

MAR 16 1999

970125

SUBJECT: FSP - North Dakota - 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 Region

This is in response to the North Dakota State Agency's request for a waiver 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. This section limits the receipt of food stamp benefits to 3 months within a 3-year period for able-bodied adults who are not working (or participating in a work program) 20 hours or more each week or participating in workfare.

Our response is attached. We are approving a waiver for individuals residing in the counties of Benson and Rolette based on their designation as Labor Surplus Areas. The State agency has also expressed interest in continuing to exempt residents of Mountrail County. Although we are unable to approve a waiver for that county based on insufficient jobs as indicated by LSA designation, we approved the an exemption for the county based on unemployment greater than 20 percent above the national average for the 4-year period ending December 31, 1998. We elected a use a 4-year period rather than the normal 2-year based on our determination that the unemployment rate of 4.2 percent for 1997 was an aberration which distorted the actual nature of the labor market in the county. Our rationale is discussed in more detail in the attached waiver response.

If you have any questions, please contact Larry Tropp of my staff at (703) 305-2437.

Arthur T. Foley

Arthur T. Foley
Director
Program Development Division

Attachments

cc: SAB - PAD Bob Dalrymple - OAE
John Knaus Mike DePiro - OAE
Maurice Tracy Civil Rights
All Regions (except MPRO)

FCS:FSP:PDD:CPB:Ltropp:final:3/15/99:va
DIR: I:CPB:970125- memo - 1999 extension

Symbol	Surname	Date	Symbol	Surname	Date
PD 51		3/15/99			
PD 110	W. S. Knaus	3/16/99			
PD 110	W. S. Knaus	3/16/99			

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Waiver Response

1. **Waiver serial number:** 970125
2. **Type of request:** Extension
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:** North 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), 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 an extension and modification of waiver no. 970125. Under the current waiver individuals residing in Benson, Rolette and Mountrail Counties are exempt from the time limits of Section 6(o) of the Food Stamp Act based on the designation of the counties as Labor Surplus Areas (LSAs) by the Employment and Training Administration (ETA) of the Department of Labor.

Although the State agency has expressed interest in continuing to exempt residents of Mountrail County, based on high unemployment on the Ft. Berthold Indian Reservation, the extension request is limited to Benson and Rolette Counties since Mountrail County is not a designated LSA for Fiscal Year 1999.

9. **Action and reason for approval or denial:** We are approving the State agency's request to exempt residents of Rolette and Benson Counties based on the designation those counties as LSAs. Based on the State agency's desire to continue to exempt Mountrail County we analyzed the average 4-year unemployment rate for the county to determine if it exceeded the national average by greater than 20 percent. Although we normally use the averaged unemployment rate for a recent 2-year period in determining whether an area qualifies for a waiver based on insufficient jobs, we elected to use a 4-year average rather than the 2-year average rate since the unemployment rate of 4.2 percent for calendar year 1997 appears to be an aberration resulting an unusually low 2-year average for 1997 and 1998. Our analysis indicates an average unemployment rate of 6.7 percent for the 4 years ending December 1998. This contrasts with a national average of 5.1 percent for the same period. Based on an unemployment rate (6.7 percent) which exceeds 120 percent of the national average (6.1 percent) the State agency may continue to exempt residents of Mountrail County. We also note that the unemployment rate for residents of the Fort Berthold Reservation, calculated using census share ratios, was approximately 8.8 percent for calendar year 1998. Tables showing the applicable unemployment rate data are attached.
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 has an unemployment rate over 10 percent or insufficient jobs.
11. **Conditions and reasons:** N/A
12. **Information required for extension:** Please submit supporting data which indicates these areas have insufficient jobs.
13. **Expiration date:** This waiver is extended for a period of 1 year and will expire on March 31, 2000.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the North Dakota 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 27, 1999.
18. **Date of regional office transmittal of response to State agency:**