CACFP-641

Child and Adult Care Food Program (CACFP) Policy Memoranda

To: STATE AGENCY DIRECTORS - Colorado DPHE, Iowa, Kansas, Missouri DH, Montana DPHHS, Nebraska, North Dakota, South Dakota, Utah and Wyoming

(Child Nutrition Programs)

For your information, attached is a list of policy questions and answers (Q&A) on the CACFP that we have compiled based on questions raised by state agencies since our last Q&A memorandum, CACFP-630, issued September 15, 2000.

As you know, we periodically review our files and issue a Q&A policy memorandum such as this. We will continue to transmit any National policies as the need arises.

If you have any questions, please contact our office.

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Attachment
State Agency Reviews

1. Q. How does a State Agency (SA) determine the number of institution reviews to be conducted each year? Is it acceptable to take the number of institutions approved as of November 30 and conduct reviews of 33.3 percent of that total? Or is the SA expected to continually monitor and update this number?

A. Part 226.6(l) states that SAs shall review 33.3 percent of all institutions; therefore, we encourage the SA to continually monitor and update this number. During Management Evaluations, the regional office will look at the number of institutions participating in the Program during the year, even if they participated only one month. New institutions approved during the year would then be added to the approved institutions at the beginning of the year to determine the total number of institutions participating.

Sponsoring Organizations

2. Q. Are Sponsoring Organizations (SO) required to return money to FNS via the SA from uncashed provider reimbursement checks?

A. Yes. It is imperative that SOs complete bank reconciliation statements to determine outstanding checks. If checks are outstanding for a period of time it indicates the check may not be cashed, and this money must be returned to FNS via the SA.

3. Q. If a sponsor returns money to FNS via the SA due to uncashed provider checks and the provider cashes the check later, will FNS reimburse the SO via the SA?

A. Yes. It may take a while for the details to be worked out and for this reimbursement to take place. One factor affecting the reimbursement is the fiscal year affected. The SO might check with their bank to determine at what point checks are no longer cashiered. The bank should be able to give the SO an answer regarding time limits on cashing checks from the date written.

4. Q. Is pre-employment drug testing and random drug testing of employees an allowable cost for SOs?
A. In order for costs to be allowable, they must be necessary and reasonable for the proper and efficient administration of the Program. We do not believe these costs are necessary and reasonable.

5. Q. A sponsor of homes does not report all costs because they only get paid homes X rates due to the fact that administrative costs are more than homes X rates. Is this acceptable or should sponsors report all costs associated with the CACFP?

A. Sponsors should report all costs. The Management Improvement Guidance under 2.2 Sponsor Standards states, “Sponsor maintains a financial management and recordkeeping system that ensures fiscal integrity and accountability for all funds and property received, held, and distributed....” It also states, “Sponsor demonstrates that it has an acceptable financial management system and adheres to Federal and state financial management standards.” SAs must ensure the financial viability of each sponsor. If an institution’s costs exceed its reimbursement, the institution would need to explain what funds are used to pay for the difference between administrative reimbursement and actual administrative costs. Reporting all costs and not just enough to justify reimbursement alerts the SA to potential financial difficulties.

6. Q. Part 226.18(b) states that the SO may terminate a Family Day Care Home’s (FDCH) agreement for cause or convenience. CACFP-632 addresses termination of a FDCH’s agreement and its appeal rights as a result. Does a FDCH have the right to appeal the termination of its agreement due to convenience?

A. If a SO terminates a FDCH for cause, the provisions outlined in CACFP-632 apply. A SO may drop a FDCH for convenience in which case CACFP-632 would not apply. However, it is important to note that the SO may not manipulate the policy by saying they are dropping a FDCH for convenience when they are really terminating an agreement for cause. Reasons that a SO may drop a FDCH for convenience could include that a SO decides not to serve an area any longer or the SO is cutting back its operation.

Family Day Care Homes

7. Q. During the summer when school is out of session, a mom sends her daughter to live/visit with her family in another city or state. In this situation the daughter is going to her aunt’s house who is a Tier I FDCH provider. Can the provider claim her niece’s meals for CACFP?
A. It depends. CACFP-217 allows children living with grandparents and nonparental family members who are also FDCH providers to participate in CACFP as provider’s own. CACFP-217 also goes on to say that if there is a contractual agreement, whether formal or informal, with a provider for residential child care, and whose relationship with the provider is defined primarily by the child care situation, the child would not be considered provider’s own. The key is to determine if the child is living with the nonparental family member, just visiting or in the home for the purpose of child care only.

8. Q. When Provider A goes to mandatory training sessions conducted by his/her sponsor, can Provider A claim the meals served during the training even though arrangements are made with Provider B to care for Provider A’s children (provider’s own & other enrolled children) in Provider B’s home?

A. No. If Provider B participates in CACFP, he/she may claim the meals. Provider A may only claim the meals if an alternate caregiver cares for the children in Provider A’s home during the training session.

9. Q. A provider is home schooling up to 25 children. May these children be claimed for reimbursement on CACFP?

A. Per CACFP-341, a provider offering a home school who wishes to participate in CACFP must be licensed as a provider. If the provider is licensed for 25 children, he/she may claim them for CACFP reimbursement.

Appeals

10. Q. There appears to be an inconsistency in the Regulations regarding appeals. Part 226.6(k) states that “....decisions are rendered in a timely manner not to exceed 120 days....” Part 226.6(k)(8) states “Within 60 calendar days of the state agency’s receipt of the request for review, the review official shall inform the state agency and the appellant of the determination of the review.” Isn’t this inconsistent?

