

DEC 16 1998

970036 and 970037

SUBJECT: FSP - West Virginia - 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: Joseph Weingart, Director
Food Stamp Program
Mid-Atlantic Region

This is in response to the West Virginia State Agency's latest request for an extension of waivers #970036 and #970037, which exempted individuals residing in several counties from the work requirement for able-bodied adults without dependents.

Our responses are attached.

If possible, we would like to see a more complete analysis the next time the State agency submits this waiver for an extension. Last year, the State used incomplete data—unemployment figures from the first 7 months of 1997—to support its request. We supplied more up-to-date data, and approved the waiver request. This year, the State sent you the same inadequate data from the first 7 months of 1997, to support a request to waive the ABAWD requirements for 1999. Data that was inadequate to support a waiver request in 1997 could not reasonably be used to show what job availability conditions would be 2 years later. We have pointed out in the Waiver Response to waiver no. 970036 where State agency officials can find the data in West Virginia's web site in the future. If you have any questions, please contact Dan Woodhead of my staff at 703-305-2501.



Arthur T. Foley
Director
Program Development Division

Attachment

cc: John Knaus, Joe Shea, Maurice Tracy, Mike DePiro, All Regions (except WRO),
Civil Rights, CPB (circulate)

FNS:FSP:PDD:CPB:DRWoodhead:Draft 12/10/98:final:12/16/98:va

FILE: ABAWDS

DIR: I/cpb\waivers\970036 WV ext memo.doc

Waiver Response

1. **Waiver serial number:** 970036
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:** West Virginia
6. **Region:** MARO
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 asking to waive the requirements of Section 824 of the PRWORA for individuals residing in the following counties based on unemployment rates over 10 percent: Barbour, Braxton, Calhoun, Clay, Grant, Lincoln, McDowell, Marion, Mason, Mingo, Nicholas, Ritchie, Roane, Tucker, Webster, Wetzel, and Wirt.
9. **Action and reason for approval or denial:** The State agency based its request on information compiled by the West Virginia Bureau of Employment Programs, which listed counties that had unemployment rates of 10 percent or more, averaged over the first 7 months of 1997. We have reviewed more recent data (January through October 1998) from the West Virginia Bureau of Employment Programs, taken from the State's web site (www.wv.state.us) as of 12/9/98. The following EXCEL spreadsheet shows BEP unemployment data for the requested counties, and the 10-month average for each.

UNEMPLOYMENT RATE, CY 1998

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	YR AVG
BARBOUR	13.8	13.2	14.7	11.4	10	11	11.6	11.4	9.2	8.5	11.48
BRAXTON	14.4	14.3	15.4	12.7	9.6	10	8.8	8.4	7.4	8.7	10.97
CALHOUN	21.9	22.1	22	17.8	12	14.4	13.5	14.1	12.7	12.4	16.29
CLAY	14.4	13.1	14	11.2	9.3	11.8	9.3	10	8	8.8	10.99
GRANT	12.5	12.1	12.5	10.1	8.3	7.8	8.9	9.6	7	6.5	9.53
LINCOLN	13.1	11.9	12.8	11	9.5	12.6	11.1	11.4	8.9	10.2	11.25
MCDOWELL	11.4	10.3	11.5	11.5	10.8	12.7	12.5	12.7	10.1	10.1	11.36
MARION	8.9	8.4	8.6	8	9	9.3	7.1	7.1	6.4	6.5	7.93
MASON	12.6	12.2	12.8	10.9	9.7	12.4	12.2	11.6	11.1	11.2	11.67
MINGO	11.8	11	12.3	13.2	12.6	15.3	15.5	14.5	12.2	11.9	13.03
NICHOLAS	11.1	10.4	10.5	8.3	7.1	8.6	8.1	7.5	6.8	9.2	8.76
RITCHIE	12.9	15.2	14.6	13.2	10.4	10.9	10.7	9	8.4	7.4	11.27
ROANE	14.4	14.3	14.6	11.4	8.6	9.3	9.2	9.5	8.4	8.4	10.81
TUCKER	11.8	11.6	13.8	13.6	10.8	10.4	9	9.1	7.3	11	10.84
WEBSTER	9.6	9.2	9.2	9.1	8.5	10	8.6	8.1	7.5	7	8.68
WETZEL	11	11.7	11.9	10.2	9.1	11.1	11.4	10.5	7.9	8.1	10.29
WIRT	17.4	16.8	15.5	16	13.7	13.4	12.6	14.8	16.2	12.5	14.89

Based on this information, we are approving a waiver of Section 6(o) for individuals who reside in the following counties: Barbour, Braxton, Calhoun, Clay, Lincoln, McDowell, Mason, Mingo, Ritchie, Roane, Tucker, Wetzel, and Wirt. We are not approving the counties of Grant, Marion, Nicholas, and Webster under the 10 percent criteria, as their unemployment rates all averaged under 10 percent for calendar year 1998. However, these four counties do meet the criteria for insufficient jobs because they are Labor Surplus Areas, and are therefore approved under waiver #970037.

