



United States
Department of
Agriculture

SEP 30 2010

Food and
Nutrition
Service

970152

3101 Park
Center Drive

SUBJECT: Nebraska – ABAWD Request to Waive 7 CFR 273.24

Alexandria, VA
22302-1500

TO: Jody Cornwell
Regional Director
Supplemental Nutrition Assistance Program
Mountain Plains Region

The Food and Nutrition Service (FNS) has reviewed Nebraska's June 29, 2010, request to extend and modify waiver #970152 to exempt individuals who reside in the Omaha and Winnebago Reservations for 2 years based on Thurston County's designation as a Labor Surplus Area by the United States Department of Labor for fiscal years 2009 and 2010.

Based on our review of the data provided with the waiver request, FNS finds that the request is consistent with Department of Labor Bureau of Labor Statistics data and that those areas will not be subject to the ABAWD time limit for the effective dates described further herein. The waiver is applicable to the Omaha and Winnebago Reservations. FNS is approving the waiver request for two years, from October 1, 2010, to September 30, 2012, as described in the attachment.

If you have any questions, please contact Jessica Becker at jessica.becker@fns.usda.gov or at (703) 305-2446.


for Angela Kline
Chief
Certification Policy Branch
Program Development Division

Attachment

WAIVER RESPONSE

1. **Waiver serial number:** 970152
2. **Type of request:** Extension and Modification
3. **Primary regulation citation:** 7 CFR 273.24(f)
4. **Secondary regulation citation:** N/A
5. **State:** Nebraska
6. **Region:** Mountain Plains
7. **Regulatory requirements:** 7 CFR 273.24 provides that no individual shall be eligible to participate in the Supplemental Nutrition Assistance Program (SNAP) 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 of the Food and Nutrition Act or a comparable program established by the State; or was exempt from these requirements.

7 CFR 273.24(f) also provides that, upon the request of a State agency, the Food and Nutrition Service (FNS) 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.

FNS imposes strict criteria for the approval of two-year waivers that target areas that qualified for ABAWD waivers for two consecutive past years. In order to be eligible for a 2-year waiver, the affected area must meet at least one of the following criteria indicating that the area has experienced and will probably continue chronic high unemployment:

- An unemployment rate greater than 10 percent for the 2-year period immediately prior to the request;
- Designation as a labor surplus area (LSA) by the Department of Labor's Employment and Training Administration (DOLETA) for a minimum of two consecutive fiscal years (the year of the request and the fiscal year prior to the request); or

- An unemployment rate greater than 20 percent above the national average for a 36-month period, ending no earlier than three months prior to the request (please note that this time frame is different and more restrictive than the 24-month time frame used for waivers in which the State is requesting a waiver for a one-year period).

8. **Proposed alternative procedures:** The Nebraska State Agency is requesting a two-year extension of its waiver to continue to exempt from ABAWD requirements individuals residing on the Omaha and Winnebago Reservations. Thurston County has been designated a Labor Surplus Area (LSA) by the United States Department of Labor for both fiscal years 2009 and 2010 and thus is eligible for a two-year waiver. These two reservations make up an overwhelming majority of the population within Thurston County.

9. **Action and reason for approval or denial:**

We are approving the waiver as requested. The overwhelming majority of the area and population of both the Omaha and Winnebago Reservations are located within Thurston County, which has been designated by the Employment and Training Administration of Department of Labor (DOL) as a Labor Surplus Area (LSA). Based on the designation of the county as an LSA, we are approving exemptions for both reservations. Although very small portions of both reservations are located in other counties (the Omaha in Burt and Cuming Counties, the Winnebago in Dixon County), we consider these areas so small that they would not affect the eligibility of the reservations as a whole for exemptions.

Based on data from the 2000 census, the Native American populations of Burt, Cuming, and Dixon Counties are 1.1 percent, 0.6 percent, and 1.2 percent of the total populations of the respective counties. We note that the State agency request listed these percentages at 1.1, 0.3 and 0.5 percent, respectively. We believe that this discrepancy is the result of the State agency's reliance on 2000 census data used in previous requests to extend and modify waiver number 970152 (such as a 2006 request) that has since been updated. We believe that 1.1, 0.6 and 1.2 percent are more accurate depictions of the Native populations of Burt, Cuming and Dixon Counties, respectively, but that the discrepancy between the State agency's percentages and the updated percentages do not have an impact on the approval of this waiver.

10. **Regulatory or legislative basis for action:** The waiver is approved pursuant to 7 CFR 273.24(f).

11. **Conditions and reasons:** None.

12. **Information required for extension:** To receive an extension, the State agency must provide data or other information as described in 273.24(f)(2) and (f)(3). If Nebraska wishes to receive an extension based on unemployment rates, they must provide FNS with all supporting documentation, including spreadsheets in digital form.
13. **Expiration date:** The waiver is effective beginning on October 1, 2010 and will expire on September 30, 2012.
14. **Limitation on regional office approval of like requests:** Approval of this waiver is limited to the Nebraska State agency.
15. **Quality control procedures:** N/A
16. **Date of national office action:** September 30, 2010
17. **Date of State agency's request:** June 29, 2010
18. **Date of regional office transmittal of request to national office:** July 29, 2010
19. **Date of regional office transmittal of response to State agency:**
20. **Actual implementation date:**