

Food and Nutrition Service

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**DATE:** May 22, 2020

**POLICY NO:** FD-150: The Commodity Supplemental Food Program

**SUBJECT:** Questions and Answers related to COVID-19 and the Commodity Supplemental Food Program (CSFP)<sup>1</sup>

**TO:** Regional Directors  
Special Nutrition Programs  
MARO, MPRO, MWRO,  
NERO, SERO, SWRO, and  
WRO

State Directors  
All CSFP State Agencies

<b>Issuing Agency/Office:</b>	FNS/Supplemental Nutrition and Safety Programs
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<b>Summary:</b>	<i>This document is addressed to CSFP State agencies, including Indian Tribal Organizations (ITOs), and provides them with a series of questions and answers related to the COVID-19 public health emergency as it relates to administration of CSFP.</i>
<b>Disclaimer:</b>	<b>The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.</b>
Body of guidance document follows.	

*The Food and Nutrition Service is responding rapidly to the COVID-19 pandemic with multiple waivers and flexibilities in its programs. The Families First Coronavirus Response Act requires the Food and Nutrition Service to collect specific data elements from States. The CARES Act provides funding, for which FNS will collect information in order to distribute funding. Please prepare the necessary data elements to collect and submit this data as described in this document. The public will be given the opportunity to comment on this data collection, including legislatively-mandated data collection through a future information collection process being submitted to the Office of Management and Budget.*

<sup>1</sup> Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this memorandum as not a major rule, as defined by 5 U.S.C. § 804(2)

The Food and Nutrition Service (FNS) is grateful for your continued partnership in the administration of the Commodity Supplemental Food Program (CSFP) as we respond to the COVID-19 public health emergency. Together, we can ensure that CSFP participants continue to receive necessary food assistance during this time.

This memorandum includes questions and answers on flexibilities available to CSFP State agencies, including Indian Tribal Organizations, in the operation of CSFP. These flexibilities may assist State agencies that administer CSFP in continuing to provide food to seniors in need during the novel COVID-19 public health emergency.

**1. Did the Coronavirus Aid, Relief and Economic Security (CARES) Act and the Families First Coronavirus Response Act (FFCRA) provide waiver authority for CSFP?**

The CARES Act and FFCRA did not provide additional waiver authority for CSFP. However, there are a number of existing flexibilities available to State agencies in the operation of CSFP to support them in their COVID-19 response. These flexibilities are highlighted in this memorandum.

**2. How can local agencies distribute CSFP food packages while adhering to social distancing guidelines?**

There are ways that local agencies can adhere to social distancing guidelines while distributing CSFP food packages. For example, local agencies can utilize a drive-through model in which local agency staff or volunteers place the CSFP food package directly into a recipient's vehicle. Pick-up of CSFP food packages can be done by appointment, with food packages placed for pick-up at a distance. Local agencies may also consider delivering food packages to participant homes.

**3. Are State agencies able to waive signature requirements for CSFP certifications?**

No. CSFP regulations at 7 CFR 247.8(b) require a signature by applicants or their caretakers as part of the CSFP certification process. However, State agencies can make several options available to local agencies to assist with minimizing person-to-person contact during certifications. First, the use of electronic signatures in CSFP is permitted, provided that the same degree of confidence and accuracy results from the electronic system as from a traditional, paper-based system. Signatures can also be obtained by mail, through an in-home visit, or in-person (by either the applicant or their caretaker) at a scheduled time to avoid a large congregation of people. Additionally, if certifications are conducted over the phone, a local agency staff person may sign (or print) their name on behalf of applicants as an interim measure during the certification interview, provided that the local agency subsequently obtains the applicant's signature through one of the methods described above.

Note that any changes to certification procedures must be applied statewide, and a CSFP State Plan amendment outlining the change must be submitted to the USDA FNS Regional Office for expedited review and approval, in accordance with program regulations at 7 CFR 247.6(d).

**4. Are State agencies able to waive signature requirements for CSFP distributions?**

Yes. CSFP regulations at 7 CFR 247.10(b) require that recipients, or their proxies, present some form of identification before receiving a food package. However, regulations do not require local agencies to obtain signatures during CSFP household food distributions. If a State agency has a signature policy in place, the agency can consider amending the policy to waive the signature during this time.

Note that any changes to distribution signature requirements must be applied statewide, and a CSFP State plan amendment outlining the change must be submitted to the USDA FNS Regional Office for expedited review and approval, in accordance with program regulations at 7 CFR 247.6(d).

**5. Can State agencies amend income eligibility procedures to forego verification of income?**

No. Per 7 CFR 247.9, individuals must meet basic age and income eligibility requirements in order to receive CSFP benefits. Accordingly, State agencies must establish age and income eligibility verification procedures for local agencies to follow during the CSFP certification process. However, State agencies have discretion on what standard of proof to require, and self-declaration of age and income by applicants may be allowed.

Note that any changes to age and income eligibility verification procedures must be applied statewide, and a CSFP State Plan amendment outlining the change must be submitted to the USDA FNS Regional Office for expedited review and approval, in accordance with program regulations at 7 CFR 247.6(d).

**6. How can proxies be utilized during the public health emergency?**

State agencies may allow the use of proxies to minimize CSFP participants' need to visit local agencies. There is no federal requirement that limits the number of people for whom an individual can serve as a proxy, nor is there a federal requirement for local agencies to obtain a signature from participants when they designate a proxy. Accordingly, State agencies may establish a policy which allows a proxy to serve more than one participant and/or which allows participants to verbally confirm a proxy. However, proxies must be individually designated by each participant and participants cannot be required to designate a proxy.

