

March 2, 1998

980061 & 980062

SUBJECT: FSP - South 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 Regional Office

This is in response to your memorandum of January 28, 1998, forwarding the South Dakota State Agency's request to extend and modify its current 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. The State agency is requesting an exemption to exclude individuals residing on Indian reservations in 18 counties. Although the purpose of this waiver is to exclude individuals residing on Indian reservations, the State agency is requesting exemptions for the entire counties. We are designating the State agency's extension request as two separate waivers. No. 980061 will be used to designate exemptions for areas based on unemployment rates exceeding 10 percent; waiver no. 980062 will be used to designated exemptions for areas based on insufficient jobs.

We are approving the State agency's request for a waiver for individuals residing in Buffalo, Shannon, Dewey, and Corson Counties based on unemployment rates greater than 10 percent. These counties are included in waiver no. 980061. We are also approving exemptions for the entire counties of Ziebach and Todd based on their designation as LSAs. These counties are included in waiver no. 980062.

Our approval for the other counties included in the waiver request is limited to the Indian reservations located within the counties rather than the entire counties. Although we are unable to approve a waiver for areas in those counties outside of reservation boundaries, the State agency may want to exempt the individuals in these areas by using its authority under Section 1001 of the Balanced Budget Act, which permits State agencies to exempt from the time limits of Section 6(o) up to 15 percent of its "covered individuals." For more information regarding this exemption authority, please refer to our February 9, 1998, guidance.

These exempt reservations include the Crow Creek Reservation in Hughes and Hyde Counties, the Flandreau Reservation in Moody County, the Pine Ridge Reservation

in Jackson County, and the Lower Brule Reservation in Lyman and Stanley Counties. Approval for these reservations is based on census share ratio data indicating unemployment in excess of 10 percent. These reservations are included in waiver no. 980062. Since their unemployment rates are based on census share ratios rather than data directly from the Bureau of Labor Statistics, we have classified the basis of approval for the above reservations to be insufficient jobs rather than unemployment exceeding 10 percent.

We are approving the request for the Sisseton/Wahepton Reservation in Roberts County based the currently available BIA data indicating an employment to population ratio of 40.8 percent which is significantly below the 1997 national ratio of 64.1 percent. The approval for the Sisseton/Wahepton reservation is for a 6-month period since the most recent BIA data is only though calendar year 1995. We will reevaluate the request when 1997 data is available from the BIA. The Sisseton/Wahepton Reservation is included in waiver no. 980062.

Although we are unable to approve a waiver for these areas, the State agency may want to exempt the individuals in these areas by using its authority under Section 1001 of the Balanced Budget Act, which permits State agencies to exempt from the time limits of Section 6(o) up to 15 percent of its "covered individuals." For more information regarding this exemption authority, please refer to our February 9, 1998, guidance.

Our formal waiver response is attached. If you have any questions, please contact Larry Tropp of my staff at 703-305-2437.

Judith M. Seymour

for Arthur T. Foley
Director
Program Development Division

Attachment

cc: Joseph Pinto, John Knaus, Joe Shea, Maurice Tracy, All Regions (except MPRO)
Civil Rights, CPB (circulate), Mike DePiro, OAE, Fran Heil

FINAL:FNS:FSP:PDD:CPB:LTropp:FINAL:2/27/98:va

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Waiver Response

1. **Waiver serial number:** 980061 & 980062
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:** South 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 its current waiver. Under this request the State agency is proposing to exempt individuals residing in the following 18 counties: Bennett, Buffalo, Charles Mix, Corson, Day, Dewey, Gregory, Hyde, Jackson, Lyman, Marshall, Mellette, Moody, Roberts, Shannon, Todd, Tripp, and Ziebach. The purpose of this waiver is to exclude individuals residing on Indian reservations although the request is for the entire counties.

