

**Child and Adult Care Food Program
Consolidated Q & As
August 2004**

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*** The 2004 issue contains numbers in parenthesis following each Q&A. These indicate the memo number they were initially issued under.**

Adult Day Care

1. **Can ADC homes participate in the CACFP?**
 - A. No. Public Law 100-175 and Parts 226.2 and 226.19a are very explicit in stating ONLY ADC CENTERS may participate in the Program. (451)
2. **The CACFP Regulations allow for categorical eligibility for Medicaid under the adult section of the Regulations. Does this also apply to the children's portion of the Regulations?**
 - A. No. The law allowed for the Medicaid provision for adults only. (221)
3. **An organization which sponsors an ADC center also provides and rents apartments to some of the participants at another location. These adults are transported to the center. Can the meals served to these adults be claimed?**
 - A. Yes. The apartments and center are in separate locations; therefore, the residence of these adults is not a factor. (544)
4. **Can ADC centers that contract for meals with nursing homes participate in the CACFP if the nursing homes also receive commodities as CIs?**
 - A. ADC centers can purchase meals from institutions receiving commodities as CIs and can participate in the CACFP as long as:
 1. The ADC centers follow the procedures in the CACFP regulations on FSMCs and Procurement Standards in contracting with the nursing homes; and
 2. The CI is made aware that any meals served or sold to the ADC center do not count in the CIs meal counts since their entitlement is figured on the number of meals served to needy persons. (180)
5. **A group of adults (under 60 years of age) either retarded or mentally handicapped are living in group homes but go to ADC centers during the day. Are these individuals eligible for ADC benefits under the CACFP?**
 - A. Yes, if these individuals are living in a group home, are primarily responsible for their own care but may receive on-site monitoring, they are eligible for the Program at the ADC. (180)
6. **A participant enrolled in an ADC Center is receiving Supplemental Security Disability Income (SSDI). Would these benefits make the participant categorically eligible?**

- A. No. SSDI benefits fall under Title II. To be categorically eligible, the assistance must fall under Title XVI. (247)
- 7. Can an ADC facility applying for the Program purchase meals from a facility operating under the Older Americans Act? The vendor facility receives about 90 percent of its funds from Title III. The ADC center would pay approximately \$3.00 per meal.**
- A. Based on CACFP-146, the ADC facility must ensure that Title III funds are not used in the meals it purchases. The SA would need to have the ADC facility include in its application documentation/verification that their meals are from the "other" 10 percent or they should consider purchasing the meals from another source. (262)
- 8. Blank**
- 9. Can an ADC center serve through a cafeteria line?**
- A. Yes. However, the point-of-service meal count must be monitored specifically. (504)
- 10. Can boarding homes and assisted-living facilities participate in the CACFP as ADC centers?**
- A. No. These facilities do not meet the intent of the Program as they are primarily residential facilities. (630)
- 11. Is an "X" on the IEF of an ADC participant, without a witness, enough to constitute the signature? The ADC participant is unable to sign his/her name on the IEF.**
- A. Yes. (630)
- 12. An ADC center is in the same building as a residential assisted living facility. It is also owned by the same individual. Most of the residents are enrolled and attend the ADC center. Is it acceptable for this ADC center to participate in the CACFP and claim meals for those in attendance who are also residents of the same building?**
- A. Yes, as long as the residents are free to come and go as they please. (653)
- 13. In several MEs, findings have indicated that the definition of family as it relates to adult participants in the CACFP has not been accurate. What is the correct definition to be used regarding adult participants and where should it be noted?**
- A. Family may be defined in a state's policies, newsletters, etc., but most definitely, it is defined on an IEF. The definition as found in Part 226.2 states, "Family means ... in the case of adult participants, the adult participant, and if residing with the adult participant, the spouse and dependent(s) of the adult participant. (662)

14. Continuing what was stated above, what is the definition of family when an adult participant who lives with his or her children?

- A. The preamble of the December 28, 1988, Adult Day Care Interim Regulation (53 FR 52586), specifically states "...in the case of an adult participant who is residing with and being cared for by his or her children, the income of the children would not be counted when determining F/RP meal eligibility..." This section of the preamble discusses how the definition of household or family applies to only adult participants and limits the income to be counted to only that earned by the adult participant and his or her spouse and any dependents. The term dependent means "...an individual or individuals who are economically dependent on the adult participant." (662)

Appeals

1. Can states utilize other means besides certified mail when giving institutions their right to appeal in writing?

- A. Yes. The important point is that whatever is utilized accomplishes the same principles that certified mail does; i.e., it is documented, secures a proper signature, and is dated acknowledging the receipt of the appealable action. We believe it is imperative that any appellant also be afforded the full time frame allowed to consider and file an appeal. We would take exception to any system which circumvented any of the above. (470)

2. During a review, a SA consultant finds that an institution made an error on a claim for reimbursement which resulted in an overclaim. The consultant takes the corrected information back to the office and completes an amended claim for the institution. Do appeal rights need to be given to the institution?

- A. Yes. In this situation, the institution did not acknowledge that a mistake had been made by completing and signing an amended claim. Institutions acknowledge mistakes by filing amended claims. When the institution files the amended claim, appeal rights do not have to be given. If the SA files an amended claim resulting in an over claim, appeal rights must be given to the institution. If the mistake is an upward adjustment, any revisions to the original claim must be made within 90 days of the end of the claim month. However, SAs may make upward adjustments to claims if the errors are the result of a review or audit. If the mistake is a downward adjustment, revisions may be accepted by the SA at any time. (641)

3. What funds cover the cost of appeals initiated by FDCHs being terminated? If there is a face-to-face hearing, the cost could be substantial.

- A. The sponsor involved would pay for its appeal costs from administrative costs. The provider initiating the appeal would be responsible for his/her own costs. (641)

4. **Must a SA offer appeal rights to a SO that wants to appeal the amount of time they have been given to provide a corrective action plan?**
- A. No, the SA does not need to extend appeal rights for this reason. (641)
5. **Part 226.6(k)(2)(xii) states that an institution may appeal any action of the SA affecting the institution's participation. Does this mean that any action the SA takes that affects the institution in any way becomes appealable?**
- A. No, the term participation means that if the SA is disallowing an institution's ability to claim, then the SA is affecting participation, either through preventing participation or disallowing all or a portion of a claim for reimbursement. The SA may require the institution to function in a specified manner for the purpose of complying with the Regulations, policies, or instructions, but that does not affect the institution's participation; it is still allowed to claim reimbursement. (641)
6. **A SA completed a 3% verification of a pricing program. Two families did not reply and were placed on the paid category. Who would hear an appeal if the families choose to appeal?**
- A. The institution would hear the appeal. Its Policy Statement must contain an assurance which provides that the institution will establish a hearing procedure for use when benefits are denied or terminated as a result of verification. (601)
7. **Does a SA have to grant appeal rights to an institution if the issue being appealed has already been ruled on by a hearing officer?**
- A. No. Part 226.6(k)(10) states "...the determination by the state review official is the final administrative determination to be afforded to the appellant. (504-3)
8. **Rather than issue appeal procedures annually, may the State Agency (SA) or the sponsoring organization (SO) provide a laminated copy that will last longer than one year? Appeal rights will be offered with appealable actions and upon request as required.**
- A. To decrease the possibility of an SA's or SO's case being overturned based on failure to follow the letter of the regulation, SA's and SOs must provide appeal procedures to their institutions and facilities annually.

At-Risk Snacks

Also See Q&A memo CACFP-597: Afterschool Snacks in the NSLP and the At-Risk Component of the CACFP, Edition 3.

- 1. Should we use the "Ages 6-12" meal pattern for at-risk snacks and suppers, or the "Adult" meal pattern? Can the meal patterns for younger children be used if young children are being served?**
 - A. Use the ages 6-12 meal pattern, not the adult meal pattern, for at-risk snacks and suppers. If the at-risk site is serving younger children (e.g.,HS), it is permissible to use the meal patterns for younger children. (630)

- 2. Can a day care center that is eligible for at-risk snacks serve a supper from 5:30 PM to 6:30 PM and claim it as a snack for ages 13-18, and the same meal at the same time as a supper for children 12 years of age and under?**
 - A. Yes. Since this is a day care center with children enrolled for day care, the supper may be claimed as a supper for children, 12 years and under, enrolled in day care. However, if this were just an at-risk center serving both age groups, only a snack could be claimed. (615)

- 3. An at-risk after school care program operates during the week and on weekends. Do the weekday and weekend meal service times need to be the same?**
 - A. No. On school days, after school snacks may be served at any time after the children's school day has ended. On weekends, holidays and school breaks, snacks may be served at any time of day. Therefore, it is possible that a program would have different serving times for at-risk meals on weekdays and weekends to accommodate the different schedules of the children or hours of operation for the program (e.g., a shorter or earlier afterschool care program on Saturdays). (653)

- 4. CACFP-597, Question D-1, requires documentation for each day of a child's attendance. Can centers, especially those that are drop-in sites, use the meal count to generate the attendance? Must a roster or sign-in sheet be used?**
 - A. Each at-risk after school care center must have documentation of its daily attendance that is separate and apart from its daily meal count. The purpose of the attendance is to provide a "check" on the daily meal count. While we do not specifically require a roster or sign-in sheet, we are suggesting them as a means of documentation for each day of a child's attendance. Anything that documents daily attendance will suffice. (630)

- 5. If an at-risk after school program goes to a full day session during a teacher strike, can they claim reimbursement under the at-risk component of CACFP?**

A. We prefer that these sites operate under the SFSP during these situations, though we recognize that this is not always possible (e.g., during strikes, SFSP cannot operate at school sites). However, since the legislation for at-risk says that the program in CACFP must operate "during the regular school year" (as opposed to when school is "in session"), it is probably possible for us to permit the operation of at risk sites during these situations. We would like to know the particulars of a situation before granting approval, so let us know if this arises. (630)

6. A 21st Century school meets the qualification of providing an at-risk afterschool snack since it is in a geographical area served by a school in which 50 percent or more of the children enrolled are eligible for F/RP meals. However, the 21st Century school is not interested in sponsoring such a program. The city DOH is interested in sponsoring the CACFP with an afterschool snack at the site. The criteria for an at-risk program is: the sponsor, in this case the DOH, (a) provides children with regularly scheduled activities in an organized, structured, and supervised environment; (b) includes educational or enrichment activities; and (c) is located in a geographical area which is low income. Since the DOH does not meet any of these criteria, can it sponsor an at-risk program at this school?

A. Yes. The DOH can have the CACFP agreement and provide the food, while the school operates the afterschool care program. The DOH, through its agreement, is responsible to ensure that the sites meet the criteria. If a site does not operate an afterschool program or if the criteria for eligibility are not met, the DOH would be held liable. (615)

7. Can an OSHC serve a supper and an at-risk after school snack concurrently to different age children? (This situation refers to SAs which do not have an at-risk supper option.)

A. Two conditions must exist: 1) The SA has approved the site as both an OSHC and at-risk after school care center. 2) The site maintains records that show which children participate in each program, outside school hours or at-risk. The SA must ensure that the information/records are not manipulated at the expense of the CACFP. (630)

8. Section §226.20(j) states: "In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals that are ordered may be served to participants and may be claimed for reimbursement, unless the SA determines that the institution has failed to plan and prepare or order meals with the objective of providing only one meal per participant at each meal service." Does this apply to at-risk afterschool care centers?

A. Yes. It does apply to at-risk afterschool care centers, as do all other CACFP provisions which have not been specifically addressed in our policy memoranda for after school snacks. Therefore, at-risk centers may serve excess snacks to participating children and claim these snacks for reimbursement so long as the SA is assured that the after school care program is making a good faith effort to plan for one snack per child each day. Any changes to the applicability of this provision to after school centers would be contained in the proposed after school regulation. (601)

9. In order to participate as an at-risk after school care center, a proprietary center must first meet Title XX requirements as a traditional child care center. Title XX centers are required to maintain enrollment documentation for each child, while at-risk has no enrollment requirement. How should this be handled?

A. CACFP-597, Question A-13 states that, when determining a for-profit center's eligibility for at-risk after school snacks, only the enrollment/licensed capacity of the traditional child care component of the center should be considered. Documentation of enrollment is required for children in the traditional child care component of the center's program; no enrollment is necessary for the at-risk after school care kids. We envision that in most cases these are separate populations, though there may be a few kids who overlap. (630)

10. A YWCA wants to sponsor an outside school hours center for at-risk students. It would be tutoring and assisting students in preparing to take the General Equivalency Diploma examination. Is this an eligible center?

A. Yes. As long as there is an enrichment program this is acceptable. (580)

11. A child care center operated by a university wants to add an after-school tutoring program and wants to serve a snack in the new at-risk component of the CACFP. The children are drawn from a school which is 50 percent eligible, however, the university is in an area which is not area eligible. Is this allowable?

A. NO. CACFP-574, A-1 states that under CACFP a public or private nonprofit organization must operate an after-school care program which "...is located in a geographical area served by a school in which 50 percent or more of the children enrolled are eligible for F/RP school meals." Also, CACFP-565, under CACFP Eligible Sites states, "To be eligible to participate ... a site must be located in an area served by a school in which at least 50 percent of the enrolled children are certified eligible for F/RP meals." (586)

Audits

Also See Q&A memo CACFP-619: State Monitoring of Sub-recipient Audits.

