United States Department of Agriculture
Food and Nutrition Service
Mountain Plains Region
1244 Speer Boulevard
Denver, CO
80204-2581

Reply to Attn of: CACFP-748

JAN 12 2005

Subject: Additional Guidance on the Child and Adult Care Food Program (CACFP) Second Interim Rule

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

In September and October 2004, the Food and Nutrition Service conducted conference calls to answer questions from State agency staff about implementation of the second interim rule entitled, Child and Adult Care Food Program: Improving Management and Program Integrity. The responses to the questions were shared directly with you on December 23, 2004, by the National Office. We are providing the information under a CACFP numbered memorandum so there is a reference point if any other questions should arise.

The National Office has attempted to address all of the questions pertaining to the regulatory changes in the second interim rule. Questions that dealt with other regulatory issues were not included so that the focus of attention would be exclusively on the obligations of State agencies and child care institutions presented in the rule. The attached guidance provides information to help CACFP staff build a stronger understanding of the rule's requirements on:

- Applications,
- Agreements,
- Household contacts,
- Enrollments forms,
- Facility review elements and review requirements,
- Block claim (and other) edit checks,
- Review cycles for sponsored facilities,
- Training,
- Tier I eligibility based on food stamp participation,
- State agency denial of facility payments,
- Audit requirements,
- State agency outreach requirements,
- Incentive bonuses, and
- WIC information

Along with this new guidance, CACFP staff should continue to refer to the guidance that was referenced in CACFP-742. You should find both sets of guidance useful tools as you continue the implementation of these provisions. A more in-depth discussion of most of these regulatory changes is planned during the national training for all State agency staff in Spring 2005.

If you have any additional questions concerning this guidance, please contact my staff at (303) 844-0354.

Darlene Sanchez

DARLENE SANCEZ
Regional Director
Special Nutrition Programs

Attachment

Questions and Answers
Child and Adult Care Food Program
(CACFP) Second Interim Rule
on Management Improvement

Applications [§§ 226.6(b) and (f); §§ 226.15(b), 226.16(b), and 226.23(a)]

1. **Are sponsoring organizations of affiliated centers required to submit administrative budgets?**

   Yes, all types of sponsors must include administrative budgets as part of their CACFP applications. The administrative budget enables the State agency to assess whether the sponsor has adequate resources available to fulfill its CACFP responsibilities.

2. **What are the guidelines for State agencies to issue media releases statewide?**

   The U.S. Department of Agriculture (USDA) issued general guidance on this subject to regional offices on September 18, 1996. We have not provided more detailed written guidance, or a prototype media release, because issuance of a single media release on behalf of all child care institutions is a State agency responsibility and decision. In our conference calls, we heard from a number of State agencies, including one that uses an annual release to cover all renewing institutions, but requires each new institution to individually issue a release when it first enters the Program. Other State agencies have shared ideas regarding the use of a statewide release on the CACFP-Summer Talk listserv, which offers informal opportunities for sharing information about procedures and best practices among State agencies.

3. **Is the State agency required to notify a family day care home provider that her application is denied?**

   No, the State agency must notify the sponsor, which applied on behalf of the provider, that the provider's application has been denied.

4. **What criteria should the State agency use to determine if an independent center is financially viable?**

   We have addressed this subject in the Management Improvement Guidance (MIG) for centers, and in the 2002 training on the first interim rule. However, we understand that States would like additional guidance in this area. We intend to provide "refresher training" on State agency determinations of viability, capability, and accountability (VCA) as part of the upcoming training next spring. In addition, after the training, we will re-issue an updated version of the MIG for both centers and homes.

5. **Can sponsors of unaffiliated centers have pricing and nonpricing programs under their jurisdiction?**

   Yes, they can. There is no Federal prohibition to prevent sponsors from administering both pricing and nonpricing programs. However, depending on the features of the State agency's payment system, it may be necessary for the State to require the sponsor to have separate agreements for its pricing and nonpricing programs.

6. **Can a State agency waive the submission of administrative budgets for sponsors of centers that do not intend to use any CACFP food payments to cover their administrative costs?**

   No, part of the purpose of the administrative budget is to document that the sponsor will have adequate funding to meet its CACFP responsibilities. It is important for the State agency to determine whether sufficient resources will be available to meet these responsibilities, regardless of whether these are Program or non-program funds.

