



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 226.6(m)(6)(i)(ii)(iii), which require the State agency to conduct 33.3 percent of all institutions as part of annual regulatory compliance. Details of the waiver request are submitted in the format as required by the USDA and are described herein.

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:

N/A

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]:

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

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MAILING ADDRESS: 1931 Mail Service Center, Raleigh, NC 27699-1931
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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

The NCDHHS respectfully requests a statewide waiver to provide flexibility to the regulatory requirements in 7 CFR 226.6(m)(6)(i)(ii)(iii), which require the State agency to conduct 33.3 percent of all institutions as part of annual regulatory compliance.

This waiver authority is necessary due to the impact COVID-19 has had on child and adult care provision across North Carolina, as well as the State agency's participation in a number of nationwide waivers and flexibilities. The State agency would like to prioritize its Federal Fiscal Year (FFY) 2021 compliance reviews as follows: 1) institutions found to be seriously deficient in FFY 2020; 2) institutions utilizing COVID-19 waivers already on the 2021 compliance schedule; 3) newly approved institutions; 4) institutions not found to be seriously deficient but high risk in FFY 2020; and 5) Sponsoring Organizations scheduled to be reviewed in FFY 2021.

By prioritizing compliance reviews rather than meeting a certain percentage, the State agency can focus its limited resources on institutions who present program integrity concerns or are considered high risk.

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) (i)(ii)(iii), which require the State agency to conduct 33.3 percent of all institutions as part of annual regulatory compliance. If approved, the waiver will allow the NCDHHS staff to conduct reviews of institutions that present the most risk to program integrity or the state agency rather than focusing on a certain number. 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 has implemented alternative procedures to prioritize compliance reviews during the 2021 federal fiscal year. Institutions with approved USDA Nationwide Child Nutrition Waivers, institutions who have been declared Serious Deficient, new institutions approved federal fiscal year 2020, Sponsoring Organizations, and institutions declared high risk through our internal compliance process will be reviewed as priority.

The State agency has developed a monitoring schedule using prior year compliance review logs. Per 7 CFR §226.6(m)(i)(ii), institutions with 1-100 facilities are

reviewed at least once every three years, institutions with more than 100 facilities are reviewed at least once every two years. The prioritized reviews listed above will be conducted first with the remaining scheduled reviews to follow. All reviews not completed by August 1, 2021 will receive technical and supervisory assistance to facilitate effective program operations. The State agency will maintain documentation of all reviews conducted and maintain documentation of all technical and supervisory assistance conducted.

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 allow the State agency to focus its time and resources on the institutions who require increased guidance and technical assistance.

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 8, 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(I)(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