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Food and Consumer Service
Mountain Plains Region
1244 Speer Boulevard
Denver, CO
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Reply to Attn of: SP-02-08
CACFP-667
SFSP-438

Subject: 60-90 Day Guidance

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

FNS has reissued the Guidance for 60-90 Reporting in Child Nutrition Programs. Attached is a copy of the current version of the Guidance which was originally issued on December 30, 1983. This Guidance has been retyped and reformatted (but not changed) to allow us to have a legible, reproducible copy and an electronic file of the document.

The current version of the Guidance does not incorporate some of the changes which have been made by policy memoranda in recent years. These are SP 94-C-11, SP 00-13, and CACFP 296. In addition, FNS has become aware of a number of areas in the Guidance which may need to be reviewed and/or clarified. They plan to begin a review and redraft of the Guidance after the first of the year, with the goal of having a preliminary draft out for comments by late spring. We would appreciate any comments or suggestions you have on general or specific changes to the Guidance which should be considered as part of this revision process. Please send your comments (fax or e-mail) to our office by January 25, 2002. If you have any questions, please contact our office at (303) 844-0355.

BRIAN ALLISON
Acting Regional Director
Child Nutrition Programs

Attachments

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# 60/90 DAY RE PORTING FOR CHILD NUTRITION PROGRAMS

## I. PURPOSE

This document provides guidance on implementing the 60/90 day reporting requirements set forth in the child nutrition regulations. These requirements were initially established by the Agriculture Appropriations Act of 1983, P.L. 97-370. This legislation addressed problems experienced by FNS in obtaining timely and accurate reporting under the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP). The guidance is effective beginning with October 1982 claims and reports.

## II. GENERAL

The following provisions established by P.L. 97-370 have been incorporated into regulations for each of the child nutrition programs listed above.

A. 60 day (Local agency* submission of claims)

Only final* claims for meal* service submitted* to State agencies* (SAs) within 60 days following the close of the claiming month shall be eligible for reimbursement. This provision applies equally to Regional Office Administered Programs (ROAP) local agencies (LAs) submitting claims to FNSROs.

B. 90 day (SA submission of FNS-10/44/418 Reports)

SAs may receive program funds for meals served only if the final program operations report is submitted to FNS within 90 days following the close of the month to which the report pertains.

C. Secretary's Discretion

P.L. 97-370 stated: "exceptions* to these claims or reports submissions requirements may be made at the discretion of the Secretary."

These provisions do not rescind existing instructions to SAs on the submission of interim FNS-10, FNS-44, or FNS-418 reports 30 and 60 days after the end of the month to which they pertain. These provisions also do not preclude LAs or SAs from submitting revisions to their claims or reports prior to the respective 60/90 day deadline. The provisions are intended to refine and tighten, rather than supplant, existing reporting procedures.

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*See Appendix A; Glossary of Term Used

## III. COMPLIANCE

### A. LOCAL AGENCIES

LAs are in compliance when one of the following applies:

1. All claims presenting actual data are submitted to the SA or FNSRO, as applicable, within the 60 day submission deadline.

- This does not preclude the SA setting a tighter deadline on its own authority to ensure adequate lead time to meet its own reporting requirements.

- At the initiative of the SA, LA claims submitted within the 60 day submission deadline may be revised and reported on the 90 day FNS-10/44/418 report for the applicable month in order to correct errors or omissions in claims submitted on time.

- If a claim combines a full month with a partial month, the submission deadline for the full month shall govern. For example, an LA operating the NSLP whose school year ends June 10 may combine meals served in June on the same claim with meals served in May. This May/June claim must be submitted as if it were strictly a May claim (i.e., 60 days from May 31).

  ⇒ **NOTE**: The only exception to the above is in the SFSP. In the SFSP, combined claims for final months of operation shall be submitted not later than 60 days after the last day of operation.

- The 60 day submission deadline does not apply to an SA that acts in the capacity of an LA and uses no claiming document.

2. The FNSRO has granted an exception for late reporting or revision.

3. The LA has been granted an audit/review exception* by the SA for revisions due to SA on-site reviews or independent audits* that disclose overclaims or underclaims which appear to the SA to be warranted.

### B. STATE AGENCIES

The SA is in compliance when:

1. Each final FNS-10/44/418 report is submitted within 90 days following the end of the month in which the meals reported thereon were served; or

2. The SA has been granted an exception for late reporting or revision.

C. DOCUMENTATION*

The SAs and LAs must maintain adequate documentation in their files to support all actual data they report as well as the details and reasons for all adjustments made to final claims or reports. The FNSRO will review this documentation during reviews, management evaluations, and other oversight activities to monitor and enforce compliance at the SA level. Likewise, the SA should do the same for the LA. When such reviews take place, any data provided on claims or reports which cannot be supported by documentation on file will be disallowed and reimbursements already paid will be reclaimed.

## IV. NON-COMPLIANCE

### A. LOCAL AGENCIES

LAs are out of compliance when one or both the following apply:

1. Final claims are not submitted within the 60 day deadline. In such cases, the entire claim is out of compliance.

⇒ **NOTE**: At the discretion of the SA, a one-time exception for lateness may be granted to an LA upon approval of a Corrective Action Plan (CAP) by the SA (or FNSRO for Regional Office Administered Program). However, the LA will still be considered out of compliance with the 60 day reporting requirement.

2. The SA directs that final claims submitted within 60 days be subsequently amended, but the adjustments are received too late to be included on the SA's 90 day FNS-10/44/418 report to FNS. In such cases, these adjustments to the claims that were revised are out of compliance (unless verified by subsequent independent audits or SA on-site reviews, or granted an exception by FNS) while the rest of the claim is in compliance.

B. STATE AGENCIES

The SA is not in compliance when either of the following events takes place due to circumstances at the SA level (rather than to LA non-compliance):

1. The final FNS-10/44/418 report is not submitted to the FNSRO within the 90 day submission deadline. Thus, the entire final report is out of compliance and the FNSRO shall determine whether to authorize payment to the SA on the basis of actual data presented in its 60 day report.

2. The SA or FNSRO identifies inaccuracies in an FNS-10/44/418 report submitted on time and a corrected report is not submitted within 90 days following the report month. In this case, the items on the report that required correction are out of compliance while the rest of the report is in compliance.

⇒ **NOTE:** When SA is not in compliance, the FNSRO shall:

- Promptly notify the SA if the SA fails to submit interim FNS-10/44/418 reports 30 days and 60 days (if applicable) after the months to which they pertain.

- Promptly notify the SA whenever the SA is out of compliance, as defined above.

V. SECRETARY'S DISCRETION (EXCEPTION REQUESTS AND OTHER ADJUSTMENTS)

The Secretary has the authority to grant exceptions to both the 60 day LA claim submission requirement and the 90 day SA reporting requirement.

Two types of exceptions to the 60/90 day requirements are encompassed under the Secretary's discretion: those requiring FNSRO approval (exception requests) and those which do not. (Section VI provides a detailed chart outlining which adjustments fall under which authorities and what actions are required.)

A. TYPES OF ADJUSTMENTS/EXCEPTIONS

1. Adjustments which do not require FNSRO approval. (No exception request is required.)

   a. These adjustments include:
      (1) Changes to categories of meals with no requested increase in entitlement.

Improperly categorized meals on LA claims or SA reports (as would result from mis-certified free and reduced price meal applications, or from reporting data in the wrong column or on the wrong line on the FNS-10/44/418 reports) may be corrected without FNSRO approval when changes to meal categories do not result in a request for an increase in the dollar value of the claim or report. If an increase in entitlement is claimed, submission of a request for exception and FNSRO approval are required.

(2) Exclusively downward adjustments to final LA claims.

The LA may submit to the SA revised final claims after the 60 day due date without FNSRO approval when it wishes to make all downward adjustments (as defined in Appendix A) on its claim form.

(3) Exclusively downward adjustments to SA final reports.

On its own behalf, the SA may revise the FNS-10/44/418 reports after the 90 day due date without FNSRO approval when it wishes to make all downward adjustments (as defined in Appendix A) on the final reports which are not the result of LA adjustments. Except for 1. a. (1), above (Changes to categories of Meals), all upward adjustments the LA wishes to make would require a request for exception (see Section VIII).

(4) Adjustments to LA claims resulting from independent audits or SA on-site reviews.

An audit/review exception* may be granted by the SA to the LA, without FNSRO approval, for revisions to a timely claim due to SA on-site reviews of the LA, or independent audits that disclose overclaims or underclaims which appear to be warranted after a review of the circumstances by the SA.

(5) One-time exception for the submission of a late claim.

At the discretion of the SA, a one-time exception for one month for late submission of a claim within the control of the LA may be granted if an LA submits an approvable Corrective Action Plan (CAP). This provision does not apply to revisions to a timely claim. (The procedure for requesting a one-time exception appears in Section VIII A.)

2. Adjustments which require FNSRO approval (Exception request required.)

There are four types of adjustments which require exception requests if the SA wishes to pursue them. (The procedures for requesting exceptions appear in Section VIII.)

a. Late claims.

The SA shall submit to the FNSRO a separate exception request for each LA requesting an exception for lateness.

b. Late FNS-10/44/418 reports.

The SA shall submit to the FNSRO a separate request for each late report for which it seeks an exception on its own behalf.

c. Revised LA claims which did not result from an SA on-site review or independent audit (except those covered in A. 1. a, above.)

The SA shall submit to the FNSRO a separate exception request for each LA requesting an adjustment to a final 60 day claim when the reason for the request resulted from circumstances beyond the control of the LA.

d. Revised SA FNS-10/44/418 reports (except those covered in A.1, above) for revisions which are not the result of LA adjustments.

The SA shall submit to the FNSRO a separate exception request for each final monthly report that is revised on its own behalf (i.e., when violation occurs due to circumstances at the SA level rather than to late or inaccurate reporting by LAs).

B. LIMITATIONS ON ADJUSTMENTS

1. Tolerance levels.

A tolerance level for each SA of +/- 0.5% (one half of one percent) of the dollar value of each month's report, by program, has been established for adjustments to each month's 90 day report, described in this Section. Tolerances are always measured against the 90 day report rather than against subsequent revised reports submitted monthly or quarterly.

(For reporting purposes, individual net adjustments are submitted for the SBP, the NSLP, the SMP, the CACFP and the SFSP. Section 4 and 11 payments are considered together.)

2. Exceeding the tolerances

   a. If the net of such SA adjustments exceed the established tolerances prior to the quarterly submission of revised 90 day FNS-10/44/418 reports, the SA shall send the revised reports for such months to the FNSRO as soon as the tolerance threshold is reached. The FNSRO may require the SA to submit a CAP for this type of circumstance. (See Section IX, Remedial Action.)

   b. Once the tolerance has been exceeded, the FNSRO may request some or all of the adjustments formerly not requiring FNSRO approval to be sent to FNS. The FNSRO shall decide whether to allow the SA to continue to make adjustments not previously requiring FNSRO approval or audit/review exception decisions, without FNSRO approval, or to have them sent to the FNSRO for approval. (See paragraph B. 4, below.)

3. Three year limitation on audits/reviews.

   A three year limitation has been established for adjustments to LA claims resulting from independent audits or SA on-site reviews beginning with Fiscal Year 1983 (October 1982) claims. Any audit/review adjustments beyond this three year time frame require submission of an exception request to the FNSRO. Any increases to entitlements resulting from this provision will be authorized subject to the availability of funds.

4. Approval authority.

   FNS reserves the right to reinstate its approval authority for the adjustments covered in Section V. A. 1, above, if the SA exceeds the tolerances or does not properly record and report such adjustments.

Chart of Adjustments
at to Submit?

| ASAP (As soon as possible)<br>EOY (End of Year)<br>NA (Not Applicable)<br><br>Type of Adjustment: | Office requesting adjustment | Exception request required | Orig/Revised claim or report | Explanation of changes; details of meal data | Justification; reasons and circumstances. | When? | Submit to: | Method of providing data to FNS by the SA: |
|---|---|---|---|---|---|---|---|---|
| I. <u>Adjustments which do not require FNSRO approval</u>.** | | | | (For monitoring purposes only) | (For approval purposes) | | | |
| 1) Changes to meal categories with no increase in entitlement. (Applies to both LA claims and SA FNS-10/44/418 reports) | LA or<br><br>SA | No<br><br>No | Yes<br><br>Yes | Yes<br><br>Yes | No<br><br>No | ASAP<br><br>Quarterly | SA<br><br>Maintain documentation for FNSRO review | )Submit )to FNS quart- )erly a revised )report for each )month ad- )justed |
| 2) Exclusively downward adjustments to final LA claims. | LA | No | Yes | Yes | No | ASAP | SA | " |
| 3) Exclusively downward adjustments to final SA FNS-10/44/418 reports. | SA | No | Yes | Yes | No | Quarterly | Maintain documentation | " |
| 4) Adjustments to LA claims resulting from independent audits or SA on-site reviews. | LA | No | Yes (also audit report) | Yes | No | ASAP | SA | " |
| 5) One-time exceptions for submission of late claims within the control of the LA. | LA | No | Yes | | Yes along with CAP | ASAP | SA | |
| ** Only applies to adjustments which do not vary by more than -/+ 0.5% from the dollar value of the corresponding 90 day report submitted on time.<br><br>Adjustments outside this tolerance may require FNSRO approval. | | | | | | | | |

Retyped and reformatted August 2001

IV. Chart of Adjustments (continued)

| ASAP (As soon as possible)<br>EOY (End of Year)<br>NA (Not Applicable)<br><br>Type of Adjustment: | Office requesting adjustment | Exception request required | Orig/Revised claim or report | Explanation of changes; details of meal data | Justification; reasons and circumstances. | When? | Submit to: | Method of providing data to FNS by the SA: |
|---|---|---|---|---|---|---|---|---|
| II. <u>Adjustments which require FNSRO approval (Request for Exception)</u>.** | | | | (For monitoring purposes only) | (For approval purposes | | | NOTE: For adjustments requiring FNSRO approval, enter approved data only. |
| 1) Late SA FNS-10/44/418 Reports | SA | Yes | Yes | Yes | Yes | ASAP | FNSRO | Enter data on approval |
| 2) Late LA claims | LA | Yes | Yes | Yes | Yes | ASAP | SA | " |
| 3) *Revised LA claims which did not resulted from an SA onsite review or independent audit. (Other than in I.1.) | LA | Yes | Yes | Yes | Yes | ASAP | SA | Submit to FNS quarterly a revised report for each month adjusted |
| 4) *Revised SA FNS-10/44/418 reports for revisions on SA's own behalf. (Other than in I.1.) | SA | Yes | Yes | Yes | Yes | ASAP | FNSRO | " |
| 5) Changes to meal categories with accompanying request to increase entitlement. (Applies to both LA claims and SA reports). | LA<br>Or<br>SA | Yes<br><br>Yes | Yes<br><br>Yes | Yes<br><br>Yes | Yes<br><br>Yes | ASAP<br><br>ASAP | SA<br><br>FNSRO | )<br>) "<br>) |
| *May include adjustments both upward and downward. | | | | | | | | |

## VII. EXCEPTION DECISIONS WITHIN REQUESTS

A. The program regulations stipulate that claiming by LAs and reporting by SAs are monthly requirements. Therefore, each monthly claim or report submitted late, or requiring revisions of the type that require approval, constitutes a separate request for exception.

B. Separate exception requests are not required, however, if a common reason (as described in the explanation/justification) applies to more than one month's LA claim or SA report, as long as the adjustments are clearly described by month and by fiscal year. However, the SA must submit a separate exception request for each LA seeking an exception.

C. Within each request for exception (see chart in Section VI), each reason given in the justification statement* that necessitates one or more adjustments to the SA's or LA's entitlement, shall constitute a separate exception decision (ED)*. The FNSRO shall evaluate each ED separately. To illustrate this policy, consider the following examples of adjustments:

- The LA requests an exception for a claim in which some of the free lunches had been erroneously reported as paid. The shifting of lunches from the paid category to free is one operation and generates two adjustments (revising upward the number of free lunches, and revising downward the number of paid lunches).

- The LA requests an exception for a claim in which free lunches had been erroneously reported as free breakfasts. The shifting of reported meals from the breakfast category to the lunch category is one operation and generates two adjustments (revising upward the number of free lunches and revising downward the number of free breakfasts).

  Both of the above examples could have appeared in the same request (i.e., occurred in the same claim). If so, the FNSRO would evaluate all the operations collectively if the SA had given the same reason for all of them. On the other hand, the FNSRO would evaluate each operation separately (and make a separate ED) if the SA had attributed each operation to a different reason. In the latter case, the FNSRO could grant exceptions for all the EDs or for none of them, or could grant an exception for one ED while denying exceptions for the others.

D. To enable the FNSRO to evaluate each ED separately, the SA shall explain and, if applicable, justify each ED separately. If adjustments to the same LA claim (or SA report) are attributed to two or more reasons, the SA shall present separately in the justification statement the effect of each such

reason (i.e., each ED) upon the data currently on file in FNS. Thus, each individual reason constitutes one ED.

⇒ **NOTE:** The FNSRO shall:

- Automatically accept all downward adjustments, but may approve or disapprove requests for upward adjustments based on its review and evaluation of each request.

- Monitor SA downward adjustments. If an SA repeatedly adjusts its reports downward after the 90 day submission deadline, corrective action may be required.

## VIII. PROCEDURES FOR REQUESTING/HANDLING EXCEPTIONS

### A. LOCAL AGENCY REQUESTS

1. An LA may request an exception whenever it is or may be out of compliance. For each request, the LA shall submit to the SA or FNSRO, as applicable:

   a. A revised claim (or the original claim if lateness is the sole violation).

   b. A written description of the events and circumstances that prevented claiming compliance, in sufficient detail to enable the SA and FNSRO to make a fair decision. The statement must provide:

      - Justification for each upward adjustment to the amount due the LA (such as increasing the number of free lunches for which the LA is claiming reimbursement).

      - Explanation for each downward adjustment to the amount due the LA (such as reducing the number of paid lunches for which reimbursement is claimed).

      ⇒ **NOTE**: The SA shall accept all downward adjustments to LA claims. However, the SA shall monitor LA downward adjustments. If an LA repeatedly adjusts its claims downward after the 60 day submission deadline, corrective action may be required (see Section IX).

2. The SA shall handle LA's requests for exceptions in the following manner: (not including requests under the one-time exception provision.)

   The SA shall consider each LA request on a case-by-case basis, and

forward to the FNSRO only those which demonstrate to the SA's satisfaction that noncompliance (as defined in Section IV) occurred due to circumstances beyond the LA's control. For the CACFP or SFSP only, an SA-administered LA may appeal the SA's decision not to forward a late or revised claim to the FNSRO for exception consideration. (See "Appeals," Section X.)

For each LA request which the SA believes is justified the SA shall submit to the FNSRO:

a. A separate exception request for each LA claim for which an adjustment is requested (regardless of the number of adjustments being made to the dollar amount claimed). This request shall contain the name and agreement number of the LA on behalf of which the exception is requested.

b. A supporting statement presenting the following information:

- Explanation of each upward or downward adjustment to the data previously reported. If the request includes two or more adjustments and attributes them to different reasons, the SA shall identify separately the effect of each reason upon the SA's participation and financial data for the month to which the request pertains.

- Justification statement explaining why the reporting noncompliance had been beyond the control of the LA.

  ⇒ **NOTE**: Such justification is not required if the adjustments are either exclusively downward, or do not increase the entitlement.

3. The SA shall handle LA's requests for a <u>one-time exception for late claim submission</u> in the following manner:

   If the claim may be paid, at the discretion of the SA, if LA has not previously been paid under the one-time exception provision. The following actions shall be taken if a one-time exception for lateness is to be granted: the SA disapproves an LA's request for payment of a late claim,

   a. The SA shall notify the LA that it is out of compliance, but the LA may receive payment if it submits an approvable CAP. The CAP must include:

- actions to be taken to avoid repetition of the situation linked to the late claim submission;

- actions to be taken to avoid any future late claim submission from the same or other causes;

- a statement that the LA understands that the one-time exception is forever; any future late claim submission will not be paid (unless the lateness can be attributed to conditions beyond the control of the LA); and

- signature of the person who entered into the agreement with the State or FNS to operate the CN program.

b. The LA shall forward its CAP and the late claim to the School Board, Superintendent or other appropriate local senior level official for approval prior to forwarding it to the SA.

c. The SA shall review the CAP and approve, at its discretion, only those which in its opinion warrant approval.

⇒ **NOTE:** The one-time exception for lateness applies only to those claims which are otherwise valid. If LA submits several months at the same time, only one can be paid under the one-time exception for late claim submission. The CAP should not be approved until it sufficiently addresses the reason for lateness and actions to remedy the late submission.

4. The FNSRO shall handle requests for exception for LAs in the following manner:

   a. The FNSRO shall consider individually each ED (i.e., each reason for noncompliance) presented in the LA's request.

   b. For each reason the FNSRO accepts:

      - The LA shall be deemed in compliance with Federal reporting requirements.
      - No remedial action shall be required.

   c. For each reason the FNSRO does not accept:
      - The LA shall be deemed out of compliance.
      - Remedial action may be required.

⇒ **NOTE:** Except as described in the paragraph that follows, corrective action shall be at the discretion of the SA.

- SA should suspend payments to LAs which repeatedly adjust their claims downward after the 60 day submission deadline. This suspension of payments should continue until the LA demonstrates that it has procedures in place to produce an actual final claim on time each month. At this time, payments to the LA would resume. No retroactive payments would be made for prior months (those months falling during the suspension period.)

- The FNSRO shall provide the SA with an explanation for its denial.

- If an LA's request is denied and a subsequent audit or review indicates the validity of the requested adjustments or portions thereof, the adjustments to the LA's claim amount may be authorized.

B. STATE AGENCY REQUESTS

1. The SA may request an exception for itself, as opposed to doing so on behalf of an LA under its jurisdiction, whenever it is not in compliance for reasons not relating to requests submitted by LAs.

   The SA shall request such exceptions by submitting to the applicable FNSRO, for each exception, the following:

   a. An explanation of the revisions, presenting upward and downward adjustments to participation data and dollar amounts.

   b. A supporting statement presenting the following information:

   - Explanation of each upward or downward adjustment to the data previously reported. If the request includes two or more adjustments and attributes them to different reasons, the SA shall identify separately the effects of each reason upon the SA's participation (meal count data by category) and financial data for the month to which the request pertains.

- Justification statement explaining why the reporting noncompliance was beyond the control of the SA. Such justification is not required if the adjustments are either exclusively downward, or do not increase entitlement.

2. The FNSRO shall handle SA requests in the following manner:

   a. The FNSRO shall consider individually each ED (i.e., each reason explained in the justification statement for one or more adjustments presented in the SA's request).

   b. For each reason the FNSRO concurs with:

      - The SA shall be deemed in compliance with Federal reporting requirements.

      - If the request had been for adjustment of the SA's entitlement, as established by a timely 90 day report, upward adjustments shall be authorized and downward adjustments implemented.

      - The SA shall maintain documentation of approved adjustments, both for LAs and for itself, resulting from exception requests and other adjustments covered under V. A. 1, and submit to FNS quarterly a single revised FNS-10/44/418 report for each month adjusted.

3. For each reason the FNSRO does not concur with:

   a. The SA shall be deemed out of compliance.
   b. Remedial action should be taken.
   c. The FNSRO may grant a qualified exception* or deny payment.

      (1) If the FNSRO grants a qualified exception:

         - The requested adjustments to program data and funding shall be authorized, within the constraints of Section IX (Remedial Action), in spite of the SA's noncompliance. (This will be done in order to avoid penalizing LAs for the SA's violation.)
         - The FNSRO shall provide the SA an explanation of the denial, along with notification of the qualifications attached to the authorized adjustments.

      (2) If the FNSRO denies payment:

         - The FNSRO shall take appropriate fiscal action.
         - The FNSRO shall notify the SA and provide an explanation for its denial.

## IX. REMEDIAL ACTION (FISCAL AND ADMINISTRATIVE)

### A. GENERAL

The FNSRO shall tailor all remedial actions, both administrative and fiscal, to address the degree of non-compliance involved. Remedial action, as discussed below, should generally escalate through a series of progressively more severe steps until SA compliance is achieved. However, the FNSRO need not limit itself to escalating step-by-step. When the SA non-compliance is serve or deliberate, the FNSRO may start with one of the more severe actions.

The FNSRO shall make all remedial actions taken (funding restrictions, CAPs, and conditional periods) a part of the appropriate SA grant award document.

### B. FISCAL ACTION

1. General

The FNS funds control system is structured to fund all of the programsincluded in the SA's FNS-10/44/418 reports on a cash needs* basis. Given this condition, the FNSRO escalation of remedial action would progressively restrict the SA's access to cash. If necessary, such restrictions would culminate in FNS denying the SA funds for activities not reported in compliance with the 90 day submission deadline.

2. Progressive Steps for Funding Restrictions

In accordance with paragraph A, above, the FNSRO shall determine and apply one or more of the following funding restrictions, without regard to order or sequence. The severity of the restriction selected should be in accordance with the SA's reporting performance record and the nature of the noncompliance.

a. The FNSRO could deny the SA access to additional funds until the FNSRO approves a CAP for the SA. Once there is approval, the SA would continue to receive funds on a cash needs basis.

b. In addition to withholding payment until approval of the CAP, the FNSRO would provide funds to the SA on a reimbursement basis*. Thus, the SA would receive none of the funds to which a given month's report would have entitled it until the FNSRO had received the final (90 day) report for that month. The current Letter of Credit/Grant Award System would still be used rather than payment by Treasury Check (SF-270).

c. After approval of a CAP for the SA, the FNSRO would keep the SA funded on a reimbursement basis but withhold any additional payment until it has performed an on-site review of SA documentation and has satisfied itself that data provided on the reports are supported by LA final claims.

d. Notwithstanding approval of the SA's CAP, the SA would not receive funds, nor would there be retroactive funds provided, for any activity that was not reported in compliance with the reporting requirements. Depending on the severity of the noncompliance, the actual meal* data presented on the 30 day and, if appropriate, 60 day reports may or may not be used when a 90 day report is not approved by the FNSRO or is not submitted within 90 days.

e. The SA would be taken off the program for not complying with the reporting requirements. Until reinstated the SA would receive no Federal funds, and no retroactive payment would be made.

C. ADMINISTRATIVE ACTION

1. Corrective Action Plans (CAPs)

CAPs must be submitted in sufficient detail to demonstrate that completion of the actions to be taken by the SA will ensure its future compliance with the reporting requirements. The CAP should be tailored to the severity of the violation. For a "first offense," the CAP may consist of a brief memorandum giving an overview of the corrective action the SA will take. When noncompliance is repeated or flagrant, the CAP should become progressively more comprehensive and detailed.

2. Conditional Period*

This period must be of sufficient duration to ensure that the SA is complying with reporting requirements. For less severe noncompliance, the minimum period should require:

- A revised or strengthened CAP, and
- FNS to intensify its control or restriction over the disbursement of Federal program funds to the SA.

## X. APPEALS

In the CACFP or SFSP only, an SA-administered LA may appeal the SA's decision not to forward a late claim or revised claim to the FNSRO for exception consideration. However, the LA will not be permitted to appeal the FNSRO's denial of an exception. This does not prohibit LAs operating any program from exercising rights under State appeals processes regarding any SA decision.

