



Food and
Nutrition
Service

APR 11 2017

Park Office
Center

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Alexandria
VA 22302

Ms. Mary C. Mayhew
Commissioner
Maine Department of Health and Human Services
Commissioner's Office
221 State Street
#11 State House Station
Augusta, Maine 04333-0011

Dear Ms. Mayhew:

The Food and Nutrition Service (FNS) received your February 17, 2017, request seeking approval to waive Section 3(k) of the Food and Nutrition Act of 2008 (the Act) regarding eligible foods in the Supplemental Nutrition Assistance Program (SNAP). Specifically, you request authority to operate a demonstration project in Maine to test restrictions on the purchase of soft drinks and candy with SNAP benefits.

In order to carefully consider all aspects of your submission, we require additional information. In reviewing the State's November 2015 demonstration waiver request for the same type of restriction, we posed a set of questions on January 21, 2016, seeking additional information, which the State responded to on March 9, 2016. Please confirm if the State's response of March 9, 2016, is applicable to the current waiver request.

Further, on June 8, 2016, in response to the March 9 submittal, FNS relayed that, while the detailed and specific responses to our questions were helpful, we continued to have significant concerns relative to the evaluation. Specifically, although Maine had proposed a thorough process evaluation to document how the restriction was implemented by both the State and retailers, the proposed impact evaluation was not adequate to provide sufficient assurance of credible, meaningful results with respect to the consumption of sweetened beverages or candy, or the impacts on obesity or other weight-related diseases. The following key issues with the proposed evaluation were noted:

- Since the restriction was to be implemented statewide, the study design did not have a counterfactual to show what would have happened in the absence of the restriction.
- There was no pre- and post-implementation data collection to compare SNAP household purchases before and during the demonstration. The data was to be collected through retrospective surveys at one month and six months after implementation asking participants if their food purchases changed during the demonstration.

- Likewise, the impact evaluation was to rely on SNAP participants accurately reporting, in retrospect, how their purchases of sweetened beverage and candy had changed during the demonstration. Self-reported data is subject to bias as respondents may not remember their purchases six months ago or may be influenced by the statewide restriction and accompanying messaging.

It was further noted that some of these concerns could be addressed by obtaining retailer data from a significant portion of SNAP-authorized stores to analyze item-level purchases to determine if households use cash or other tender to purchase sweetened beverages and candy when making a SNAP Electronic Benefits Transfer (EBT) purchase. This would also require obtaining item-level purchase data for SNAP households when an EBT card is not used in the transaction. Maine doubted that small retailers would be able to provide this data, but was hopeful that large chains would cooperate and provide this data.

However, neither the November 2015 waiver request nor the February 2017 request indicates that Maine had or has agreement from any retailers, or had or has begun conversations with retailers about obtaining this data. The absence of retailer data in the evaluation plan significantly limits the feasibility of determining the impact of the restriction on consumption patterns or health outcomes for SNAP participants in Maine.

As noted, in our June 8 response, FNS asked for clarifying details or more information relative to these key evaluation issues, but did not receive follow-up information. This level of detailed information is still absent from the renewed waiver request. We are again requesting that you address these concerns so that we may fully and thoughtfully consider this waiver request.

Additionally, your 2015 waiver request was time-limited at 24 months. The renewed request asks for an indefinite waiver. An indefinite demonstration waiver is specifically prohibited by the Food and Nutrition Act. Therefore, Maine must reconsider and clarify the intended time frame.

With regards to the use of SNAP nutrition education and obesity prevention grant (SNAP-Ed) funds, in the 2015 request, Maine proposed to reallocate those funds to pay for the evaluation. In addition to using SNAP-Ed funds for the evaluation in the current request, you have also proposed to reallocate SNAP-Ed funds by providing those funds directly to food banks, schools, and other community agencies for the distribution of fruits and vegetables to needy families, and that nutrition education be conducted as part of school curricula, and overseen by the Department of Education.

This is a new request from the State agency and FNS will need further information to determine if a waiver to the Act or regulations is required. Does Maine intend to submit a SNAP-Ed plan according to 7 CFR 272.2 describing the activities and use of SNAP-Ed funds in greater detail for approval?

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According to SNAP regulations, SNAP-Ed activities must be evidence-based. Maine would need to demonstrate to FNS that there is evidence that these activities support the requirements for SNAP-Ed.

Finally, we request a full cost estimate that addresses both Federal and State costs associated with this effort so that Maine's demonstration waiver submission can be given full consideration.

Please direct your response to

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USDA, Food and Nutrition Service
Supplemental Nutrition Assistance Program
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Maine's commitment to advancing the importance of healthy food purchases for SNAP participants is appreciated. FNS hopes to continue working collaboratively with the State in pursuing innovative approaches to promote healthful diets. Additional follow up with the State may be required if further clarification is needed regarding this request. We look forward to your response and to further discussions with the State as the waiver is considered.

Sincerely,



Jeffrey N. Cohen
Acting Associate Administrator
Supplemental Nutrition Assistance Program

cc: Kurt Messner