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:** Please submit *current* information from the BLS cooperating agency which indicates unemployment rates over 10 percent.
13. **Expiration date:** This waiver will expire on December 30, 1999.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the West Virginia 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:

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17. Date of State agency's request: October 30, 1998

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

Waiver Response

1. **Waiver serial number:** 970037
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:** West Virginia
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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 the 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 asking to waive the requirements of Section 824 of the PRWORA for the following counties because they have insufficient jobs, as shown by their having been designated as Labor Surplus Areas (LSAs) in the September 1998 publication, "Area Trends in Employment and Unemployment," published by the U. S. Department of Labor: Boone, Doddridge, Fayette, Gilmer, Greenbrier, Harrison, Jackson, Lewis, Pocahontas, Preston, Raleigh, Randolph, Taylor, Tyler, Upshur, and Wyoming.

In addition, the State agency is requesting that Marshall and Wayne Counties be waived in their entirety based on the fact that portions of each county have been designated as LSAs. The State agency does not want the waiver for these counties unless the entire county can be waived.

9. **Action and reason for approval or denial:** The State agency submitted the list of LSAs compiled by the ETA for fiscal year (FY)1998. We consulted the FY 1999 list, which was released in October. Based on this list, we are approving an exemption for individuals residing in the following counties: Boone, Doddridge, Fayette, Gilmer, Greenbrier, Harrison, Jackson, Lewis, Pocahontas, Preston, Raleigh, Randolph, Taylor, Tyler, Upshur, and Wyoming.

We are approving an exemption for individuals residing in Brooke, Hancock, Logan, Pleasants, and Summers Counties, based on insufficient jobs, as shown by their designation as LSAs for FY 1999. The State agency did not ask for a waiver for these counties and, in fact, stated that Brooke and Hancock Counties do not meet the waiver criteria under PRWORA. We confirmed by telephone that the State agency would like to include these counties in the waiver, since they are shown as LSAs in the latest list.

The State agency requested a waiver for individuals residing in Grant, Marion, Nicholas and Webster Counties (under waiver no. 970036) based on unemployment rates of 10 percent. Because they did not have 10 percent unemployment over the first 10 months of 1998, those four counties could not be included in that waiver approval. However, we are approving a waiver for individuals residing in those counties, because the counties have been designated as LSAs.

We are also approving an exemption for individuals residing in Marshall County in its entirety because the entire county except for a small part of Wheeling City is designated as an LSA. The portion of the county which is not an LSA, i.e., that part of Wheeling City that is in Marshall County, has a population of only 177—only .005 percent of the county's population. (The larger part of Wheeling City is in Ohio County, which is not eligible for a waiver.)

Finally, we are approving an exemption for individuals residing in Wayne County because its average unemployment rate for the 24 months through October 1998 has exceeded the national average unemployment rate for the same period by 20 percent. The State agency supplied unemployment rates for Wayne County and unemployment rates plus 20 percent for the U.S. as a whole for the 23-month period from August 1996 through June 1998, but did not average them. We added the latest available figures (for July through October 1998) from the West Virginia web site, and the U.S. Department of Labor's Bureau of Labor Statistics web site, averaged them for the latest 24-month period, and found that the U.S. average unemployment rate plus 20 percent was 5.75 percent, while Wayne County's unemployment rate was higher, at 6.56 percent.

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 have insufficient jobs.

11. **Conditions and reasons:** N/A
12. **Information required for extension:** Please submit current information that indicates these areas have insufficient jobs.
13. **Expiration date:** This waiver will expire December 30, 1999.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the West Virginia 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:** October 30, 1998
18. **Date of regional office transmittal of response to State agency:**

WEST VIRGINIA ABAWD WAIVERS

(Expires 12/31/2000)

Unemployment Greater than 10%

(Waiver no. 970036)

**Barbour
Boone
Braxton
Calhoun
Clay
Fayette
Lincoln,
Logan
McDowell
Mason
Mingo
Ritchie
Roane
Wetzel
Wirt
Wyoming**

Insufficient Jobs (LSA Designation)

(Waiver no. 970037)

**Brooke
Doddridge
Gilmer
Grant
Greenbrier
Hancock
Harrison
Jackson
Lewis
Marion
Marshall*
Mineral
Nicholas
Pleasants
Pocahontas
Preston
Raleigh
Randolph
Summers
Taylor
Tucker
Tyler
Upshur
Wayne
Webster**

* Marshall County is exempted in its entirety although the Wheeling City portion of the County is not a designated LSA.