

970264

SUBJECT: FSP - Wyoming - 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 Region

This is in response to the Wyoming State Agency's March 29, 1999, request to extend its 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. This section limits the receipt of food stamp benefits to 3 months within a 3-year period for able-bodied adults who are not working (or participating in a work program) 20 hours or more each week or participating in workfare.

Although we were unable to grant a waiver based on the information provided by the State agency, we were able to produce data to support the State agency's request by utilizing the methodology approved by BLS to calculate unemployment rates for Indian reservations using census-share data. For future extensions, the Wyoming State Agency should work with its cooperating State employment security agency to gather the necessary data. We are approving the State agency's request to extend its waiver for the Wind River Indian Reservation, on the basis of insufficient jobs, through May 31, 2000. Our response is attached. 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: Carolyn Foley Mike DePiro - OAE
Retha Oliver Bob Dalrymple - OAE
Maurice Tracy Civil Rights
All Regions (except MPRO)

FNS:FSP:PDD:CPB:DRWoodhead:DRAFT:6/1/99:final:1/3/99:va
DIR: I:CPB:WAIVERS:970264 memo & response

Waiver Response

1. **Waiver serial number:** 970264
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:** Wyoming
6. **Region:** Mountain Plains
7. **Regulatory Requirements:** Section 6(o) of the Food Stamp Act, as amended by Section 824 of the PRWORA, 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 Wyoming State Agency asks to exempt enrolled Arapaho and Shoshone tribal members residing on the Wind River Indian Reservation from the work requirement provision of Section 6(o) of the Food Stamp Act, as amended by Section 824 of the PRWORA, on the basis that there is an unemployment rate of over 10 percent in this area. The State agency provided an estimate of 80 percent unemployment for the Arapaho Tribe based on a review by the Northern Arapaho Business Council of a survey commissioned by Northern Arapaho Housing. No data was provided for the Shoshone Tribe's portion of the reservation's population, but the State agency expected data from the Shoshone Tribe to be similar.

9. **Action and reason for approval or denial:** The data provided by the State agency is inadequate to support a waiver based on unemployment over 10 percent. The State agency failed to provide any data for the area covered by its waiver request.

It is unclear from the information provided whether the survey commissioned by Northern Arapaho Housing used standard Bureau of Labor Statistics (BLS) methods, as required by our December 3, 1996 guidance, to calculate its unemployment rate for the Arapaho Tribe. It is clear, however, that a one-time survey cannot produce a 12-month average unemployment rate, which is required by our guidance to receive a waiver based on unemployment over 10 percent.

The BLS has approved a methodology to calculate unemployment rates for Indian reservations using census-share data. Using this methodology, we were able to calculate data to support the State agency's request. We are approving an extension of waiver no. 970264 to include individuals residing on the Wind River Indian Reservation, based on insufficient jobs. For this extension, insufficient jobs exist in a geographic area where unemployment exceeds the national rate by 20 percent or more over the previous 2 years.

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 of over 10 percent or an insufficient number of jobs.
11. **Conditions and reasons:**
12. **Information required for extension:** Please submit supporting unemployment data that relies on standard BLS data and/or methods and data indicating a lack of sufficient jobs. Citing a survey commissioned by Northern Arapaho Housing and reviewed by the Northern Arapaho Business Council is not an adequate display of supporting data. The Wyoming State Agency can work with its cooperating State employment security agency to get labor force estimates based on census share data for the two counties on which the reservation lies, and apply them to local area unemployment statistics for the counties to determine the unemployment rate on the reservation.
13. **Expiration date:** This waiver is approved for a period of 1 year and expires on May 31, 2000.
14. **Limitation on regional office approval of like requests:** This waiver is limited to the Wyoming State Agency.

15. **Quality Control Procedures:** N/A
16. **Date of national office action:**
17. **Date of State agency's request:** March 29, 1999
18. **Date of regional office transmittal of response to the national office:** April 20, 1999
19. **Actual implementation date:**