

APR 22 1999

970135, 970136, 970199

SUBJECT: FSP - New Mexico - 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: Ester Phillips, Regional Director
Food Stamp Program
Southwest Region

This is in response to the New Mexico State Agency's request for an extension and modification of waivers number 970135, 970136, and 970199 which exempted individuals residing in a number of counties, reservations, and pueblos from the work requirement for able-bodied adults without dependents.

Our response is attached. If you have any questions, please contact Moira Johnston at 703-305-2515.

Arthur T. Foley

Arthur T. Foley
Director
Program Development Division

Attachment

cc: Rethea Oliver, Maurice Tracy, All Regions (except SWRO), Civil Rights
CPB (circulate)

FNS:FSP:PDD:MJohnston

FILE: ABAWDS

DIR: I:970135ext99 - Memo, 970136ext99, 970199ext99

Symbol	Surname	Date	Symbol	Surname	Date
DD	Moira Johnston	4/22/99			

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Waiver Response

1. **Waiver serial number:** 970135
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:** New Mexico
6. **Region:** SWRO
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 of its waiver for individuals residing in Catron, Guadalupe, Luna, Mora, and Taos Counties. All five counties continued to have unemployment rates in excess of 10 percent for calendar year 1998. Three other counties had been included in this waiver, Cibola, Rio Arriba and San Miguel, however their unemployment rates dropped below 10%. Therefore, they are not included in the request for extension of this waiver, but they are included in the request for extension of waiver no. 970136 because they are Labor Surplus Areas (LSAs).

9. **Action and reason for approval or denial:** The State agency submitted unemployment data for 1998. However, it did not identify where the unemployment data came from. Therefore, we consulted the New Mexico Economic Development Department's web site to find the most current unemployment data.

<u>COUNTY</u>	<u>12 MONTH AVERAGE UNEMPLOYMENT</u> <u>RATES ENDING DECEMBER 1998</u>	
	<u>State Agency</u>	<u>Dept. of Eco. Dev.</u>
Catron	11.5%	12.0%
Guadalupe	10.4%	10.1%
Luna	26.9%	25.9%
Mora	20.1%	19.8%
Taos	12.8%	12.3%

Based on this data we are approving the State agency's request to exempt individuals who live in the following counties from the work requirement provisions of Section 824 of the PRWORA: Catron, Guadalupe, Luna, Mora, and Taos Counties (including Picuris and Taos Pueblos in Taos County).

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.
11. **Conditions and reasons:** N/A
12. **Information required for extension:** For those counties which are exempt based on 10 percent unemployment, please submit supporting unemployment data which relies on standard BLS data and/or methods.
13. **Expiration date:** This waiver is approved retroactive to April 1, 1999, and will expire on March 31, 2001.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the New Mexico 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:** March 4, 1999

18. **Date of regional office transmittal of response to State agency:**

Waiver Response

1. **Waiver serial number:** 970136
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:** New Mexico
6. **Region:** SWRO
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 extension of the waiver of Section 824 of the PRWORA, which allows New Mexico to waive the work requirement in areas where there are not sufficient jobs.

The current waiver includes counties which were identified as Labor Surplus Areas (LSAs) for fiscal year 1998 and continue to be LSAs for fiscal year 1999 as identified by the Department of Labor: Chaves, Colfax, Dona Ana, Eddy, Grant, Lincoln, McKinley, San Juan, Socorro, and Torrance Counties. Four additional counties were identified as LSAs for fiscal year 1999 which the State agency is requesting to add to this waiver: Rio Arriba, Sandoval, Cibola and

Otero. The State agency is requesting a waiver for all the counties mentioned above.

The waiver currently exempts individuals who live in the following reservations and pueblos from the work requirement provisions of Section 824 of the PRWORA because they are located in counties which have more than 10 percent unemployment or are LSAs: Alamo Band-Navajo Indian Reservation (Socorro County), Navajo Indian Reservation (San Juan and McKinley Counties), the Ute Mountain Indian Reservation (San Juan County), and the Zuni Indian Reservation (Catron, Cibola, and McKinley Counties). The State agency is requesting an exemption for individuals who live in the above mentioned reservations. In addition, it is requesting to exempt individuals living in the following reservations which lie within counties that have been designated LSAs for fiscal year 1999: Acoma, Laguna and Canocito (Cibola County), Mescalero Apache Reservation (Otero County), Jicarilla Reservation, San Juan and Santa Clara Pueblos (Rio Arriba County), and Cochiti, Jemez, Laguna, Sandia, San Felipe, Santa Ana, Santo Domingo and Zia Pueblos (Sandoval County).