- 1. Are Title XX centers required to complete the Office of Budget and Management Data Collection Form that is required of other entities that are required to have a single audit?**
 - A. No. This form is only for non-profit organizations subject to A-133 requirements.
- 2. A Title XX center went out of business in November of 1999, and it expended over \$25,000-\$300,000 (SA-set threshold). Is an audit required of fiscal year 1999?**
 - A. Yes. (414)
- 3. With regard to audits, in determining the total amount of FFA that an institution receives in a FY, how are Federal funds counted that are commingled with state funds?**
 - A. If the funds cannot be clearly defined as Federal money, they need not be counted towards the audit requirement. (230)
- 4. A sponsor contracts with two CPA firms; one to do its accounting and - another to do its audit. The Board of Directors likes one firm over the other and wants that firm to do both its accounting and audit. Is this allowable?**
 - A. Yes. However, it would not be appropriate for the same individual to do both functions. Nor would it be appropriate for the auditor to be subordinate to the accountant. The responsibility for ensuring adequate independence rests with the audit firm; however, if the SA has any questions or concerns, the SA should have the accounting firm present its case in writing. The SA can then present this to the state auditing branch for an opinion. (560)
- 5. A SA put out bids for auditing. The low bid came from the auditors who performed the audits for the past year. The SA found areas of poor performance and poor cooperation with these auditors. Does the SA have to accept the lowest bidder?**
 - A. No. Part 226.22(i)(2)(ii)(E) states: "Any or all bids may be rejected when there are sound documented business reasons in the best interest of the Program." (560)
- 6. When is an audit report due to the Clearinghouse?**
 - A. The report is due nine months after the end of the audited period. (615)

7. Is the actual audit report required to be sent to the SA?

A. No. Question 41 of the Questions and Answers on the OMB Circular A-133, dated June 15, 1998 states that the entire reporting package is not required to be sent to the SA unless: 1) its current year A-133 audit generated findings and questioned costs relating to awards received from the SA, and/or 2) its Summary Schedule of Prior Audit Findings shows deficiencies from prior audits relating to awards received from the SA, for which corrective action remains incomplete. If the subgrantee is not required to submit the entire report based on items 1 or 2 above, it must notify the SA in writing to this effect. Such written notification must expressly state that: 1) the audit had been made in accordance with 7 CFR Part 3052; 2) there were no findings or questioned costs relating to awards received from the SA; and 3) there were no unresolved prior year audit findings relating to such awards. (615)

8. A SA audit requirement form states "Payments for goods and services provided as a vendor are not considered Federal awards and are not subject to audit." Is this correct?

A. No. The auditor has an obligation to look at an institution's financial presentation condition. The institution must meet general financial ability criteria for managing Federal funds. The transactions themselves may not be targeted for audit because they are not part of the grant. The transactions would not be tested under compliance circulars, but the general financial picture would be tested. (630)

9. How long must audits be kept on file? Is the timeframe the same for A-133 audits and audits conducted by a SA?

A. 7 CFR Part 3016.42, Retention and access requirements for records, states, "...records must be retained for three years" It goes further to state, "if any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later." Part 3016 does not make a distinction between A-133 audits and audits conducted by the SA; therefore, the same guidelines are followed for both A-133 audits and audits conducted by the SA. (670)

10. Can 2 percent audit funds be used to fund debt collection activities; i.e., pay for a part-time position to follow up on collections of audit overclaims?

A. No. The Regulations do not allow use of 2 percent audit funds for this activity. (364)

11. An overclaim was established through a state audit. Does the SA have to give appeal rights?

A. Yes. Part 226.6(k) covers appealable actions. Part 226.8(g) states an SA is not required to provide appeal rights to an institution for state actions taken on the basis of a Federal audit determination. (567)

12. Can the State Agency (SA) extend the time period that an institution has to submit their required audit or assurance statement to the SA? (722)

A. Yes, on a case-by-case basis.

Center Eligibility

1. Blank

2. If a state has an alternate approval system, is it mandatory to have health and fire inspection approvals?

A. Yes, without the necessary health and fire inspection approvals, a facility would not meet the prerequisite of being licensed/approved and would not be able to participate in the CACFP. (180)

3. A day shelter provides case management and laundry services for homeless people. The participants do not stay at the shelter overnight. Can this shelter participate in the CACFP?

A. No. CACFP-572 defines an eligible emergency shelter as, "a facility all or a part of which is used or designated to be used to provide temporary housing." (586)

4. Can a Home Day School Participate in the CACFP?

A. No, a Home Day School, whether or not it is recognized by the state educational agency, cannot participate in the CACFP. Children must be enrolled and receiving care, not an academic education, for their meals to be claimed on the CACFP. (322)

5. A child care center provides 36 - 72 hour emergency care in abusive situations. Would this be considered a residential situation prohibiting meals served to these children from being claimed in the CACFP?

A. Although FNS Instruction 776-4, Revision 1, (Temporary Emergency Care in the CACFP), appears to only allow this type of emergency residential care in FDCHs, such a situation was not contemplated when the instruction was written. This is a special situation to protect abused children; therefore, we believe it could be extended to a center of this type, as long as the three consecutive calendar days guidelines are applied. Therefore, such meals could be claimed in the CACFP. (534)

6. A caregiver has a license for a center and a group day care home. Is this acceptable?

- A. State licensing standards will govern if this is an acceptable situation. If it is, and both facilities are on the CACFP, the SA should monitor that the same children are not claimed in both facilities, not more than three meals per day per child are claimed (unless a center is approved for four meals), etc. The caregiver would have to run the day care home since it is the intent of the Program for FDCH providers to be the person providing care; where as, centers can hire personnel to conduct the Program. (437)
7. **A child care center operating in a basement of a church has been approved to participate in the CACFP. The church operates a Rule 13 school (home school or church affiliated), which has not been recognized as an accredited school by the state. The school had previously applied for the NSLP and was denied participation because of the nonaccreditation. The center wants to serve lunches to the children in attendance at the school and claim on the CACFP, can they do this?**
- A. No, the children are in attendance at the school and not formally enrolled and in attendance at the center. Since the parents made the choice to send their children to an unrecognized school, the children would have the NSLP available if they went to an accredited school. (322)

Civil Rights

1. **Are SA reviewers required to take an actual current attendance count by racial/ethnic group when conducting a review of an institution?**
- A. No. Instruction 113-4, Section VIII B 3 b (2) outlines the minimum items that must be reviewed relative to this. The SA needs to ensure that the institution is collecting this data. However, an SA can take an actual count if desired. (470)
2. **Can the racial/ethnic categories be changed to include a "mixed race" designation?**
- A. The Department does not have the authority to change the current designated categories. However, our Regional Civil Rights Director advised us that the office of Management and Budget previously solicited comments for adding (amongst other things) a "multi-racial" category to the list of racial designations so that respondents would not be forced to deny part of their heritage by having to choose another category. Until a change is formally made, no changes can be made at this time. (470)
3. **Instruction 113-4 requires institutions to gather racial/ethnic data annually for potential beneficiaries for the areas which are served. If the institutions are using census data to meet this requirement, can the SA allow the institution to provide the information once and hold it on file for the years in which the census data are good?**
- A. Yes. (470)

- 4. SAs are now required under Section 504 of the Rehabilitation Act to include, as part of any training it provides, provisions for the hearing impaired, if needed. Would these same requirements apply to institutions in their training sessions?**
- A. Yes. Sponsors will also eventually have to have the correct equipment, such as a telephone, whereby their hearing impaired providers can communicate with the office staff. (414)
- 5. Is a privately-owned/operated child care facility required to enroll children who do not speak English?**
- A. Yes. All facilities participating in the CACFP must abide by FNS Instruction 113 in that no child can be denied participation in the Program based on race, color, national origin, sex, age, or disability. (459)
- 6. Is Civil Rights under Title VI or Title VII?**
- A. The Act is referred to as The Title VI Civil Rights Act of 1964, and this includes Title VII. Title VI covers Federally assisted programs, and Title VII covers employment. (567)
- 7. Does a SA have the authority to modify any wording of the nondiscrimination statement?**
- A. No. It must read as stated in CACFP- 629 and 618. (641)
- 8. A SO of FDCHs has an agreement with a deaf provider. The SO decides it is too expensive to provide an interpreter for the deaf provider. May the SO terminate the agreement with the deaf provider because of the expense of providing an interpreter?**
- A. Per 7 CFR Part 15b, Nondiscrimination on the Basis of Handicap, the SO may not terminate a provider due to the provider's disability. In addition, the SO is required to provide training to the provider. It may be possible that other organizations might provide an interpreter such as the state DHHS. (670)
- 9. Must the non-discrimination statement be printed on nutrition education materials when they are created/printed with USDA funds?**

A. The statement is not required to be printed on nutrition education information (i.e., menus, cups, trinkets, etc.). It should be printed on fliers if they talk about Program requirements or changes. The purpose of the non-discrimination statement is to reach out to all potentially eligible persons to advise them of the availability of the Program and advise them that the process of applying is non-discriminatory. It also provides information on how to file a complaint if they feel they have been unfairly denied participation. (670)

10. An infant has a disability – Milk, Soy, Protein Intolerance (MSPI). The cost of the formula for this child is \$50 per can which is about 2 liters of formula. The total cost to the day care center of providing formula for this child would be about \$600 per month. Since this is a disability, is the day care center required to provide the formula?

A. No. The day care center could claim an undue hardship and document why it is a hardship (i.e., amount of food budget, resources, cost is prohibitive, etc.). (670)

11. Are aliens or citizens of other countries eligible to apply as FDCH sponsors?

A. From a CACFP perspective, the person/persons can apply and be approved if all other qualifications are met; i.e., nonprofit status, etc. Citizenship is not a CACFP requirement. (198)

12. Are homeless sites and shelters for battered women required to issue a public release?

A. No. It is felt that media releases should not be required for these sites for safety/confidentiality reasons. (586)

Claims for Reimbursement

Also See Q&A memos CACFP- 697 and CACFP-708: Assessing Interest in the CACFP.

1. A FDCH provider wants to claim her stepchild's meals. She is currently married to and living with the child's father. The father has weekend visitation privileges; therefore, the child resides with them on weekends. Can the stepchild's meals be claimed?

- A. The SO's first responsibility must be to determine if the child should be considered the provider's own child. This child appears to fit that category. When staying with the provider on weekends, eligibility would be determined based on the FDCH provider's household income. If nonresidential children are in attendance for day care and the meals served to them are being claimed for reimbursement, the stepchild's meals can also be claimed for reimbursement if income eligible. (198)
- 2. A FDCH provider participating in the CACFP provides day care services for her husband's children only in a nonresidential setting. The children live across the street with their mother (the husband's first wife) who has legal custody. Can these children be claimed for reimbursement?**
- A. As long as the care provided is not on a residential basis, these children's meals would be eligible for reimbursement. For CACFP purposes, they would be treated as any other day care child. It is irrelevant that they live as close as across the street or, in this case, that their father is married to the FDCH provider. (198)
- 3. A SO operates HS and FDCHs. Some of the children go to HS in the morning and then to one of the FDCH providers in the afternoon. Can a lunch and a snack be claimed at each location when the sponsor has knowledge that the same children are eating at both locations?**
- A. No, the meals cannot be claimed at each location since the sponsor administers both Programs and knows which meals are being claimed for the children. They would be claiming the child twice for the same meal. (180)
- 4. Can the SA pay more than one late claim for an institution if the institution is submitting the two or more claims based on a problem that extended to all late claims?**
- A. SA has the authority to grant only one one-time exception to a late claim. See the 60/90-day guidance at VIII A 3 c. If the reason for lateness was something beyond the institution's control, the rest of the late claims submitted by the institution can be sent to FNS for consideration based on guidance at VII B. Those claims can come in a batch if the reason for lateness was the same for all the claims being sent.
- 5. Can a FDCH provider claim meals that she prepares but takes out for a picnic?**
- A. Yes, provided the meal meets the quantity and component requirements. (180)
- 6. Can a SA pay claims for reimbursement that are submitted by a data fax machine? If so, does a copy of the claim need to be mailed in as an original?**

- A. It would depend on the state's general accounting policy. If a state's accounting system allows payment of claims from a data fax copy, then we would agree with state policy. Section 226.10(4) and Section 226.15(e) specifies that the original and supporting records to the claim must be retained for a period of three years. Therefore, if a data fax copy is used for payment, the original claim must be easily retrieved. (180)
- 7. With regard to claiming provider's own children, Section 226.18 (e)(2) indicates nonresident children must be present and participating in the childcare program. What is meant by participating?**
- A. Participating means nonresident children are participating in the meal service and the provider is claiming reimbursement for the nonresident children. (180)
- 8. School age children are in the care of a FDCH provider before and after school. The school they attend does not have a school lunch program. If the children come to the provider's home for lunch, can the meal be claimed for reimbursement?**
- A. Reimbursement may be claimed for the lunch since the children are in the provider's care before and after school and there is no lunch program in the school. (212)
- 9. A FDCH provider is caring for a school age child that has lupus. The child has a doctor's statement that s/he cannot go to school for one year. In this situation, can the provider claim reimbursement for this child's meals?**
- A. We see no reason why this child's meals cannot be claimed as long as the child is in the provider's care, within age limits, license capacity, etc. (293)
- 10. Can a SO withhold a provider's reimbursement because the provider is always 15 to 20 days late in submitting the meal count records to the SO for completion of the claim?**
- A. It is not appropriate for SOs to withhold provider payments in the situation described above. Please refer, to our policy memo CACFP-285 that discusses a similar situation and policy. (314)
- 11. A FDCH provider operates a home school for her children as well as provides care for other children. Can she claim her own children for reimbursement?**
- A. No, she cannot claim her own children under the CACFP. Her own children are at home for the purpose of receiving education, not child care. (314)

- 12. Two names appear on a FDCH license; one is the caregiver, the other is the owner of the house who does not provide care for the children. Can these women claim their children if they are income eligible?**
- A. The caregiver may claim her children if other nonresidential children are present and in care. The home owner's children are residential and, therefore, may not be claimed. (393)
- 13. A FDCH provider cares for children of construction workers who work out of town. Meals are claimed for three days temporary care for these children. Can the remaining two days be claimed?**
- A. No. Instruction 776-4 only allows three days of temporary "emergency" care. These children are not in an emergency situation and they would be considered residential children. Therefore, the children cannot be claimed as they are not the provider's own. (414)
- 14. A FDCH provider cares for children of shift workers. The parents go to work before the child gets home from school and then get off work between 11:00 pm and 2:00 am. Not wanting to interrupt the children's sleep, they are left with the provider. The provider feeds them breakfast and sends the children off to school, and the cycle repeats itself. Could these meals be claimed?**
- A. No; not if they are in care for 24 hours or more. The children would have to be in the parent's care for a portion of the 24-hour day. (414)
- 15. A provider is licensed to provide care in her daughter's home where she formerly lived. She now lives on her own but still operates a FDCH in the daughter's home; can the grandchildren's meals be claimed for reimbursement.**
- A. No. The grandchildren are residential and would not be eligible since the provider is coming into the home. (349)
- 16. A FDCH provider is going on vacation for the summer. Another licensed person will come to her house to care for the children. This provider will bring her own children with her for care. Can she claim her own children?**
- A. Yes. However, her children would be considered as "provider's own" and therefore would have to be income eligible. (430)
- 17. Part 226.8(e) allows for FNS and OIG to disregard overclaims up to \$100 established during a ME or audit of a previous FY. Part 226.8(e) also outlines applicability of this for states relative to SA sponsored audits. Can an SA apply the disregard to reviews?**

A. Yes. We have determined that it may be applied to SA reviews of a previous FY. However, the limits of state law as stated in Part 226.8(e) apply to any disregard and can not exceed \$100. (437)

18. Can parents of Even Start children be claimed for reimbursement?

A. Even Start Programs would be able to claim at-risk snacks if the parent is 18 or younger and enrolled for meals/activities at the site.

