Reply to

Attn of:

CACFP-684

Subject: Periodic Question and Answers (Q&As)

To: State Agency Directors - Colorado DPHHS, Iowa, Kansas,
(Special Nutrition Programs) Missouri DH, Montana DPH, Nebraska,
North Dakota, South Dakota, Utah and
Wyoming

Attached is the latest set of Q & As that have been established since the last

If you have any questions, please contact us at 303-844-0359.

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Attachment
CHILD AND ADULT CARE FOOD PROGRAM (CACFP)  
QUESTIONS AND ANSWERS  
November 2002

APPEAL RIGHTS

1. Q. Must a State Agency (SA) offer appeal rights to a sponsoring organization that wants to appeal the amount of time they have been given to provide a corrective action plan?

A. No, the SA does not need to extend appeal rights for this reason.

2. Q. Part 226.6(k)(2)(xii) states that an institution may appeal any action of the SA affecting the institution’s participation. Does this mean that any action the SA takes that affects the institution in any way becomes appealable?

A. No, the term participation means that if the SA is disallowing an institution’s ability to claim, then the SA is affecting participation, either through preventing participation or disallowing all or a portion of a claim for reimbursement. The SA may require the institution to function in a specified manner for the purpose of complying with the Regulations, policies, or instructions, but that does not affect the institution’s participation; it is still allowed to claim reimbursement.

CIVIL RIGHTS

3. Q. Must the non-discrimination statement be printed on nutrition education materials when they are created/printed with USDA funds?

A. The statement is not required to be printed on nutrition education information (i.e., menus, cups, trinkets, etc.). It should be printed on fliers if they talk about Program requirements or changes. The purpose of the non-discrimination statement is to reach out to all potentially eligible persons to advise them of the availability of the Program and advise them that the process of applying is non-discriminatory. It also provides information on how to file a complaint if they feel they have been unfairly denied participation.

4. Q. An infant has a disability – Milk, Soy, Protein Intolerance (MSPI). The cost of the formula for this child is $50 per can which is about 2 liters of formula. The total cost to the day care center of providing formula for this child would be about $600 per month. Since this is a disability, is the day care center required to provide the formula?
A. No. The day care center could claim an undue hardship and document why it is a hardship (i.e., amount of food budget, resources, cost is prohibitive, etc.).

CLAIMS FOR REIMBURSEMENT

5. Q. An institution submits a revised CACFP claim for reimbursement after the 90-day deadline. The late claim was outside the institution’s control. Does payment of this late claim go against the institution’s one-time exception when the situation was out of the institution’s control?

A. Most SAAs are aware and implement the one-time exception rule; however, there are instances that do not require a one-time exception if the situation is outside the institution’s control. Pages 12 and 13 of the 60/90 Day Guidance describe how payment of the claim can be made without it counting toward the institution’s one-time exception. These particular requests must be approved by the Regional Office as stated on pages 12 and 13.

6. Q. Institutions are allowed to electronically submit claims for reimbursement. Is it acceptable for family day care homes (FDCH) to submit meal counts to Sponsoring Organizations (SO) electronically?

A. Yes. However, the policy outlined in CACFP-659 for SOs must also be followed for FDCHs.

7. Q. A FDCH provider also owns a day care center. The day care center has enrolled children that are provided three CACFP meals during the day. After the center closes, the owner/FDCH provider cares for the children in her FDCH claiming them for another two meals. This means these children receive and are claimed for five meals per day. Is this acceptable?

A. In this case, since there are two different institutions involved – the SO of the FDCH and the day care center – which would be required to track the total number of meals one child receives from the two facilities, it would be acceptable.
CREDITING FOODS

8. Q. Canned ham shank is the food product being served. Using the previous Food Buying Guide, quantity information was used for canned ham. However, the new Food Buying Guide states that the name of the product must match exactly the name of the product listed under the Foods As Purchased column. The specification for the product is – ham shanks, defatted, skinless, boneless, canned 6-6.5 lb cans per case. How should we determine quantity information for canned ham shanks?

A. The statement added to the Food Buying Guide stating that product names must match was done so to ensure that people were not crediting “water added” or “ham and water products” as ham. In this case if the product is cured, the best yield to use would be the Pork, Mild Cured canned ham yield as done in the past.

