May 18, 2020

Mountain Plains Regional Office
1244 Speer Blvd, Suite 903
Denver, CO 80204-3581

Subject of Waiver Request:
Waiver to Suspend Area Eligibility Requirements through September 30, 2020

1. State agency submitting waiver request and responsible State agency staff
   contact information:
   Kansas State Department of Education, Child Nutrition & Wellness
   900 SW Jackson Street, Suite 251
   Topeka, KS  66612
   Cheryl S Johnson, Director
   csjohnson@ksde.org
   785-224-8479 (cell)

2. Region: Mountain Plains (MPRO)

3. Eligible service providers participating in waiver and affirmation that they are in
   good standing:
   Any Kansas approved School Food Authority (SFA) or community organization
   approved to operate in the Summer Food Service Program (SFSP) or the
   Seamless Summer Option (SSO), in good standing.

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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:
   The Kansas State Department of Education (KSDE) seeks to extend the
   temporary suspension of area eligibility requirements for SFAs and community
   organizations operating the Seamless Summer Option (SSO) or Summer Food
   Service Program (SFSP) through September 30, 2020 and/or upon expiration of
   the federally and/or state declared public health emergency, whichever is
   earlier.

Kansas leads the world in the success of each student.
KSDE continues to work diligently to qualify SFAs and community non-profits by school F/R data, census data and use of HUD Housing sites. However, there are some communities in Kansas with a significant population of high-need children and families, that do not qualify using area eligibility criteria from SY2019-2020 or census tract, but have experienced job loss, furloughs and/or economic hardships due to COVID-19. While schools in Kansas have quickly responded to the needs of their students and are currently providing meals through the available flexibilities for operation during unanticipated school closures and the removal of the congregate feeding requirement, 226 of the 1012 Kansas meal distribution/delivery sites will not be able to continue to feed the high need students in non-area eligible locations if this waiver is not extended for all of summer 2020 or until school resumes next fall which may be after Labor Day in some Kansas School Districts. If the waiver is not extended, thousands of free and reduced-price eligible students in these communities will lose access to meals during the summer during a period where the economic impact has worsened since the original approval.

As of November 19, 2019, overall as a state, Kansas’s Free and Reduced Population was at nearly 46%. This number is expected to grow exponentially as the number of unemployment claims in Kansas continues to grow. Gov. Laura Kelly issued a stay at home order for the entire state on March 30th as the virus spread across Kansas. This has had a significant impact on unemployment claims, F/R eligibility, and/or financial burdens across the entire state. Counties with meat packing plants and prisons have become hot spots with many family members in quarantine and not able to work. The COVID-19 pandemic crisis has created historic negative economic impact for all communities in Kansas. The full economic impact of COVID-19 is not reflected in data used to establish area eligibility for current Sponsors. Without a doubt, the economic impact, overall, has worsened since the original area eligibility approval on March 25, 2020. More than 215,000 Kansans filed initial unemployment claims during the six-week period from March 15 to April 25. That’s 7.4% of the state’s entire population.

Governor Kelly has a plan to open the state in phases. On May 14, 2020, Governor Kelly did not move Kansas to Phase 2, but created a new Phase 1.5. Even in the best-case scenario with only two weeks required between each phase, the final phase would not be realized until some date in July. At this point in time, it is not known if schools will be open as scheduled in August 2020, some are considering starts in September. With the uncertainty and fluidity of this pandemic, extending the area eligibility waiver would ensure children have access to meals when school is not in session. Changing service methods and decreasing sites in the middle of the summer is difficult for the Food Service staff and is hard for families to understand.
If this waiver is granted, it would allow all schools or community organizations to ensure that they can serve the highest need students in their towns and communities who might have limited access to healthful meals during this time when school is not in session. This would also support families who may be struggling to provide meals to their children when many have lost employment or are underemployed due to required closures of restaurants, bars, gyms, and other community spaces as well as layoffs at major businesses in Kansas.

