



October 7, 2024

United States Department of Agriculture
Food and Nutrition Service
Southeast Regional Office
61 Forsyth Street, SW, Room 8T26
Atlanta, GA 20202-3427

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, Child Nutrition Program Waiver Request Guidance and Protocol- Revised, May 24, 2018.

Please see the responses to the required waiver questions:

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

North Carolina Department of Health and Human Services, Cynthia Ervin
Office: 919-707-5618
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<mailto:cynthia.ervin@dhhs.nc.gov>

2. Region: SERO

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]:

Hurricane Helene is one of the most life-threatening and devastating storms to impact western North Carolina. In advance of the storm, a public health emergency was declared on September 25, 2024. A presidential declaration for individual assistance was issued for 25 counties and the Eastern Band of Cherokee Indians on September 28, 2024.

Hurricane Helene impacted North Carolina on September 26, 2024, which caused thousands of residents to evacuate and temporarily relocate throughout the state. At least 9 counties (Alexander, Avery, Buncombe, Burke, Haywood, McDowell, Mecklenburg, Rutherford, Transylvania) issued evacuation orders (voluntary or mandatory) prior to Hurricane Helene making landfall. The Lake Lure Dam and Lake Susan Dam prompted evacuations as well as the Duke Energy Hydro Electric Dam at Lookout Lake.

At the peak of the storm, there were 908,862 power outages reported by Dominion, Duke, Co-Op Electric Cities across North Carolina. As of the evening of September 29, 2024, there were still 514,719 power outages across the state and as of the evening of September 30, 2024, there were still 466,896 power outages across the state.



Floods have left entire communities under several feet of water and entire towns have been washed away. Thousands of western NC residents have been displaced from or lost their homes in the floods. As of September 30, 2024, at least 182 roads remain closed due to flooding, mudslides, washouts, debris, trees, and downed power lines. I-40 remains closed from Exit 66 to Exit 72. The following airports have limitations or are closed: Charlotte (CLT), Macon County, Avery County, Shelby-Cleveland County, Asheville Regional, Gastonia Municipal, and Foothills Regional. The following Amtrak services have been cancelled: Crescent Service Train 20, Piedmont Service Train 71-78, Silver Star Train 92 and 91, and Silver Meteor train 97/98.

There have been over 1,000 welfare checks requested. As of October 1, 2024, data from the NC Emergency Operating Center indicated that there were at least 34 storm-related fatalities have been confirmed, and fatality counts are increasing daily. NBC News reported that as of 10:37pm on September 30, 2024, at least 49 have died, with the majority from Buncombe County (where Asheville is located). As of October 1, over 10,000 survivors have registered with FEMA for individual assistance.

As of the evening of September 29, 2024, North Carolina had 28 shelters open with a total of 1,052 occupants, with the largest populations in Buncombe, McDowell, Henderson, and Haywood counties. As of September 30, 2024, at least 121 systems are on boil water advisories, and of these, 33 systems need bacteria results to clear the advisory. The City of Henderson Wastewater Treatment Facility has been shut down due to flooding. These individuals and households are unable to store food and do not have access to cooking facilities.

Based on reports from our EBT vendor from Friday (September 27) and Saturday (September 28), at least 51 out of 61 Food Lion stores and 21 out of 35 Walmart stores are operating in the impacted counties. Food Lion and Walmart are two of the major retailers in western NC. Additionally, we received a report from our EBT vendor indicating that at least 376 SNAP-authorized retailers were able to accept at least one EBT transactions since Saturday, September 28.

The need for food remains critical for these households due to the loss of food from power outages and/or displacement from permanent homes.

Waiving the Act and regulation language that limits Summer EBT eligible foods to those that can be purchased with SNAP benefit, which excludes the purchase of hot foods and hot food products prepared for immediate consumption, will ensure that Summer EBT households from western North Carolina who may have lost their homes and/or been displaced due to Hurricane Helene can have access to hot meals.

North Carolina is requesting a statewide hot foods waiver due to the fact that there are still 400,000+ power outages at least five days into the storm and thousands of western NC are without water – thus cannot cook food and will need hot or prepared foods. Additionally, thousands of individuals from western NC are evacuating to different parts of the state and may be staying in motels/hotels, or other temporary housing locations where they are unlikely to be able to cook foods. We want to make all possible food options available to NC's S-EBT participants from western NC during this traumatic time.

This waiver affects all Summer-EBT recipients wanting to purchase hot food in the entire State. As of August 31, 2024, there are 200,174 households representing 437,037 individuals receiving S-EBT in North Carolina.

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

Section 13A(b)(1)(A) of the NSLA and regulations at 7 CFR 292.2 “SNAP eligible foods” and 7 CFR 292.16(i)(1), which state that State-issued Summer EBT benefits may only be used to purchase food as defined by section 3 of the Food and Nutrition Act (FNA).

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



North Carolina is requesting a statewide waiver for Summer- EBT to allow hot foods and hot food products prepared for immediate consumption to be considered “eligible foods” as long as they are purchased in FNS-authorized retail food stores. On September 28, 2024, President Joseph R. Biden issued a Major Disaster Declaration with Federal Individual Assistance Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Clay, Cleveland, Gaston, Henderson, Lincoln, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Transylvania, Watauga, Wilkes, and Yancey Counties and the Eastern Band of Cherokee Indians (a federally recognized tribe with a boundary spanning five North Carolina counties: Cherokee, Graham, Haywood, Jackson, and Swain).

Allowing the purchase of hot foods will assist and provide critical relief to S-EBT households most adversely affected by the disaster who are temporarily unable to prepare hot meals due to prolonged power outages and/or displacement from their homes.

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]: N/A

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

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 value of the benefit is not affected by a hot foods waiver.

10. Anticipated waiver implementation date and time period:

Households will be able to purchase hot foods and hot food products from FNS-authorized retailers from October 4, 2024 until November 03, 2024, which is consistent with NC’s approved SNAP hot foods waiver.

DCFW has had daily communications with the NC Retail Merchants Association since Sunday, September 29, 2024 to keep them apprised of the state’s intent to pursue a hot foods waiver given the widespread devastation. On October 4, 2024, the NC Retail Merchants Association, notified DCFW that retailers were prepared to allow hot food purchases utilizing EBT cards.

DCFW will utilize media press releases, updates to NC SNAP webpage, social media, text messages to SNAP recipients, 211, communications with key partners (100 county DSS agencies, 86 local health departments, NC Legal Aid and other legal advocacy groups, NC Retail Merchants Association, Historically Marginalized Populations stakeholders) to provide awareness to Summer-EBT recipients of the approved hot foods waiver.

11. Proposed monitoring and review procedures:

The State with the NC Retail Merchants Association will review implementation of the waivers concurrent and consistent with its corresponding SNAP hot foods waiver.

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

The State will report after the conclusion of the waiver any benefits and challenges associated with the waiver.

See here for the [USDA Non Discrimination Statement](#).