9. **Action and reason for approval or denial:** Based on the information the State agency submitted and the list of LSAs generated by the Department of Labor we are approving an exemption for individuals residing in the following counties: Chaves, Colfax, Dona Ana, McKinley, San Juan, Socorro, Rio Arriba, Sandoval (less Rio Rancho City), Grant, Lincoln, Torrance, Cibola, Otero, and Carlsbad City in Eddy County. We are not approving an exemption for Rio Rancho City located in Sandoval County, and the balance of Eddy County. Neither of these areas were designated by the Department of Labor as LSAs

We are also extending the waiver to exempt individuals who live in the following reservations and pueblos from the work requirement provisions of Section 824 of the PRWORA because they are located in counties which have been designated as LSAs: Alamo Band-Navajo Indian Reservation (Socorro County), Navajo Indian Reservation (San Juan and McKinley Counties), Ute Mountain Indian Reservation (San Juan County), Zuni Indian Reservation (Catron, Cibola, and McKinley Counties), Acoma, Laguna and Canocito (Cibola County), Mescalero Apache Reservation (Otero County), Jicarilla Reservation, San Juan and Santa Clara Pueblos (Rio Arriba County), and Cochiti, Jemez, Laguna, Sandia, San Felipe, Santa Ana, Santo Domingo and Zia Pueblos (Sandoval County - none of which are located in Rio Rancho City).

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 insufficient employment.

11. **Conditions and reasons:** N/A
12. **Information required for extension:** For those counties which are exempt based on insufficient employment, please submit supporting data which indicates insufficient jobs.
13. **Expiration date:** This waiver is approved retroactive to April 1, 1999, and will expire on March 31, 2001.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the New Mexico 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:** March 4, 1999.
18. **Date of regional office transmittal of response to State agency:**

Waiver Response

1. **Waiver serial number:** 970199
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:** New Mexico
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Section 6(o) of the Food Stamp Act, as amended by Section 824 of 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 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.

8. **Description of proposed alternative procedures:** The State agency requested extension of waiver number 970199 for certain reservations and pueblos. This waiver currently includes the following reservations and pueblos: Isleta Pueblo, Jicarilla Reservation, Jemez Pueblo, Laguna Pueblo, Mescalero Apache Reservation, Nambe Pueblo, Santa Clara Pueblo, Tesuque Pueblo and Zia Pueblo. These areas were approved for a waiver on the basis of either unemployment rates over 10% or unemployment rates 20% above the national average for a twenty-four month period.

The Jicarilla Reservation, the Jemez Pueblo, the Laguna Pueblo, the Mescalero Apache Reservation, the Santa Clara Pueblo and the Zia Pueblo, are now being included in waiver number 970136 because they lie entirely within counties that have been designated as Labor Surplus Areas by the Department of Labor. Therefore, the State agency's request for extension of waiver 970199 includes only Isleta Pueblo, Nambe Pueblo, Tesuque Pueblo. The State agency is also including a new request for San Ildefonso Pueblo.

The State agency submitted data from the Department of Labor which indicates these four areas had unemployment rates above the national average for February 1999. The national unemployment rate for February 1999 was 4.4%. According to the State agency, the unemployment rates for the four areas for February 1999 were as follows: Isleta Pueblo - 4.7%, Nambe Pueblo - 6.0%, Tesuque Pueblo - 8.2%, and San Ildefonso Pueblo - 10.1%.

9. **Action and reason for approval or denial:** We were unable to make a determination as to whether or not to approve an extension of this waiver based on the unemployment information the State agency submitted. Therefore, we used data from the Bureau of Labor Statistics (BLS), and an approved BLS method, to determine whether any of the areas had unemployment rates 20% above the national average for a recent consecutive twenty-four month period which would indicate insufficient jobs. The average unemployment rate for the nation for the twenty-four month period of January 1997 through December 1998 was 4.7%. Therefore, in order to meet the criteria, the four areas must have had an average unemployment rate of 5.6% ($4.7 \times 1.2 = 5.6$) for the same period of time.

PUEBLO	COUNTY	EMP	UMP	UR
Isleta	Bernalillo	275,560	12,509	
Census Share Ratios		0.003754	0.007856	
	Valencia	27099	1395	
Census Share Ratios		0.019429	.014443	
Est. EMP, UMP, UR		1561	118	7.0
Nambe	Santa Fe	61,244	2452	
Census Share Ratios		0.012861	0.016896	
Est. EMP, UMP, UR		788	41	4.9
San Ildefonso	Santa Fe	61,244	2452	
Census Share Ratios		0.014014	0.015717	
Est. EMP, UMP, UR		858	39	4.3
Tesuque	Santa Fe	61,244	2452	
Census Share Ratios		0.007543	0.009823	
Est. EMP, UMP, UR		462	24	4.9

Based on this information, we are approving an extension of this waiver for Isletta Pueblo only since it's unemployment rate for the twenty-four month period of January 1997 through December 1998 was 7.0%, which was more than 20% above the national average for the same period. We are not approving an extension of the waiver for Nambe or Tesuque Pueblos, nor are we approving a new waiver for San Ildefonso Pueblo, since their unemployment rates were below the national average for that period.

10. **Regulatory or legislative basis for action:** This waiver is approved for Isletta Pueblo 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:** Please submit supporting data which indicates insufficient jobs.
13. **Expiration date:** This waiver is approved retroactive to April 1, 1999 and will expire on March 31, 2001.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the New Mexico 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:** March 4, 1999.
18. **Date of regional office transmittal of response to State agency:**