



STATE OF NEW MEXICO
Human Services Department
Governor Michelle Lujan Grisham
David R. Scrase, M.D., Cabinet Secretary
Angela Medrano, Deputy Cabinet Secretary
Kari Armijo, Deputy Cabinet Secretary

March 25, 2020

Dwight Crudup Regional
Director
Southwest Region US DA/FNS
110 Commerce Street, Room 5-C- 30
Dallas, Texas 75242

Subject: Fair Hearings Timeframe Waiver

Dear Mr. Crudup:

ISD is concerned that access to resources needed to request a fair hearing may not be available, or may be delayed, during the declared public health emergency period. Extending the timeframe for an appeal will ensure claimants' due process rights are met. Continuing operating under normal procedures could mean missed deadlines due to staff shortages and availability of resources; consequently, there is potential for violation of customer rights.

Due to the increase in applications, and potential for a decrease in availability of staff The Department has moved to teleworking which can lead hearing officers work being interrupted and they may not be able to conduct hearings and write decisions within the specified timeframes in place. Similarly, the processing technicians who accept hearing requests, schedule the hearings and are responsible for providing the 10-day notice to households when they withdraw requests may not be able to send these out timely due to closure of the Department's office or lack of access to printing. The Department requests flexibility relating to these timeframes due to office closures or staff reductions relating to COVID-19. The Department will strive to meet these time deadlines but is seeking a waiver of them if compliance becomes impossible.

The waiver will allow for households to have adequate time to submit pertinent documentations for the hearing record and the hearing officer will have sufficient time to render a thorough and sound hearing decision.

If additional information is needed, your staff may contact Gavino Archuleta, SNAP Program Manager, at 505-827-7244 or via e-mail at Gavino.Archuleta@state.nm.us.

Thank you for your assistance in processing this request.

A handwritten signature in black ink that reads "Karmela Martinez".

Karmela Martinez, Division Director
New Mexico Human Services Department
Income Support Division

WAIVER REQUEST

Fair Hearing Timeframes

1. **Type of Request:** Initial
2. **Primary Citation:** 7 CFR 273.15(c); 7 CFR 273.15(i)
3. **Secondary Regulation Citation:** 7 CFR 271.2
4. **State:** New Mexico
5. **FNS Region:** SWRO
6. **Act and Regulatory Requirements:**

7 CFR 273.15(c) requires the following: " Within 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision."

7 CFR 273.15(j)(2) requires the following: "The State agency must provide a written notice to the household within 10 days of the household's request confirming the withdrawal request and providing the household with an opportunity to request a hearing."

7. **Proposed Alternative Procedures:**

The Department requests flexibility relating to these timeframes due to office closures or staff reductions relating to COVID-19. The Department will strive to meet these time deadlines but is seeking a waiver of them if compliance becomes impossible.

ISD requests a waiver to be able to extend the time for which the customer may exercise their appeal rights and submit a request for a State Fair Hearing from sixty (60) days to one-hundred twenty (120) days .Anticipated Impact on Households: Allowing the purchase of hot foods will assist and provide critical relief to SNAP households most adversely affected by the COVID-19 virus who are temporarily unable to prepare hot meals due to shortage of goods.

8. **Justification for Request:**

ISD is concerned that access to resources needed to request a fair hearing may not be available, or may be delayed, during the public health emergency period. Extending the timeframe for an appeal will ensure claimants' due process rights are met. Continuing operating under normal procedures could mean missed deadlines due to staff shortages and availability of resources; consequently, there is potential for violation of customer rights.

The Department has moved to Teleworking which can lead hearing officers work being interrupted and they may not be able to conduct hearings and write decisions within the specified timeframes in place. Similarly, the processing technicians who accept hearing requests, schedule the hearings and are responsible for providing the 10-day notice to households when they withdraw requests may not be able to send these out timely due to closure of the Department's office or lack of access to printing.

9. **Affected Caseload:**

The waiver will allow for households to have adequate time to submit pertinent

documentations for the hearing record and the hearing officer will have sufficient time to render a thorough and sound hearing decision.

10. Time Period for which Waiver is needed:

The Waiver is needed until the month following the month that the declared health emergency has ceased.

11. Proposed Quality Control Procedures:

Quality Control will review under the guidelines of this waiver in place of the FNS 310 requirements for the duration of this waiver.

12. Signature and Title of Requesting Official:

A handwritten signature in black ink, appearing to read "Karmela Martinez". The signature is written in a cursive, flowing style.

Karmela Martinez, Director of Income Support Division

13. Date of Request: March 25, 2020.

