



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK T. BENTON • Assistant Secretary for Public Health
Division of Public Health

December 11, 2020

Dr. Lilly Bouie, Regional Director
United States Department of Agriculture, Food and Nutrition Service
61 Forsyth Street, Suite 8T36
Atlanta, GA 30303

Dear Dr. Bouie:

The North Carolina Department of Health and Human Services (NCDHHS) respectfully requests a waiver from 7 CFR 226.16(d)(4)(iii)(A) and (B) which states least two of the three reviews must be unannounced and requires at least one unannounced review include an observation of a meal service. Details of the waiver request are submitted in the format as required by the USDA and are described herein.

Subject of waiver request: State Agency Waiver of Unannounced Requirement for Reviews and Meal Service Observation

1. State agency submitting waiver request and responsible State agency staff contact information:

Name of State agency: North Carolina Department of Health and Human Services
State agency staff contact: Mary Anne Burghardt
Mailing address: 1914 Mail Service Center, Raleigh, NC 29699-1914 Telephone number: (919) 707-5783
Email address: maryanne.burghardt@dhhs.nc.gov

State agency staff alternate contact: Courtney Jones
Mailing address: 1914 Mail Service Center, Raleigh, NC 29699-1914 Telephone number: (919) 707-5775
Email address: courtney.jones@dhhs.nc.gov

2. Region: Southeast

3. Eligible service providers participating in waiver and affirmation that they are in good standing:

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

LOCATION: 5605 Six Forks Road, Building 3, Raleigh, NC 27609
MAILING ADDRESS: 1931 Mail Service Center, Raleigh, NC 27699-1931
www.ncdhhs.gov • TEL: 919-707-5000 • FAX: 919-870-4829

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Only institutions operating in good standing will be approved to participate in this waiver.

4. Description of the challenge the State agency is seeking to solve, the goal of the waiver to improve services under the Program, and the expected outcomes if the waiver is granted. [Section 12(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:

The North Carolina State of Emergency related to the spread of COVID-19 necessitates an additional waiver in order to meet the needs of food-insecure children and adults, institutions participating in the CACFP, State agency staff, and the general public. The NCDHHS respectfully requests a statewide waiver to provide flexibility to the regulatory requirements in 7 CFR §226.6(m)(6), which requires that at least 15 percent of the total number of facility reviews required be unannounced.

This waiver authority is necessary due to the challenges in conducting a successful unannounced review. The State agency is following the social distancing recommendations required to help prevent the spread of the novel Coronavirus. Many child and adult care facilities are struggling to adhere to stringent disinfecting routines, fluctuating attendance, and the other day-to-day duties. The likelihood of successfully conducting a true unannounced monitoring review virtually is slim, necessitating follow up on the part of the State agency. By granting this waiver request, State agency monitoring staff would be able to schedule (announce) their monitoring visits with sponsored facilities, increasing the likelihood of completion.

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:

The NCDHHS proposes a waiver of regulations in 7 CFR 226.6(m)(6), requires that at least 15 percent of the total number of facility reviews required be unannounced. If approved, the waiver will allow the NCDHHS State agency staff the ability to conduct announced desk reviews with the required meal service observation. All other CACFP requirements would apply.

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

If approved, this request will allow the NCDHHS the ability to maintain oversight of participating institutions. Due to COVID-19 and a number of nationwide waivers authorized by USDA, all monitoring conducted by the State agency and Sponsoring Organizations is occurring offsite.

The State agency will send institutions a desk review letter with instructions of all documentation required to conduct the compliance review, indicating documentation submission date. The facility will be informed of available technology that can be utilized in conducting the meal service observation. Such technology includes but is not limited to

the following: pictures, Zoom, Skype, GoToMeeting, Microsoft Teams, Google Duo, Google Hangout, FaceTime, video through cell phones, or any other acceptable platform. The institution must include their meal observation selection (Addendum A) in the documentation submission to enable the State agency to complete the required meal service observation. The facility will be advised to make every effort to not capture any images of a participant during the meal observation. If the sponsor or facility cannot provide visuals without capturing an image with a participant, then the Sponsoring Organization and facility must take steps to safeguard the video or photo to ensure it is not released to anyone other than NCDHHS without the consent of the participant's parent or guardian.

If the requested documentation is not received, the State agency staff will send a 2nd request. If the requested records are not received after the 2nd request, if the facility is a day care home, the serious deficiency process will be initiated by the Sponsoring Organization. If the facility is a sponsored center, the sponsored center will get an additional opportunity to submit the requested records. If the records are not submitted after the 3rd attempt, the sponsored center will be terminated from program participation. If the meal service documentation is requested for an Independent Center, the State agency will follow the same process as that for sponsored centers.

If the institution is utilizing the Nationwide Waiver to Allow Meal Service Time Flexibility in the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program (COVID-19; Child Nutrition Response #34), alternate mealtimes must be communicated to State agency staff. State agency staff will prioritize virtually monitoring institutions or facilities with non-congregate feeding waivers in place to ensure program integrity.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(l)(2)(A)(ii) of the NSLA]:

No state level barriers have been identified.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation:

The NCDHHS does not anticipate this waiver will present any challenges to the department or the participating institutions. Implementation of this waiver will increase the chance of successfully completing the reviews by scheduling them. Should State agency staff encounter challenges, it will follow the procedures laid out above.

9. Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increases, confirm that the costs will be paid from non-Federal funds. [Section 12(l)(1)(A)(iii) of the NSLA]:

The NCDHHS does not anticipate the waiver will increase the overall cost of the Program to the Federal Government.

10. Anticipated waiver implementation date and time period:

Waiver Request Start Date: December 11, 2020 or upon approval of the waiver
Waiver Request End Date: September 30, 2021

11. Proposed monitoring and review procedures:

The State agency has discontinued on-site administrative reviews at this time to comply with social distancing recommendations. Desk reviews are being conducted. Usual review procedures will resume when the State of Emergency is lifted. Institutions found to have non-compliance issues related to this waiver will be required to work with the NCDHHS on an individualized corrective action plan and will have follow-up reviews scheduled as needed.

12. Proposed reporting requirements (include type of data and due date(s) to FNS):

NCDHHS complies with the monthly and 90-day reporting requirements for the FNS-44 reports. Additionally, the State agency is participating in the Mathematica School Meal Operations (SMO) study.

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(l)(1)(A)(ii) of the NSLA]:

The State agency has submitted an update request to our webmaster to post the waiver request on our website, www.nutritionnc.com, as required.

14. Signature and title of requesting official:

Mary Anne Burghardt

Title: Nutrition Services Branch Program Director I
State Director, Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
State Director, Child and Adult Care Food Service Program (CACFP)

Requesting official's email address for transmission of response:
Maryanne.burghardt@dhhs.nc.gov