19. An FDCH provider packs lunches for children who attend preschool. Can these lunches be claimed for reimbursement?

A. No. The children must be in attendance and in her care during mealtime, for the meals to be claimed. (470)

20. A center had lunches donated by McDonalds. Can these lunches be claimed for reimbursement?

A. Yes. If the institution has prior SA approval and can ensure that all component and quantity requirements are met. See *Meal Service* section for a similar question. (470)

21. An FDCH provider has a nephew who lives with her on a full time basis. He has been determined part of the provider's economic unit. The child has an AFDC number, the provider does not. Can the child's meals be claimed?

A. Yes: the child is determined provider's own (based on the fact that they are one economic unit). Then the child's claiming rate is based on his OR the family's categorical eligibility. In this case, only he has categorical eligibility. Other children must be enrolled and in care. (484)

22. Recent changes in the law (Welfare Reform) restrict the number of meals served to either two main meal services and one snack, or two snacks and one main meal service. A center wants to serve breakfast, lunch and supper. Can the center serve these, but claim the breakfast as a snack?

A. Yes. As long as the meal service being claimed as a snack meets the component requirements of a snack. (484)

23. Can meals be claimed for school-age children in a child care facility because of illness or because of being suspended/expelled from school?

A. Yes. If the child was ENROLLED in the facility. (504)

24. Can a provider claim a 13-year old that has been ordered by the courts to be in child care?

- A. Unless also disabled, a 13-year old child's meals cannot be claimed under the CACFP. (534)
- 25. If a Tier I provider participates in the WIC Program and receives carrots and cereal in the WIC package, can these foods be served to the children in care other than the provider's own children? Can these meals be claimed for reimbursement?**
- A. The perspective regarding CACFP meals and reimbursement is that the meals are reimbursable. However, the perspective for WIC may be that this is not allowed, so check with your state WIC agency for clarification. (615)
- 26. When a claim does not pass edit checks, may a SA make adjustments/corrections to the claim based on conversations with the institution in order for the claim to be paid?**
- A. If a claim does not pass edit checks, it should be returned to the institution for correction with an explanation of what is wrong. This is not an appealable action since the claim has not been denied. As long as the institution submits a corrected claim that passes edit checks within 90 days of the end of the claim month, it should be paid. If the sponsor re-submits the claim and the claim still does not pass edit checks, the claim should be denied. Appeal rights must be given to the institution when the claim is denied. Under no circumstances does FNS recommend that SAs change any information on a claim for any reason. (662)
- 27. An institution submits a revised CACFP claim for reimbursement after the 90-day deadline. The late claim was outside the institution's control. Does payment of this late claim go against the institution's one-time exception when the situation was out of the institution's control?**
- A. Most SAs are aware and implement the one-time exception rule; however, there are instances that do not require a one-time exception if the situation is outside the institution's control. Pages 12 and 13 of the 60/90 Day Guidance describe how payment of the claim can be made without it counting toward the institution's one-time exception. These particular requests must be approved by the RO as stated on pages 12 and 13. (684)
- 28. Institutions are allowed to electronically submit claims for reimbursement. Is it acceptable for FDCHs to submit meal counts to SOs electronically?**
- A. Yes. However, the policy outlined in CACFP-659 for SOs must also be followed for FDCHs. (662)

- 29. A FDCH provider also owns a day care center. The day care center has enrolled children that are provided three CACFP meals during the day. After the center closes, the owner/FDCH provider cares for the children in her FDCH claiming them for another two meals. This means these children receive and are claimed for five meals per day. Is this acceptable?**
- A. In this case, since there are two different institutions involved – the SO of the FDCH and the day care center – which would be required to track the total number of meals one child receives from the two facilities, it would be acceptable. (662)
- 30. A large FDCH sponsor regularly submits revised claims on behalf of its providers. Is it allowable for the SO to submit original information for a provider between the 60 and 90 days discussed in the 60/90-Day Guidance? Is it allowable for an SO to make upward adjustments to individual provider claims after 90 days when the SO has an overall downward adjustment in their revised claim?**
- A. As long as the SO submits an initial claim within 60 days of the end of the claim month, the SA may process and pay any SO claim received within 90 days of the end of the claim month, regardless of whether the provider claim was received in time for the SO to meet its 60-day deadline. The 60/90-Day Guidance allows the SO to include in a revised claim any facility claims that were omitted in a timely-filed, original claim. To answer the second questions from above, upward adjustments are not allowed to any portion of the claim after 90 days including upward adjustments to individual facilities' claims (unless the SO wishes to use its one-time exception on behalf of the late-claiming provider)
- 31. A day care provider is advertising that children enrolled for before and after school care can come to her house to eat lunch for free. She is claiming them for reimbursement. The school that these children attend states it has IEFs on file for F/RP lunches for these children. Can the provider claim these meals?**
- A. No. Part 226.19(e) states, "...reimbursement may not be claimed for meals served to children who are not enrolled or for meals served at any one time to children in excess of the home's authorized capacity..." These children should eat at school since the school has a lunch program. CACFP-212 question #3 addresses this situation when the school does not have a lunch program. (560)

32. **Now CACFP can have permanent agreements when the CACFP institution also participates in NSLP and a combined agreement is taken. I have a question about the renewal process when there are permanent agreements. If an organization is slow to get their 'application' material in for the renewal (the items that are required annually), can the SA pay claims retroactively back to the beginning of the year if the claims have been filed timely?**

For example:

ABC School and Center has a permanent agreement and its school population is on NSLP. The renewal packet is due back to the SA in October so they can be approved in October or November. ABC finally gets their public release info (required annually) to the SA in February. ABC has been submitting timely claims. Can the SA pay all those claims?

- A. The CACFP Regulations provide no authority to pay claims more than one month retroactively from the month when the institution is approved to participate. Their timely filed claims can be paid within 90-days of the claim month if filed within 60 days, as allowed by the 60/90-day guidance.

Confidentiality

1. **Copies of F/RP applications are often requested by a SA because of review findings and used in an appeal. These forms are then available to an Appeal Officer and Legal staff in this process. After such process is completed, these files are public records. Does this cause a problem in the confidentiality of these documents?**
- A. The appeal process and involved persons are part of the administration of the Program. If other persons request access to these files, the requests should be handled under the State's Freedom of Information Act procedures. Quite often states restrict some information; e.g., names of individuals, etc., therefore, families would be protected. (349)
2. **May an SO provide information on its providers to entities such as a county or state licensing agency? These agencies may need information such as attendance records for cases they are working on.**
- A. The SA should contact its FOIA Officer for a determination in all FOIA requests. However, FNS would support providing this type of information to such agencies. (393)
3. **Records for the CACFP have been requested in numerous cases - some are due to investigations and others are just requests. May a SO release records regarding information provided on the application for F/RP meals?**

A. The use or disclosure of any information obtained from an application for F/RP meals shall be limited to: 1) persons directly with the administration of the child nutrition programs, 2) a Federal, state, or local law enforcement official for the purpose of investigating an alleged violation of the child nutrition programs. Refer to Section 9 of the National School Lunch Act for more information. (653)

4. When a SO receives a subpoena to release financial information for a provider going through a divorce, must it release the IEF that was submitted by the provider?

A. If information is subpoenaed, it must be released. If the SO fails to release the information, it is in violation of a court order. (653)

Costs - Allowable/Unallowable

1. Are yellow page ads in the phone book an allowable cost?

A. Yes. They are allowable with prior approval but must be prorated among all the programs with which the sponsor works. (692)

2. Blank

3. Are moving expenses incurred when an institution moves reimbursable?

A. The costs for moving and storage are at the discretion of the SA. If the SA determines that the move is for the benefit of the CACFP, the costs are allowable. If the SA determines that the move is to the benefit of the organization only, those costs are not allowable. (586)

4. Is the fee to incorporate an allowable cost for an institution?

A. No. This is not an allowable expense because it is general business expense. (586)

5. Blank

6. Blank

7. Blank

8. What if the SA includes in its agreement with the institution that the institution carry insurance for loss or damage to CACFP funded equipment?

A. This would an allowable expense; however, the SA must actively monitor the inventories of all CACFP funded equipment purchases and assess claims against institutions for losses of the property. If any institution failed to obtain and maintain the required insurance outlined in the agreement, it would be violating the agreement. (684)

9. ~~Is organizational liability insurance an allowable expense to the CACFP? Is board liability insurance an allowable expense?~~

~~A. Board liability insurance is not an allowable expense. Some types of organizational liability insurance would be allowable. It depends on if it is related to the Program. It would be allowable when it covers a child who chokes on a reimbursable meal or gets sick from eating a reimbursable meal. SAs may need to look at the insurance policies in question. Sometimes the policy does not apply to a contract relationship as would be the case with the CACFP. Insurance for the general activities for the CACFP operation is allowable. (684)~~

10. Blank

11. Does the interpretation of "...materials related solely to the program..." found in FNS Ins. 796-2, Rev. 3 item #33 a(1), "Publication, Printing and Reproduction," include such topics as: general nutrition, early childhood eating patterns and behavior, health and safety issues related to eating (choking, CPR, etc.)?

A. SAs need to determine if the materials are related solely to the Program. If so, they are allowable. However, in the example above, we would not consider materials related to childhood behavior or CPR as related to the Program. (670)

12. Must the indirect cost rate that DHHS assigns to a CACFP institution be accepted by the SA?

A. Yes. However, it is up to the SA to ensure the rate is being appropriately applied. (670)

13. Are the following types of subscription services included in the definition of "subscriptions to professional and technical periodicals related to the program" found in FNS Ins. 796-2, Rev. 3, item #29 a (3), "Membership, Subscriptions, and Professional Organization Activities": general nutrition publications, magazines regarding specific software products, management and personnel publications, general early childhood publications, provider services (clip art, newsletter articles, inserts, etc.)?

A. Item #29 a (3) states the cost is allowable if the periodical is related to the Program. Nutrition related periodicals would be allowable; however, software magazines, management and personnel publications would not be allowable. Early childhood publications and other publications involving clip art, etc., would need to be evaluated by the SA to determine if it is Program related. See page 50, item (3), "Labor Costs", of the Instruction which discusses employee's individual memberships in professional organizations and the cost of subscriptions to professional periodicals for these employees. (670)

14. Is the cost of a diabetes workshop allowable. If so, per item #28, in the FNS Ins. 796-2, Rev. 3, is attendance at a general dietetic conference, such as ADA, considered 100 percent allowable under the CACFP or must it be prorated based on child nutrition sessions attended?

A. It is up to the SA to determine. The SA would need to take a look at the agenda to determine if it could be determined to be a CACFP-related nutrition conference and which sessions are CACFP-related. As always, the cost for attending the workshop/conference must be prorated as appropriate. (684)

The costs must be prorated since the agenda generally includes many more topics than CACFP related issues. (670)

15. Are local child care network organizations and the National Education of the Young Child considered Program-related organizations for determining allowability of costs or are they civic organizations of which the costs would require RO approval as stated in item #29 of the FNS Ins. 796-2, Rev. 3?

A. We believe these organizations are Program-related organizations rather than civic organizations and do not require RO approval. However, it is up to each SA to ensure that the costs related to these organizations are allowable. (670)

16. Blank

17. Per item #24 of the FNS Ins. 796-2, Rev.3, is the cost of a collection agency an allowable cost for a SO of FDCHs as it attempts to recover overpayments made to a FDCH?

A. Yes. The category "Legal Expenses and Other Professional Services" does allow SOs to pursue administrative and judicial recovery of funds due from sponsored facilities when the costs are reasonable in relation to....." Please note that it does require specific prior written approval. (670)

18. If a meeting or conference is directed toward day care providers, but is not 100 percent CACFP related, is the cost to attend and have an exhibit, demonstration or display an allowable cost? Example: state NAEYC conference or a provider's day out which may be sponsored by SOs or provider support groups. See item #3, Advertising and Public Relations Costs, of the Instruction.

Further, if the meeting or conference is directed toward parents or the general public, would exhibits, demonstrations or displays be an allowable cost?

A. First and foremost, the SA must determine that the cost is necessary and reasonable. In addition, the SA must determine if the cost is to inform individuals, groups or the general public about the CACFP or to increase an institution's CACFP participation. If that is truly the purpose, the costs would be allowable with prior approval. In the example given regarding a provider's day out, we caution that the SA determine if the providers are already participating in the CACFP. If the providers are, what would be the purpose of the exhibit? SAs must ensure this type of cost is not abused by SOs. (670)

19. Are legal fees associated with personnel matters allowable costs? What if a CACFP employee is terminated and then files a law suit against the institution?

A. Legal Expenses, item #24 of the FNS Ins. 796-2, Rev. 3, allows the costs of these expenses when the services are required in the administration of the Program. These costs would include those routine in nature (i.e., legal costs for looking over employee contracts, consulting with a lawyer to draft a written personnel policy, etc.). If an employee brings suit against the institution based on the termination of the employee, the allowability of these legal costs would be determined on a case-by-case basis. It depends on the basis of the termination. If the employee is terminated due to cause related to CACFP such as being fired for not performing job duties (i.e., doing a bad job), and the state supports the institution's decision to terminate, the legal defense costs are allowable if the employee sues the institution for being terminated for that cause. The legal costs would not be allowable if the employee's suit against the institution is related to the violation of a Federal or state employment regulation and the institution loses the case. For example, if the employee brings a discrimination suit against the institution due to the termination and the institution loses, the legal costs would not be allowable. (670)

20. Are general sanitation costs (i.e., toilet paper, cleanser, paper towels, etc.) an allowable expense for a SO of FDCHs?

