



Food and
Nutrition
Service

Braddock
Metro Center

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Alexandria
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DATE: March 9, 2021

CODE: COVID-19: Child Nutrition Response #80

SUBJECT: Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites for Summer 2021 Operations – EXTENSION 3¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Issuing Agency/Office: | FNS/Child Nutrition Programs |
| Title of Document: | Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites for Summer 2021 Operations – EXTENSION 3 |
| Document ID: | |
| Z-RIN: | |
| Date of Issuance: | March 9, 2021 |
| Replaces: | N/A |
| Summary: | (1) Under this waiver, for all States, Summer Food Service Program operators of closed enrolled sites during the COVID-19 public health emergency may determine site eligibility through area eligibility, without collecting income eligibility applications. This flexibility also applies to the National School Lunch Program Seamless Summer Option. This waiver extends the <i>Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites in the Summer Food Service Program and National School Lunch Program Seamless Summer Option</i> , granted on October 9, 2020 that expires on June 30, 2021. (2) The waiver and flexibilities apply to State agencies administering, and local organizations operating, the Summer Food Service Program or National School Lunch Program Seamless Summer Option during Summer 2021. (3) This document relates to 7 CFR 225.15(f). |
| Disclaimer: | The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), unless otherwise provided. |

¹ Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this waiver as *not major*, as defined by 5 U.S.C. § 804(2).

Pursuant to the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is extending a nationwide waiver to allow area eligibility for closed enrolled sites in the Summer Food Service Program (SFSP) through September 30, 2021, to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). This waiver extends the *Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites in the Summer Food Service Program and the National School Lunch Program Seamless Summer Option - EXTENSION 2* granted on October 9, 2020, that expires on June 30, 2021- through September 30, 2021. This waiver extension applies to the Summer Food Service Program (SFSP) and FNS is extending this flexibility to the National School Lunch Program Seamless Summer Option (SSO).

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary. Under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(a)(1)(A)(i)(III) and Program regulations at 7 CFR 225.15(f), closed enrolled sites are required to collect income eligibility applications to determine that 50 percent of the children are eligible for free and reduced-price meals. However, FNS recognizes that, in this public health emergency, extending the waiver of the collection of income applications for closed enrolled sites would reduce administrative burden on State agencies and sponsors and would ensure appropriate safety measures for the purpose of providing meals and meal supplements during the summer months.

Therefore, pursuant to the FFCRA authority cited above, FNS extends, for all States that elect to be subject to this waiver, the waiver of those requirements at 42 U.S.C. 1761(a)(1)(A)(i)(III) and Program regulations at 7 CFR 225.15(f), that require applications in order to serve SFSP meals at closed enrolled sites that are area eligible. This waiver is effective July 1, 2021, and remains in effect through September 30, 2021. FNS extends this flexibility to SSO for the duration of this waiver.

Consistent with section 2202(a)(2) of the FFCRA, this extension applies automatically to all States that elect to use it, without further application. State agencies must inform their Regional Office if they elect to be subject to the waiver. However, for SFSP and SSO operators to use these flexibilities, they must contact the state agency for approval and provide the State agency any necessary information to complete the report requirements discussed below. State agencies should inform local Program operators of the flexibilities provided by this waiver as quickly as possible, and work in partnership with local operators to provide meals to all participants in a safe and accessible manner this summer. Prior elections and approvals will continue under this extension; no further action is needed.

Please note, State agencies that have already received a traditional SFSP waiver of the closed enrolled site requirements may elect to be covered by this nationwide waiver during the COVID-19 emergency, in place of their traditional waiver. As previously determined, the traditional SFSP waivers will remain in effect through April 30, 2022, or until FNS publishes a final regulation that supersedes the approval, whichever comes first. Therefore, there is no need for State agencies to withdraw or resubmit those requests.

As required by Section 2202(d), each State that elects the closed enrolled site flexibility must submit a report to the Secretary not later than 1 year after the date such State received the extension. The report must include:

- A summary of the use of this waiver by the State agency and local Program operators, and
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of participants during a challenging time. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ang M Kline". The signature is written in a cursive, flowing style.

Angela M. Kline
Director
Policy and Program Development Division