A. The first reference is applicable when a SA chooses to use its state appeal procedures. When the SA uses its own state’s appeal procedures, a little more latitude is given in that decisions can take up to 120 days. When a state does not have its own appeal procedures, decisions must be rendered and communicated within 60 days.

11. Q. During a review, a SA consultant finds that an institution made an error on a claim for reimbursement which resulted in an overclaim.
The consultant takes the corrected information back to the office and completes an amended claim for the institution. Do appeal rights need to be given to the institution?

A. Yes. In this situation, the institution did not acknowledge that a mistake had been made by completing and signing an amended claim. Institutions acknowledge mistakes by filing amended claims. When the institution files the amended claim, appeal rights do not have to be given. If the SA files an amended claim resulting in an overclaim, appeal rights must be given to the institution. If the mistake is an upward adjustment, any revisions to the original claim must be made within 90 days of the end of the claim month. However, SAs may make upward adjustments to claims if the errors are the result of a review or audit. If the mistake is a downward adjustment, revisions may be accepted by the SA at any time.

12. Q. If an individual’s name is placed on the seriously deficient listing, may the individual appeal that action?

A. Appeal rights are given for adverse actions. Being placed on the seriously deficient listing is not appealable. Adverse actions leading up to being placed on the listing is appealable, i.e., terminations, overclaims, etc. If an institution is denied participation because an employee is on the listing, the denial is appealable.

13. Q. If a SA instructs SOs of FDCHs to establish appeal procedures for FDCHs being terminated from CACFP participation, can this appeal process just include a review of records or must it include a face-to-face hearing opportunity?

A. It is up to SAs and/or SOs to determine if FDCHs will be provided a face-to-face hearing opportunity. It is probably wise to allow a face-to-face hearing opportunity if a FDCH requests one.

14. Q. What funds cover the cost of appeals initiated by FDCHs being terminated? If there is a face-to-face hearing, the cost could be substantial.

A. The sponsor involved would pay for its appeal costs from administrative costs. The provider initiating the appeal would be responsible for his/her own costs.

National Listing of Seriously Deficient Institutions

15. Q. An individual is listed on the National Listing of Seriously Deficient Institutions. This individual changed his/her name and is now at a different center participating in the CACFP. Is this allowable?
A. No. It is the individual not the name that is seriously deficient. Individuals who are on this list, even if the name is changed, may not hold positions involving the CACFP. However, individuals may request that their name be removed by contacting their SA. If the SA is satisfied that an individual’s name should be removed, the request needs to be forwarded to the Regional Office.

Head Start

16. Q. A Head Start (HS) sponsor of centers has determined a child in facility #1 as automatically eligible based on their being both: 1) in a federal HS slot and 2) meeting HS income guidelines. A couple of months later, the child moves from facility #1 to facility #2 which is another HS facility under the same sponsor; however, facility #2 is a state facility rather than federal. Can the child continue to be automatically eligible for free meals?

A. The child no longer fits the first criteria of in a federal HS slot; therefore, the sponsor may not claim the child as automatically free. An income eligibility form needs to be completed for the child to determine eligibility status in the state facility.

17. Q. In rural states, the HS program is conducted in homes because it is not feasible to expect children to be able to attend a center every day. In these situations, the homes get together for cluster meetings. In some states these cluster meetings may be called socialization day. These cluster meetings may occur in the evening and supper is served. Are these meals reimbursable? Are the meals reimbursable if the parent attends?

A. These meals are reimbursable if the children are enrolled, the facility is licensed, and the facility is approved to serve a supper meal. It does not matter if the parent attends or not as long as the children are enrolled and the meal is served in a licensed facility.

Civil Rights

18. Q. Does a SA have the authority to modify any wording of the non-discrimination statement?

A. No. It must read as stated in CACFP-618.

Pre-approval Visits

19. Q. SAs are permitted to allow licensing visits to count as pre-approval visits. How is a SA to implement this process?
A. SAs need to contact licensing to determine if licensing reviews the areas that must be evaluated during pre-approval visits. SAs need to be aware of the content of these licensing visits. The purpose of pre-approval visits is to ensure that a site exists and that it is capable of providing meals to the population of children served. See CACFP-584.

20. Q. Where licensing is not required but health and safety inspections are conducted, may the health and safety inspections suffice for the pre-approval visit?

A. Again, SAs need to be aware of the content of these inspections. In order for these inspections to suffice for pre-approval visits, they must determine the existence of the site and that it is capable of providing meals to the population served.

Institution Eligibility

21. Q. Since institutions may not participate in CACFP if they have been determined to be ineligible in any other publicly-funded program for violating that program’s requirements, may an institution participate if their Title XX contract is pulled for any reason?

A. Institutions terminated for cause from participating in another publicly-funded program may not participate in CACFP. It appears that in various states, Title XX contracts can be pulled due to reasons that may not be serious in nature. In this situation, as long as the status of the Title XX contract is in good standing, the institution may participate in CACFP.

Miscellaneous

22. Q. May federal publications be reprinted? May Team Nutrition materials be reprinted?

A. Materials developed with federal funds are in the public domain. These materials can be reprinted with no problems, including Team Nutrition materials. If the state changes the document or modifies it to make it state-specific, then "USDA" should not be printed on the Team Nutrition logo. Some states replace "USDA" with their state name on the logo for materials they have developed or reprinted. However, Disney characters are no longer being used. There should be no reproduction of materials that contain Disney characters.