



Food and
Nutrition
Service

Park Office
Center

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Center Drive
Alexandria
VA 22302

JUN 06 2018

Ms. Belit Burke
Department of Human Services
Office of the Self-Sufficiency
500 Summer St. NE, E048
Salem, Oregon 97301

Dear Ms. Burke:

This letter is in response to Oregon State's Department of Human Services' (the State) August 31, 2017, request to provide low-income families with a tax credit for some of their child care expenses on a monthly basis, instead of annually. Doing so would require waivers of the following provisions of SNAP regulations and statute:

- Section 5(d)(5) of the Food and Nutrition Act of 2008, as amended which requires that household income shall exclude "reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household and any allowance a State agency provides no more frequently than annually to families with children...".
- Section 5(d)(8) of the Food and Nutrition Act of 2008, as amended which requires that household income shall exclude "moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits".
- 7 CFR 273.9(b)(2): This regulation in part requires unearned income to include assistance payments from Federal or federally aided public assistance programs, general assistance programs, or other assistance programs based on need.
- 7 CFR 273.9(c)(5): This regulation in part states that reimbursements for past or future expenses shall be excluded from household income, to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household.
- 7 CFR 273.9(c)(8): This regulation in part states that money received in the form of a nonrecurring lump-sum payment, such as a tax credit, shall be excluded from income.

The State has requested these waivers in order to facilitate the creation of a pilot program that would utilize advance payment for the State dependent care tax credit, which is currently provided on an annual basis to eligible households. This pilot program would instead provide this tax credit via monthly payment to help families pay for dependent care expenses. The State would like these monthly distributions of an advance payment to be excluded when determining eligibility for SNAP benefits.

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Waivers of the Food and Nutrition Act of 2008 (the Act) can be approved under the authority of Section 17(b)(1)(A), which permits demonstration projects designed to test program changes that may increase efficiency and improve the delivery of SNAP benefits to eligible households. Section 5(d)(8) of the Act and 7 CFR 273.9(c)(8) permit the State to exclude the dependent care tax credit from countable income when the tax credit is provided on an annual basis. Excluding monthly, recurring tax credits from income via demonstration project authority is not consistent with the intent of projects under the Act since the same end result could be achieved under current law without the need for a waiver to exclude income that would otherwise be countable. FNS is denying the State's request as this is not in line with appropriate use of demonstration waiver authority.

While a demonstration project is not appropriate in this case, we are available to provide guidance in considering other innovative options to enhance customer service and improve program administration that may be useful to the State. If you have any questions please contact Mary Rose Conroy at (703) 305-2803 or maryrose.conroy@fns.usda.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Lizbeth Silbermann", with a long horizontal flourish extending to the right.

Lizbeth Silbermann
Director
Program Development Division