The request includes six counties which are designated by the Employment and Training Administration of the Department of Labor as Labor Surplus Areas (LSAs). These counties include Buffalo, Corson, Dewey, Shannon, Todd, and Ziebach. Bennett, Day, Jackson, Marshall, and Mellette Counties were previously exempt from the ABAWD provision because of their status as Indian Reservations. The State agency believes that Charles Mix, Gregory, Hyde, Lyman, Moody, Roberts, and Tripp Counties meet the Bureau of Indian Affairs (BIA) criteria of having a jobless rate in excess of 10 percent, and thus all individuals residing in those counties should be exempt from the ABAWD provision.

9. **Action and reason for approval or denial: 980061** (Unemployment greater than 10 percent). We are approving the State agency's request for a waiver of Section 6(o) for individuals residing in Buffalo, Shannon, Dewey, and Corson Counties based on unemployment rates greater than 10 percent using data from the Bureau of Labor Statistics (BLS).

980062 (Insufficient job opportunities). We are approving exemptions for the entire counties of Ziebach and Todd based on their designation as LSAs, our primary indicator of insufficient jobs.

We are approving waivers for the following Indian Reservations (not the entire counties as requested by the State agency) based on census share data indicating unemployment in excess of 10 percent: the Crow Creek Reservation in Hughes and Hyde Counties, the Flandreau Reservation in Moody County, the Pine Ridge Reservation County in Jackson County, and the Lower Brule Reservation in Lyman and Stanley Counties. The census share calculations are contained in the following table:

UR Estimates Based on BLS Census-Share Data						
		COUNTY	CLF	EMP	UMP	UR
Lower Brule*	SD	LYMAN	2405	2299	106	4.4
CensusShare				0.220329	0.701031	
EST EMP/UMP				507	74	
Lower Brule*	SD	STANLEY	1753	1699	54	3.1
CensusShare				0.001102	0	
EST EMP/UMP				2	0	
Est. CLF	583					
Est. UR	12.8					

Crow Creek		BUFFALO	692	600	92	13.3
				0.710938	1	
		HUGHES	9574	9332	242	2.5
				0.007746	0.016575	
		HYDE	863	838	25	2.9
				0.06274	0.263158	
Est. CLF	654					
Est. UR	15.7					

Flandreau		MOODY	3525	3347	178	5
				0.041292	0.136364	
Est. CLF	162					
Est. UR	14.9					

Pine Ridge		JACKSON	1113	1055	58	5.2
				0.334665	0.806723	
		SHANNON	3144	2765	379	12.1
				1	1	
Est. CLF	3544					
Est. UR	12.0					

Since these unemployment rates are not based completely on data from the BLS we consider the basis for approval to be insufficient jobs rather unemployment greater than 10 percent.

We are also approving the request for the Sisseton/Wahepton Reservation in Roberts County based the currently available BIA data indicating an employment to population ratio of 40.8 percent which is significantly below the 1997 national ratio of 64.1 percent. The employment to population ratio for the reservation was calculated by dividing the number of individuals in the workforce (individuals between the ages of 16 through 64) into the number of individuals actually employed. The source data for these calculations was from the Bureau of Indian Affairs (BIA) for calendar year 1995, the most recent year for which BIA employment data is available. The approval for the Sisseton/Wahepton reservation is for a 6-month period. We will reevaluate the request when 1997 data is available from the BIA

10. **Regulatory or legislative basis for action:** This waiver, as modified above, 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:** Please submit recent data which relies on BLS data and methods that indicates counties which have unemployment rates over 10 percent, or which supports an exemption for counties which have insufficient jobs. To receive an extension of the waiver for the Sisseton/Wahepton Reservation the State agency must submit 1997 BIA indicating that the reservation continues to experience an employment to population ratio below the national average.
13. **Expiration date:** With the exception of the Sisseton/Wahepton Reservation, the waiver is approved through March 31, 1999. The exemption for the Sisseton/Wahepton Reservation is for a 6-month period ending August 31, 1998.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the South 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:** December 30, 1997
18. **Date of regional office transmittal to the national office:** January 28, 1998