FAMILY DAY CARE HOMEs

9. Q. A facility in a residence is licensed as a preschool – not a group day care home or FDCH. May this licensed preschool participate as a FDCH in CACFP?

A. The preschool could participate as a center, not as a FDCH.

10. Q. A Tier I FDCH provider has a school-aged child who comes home for lunch on school days and then returns to school in the afternoon. Can the meals served to this child be claimed for reimbursement?

A. In the past, our answer would have been that the school-aged child has access to the National School Lunch Program; therefore, the child should eat school lunch and be claimed by the school. However, we are going to allow the FDCH provider to claim the school-aged child as long as the child is enrolled for care at the time of the meal and other non-resident children are served lunch at the same time.

11. Q. A provider’s own child has been recognized as having some emotional difficulties (threatened suicide, tried to set fire to the house, etc.). The child is apparently home during the day and after school. Can this child be claimed for meals when other children are in care? If so, who should provide verification that the child is disabled?

A. Since the child is over the age of 12 years old, the child would need to be considered either mentally or physically handicapped/disabled as defined in 226.2 in order to participate in the CACFP. Children are defined as
“...(c) persons with mental or physical handicaps, as defined by the State,...” It is up to the State to define what is considered a mental or physical disability. Payment can be made for meals served to the provider’s own children if the conditions of 226.18(c) are met.

FINANCIAL MANAGEMENT

12. Q. SOs routinely print materials for several months at a time since this is cost effective. The bill must be paid immediately once it is received. Can these printing costs be expensed all at once?

A. No. Instruction 796-2, Revision 3, states that when expendable material and supply purchases exceed more than one month’s usage, allowable costs for the month are limited to the cost of the items actually used for the CACFP during that month.

13. Q. Is insurance for office contents an allowable CACFP expense?

A. Office contents insurance would be allowable per VIII 1 21 a (1)(a) of the Financial Management Instruction as long as it is properly prorated between Program and nonprogram activities.

14. Q. What about insurance for equipment purchased with Federal funds (i.e., CACFP funds)?

A. The cost of insuring a specific piece/item of property is only allowable if the property is Federal property and the institution is liable to the Federal government for loss or damage. For CACFP, this discussion only applies to equipment ($5,000* per unit); anything below $5,000 is considered supplies. When an institution purchases equipment with CACFP funds, the title vests to the institution not the Federal government (i.e., it is not Federal property and the cost of insuring the property against loss is generally not allowable). Therefore, the cost is not allowable in this situation because the institution is not liable to the Federal government for the loss.

*We recognize that institutions may establish a lower threshold for equipment than $5,000 as stated in CACFP-681.

15. Q. What if the SA includes in its agreement with the institution that the institution carry insurance for loss or damage to CACFP funded equipment?
A. This would an allowable expense; however, the SA must actively monitor the inventories of all CACFP funded equipment purchases and assess claims against institutions for losses of the property. If any institution failed to obtain and maintain the required insurance outlined in the agreement, it would be violating the agreement.

16. Q. Is organizational liability insurance an allowable expense to the CACFP? Is board liability insurance an allowable expense?

A. Board liability insurance is not an allowable expense. Some types of organizational liability insurance would be allowable. It depends on if it is related to the Program. It would be allowable when it covers a child who chokes on a reimbursable meal or gets sick from eating a reimbursable meal. SAs may need to look at the insurance policies in question. Sometimes the policy does not apply to a contract relationship as would be the case with the CACFP. Insurance for the general activities for the CACFP operation is allowable.

17. Q. Is the cost to attend a diabetes workshop an allowable cost?

A. It is up to the SA to determine. The SA would need to take a look at the agenda to determine if it could be determined to be a CACFP-related nutrition conference and which sessions are CACFP-related. As always, the cost for attending the workshop/conference must be prorated as appropriate.

**FOOD SERVICE MANAGEMENT COMPANIES (FSMC)**

18. Q. A Head Start center participates in the CACFP and contracts with a day care center (located in the same building) to purchase meals. In addition, the Head Start signed an agreement to pay half of the cook’s salary which is separate from the contract to furnish meals. Is this allowable? Should the cost of the cook’s salary be included in the total cost of the FSMC contract?

