COVID-19 Update

Child Nutrition Program Meal Service during COVID-19 Outbreaks
September 14, 2020


On September 11, 2020, USDA released:

- COVID-19: Child Nutrition Response #57 Nationwide Waiver to Allow Reimbursement for Meals Served Prior to Notification of Approval and Provide Flexibility for Pre-Approval Visits in the Summer Food Service Program.
- Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through December 2020.

Note: These guidance documents will be posted soon on the USDA FNS COVID Response Website: https://www.fns.usda.gov/coronavirus

We will discuss Child Nutrition Response #57 and the new Q & A document tomorrow during the Tuesday Town Hall at 2. Join at this link: https://ksde.zoom.us/j/96465847352?pwd=ZlgzS2VzSElRTDVSR2UwMkJGMFJhZz09

Selected Q &As from Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through December 2020 (SP 25-2020, CACFP 14-2020, SFSP 14-2020):

Q1. Which Child Nutrition Programs may school food authorities (SFAs) and sponsors operate during the waiver period?

SFAs may operate the National School Lunch Program (NSLP) and the School Breakfast Program (SBP), the Seamless Summer Option (SSO), and/or the Summer Food Service Program (SFSP). SFAs also may operate the at-risk afterschool component of the Child and Adult Care Food Program (CACFP) concurrently with any of the Programs previously mentioned. Non-SFA sponsors may operate the SFSP. Sponsors also may operate the at-risk afterschool meals component of the CACFP concurrently with the SFSP. Please note that all Program eligibility and operating requirements continue to apply unless specifically waived.

Q2. Can the at-risk afterschool meals component of the CACFP operate simultaneously with SFSP/SSO?

Yes. The at-risk afterschool meals component of the CACFP, which operates during the regular school year, may operate simultaneously with the SFSP/SSO during implementation of Waiver #56. As noted in SP 13, CACFP 07, SFSP 06-2020, Child Nutrition Program Nationwide Waivers: Questions and Answers, 2020, April 11, 2020, https://www.fns.usda.gov/cn/covid-19/nationwide-waivers-qas, Program operators may participate in multiple Programs. However, under no circumstance may children receive more than the number of reimbursable meals allowed in each Program for which they are eligible.
Q3. Which SFSP/SSO sponsor types should State agencies prioritize when approving new sponsors?
State agencies must avoid duplication of services in particular areas. Under section 13 of the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(a)(4)(A) and 7 CFR 225.6(b)(5), State agencies must use the following priority system in approving applicants that propose to serve the same area or the same children:

1. SFAs;
2. Public agencies and private nonprofit organizations that have participated in SFSP previously;
3. New public agencies; and
4. New private nonprofit organizations.

If two or more sponsors apply to serve the same area, 7 CFR 225.6(b)(v) requires State agencies to make a determination on a case-by-case basis and consider the resources and capabilities of each applicant. Additionally, when approving sites, 7 CFR 225.6(d)(ii) requires State agencies to ensure that sites are not duplicating services within the SFSP and SSO programs.

Therefore, if an SFA meeting program requirements seeks approval to provide meals through the SFSP or SSO, the State agency should only consider approval of other applicants if there is a clear gap in service that the non-SFA applicant proposes to cover, and that services will not be overlapping. As a result of these requirements, some sponsors, even those that were operating during summer 2020, may be required to discontinue operations. As State agencies move forward in the school year with SFSP and SSO operations, it is critical that the State agency recognize the importance of maintaining integrity in all of the Programs and target resources appropriately.

Q4. May SFSP sponsors amend their applications to reflect continuation of operations through December 31, 2020, or should they submit a new application to determine which sites can operate SFSP/SSO?
The State agency has discretion with regard to the process used to extend SFSP/SSO applications and FNS encourages use of streamlined application extension processes for sponsors that were previously approved for summer 2020. However, please note that this extension process must include updating the period of meal service operations and any other changes necessary to reflect school year operations, such as site locations.

