April 1, 2020

Michael Chavez
Director
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New Mexico Public Education Department
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Santa Fe, New Mexico  87501

Loren Miller
Bureau Chief, Family Nutrition Bureau
Children, Youth and Families Department
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Dear Mr. Chavez and Ms. Miller,

This letter is in response to the New Mexico Public Education Department (NMPED) and Children, Youth and Families Department (CYFD) waiver request to maintain children’s access to meals during the novel coronavirus (COVID-19) pandemic, submitted March 27, 2020. NMPED and CYFD request a waiver of the restrictions on site eligibility requirements in the Summer Food Service Program (SFSP) and National School Lunch Program (NSLP) Seamless Summer Option (SSO). Specifically, NMPED and CYFD request to waive the requirement that open sites must be located in areas where at least 50 percent of NSLP participants are eligible for free or reduced price meals. Instead, NMPED and CYFD request to allow non-area eligible school food authorities in good standing to feed children through the SFSP and SSO during unanticipated school closures due to COVID-19.

In its request, NMPED and CYFD assert that school closures due to COVID-19 may be prolonged, and with this waiver, the Programs could provide children with meals that would not otherwise be available. NMPED and CFYD state that this waiver will maintain children’s access to the SFSP and SSO meal service during school closures related to the pandemic. To maintain children’s access to meals, and to support families experiencing financial hardship, NMPED and CFYD request to waive the requirement at 7 CFR 225.14(c)(3).

Pursuant to the waiver authority granted under Section 2102(b) of the Families First Coronavirus Response Act (P.L. 116-127) (the Act) to approve waivers that may increase cost to the Federal Government and have the purpose of providing meals and meal supplements, the Food and Nutrition Service (FNS) approves this request. However, State agencies must have a plan for ensuring that new meal sites are targeting benefits to children in need, for example, children who may be newly eligible for benefits due to the economic impacts of COVID-19. State agencies should work with local Program...
operators in developing their plans as local Program operators are best situated to
determine how to provide these assurances. This approval applies to sites operating
during temporary school closures related to COVID-19. Additionally, FNS reserves the
right to withdraw this approval subject to availability of funding.

Therefore, effective as of March 27, 2020, this waiver allows SFSP and SSO sponsors in
good standing to operate open sites in areas approved by NMPED and CYFD and
consistent with the State plan, but that are not located in “Areas in which poor economic
conditions exist” as defined at section 13(a)(1)(A) of the Richard B. Russell National
School Lunch Act (NSLA) and as referenced in regulation at 7 CFR 225.2,
225.6(c)(2)(i)(G), 225.6(c)(3)(i)(B), 225.6(d)(1)(i), 225.14(c)(3), and 225.16(b)(4). This
waiver remains in effect until June 30, 2020, or until expiration of the federally declared
public health emergency, whichever is earlier. While NMPED and CYFD request this
waiver remain in effect until further notice, FNS limited the duration of the waiver to
assess its impact and the need for continued flexibility. FNS recognizes that there may be
a continued need for this waiver, and will carefully assess the situation on an ongoing
basis.

As required by this waiver approval, NMPED and CYFD must submit a report to the
Secretary not later than 1 year after the date such State received the waiver. The report
must include:

- A summary of the use of this waiver by the State agency and local Program
  operators,
- A summary of how new meal sites were targeted to benefits for children who
  were previously eligible or newly eligible for program benefits due to the
  economic impacts of COVID-19, and
- A description of whether and how this waiver resulted in improved services to
  Program participants.

FNS appreciates NMPED and CYFD’s commitment to work with sponsors to meet the
nutritional needs of children during a challenging time. If you have questions, please
contact the FNS Southwest Regional Office.

Sincerely,

Angela Kline
Director
Policy and Program Development Division