A. It is allowable for the Head Start center to pay half of the cook’s salary. If the day care center participates in CACFP also, we have allowed agreements of this nature. However, if this day care center does not participate in the CACFP, the SA must ensure that open and free competition exists and that the proper procurement procedures are followed. The cost of the cook’s salary is a part of the agreement/contract and needs to be included in the total cost of the agreement/contract.
INFANT MEALS

19. Q. A 12+ month old infant is still consuming breast milk. According to the CACFP Meal Pattern, breast milk is not an option for fluid milk. Is a doctor's statement needed for this situation since it deviates from the Meal Pattern?

A. No. There are no ramifications for an otherwise healthy child who is over 12 months of age consuming breast milk rather than fluid milk, as long as the infant is also consuming solid foods. The American Academy of Pediatrics has recommended that mothers breastfeed infants until the age of two years old, as long as it is still mutually desired.

20. Q. If a FDCH provider or employee of a day care center breastfeeds her own child, is it a reimbursable meal?

A. Yes. When a FDCH provider or employee of a day care center nurses her own child at the facility and the child is enrolled for care, reimbursement may be claimed for those meals.

MEAL SERVICE

21. Q. May salad bars be available to children participating in the CACFP when family style meal service is implemented?

A. Family style meal service requires that the full amount of food be made available “at the table.” This would not appear to allow for a salad bar set up since it would probably be set up somewhere other than the table. If children served themselves from a salad bar, a trained adult would have to monitor the food service to ensure each child was served the full amount required of all components in order for the meal to be reimbursable. Otherwise, the meal service operates more like offer-vs-serve, which is not allowed in CACFP.

MONITORING

22. Q. Are SAs required to go on site for institution reviews or may a SA ask institutions to submit documentation/paperwork for a desk review of the information?

A. A review of the paperwork may be done on site or in the SA offices. However, there are certain aspects of the review that must take place on site. Observation on site ensures the following:
• All children are treated equitably;
• Meal counting system provides accurate counts;
• Meal service provides reimbursable meals;
• In compliance with licensed capacity;
• On-site consumption of the meal;
• Children served are 12 years of age or younger;
• Safety and sanitation procedures are adequate; and
• Confirmation that the site exists and meals are served.

23. Q. An SA wants to conduct all visits/reviews unannounced. Is this acceptable since ARPA states that visits/reviews to SOs, FDCHs, and centers require at least one scheduled visit every 3 years? Do SAs need to ask for a waiver?

A. SAs may conduct all visits/reviews unannounced without approval from FNS.

SERIOUS DEFICIENCIES

24. Q. An SO is declared seriously deficient by the SA. The SO wants to voluntarily quit the Program before being terminated and placed on the National Disqualified List. Is this a possibility?

A. An SO may decide to voluntarily quit participation in the CACFP; however, if the organization has been declared seriously deficient and fails to correct, the SA must follow through with the termination procedures providing appeal rights to the SO. Once the process is complete as outlined in the Regulations, the organization would be placed on the National Disqualified List as long as it decides not to appeal or the termination is upheld.

TIERING

25. Q. A provider is married to her second husband and they live in the same residence. He has a letter stating that he contributes nothing to her children from another marriage. Because of this written letter, the children were able to get Food Stamps. However, the CACFP definition of household would include the second husband and his income in the household. Is this provider approved as a Tier I FDCH based on Food Stamp Program eligibility or does an Income Eligibility Form need to be completed for the household including all family members and household income?
A. As long as the household/children are approved for Food Stamps, they are automatically approved for CACFP; therefore, the provider would be classified as Tier 1.

The Food Stamp Program Regulations state that if a man and woman are married, they should be considered as one household. If they are not married, they might be able to maintain a separate household status. In this situation, we would recommend that the state Food Stamp office be contacted regarding the discrepancy described above.

**TITLE XX**

26. Q. Must a for-profit Title XX day care center provide annually that it meets the 25% threshold of free and reduced priced enrollees each year in September before the new fiscal year agreement can be approved?

A. The agreement may be renewed without the day care center maintaining 25% of its enrolled children approved for free and reduced price meals for the month of September.