## XI. REPORTING RESPONSIBILITIES

### A. SA REPORTING RESPONSIBILITIES

1. Recording Adjustments.

   a. The SA shall keep a record, by reporting month affected and fiscal year, of the following adjustments:

      - Exception request, or portion thereof, approved by FNS.
      - Exclusively/downward adjustments, and those which do not increase entitlement.
      - Audit/review exceptions that the SA deemed warranted.

   b. The SA shall maintain documentation and backup information to support all adjustments.

   c. The SA shall monitor the net program adjustments made to each month's report to ensure they have not exceeded +/- 0.5%. (If tolerances are exceeded, the SA shall follow the procedures explained in Section V.B. 2.)

   d. The SA shall maintain indefinitely documentation of all one-time exceptions for lateness it approves. In addition, the SA shall keep on an annual basis, a cumulative listing of all LAs granted a one-time exception for lateness. The FNSRO will review this documentation during management evaluations.

2. Reporting Adjustments.

   a. All revisions to FNS-10/44/418 reports for any given month (whether submitted monthly, quarterly, or at closeout) shall be numbered consecutively beginning with "Revision No. 1", "Revision No. 2", etc.

b. Adjustments to monthly reports not exceeding the tolerance shall be accumulated and reported each quarter as revisions to the 90 day FNS-10/44/418 reports. (Adjustments should be reported at the end of the quarter in which the adjustments become known.) A single revised report shall be submitted quarterly for each month of the fiscal year being revised, consolidating all approved adjustments made within the quarter.

c. If the tolerance level for any month's report has been exceeded, the SA must submit a revised report immediately rather than quarterly. All revised reports must have monthly integrity; that is, adjustments must represent changes in meal service only during the month to which the revised report applies.

B. FNSRO REPORTING RESPONSIBILITIES

*The FNSRO shall:*

1. On a quarterly basis, review and enter the revised monthly FNS-10/44/418 reports received from the SAs. The "Type of Submission" coding for revised 90 day reports will be the letter "D". (See Section XII. A, below, for the quarterly reporting schedule.)

2. On a monthly basis, enter any other revised monthly FNS-10/44/418 reports (such as those resulting from exceeding tolerances) received from the SAs.

3. Enter the closeout reports. The "Type of Submission" coding for closeout reports will be the letter "E".

4. Enter any revised closeout reports (See Section XII. B).

5. Submit the "Summary Report of Exception Decisions Made" (See Appendix B) to FNSHQ on a quarterly basis.

C. FNSHQ RESPONSIBILITIES

1. FNSHQ will maintain the automated system for all the data entered by the FNSRO, described in B, above.

2. FNSHQ will monitor requests for exceptions granted by the FNSROs.

3. FNSHQ will monitor compliance with the 60/90 day requirements set forth in the regulations and in this guidance.

## XII. QUARTERLY REPORTING SCHEDULE, CLOSEOUT REPORTS, AND SUBSEQUENT ADJUSTMENTS TO CLOSEOUT REPORTS

⇒ **NOTE:** All revised monthly reports, closeout reports, and revised closeout reports shall contain only: (1) authorized adjustments resulting from approved exception requests, and (2) adjustments not requiring FNSRO approval. (See Chart of Adjustments, Section VI.)

### A. QUARTERLY REPORTING SCHEDULE

Revisions to FNS-10/44/418 reports shall be submitted according to the following schedule:

(Fiscal Year begins October 1)

| | | |
|---|---|---|
| 1st Quarter | January 1 | No quarterly reports are due, since FNS is tracking adjustments to the 90 day report, and the October 90 day report is not due until January 31 |
| 2nd Quarter | April 1 | Cumulative adjustments to the (90 day) reports for only October and November are due |
| 3rd Quarter | July 1 | Cumulative adjustments to the 90 day reports for October and November (if any occurred subsequent to April 1) and adjustments to December, January, and February reports are due |
| 4th Quarter | October 1 | Subsequent adjustments, if any, to the October through February reports, and adjustments to the March through May reports are due. |
| | February 1 | Subsequent adjustments, if any, to the October through May reports, and adjustments to the June through September reports are due |

### B. CLOSEOUT REPORTS

The SA shall submit any subsequent adjustments to the October through May reports and adjustments to the remaining months in the fiscal year (June through September) by February 1 following the close of the fiscal year. The SF-269 is also due on this date.

## C. SUBSEQUENT ADJUSTMENTS TO THE CLOSEOUT REPORTS

1. Any adjustments to FNS-10/44/418 closeout reports shall be submitted as individual revisions for each month in which the meal service data has been changed. Cumulative data shall be reported as an aggregate for each individual month being submitted. The tolerance levels after the closeout remain the same, i.e., they apply to each individual monthly report being revised. If the tolerance level is exceeded, then the SA shall notify the FNSRO immediately.

2. Data adjustments for more than one LA may be aggregated in order to minimize the paperwork after the closeout for all adjustments which do not require FNS approval.

3. Exception requests after the closeout shall be handled in the same manner as before the closeout. (See Chart of Adjustments in Section VI.)

4. The applicable fiscal document after the closeout is the SF-270. The SF-270 shall contain financial data supporting revised FNS-10/44/418 reports reflecting only:

   - Authorized adjustments resulting from approved exception requests.

   - Adjustments not requiring FNSRO approval.

   ⇒ **NOTE:** No adjustments based on exceptions requiring FNS approval should be submitted on the SF-270 and the FNS-10/44/418 reports until authorization has been granted by the FNSRO.

5. Any upward adjustments to SA entitlements resulting from revisions made after the closeout shall only be authorized by FNS subject to the availability of funds.

## APPENDIX A - GLOSSARY OF TERMS USED

A. An adjustment is an increase or decrease in the number of meals (as defined in L, below) of a given category (paid, reduced price, free) and program (NSLP, SBP, SMP, CACFP, or SFSP) that the LA or SA has previously reported served in a given month.

For purpose of this guidance, upward adjustments and downward adjustments always refer to the effect on LA or SA entitlements. Thus, an upward adjustment results from revisions to final claims or FNS-10/44/418 reports that cause an increase in the number of dollars, by program, to which the LA or SA is entitled. Conversely, a downward adjustment always reduces the LA's or SA's entitlement by program.

B. An audit/review exception authorizes upward adjustments to LA claims that result from independent audits or on-site reviews by the SA. Audit/review adjustments can be made without FNSRO approval within a three-year time limit of the month(s) requiring data adjustments. (This provision is not applicable prior to Fiscal Year 1983.) For closed-out years, such adjustments are contingent upon availability of funds.

C. Cash Needs. Funding an SA and/or FNSRO on a cash needs basis means making cash available to the SA and/or FNSRO in such amounts and at such times as will enable the SA and/or FNSRO to promptly liquidate liabilities incurred, as evidenced by payable claims on hand. Cash payments to the SA are reconciled with program activity reported by the SA after the close of applicable fiscal year.

D. During an SA's conditional period, the FNSRO considers the SA's previous violation(s) in evaluating the SA's current performance. A subsequent violation by an SA in conditional status would result in more severe sanctions as compared to similar violations by an SA not in such status. On the other hand, total compliance during the period would enable the SA to start with a "clean slate" at the conclusion of such period. SAs can use conditional periods to obtain corrective action from LAs.

E. Documentation. The detailed records maintained by the SA in support of actual data submitted on the 60 day claim and 90 day FNS-10/44/418 reports, and any adjustments to such reports. The documentation also includes the plus and minus changes to numbers of meals, by category and by program, attributable to each LA as well as the SA itself, and the corresponding changes to entitlement. The FNSRO will review SA documentation regularly.

F. In granting an exception, FNS accepts (and, if applicable, authorizes payment for) program data presented on a claim or report submitted outside the prescribed standards and timeframes. An exception can be granted only if the LA or SA has demonstrated to the FNSRO's satisfaction that its failure to meet the prescribed reporting requirements had been caused by circumstances beyond its control. Thus, an LA or SA granted an exception is deemed in compliance with reporting requirements.

G. The FNSRO makes a separate exception decision (ED) for each reason the SA gives to justify its request for an exception. One exception request may contain any number of adjustments to the SA's data (See A, above), and such adjustments may be attributable to several reasons. The FNSRO may accept some of these reasons and reject others. Therefore, the SA is required to present separately the effect of each reason upon the SA's participation and financial data. The FNSRO may then grant or deny an exception on each ED. Conversely, several months' LA claims or SA reports may require adjustments which are attributable to a single reason. Exception requests submitted for a series of month's for a single reason constitute only one ED.

H. An explanation must be provided by the SA when adjustments of any type are requested. The explanation shall include meal information by program, by meal category, and by number of meals as documented by the SA; and the change in entitlement to funds.

I. For any given claiming or reporting month, the final claim or report is that portion of the most recently submitted claim or report that the LA or SA has identified as entirely actual data. The LA or SA may submit as many revisions to its claim or report as it desires prior to the respective 60 or 90 day deadline without penalty. After the deadline, the actual data for the applicable month are considered final and may be revised only by requesting an exception. The following examples illustrate this definition:

1. As of 90 days following April 30, 1983, the most recent FNS-44 report submitted by the SA for April 1983 is one identified as a "60 day" report containing a mixture of estimated and actual data. The SA subsequently submits the 90 day report, presenting entirely actual April data, 96 days after April 30. Because it is submitted late, the SA must request an exception if it expects the FNSRO to consider payment. Otherwise, and if no exception is granted, the SA may only receive payment for the actual data as submitted on the 60 day report.

2. The SA submits an FNS-10 report pertaining to March 1983, identified as containing entirely actual data, 80 days after March 31. The SA then submits a revised "actual" March FNS-10, 87 days after March 31. The 87 day report is deemed the "final" March report. If the SA desires to further revise its March actual data 95 days after March 31, it must request an exception.

3. An LA operating the NSLP and SBP in some of its schools and the SMP in others submits a claim for October 45 days after October 31. The claim contains entirely actual October data for the NSLP, but estimated data for the SBP and SMP. Subsequently, the LA submits a revised claim giving actual SBP data. This revised claim is submitted 53 days after October 31. No further claims were submitted within 60 days. For purposes of determining the LA's NSLP/SBP entitlement, the LA submitted a final claim within the prescribed timeframe. With respect to the SMP, the LA is deemed to have submitted no final claim and is out of compliance.

J. A justification statement must be provided along with the explanation whenever an exception is requested. The justification shall describe the circumstances that prevented compliance with reporting requirements, along with any other pertinent information that would enable the FNSRO to make an exception decision.

K. Local Agency (LA) refers to school food authorities, and sponsors for summer camps, institutions, and service institutions.

L. Meal refers to the service of lunches, breakfasts, milk, snacks, and suppers in outlets participating in the NSLP, SBP, SMP, CACFP, and SFSP.

M. An independent audit is an audit conducted by a neutral entity apart from the management structure which ensures that appraisals are made with the necessary objectivity to present a true and factual examination and review of the auditee's operation. Such an audit can be either a Federal, State or Local audit.