Note that any new or amended procedures related to proxies must be applied statewide, and a CSFP State Plan amendment outlining the change must be submitted to the USDA FNS Regional Office for expedited review and approval, in accordance with program regulations at 7 CFR 247.6(d).

**7. May State agencies allow local agencies to distribute more than one CSFP food package per month?**

Yes. Per 7 CFR 247.10(a), local agencies must distribute a package of commodities to participants each month, or a two month supply of CSFP foods to participants every other month, in accordance with the food package guide rates established by FNS. State agencies may allow local agencies to conduct both monthly and bi-monthly distributions in the same month, provided that the State can ensure that participation and food issuance amounts are accurately tracked and reported on the FNS-153. Note that monthly or bi-monthly issuances are the only options available under 7 CFR 247.10; three month distributions are not allowed.

To implement new or amended procedures related to bi-monthly distributions, State agencies must submit a State Plan amendment outlining the change to their respective FNS Regional Office for expedited review and approval, in accordance with program regulations at 7 CFR 247.6(d).

**8. If a CSFP site has to close because of COVID-19, may food packages be distributed retroactively?**

Per CSFP regulations at 7 CFR 247.10(a), local agencies must distribute a food package to participants each month, or a two month supply of food to participants every other month. Food packages must be distributed in accordance with established guide rates and must not be distributed retroactively under normal circumstances. There may be instances during the COVID-19 emergency where a local agency is unable to distribute CSFP food packages or participants may be unable to pick up such food packages at a regularly scheduled distribution.

In such circumstances, State and local agencies should make every effort to provide an alternative way for participants to receive their food packages in the same month. However, if an alternate CSFP food package delivery date cannot be scheduled within the same month, then State agencies may request permission to do a delayed delivery of food packages in the subsequent month (e.g. a retroactive distribution of April food packages in May).

Requests must be submitted to FNS Regional Offices via email and must include information on why the retroactive distribution is necessary and the number of CSFP participants impacted.

**9. Can a State agency contract with a private company to deliver CSFP food packages, particularly during the COVID-19 pandemic?**

Yes. CSFP State agencies have the discretion to allow a for-profit company to provide home delivery of CSFP food packages, if certain conditions are met. First, consistent with 7 CFR 250.4(c) and (d), an agreement or contract must be in place between the company and the State or local agency which ensures that the delivery service adheres to all CSFP program regulations (see also 7 CFR 247.4). At a minimum, a contract or agreement for these delivery services must require the company to provide:

1. Safe storage and transportation of the foods in compliance with program regulations at 7 CFR 250;
2. Verification of the identity of each CSFP participant through a review of the participant's, or proxy's, identification before issuing the CSFP food package, consistent with 7 CFR 247.10(b);
3. All applicable records required by the State or local agency; and
4. An assurance that the privacy of participants will be maintained, consistent with 7 CFR 247.36.

If the State agency or local agency plans to use CSFP administrative funds to procure this service, they must follow procedures outlined in 2 CFR 200, subpart E, and all applicable State and local procurement regulations. If the for-profit company is donating its services, the State or local agency does not need to follow procurement regulations, but must still have a contract or service agreement in place, preferably a no-cost contract or agreement.

In order to conduct deliveries in this way, CSFP State agencies must be aware that employees of the for-profit delivery service are not permitted to carry out key local agency responsibilities, such as making participant eligibility determinations (see 7 CFR 247.5(c)(1)-(8) listing the major local agency responsibilities). Such employees may not be considered proxies for participants. Additionally, CSFP food packages may not be dropped off at a door or left unattended at a pick-up location due to the requirement at 7 CFR 247.10(b) that participants or their proxies present identification before being issued a food package.

CSFP State Plans must be amended for FNS approval to pursue the option to have private companies deliver CSFP food packages, in accordance with program regulations at 7 CFR 247.6(d). Applicable contracts or agreements must include terms which ensure program integrity is maintained and participants ultimately receive program benefits.

**10. What flexibility do we have in terms of the foods included in the CSFP food package? Can food packages be issued without cheese?**

Per 7 CFR 247.10(a), local agencies must distribute a package of commodities to participants each month, or a two month supply of CSFP foods to participants every other month, in accordance with the food package guide rates established by FNS. In

accordance with this requirement, local agencies must offer full food packages, including cheese, to all participants each month. All CSFP foods, including a refrigerated item such as cheese, must be stored properly in accordance with 7 CFR 250 to ensure proper food safety. Although participants may refuse products, State and local agencies do not have license to encourage opt-in or opt-out of any items. State Agency tailoring of the CSFP food package to issue quantities of USDA Foods that are below the recommended (maximum) rates is permitted in only very limited circumstances with the prior approval of FNS.

For more information on the CSFP food package guide rates, please reference [FNS Instruction 835-1: Authorized Supplemental Foods and Distribution Rates of Foods for the Commodity Supplemental Food Program](#) and the current CSFP Maximum Monthly Distribution Rates posted on the CSFP website at <https://www.fns.usda.gov/csfp/commodity-supplemental-food-program>.

State agencies should contact their respective FNS Regional Offices with any further questions.

*/s/ Original Signature on File*

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