

980061, 980062, and 990047

TO: Allan C. Nickels, Regional Director
Food Stamp Program
Mountain Plains Regional Office

We are approving the waivers as requested for those counties that qualify for exemptions based on either unemployment greater than 10 percent, or insufficient jobs as indicated by their designation as Labor Surplus Areas. We are approving exemptions only for those portions of the remaining counties which are situated within the boundaries of Indian reservations. Please note that we are now handling the exemptions for the Indian reservations as a separate waiver (no. 990047).

SIGNED

Attachment

FINAL:FNS:FSP:PDD:CPB:Ltropp:final:5/4/99:va

FILE: ABAWDs

DIR: I/DATA/SHARED/CPB/WAIVERS:980061.MEM - 1999 extension

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Waiver Response

1. **Waiver serial number:** 980061, 980062, & 990047
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 primary purpose of this waiver is to exclude individuals residing on Indian reservations although the request is for the entire counties.

The State agency is requesting exemptions for residents of Dewey, Shannon, Ziebach, Buffalo, and Corson Counties based on unemployment greater than 10 percent. The State agency is also requesting extensions for Mellette and Todd Counties based their designation as Labor Surplus Areas (LSAs) by the Employment and Training Administration of the Department of Labor.

The State agency is requesting exemptions for the remaining counties primarily because they contain portions of Indian reservations with high unemployment. Because of the unique nature of Indian reservation we assigning a new number (990047) to this part of the waiver. Although the reservations include only portions of the requested counties (in some cases, extremely small portions) the State agency is requesting exemptions for the entire counties. To justify its request the State agency has developed a labor force indicator which it terms "the jobless rate." Unlike the standard unemployment rate used by the Bureau of Labor Statistics (BLS) which is calculated by dividing the number of individuals actively seeking employment by the total number in the work force, the State agency calculates the jobless rate by dividing the number of individuals age 16 through 64 (less the unemployable disabled and students through high school) into the number of individuals actually employed. It is the State agency's contention that this jobless rate more accurately reflects the labor market on Indian reservations since it takes into account discouraged workers who are not actively seeking employment due to the unavailability of jobs.

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 Shannon, Dewey, and Ziebach Counties based on unemployment rates greater than 10 percent using data from the Bureau of Labor Statistics (BLS) for Calendar Year 1998. We approving the exemption for Buffalo County based on the data provided by the State agency (the 3-month moving average ending each month during the seven-month period from June 1998 through December 1998). The rate was above 10 percent for 6 of the 7 months during the period. We are not approving an exemption for Corson County based on the criteria of unemployment greater than 10 percent based on data for the 3-month period provided by the State agency. Our review of calendar year data for 1998 (more recent than the data provided by the State agency) indicates that the county's averaged unemployment rate for the year was 6.5 percent. We are, however, approving an exemption for the county based on LSA designation under waiver no. 980062 below.

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

990047 (Indian Reservations). For the remaining counties we are approving waivers only for the portions of the counties which are within the boundaries of the designated Indian Reservations. While we agree that the unemployment rate as calculated the BLS may not capture a significant number of discouraged workers, we do not believe that it would be appropriate to use the jobless rate indicator developed by the State agency as a basis for this waiver for two reasons.

First, in analyzing unemployment data we are required to use BLS data and methods. While the source data used by the State agency may be based on BLS data, the jobless rate indicator is not an indicator normally used by the BLS. Secondly, we do not feel that the jobless rate indicator itself is very accurate. Although it captures "discouraged workers" not normally reflected in the standard unemployment rate, it also counts as jobless a significant number of individuals who have voluntarily opted out of the work force, such as full-time homemakers and students enrolled in post high school educational programs (the definition of student used by the State to calculate the rate appears to include only students enrolled in educational institutions through high school). We also note that, based on the State's jobless rate indicator, every county in the State would qualify for an exemption.

