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MANY AREAS THAT QUALIFY FOR WAIVERS DO NOT APPEAR ON THE DEPARTMENT OF LABOR'S LIST OF LABOR SURPLUS AREAS

Overview

In late 1996 and early 1997, USDA's Food and Nutrition Service (FNS) issued guidance setting forth its criteria for considering state requests to waive local areas from the food stamp time limits for 18- to 49-year-old childless adults. The guidance gave states broad discretion about which areas to include in their waiver requests and what bases to use in making such requests.

To date, a large majority of the waivers that have been granted have been given to areas that the U.S. Department of Labor (DOL) has designated as "labor surplus areas" (LSAs). FNS automatically approves all waiver requests for areas included on the LSA list. But while DOL's LSA list provides states with an easy way to secure waivers for some parts of the state, a number of areas with substantial unemployment are not included on the DOL list. As a result, various states have sought and received waivers for areas not on the list.

USDA's guidance makes clear that it will approve waivers for any area designated by a state in which the unemployment rate for a recent 24-month period exceeded the national unemployment rate for that period by at least one-fifth. This is consistent with the basic principle behind DOL's LSA list; the single most important criterion used in compiling the list is that an area's unemployment rate for the two most recently completed calendar years exceeded the national unemployment rate for that period by at least one-fifth. As explained below, however, some areas in which the local unemployment rate exceeded the national rate by at least one-fifth for a recent 24-month period are *not* included on the DOL list. By allowing states to secure waivers for such areas, the USDA guidance enables states to surmount obstacles and administrative difficulties that can be created by some of the arcane features of the methodology that DOL uses in compiling its LSA list.

- **Whole-county waivers.** When a county contains at least one city with a population of 25,000 or more, as many counties do, DOL does *not* determine LSA status for the county as a whole. Instead, DOL examines separately the LSA-status of the cities in question and of the rest of the county, without determining whether the county as a whole meets the LSA definition. As a result, DOL frequently lists some, but not all, parts of a county on its LSA list. Many states have addressed this issue by using data from the Bureau of Labor Statistics (BLS) or one of its state cooperating agencies to request waivers on a county-wide basis in cases where the county as a whole has an unemployment rate that exceeds the national average by at least one-fifth but the entire county is not included on the DOL list.

- **Waivers based on more recent data.** The LSA list is based on data for the two most recently completed calendar years prior to the federal fiscal year for which the list is applicable. Thus, the current LSA designations for federal fiscal year 2001 are based on unemployment rates for calendar years 1998 and 1999. Some areas are not on the LSA list but have an unemployment rate at least one-fifth above the national unemployment rate for a *more recent* time period. Several states have obtained waivers for areas not on the DOL list by using data for more recent 24-month periods, such as the two most recent federal fiscal years.
- **Waivers for areas with unemployment that is substantial but less than six percent.** The LSA list cuts off membership at an unemployment rate of six percent. As a result, a number of areas in which the unemployment rates for the 24-month period covered by calendar years 1998 and 1999 were between 5.2 percent and 6.0 percent — and consequently exceeded the national rate for that period by at least one-fifth — are not listed as LSAs because their unemployment rates were below six percent. USDA recently granted waivers to Illinois and Maryland for areas that are not on the DOL list for this reason but where the unemployment rate for a recent 24-month period still exceeded the national rate by at least one-fifth.
- **Multi-county waivers.** The LSA list never includes areas bigger than a county. In some areas, however, several counties together form a unified labor market. DOL has identified some of these areas as Labor Market Areas (LMAs). States, with their special understanding of local labor market conditions, may be aware of other such areas that are larger than a county. USDA has granted waivers to several states for groups of counties in which the collective unemployment rate exceeded the national average by at least one-fifth for a recent 24-month period even though not all of the counties in the group would have qualified as LSAs on their own.

Each of these alternative ways of qualifying for a waiver is discussed in more detail below. It should be noted that making a determination about whether an area that is not on the DOL list meets the central element of the LSA definition on these grounds — and hence qualifies for a waiver because its unemployment rate exceeds the national average by at least one-fifth — is relatively easy. Moreover, USDA routinely accepts such determinations. The Center on Budget and Policy Priorities has made basic calculations of the eligibility of various areas for waivers based on some of these alternative criteria and can provide additional technical assistance to those who wish to pursue this type of waiver.

Meeting the LSA Definition on the Basis of More Recent Data

DOL makes LSA designations once a year, at the beginning of the federal fiscal year (*i.e.*, around October 1). As noted, DOL bases the LSA designations on unemployment rates during the 24-month period spanning the two most recent calendar years. The FFY 2001 list is based on the 24-month period from January 1, 1998, through December 31, 1999.

By the start of the fiscal year for which the LSA list is issued, more recent unemployment rate data are available, and the more recent data should provide additional insight into an area's current labor market conditions. This is especially true in circumstances where a state is applying for a waiver for a local area at a time *after* the federal fiscal year has started. A state may apply for a waiver for an area if it can show that the area has an unemployment rate at least 20 percent above the national average for a more recent 24-month period than that used in the DOL calculations. The data needed to calculate these 24-month unemployment rates are readily available from DOL's Bureau of Labor Statistics and from the agencies in each state that cooperate with BLS.

