Public Law 102-375, the Older Americans Act Amendments of 1991, amended Section 17 of the National School Lunch Act to allow a resident of "a group living arrangement" to participate in the Child and Adult Care Food Program (CACFP). Specifically, the law now reads: "...(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary Title XIX or Title XX center which -- (i) is licensed or approved by Federal, State or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes or a group living arrangement on a less than 24-hour basis...."

This is not a change in CACFP participation requirements, but merely formalizes a provision currently implemented by CACFP-145, dated May 18, 1989, which is attached.

A Regulation implementing this provision of Public Law 102-375 is being drafted. Meanwhile, please be aware that this is not a new Program provision and does not change Program participation requirements in any way.

Ann C. Hector
ANN C. HECTOR
Regional Director
Special Nutrition Programs

Attachment
Subject: Policy Clarification on Adult Day Care Provisions - Institutionalized Adults

To: STATE AGENCY DIRECTORS (Special Nutrition Programs)
   - Colorado DH, Icwa, Kansas, Missouri DH, Montana DNES, Nebraska ED, North Dakota, South Dakota, Utah and Wyoming ED

The following revises CCPF-123 (dated March 21, 1989), on the participation of adults living in residential institutions. Please replace CCPF-123 with this revision.

Adult day care centers, as defined in the Older Americans Act Amendments of 1987, are those which provide services to individuals "...in a group setting outside their homes on a less than 24-hour basis...". Further, the purpose of adult day care, as stated by Congress in the Conference Report (H. Rept. 100-427) on the Amendments, is to "...assist its participants to remain in the community, enabling families and other care givers to continue caring for an impaired individual at home." It is clear that Congress intended Child Care Food Program (CCFP) benefits to be available to serve individuals attending adult day care while remaining in the community. Individuals in residential institutions are not considered to be "remaining in the community" and are not, therefore, eligible for CCPF benefits.

Definition of Institution

Congress intended CCPF benefits to be available to serve those individuals (1) who remain in the community and (2) reside with family members or other care givers who would benefit from the respite which adult day care services could provide. It is those individuals for whom CCPF were intended. Not every individual attending a CCPF adult day care center is eligible to receive CCPF benefits.

We believe it appropriate to define individuals remaining in the community as those residing in their own homes alone or with spouses, children or guardians. Individuals in residential institutions are not eligible for CCPF benefits because they can no longer be considered "remaining in the community" and their families have no need for the respite provided by adult day care centers. Adult day care is the final step before institutionalization. The National Council on the Aging, in Developing Adult Day Care, defines adult day care as an alternative to institutional care "intended to help impaired adults and their families or other care givers to keep going a little longer."
For purposes of making the distinction required in this memoranda, an institution is an establishment which provides residential care. An institution is responsible for its residents for a 24-hour period—including the responsibility for providing meals. That the institution may send its residents to an adult day care center during the day does not relieve it of its responsibility for that resident for the 24-hour period. Any individual residing in an institution is not eligible for CCPF benefits. Institutions include, but are not limited to, hospitals, nursing homes, asylums for the mentally ill or for the mentally or physically handicapped, convalescent homes, apartment complexes designed only for the functionally impaired that provide meals and full-time care, and hospices. Not included as institutions are houses in the community which may be subsidized by federal, State or local funds but which are private residences housing an individual or a group of individuals who are primarily responsible for their own care but who may receive on-site monitoring.

Enrollment Counts

CCFP-124 (dated March 21, 1989) stated that any registered individual eligible for CCPF benefits must be included in all enrollment counts for the purposes of determining CCPF eligibility and receipt of program reimbursement. Since institutionalized adults are not eligible for CCPF benefits, they need not be counted for the purpose of determining enrollment in an adult day care center participating in the CCPF. This clarifies program regulations, which define "enrolled participant" as all adults, 60 years of age or older or functionally impaired, enrolled in an adult day care center. "All adults," for CCPF purposes, are CCPF-eligible adults. The status of individuals categorically excluded from CCPF should not be subject to CCPF regulations.

If you have any questions on the above policy, do not hesitate to contact us.

Ann C. Hector
ANN C. HECTOR
Regional Director
Special Nutrition Programs