



USDA Domestic Food Assistance Programs' Response to COVID-19: P.L. 116-127, P.L. 116-136, 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](#), which can 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 related provisions of the second and third COVID-19 legislative packages, which supplement FNS's prior COVID-19 response with new funds and authorities.

USDA-FNS Responses To-Date

FNS maintains a [COVID-19 response website](#). The website includes a state-by-state list of waivers, some of which USDA has issued using new authorities under P.L. 116-127 (discussed below).

Some options already existed under current law. For example, during unanticipated school closures, school districts that normally operate the National School Lunch Program and School Breakfast Program [may transition](#) to serving meals through the summer meals programs.

In addition, USDA may authorize emergency feeding programs during a presidentially declared disaster or emergency. USDA has [approved requests](#) from certain states and Indian tribal organizations to operate a Disaster Household Distribution program.

Families First Coronavirus Response Act (P.L. 116-127)

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

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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. P.L. 116-127 temporarily expands these authorities.

§2102 allows USDA to grant waivers that increase federal costs for the purpose of providing meals and snacks during a COVID-19-related school closure. In addition, §2202 allows USDA to issue national waivers that apply to all states opting in. §2202 allows USDA to waive nutritional requirements in child nutrition programs if there is a food “supply chain disruption” due to COVID-19. §2202 also specifies that USDA may grant waivers to allow non-congregate feeding in the Child and Adult Care Food Program. 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 pandemic](#)), enacted in an FY2010 appropriations law (P.L. 111-80, §746). 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.

CARES Act (P.L. 116-136)

The third supplemental package provided additional funding for FNS programs “to prevent, prepare, and respond to coronavirus” as follows:

- \$8.8 billion for child nutrition programs.
- \$15.8 billion for the SNAP account. This includes \$15.5 billion for SNAP participation should it exceed earlier budget estimates; \$100 million for the Food Distribution Program on Indian Reservations ([FDPIR](#)) (\$50 million for facilities/equipment, \$50 million for food); and \$200 million for nutrition assistance grants to Northern Mariana Islands, Puerto Rico, and American Samoa.
- \$450 million for TEFAP, up to \$150 million of which may be used for food distribution costs.

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