United States Department of Agriculture
Food and Nutrition Service
Mountain Plains Region
1244 Speer Boulevard
Denver, CO
80204-3585

NOV 16 2004

CACFP–742

Reply to
Attn of: Implementation of Provisions of Child and Adult Care Food Program (CACFP) Interim Rule entitled, "Child and Adult Care Food Program: Improving Management and Program Integrity" (2nd Interim Rule)

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

Attached are three charts that provide a brief overview of Implementation Requirements for Provisions in the Second Interim CACFP Management Improvement Rule (69 FR 53501, September 1, 2004). Several recent requests were made for a "quick reference" guide to the Implementation Requirements in the Second Interim Rule. Further information concerning implementation of these provisions can be found in the implementation guidance transmitted via e-mail by this office on September 1, 2004.

The three attachments describe:

- Non-discretionary provisions that State Agencies (SAs) and sponsoring organizations must implement by October 1, 2004 (Attachment 1);
- Non-discretionary provisions with delayed implementation, which SAs and sponsoring organizations must implement by April 1, 2005, or by October 1, 2005 (Attachment 2); and
- Discretionary provisions that SAs or sponsoring organizations may implement on or after October 1, 2004 (Attachment 3).

Please note that these charts do not include the statutory provisions discussed in Part IV of the preamble to the interim rule. All of these provisions were already implemented by guidance issued shortly after they were incorporated into the National School Lunch Act.

Please contact our office at (303) 844-0354 if you have any questions concerning this guidance.

for DARLENE SANCHEZ
Regional Director
Special Nutrition Programs

Attachments

2nd Interim CACFP Management Improvement Rule: New Provisions Effective on October 1, 2004

Regulatory citation	Topic and Provision	State agency (SA) or sponsoring organization (SO) action required
226.6(m)(3)	Review content: required review elements, SA review of institutions	Reviews of institutions conducted by the SA must include all required review content specified at § 226.6(m)(3)
226.6(m)(4)	Review content: required review elements, SA review of institutions	When reviewing facilities as part of its review of a SO, the SA must conduct a 5-day reconciliation of the facility's enrollment and attendance records with meal counts submitted by the facility for those 5 days
226.16(d)(4)(i)-(ii)	Review content: required review elements, sponsor review of facilities	Reviews of facilities conducted by SO's must include all required review content specified at § 226.16(d)(4)(i)-(ii), including a 5-day reconciliation of the facility's enrollment and attendance records with meal counts submitted by the facility for those 5 days
226.16(d)(4)(iii)	Review frequency: frequency and type of facility reviews conducted by SO	SO reviews of facilities now follow uniform requirements regarding the number, type, and timing of reviews, regardless of the type of facility being reviewed: 3 reviews per year, 2 of which are unannounced, 1 unannounced of which includes a meal service, with first review occurring within first 4 weeks of operation and no more than 6 months elapsing between reviews (unless review averaging used; see Attachment 3).
226.16(d)(2)-(3); 226.16(l)(2)(viii); 226.18(b)(2)	Facility training: frequency and content of facility training to be conducted by SO	Key staff of sponsored facilities, as defined by the SA, must participate in SO training, prior to Program operations and annually thereafter. Minimum content of training, as appropriate for experience level and duties of staff, is defined at §§ 226.16(d)(2)-(3). Failure to participate in required training is added to the list of serious deficiencies for providers at § 226.16(l)(2)(viii).
226.10(f)	Facility payments: disallowance of facility	No new action required. Regulation clarifies that, based on the results of audits, investigations, or

Regulatory citation	Topic and Provision	State agency (SA) or sponsoring organization (SO) action required
	payments by SA	reviews, the SA may disallow that portion of a SO's claim associated with invalid claims submitted by a facility.
226.19(b) and 226.20(k)	Outside-school-hours care centers (OSHCC): time of meal service	Regulation deleted earlier requirements regarding the length of meal service and time between meal services in an OSHCC. If SA wishes to use the previous requirements, or to establish new requirements for OSHCC, they must be established by new SA policy effective on or after 10/1/04 (see Attachment 3)
226.2, 226.19(b)	Enrollment forms: OSHCC and at-risk snack programs	FNS policy has never required enrollment forms to be on file for children in at-risk snack programs. The 2nd interim rule eliminates enrollment requirement for children in OSHCC, effective 10/1/04. SAs should inform independent OSHCC and sponsors of OSHCC of this change.
226.15(e)(4)	Meal counts in family day care homes (FDCH)	As of 10/1/04, SA may not require time of meal service counts in FDCH, unless home has more than 12 children enrolled, or if time of service counts are being required as a condition of corrective action. No SA action necessary unless a change is needed to come into conformance with the 2nd interim rule.
226.18(b)(7)	Payments to FDCHs	Clarifies long-standing rule that SOs may deduct from Program payments only as allowed in this paragraph. SA should reiterate this requirement to SOs of FDCH.
226.6(l), 226.15(m)	Regulations and guidance: Does guidance issued by FNS have same effect as regulatory requirements?	Clarifies that both regulations and guidance are binding on all institutions. SAs should notify institutions of this clarification in order to clear up persistent misunderstandings regarding the status of guidance issued by FNS.
226.8(a)	Audits: threshold for conduct of audits, use of audit funds	Raises audit threshold to match that promulgated by 7 CFR Part 3052. Also clarifies that audit funds may be used for agreed-upon procedures engagements. No specific SA action required.
226.6(b)(3)	Applications submitted by institutions: notification	Previous requirement that institutions must be notified within 15 days of submitting an

Regulatory citation	Topic and Provision	State agency (SA) or sponsoring organization (SO) action required
	requirements	incomplete application is rescinded. Previous requirement that institutions submitting an incomplete application must be provided technical assistance by the SA is rescinded. New requirement states that institution must be notified of approval or denial of application within 30 days of submitting a complete application to the SA.
226.15(e)(14)	Training requirements: training of sponsor monitors	Each SO staff member with monitoring responsibilities must receive training as required in this paragraph.

2nd Interim CACFP Management Improvement Rule
New Provisions Effective on or after April 1, 2005

Regulatory citation	Topic and Provision	State agency (SA) or sponsoring Organization (SO) action required
226.2, 226.6(m)(5)	Monitoring conducted by SA: household contacts	By 4/1/05, SA must establish a household contact system to be employed by the SA in its monitoring of independent child care centers, and in its monitoring of child care facilities (sponsored centers or homes) as part of a sponsor review. The system should not include adult day care centers. The system must specify the circumstances under which household contacts will be made, and the procedures to be used in conducting household contacts. SAs must submit a copy of the system to FNSROs by 4/1/05.
226.2, 226.16(d)(5)	Monitoring conducted by SO: household contacts	By 4/1/05, SA must establish a household contact system to be employed by the SO in its monitoring of child care facilities. The system should not include adult day care centers. The system must specify the circumstances under which household contacts will be made, and the procedures to be used in conducting household contacts. SAs must submit a copy of the system to FNSROs by 4/1/05.
226.6(m)(3)	SA monitoring of institutions: sponsor reviews	Starting on 4/1/05, as part of every review of a SO sponsoring child care facilities, the SA must review the SO's implementation of the household contact system developed by the SA.
226.15(e)(2), 226.15(e)(3)	Content and frequency of enrollment forms	For each participant in CACFP (except those in at-risk snack programs, outside-school-hours care centers, and adult day care centers), enrollment forms shall be collected annually and be signed by a parent or guardian, and shall include information on each child's normal days and hours in care and meals received in care. (Applies to enrollment forms for children entering CACFP on or after 4/1/05, and to all child enrollment forms by 9/30/05).

Regulatory citation	Topic and Provision	State agency (SA) or sponsoring Organization (SO) action required
226.6(m)(3)	SA monitoring of institutions: sponsor reviews	Starting on 4/1/05, as part of every review of a SO, the SA must review the SO's implementation of the requirements pertaining to the annual updating of enrollment information.
226.16(b)(1)	SO management plan: monitor staffing standards	Starting on 4/1/05, in its initial and renewal applications, the SO may include staff time spent in processing the annual update of enrollment forms in its calculation of monitor staffing standards.
226.6(f)(1)(x)	Annual information: information submitted by sponsors of family day care homes annually, regardless of the length of the SA's renewal application cycle.	Starting 4/1/05. and each year thereafter, every sponsor of FDCH must submit to the SA a list of providers who have qualified for tier I benefits on the basis of categorical Food Stamp Program (FSP) eligibility. Within 30 days of receiving the list, the SA must submit the list to the SA administering the FSP in that State.
226.7(k)	Processing of institution claims by SA	As of 10/1/05, SA must include in its processing of institution claims the two edit checks specified in this paragraph (approved meal types, total number of meals claimed).
226.10(c), 226.11(b), and 226.13(b)	Processing of facility claims by SO	As of 10/1/05, each SO must include in its processing of facility claims the three edit checks specified in this paragraph (approved meal types, total number of meals claimed, block claims). If block claims detected, must conduct unannounced review within 60 days, with exceptions defined at § 226.10(c).

2nd Interim CACFP Management Improvement Rule: New Provisions that may be put into effect on or after October 1, 2004

Regulatory citation	Topic and Provision	State agency (SA) or sponsoring organization (SO) action
226.6(b)(1)-(2)	Institution applications: frequency and content	SA may take renewal applications from institutions every one to three years. SA may require less information from renewing independent centers than from renewing sponsors, and may collect required annual information from participating institutions without requiring them to submit a renewal application.
226.6(b)(4)	Institution agreements: frequency	SAs may enter into permanent agreements with any type of institution. (Note: SAs still required to enter into permanent agreement with school food authorities under circumstances defined at § 226.6(b)(4)(ii)(A).
226.20(k)	Time of meal service:	SA may establish requirements for amount of time a meal service can last, and the amount of time that elapses between meal services. Previous regulatory requirements pertaining to OSHCC were deleted; therefore, if SA wishes to place time limits on meal services for any type of facility, they must do so by issuing policy to that effect on or after October 1, 2004.
226.16(d)(4)(iv)	Sponsor reviews of facilities: how facility reviews are counted towards meeting the requirements at § 226.16(d)	SO may "average" reviews without obtaining prior approval from SA. SO must still conduct an average of 3 reviews per facility per year, but may conduct 2 unannounced reviews of some facilities, and more reviews (at least 2 of which are unannounced) of other facilities. Although SA will not have prior approval, SAs have responsibility to oversee SO's use of this provision and require changes to the SO's system if necessary