7. **Can sponsors use administrative funds over a two to three-year period?**

   No, sponsor administrative funds are "one-year" money, and may not be "carried over" from one year to the next.

<u>Agreements</u> [§ 226.6(b)(4)]

1. **What is the benefit of a permanent agreement?**

   Permanent agreements offer a small decrease in paperwork for State agencies and institutions. However, when this decrease is considered along with the reduction of certain other annual re-application requirements, the result is a more significant savings of time and paperwork for both State agencies and institutions.

2. **Can State agencies approve agreements for less than one year under "normal circumstances?"**

   Yes, the decision to use permanent agreements is up to the State agency. If the State agency does not see any savings in changing to permanent agreements, it may choose to continue to use renewable agreements.

3. **What do you mean by "unusual circumstances" which may warrant reapplication in less than 12 months?**

Section 226.6(b)(4)(ii)(C) refers to circumstances where the State agency may require an institution to reapply in less than one year. The guidance issued with the regulation on September 1, 2004, describes specific situations, such as pending review findings or required corrective action, that may persuade the State agency to have the institution reapply for a shorter period of time. However, there may also be other circumstances, such as the late submission of an application, which could result in a less than 12-month reapplication requirement for an institution that is located in a State requiring annual reapplications.

4. **Why is there a three-year limit on the length of the agreement if the State agency chooses not to use a permanent agreement?**

   The cap coincides with the greatest length of time (36 months) that may elapse between institution reapplications. However, we agree that there is no compelling reason to limit the duration of the agreement to three years. Therefore, increasing the length of a non-permanent agreement beyond three years will be left to the discretion of the State agency. We intend to make this change in the final rule.

<u>Household Contacts</u> [§§ 226.6(m)(3)(x) and (m)(5)]

1. **Will USDA provide additional guidance on the development of a statewide household contact system?**

   No, at this time, we do not have plans to issue Federal guidance. We expect that State agencies have already developed guidance addressing the serious deficiency process for institutions and homes implemented by the first interim rule. This guidance can be amended to address the issue of when household contacts must or may be conducted, and the procedures for the conduct of household contacts.

2. **Must contacts be made only in writing?**

   No, households may be contacted in writing, by telephone, or any other means that the State agency determines would be appropriate, as long as the contact and the information received from the contact are documented. It is the State agency's decision.

3. **Are household contacts required for adult day care centers?**

   No, section 226.2 defines "household contact" as an adult member of a family whose <u>child</u> is in a day care home or a child care center. Therefore, the requirements pertaining to household contacts do not apply to adult day care centers.

4. **If there is no response from a household contact, is the facility declared seriously deficient?**

   This, too, must be answered in the course of the State agency's development of a household contact system. However, USDA does not believe that, by itself, a single instance of an unsuccessful household contact should automatically result in declaring the facility seriously deficient. A household contact is one of many meaningful tools available to State agencies and sponsors when they need to examine questions raised by an onsite monitoring review or by a review of a claim. If, in a particular circumstance, a household contact cannot be made, we recommend that the State agency or sponsor explore the possible use of other approaches (additional unannounced reviews, more detailed review of claims history, etc.) to investigate and explain the "red flag" that was triggered by a review or by a claim.

<u>Enrollment Forms</u> [§§ 226.15(e)(2)-(3); 226.16(b)(1); 226.19(b); and 226.19a(b)(8)]

1. **Are adult day care centers required to annually update enrollment forms for participants?**

   No, adult day care centers (both independent and sponsored) must have enrollment forms on file; however, they are exempt from the requirement to annually update the enrollment forms. All other independent and sponsored centers, except for at-risk snack and outside-school-hours care centers, are required to have enrollment forms on file, to have the forms annually updated and signed by a parent or guardian, and to include on the form the days and hours of care for, and meal services received by, each child in care.

