



Food and
Nutrition
Service

Braddock
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Braddock
Place
Alexandria
VA 22314

December 17, 2020

Thomas Sheppard

Assistant Director, Health and Nutrition Unit, Division of Child Care
Arkansas Department of Human Services
700 Main Street
Little Rock, AR 72201-1473

Dear Mr. Sheppard:

This letter is in response to the waiver request received November 27, 2020, from the Arkansas Department of Human Services, Health and Nutrition Unit, Division of Child Care (AR DHS) in which AR DHS requested to waive the following statutory and regulatory requirements:

National School Lunch Program (NSLP)

- 42 USC 1769c(b)(1)(C)(i) & 7 CFR 210.18(c) Timing of administrative reviews and cycle;
- 7 CFR 210.19(a)(5) Food Service Management Company (FSMC) review cycle requirements;
- 7 CFR 210.8(a)(1) & 220.11(d)(1) School Food Authority (SFA) reviews by February 1;

Summer Food Service Program (SFSP)

- 7 CFR 225.7(d)(2)(ii)(A) Review new sponsors within the first year of operating;
- 7 CFR 225.7(d)(2)(ii)(B) Annually review sponsors whose reimbursements count as half the aggregate from the previous year;
- 7 CFR 225.7(d)(2)(ii)(C) Annually review sponsors who had operational issues the year prior;
- 7 CFR 225.7(d)(2)(ii)(D) Review every sponsor at least once every three years;
- 7 CFR 225.7(d)(2)(iii)(6) Inspect FSMC facilities;

Child and Adult Care Food Program (CACFP)

- 42 USC 1766(d)(2)(C)(i) & 7 CFR 226.6(m)(6) Frequency and number of required institution reviews. Annually review at least 33.3% of all institutions according to the schedule:
- 7 CFR 226.6(m)(6)(i) Review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years and include reviews of 10% of their facilities; and,
- 7 CFR 226.6(m)(6)(iii) Review new institutions that are sponsoring organizations of five or more facilities within the first 90 days of Program operations.

The Food and Nutrition Service (FNS) recognizes that due to Program operation changes as the result of *COVID 19: Child Nutrition Response #59*, allowing the SFSP and the NSLP Seamless Summer Option to continue to operate through June 30, 2021, many Child Nutrition Program monitoring requirements will be difficult for State agencies and local operators to meet. In light of this, FNS will waive program monitoring requirements when a State agency provides a waiver request with an alternative plan that ensures program integrity is continued this year.

AR DHS's oversight plan includes monitoring through desk audit reviews and providing annual sponsor training as an on-line class. For NSLP, AR DHS is requesting a one-year extension in order to conduct administrative reviews on a four-year cycle, and for school year 2020-21, a waiver of the requirement to review SFAs contracting with FSMCs every three years.

For SFSP, AR DHS is reviewing all sponsors every three years and will review sponsors at least every four years if there is an increase in the number of SFSP sponsors that have transitioned from NSLP. AR DHS will continue to review new sponsors at least once during the first year of operation, sponsors whose program reimbursements in the aggregate accounted for at least one-half of the total program meal reimbursement in the State in the prior year, sponsors with operational issues, and FSMC facilities. If pandemic circumstances cause a closure preventing a review, AR DHS will review those sponsors and/or FSMC facilities the subsequent program year.

For CACFP, AR DHS will conduct announced facility reviews and will review independent centers and sponsoring organizations at least every four years. New institutions sponsoring five or more facilities will be reviewed within the 180 days.

AR DHS's oversight plan also ensures continued integrity by:

- requiring parents picking up meals to sign a Parent Attestation and Pick Up Form verifying that the meals will be served directly to a child and they are not receiving more than the daily maximum number of meals;
- having sponsors document parents daily during meal grab and go service to avoid distributing duplicate meals;
- verifying requests for meal pattern flexibility waivers due to supply shortage with the Commodity Distribution Unit; and
- reviewing randomly selected submitted claims on a weekly basis.

Given the numerous flexibilities and waivers that FNS has provided during the novel coronavirus public health emergency, many of the current monitoring requirements and regulations do not efficiently address the oversight of the Child Nutrition Programs. Since these flexibilities alter the normal operations of the Programs, monitoring strategies must adapt. This waiver request and activities within do not increase the overall costs of the Program to the Federal Government, rather it allows the State agency to alter its oversight activities in order to strengthen Program integrity and

conduct efficient monitoring. Through implementation of this waiver, the State agency will continue to fulfill its oversight responsibilities and provide technical assistance which is critical to ensure that current Program requirements are met.

Pursuant to section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), (42 USC 1760(l)), FNS approves AR DHS's waiver requests through:

- June 30, 2021, for NSLP monitoring requirements and FSMC review cycle requirements;
- September 30, 2021 for CACFP and SFSP monitoring requirements
- June 30, 2024, for the NSLP administrative review cycle extension; and
- September 30, 2024, for the SFSP and CACP review cycle extension.

Please note that this only extends the NSLP, CACFP, and SFSP review cycles and does not waive the requirement itself for the review cycles. FNS has determined that, in light of the exceptional circumstances of the current novel coronavirus public health emergency and other program flexibilities provided by FNS, waiving the above statutory and regulatory requirements will facilitate AR DHS's ability to successfully carry out the purpose of the Programs.

AR DHS's oversight plan, as discussed above, provides assurance that the State will continue to conduct oversight and provide technical assistance upon approval of this waiver. These actions will help Program operators effectively operate Child Nutrition Programs that meet the nutritional needs of eligible Program participants. In addition, as part of this waiver, AR DHS must take Program integrity measures to identify any misuse of Federal funds and identify fraudulent activities.

The waiver authority at section 12(l)(5) of the NSLA requires that FNS review the performance of any State that is granted a waiver and terminate the waiver if the performance of the State has been inadequate to justify a continuation of the waiver. Beginning on January 1, 2021, FNS is requiring that for the duration of this waiver, the AR DHS provide the FNS Southwest Regional Office (SWRO) a quarterly written report. The report must provide information on how the State is implementing its oversight plan and quantify the impact of the waiver, as described below.

The report must include:

- A description of how the waiver impacted meal service operations and eligible participants access to nutritious meals and snacks;
- A description of how the waiver has facilitated the State agencies oversight abilities and responsibilities;

- Provide a summary of Program integrity measures taken to identify any misuse of Federal funds and identify fraudulent activities, and, if anything was identified, any actions taken;
- A description of how the waiver impacted the quantity of paperwork necessary to administer the program; and
- A summary of any technical assistance measures that were provided.

Should the AR DHS determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the SWRO.

FNS understands that these are challenging times for all and that many State agencies and Program operators face significant resource and time constraints. We are committed to supporting State agencies and Program operators as they strive to run successful programs and meet Child Nutrition Program requirements in order to provide nutritious food to eligible participants.

If you have any questions or concerns, please contact the SWRO.

Sincerely,

A handwritten signature in black ink that reads "Sarah E. Smith-Holmes". The signature is written in a cursive style with a large initial 'S'.

Sarah Smith-Holmes
Director
Program Monitoring and Operational Support Division
Child Nutrition Programs