



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

Mary Anne Burghardt

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: Sponsoring Organization Waiver of Unannounced Requirement for Review 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 • NUTRITION SERVICES BRANCH

LOCATION: 5601 Six Forks Road, Building 2, Raleigh, NC 27609
MAILING ADDRESS: 1914 Mail Service Center, Raleigh, NC 27699-1914
www.ncdhhs.gov • TEL: 919-707-5800 • FAX: 919-870-4818

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Only Sponsoring Organizations 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.

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 226.16(d)(4)(iii)(A) and (B), both of which require an unannounced review be conducted as well as an unannounced review that includes a meal service observation as part of monitoring compliance.

This waiver authority is necessary due to the challenges in conducting a successful unannounced review. Sponsoring Organizations are 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 Sponsoring Organization. By granting this waiver request, Sponsoring Organizations would be able to schedule (announce) their monitoring visits with their sponsored facilities, increasing the likelihood of completion.

5. Specific Program requirements to be waived (include statutory and regulatory citations).

The NCDHHS proposes a waiver of regulations in 7 CFR 226.16(d)(4)(iii)(A) and (B), which require at least two of the three reviews be unannounced as well as the requirement for an unannounced meal service observation as part of monitoring compliance. If approved, the waiver will allow the NCDHHS to approve CACFP Sponsoring Organizations, in good standing, to conduct announced desk reviews with the required meal service observation. All other CACFP requirements would remain in effect.

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

If approved, this request will allow institutions the ability to maintain oversight of their sponsored facilities by using innovative technology while also adhering to the Centers for Disease Control and Prevention (CDC) recommendations regarding social distancing. 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 off-site.

In lieu of Sponsoring Organizations conducting two unannounced reviews, one of which includes observation of a meal service, Sponsors would contact the sponsored

facility via phone first and let them know that a desk review will be conducted and what will be expected. The Sponsor will email a *Record Request Checklist* (see attached) to the facility. The *Record Request Checklist* will also indicate if a meal service observation will be conducted. If the review requires a meal service observation the facility will be informed of the date and the meal service that will be observed. Sponsoring Organizations are encouraged to conduct meal service observations for facilities with non-congregate feeding/parental pick-up waivers in place to ensure integrity of those programs. If the facility 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 the Sponsoring Organization.

The facility will be informed of available technology that can be utilized in conducting the meal service observation. Such technology includes but are not limited to the following: pictures, Zoom, Skype, GoToMeeting, Microsoft Teams, Duo, Google Hangout, Face Time, video through cell phones, or any other acceptable platform. When returning the *Record Request Checklist*, the facility will indicate which technology will work best for the facility. 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.

The *Record Request Checklist* items must be submitted to the Sponsor within 48 business hours of the request.

The Sponsor will use the date the monitor completes the desk review as the date of review. Should the facility fail to submit the requested documents listed in the Record Request Checklist, the Sponsor will send a 2nd Request email to the facility 24 hours from the due date. 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. 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.

Upon completion of the desk review, a virtual exit conference will be conducted. The exit conference will be scheduled by the Sponsor using any of the following methods: phone conference or virtual meeting (video conference) with the facility over Zoom, Skype, GoToMeeting, or any other video platform. The Sponsor will review the Summary of Findings (if any) with the facility and request a signature and date on the Facility Monitoring Tool. All documents received by the facility will be attached to the Facility Monitoring Tool.

CACFP Sponsoring Organizations may request to participate in the statewide waiver by notifying the NCDHHS of their intent to waive the requirement to have at least two of the three reviews be unannounced as well as waiving the requirement for an unannounced meal service observation due to the novel Coronavirus. The NCDHHS

Special Nutrition Programs Unit would review and approve all requests and approve institutions in writing.

7. Description of any steps the State has taken to address regulatory barriers at the State level.

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 decrease the challenges faced by institutions and facilities due to exposure concerns and concerns about being found out of compliance by the State agency or FNS. Further, there is a greater chance of successfully completing the reviews by scheduling them. Sponsoring Organizations are encouraged to conduct follow-up visits on-site if program integrity concerns arise.

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.

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:

Requested Waiver Timeframe:

- 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 conducted by the State agency as well as Sponsoring Organizations at this time to comply with social distancing recommendations and nationwide waivers available from USDA. 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 NSDA]:

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 Program (CACFP)

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