Implementation of Public Law (P.L.) 102-342 Provision on Proprietary Title XX Center Participation in the Child and Adult Care Food Program (CACFP)

P.L. 102-342, the Child Nutrition Improvement Act of 1992, enacted on August 14, 1992, amended the Title XX provision of the National School Lunch Act (NSLA). The statute, as amended, now allows participation in the CACFP of a proprietary child care center providing nonresidential day care services if it receives compensation under Title XX "for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less."

Proprietary center providers have argued in the past that the former Title XX provision did not fairly deal with the situation where centers serve large numbers of Title XX children each day but whose Title XX enrollment was less than the required 25 percent. A child enrolled in the center attending once a week received the same consideration as a child who attended the center every day. The P.L. 102-342 change would allow centers with an enrollment larger than the licensed capacity to use licensed capacity as their threshold, thus qualifying for CACFP participation based on the number of Title XX children in attendance each day, rather than total enrollment.

Regulatory amendments to conform Part 226 to the statute will be developed. However, since this provision is intended to be effective with the enactment of the statutory amendment, we are issuing this memorandum to allow for the immediate implementation of this provision prior to promulgating Regulations.

Thus, with the issuance of this memorandum, proprietary Title XX child care centers may now participate in the CACFP if at least (1) 25 percent of their enrollment or (2) 25 percent of their licensed capacity, whichever is less, receives Title XX benefits.
This statute allows the amended Title XX provision for child care centers only. Adult day care centers are not affected by this amendment and must maintain 25 percent of enrollment as Title XIX or XX beneficiaries.

If you have any questions, please feel free to contact a member of my staff at (303) 844-0359.

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