Waiver eligibility is defined relative to the national unemployment rate. Thus, an area could meet the criteria for a waiver for a more recent 24-month period than that reflected in DOL's current LSA list even if the area's unemployment rate has been falling. If an area's unemployment rate has been declining at a slower rate than the national unemployment rate, the area could qualify for a waiver. (For example, to have an unemployment rate for calendar years 1998 and 1999 at least 20 percent above the national rate, an area's unemployment rate must have been at least 5.2 percent. To qualify based on data for federal fiscal years 1999 and 2000 — *i.e.*, October 1998 through September 2000 — an area must have had an unemployment rate of at least 5.0 percent for that period.)

FNS has approved waiver applications of this type for areas in several states. For example, in March 1998, Pennsylvania received approval for waivers for Fulton and Sullivan Counties, based on the 24-month period from January 1996 through December 1997. (At that time, DOL's list of LSAs was based on unemployment data from calendar years 1995 and 1996, rather than 1996 and 1997.) Similarly, in December 1997, Illinois received a waiver for several counties, cities, and smaller communities based on the 24-month period from September 1995 through August 1997.

Securing Full-County Waivers When the LSA List Includes Only Part of a County

In creating its LSA list, DOL calculates unemployment rates for all counties and for all cities with populations of at least 25,000.¹ When a county contains cities with populations of 25,000 or more, DOL does not make an LSA determination for the county as a whole. Rather, it makes a determination for each city in the county and a separate determination for the remainder ("the balance") of the county. As a result, there are "partial-county LSAs," *i.e.*, cases where some parts of the county are listed as LSAs and others are not.

Where there are partial-county LSAs, the entire county may meet the LSA definition if the county as a whole is examined. This often occurs when one or more cities in the county are LSAs and these cities are big enough that their labor conditions have a large influence on the county as a whole. States can apply for a waiver for the entire county in such cases. Since states generally administer the food stamp program by county, they may find county-wide waivers more admini-

¹ For Connecticut, Massachusetts, and Rhode Island, DOL does not make LSA determinations on the county level but instead considers all individual towns, regardless of size.

stratively practical. In addition, since local labor markets typically include both cities and their surrounding suburbs, measuring labor market conditions for the county as a whole may provide a more accurate representation of job prospects for residents than a measurement just of the areas of the county that lie outside the city boundaries.²

FNS has been receptive to waiver applications for entire counties where only part of the county is on the LSA list. In March 1997 guidance, FNS described two sets of criteria it considers in approving waivers of this type. First, a state can show “county-wide substandard employment prospects” by showing that the entire county had an average unemployment rate over a 24-month period at least one-fifth above the national average. The 24-month period used may be either the same period that DOL has used in creating its most recent LSA list or a more recent 24-month period.

FNS has approved several waiver applications on this basis. It approved a Florida request for a waiver for several full counties that included both areas that were on the DOL list and areas that were not. For example, Panama City, Florida was included in DOL’s LSA list for federal fiscal year 1998, but the balance of Bay County (in which Panama City is located) was not. The county as a whole, however, had an average unemployment rate at least one-fifth above the national rate. FNS approved a waiver for the entire county.

The second approach cited by FNS for securing a waiver for the remainder of a county when DOL has listed only one of more cities in the county as LSAs is for the state to determine that the cities’ labor market conditions have substantial effects on the prospects of job-seekers in the rest of the county. The FNS guidance says that a state that wishes to apply for a full-county waiver on this basis can “show that the part of the county designated as a LSA dominates the county labor market to such an extent that a waiver for the entire county is warranted. For example, it may show that the number of jobs in the balance of the county is small in relation to the number of jobs in the area designated as a LSA.” Thus, Missouri received approval for a waiver for Buchanan County on the grounds that the City of St. Joseph, which accounts for 87 percent of the county’s population, was an LSA.

Waivers for Areas Containing More Than One County

The LSA standard also can be applied to areas larger than a single county. The March 1997 FNS guidance notes that waivers may be approved for groups of counties that form a unified labor market if the unemployment rate for the group of counties, taken as a whole, meets the LSA criterion (*i.e.*, the unemployment rate for the group of counties exceeded the national unemployment rate by at least one-fifth for a recent 24-month period). Where several counties are part of a unified labor market, high unemployment in one or more of those counties may make it difficult for people living in the other counties to find employment.

² The Census Bureau definition of “Metropolitan Statistical Areas,” which includes central cities and surrounding counties, is based on the notion that the county and the city are economically integrated.

FNS approved a waiver for Broward County, Florida on this basis. The Census Bureau designated the counties of Broward and Dade a single Consolidated Metropolitan Statistical Area because of the economic integration between the Miami and Fort Lauderdale areas. Combined unemployment in Broward and Dade Counties exceeded the national average by more than one-fifth for the 24-month period from October 1995 to September 1996; as a result, the full two-county area qualified for a waiver in federal fiscal year 1997. This area has continued to be waived on this basis in subsequent years.

One set of multi-county groupings for which states can seek waivers are those designated as “Labor Market Areas” (LMAs) by DOL. (The Center on Budget and Policy Priorities has listings of LMAs in each state and will share them on request.) States also can suggest to FNS other groupings of counties that they believe form single labor markets.