A. Yes. These are allowable costs for which CACFP may pay its share. (662)

21. Can a center use a portion of their reimbursement to pay to have their kitchen floor replaced? The local DOH has cited them for this and requested that it be replaced.

A. Replacing the kitchen floor is an allowable food service cost. Prior SA approval would need to be obtained and appropriate records maintained for review purposes. (262)

22. Can the fees paid to the IRS be claimed as a CACFP cost for institutions as they move toward tax exempt status?

A. No. This is a precondition for participation in the CACFP and is not an allowable cost. (586)

23. Can an SO use CACFP funds to conduct tax workshops for FDCH providers or centers?

A. Tax workshops are not an allowable CACFP cost. OMB Circular A-122, Attachment A, lists factors affecting allowability of costs. General criteria A. 2.a., states that the cost must be reasonable for the performance of the Program. Since the CACFP performance is not based on tax requirements, a tax workshop is not a reasonable cost to the Program. The responsibility for maintaining current knowledge of tax information rests not with the SO, but rather with the provider. (230)

24. An SO has its offices in a building privately owned by the Board of Directors of the SO. The SO also conducts nonprogram services out of the same offices. Can rent charged by the Board of Directors be considered an allowable cost?

A. Yes; however, rental costs under less-than-arms-length transactions are allowable only up to the amount that would be allowed had title to the property been vested in the organization. This limits the allowable cost to either depreciation or use allowance. The amount of depreciation/use allowance charged must be prorated to reflect only the CACFP share versus the total use of the building. Additionally, since there is more to maintaining an organization than just operating the CACFP, a further allocation of the amount assigned to the sponsor may be necessary in order to allocate the sponsor's share to CACFP and non-CACFP functions. (322)

25. Blank

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27. Blank

28. What factors should a SA consider in reviewing SO requests to attend national meetings?

A. Some factors to consider would include whether the agenda is applicable to the CACFP, the overall administrative budget; i.e., whether the trip would affect other activities the SO needs to complete, the number of meetings a SO requests to attend in a year, and how many staff the SO wants to send to the meeting. The SA may pay only the portion of costs germane to the CACFP if the agenda contains unrelated topics. (337)

29. Blank

30. A sponsor wants to depreciate a computer over three years. Is this reasonable and allowable?

A. Yes. Although we have not given guidance on how long a selected type of equipment/computer should last, considering the fast pace of computer technology a computer would age quicker than other equipment. Therefore, allowing straight

depreciation, three years is reasonable. (567)

31. Can a sponsor purchase thermometers for each of their FDCHs and charge the cost to Administrative costs?

A. No. However, if there are non-FCS funds available, those funds may be used. (534)

32. Since 4th meals can no longer be claimed, can a center which chooses to provide the children in care with 4th meals claim the costs associated with those meals?

A. Yes. (534)

33. If a field reviewer of an SO is in travel status, would their meals be an allowable cost?

A. Yes, according to Circular A-122, Attachment B, and a field reviewer's meals while in travel status would be an allowable cost. (293)

34. Is pre-employment drug testing and random drug testing of employees an allowable cost for SOs?

A. In order for costs to be allowable, they must be necessary and reasonable for the proper and efficient administration of the Program. We do not believe these costs are necessary and reasonable. (641)

35. May an SA write-off a sponsor's debt?

A. In general, no. However, if the provider debt is not the result of sponsor mismanagement or negligence and the sponsor actively pursues collection, the SA needs to determine if it is cost effective for the sponsor to continue collection efforts (i.e., hire a collection agency, write more letters, etc.) If the SA determines the sponsor should continue pursuing the debt, then the SA needs to approve budget amendments, etc. that provide the sponsor the needed funding (specific prior written approval.) If the SA determines further pursuit is not cost effective, then the SA does not need to assess the claim against the sponsor for the provider debt. (722)

Crediting Foods

Also See Q&A memo CACFP-648: Q & As on Alternate Protein Products

1. Are whey and yeast considered as binders/extenders in meat/meat alternate products?

A. According to FSIS Regulations 9 CFR 310, and a NTS Technology Update (1982), specific extenders are: calcium reduced dried skim milk, cereal, dried milk, isolated soy protein, soy flour, soy protein, starchy vegetable flour, and whey. Yeast is not considered as a binder/extender. (437)

2. What is the portion size for drumettes?

A. Five drumettes equal 2 ounces of cooked lean meat. However, this applies to commodity chicken. All commercial drumettes must have a Child Nutrition Label or a product specification sheet to determine the yield. (230)

3. Is imitation crabmeat creditable?

A. Yes, in part. If the label states the product is all fish (chopped), the 75 percent yield factor can be used. If the product is not all fish, the percent of fish needs to be determined and then the 75 percent yield factor applied. (180)

4. Is lactose-reduced milk creditable?

A. Lactose reduced milk may be served if it meets state and local standards for fluid milk. (180)

5. Wheat germ by itself is not creditable; however, if it is the predominant ingredient in a cookie, can the cookie be a creditable snack item?

A. No. Whole grain or enriched meal or flour has to be the predominant ingredient by weight for the food item to be creditable. Therefore, wheat germ would not count as the predominant ingredient. (180)

6. Are Nature's Favorite Apple Chips creditable?

A. No, apple chips are not creditable for CACFP. (198)

7. To what degree can home canned or home dehydrated foods be used in CACFP day care homes and centers?

- A. The Food Buying Guide prohibits home canned foods from all Child Nutrition Programs.

The Food Code of 2001 defines 'food establishment' in a way that centers are considered a food establishment. The code restricts food establishments from serving foods that were prepared at home. This would include foods dehydrated at home for use in a center. However, properly dehydrated fruits or vegetables that are processed at the **center** for use at the center would be acceptable.

The Food Code allows 'home prepared foods' to be served in day care homes settings. This would include home dehydrated foods since they are not restricted by the Food Code or the Food Buying Guide.

8. Is it acceptable for the SA to identify brand names of foods when listing creditable foods for the CACFP?

- A. SAs should refrain from using brand names as it appears to be an endorsement of a particular product, especially when there are other brands of products that would also be creditable. (247)

9. If the first ingredient in a cereal is listed as 'flour', is the cereal creditable for the CACFP?

- A. No. The flour must be listed as enriched, fortified, or whole grain to be creditable. (337)

10. Can home dried banana chips be credited as a fruit?

- A. Yes. Although commercial banana chips would not be creditable, home dried bananas would be. For crediting purposes, one-fourth cup dried bananas would equal one-fourth cup fruit. In production records, they should be recorded as "home dried bananas" and not "banana chips" which might be mistaken as commercial banana chips. (372)

11. Is the Food Buying Guide correct in the adult meal pattern chart, 4C, that requires milk at the supper meal?

- A. No. The FBG is incorrect. The Regulation at Part 226.20(a)(3) & (a)(c) is still current. We have alerted our National Office of the needed correction.

12. Is Stove Top stuffing creditable?

- A. The CACFP Crediting Guide, page 37, states only homemade stuffing is creditable. Stuffing can be credited to the amount of bread per serving used in preparation. Since Stove Top and other such products contain additional ingredients in unknown amounts, the quantity of bread cannot be determined in them. (322)

- 13. Is 'VITAMITE' creditable as milk?**
- A. No. It does not meet the definition of milk in the Program. (400)
- 14. Blank**
- 15. Is the bread portion of Pop Tarts creditable as a bread alternate?**
- A. It would be creditable under Group B if the bread portion serving size is at least .7 ounce. The method for determining this would be to remove any fruit filling (and frosting if applicable) and weigh the bread portion. (414)
- 16. Are cilantro, parsley, and garlic creditable as vegetables?**
- A. Yes. However, an 1/8 cup serving would be needed if they were served individually. If they are used in combination with other vegetables in a menu item, for example in salsa, the menu item would have to be served in at least 1/8 cup to be claimed as one of the fruit/vegetable components of the meal. (437)
- 17. Are hog maws creditable?**
- A. No. There is not enough lean meat on hog maws. (459)
- 18. Can yogurt be credited when used in a combination food; i.e., a recipe for pudding?**
- A. Yes. (470)
- 19. What is the definition of a plain brownie?**
- A. One without added items; i.e., nuts, raisins, etc., or frosting. (470)
- 20. Is frozen yogurt creditable?**
- A. No. There is no Standard of Identity for these products; therefore, the amount of yogurt in any particular brand is unknown. (484)
- 21. Are "Jell-O Kid Pack Wild Berry Low fat Yogurt" and "Yo-Gel" yogurt creditable as a meat/meat alternate?**
- A. Yes. Both are labeled as a yogurt as opposed to a yogurt product. Therefore, since yogurt has a Standard of Identity, both are creditable. (484)
- 22. Is "Orange Scream" creditable for two items in a snack? Is it creditable for lunch or breakfast?**

A. No. "Orange Scream" is considered two liquids and cannot be the only item served. Therefore, a snack offering "Orange Scream" must include another creditable food item from another component. However, it provides 8 ounces fluid milk and 4 ounces of full strength juice for breakfast or lunch. (594)

23. "Fruit Smoothies" are made by blending milk and fruit together. The center/provider is providing both the milk and whole fruit. How are these to be credited?

A. These may be credited as two food items; milk and fruit. (594)

24. The NSLP Regulations allow enriched macaroni fortified with protein to be credited as 1/2 of the meat/meat alternate. Are these products creditable in the CACFP?

A. No. (615)

25. Canned ham shank is the food product being served. Using the previous Food Buying Guide, quantity information was used for canned ham. However, the new Food Buying Guide states that the name of the product must match exactly the name of the product listed under the Foods As Purchased column. The specification for the product is – ham shanks, defatted, skinless, boneless, canned 6-6.5 lb cans per case. How should we determine quantity information for canned ham shanks?

A. The statement added to the Food Buying Guide stating that product names must match was done so to ensure that people were not crediting "water added" or "ham and water products" as ham. In this case if the product is cured, the best yield to use would be the Pork, Mild Cured canned ham yield as done in the past. (684)

26. The Final Regulation dated March 9, 2000, page 12441, Modification of the Vegetable Protein Products shows the amount of lean meat, poultry, fish, cheese, and alternate protein products to be 1/2 ounce, 1 1/2 %z ounce, and 2 ounces for the respective age groups. Is this correct?

A. No. The correct amounts are:

<u>AGE</u>	<u>AMOUNT</u>
1-2 years	1/2 ounce
3-5 years	1/2 ounce
6-12 years	1 ounce
Adults	1 ounce (630)

27. **A previous Q & A, CACFP-630-16, addressed the Final Regulation dated March 9, 2000, page 12441, Modification of the Vegetable Protein Products. There was an error in the Final Regulation regarding the amounts of lean meat, poultry, fish, cheese and alternate protein products for snacks. When the correction was made with CACFP-630-16, it did not mention that the correction was for snacks. What are the correct amounts for lean meat, poultry, fish, cheese and alternate protein products for snacks for the various age groups?**

A.

<u>AGE</u>	<u>AMOUNT</u>
1-2 years	½ ounce
3-5 years	½ ounce
6-12 years	1 ounce
Adult	1 ounce (662)

Expansion Funds/Start-Up

1. **Can a FDCH sponsor loan FNS moneys to first-time providers so they can make repairs, get licenses, etc. in order to qualify to go onto the CACFP?**

A. No. Sponsor administrative/start-up/expansion funds are available for this use (Reference February 26, 1998 Interim Rule for details). (552)

2. **Can a FDCH sponsor loan money from a source other than FNS to a first-time provider so the provider can make repairs, get licenses, etc., and then uses FNS funds to repay the loan?**

A. No. See answer to the question above. (552)

3. **In considering further expansion funds to a SO, what is meant by "SO has satisfactorily expanded into areas...."?**

A. This is left to the discretion of the SA as to what is seen as satisfactorily expanded. It can mean the SO completed the plan. It does not necessarily mean it got the stated number of FDCHs anticipated. (364)

4. **What resource should sponsors use to identify 'rural' areas, for the purpose of applying for expansion funds?**

A. The latest Metropolitan Statistical Area (MSA) information can be found at http://www.whitehouse.gov/omb/bulletins/b03-04_attach.pdf Any city NOT identified on the MSA list would be considered rural.

5. **The memoranda regarding Low Income Rural Expansion funds states "low income and rural." Does this mean both conditions have to be met for the issuance of these funds?**

A. No. The intent is to expand into low income OR rural areas. Therefore, only one of these conditions has to be met. (364)

6. Are day care centers eligible for start-up funds under Part 226.12(b)?

A. No. Start-up funds are for SOs of FDCHs to either develop or expand up to 50 homes. (400)

7. What is the time frame for a SA to approve Expansion Funds?

A. CACFP-287 states 30 days. (451)

8. If an SO discontinues sponsoring FDCHs, can expansion funds for low-income and rural areas be used by other SOs to cover any expenses of signing on these FDCHs?

A. No. The regular SO administrative funds should cover the costs of signing on these FDCHs. (459)

9. How is expansion funding determined for a SO?

A. SOs are entitled to an amount determined by multiplying not less than one month and not more than two months by the highest per home administrative rate for the number of homes the SO believes they will reach, not to exceed 50, as described in CACFP-257 and Section 226.12(b)(5) & (6) of the Interim rule. However, SOs are not required to apply for the full amount they are entitled to receive. (544)

10. Is the expansion funding determined at the maximum current, \$75.00, or the rate at which any additional homes would be reimbursed if the SO currently has an agreement with over 50, 200, or 1,000 FDCHs?