Additionally, to remain in compliance with guidance from the CDC and the KS Governor, continuing the additional sites approved due to the area eligibility waiver will alleviate concerns about overcrowded meal distribution site locations and support the practice of social distancing. Meal distribution sites are being accessed more than initially expected due to many Kansans being laid off from their jobs. SFSP Sponsors have needed to add additional sites to be able to meet the needs of the children in their communities. Public school districts were surveyed the last week of April and are distributing only 50% of the meals served they would normally serve on a regularly scheduled school day, so even with the SSO/SFSP reimbursement school districts will have a financial deficit for this school year.

5. **Specific Program requirements to be waived (include statutory and regulatory citations).** [Section 12(l)(2)(A)(i) of the NSLA]:
   Those requirements found under 7 CFR 225.6(c)(2)(G): “For open sites and restricted open sites, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist.”

6. **Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:**
   If approved, KSDE will provide technical assistance to sponsors on the process and procedures for creating accurate site applications and capturing meal service information through the information and claiming portal- KNCLAIM. Additionally, KSDE will provide training and assistance to support sponsors as they are planning and preparing for meal service, and provide guidance on collecting accurate meal counts, and how to submit claim under either the SSO or SFSP. There are no significant impacts on technology, State systems, or monitoring.

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]:
   There are currently no State level regulatory barriers related to this specific issue.
8. **Anticipated challenges State or eligible service providers may face with the waiver implementation:**

The KSDE does not anticipate that the establishment of this statewide waiver will pose any challenges at the State or sponsor level since school food service operating under the waiver would essentially operate the same as a normal operating day. Alternatively, we anticipate this statewide waiver will support non-eligible schools and organizations that are currently trying to find methods and resources to help them continue to serve their communities during these unanticipated closures. Low-income children attending non-eligible schools or living in non-eligible areas will benefit from increased access to meal service and schools can use already encumbered resources.

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 establishment of this statewide waiver will not increase the overall cost of the Program to the Federal Government since these programs would be operating in situations where normal USDA Child Nutrition Programs are closed due to COVID-19.

Additionally, as families across Kansas are practicing quarantine practices and social distancing, participation through these meal sites will likely be limited to the highest need families and overall participation will be lower than through the National School Lunch Program. The loss of meals served under NSLP, SBP, and other programs would be offset by the increase of meals served under SSO and SFSP.

There would be no additional State Agency staff costs to implement this waiver and/or would there would not be a need for additional State Administrative Expense Funds to implement this waiver.

10. **Anticipated waiver implementation date and time period:**

The anticipated statewide implementation start date is upon approval from USDA and is to remain in effect through September 30, 2020 and/or upon expiration of the federally and/or state declared public health emergency, whichever is earlier.

11. **Proposed monitoring and review procedures:**

KSDE is currently deploying program monitoring staff to conduct offsite assessment and technical assistance sessions for each SSO and SFSP sponsors serving COVID-19 meals. The purpose of these assessments will be to validate SSO and SFSP applications, ensure the sponsor disclosed all required information and to provide technical assistance as needed. A process has been developed that includes questions to ask and a way to capture responses especially those that need follow up. The offsite assessments will ensure these SSO and SFSP sponsors with non-area eligible sites have maintained program integrity as required by the initial waiver approval.
12. Proposed reporting requirements (include type of data and due date(s) to FNS):
   No later than December 31, 2020, the KSDE will report to USDA the number of sponsors that used this waiver including the number of unanticipated operating days and meals claimed.

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]:
   Notice is posted at www.kn-eat.org, School Nutrition Programs, What's New.

14. Signature and title of requesting official:

   [Signature]

   Name: Cheryl Johnson, MS, RD, LD
   Title: Director, Child Nutrition & Wellness, KSDE
   Requesting official's email address for transmission of response:
   csjohnson@ksde.org

TO BE COMPLETED BY FNS REGIONAL OFFICE:
FNS Regional Offices are requested to ensure the questions have been adequately addressed by the State agency and formulate an opinion and justification for a response to the waiver request based on their knowledge, experience and work with the State.

Date request was received at Regional Office:
☐ Check this box to confirm that the State agency has provided public notice in accordance with Section 12(l)(1)(A)(ii) of the NSLA

Regional Office Analysis and Recommendations:
☐ Recommend Approval
☐ Recommend Denial

Explanation: