USDA

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Food and Nutrition Service

Mountain Plains Region

1244 Speer Blvd.
Denver, CO
80204-3581

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Reply to
Attn. of: CACFP-572
SFSP - 380

Subject: Participation of Emergency Shelters Serving Homeless Children

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

Several provisions of the Child Nutrition Reauthorization of 1998 (P. L. 105-336) affect the administration of benefits to homeless children. This memorandum provides guidance for State agencies to use regarding the participation of emergency shelters which serve homeless children and their families in the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP). The Department intends to publish regulations to implement these provisions as soon as possible. This memorandum will remain in effect until superseded by regulation or future memoranda.

PUBLIC LAW 105-336 AMENDMENTS AFFECTING BENEFITS TO HOMELESS CHILDREN

Both Congress and this administration have made it a priority to improve the access homeless people have to mainstream programs, rather than creating a separate support system of programs and services. Public Law 105-336 works toward that goal by providing homeless children residing in emergency shelters with year-round access to nutritious meals and snacks under CACFP, effective July 1, 1999. Section 107(j) amended the National School Lunch Act (NSLA) in several significant ways. The law:

- expanded the definition of an eligible CACFP institution in section 17(a) of the NSLA (42 U.S.C. 1766(a)) to include emergency shelters;

- added a new paragraph (t), "Participation of emergency shelters," to section 17 of the NSLA (42 U.S.C. 1755(t)), which sets forth requirements on eligibility, meal service, and reimbursement, for emergency shelters to participate in CACFP;

- removed section 17B from the NSLA (42 U.S.C. 1766(b)), thereby repealing authorization for the Homeless Children Nutrition Program (HCNP); and

- removed homeless shelters as a separate category of food service site which is eligible to participate in SFSP in section 13(a)(3)(C) of the NSLA (42 U.S.C. 1761(a)(3)(C)).

Institutions which support homeless children in temporary residential settings, including those which currently participate in HCNP or SFSP, may now apply to participate in CACFP under the provisions of section 17(t) of the NSLA.

PARTICIPATION OF EMERGENCY SHELTERS IN CACFP

Although the mission and the characteristics of emergency shelters differ from those of other child care institutions and facilities participating in CACFP, the structure and goals of their non-profit food service programs are fundamentally the same. Nevertheless, there are important administrative questions affecting the participation of eligible emergency shelters in CACFP which we need to address.

Eligible Institutions and Facilities

Public Law 105-336 designated emergency shelters and sites operated by shelters as institutions and facilities eligible to participate in CACFP under section 17(t)(1) of the NSLA (42 U.S.C. 1766(t)(1)). The law adopted the definition of "emergency shelter" that is used in targeted homeless assistance programs created under section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 112351). Section 321 defines an emergency shelter as "a facility all or a part of which is used or designed to be used to provide temporary housing." Participation of emergency shelters in HCNP was also based on this definition.

We recognize that most emergency shelters are charitable organizations that define their mission as helping all needy persons. The Bureau of the Census estimates that there are more than 6,000 emergency shelters nationwide; at least 70 percent of them serve individual adult clients. However, the intent of Public Law 105-336 is to support at-risk children in temporary residential settings. Based on our experience with HCNP and SFSP, we believe that section 17(t) of the NSLA targets family shelters, shelters for battered women, and other facilities whose primary purpose is to provide temporary shelter to homeless families with children, to participate in CACFP.

Therefore, an emergency shelter providing temporary residence to children and their parents or guardians, or a temporary residential site for children and their parents or guardians sponsored by an emergency shelter, is eligible to participate in CACFP under the provisions of section 17(t). The shelter may be a public or private nonprofit institution that provides support to at-risk children and their families.

Residential Child Care Institutions (RCCI)

A temporary shelter for abused and runaway children is one type of RCCI included in the definition of "school," in section 210.2 of the National School Lunch Program, and is therefore eligible for benefits through the school meals programs. Unlike family shelters, an RCCI may serve homeless children who reside there without their parents or guardians. An emergency shelter that serves only children will continue to be eligible as an RCCI and claim reimbursement for breakfasts and lunches served to children up to age 21 through the school nutrition programs.

Licensing and Approval Requirements

To participate in CACFP, an emergency shelter does not have to offer formal child care as recognized by a licensing authority. Unlike child care centers or family day care homes, there is no Federal requirement for emergency shelters operating under this provision to have either Federal, State, or local licensing or approval as a condition of eligibility (per section 17(t)(3) of the NSLA (42 U.S.C. 1766(t)(3))). Although shelters do not have to meet child care licensing standards to participate in CACFP, they must comply with all applicable State or local health and safety standards (per section 17(t)(4) of the NSLA (42 U.S.C. 1766(t)(4)). The shelter must have the appropriate inspections or permits to certify that all applicable State and local standards and requirements are met at all times.

Eligible Children

CACFP is primarily targeted to serving children in nonresidential settings. Unlike other institutions participating in CACFP, emergency shelters approved under the provisions of section 17(t) of the NSLA must serve residential children. Section 17(t)(5)(A)(i) of the NSLA (42 U.S.C. 1766(t)(5)(A)(i)) specifies that reimbursement may be claimed "...only for a meal or supplement served to children residing in an emergency shelter...."

Although some emergency shelters provide meals to nonresidential children and their families, it is clearly the intent of Congress to support at-risk children who

temporarily reside in the facility where they receive their meals. Therefore, meals and snacks served to children who are not residents of the shelter may not be claimed for reimbursement. This provision highlights an important difference with HCNP and SFSP where participants could claim reimbursement for meals and snacks served to children, regardless of whether every child served was a resident of the participating shelter. Under section 17(t), shelters will have to differentiate between residential children and children who are served meals as "walk-ins."

Reimbursable meals and snacks may be served to residential children 12 years of age and younger. Migrant children age 15 and younger and children with disabilities, regardless of their age, may also receive CACFP meals and snacks at the emergency shelters where they reside.

Reimbursement

As in HCNP and SFSP, residential children who participate in the shelter's food service will be automatically eligible for free meals and snacks, without further application. Although a shelter may collect cash, food stamps, or other in-kind payments from some residents for their meal services, it may not charge or collect payments for CACFP meals and snacks served to eligible children.

Emergency shelters may be approved to serve up to three reimbursable meals—breakfast, lunch, and supper—or two meals and one snack, to each child, each day, on weekdays and weekends.

The maximum payment rates are based on the numbers of meals and snacks served at the free rate in day care centers. Unlike participation in HCNP, claims for reimbursement will be processed by the CACFP administering agency which takes the agreement with the shelter.

Meals which are consumed in private family quarters in an emergency shelter are not reimbursable. Generally, only meals served in congregate meal settings are eligible for reimbursement. An exception may be made for meals served in private family quarters that are part of an emergency shelter to infants from birth through age 11 months. Those meals may be claimed for reimbursement if the shelter provides all of the required components to the infant's parent or guardian, and maintains records documenting that sufficient food has been provided to meet the meal pattern requirements.

Applications

An emergency shelter may participate in CACFP as an independent shelter or as a sponsoring organization of one or more participating emergency shelters. The shelter must submit an application to the CACFP administering agency to participate in the program. The application would include an administrative budget, information about the numbers of children served, and statements regarding the shelter's options for receiving commodities and advance payments. The shelter must document in its application that its primary purpose is to temporarily house and provide meals to children and their parents or guardians. The application must also include a description of how the shelter will ensure that reimbursement is claimed only for meals served to eligible children who reside there.

There is no limit on the number of facilities or children that an eligible emergency shelter may be approved to serve. A shelter that sponsors one or more facilities must complete a management plan, provide information describing each of its proposed facilities, and fulfill all of the other requirements of a sponsoring organization applying to participate in CACFP.

An emergency shelter may also participate in CACFP as a facility under an existing CACFP sponsoring organization that is a separate entity from the shelter. In this case, the sponsoring organization would follow standard CACFP procedures for adding a new facility to its agreement with the CACFP administering agency. The shelter would participate under the provisions of section 17(t)(1) of the NSLA (42 U.S.C. 1766(t)(1)).

Reporting and Recordkeeping

Meals and snacks will be included in the child care center portion of the FNS-44, *Report of the Child and Adult Care Food Program*. The number of participating emergency shelters and the average daily attendance will be reported quarterly on the FNS-44. A revised form will be available to permit reporting of those data. Draft copies of the proposed FNS-44 were sent to your office through our INF 99-25 dated March 15, 1999.

The State agency will prescribe meal counting and recordkeeping systems for meals served to eligible children and infants. As with all CACFP institutions, shelters must keep records that are adequate to determine the nonprofit status of the food service and proper utilization of CACFP funds. At a minimum, the State agency's

procedures should include requirements that the shelter maintain a daily roster of children receiving meals, total meal counts by type; and menus for infant meals and meals served to children.

Commodities

An approved shelter may receive CACFP reimbursement and commodities or cash-in-lieu of commodities for lunch and supper meals served to eligible children. A shelter may continue to receive and use commodity foods from The Emergency Food Assistance Program for the meals it serves to adults and children who are not eligible for CACFP, provided that its records are sufficient to establish the shelter's allotments of commodities under each program.

Miscellaneous

CACFP institutions may not claim a program meal under more than one Federal program. However, an institution may use other funding sources to supplement the CACFP reimbursement for the same meal.

Providers of meals to homeless children often serve a diverse clientele that include homeless and non-homeless adults and children. In those situations where a shelter's total food service is not conducted exclusively for the benefit of eligible residential children, the shelter must keep separate records of the meals it serves. Meals served to non-eligible adults and children are not reimbursable.

1999 TRANSITION TO CACFP

Emergency shelters participating in HCNP and sponsors of homeless sites in SFSP may be reimbursed for meals and snacks served to eligible children through those programs, through June 30, 1999. Under the provisions of Public Law 105-336, most of them will apply to participate in CACFP to continue receiving meal benefits for resident children after that date. Delaying implementation until July 1999, has posed a number of administrative challenges for administering agencies. The status of the 85 sponsors currently receiving HCNP benefits and of SFSP sponsors of homeless sites (23 in the 1998 SFSP) must also be addressed.

Emergency Shelters in HCNP

Current participants in HCNP were alerted to the changes in the status of the program shortly after the law was enacted. As follow-up, the Child Nutrition Division, which

administers HCNP, will formally notify those shelters that their final day of participation in HCNP is June 30, 1999, and that they will be eligible to participate in CACFP as of July 1, 1999. We will advise HCNP participants that to be eligible to receive uninterrupted meal service benefits, they should contact the appropriate CACFP administering agency in the States where they operate and complete their application requirements as early as possible.

Sponsors of Homeless Sites in SFSP

During the SFSP application process, State agencies should notify sponsors of homeless sites that effective July 1, 1999, emergency shelters are eligible to participate in CACFP. Sponsors that are interested in beginning CACFP program operations on July 1, 1999, should be encouraged to complete their applications with the appropriate State agency as early as possible.

PARTICIPATION OF EMERGENCY SHELTERS IN SFSP

If an emergency shelter wants to participate in SFSP past June 30, 1999, then it must establish its eligibility as an open site, an enrolled site, or a camp. We recommend that approval to participate in SFSP be based on one of those three eligibility determinations at the time of application for summer 1999.

Shelters that are located in areas which meet the area eligibility requirements for SFSP and which open their food service to non-residents as well as residents may qualify to participate in SFSP as area eligible sites. If the shelter applies to participate as an enrolled site, individual free and reduced price applications from parents or guardians will not be required. A list of children, certified by the shelter's director, is sufficient to document the eligibility of children who are residents of emergency shelters. The list must include each child's name, age, and beginning and ending dates (if applicable) of residence in the shelter, and the signature of the determining official.

An emergency shelter which also elects to participate in the CACFP would be subject to the provisions of FNS Instruction 782-4, *Approval of Child Care Institutions for the Summer Food Service Program.* This instruction states that a CACFP institution that meets SFSP eligibility criteria and develops a separate food service program for children who are not enrolled in CACFP may be approved to participate in SFSP. CACFP institutions which do not substantially change their program activities or significantly increase their program enrollment during periods when school is not in session may not be approved to participate in SFSP.

An institution which is approved to claim reimbursement under both the CACFP and the SFSP must ensure that a meal served to an individual child is only claimed under one program. The institution must also ensure that it keeps separate records to justify all costs and meals claimed for CACFP and for SFSP.

SUMMARY

Section 107(j) of Public Law 105-336 encourages emergency shelters to participate in CACFP. This memorandum addresses the questions you have raised about the participation of emergency shelters in CACFP and SFSP and ensuring that these benefits reach eligible children. If you have any questions concerning any of the issues addressed in this memorandum, please contact our staff at (303) 844-0359.

Ann C. DeGroat

ANN C. DEGROAT
Regional Director
Child Nutrition Programs