A. Expansion funding is to be determined at the maximum reimbursement rate because these potential providers will always be low-income or rural. These low-income or rural providers **will** require a great deal of labor intensive, up-front work from the SO for licensing compliance and Program basics before the provider decides to enter the Program. Once the targeted provider decides to enter the Program, the SO would receive reimbursement for that new provider at its normal per home administrative rate. (544)

Family Day Care Homes

- 1. Two individuals are business partners in a residence. Neither of the business partners reside in the home. They care for their own children and occasionally the children of their clients. They are both on the premises most of the time. The license to care for children is only in one of their names. Can the meals served to their own children be claimed when no other children are in attendance?**
 - A. The nature of a business partnership is that the partners share in the income and expenses. Therefore, in this case, they are both providers, and children other than their own must be present in order to claim their own children's meals. (692)

- 2. A woman has a day care license for her home, but also has a job away from the home. She hires a day care provider to provide care for the children in the home. Who has the agreement with the sponsoring organization? Whose income would be used for tiering purposes?**
 - A. The person who is the primary caregiver would sign the agreement with the SO and that person's income would be used for tiering purposes. (692)

- 3. A FDCH provider wants to provide a lunch to his/her own school-age children on school days? Is this a reimbursable meal?**
 - A. The FDCH provider may claim for reimbursement meals served to his/her children if they decide not to eat the F/RP meals served at school. However, Part 226.18(e) identifies requirements that must be met in order for providers to claim meals served to his/her own children. This supercedes longstanding policy that if children have the NSLP available to them at school, they must participate in the NSLP. (670)

- 4. A man wants to hire an individual to come into his home to take care of his four children and possibly one or two other children. The provider would get a license to provide the care in his home. Since the four children live in residence at the home that would be licensed, can they participate in the Program?**
 - A. The gentleman's four children would be residential and not the provider's own children. Therefore, they would not be eligible. (262)

- 5. Can a Home Day School Participate in the CACFP?**
 - A. No, a Home Day School, whether or not it is recognized by the state educational agency, cannot participate in the CACFP. Children must be enrolled and receiving care, not an academic education, for their meals to be claimed on the CACFP. (322)

- 6. Public Law 106-224 says that provider transfers from one SO to another may only happen once a year. Is once a year defined as calendar year, Federal FY, state FY, etc?**
- A. The SA may determine how to define once a year. We believe the intent of the law was that transfers would not happen more than once during a 12 month period. However, the SA must ensure that if the Federal FY or state FY is chosen that it is not abused. (670)
- 7. What is the date used for the transfer when determining that only one occurs per year?**
- A. The date the transfer is completed. So, if a provider dropped from one sponsor and did not sign up with another one for a couple of months, the transfer date would be noted as the date the provider signs up with the second sponsor. (670)
- 8. Can FDCH providers charge for enrolled children's meals when the meals are not approved on the application and not claimed for reimbursement?**
- A. The Regulations are specific on this issue. Part 226.18(d) states that meals shall be served at no separate charge to children enrolled in FDCHs. Also, Part 226.23(9) gives SOs the responsibility to ensure that no separate charge for food service is imposed on families of children enrolled in participating FDCHs. Therefore, there can be no meal service charges by providers if they are participating in the CACFP. (198)
- 9. A FDCH operates for 9 months under a SO but from the middle of June through September is licensed as a handicap center. Can she switch from one type of situation to the other each year?**
- A. The Regulations do not prohibit switching as long as the facility is adequately licensed. There would be increased paperwork as application approval would be needed for each switch. (198)
- 10. A FDCH provider owes funds to the Internal Revenue Service (IRS). IRS has requested the SO to pay the provider's CACFP reimbursement directly to them. Should the SO abide by the IRS request?**
- A. We have previously raised this question on the allowability of IRS to request that an SO forward a provider's reimbursement directly to IRS. The Department has advised that the SO should cooperate and forward the check directly to IRS for the amount of reimbursement earned by the provider. The provider should be advised of the action being taken. (230)

- 11. A FDCH provider was dropped for convenience by an SO. The provider wants to sign on with another sponsor; however, no other sponsor wants to have her on the Program. Does an SO have to sign on the provider? Does the provider have appeal rights?**
- A. An SO does not have to sign on the provider. The provider does not have a legal recourse. Legally, the agreement and appeal procedures are between the SA and the SO. Normally, the SA would probably want to find an SO to take the provider. (230)
- 12. A FDCH provider requested the SO to withhold from their reimbursement an amount to be placed in escrow for taxes. Is this acceptable?**
- A. No, an SO may not withhold from the provider's reimbursement an amount for taxes. Part 226.18(b)(7) only allows, with the provider's consent, an amount to be withheld for food stuffs or meals in which the costs have been incurred by the SO on behalf of the FDCH. (293)
- 13. A group FDCH wants to contract with the school for its meals. The school is within walking distance of the FDCH. Can the enrollees of the facility walk to the school for the meals rather than the school delivering the meals to the facility?**
- A. This arrangement would be acceptable as long as the SA is satisfied that double claiming is not going on and there is a formal agreement between the school and the facility. The state must also be assured that this practice does not violate any state or local laws or Regulations. (314)
- 14. Can a military base sponsor FDCH on the base and require all homes to only participate with the sponsor?**
- A. Yes. The military has total authority on the "military reservation" and can dictate what happens on a base. (437)
- 15. A FDCH provider feels she spends more than the reimbursement received; can she claim the excess costs as business expenses on her Federal income taxes?**
- A. She should consult someone familiar with the tax laws on this, including what records would be required by IRS. However, allowable CACFP costs include the costs associated with menu planning, purchasing of food and non-food supplies, preparing and serving meals, clean up, supervision of children during the meal time, and preparation of required Program records (See FNS Instruction 796-2, Revision 2 for a detailed listing of allowable/unallowable costs). (459)

16. If a provider switches from one sponsor to another or drops participation completely, they are not really a "new" provider when/if they come on the Program again. But they are not renewing a current application either. Is the pre-approval visit and the 4-week visit required?

A. Yes. (534)

17. Has there been any guidance given that specifies when supper can be served? A provider was serving supper at 2:00 p.m.

A. The only meal we have set time limits on is breakfast (Meal Service #5). The dictionary describes supper as an evening meal, therefore 2:00 p.m. would not be considered customary. We have not given any specific guidance in looking at time of meal service, we indicate that it should be the customary time for that meal. The SA could develop a policy stating customary times if it chooses to. However, we would not consider 2:00 p.m. as the customary time to serve supper. (293 and 534)

18. Can a detached garage be used as a FDCH?

A. Yes. Although CACFP-373 stated this could not be done, we have reevaluated the situation and believe it could be if the garage was renovated for such a purpose. That is, it could be used as a separate living quarters with kitchen, bathroom, etc. (552)

19. A provider is declaring she is separated from her husband and wants to declare her income only. How does she establish her income for Tier I?

A. Since the last IRS 1040 form would not reflect her current income, the provider needs to report current child care income and expenses, and alimony or child support as applicable, most likely via a ledger format. (560)

20. A Jewish FDCH provider does not want to serve milk with some meals in accordance with Jewish Dietary Laws. The children are not Jewish. Is this allowable?

A. Yes. If the institution/facility is recognized as Jewish this option for milk service can be implemented. FNS Ins. 783-13 allows FDCHs to implement Jewish Dietary Laws if the home is classified as Jewish. There is no requirement for the children, or a certain percentage of children, attending to be of that faith. (580)

21. A husband of a FDCH provider wants to provide family day care in another house. He would hire a provider to give care. Is this allowable?

A. Yes. The hired provider would sign the agreement with the sponsor and receive the reimbursement check. The provider's income would be used to determine eligibility. (586)

22. A housing authority is using one of its units as a day care home. The license is in the name of the housing authority. It hires an individual to care for children. Is it eligible for the CACFP as a day care home since it is the licensee and it is located in a residential facility?

A. No. The principles of CACFP-550 regarding incorporated providers applies. The agreement must be with the provider, not the housing authority. (586)

23. An FDCH has incorporated, and there are three people involved with the operation. Who should be signing the agreement with the sponsor? Upon whose income is the tiering determination made? Whose children can be claimed?

Person A applied for the license, and her home is the one licensed and is where the care is occurring.

Person B was hired by Person A to provide the child care; they are the “caregiver.”

Person C is the president of the corporation.

Person B is the ‘provider’ for purposes of the CACFP since they are the person actually giving the care and serving the reimbursable meal. He/she is the appropriate person to sign the agreement with the sponsor and receive the reimbursement. If Person B lives outside the home where care is given, then their children would be considered ‘provider’s own’ and can be claimed if other eligible children are enrolled and claimed.

If tiering can be established based on school data, then Person A’s home would be used. Person A is not the provider, so their income, would not be considered. Person A’s children would be residential, but not ‘provider’s own’, so would not be eligible for reimbursement, nor would their presence at day care make Person B’s own children eligible for claiming.

Person C is not the provider, so will not be signing the sponsor’s agreement, nor receiving the CACFP reimbursement check. Their children, if not residential at the day care location, can be claimed if income eligibility requirements are met (which would only be necessary if the home is tier I by income.)

24. During the summer when school is out of session, a mom sends her daughter to live/visit with her family in another city or state. In this situation the daughter is going to her aunt's house who is a Tier I FDCH provider. Can the provider claim her niece's meals for CACFP?

A. It depends. CACFP-217 allows children living with grandparents and non-parental family members who are also FDCH providers to participate in CACFP as provider's own. CACFP-217 also goes on to say that if there is a contractual agreement, whether formal or informal, with a provider for residential child care, and whose relationship with the provider is defined primarily by the child care situation, the child would not be considered provider's own. The key is to determine if the child is living with the non-parental family member, just visiting or in the home for the purpose of child care only. (641)

25. When Provider A goes to mandatory training sessions conducted by his/her sponsor, can Provider A claim the meals served during the training even though arrangements are made with Provider B to care for Provider A's children (provider's own & other enrolled children) in Provider B's home?

A. No. If Provider B participates in CACFP, he/she may claim the meals. Provider A may only claim the meals if an alternate caregiver cares for the children in Provider A's home during the training session. (641)

26. Is it acceptable for two providers who share a duplex with two separate licenses to prepare their meals in one of the locations and transport the food to the second location? If so, can the two providers also submit one menu but two separate meal counts?

A. It is acceptable for the providers to work cooperatively with one another in the preparation of their meals; however, each provider is responsible for fulfilling its agreement with the SO. Each provider must submit his/her own paperwork to the SO including menus. NOTE: It is understood that this example is for two separate residences. The nature of a duplex is that there is a wall between separating them as two residences. (662)

27. May a provider claim her visiting grandchild for reimbursement?

A. If the grandchild is spending the night with grandma, that makes the grandchild residential. Then the determination must be made if the child is provider's own. In most cases of children visiting grandparents, they would not be considered provider's own. (662)

28. A facility in a residence is licensed as a preschool – not a group day care home or FDCH. May this licensed preschool participate as a FDCH in CACFP?

A. The preschool could participate as a center, not as a FDCH. (684)

29. A Tier I FDCH provider has a school-aged child who comes home for lunch on school days and then returns to school in the afternoon. Can the meals served to this child be claimed for reimbursement?

- A. In the past, our answer would have been that the school-aged child has access to the NSLP; therefore, the child should eat school lunch and be claimed by the school. However, we are going to allow the FDCH provider to claim the school-aged child as long as the child is enrolled for care at the time of the meal and other non-resident children are served lunch at the same time. (684)
- 30. A provider's own child has been recognized as having some emotional difficulties (threatened suicide, tried to set fire to the house, etc.). The child is apparently home during the day and after school. Can this child be claimed for meals when other children are in care? If so, who should provide verification that the child is disabled?**
- A. Since the child is over the age of 12 years old, the child would need to be considered either mentally or physically handicapped/disabled as defined in 226.2 in order to participate in the CACFP. Children are defined as "... (c) persons with mental or physical handicaps, as defined by the state,..." It is up to the state to define what is considered a mental or physical disability. Payment can be made for meals served to the provider's own children if the conditions of 226.18(e) are met. (684)
- 31. A corporation owns a home and provides the facility for day care. It hires a person to be the licensed caregiver, and pays the person a salary. The agreement is between the SO and the caregiver. Who should receive the reimbursement check?**
- A. The caregiver should receive the reimbursement check because the SO has an agreement with the caregiver and not the corporation. The SO may not give the reimbursement check or make out the reimbursement check to an entity that it does not have an agreement with. (See CACFP-550) (555)
- 32. A SO enters into a CACFP agreement with the individual provider, not the corporation who actually owns the home. As the result of an audit, an overclaim is assessed against the provider. When the SO attempts to recover the overclaim, the provider responds that she will not re-pay the CACFP funds because the corporation removes her from personal liability in matters such as this. What steps can the SO take to recover the funds?**
- A. The agreement is with the provider and the corporation cannot shield the individual/provider that signed the agreement from collection. Agreements with providers should be very clear on this point. (555)
- 33. A group home is incorporated, and three individuals are partners. All partners are considered "employees". Some children attending this home are children of the employees. A SO enters into a CACFP agreement with one individual. Only the income of this individual will be considered for tiering purposes. Will children of this person who signed the agreement be considered "provider's own children"? Will the children of the other partners be considered "outside children"?**

- A. Yes to both questions. However, if more than one of the partners shared the residence, additional issues such as determining an "economic unit" and how to determine income, and the residency versus non-residency of the children must be considered. (555)
- 34. A corporation owns two 4-plex apartment units. It pays the eight providers an hourly wage to care for children and uses each provider's income to determine tier eligibility. Each provider is licensed with a separate address. The meal reimbursement checks are made out to both the corporation and the provider, is this allowable?**
- A. No. The checks must be made out to the provider with whom the sponsor has the agreement. Only the provider's name can be on the check. (580)
- 35. If a person has signed a provider agreement with a sponsoring organization, does that person have to be the one who is actually in the home giving care, preparing the meal, keeping the CACFP records, etc.? (This question arose from instances where a person is licensed as a day care provider, but they hire someone else to conduct the care and feeding of the children since they are actually employed out-of-the home full time.)**
- A. The CACFP, as it relates to the day care home side of the Program, was intended to support the actual care givers who are meeting the immediate feeding needs of the Program beneficiaries (the children.) The individual signing the CACFP agreement, as the provider, must be the person who is on-site during the meal and is administering the requirements of the CACFP. There is no provision in the CACFP Regulation for a third party between the sponsor and the day care provider. (722)
- 36. Regarding the question above, does that mean that the provider must always be on-site and be the person actually conducting the meal service?**
- A. There are instances when a provider will have a helper and will be off-site for a period of time during the day; such as, running to the grocery store. This is different than the situation described above where the provider was actually absent from the day care environment for the majority of the day and was contracting out for day care. (722)
- 37. We understand that Minute Menu software does not recognize incorporated providers as an individual, so does not allow incorporated providers to claim their own children. Is this acceptable?**
- A. No. Provider's own children are the beneficiaries of the Program, and they cannot be excluded from Program benefits based on software restrictions. (722)

Financial Management

Also See Q&A memos CACFP-708 and 697, Assessing Interest in the CACFP

- 1. What interest rate should a SA use to charge institutions? Is it the same as the Federal rate and what is the source/regulation that documents the Federal interest rate?**
 - A. The Current Value of Funds Rate is published annually in the Federal Register by the Department of Treasury and should be used to determine current interest rates. This is the same rate that should be used for all debts owed to the Federal Government (unless other specific statutes apply). (692)

- 2. A sponsor of homes wants to protect their appeals officer with liability insurance. Is this an allowable cost?**
 - A. Yes. (692)

- 3. Is there a restriction on the number of times a sponsor can change their administrative budget?**
 - A. No, not from a RO perspective. However, the SA may set some limiting guidelines. (212)

- 4. Is there a resource available that lists the items that require specific, specific prior written, and/or FNS approval of sponsors' administrative costs?**
 - A. Yes, a chart was developed to aid in identifying the type of approval required for different types of expenses claimed by sponsors. Please see the attached chart.