We calculated the unemployment rates for the portions of counties included in the Indian reservations using census share ratios, where available. As indicated in the table on the next page, we are approving an exemption for the Yankton Sioux Reservation in Charles Mix County based on an unemployment rate greater than 10 percent. We are approving exemptions for the Pine Ridge Reservation in Jackson County, the Crow Creek Reservation in Hyde County, the Lower Brule Reservation in Lyman County, and the Flandreau Reservation in Moody County based on unemployment rates greater than 20 percent above the national average for a recent 2-year period, one of our indicators of insufficient jobs. To determine whether a reservation qualified for an exemption we used the averaged unemployment rate for calendar years 1997 and 1998 and compared that rate with 120 percent of the national average (4.7 percent) or 5.6 percent. We have also approved an exemption for that part of the Crow Creek Reservation located in Hughes County although it does not qualify for an exemption based on unemployment data calculated through the use of census ratios. The Hughes County portion of the reservation is very small and, if possible, we prefer to treat a reservation as a single entity even though the unemployment rate is calculated on a county-by-county basis when census share ratios are used. Although census share ratios are not available for the Bennett County portion of the Pine Ridge Reservation (located primarily in Shannon and Jackson Counties) and the Tripp County portion of the Rosebud Reservation (located primarily in Todd County), we are approving exemptions for those areas. Based on our preference to treat reservations as single units, and the fact that the portions of the Pine Ridge and Rosebud Reservations located in Bennett and Tripp counties, respectively, represent very small portions of the entire reservations, we believe that the exemptions are justified.

We are granting a temporary extension for the Sisseton-Wahpeton Reservation based on the employment to population ratio calculated from calendar year 1995 BIA data.

The data indicated an employment to population ratio of 40.8 percent which is significantly below the recent national ratio of approximately 64 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 anticipate receiving updated data from the BIA in the near future. We will analyze the data upon receipt and advise your office of a decision regarding the waiver.

South Dakota Waivers of Section 6(o)

Waiver No. 980061 Unemployment Greater than 10%	Waiver No. 980062 Insufficient Jobs	Partial Counties Indian Reservations Waiver No. 990047 (Waivers for the following counties are limited to the specified reservations, not the entire county)		
		County/Reservation	Reason	UER*
Dewey	Mellette (LSA designation)	Bennett (Pine Ridge Reservation)	Reservation is an insignificant part of the county	NA
Shannon (includes the portion of the Pine Ridge Reservation not located in Jackson or Bennett Counties)	Todd (LSA designation, includes most of the Rosebud Reservation))	Jackson (Pine Ridge Reservation)	Unemployment greater than 20% above the national average (97-98)	8.65%
Ziebach	Corson (LSA designation)	Tripp (Rosebud Reservation)	Reservation is an insignificant part of the county	NA
Buffalo		Charles Mix (Yankton Sioux Reservation)	Unemployment greater than 10%	18.3%
		Hyde (Crow Creek)	Unemployment greater than 20% above the national average (97-98)	8.15%
		Hughes (Crow Creek)	Reservation is an insignificant part of the county	NA
		Lyman (Lower Brule)	Unemployment greater than 20% above the national average (97-98)	7.4%
		Moody (Flandreau)	Unemployment greater than 20% above the national average (97-98)	6.95%
		Marshall (Sisseton-Wahpeton)	Low Employment to Population Ratio (interim)	NA
		Day (Sisseton-Wahpeton)		
		Roberts (Sisseton-Wahpeton)		

*1998 average (for 10%+) or 1997/1998 calendar year average (for 2-year average)

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.
13. **Expiration date:** This is approved retroactive to April 1, 1999. With the exception of the Sisseton/Wahepton Reservation, the waiver is approved through March 31, 2000. The exemption for the Sisseton/Wahepton Reservation is for a 6-month period ending August 31, 2000.
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:** March 25, 1999
18. **Date of regional office transmittal to the national office:** April 5, 1999