However, State agencies are not required to approve all SFSP/SSO sponsors for extended operation. When reviewing applications, State agencies should consider the priorities for approving sponsors and sites that are addressed in Question 3.
Q6. If an SFA that opts to participate under Waiver #56 served meals through NSLP/SBP between the beginning of school year 2020–2021 and December 31, 2020, may they claim those meals under SFSP/SSO instead?
Yes. When submitting their claim for meals served between the beginning of school year 2020–2021 and December 31, 2020, SFAs which have been approved to participate in SSO/SFSP pursuant to Waiver #56 may claim meals served under SFSP or SSO rather than through NSLP/SBP. States may reimburse SFAs for these meals at the free rate through SFSP or SSO. However, any student who paid for their meals must receive a refund for their meal payments.

Q7. May State agencies reimburse SFSP sponsors for meals that were served before the sponsor was notified of written approval for participation in the Program?
Yes. Under COVID-19: Child Nutrition Response #57: Nationwide Waiver to Allow Reimbursement for Meals Served Prior to Notification of Approval and Provide Flexibility for Pre-Approval Visits in the Summer Food Service Program, September 11, 2020, State agencies may reimburse newly approved SFSP sponsors for meals served prior to written approval notification. This will enable newly approved sponsors to more quickly transition to SFSP.

Additionally, during the initial COVID-19 emergency response, FNS inadvertently neglected to allow State agencies to reimburse new SFSP sponsors for meals served prior to their written approval. Therefore, as part of the above referenced waiver, State agencies may reimburse approved SFSP sponsors for allowable meals served during the initial COVID-19 emergency response through August 30, 2020, but that were served prior to their written approval to operate SFSP.

Q8. May an SFA choose to participate under NSLP/SBP instead of SFSP/SSO?
Yes. SFAs may choose to operate NSLP/SBP. Waiver #56 does not require SFAs to transition to SFSP/SSO. SFAs that operate NSLP/SBP may choose to follow the regular Program requirements, or may participate under the COVID-19 waivers for School Year 2020-2021. The School Year 2020-2021 waivers may be found here: https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers.

Q10. Can SFAs operating SFSP/SSO under Waiver #56 serve weekend meals, and serve all children through age 18, regardless of whether the children are enrolled in the SFA?
If the SFA’s sites are approved as open sites, they must serve all children who request a meal from those sites. However, States, SFAs, and sponsors are encouraged to tailor their operations to the needs of the community, and State agencies should review sponsor plans with this in mind. SFAs also may elect to operate closed enrolled sites that serve only enrolled students. Additionally, meals may be offered on weekends and holidays, consistent with SFSP/SSO regulations. As a reminder, the continuation of Waiver #56 is contingent on the availability of funds.

Q12. Can States approve new sites in areas that were previously being served under the State’s plan for implementation of their individual area eligibility waiver? If so, do the sites have to be operated by the same sponsor?
In moving forward with an extension of their area eligibility plan, States should prioritize ensuring that meal sites are targeting benefits to children in need. If sponsors and/or sites that operated in the previously identified areas during the unanticipated school closures due to COVID-19 are unable to continue operating through December 31, 2020, yes, the State agencies may approve new sponsors and/or sites to serve children in need in those areas that are consistent with their plans.
Q14. What does “FNS reserves the right to withdraw this approval subject to the availability of funds” mean?

The Antideficiency Act (ADA) (Pub.L. 97–258, 96 Stat. 923) prevents Federal agencies from incurring obligations or making expenditures (outlays) in excess of amounts available in appropriations or funds. Thus, this language establishes a condition on the waivers approved by FNS, which likely will increase program costs, can be rescinded if the Agency anticipates that the total cost of Program operations will exceed the funds available to support it. FNS estimates that existing resources are likely sufficient to support the extension of the waiver expanding SFSP/SSO sites to areas not area-eligible through December 31, 2020, but impacts from waivers, flexibilities, and changes in program operations due to the COVID-19 public health emergency on Federal Child Nutrition Program costs are not yet known. Timely monitoring of program activity is essential to ensure both the continuity of program operations for our partners and the adequacy of funds. In the event FNS projects a shortage of funds prior to the expiration date of this waiver, FNS will notify all State agencies at that time that SFSP/SSO sites in non-area eligible areas will no longer be able to serve meals for Federal reimbursement. FNS will reimburse all claims for qualified meals served prior to the projected date of inadequate funds. FNS will provide advanced notice, to the extent possible, in order to minimize out-of-pocket expenses for program operators.

Plan now to attend the Town Hall tomorrow at 2!

Cheryl, Jill and Julie

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