- 5. In the above instance there is a provision that the merchant/vendor may choose to pay the tax for the sponsor. Can the SA require those sponsors to deal only with such merchants/vendors?**
 - A. No. However, the SA may choose to advise the sponsors of those merchants/vendors as a courtesy. (364)

- 6. When institutions participating in the CACFP receive donated foods, it is possible that the CACFP reimbursement could be more than the costs of operating the CACFP. How is this handled to ensure nonprofit status is maintained?**

- A. The determination of nonprofit status does not mean the institution operates its nonprofit food service program at a loss or break-even condition. It does require that any excess of revenues over expenses is retained and used only in the nonprofit food service program. Instruction 796-2, Rev. 3, states that SAs may determine what constitutes an excessive nonprofit food service program balance. (586)
- 7. Does USDA have a limit on the length of time of a repayment schedule that a SA may agree to in order to collect an overclaim in the CACFP?**
- A. While there is no regulatory requirement in this matter, we recommend that SAs collect overclaims in a period of 12 months or less. In extreme circumstances, a repayment schedule might be extended as long as 36 months. (180)
- 8. Blank**
- 9. Blank**
- 10. Are SOs required to return money to FNS via the SA from uncashed provider reimbursement checks?**
- A. Yes. It is imperative that SOs complete bank reconciliation statements to determine outstanding checks. If checks are outstanding for a period of time it indicates the check may not be cashed, and this money must be returned to FNS via the SA. (641)
- 11. If a sponsor returns money to FNS via the SA due to uncashed provider checks and the provider cashes the check later, will FNS reimburse the SO via the SA?**
- A. Yes. It may take a while for the details to be worked out and for this reimbursement to take place. One factor affecting the reimbursement is the FY affected. The SO might check with their bank to determine at what point checks are no longer cashed. The bank should be able to give the SO an answer regarding time limits on cashing checks from the date written. (641)
- 12. A sponsor of homes does not report all costs because they only get paid homes X rates due to the fact that administrative costs are more than homes X rates. Is this acceptable or should sponsors report all costs associated with the CACFP?**
- A. Sponsors should report all costs. The Management Improvement Guidance under 2.2 Sponsor Standards states, "Sponsor maintains a financial management and record keeping system that ensures fiscal integrity and accountability for all funds and property received, held, and distributed...." It also states, "Sponsor demonstrates that it has an acceptable financial management system and adheres to Federal and state financial management standards." SAs must ensure the financial viability of each sponsor. If an institution's costs exceed its reimbursement, the institution would need to explain what funds are used to pay for the difference between administrative

reimbursement and actual administrative costs. Reporting all costs and not just enough to justify reimbursement alerts the SA to potential financial difficulties. (641)

13. An SO wants to move its office to a new location. It found a location which meets its needs; however, the only parking available is on-street metered parking. There is a parking lot across the street which the SO could rent for a nominal fee and make available to providers who would come into the office. Would the cost of rental of the spaces in the parking lot be an allowable cost?

A. Yes. However, it is suggested the SO seek buildings with parking included and compare the costs to the desired location. If the total costs were comparable then there would be no problem renting the building where parking was at an additional cost. (580)

14. A SO wants to offer training for SOs and providers outside of its own. The SO would be providing all-day training sessions of which two hours would be required CACFP training. Can the SO charge for the two hours of training?

A. Yes. The cost would be allowable. However, the SO providing the training would have to separate the CACFP and non-CACFP costs out to show that no CACFP monies were used for the other training. Also, the SO must document that the other participating SOs do not have expenditures that would show that they provided training. (586)

15. A SO is enclosing a list of bulk creditable food items sold by a local distributor, along with reimbursement checks that each provider may order from. This list does not increase the postage needed to mail the reimbursement checks and is seen as a service to providers. Is this allowable?

A. No. Although the postage is the same whether or not the list of bulk creditable foods items is enclosed, the sale of these food items is not a Program activity. Postage is an allowable cost when used for CACFP purposes as explained in Instruction 796-2, Rev. 2, VIII A 5. In addition, this practice could appear to give USDA approval to this food distributor and perhaps afford an unfair business advantage. (555)

16. An SO is paying providers a higher rate of reimbursement than that established by FNS. The SO may be using administrative money to pay the, difference. Is this permissible?

A. The SO can use non-CACFP funds to pay providers at a higher rate than the reimbursement established by FNS, but it CANNOT charge the "extra" payments as an administrative cost. (451)

17. An SO wants to allocate its executive director's salary based on the revenue it receives instead of tracking every activity he/she performs. Should provider reimbursement be included as part of the revenue, and is this method of allocation permissible?

A. This allocation method can work in those cases where the executive director spends more time on the programs /activities that generate the most revenue and less on those that generate a smaller amount of revenue. However, this is not always the case. If the SA is unsure if this is a valid method, it could require time distribution reports for a test period or randomly request time distribution reports during the year. Provider reimbursement should not be included as part of the revenue used in the allocation. (451)

18. Are SO board members considered "employees", and therefore, eligible for "employee benefits"?

A. No. SO board members are usually not employees and would not be eligible for "employee benefits". However, if an employee also serves on the board, the individual's status as an employee would permit them to receive "employee benefits". (459)

19. A SO purchased a computer in the previous FY; however, it did not claim depreciation as a cost for the last five months of the FY. Can the SO show the five month's depreciation on a current claim?

A. No. The SO cannot claim depreciation for the previous FY. However, since costs are cumulative, it can claim a full year's depreciation for this FY. (376)

20. A SO did not claim FICA expenses relating to a deferred compensation 457 retirement plan for the period of February 1993. Can the SO carry over its share of FICA payments for these prior years to the current CACFP budgets?

A. The 457 retirement plan is an income sheltering plan that defers income tax only, but not FICA. FICA is to be paid as the income is earned, whether the income goes to the employee or is sheltered. It is allowable for the sponsor to charge the employer share of the FICA to the CACFP in the FY in which the expense is incurred. The SA is prohibited from reimbursing the sponsor for these prior year costs. (372)

21. Are there any funds other than SO administrative funds available for the purchase of computer equipment?

A. No. There are no other FNS funds available for this purpose. (337)

22. Blank

23. Are NET funds considered as income for a SO?

A. No. (372)

24. Blank

- 25. How should an emergency shelter handle incoming donated and commodity foods to insure documentation of receipt of these foods?**
- A. It should record the items received by date and the amount (i.e. 7/2/99: 1 case of apples). (586)
- 26. Can a SA, as the cognizant agency, approve accelerated depreciation? Circular A-122 states that a cognizant agency may approve a change in the depreciation method.**
- A. Straight-line depreciation is the only type of depreciation referred to in Circular A-122. The only purpose for accelerated depreciation would be for a SO to recoup costs quicker. Under no circumstances should an accelerated depreciation be used to decrease the useful life of a piece of equipment. The normal useful life of equipment should be the basis of depreciation. (376)
- 27. Is it acceptable for a child care center to receive funds from other sources for the food service?**
- A. Yes, this is acceptable since CACFP reimbursement does not cover all food service costs. The SA monitors the costs/CACFP reimbursement during reviews to ensure that the center's food service is not a profit making operation. (247)
- 28. Is accrued vacation to be expensed at the time it is earned or taken? When does it become a cost for a SO?**
- A. It should be recorded at the time it is earned and then expensed when used. (662)
- 29. A SO submits a request to the SA asking for retroactive salaries to be paid to individuals who were not on the payroll for a period of time (i.e., January through July) but were performing work for the organization. Is it allowable for the SA to approve retroactive salaries?**
- A. No. Payments may only be made to employees or contractors. If a person is working for an institution and is not paid, it would be considered donated labor. If compensation is to be paid either to employees or contractors, an agreement must be in place prior to the work being performed in order for payment to be made. (662)
- 30. If a SO's only source of revenue is from its participation in the CACFP, are costs associated with the general operation of the business allowed as an CACFP expense?**

- A. No. The rule of thumb to use when determining if a cost is allowable is to ask if the expense is necessary for the operation of the CACFP. In order for institutions to participate in CACFP, they must be viable, capable, and accountable. Viable institutions would be able to take care of the general operation of the organization without using CACFP funds. (662)
- 31. May a SA use CACFP funds to offset non-CACFP debts owed the state, (i.e., state tax liabilities owed by the institution)?**
- A. No. However, if it is court-ordered, the SA would have to comply. (662)
- 32. Is the SO liable for the overpayments made to FDCHs when the SO is unable to collect them?**
- A. If the SO identifies and establishes an overclaim of a FDCH provider and is unable to collect, the SO would not necessarily be liable to repay the money back to the SA. As long as the SO performed its monitoring, training, etc., duties appropriately and took appropriate steps to collect the overclaim, the SA could determine that the SO is not liable for the overclaim amount. If the SO did not identify this problem earlier because it had not properly monitored, trained, etc., its FDCHs, the SO would be liable and required to return the money to FNS via the SA. In contrast, if the SA or a Federal agency identifies a problem requiring an overclaim against a FDCH provider and the SO is unable to collect, the SO would be liable for that overclaim amount if the SA determines the SO has not fulfilled its duties. The SO should communicate with the SA regarding overclaims it is unable to collect for its concurrence on the appropriateness of the SO actions. (670)
- 33. A SO conducts internal audits/reviews each month of a few FDCH files. In many cases, this audit triggers a claim revision. In actuality, what this means is that the SO submits a revised claim one month for one FDCH based on the audit and the next month submits another revised claim for the very same month due to the audit of another FDCH. Upward revisions are always completed within the 90-day requirement. But what about downward revisions? The SO would like to only make these downward revisions once a quarter. Is this acceptable? And does it require FNS approval?**
- A. There is no prohibition against a SO submitting downward adjustments quarterly or even semi-annually. The SO needs a plan that has been approved by the SA to ensure revisions are submitted timely. These downward revisions do not require FNS approval. (670)
- 34. Blank**
- 35. What are the disposition procedures for equipment of an SO which is planning to cease participation in the CACFP?**

- A. If an item of equipment had a unit cost of \$1,000 or more, the SA may reserve the right to require the SO to transfer the equipment to another institution participating in the CACFP. Disposition procedures must be provided to the SO within 120 days after it ceases to participate in the Program.

If the SA does not require transfer of equipment with a unit of cost of \$1,000 or more, it may be retained or sold. The Federal government would have a right to an amount calculated by multiplying the current fair market value or proceeds from sale by the Federal share of the equipment. If the equipment is sold, \$100 or 10 percent of the total sales proceeds, whichever is greater, may be deducted and retained for selling and handling expenses.

Equipment with a unit acquisition cost of less than \$1,000 may be sold, retained or otherwise disposed of with no further obligation to the Federal government. (247)

7 CFR Part 3015.165(c), .165, and .168; and A-122, Attachment B, Item 36 state the disposition of such items. (534)

36. Blank

37. Can an administrative advance be used to purchase computer equipment?

- A. The SO may make computer purchases with an administrative advance. However, it still must pay other administrative expenses out of the advance funds. (337)

38. A FDCH SO provides each of their providers with a printout of reimbursement at the end of each calendar year for tax purposes. However, often providers misplace these and request second copies. May the FDCHSO charge for these second copies?

- A. No. Part 226.18(b)(9) prohibits any SO from charging a fee to FDCHs for its Program administrative services. (393)

39. A FDCH SO is creating and publishing a program aid using its administrative monies and will provide each of its providers with one free copy. The SO would like to make this publication available to other providers. How would they handle the costs?

- A. The SO may not make any profit from the sale of the publication since the ownership rests with USDA. The SO may only charge the costs of publication and mailing/shipping. Also, the costs of the extra publications may not be charged as administrative costs. The SA should monitor the situation closely to ensure compliance. (393)

40. Blank

- 41. A Credit Bureau contacted the SA requesting that reimbursement for a FDCH be sent to it. Is this allowable?**
- A. No. This can only be done if the claimant is the Federal IRS. The reimbursement check must go to the provider. ~~Reference CACFP 230-5, CACFP 293-3, and CACFP 314-3.~~ (567)
- 42. Blank**
- 43. Are there any general guidelines on salaries, i.e., percentage of salary in relation to total budget, number of employees in relationship to number of homes sponsored, etc.?**
- A. There are no general guidelines regarding salaries. Circulars only address the reasonableness of the salary for services rendered and if the salary is comparable to that paid for similar work in the labor market. The SA may want to establish its own guidelines in this area. (247)
- 44. Is there any guidance on employee bonuses paid at the end of the year when the Board of Directors voted to pay a bonus?**
- A. Incentive compensation to employees is allowable if the overall compensation is determined to be reasonable and the incentive compensation is paid based on an established plan that was in place prior to services being rendered. A bonus paid at the end of the year by vote of the Board of Directors would have to meet the two criteria for incentive compensation to be allowable. (247)
- 45. Are there guidelines on what indirect costs may be paid from CACFP administrative funds? What percentage of indirect costs may be charged to the Program if there is no existing indirect cost rate agreement?**
- A. Indirect costs and rates are discussed in Circular No. A-122, Cost Principles for Nonprofit Organizations, Attachment A. There is no set percentage of indirect costs that can be charged to the CACFP when there is no existing indirect cost rate. We suggest the SA work with their Finance staff and SOs to determine the allowable indirect costs. When an SO is audited, the auditor may assist the organization in identifying its indirect costs. (247)
- 46. Blank**
- 47. If an institution repays its overclaim, but not the *interest*, must the SA declare the institution seriously deficient if the institution does not pay the interest charge?**

- A. The CACFP Regulations require that the SA charge interest on all debts assessed against sub-grantees. Once the interest has been assessed, however, the Program Regulations are silent concerning the question of any threshold for collection for interest. So, if Program Regulations are silent, we would defer to the state's own procedures. If the state's statutes or procedures allow them to waive an interest amount (for instance, any charge under \$5.00), then they would not have to collect the interest assessed. If, however, the state's rules don't address this, they would be required to not only assess the interest, but to collect it also. There is no official Federal threshold on interest owed in these cases. (722)

The FNS considers the *interest* charge to be part of the overclaim, so if the state has no *interest* disregard threshold, FNS would see this instance as one where the institution failed to fully repay its debt. The institution may not understand the interest payment, so technical assistance may be necessary.