2. **Are both affiliated and unaffiliated child care centers required to have enrollment forms?**

   Yes, both of these types of sponsored centers are covered by the new enrollment requirements (unless they are adult day care centers, at-risk snack programs, or outside-school-hours care centers, as described in question 1). The enrollment form is a tool for determining the validity of meal counts in child care facilities. Although affiliated centers are owned and operated by their sponsors, the information on the enrollment form can nevertheless help the sponsor determine the quality and accuracy of the meal counting process in its facilities. In addition, requiring enrollment forms will be helpful to the State agency when it conducts an institution review and attempts to determine the validity of the sponsor's claims.

3. **Are child care centers required to collect enrollment forms for children whose meals are claimed as paid.**

   Yes, and that requirement has been part of the regulations since the Program's inception. Although some families may choose not to submit income eligibility forms for their children, all children for whom reimbursable meals will be claimed are required to be enrolled and to have enrollment forms on file.

4. **How often must each child's enrollment form be updated?**

   The enrollment form must be updated each year, must be signed by the child's parent or guardian, and must indicate the days and hours when the child is normally in care and the meals the child normally receives while in care.

5. **What approaches can child care institutions use to annually update enrollment information?**

   Decisions concerning how enrollment information should be captured are up to the State agency. In States where the State licensing agency develops a mandatory enrollment form, we recommend that the CACFP State agency work with licensing to modify the content of the enrollment form, as necessary, to ensure that all of the information required by CACFP is included on the enrollment form. In such cases, the new required information might best be captured on an addendum to the State licensing agency's enrollment form.

   If the State licensing agency refuses to modify its enrollment form, the CACFP State agency may consider: (1) the use of a separate CACFP enrollment form, or (2) an addendum to the income eligibility form which the family has to complete, or (3) a form which requires the parent to indicate changes to the prior year's enrollment information.

6. **Must enrollment forms be collected from all families at one time, or can sponsors stagger the collection of forms over a number of months, during the same fiscal year?**

   Sponsors may stagger the collection of forms. For example, a large sponsor may find it onerous to collect new enrollment forms from 5,000 households with children in 1,000 day care homes, in a single month. However, the workload may be more manageable if the sponsor collects new forms from only 1,000 households with children in 200 homes each month, over a 5-month period.

7. **If a sponsor staggers the collection of enrollment forms, is it permissible that a small number of individual children's enrollment forms might not be updated on a 12-month basis?**

It is never acceptable for more than 12 months to elapse between enrollments. For example, if a child enters CACFP in April 2005, the sponsor is "staggering" its forms collection as described in question 6, and that home will begin to use the new enrollment form for other children in care in August 2005, the household of the child who entered the Program in April 2005, would be required to update the enrollment in August 2005, and again in August 2006.

8. If an enrollment form is not updated on time, must an overclaim be taken?

State agencies have some discretion in this area. An overdue enrollment form does not have to automatically trigger an overclaim. However, we strongly recommend that, if State agencies are going to use this discretion, they establish written policies or guidance establishing clear limits on the amount of leeway they will provide. One acceptable policy might be to permit a short window of time after the end of the 12-month period for the household to update the child's enrollment (e.g., an enrollment form submitted on September 10, 2005, could be updated as late as September 30, 2006; if the enrollment was updated on or after October 1, 2006, meals claimed for the child after September 10, 2006, would be disallowed).

9. What should happen if the information on the enrollment form does not match the information in the claim?

The ability to compare data is a meaningful tool for the State agency and for the institution. When the information is inconsistent, it is up to the State agency to define what actions should be taken. We recommend that State agencies establish policies or issue guidance which ensures that independent centers or sponsors take prompt, appropriate action to resolve the discrepancies.

10. How should the hours in care for a school-aged child be recorded on the enrollment form?

The enrollment form should indicate the child's specific hours of care, both before school and after school, so that the monitor has enough information to make a reasonable judgment about the validity of the facility's meal counts. This information will be very valuable during an unannounced review, by allowing the monitor to know how many children are normally expected to be in care at a particular time of day.

11. Do State agencies need copies of enrollment forms to conduct unannounced reviews and household contacts?

No, State agencies do not need their own copies; however, enrollment forms must always be available to State and sponsor reviewers. It is up to the State agency to establish an appropriate policy, such as requiring institutions to have the forms available for review at the facility, or at both the facility and the sponsor's office.

12. What is the deadline for implementing the new enrollment forms requirements?

The new requirements apply to enrollment forms for children entering CACFP on or after April 1, 2005, and to enrollment forms for all children by September 30, 2005. These are the deadlines established in the implementation guidance issued on September 1, 2004, and supersede the information in the preamble of the interim rule.

13. What about enrollment forms at facilities that serve parents working swing or rotating shifts?

In these situations, we would expect the parents to indicate that they worked multiple shifts, and that their children would be in care for different hours on different days.

14. Children enrolled in the Head Start Program are considered to be enrolled for two consecutive years. Won't this requirement increase burden for Head Start centers and the households they serve?

Based on our discussions with staff at the Head Start Bureau of the U.S. Department of Health and Human Services, there will be no measurable increase in burden for Head Start centers or households. Head Start enrollments are considered to be in effect for two years. However, for those children who participate for a second year, the Head Start center is already required to confirm the information on the enrollment with the parents or guardians of the children in care.

15. Why is it necessary for Head Start centers to include the normal days and hours in care, and the specific meals received in care, for each child? These do not fluctuate for children in a Head Start Program; that is, all children at the center are enrolled for the same days and hours, and will normally receive the same meals while in care.

Some Head Start centers operate more than one shift of care in the same facility; that is, they serve breakfast, AM snack, and lunch to a group of morning enrollees, and lunch, PM snack, and possibly supper to other afternoon enrollees. Therefore, the monitor needs a way to easily establish that a particular child is a morning enrollee or an afternoon enrollee. We believe that it is easiest to capture this

information by using the same enrollment form, with the same requirements, for all children in any type of independent center or facility.

16. **The regulation exempts at-risk snack programs and outside-school-hours care centers from the requirement of having an enrollment form on file for each child. Will USDA consider extending this exemption to emergency shelters?**

    Yes, this guidance extends the exemption to emergency shelters, and the final regulation will be amended as well.

Facility Review Elements and Review Requirements [§§ 226.15(e)(4) and 226.16(d)(4)]

1. **Are point of service meals counts required in all day care homes serving more than twelve children?**

   No, however, State agencies have the authority to require point of service meal counts in day care homes with more than twelve children enrolled for care.

2. **Does the State agency have to include a reconciliation of meal counts for five consecutive days, when it reviews facilities as part of a sponsor review?**

   Yes, the State agency's review would include the five-day reconciliation to validate the accuracy of the facility's meal counts and to check the effectiveness of the sponsor's monitoring effort.

3. **Does a State agency perform a five-day reconciliation of claims only on those facilities that are included in the sample selected during an institution review?**

   Yes, the State agency would reconcile five consecutive serving days of meal counts against enrollment and daily attendance records only for the facilities selected for on-site and file reviews.

Block Claim (and Other) Edit Checks [§§ 226.10(c), 226.11(b), and 226.13(b)]

1. **Is an electronic edit check required?**

   No, sponsors may implement edit checks through a manual or an automated system. Regardless of the approach, the State agency should test the sponsor's system, as part of its review of the sponsor's claims processing system, to see whether the sponsor's edit check system is working as intended.

2. **Do the edit checks apply to all sponsoring organizations regardless of size?**

   Yes, all sponsoring organizations, regardless of the number or type of facilities they sponsor, must perform edit checks. The edit check process acts as a red flag that leads to a closer examination of the sponsored facility's meal counts.

3. **What should the sponsoring organization do when it finds a block claim?**

   The sponsor must conduct an unannounced review, within 60 days (or within 90 days if granted an extension by the State agency), to examine the facility's meal counts and to validate the facility's claims for reimbursement. As part of this review, the sponsor should examine several months of claims to see if there are any suspicious patterns, prior to conducting the review, and should reconcile enrollment, attendance, and meal counts for five or more days during the review. In developing its household contact system, the State agency should consider the role that household contacts may play in addressing issues raised by the identification of a block claim.

4. **If the unannounced review or other follow-up activity conducted by the sponsor indicates that the facility's meal count was not valid, must the facility be declared seriously deficient?**

   Not necessarily. As discussed in the training on the first interim rule, the sponsor will need to evaluate the severity and frequency of the problem, and attempt to determine why the inaccurate claim was submitted. If the facility is new, or if the sponsor believes that there are other reasons that the facility did not understand how to properly record meal counts, the sponsor may decide that additional training and oversight will correct the problem, without a declaration of serious deficiency.

5. **What is acceptable documentation of a legitimate reason for a block claim?**

   A note placed in the sponsor's monitoring file should be adequate. The sponsor must put enough information in the review file to explain why a facility might regularly submit block claims for a specific meal service, or why there might be block claims submitted for all of its meals services.

6. **What are legitimate reasons for block claims?**

   The State agency should look for an explanation of why a block claim might occur in a particular facility. For example, statements that "the facility provides drop-in care so that it is always filled to licensed capacity on each day it is opened;" or that "it is the provider's policy to accept children even when they are ill" would reasonably explain the occurrence of a block claim. However, statements that

"children are never sick" or "provider has legitimate reasons" would not provide enough information to justify the occurrence of a block claim.

7. **What is the purpose of requiring an unannounced review within 60 days of discovering a block claim (or 90 days if an extension is granted by the State agency)? Wouldn't the conduct of household contacts be more effective in determining whether a block claim is accurate?**

   The purpose of this requirement is to ensure that sponsors identify and address potentially serious claiming problems as early as possible, and to speed up the performance of unannounced reviews at those facilities that have submitted block claims. It is intended to provide the sponsor with additional information about the integrity of the facility's claim, which can supplement other follow-up methods that the State agency may choose to require, including household contacts. Based on public comment, we did not implement the proposed requirement to follow up on block claims with household contacts. However, we would not be opposed to a State agency mandating a household contact, in this situation, that addressed the reasons for the block claim prior to the conduct of the 60-day review.

8. **Does investigating a block claim mean that the sponsor will have to conduct more than three reviews of the same facility?**

   No, in most cases, we expect that the unannounced review resulting from a block claim edit check can be one of the three regular reviews that the sponsor must conduct. The point of the edit check is not to add an additional review burden. Rather, its purpose is to target resources to, and to address and resolve, potential claiming problems sooner, rather than later. However, to count as one of the three required reviews, the unannounced review triggered by the block claim edit check must be complete. That means it must be comprehensive and cover all of the review elements required at § 226.16(d)(4)(i) and (ii).

9. **If, during a single review year, the sponsor has examined the reason for a block claim, must the sponsor conduct an additional unannounced review following the detection of yet another block claim?**

   No, if the documented explanation of the first occurrence of a block claim is sufficient to explain subsequent block claims, an additional unannounced review is not required.

10. **Does the block claim edit check have to be conducted by both the State agency and the sponsor?**

    No, the edit check has to be implemented by the sponsor. However, its implementation must be reviewed by the State agency, as part of the State agency's normal review of the sponsor's claims process.

11. **Does the unannounced review have to include observation of the meal service that triggered the block claim edit check?**

USDA recommends that, whenever possible, the unannounced review triggered by the block claim include an observation of the meal service that was "block-claimed."

12. **For sponsored centers, does the sponsor's edit check have to determine whether the entire center submitted a block claim, or whether any individual classroom within the center submitted a block claim?**

The center sponsor's edit check must determine whether the aggregate meal count submitted by the sponsored center met the definition of a block claim.

13. **It has been our experience in conducting reviews that Head Start centers serve meals to all enrolled children on each day that they are open. Doesn't this mean that Head Start centers will always be identified by this edit check as submitting "block claims" that are, in fact, legitimate?**

We have discussed this question at length with Head Start Bureau staff. It is the staff's experience that, due to illness and other reasons, almost no Head Start classroom, much less an entire Head Start center, would ever serve the same number of children for 15 consecutive days.

14. **Our State does not collect separate counts of AM and PM snacks; each facility submits a count of the total number of snacks served. Will this need to change as a result of this requirement (that is, will we now have to require that all facilities submit separate counts of AM and PM snacks)?**

The State's procedures will need to be changed. Prior to the interim rule, the regulations have always required that sponsors and State agencies ensure that a facility never claimed more meals at any meal service than its licensed or authorized capacity. It would not be possible to meet this requirement unless AM and PM snacks were reported separately. Therefore, the sponsor's block claim edit checks must be capable of detecting a block claim for each approved meal type.

15. **Would it be sufficient to use "licensed capacity" rather than enrollment in the edit checks required at §§ 226.7(k) and 226.10(c)(2)?**

Since this edit check is only designed to identify the most serious claiming problems, we chose to use enrollment rather than licensed capacity as the basis for these edit checks. We are aware that enrollment at many independent centers and facilities is higher than licensed capacity, and that licensed capacity might therefore be seen as a more "precise" edit check than enrollment. However, for child care

facilities offering shift care, and for facilities enrolling a larger percentage of children for part-time care, an edit check based on licensed capacity would "flag" the facility's claim every month, since the total number of enrolled children would always exceed licensed capacity.

Unannounced reviews are a more effective means of detecting situations where the children in care exceed licensed capacity. Consistent with § 226.25(b), State agencies may seek approval from regional offices to use licensed capacity when they believe a more restrictive requirement would be appropriate.

16. **What about at-risk snack programs, outside-school-hours care centers, and emergency shelters, all of which are exempt from collecting enrollment forms? What should these sponsors use in their edit checks, in lieu of enrollment?**

    In cases where the facility is exempt from enrollment requirements, State agencies may require sponsors to use other numbers (such as licensed capacity, occupancy, or some other reasonable limit) in their edit check systems.

Review Cycles for Sponsored Facilities [§§ 226.16(d)(4)(iii)-(iv)]

1. **If the provider is away when the sponsor comes to monitor the day care home, does the monitor's visit count as a review?**

   No, the visit cannot be counted as a review because an assessment of all of the required elements could not be accomplished.

2. **Must State agencies give all sponsors, including center sponsors, the option to do review averaging?**

   Yes, all types of sponsors must have the option.

3. **What does the State agency do if it finds that a sponsor is using review averaging inappropriately, for example, avoiding a third review of distant homes or of homes that only serve suppers?**

   The State agency must require corrective action, if it determines that the sponsor has misused review averaging. As part of corrective action, the State agency could refuse to allow the sponsor to use review averaging. This type of action must be in response to a specific finding that the review averaging option has been abused, or else it will amount to the State agency re-establishing the "prior approval" of averaging that was removed in the second interim rule.

4. **Our State agency already requires that all facility reviews be unannounced. Will this change as a result of sponsors having the option to average their facility reviews?**

   No, this will not change. All reviews would still be unannounced in your State. The sponsor would now have the option to conduct two unannounced reviews in some of its facilities, and more than three unannounced reviews in other facilities.

5. **If a sponsor uses averaging, how should the State agency determine the number of total reviews to be performed? Should it be three times the number of homes enrolled as of the time of application approval?**

   The calculation of the minimum number of reviews to be conducted by each sponsor was necessary, before this rule modified the review averaging provisions. That is, the State agency must have a method for determining the minimum number of reviews that each sponsor must perform in a review year (usually, the "review year" is the Federal fiscal year). Whether that number is derived from the number of homes at the time of application approval, the average number of claiming homes over the past year, the expected average of claiming homes in the coming year, or by some other means, is a matter that each State agency must determine.

<u>Training</u> [§§ 226.6(m)(3)(viii), 226.15(e)(12) and (e)(14), 226.16(d)(2), (d)(3) and (d)(4)(i)(C), 226.18(b)(2), 226.19(b)(7), and 226.19a(b)(11)]

1. **Can sponsors conduct on-site or in-home training as part of a review?**

   Yes, however, the sponsor cannot substitute training for a facility review.

2. **Who is required to train facility staff and providers – the State agency or the sponsor?**

   The sponsor is responsible for conducting CACFP training for key staff from all sponsored facilities.

3. **Can a sponsor fulfill the requirements of section 226.16(d) by giving out a training video cassette to facility staff and providers, and requiring them to certify that they have watched it?**

   No, requiring trainees to certify that they have watched the training is not an adequate test that they have actually watched the training. However, training on video cassettes and cd-roms, web-based training, and other independent learning approaches may be used by sponsors, if they include a means to test and verify that each trainee has actually received the training.

