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United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
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Alexandria, VA
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Subject: Demonstration Authority Required for Non-Merit Employee Interview
Projects

To: All Regional Directors
Food Stamp Program

Since 2005, the Food and Nutrition Service (FNS) has approved a small number of administrative waivers that allow State agencies to use non-merit system employees, generally employees or volunteers of community-based organizations, to perform functions that are normally reserved for State merit system employees when serving a specific group of clients, most often the elderly. In these pilots, such non-merit system employees have received specialized training and been permitted generally to review each client's application, interview the client, and gather the client's verification documents. Clients served by these projects have not been required to have contact with a merit system eligibility worker unless the merit system eligibility worker determines that additional contact with the household is necessary to resolve unclear or questionable information. FNS has supported these projects because of their potential to improve program access.

Over time, issues were brought to light that caused us to review the legal authority for granting such waivers. FNS wanted to hold any further guidance until program reauthorization. Now that the Food, Conservation, and Energy Act of 2008 has been enacted, it is time to announce our conclusion that the best approach to such projects, given our statutory authority, is to approve them as demonstration projects under section 17 of the Food Stamp Act, instead of using waiver authority under 7 CFR 272.3(c). This conclusion is based on the premise that the merit personnel requirements of the law require an interview with a State employee and altering this protocol requires a waiver of the law. Demonstration authority differs from waiver authority in that such projects would require an evaluation of the effects of the non-merit employee interviews on payment accuracy, program access and customer service.

State agencies that are currently operating such projects may continue to do so until their current waiver expires. State agencies that have projects that will expire in the near term or have recently expired will be given an extension of their current waiver for an additional 6 months. Waiver requests for projects that are not yet approved or for extension of projects that will not expire for 6 months or more must now be reviewed and approved under demonstration authority.

Each Regional Office will soon receive individual notification of the status of projects in its Region, actions each State agency will need to take to continue to operate its project, and new expiration dates for waivers that will be automatically extended. We will also provide detailed guidance on evaluation requirements for such projects under demonstration

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authority in a separate memorandum in the near term. These expectations will be commensurate with the scope of the project and FNS will work closely with project sites to facilitate a smooth transition.

If you have any questions, please contact Moira Johnston at 703-305-2515.



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Director

Program Development Division