N. A qualified exception is a form of fiscal sanction that a FNSRO can impose upon an SA for noncompliance with the reporting requirements. The FNSRO would authorize payment to the SA in the amount for which the SA had requested the exception. A qualified exception differs from an exception in three ways:

1. An SA granted exception is deemed in compliance. An SA granted a qualified exception is deemed in violation but is paid anyway, to avoid penalizing the LAs for the SA's violation.

2. No corrective action is required of an SA granted exception because the SA's failure to meet reporting requirements has been attributed to factors beyond its control. An SA granted qualified exception is required to clear with the FNSRO and implement a Corrective Action Plan (CAP). The FNSRO will deny the SA access to funds until the CAP is approved.

3. Only an SA can be granted a qualified exception, and only for its own violations. The SA cannot attribute LA violations to itself in the hope of obtaining a qualified exception.

O. Quarterly reporting is required for any adjustments that are made to the SA 90 day FNS-10/44/418 reports. Adjustments not requiring FNS approval, and FNS-approved adjustments shall be included on revised 90 day FNS-10/44/418 reports and submitted to FNS on a quarterly basis. The schedule for such reporting is set forth in Section XII of this guidance.

P. Reimbursement. Funding an SA on a reimbursement basis means restricting cash payments to the SA to such times and such amount as will ensure that cumulative cash disbursements to the SA are supported by cumulative actual program activity reported on Forms FNS-10/44/418.

Q. State Agency (SA) refers to an administering agency for child nutrition programs. For most States, the administering agency would be the State Department of Education.

R. Claims and reports are considered submitted at the point in time at which they leave the custody of the submitting organization (LA or SA). Generally, this point is reached when the LA or SA mails, datafaxes, or otherwise transmits the claim or report.

## APPENDIX B

## INSTRUCTIONS

Each FNSRO shall use the "Summary Report of Exception Decisions Made" to report its handling of requests for exceptions. The reports should be mailed to the Management Information Division at the end of each quarter. These reports should be submitted on April 1, July 1, October 1, and January 1 of each year.

1. FOR PARTS A AND B OF THE SUMMARY REPORT

   For Parts A and B of the Report, columns A through E collect data on exception decisions (EDs) made for all LAs received by the FNSRO within the report period stated at the top of the report. In the columns after each fiscal year entry, enter for each program the number of EDs encompassed by such exception requests according to the column headings.

2. FOR PART C OF THE SUMMARY REPORT

   Part C of the report collects data for SAs, similar to Parts A and B (which pertain to LAs), but for SA exception decisions made by the FNSRO. The column headings correspond to Parts A and B, however, an additional column (d), has been provided to report qualified exceptions that the FNSRO may grant to the SA.

3. REQUIRED ATTACHMENTS

   The FNSRO shall attach the following supplemental material to each quarterly report:

   - A case-by-case summary of exceptions granted and denied as shown on the report. This listing must present the reasons for granting or denying each exception request.

   - A case-by-case summary of requests pending review, as shown on the report. This listing shall explain the nature of each pending review (lack of documentation, requests improperly prepared, etc.).

   - Disposition of cases reported in the "Summary Report of Exception Decisions Made" in the prior quarterly report as "Pending, End of Period."

## APPENDIX B

SUMMARY REPORT OF EXCEPTION DECISIONS MADE

REGION: _____

REPORT PERIOD: Beginning _____ Ending _____

| FY | PROGRAM | # EDs RECEIVED DURING PERIOD | #EDs RECEIVED DURING PERIOD | | NUMBER APPROVED | NUMBER DENIED | # EDs PENDING END OF PERIOD |
|---|---|---|---|---|---|---|---|
| | | **(A** | **+ B)** | **=** | **(C** | **+ D** | **+ E)** |

PART A – EXCEPTION DECISIONS MADE FOR LOCAL AGENCIES FORWARDED BY STATE AGENCIES

| | | | | | | |
|---|---|---|---|---|---|---|
| CURRENT FY _____ | SP<br>CACFP<br>SFSP | | | | | |
| PREVIOUS FY _____ | SP<br>CACFP<br>SFSP | | | | | |
| OTHER FY (SPECIFY) | SP<br>CACFP<br>SFSP | | | | | |

PART B – EXCEPTION DECISIONS MADE FOR LOCAL AGENCIES FROM ROAP

| | | | | | | |
|---|---|---|---|---|---|---|
| CURRENT FY _____ | SP<br>CACFP<br>SFSP | | | | | |
| PREVIOUS FY _____ | SP<br>CACFP<br>SFSP | | | | | |
| OTHER FY (SPECIFY) | SP<br>CACFP<br>SFSP | | | | | |

**APPENDIX B CONT.**

PART C – EXCEPTION DECISIONS MADE FOR STATE AGENCY (NOT LOCAL AGENCY) LATENESS OR REVISIONS

| FY | FORM | # EDs PENDING DURING PERIOD (A + | #EDs RECEIVED DURING PERIOD B) = | NUMBER GRANTED EXCEP-TION (C + | NUMBER GRANTED QUALIFIED EXCEPTION D.....+ | NUM-BER DE-NIED E = | # EDs PEND-ING END OF PERIOD F) |
|---|---|---|---|---|---|---|---|
| CURRENT FY _____ | SP (10)<br>CACFP (44)<br>SFSP (418) | | | | | | |
| PREVIOUS FY _____ _____ | SP (10)<br>CACFP (44)<br>SFSP (418) | | | | | | |
| OTHER FY (SPECIFY) | SP (10)<br>CACFP (44)<br>SFSP (418) | | | | | | |