



USDA Domestic Food Assistance Programs’ Response to COVID-19: P.L. 116-127 and Related Efforts

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U.S. Department of Agriculture (USDA) [Food and Nutrition Service \(FNS\) programs](#) are often part of emergency response efforts, providing program flexibilities, foods for distribution, and benefits for redemption. Emergencies generate [different FNS responses](#) and vary with states’ requests. During the COVID-19 pandemic, access to food—particularly in light of [school closures](#)—has been a concern for many. Some also view the Supplemental Nutrition Assistance Program (SNAP) [as a force for economic stimulus](#). This Insight discusses P.L. 116-127’s food assistance provisions, which supplement FNS’s existing COVID-19 response with new funds and authorities.

USDA-FNS Responses To-Date

FNS maintains a [COVID-19 response website](#).

During unanticipated school closures, school districts or “school food authorities” that normally operate the National School Lunch Program and School Breakfast Program [may transition](#) to serving meals through the Summer Food Service Program (SFSP) or Seamless Summer Option (SSO) if they are approved as summer meal sponsors. Nonprofit and other public agency sponsors may also operate meal sites, and states may approve new sponsors, during unanticipated school closures.

Normally, SFSP/SSO meals must be served at *non-school* sites and consumed onsite (“congregate feeding”). As of March 19, 2020, [USDA-FNS had granted waivers](#) to all 50 states, DC, and Puerto Rico, allowing SFSP/SSO operators to serve meals in non-congregate settings (e.g., meal pick-up or delivery) and at *school* sites during COVID-19-related school closures.

For SNAP’s [Quality Control system](#), FNS is allowing telephone interviews instead of face-to-face interviews in 44 states, DC, and the Virgin Islands, as of March 19, 2020.

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Supplemental Appropriations for WIC and TEFAP (Division A)

P.L. 116-127 provides a \$500 million supplemental appropriation for the [Special Supplemental Nutrition Program for Women, Infants, and Children \(WIC\)](#). It also provides a \$400 million supplemental appropriation for [The Emergency Food Assistance Program \(TEFAP\)](#), of which \$100 million can be used for food distribution costs.

Child Nutrition Programs (§§2102, 2202)

Under §12(l) of the Richard B. Russell National School Lunch Act ([42 U.S.C. §1760\(l\)](#)), states and service providers may request, and USDA may grant, waivers of [child nutrition program](#) requirements. Division B of P.L. 116-127 expands these authorities.

§2102 allows USDA to grant waivers that increase federal costs. Such waivers must be requested by a state or service provider and be aimed at providing meals and snacks during a COVID-19-related school closure.

§2202 allows USDA to issue a single waiver to all states. States may opt-in without USDA's approval. §2202 also specifies that USDA may grant waivers to allow non-congregate feeding in the Child and Adult Care Food Program. Both waivers must be for the purpose of providing meals and snacks "with appropriate safety measures with respect to COVID-19."

§2202 also allows USDA to grant waivers related to the nutritional content of meals served in child nutrition programs if USDA determines the waiver is necessary to provide meals and snacks and there is a food "supply chain disruption" due to COVID-19.

The waiver authority under §2202 expires on September 30, 2020.

SNAP

SNAP Benefits during School Closures (§1101)

P.L. 116-127 includes what has been called "P-SNAP" (Pandemic Supplemental Nutrition Assistance Program), an option allowing USDA approval of state plans to provide SNAP benefits, when a school is closed five or more days, to households with children who would normally receive free or reduced-price school meals (in an amount equal to at least five days' of free meal reimbursements).

This option was last available in FY2010 (during the [H1N1 flu epidemic](#)), enacted in an FY2010 appropriations law (P.L. 111-80, §746). [In 2009, FNS issued detailed guidance](#). However, no SNAP state agencies ever administered P-SNAP.

Work-Related Requirements (§2301)

SNAP has [work-related eligibility requirements](#), the strictest being a time limit for nondisabled adults (ages 18 to 49) without dependents ("ABAWDs") who work less than 80 hours per month. §2301 partially suspends this time limit nationwide during the period of the Secretary of Health and Human Services' [public health emergency declaration](#), allowing participants who would have lost eligibility due to the time limit to continue to receive benefits.

Separately, on March 13, 2020, a federal court [blocked](#) enforcement of the part of a USDA final rule that would make it more difficult for states to use labor statistics to waive the time limit, changes that were to go into effect April 1. The court "[determined](#) that aspects of the Final Rule are likely unlawful ... [and]

USDA will be enjoined from implementing those aspects of the Final Rule nationwide pending final judicial review.” Part of the court’s rationale was the [global pandemic](#).

Benefit Increases, Administrative Requirements (§2302)

§2302 provides for temporary SNAP benefit increases during the public health emergency. It requires USDA to grant SNAP state agencies’ requests that are supported “with sufficient data (as determined by [USDA]).” The increases are “to address temporary food needs not greater than the applicable [maximum monthly allotment](#) for the household size.” Previously, a [nationwide increase to SNAP benefits](#) was included in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

The bill also allows USDA to adjust (through guidance and based on states’ requests) administrative requirements like issuance methods and reporting requirements.

WIC (§§2203, 2204)

In addition to the supplemental funding provided, P.L. 116-127 gives USDA further authority to grant waivers allowing WIC participants to get certified (or recertified) without being physically present at the WIC clinic (normally required). Waiver requests are to be made by state agencies to USDA.

Also, the bill authorizes USDA to grant waivers from program administrative requirements that a state determines “cannot be met due to COVID-19” and is “necessary to provide assistance” under WIC.

Grants for Nutrition Assistance Funding for Certain Territories (§1102)

Northern Mariana Islands, Puerto Rico, and American Samoa do not operate a SNAP program; instead, they operate programs funded by [Nutrition Assistance Program block grants](#) in lieu of SNAP. §1102 provides \$100 million for grants to these territories for nutrition assistance “in response to a COVID-19 public health emergency,” as presumably they would not have the authority to operate P-SNAP or other options in the bill that increase SNAP benefits.

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