1998, forwarding the Minnesota State Agency's request to extend its waivers of Section 6(o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The State agency is requesting extensions of two waivers exempting residents of Indian Reservations. Under waiver no. 970142, residents of the Boise Forte (Nett Lake), Fond du Lac, Grand Portage, Leech Lake, Prairie Island, Red Lake and White Earth Reservations are exempt based on unemployment rates exceeding 10 percent. Under waiver no. 970170, residents of the Lower Sioux Reservation are exempt based on insufficient job opportunities on the reservation. The waiver was originally approved based on a low employment to population ratio for the reservation using data from the Bureau of Indian Affairs (BIA). The request for an extension is based on an unemployment rate of 8.8 percent for the reservation as determined through the use of census share ratios.

Our response approving both of the waivers is attached. If you have any questions, please contact Larry Tropp of my staff at 703-305-2437.

Arthur T. Foley  
Director  
Program Development Division

#### Attachments

cc: Joseph Pinto, Reetha Oliver, John Knaus , Joe Shea, Maurice Tracy , All Regions (except MWRO), Civil Rights, CPB (circulate), Michael DePiro, OAE

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## Waiver Response

1. **Waiver serial numbers:** 970142 and 970170
2. **Type of request:** Extension and Amendment
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:** Minnesota
6. **Region:** MWRO
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; did not participate in and comply with requirements of a program under Section 20 or a comparable program established by the State; or received benefits because they were exempt from these requirements.

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 Minnesota State Agency is requesting extension of its waivers exempting individuals residing on eight Indian Reservations. Under waiver no. 970142, residents of the Boise Forte (Nett Lake), Fond du Lac, Grand Portage, Leech Lake, Prairie Island, Red Lake and White Earth Reservations are exempt based on unemployment rates exceeding 10 percent. Under waiver no. 970170, residents of the Lower Sioux reservation are exempt from the requirements of Section 6(o) based on insufficient jobs for residents of the reservation.

9. **Action and reason for approval or denial:** We are approving the State agency's request to extend both of its current waivers exempting residents of Indian Reservations from the work requirements of Section 6(o) of the Food Stamp Act.

**Waiver no. 970142.** We are approving the State agency's request to exempt residents of the Boise Forte (Nett Lake), Fond du Lac, Grand Portage, Leech Lake, Prairie Island, Red Lake and White Earth Reservations are exempt based on unemployment rates exceeding 10 percent as calculated through the use of census share ratios. The unemployment rates (averaged for the period December 1996 through November 1997) for the reservations are shown in the following table. The rates include all of the counties within the respective reservations.

| <b>Reservation</b>          | <b>Average Unemployment Rate</b> |
|-----------------------------|----------------------------------|
| Boise Forte (Nett Lake)     | 17.3%                            |
| Fond du Lac                 | 11.7%                            |
| Grand Portage               | 11.2%                            |
| Leech Lake                  | 12.5%                            |
| Lower Sioux                 | 8.8%                             |
| Prairie Island              | 46.2%                            |
| Red Lake                    | 17.4%                            |
| Vermillion Lake (Nett lake) | 29.4%                            |
| White Earth                 | 12.1%                            |

**Waiver no. 970170.** The State agency has requested this waiver based on insufficient job opportunities for residents of the reservation based on an unemployment rate of 8.8 percent, calculated through the use of census share ratios. Although we normally require data for a 2-year period (data for only 1 year was provided) when the basis of waiver request is insufficient jobs for an area not designated as a Labor Surplus Area, we have elected to approve this extension for the following reasons: First, the data provided, although it is only for a 1-year period, clearly indicates unemployment well in excess of 20 percent above the national average. Secondly, the employment to population ratio based on data from the Bureau of Indian Affairs (BIA) for calendar year 1995, the most recent period for which data is available, indicates a ratio of 36 percent compared with the current national average of 64 percent. Finally, based on the estimate provided by your office, only about 10 individuals would be affected by the waiver. We wish to emphasize that our approval of this waiver is an exception to our general policy and that for future waivers based on insufficient jobs, unemployment data for a 2-year period will be required.

10. **Regulatory or legislative basis for action:** The 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 has an unemployment rate over 10 percent or has insufficient jobs.

11. **Conditions and reasons:** N/A
12. **Information required for extension.** To receive an extension the State agency shall provide unemployment rate data for the affected areas compiled by its BLS cooperating agency. To receive an extension of waiver no. 970170, the State agency must provide data indicating that the Lower Sioux reservation continues to experience a low employment to population ratio or has experience unemployment greater than 20 percent above the national average for a recent 2-year period.
13. **Expiration date:** Both waivers are effective April 1, 1998, and will expire on March 31, 1999.
14. **Limitation on regional office approval of like requests:** Approval of this waiver is limited to the Minnesota State Agency.
15. **Quality Control Procedures:** N/A
16. **Date of national office action:**
17. **Date of State agency's request:** February 18, 1998
18. **Date of regional office transmittal of response to State agency:**
19. **Actual Implementation Date:**