- 48. Must a sponsor use the 60/90-day claim guidance when determining the lateness of a provider's claim? For example: a provider sends in her meal counts four months late (or revises her counts that late) and the sponsor would like to simply add those counts into a current claim, even though the provider's meal counts are not for the same month as the sponsor's claim.**

- A. Provider meal counts for February must be reported within the sponsor's February claim. In this way, providers are not held to the standard of submitting original claims within 60 days, but they are required to submit their meal counts to the sponsor in time for the sponsor to include them in a revised claim. Therefore, the providers are held to the 90-day claim submission deadline. (722)

- 49. Can SAE funds be used to cover the cost of debt collection activities?**

- A. Yes. However, it might be more cost effective to use SAE funds on preventative activities such as training and technical assistance. (364)

Food Safety and Sanitation

- 1. Can home-grown dehydrated fruit and vegetables be served in the CACFP?**

- A. No. Home-grown canned fruits and vegetables are not acceptable because of safety concerns. Home grown dehydrated fruits and vegetables would be included. (586)

- 2. Kentucky Fried Chicken (KFC) donates food to a food bank, and an ADC center wants to use the KFC in their CACFP. Do FSIS rules affect this situation? Does the chicken meet meal pattern requirements?**

- A. The chicken does not require FSIS inspection and a product analysis does not have to be provided. However, the burden of proof that meal requirements are met is on the center. The center could contact KFC to obtain precooked weights of chicken prepared by KFC to determine if the amounts met requirements. (349)
- 3. Can nonfat dry milk that has been on the shelf for some time be used without boiling it (not used to meet the meal pattern but for "other")?**
- A. Nonfat dry milk is a pasteurized milk product. Unless the product has been mishandled after opening and gotten contaminated, it should not need boiling. (180)
- 4. Can a center accept donations of food?**
- A. This should be determined by the appropriate state or local health department. (180)

Food Service Management Companies

- 1. During the summer, Center A purchases portions of meals from Center B. Center A has no kitchen and vends from a school food authority during the school year. Center A and Center B are not part of the same organization. Must there be a contract in place for these meals?**
- A. Center B is a FSMC as defined in the CACFP Regulations. If Center A is a private non-profit center, it follows 3019 which states that formal bidding procedures are followed for contracts \$100,000 or more. If Center A is a public center, it follows 3016 which allows the threshold to be \$100,000 if the state or local procurement rules are that high. If the purchase is not high enough to require formal bidding procedures, there should still be an agreement stating the arrangements between the two parties. The Regulations at Part 226.21 discusses FSMCs and Part 226.22 discusses procurement standards. (662)
- 2. A HS center participates in the CACFP and contracts with a day care center (located in the same building) to purchase meals. In addition, the HS signed an agreement to pay half of the cook's salary which is separate from the contract to furnish meals. Is this allowable? Should the cost of the cook's salary be included in the total cost of the FSMC contract?**
- A. It is allowable for the HS center to pay half of the cook's salary. If the day care center participates in CACFP also, we have allowed agreements of this nature. However, if this day care center does not participate in the CACFP, the SA must ensure that open and free competition exists and that the proper procurement procedures are followed. The cost of the cook's salary is a part of the agreement/contract and needs to be included in the total cost of the agreement/contract. (684)

3. Can a center directly purchase meals from a school that contracts with a FSMC?

- A. No. The center would have to procure meals through normal procurement procedures. Since the school is not the agent preparing the meals, the center would need to go out for bids or price quotes allowing for open competition. A determination of whether formal or informal procedures are used is based on the dollar value of the center's food program. (555)

4. A group FDCH receives meals from a school. Should the agreement be between the FDCH and school, or the SO and school?

- A. This would be up to the SA. Part 226.16(g) states that an SO may deduct monies from a FDCH's reimbursement for meals; therefore, it may be between the SO and the school. (451)

Head Start

1. A HS Program prepares its own meals but is thinking about signing an agreement with a school for meals. Would the school claim the meals under the NSLP or would the meals be claimed by the sponsor under the CACFP?

- A. If the HS Program is not part of the school system, the school could not claim the meals under the NSLP. The school would charge the sponsor a set amount per meal, which the sponsor would claim under CACFP. The SA would need to ensure that the meals are not claimed under both Programs. (314)

2. HS operates parent/child centers in which parents attend with their birth to 3 ½ year old children. Can these centers participate in CACFP?

- A. Yes. According to Health and Human Services, these are approved HS programs and children are enrolled for care. (349)

3. In rural states, the HS program is conducted in homes because it is not feasible to expect children to be able to attend a center every day. In these situations, the homes get together for cluster meetings. In some states these cluster meetings may be called socialization day. These cluster meetings may occur in the evening and supper is served. Are these meals reimbursable? Are the meals reimbursable if the parent attends?

- A. These meals are reimbursable if the children are enrolled, the facility is licensed, and the facility is approved to serve a supper meal. It does not matter if the parent attends or not as long as the children are enrolled and the meal is served in a licensed facility. (641)

4. **If the economically eligible HS children are in care with the same agency in the same building after the HS day, can the program claim the third meal served to the child at the free rate? Or would the agency have to have an income eligibility statement? Would it be any different if they were in a different building, but under the same auspices of the agency?**
- A. The program can claim the third meal served to the children at the free rate, as long as the children who are enrolled with HS are from low-income families. HS regulations require that at least 90 percent of the enrolled children be from low-income families. Children who participate in HS but who are not determined to be income eligible or who participate in a state-funded HS program, need to complete F/RP application in order to be considered eligible for F/RP meals. The income information can be shared between the HS and the day care and should be readily available since children are in the same building, with the same agency; therefore, obtaining another income eligibility statement is not required. It should not be any different if they were in a different building, but under the same agency. (601)
5. **An institution operates both a HS and a child care center. Can it confer one child's automatic eligibility in HS CACFP due to HS eligibility to a sibling in the child care center?**
- A. No. A child's automatic eligibility in HS, or in Even Start, cannot be used to confer eligibility in CACFP for a brother or a sister. The facility would have to obtain an income eligibility statement from the household to determine the sibling's eligibility. (615)
6. **A HS sponsor of centers has determined a child in facility #1 as automatically eligible based on their being both: 1) in a Federal HS slot and 2) meeting HS income guidelines. A couple of months later, the child moves from facility #1 to facility #2 which is another HS facility under the same sponsor; however, facility #2 is a state facility rather than Federal. Can the child continue to be automatically eligible for free meals?**
- A. The child no longer fits the first criteria of in a Federal HS slot; therefore, the sponsor may not claim the child as automatically free. An IEF needs to be completed for the child to determine eligibility status in the state facility. (641)
7. **~~CACFP 427, page 3, states that~~ at the beginning of each year, the determining official must establish whether each child meets or continues to meet the conditions for automatic eligibility. If HS has a 2-year eligibility period, is that acceptable for CACFP?**
- A. As long as a child is in a HS slot that meets the income guidelines for HS, we consider the child automatically eligible for CACFP. (653)

8. If the HS application includes all CACFP required information, may a HS center or sponsor of HS centers use that application in lieu of taking a separate IEF for CACFP?

A. Yes. The SA may consider the HS application an alternate form of IEF as long as it is equivalent to what is required on a CACFP IEF. (662)

Income Eligibility

1. In order to avoid a break in reimbursement, a SO of day care homes signs the F/RP application for its providers who are income eligible. Is this allowable?

A. No. (414)

2. May an institution accept an income application form via fax?

A. FNS would allow it if the SA has approved it. Assuring the validity of a faxed signature would be similar to that of an original signature, other than being able to compare colors of ink used.

3. May a sponsored center be considered a receiving entity of IEF information as per CACFP-563?

A. If the sponsored center is the determining entity for other IEFs taken, then YES, they can be the receiving entity. (594)

4. A SA requires that IEFs be taken for October through September to coincide with the Federal FY. May institutions re-evaluate IEFs on file when the new IEGs are issued.

A. No. If the institutions wish to utilize the new IEGs, they must take a new IEF from the family. (594)

5. Does a F/RP application have to be complete, i.e., did not contain a signature, before it can be approved?

A. Yes, a complete application is needed before a determination of eligibility can be made. (180)

6. Copies of F/RP applications are often requested by a SA because of review findings and used in an appeal. These forms are then available to an Appeal Officer and Legal staff in this process. After such process is completed, these files are public records. Does this cause a problem in the confidentiality of these documents?

- A. The appeal process and involved persons are part of the administration of the Program. If other persons request access to these files, the requests should be handled under the State's Freedom of Information Act procedures. Quite often states restrict some information; e.g., names of individuals, etc., therefore, families would be protected. (349)
- 7. Does a guardian completing an IEF for an adult participant have to sign and give his/her SSN?**
- A. Yes. If a guardian completes and signs an IEF on behalf of a participant, his/her SSN must be given. (364)
- 8. A Native American Tribe shares income from various programs with each member of the tribe. Each person in a household gets \$125 a month. Should it be reported as income on the IEFs?**
- A. Yes. Page 31 of the Eligibility Guidance states that any money that may be available to pay for a child's meal is to be counted as income. (400)
- 9. Is documentation required for disabled children over 12 years of age who are no longer in school because they have reached their learning level and do not have an IEF from the school?**
- A. Part 226.2 of the Regulations under the definition of children states, "... (c) persons with mental or physical handicaps, as defined by the state, enrolled in an institution or a child care facility serving a majority of persons 18 years of age and under." It would be up to the state to determine what documentation is required for these individuals. (586)
- 10. Can the income of temporary census workers be excluded from consideration as income under the CACFP?**
- A. No. There is no statutory or regulatory authority to authorize such an exclusion. (615)
- 11. A parent completes an IEF for his/her child who is being cared for in a Tier II FDCH. The parent does not date the IEF. May the meals served to this child be reimbursed at Tier I rates as long as the information provided by the family indicates its eligibility for Tier I?**
- A. Yes. According to the definition of "Documentation" found in the Regulations, it is not a requirement that the parent date the IEF. However, institution personnel must document the approval date indicating the date meals served to the child may be claimed at the Tier I rates. (670)
- 12. An employer matches an employee's contributions to a 401 K type retirement fund. Should these matching funds be counted as income?**

- A. No. These matching funds would not be available to the family. Therefore, they would not be income. (567)
- 13. A disabled adult (other than one living with their spouse and/or their children) would be considered a household of one. Does it follow then that if this disabled adult (Jane) is living with a friend (Sue), then Jane's income would not be considered as part of Sue's household income when Sue is completing an income eligibility form (IEF) for her children's day care center?**
- A. The CACFP Regulations define adult day care and child care differently. See Part 226.2 – Family. Therefore, if Sue is completing an IEF for a child care facility and she and Jane are part of the same economic unit, (sharing household expenses), then Sue must include Jane and all of her income (pension, disability payments, social security income, etc.) as part of the household income. (722)
- 14. Are funds received from the GI Bill considered as income?**
- A. Yes. These funds are usually paid directly to the veteran to cover any expenses he/she might encounter. However, if the funds went directly to the institution for tuition, they would not be considered as income. (459)
- 15. Military personnel receive an allowance for rations in their paycheck which is not taxed. Should this allowance be considered as income?**
- A. Yes, since it is received in cash. However, benefits such as base housing which are not received in cash would not be considered as income. (322)
- 16. CACFP-691 provides guidance regarding military income of deployed during Enduring Freedom. However, if a deployed person sends all his/her income home then part of it is sent back to them, what portion is included on the IEF completed by the family with children in care?**
- A. As a special situation that is an exception to the rule, FNS is establishing that only the part of the deployed person's military income that is available to the family should be counted. Therefore, the amount that is sent back to the deployed service member is NOT counted as income in/to the household. (722)

Infant Meals

Also See Q&A memos CACFP-617: Issues Related to Feeding Infants in the CACFP, and CACFP-600: Infant Meal Pattern.