4. **Do annual training requirements apply to independent outside-school-hours care centers and adult day care centers?**

   Yes, the intent of the proposed and interim rule was to clarify and strengthen the training requirements for sponsored facilities (that is, any type of sponsored center and all family day care homes). We knew that all types of independent centers and sponsors were already receiving training prior to participation, as a result of the pre-approval visit requirements at § 226.6(b)(1). It was also our impression that State agencies were already requiring annual training for all institutions. Therefore, when the interim rule amended the regulations pertaining to the training of various types of entities participating in CACFP [at §§ 226.17(b)(9), 226.18(b)(2), 226.19(b)(6), and 226.19a(b)(11)], no attempt was made to differentiate between sponsored and independent child care centers, outside-school-hours care centers, and adult day care centers.

5. **Is there a minimum number of training hours required by the regulations?**

   No, there is no minimum or maximum number of hours required by part 226.

<u>Tier I Eligibility Based on Food Stamp Participation</u> [§ 226.6(f)(1)(x)]

1. **When is the deadline for the first collection of data on day care home providers who receive food stamps?**

   State agencies must collect these data from sponsors of day care homes no later than April 1, 2005.

2. **Why was the collection deadline set at April 1, 2005, when the income eligibility guidelines change on July 1, 2005?**

   Food stamp determinations are not linked to changes in the income eligibility guidelines. A Tier I determination is made on the date the day care home provider enters CACFP. Setting the deadline to April 1, and every 12 months thereafter, has the advantage of keeping this requirement separate from the application renewal, which generally occurs at the beginning of the Federal fiscal year (October 1). However, after this initial collection, the State agency may choose to collect these data at some other time of the year.

3. **Which day care home providers are included on the list of providers claiming categorical eligibility for food stamps?**

   The requirement applies both to area eligible day care home providers who claim reimbursement for their own children on the basis of food stamp eligibility, and to those tier I providers living outside of eligible areas, whose tier I eligibility is based on their food stamp eligibility.

4. **When a sponsoring organization constructs the list, what information should be included for each provider?**

   The list submitted to the State agency should include the name, address, and food stamp case number of each provider.

5. **Has the Child Nutrition Division (CND) informed the Food Stamp Program of this regulatory change?**

   CND has worked closely with the Food Stamp Program throughout the process of developing this requirement, and we are now working with food stamp staff on the implementation guidance to be distributed by them to their State agencies.

State Agency Denial of Facility Payments [§ 226.10(f))]

1. **The regulations provide the State agency with authority to refuse to pay facility claims if there is evidence that the facility has engaged in "unlawful acts." What does this mean?**

   Whenever the State agency knows that an institution or facility has submitted an invalid claim, regardless of the reason that the claim is not payable, the State agency must not pay that portion of the claim which is invalid.

Audit Requirements [§ 226.8]

1. **Can program-specific audits be paid for with CACFP audit funds?**

   Yes, as long as the organization is eligible to have a program-specific audit, the costs would be allowable. If the organization does not meet the $500,000 threshold for a program-specific audit, Federal funds cannot be used. The program-specific audit would be conducted under the standards specified at 7 Part 3052. The Office of Inspector General audit guide is no longer in use.

State Agency Outreach Requirements [§§ 226.6(a) and (g)]

1. **What methods are effective for reaching out to potential sponsoring organizations of day care homes in low-income and rural areas?**

   State agencies may find success in contacting community organizations and public agencies in underserved areas. These areas often coincide with areas in which the State agency is also trying to promote access to the Summer Food Service Program.

Incentive Bonuses [§ 226.15(g)]

1. **Does the prohibition on payments to employees also apply to sponsors of child or adult care centers?**

   No, the language in the law and the regulations is specific to sponsors of family day care homes. However, consistent with § 226.25(b), State agencies may extend this requirement to sponsors of centers.

2. **Should sponsors' day care home monitors be paid by the hour?**

   Sponsors can pay monitors in any number of ways, provided that the method is not based solely on the number of day care homes recruited.

WIC Information [§§ 226.6(r) and 226.15(n)]

1. **Do adult day care centers need to promote WIC?**

   No, adult care institutions are exempt. The requirements at §§ 226.6(r) and 226.15(n) are specific to institutions serving enrolled children.