Reply to
Attn. of: CACFP-758

July 14, 2005

Subject  Questions and Answers (Q & A’s)

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

Attached are questions and answers that have been addressed since the publication of the Consolidated Q & As, dated August 2004. The numbering system coincides with the existing sequence for the Consolidated Q & As. At present, the linking for these will take you to this numbered policy in the Partnerweb. We will notify you when we have completed the linking of each Q & A into their topic areas in the Consolidated Q & As on the Partnerweb.

If you have questions, please contact us at (307) 844-0354.

DARLENE SANCHEZ
Regional Director
Special Nutrition Programs

Attachment
Audits

13. Q. What is the most recent audit threshold amount for institutions?

A. Public and non-profit institutions with a level of Federal expenditures less than $500,000.00 in a fiscal year do not have an A-133 audit requirement for that fiscal year. OMB circular A-133 sets the standard for these audits.

14. Q. An audit/review is conducted for the time period April 2004-March 2005 (which covers two fiscal years). The overclaim for the audit is $500.00. Can the State Agency (SA) disregard the overclaim?

A. Yes, CACFP-738, states “In conducting management evaluations, reviews, or audits for any fiscal year, the State agency may disregard any overpayment if the total overpayment does not exceed $600.00 or, it does not exceed the amount established under State law, regulations or procedures as a minimum amount for which claim will be made for State losses but not to exceed $600.00. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.”

As of October 1, 2004, when Reauthorization was passed, CACFP-738 takes precedence over 226.8(e) which states overpayments shall not be disregarded if the institution has unpaid claims in the same fiscal year as the overclaim. In this example, even though the overclaim covers two fiscal years the audit or review is considered one event and since the event is under $600.00, the overclaim can be disregarded.

Center Eligibility

8. Q. If an organization serving homeless families with children qualifies for the CACFP and they have a separate site which serves only teens under 18, can they be claimed?

A. Yes, if the organization’s primary purpose is to provide temporary shelter and meals to a majority of homeless families with children, the site would be eligible.

Claims for Reimbursement

33. Q. Does MPRO FNS automatically approve all late claim exception requests from SAs on behalf of their institutions?
A. No, FNS will review and approve only those requests which substantiate that the late claim was due to an event “beyond the institution’s control”. SAs need to develop and use consistent policies that apply to all institutions prior to requesting FNS approval.

Cost Allowable/unallowable

36. Q. Is the cost of arbitration an allowable CACFP cost for a sponsor? Is arbitration a permissible alternative to the hearing official issuing a decision?

A. No, during a hearing the review official only determines whether program requirements were met by both parties. In arbitration, the potential exists for a negotiated settlement which may not be founded on Program policies. Thus, the cost of arbitration is unallowable when arbitration is conducted in lieu of a hearing.

Crediting Foods

28. Q. The latest version of CACFP Regulations states the amount of vegetable and/or fruit for 1-2 year olds is ¼ cup total at lunch. Is this correct?

A. No, this is a misprint in the latest version of the Regulations. The correct amount is ¼ cup total of vegetable(s) and/or fruit(s) at lunch for age 1 and 2.

29. Q. Is Cool Ranch Toasted Corn from Dakota Gourmet creditable as a vegetable or a grain?

A. They are creditable for either the vegetable or grain group.

Family Day Care Homes

38. Q. A state licensing agency issues day care home and group home licenses to private homes and to any other type of building where the provider wants to have a day care for 20 or less children, but does not qualify as a center. Licensed homes are operating in strip malls, warehouses, and churches. Do these homes meet the intent of the definition of day care home and can they be allowed to participate in CACFP?

A. No, CACFP-369 issued in 1993 specifically addresses child care conducted in buildings which are not private residences and reinforces the Regulation stating “to participate in the CACFP as a day care home, day care must be conducted in a private residence” and “benefits are intended are those which provide day care to small groups of children in a private home”. It goes on to say, “we believe that the nature of those group and FDCHs for which CACFP benefits are intended are those which provide day care to small groups of children in a private home.”
Procurement

8. Q. A sponsor of homes also operates other programs (i.e. resource and referral agency, unemployment assistance, etc.) under their agency. Purchases made are then allocated as a percentage cost to each program. Does the policy for RFP's apply to only the cost allocated to the CACFP or for the total cost of the item?

A. The item must be considered as a unit, therefore RFP rules apply to the total cost of the item, not just the CACFP allocation.

Serious Deficiency Process

6. Q. What implications are there for a sponsoring agency which has asked the State Agency to relieve them of a provider debt that can not be collected?

A. When an overpayment has been made to a provider the Sponsoring Organization (SO) must determine if the provider is liable for the overpayment. If the provider is liable for the overpayment and refuses to pay back the debt to the SO, the SO must declare the provider seriously deficient for nonpayment of the debt. If the provider is terminated and the debt remains unpaid, the SO will then have to approach the SA. The SA must determine if the SO took all steps necessary to collect the debt. If the SO fulfilled their duties and took all necessary steps then the SA may dismiss the debt according to the SAs uncollectible debit policies.

Tiering

11. Q. Public Law (PL)-108-256 changed the duration of the Tiering status determinations for FDCHs participating in CACFP from 3 years to 5 years. If a Tier I provider has completed the 3 year cycle, can they be extended another 2 years?

A. Yes. If a provider was Tier I eligible on June 30, 2004 (when the PL became effective), then they may be extended for two more years for a total of 5 years. If a home was certified to be Tier I using the February data and was still in effect on June 30, 2004, then their certification is good for a total of 5 years.