1. What is the definition of an infant in the CACFP?

- A. We interpret an infant to be a child who has not had their first birthday. (630)

- 2. Can honey in any form be given to children under 1 year of age?**
- A. Honey should not be given to, or used in foods for infants under 1 year of age because of the possibility of infant botulism. (221)
- 3. Can dry powdered infant formula be used instead of ready-to-feed formula?**
- A. Yes, either formula may be used as long as they are in conformance with the definition in Part 226.2 for infant formula. (230)
- 4. If a doctor recommends whole milk for an infant age 6-7 months, is this a reimbursable meal?**
- A. Yes, the meal is reimbursable because of medical or dietary reasons. However, the doctor's supporting statement must be on file. (180)
- 5. Is canned goat's milk acceptable for the Infant meal pattern?**
- A. If state and local standards define goat's milk as whole pasteurized unflavored fluid milk, then it is acceptable. (180)
- 6. Can a FDCH provider claim her own infant when formula furnished to her by the WIC Program is the only food item served?**
- A. Yes. A FDCH provider can claim her own infant when only formula or breast milk is given to the infant. The formula may be either store bought or provided by WIC. (630)
- 7. Could meals be claimed for a breastfed infant, 3 months or younger, if the physician prescribes solid foods; i.e., infant cereal, for the infant?**
- A. Yes. Meals can be reimbursed if the infant is offered the cereal in addition to consuming 4-6 ounces of breast milk or formula at the respective meal. (364)
- 8. Can breast milk be from a milk bank, or must it be from the mother?**
- A. Breast milk from a milk bank is acceptable. We do not get involved as to the source of the milk as long as it is provided by the mother. (180)
- 9. Can a provider deduct the cost of formula provided by the parent from the parent's cost of day care?**
- A. It has been the policy of the agency not to get involved with what providers charge parents. Parents can be charged different amounts by providers. This would not be considered a pricing situation. (322)

- 10. Are infant meal patterns flexible to reflect ethnic feeding habits and/or patterns of the parents? Background: infants in care at an inner-city high school day care center are used to highly spiced table foods at home.**
- A. For infants less than 8 months old, the answer is yes. The solid food components included in all the meals in the infant meal pattern for infants less than 8 months old are optional. For infants 8 months and older, the infant meal pattern is flexible to reflect ethnic and cultural food habits to a certain degree. Foods such as fruits, vegetables, fruit juices, meats, fish, poultry, egg yolk, cooked dry beans, peas, and cheese products could include home prepared ethnic or cultural foods. However, the requirements for iron-fortified infant cereal, and bread or crackers, which must be made from whole-grain or enriched meal or flour, limit flexibility with respect to ethnic and cultural food preferences. (364)
- 11. Can a provider choose to care for a breastfed infant and not care for a formula fed infant due to the cost of the formula?**
- A. No. In this case, it would not be right for the provider to manipulate the CACFP by being selective with the type of food the family has chosen to feed the infant. ~~Once the choice is made to participate, the institution or facility could not manipulate the system and only take/claim breastfed infants.~~ (364)
- 12. CACFP Regulations call for iron-fortified formula for infants. Can a center serve low-iron formula without a doctor's statement and still be reimbursed?**
- A. No. Feeding Infants (FNS-258), page 24 states "Formula labels which say 'low-iron' do not meet the meal pattern requirements. They may be served only as a dietary substitute which requires a note from a medical doctor/other recognized medical authority." (393)
- 13. Do infants have to be fed within the approved meal times to be reimbursable?**
- A. No. Infants may be fed when they are hungry and the meal is reimbursable. (580)
- 14. A parent wants her baby to receive only organic foods. The parent uses an organic baby food that she wants the provider to purchase which is more expensive than the infant cereal used by the provider. Does the provider have to purchase this baby food for the one child?**
- A. No. The provider provides an infant cereal. If the parent does not want this cereal the parent can furnish her own cereal. The provider would not claim this child's meals if the parent provides all the food. However, if the provider provides one of the components in at least the minimum quantities specified in the meal pattern, the provider could claim the meal as reimbursable. (615)

- 15. A 12+ month old infant is still consuming breast milk. According to the CACFP Meal Pattern, breast milk is not an option for fluid milk. Is a doctor's statement needed for this situation since it deviates from the Meal Pattern?**
- A. No. There are no ramifications for an otherwise healthy child who is over 12 months of age consuming breast milk rather than fluid milk, as long as the infant is also consuming solid foods. The American Academy of Pediatrics has recommended that mothers breastfeed infants until the age of two years old, as long as it is still mutually desired. (684)
- 16. If a FDCH provider or employee of a day care center breastfeeds her own child, is it a reimbursable meal?**
- A. Yes. When a FDCH provider or employee of a day care center nurses her own child at the facility and the child is enrolled for care, reimbursement may be claimed for those meals. (684)
- 17. If a parent wants her baby to have a specific infant formula that is much more expensive than a regular formula, does the provider have to provide it?**
- A. We do not believe a provider should be required to purchase excessive costing formula because of a parent's preference. One option would be for the parent to pay the difference between the regular priced formula and the higher priced one. (180)
- 18. Can a CACFP center or home use and claim expired infant formula?**
- A. FNS doesn't establish product specifications for infant formula, so FNS hasn't issued guidance regarding expiration codes for infant formula. However, The Food Safety and Inspection Service (FSIS) has, and we are recommending the use of that guidance. A parent might choose to use expired formula, but CACFP has broader food safety and food quality standards to meet. So, expired formula supplied by either the parent or the child care giver is inappropriate for CACFP reimbursement. Attached are FSIS guidance pages. (722)
- 19. Can a parent provide a non-creditable formula and the meal be reimbursable?**
- A. The formula must be creditable for the meal to be reimbursable. (707)

Institutions

Also See Q&A memo CACFP-607: Participation of Emergency Shelters in the CACFP

- 1. May a SA deny the application of a sponsor of unaffiliated centers based on the fact it is a sponsor of unaffiliated centers?**

A. No. A SA cannot exclude an otherwise eligible institution, including a sponsor of centers, from applying for the Program. If the sponsor of centers submits an application, the SA must accept the application and evaluate it like any other institution. If the application is denied, the applicant must be given appeal rights. If the reason it is denied is because the institution is a sponsor of unaffiliated centers, we could not support the SA on appeal. However, there is more to this discussion. Public Law 106-224, Agricultural Risk Protection Act, requires that new sponsors must propose to serve unserved facilities. Policy memorandum CACFP-628, discusses this provision and may assist SAs as they develop policies for denying applications. (630)

2. Is a faxed signature okay for an agreement renewal?

A. No. Although allowable for reimbursement claims, our position would be that original signatures are necessary for agreements. This is an official 'contract' between the SA and sponsor/institution. Both the sponsor and the SA should have a copy with both original signatures on them and be retrievable for the required number of years. (567)

3. Is a housing authority considered a public entity?

A. Yes. In most cases housing authorities are part of city, county, or other public governing units. However, if there is any question, the applicant has the burden of proof in providing documentation that it is part of a the public entity. (349)

4. Would a letter from the umbrella organization which holds the IRS tax exempt letter be enough to show a center as having tax exempt status?

A. There are a variety of things that would show that the center is linked to the church:

- The center lists the church in its Articles of Incorporation
- The center is considered an asset of the church (listed as an asset in the church's financial statements);
- The center reports to the church regarding activities and/or financial activities;

Any or all of these would be adequate in documenting that the center is financially responsible to the church. The church does not have to file any paperwork with the IRS to extend their status to a center. (580)

5. Can an SA require a sponsor to attend an orientation meeting?

A. Yes, an SA may require sponsors to attend these meetings. (230)

Meal Service

1. **Can restaurant meals be claimed for reimbursement in the CACFP?**
 - A. Yes. Restaurant meals may be allowed providing the claimant has prior SA approval, and has proper documentation that the meal will meet meal pattern, quantity, and creditability requirements. It is expected that reimbursement for meals prepared and consumed away from the approved site will be rare and critically evaluated at the SA level. (459)
2. **Kentucky Fried Chicken (KFC) donates food to a food bank, and an ADC center wants to use the KFC in their CACFP. Do FSIS rules affect this situation? Does the chicken meet meal pattern requirements?**
 - A. The chicken does not require FSIS inspection and a product analysis does not have to be provided. However, the burden of proof that meal requirements are met is on the center. The center could contact KFC to obtain precooked weights of chicken prepared by KFC to determine if the amounts met requirements. (349)
3. **How should an emergency shelter handle incoming donated and commodity foods to insure documentation of receipt of these foods?**
 - A. It should record the items received by date and the amount (i.e. 7/2/99: 1 case of apples). (586)
4. **Are there time limits on special dietary statements?**
 - A. No. Our guidance does not discuss how long the statements are good for once obtained. (580)
5. **Is there a specific time when breakfast is to be served?**
 - A. This Region's policy is that in order for the meal to be claimed as breakfast, it should be served at a time traditionally considered as the normal serving time for such a meal. We consider this to be an a.m. meal ending before 10:00 a.m. (293)
6. **May salad bars be available to children participating in the CACFP when family style meal service is implemented?**

A. Family style meal service requires that the full amount of food be made available “at the table.” This would not appear to allow for a salad bar set up since it would probably be set up somewhere other than the table. If children served themselves from a salad bar, a trained adult would have to monitor the food service to ensure each child was served the full amount required of all components in order for the meal to be reimbursable. Otherwise, the meal service operates more like offer-vs-serve, which is not allowed in CACFP. (684)

7. A provider serves her own children pizza and the other children enrolled for day care something else. Is this acceptable?

A. No. All children in care including the provider’s own children must be provided the same meal. ((707)

8. A home/center has a child that it wants to feed vegetarian meals. Is it correct that the variations allowed in FNS Instructions 783-13, Revision 2, and 783-14, Revision 1, apply only to Jewish *and* Seventh-day Adventist schools, institutions, sponsors, *and their* facilities?

A. Yes. The home/center would have to stay within the established meal pattern to claim the meal for reimbursement if it is not classified as a Jewish or Seventh-day Adventist facility. (451)

9. A provider was serving three meals within three hours. Do the Regulations or Instructions address limitations on the length of time between meal services?

A. The Regulations address this only for OSHC. However, three meals within three hours is unreasonable. A SA or SO may develop policy on the amount of time between meal services. (414)

10. A provider has two shifts; the first ends at 3:30 p.m., and the second begins at 3:30 p.m. and ends at 11:00 p.m. The provider wants to serve two suppers to the second shift; one at 3:30 p.m. and the second at 7:00 or 7:30 p.m. Is this allowable?

A. No. The Q & A above dealt with serving supper at 2:00 p.m. and this was too early for supper since it is considered an evening meal. We believe that 3:30 p.m. is still too early. The provider could serve a snack, supper, and a snack. (594)

11. A facility buses children. The children who ride the bus are on the bus for as long as 1 1/2 hours. Other children who attend the facility do not ride the bus. Is it acceptable to serve and claim snacks to the children on the bus and not the children who do not ride the bus?

A. Since the children riding the bus are in care longer than the others and as long as the children on the bus are still considered to be in the care of the facility, snacks may be served to these children and claimed for reimbursement. However, if possible, we encourage the facility to try and serve all children a snack before they leave for the day. (670)

12. Can Nutrient Standard Meal Planning (NSMP) that is allowed in the NSLP be approved for a CACFP center that is either located in a school or being vended by a school that uses NSMP?

A. The SA has the authority to allow this or to restrict centers to the CACFP meal pattern. If NSMP is approved, the SA will conform to the meal pattern requirements that NSLP personnel would monitor upon review. If the meals are vended by the school, the center will want to retain copies of menu, production, and analysis records since it is the responsible claimant.

Monitoring

1. A center which dropped out of the CACFP the previous year has reapplied for participation. Should this center's schedule be based on the old review cycle?

A. No. This is a new application and it would have to be reviewed as a new center. (580)

2. Regarding the required reviews by the SO of new FDCHs within the first 4 weeks of operation, should these reviews be made within 4 weeks of the date of the agreement or when the FDCH actually begins operation?

A. The time frame for the review should be based on the day the provider starts feeding children and keeping records. We would encourage an SO to get in quickly to ensure the provider was serving meals and keeping records correctly. (470)

3. Are SA reviewers required to take an actual current attendance count by racial/ethnic group when conducting a review of an institution?

A. No. Instruction 113-4, Section VIII B 3 b (2) outlines the minimum items that must be reviewed relative to this. The SA needs to ensure that the institution is collecting this data. However, an SA can take an actual count if desired. (470)

4. Are IEFs collected as a result of corrective action for non-pricing programs to be maintained for three years, or longer if required for an audit with findings that have not been resolved?

A. Yes. (594)

5. How does a SA determine the number of institution reviews to be conducted each year? Is it acceptable to take the number of institutions approved as of November 30 and conduct reviews of 33.3 percent of that total? Or is the SA expected to continually monitor and update this number?

A. Part 226.6(1) states that SAs shall review 33.3 percent of all institutions; therefore, we encourage the SA to continually monitor and update this number. During MEs, the RO will look at the number of institutions participating in the Program during the year, even if they participated only one month. New institutions approved during the year would then be added to the approved institutions at the beginning of the year to determine the total number of institutions participating. (641)

6. An independent center is approved to participate in the CACFP but never submits a claim. Is it still considered a part of the pool of the total approved institutions when applying the percentage of institutions to be reviewed each year?

A. Yes. (653)

7. Are SAs required to go on site for institution reviews or may a SA ask institutions to submit documentation/paperwork for a desk review of the information?

A. A review of the paperwork may be done on site or in the SA offices. However, there are certain aspects of the review that must take place on site. Observation on site ensures the following:

- All children are treated equitably;
- Meal counting system provides accurate counts;
- Meal service provides reimbursable meals;
- Compliance with licensed capacity;
- On-site consumption of the meal;
- Children served are 12 years of age or younger;
- Safety and sanitation procedures are adequate; and
- Confirmation that the site exists and meals are served. (684)

8. The ARPA refers to scheduled "visits." Is this in addition to the regular monitoring reviews that are scheduled by both SAs and SOs?

A. No. The words scheduled visits and monitoring reviews are used synonymously. (653)

9. ARPA in effect changes the review cycle from 4 years to 3 years. What does this mean?

A. It was the intent with the issuance of CACFP-628 that the monitoring cycle would change from 4 years to 3 years effective October 1, 2000. Since SAs had been required to conduct reviews of one-third of their institutions each year anyway, FNS did not believe it would have a huge impact on SAs to make this change. (653)

- 10. Must SOs of affiliated centers be reviewed by the SA to determine that no more than 15% of the reimbursement is going for administrative activities?**
- A. ARPA does not distinguish between affiliated centers and unaffiliated centers regarding this requirement; therefore, all SOs of centers must meet the requirement, not just those that are unaffiliated (653)
- 11. An SA wants to conduct all visits/reviews unannounced. Is this acceptable since ARPA states that visits/reviews to SOs, FDCHs, and centers require at least one scheduled visit every 3 years? Do SAs need to ask for a waiver?**
- A. SAs may conduct all visits/reviews unannounced without approval from FNS. (684)
- 12. Blank**
- 13. New SOs must be visited within 90 days. When does the 90-day period start? For example, an SO is approved on the 15th of the month, but does not have active providers until the 20th.**
- A. The Regulations do not address this; therefore, the SA can make that determination. (544)
- 14. Does the first visit to a new SO have to be a complete review? The SA expects to be visiting the SO several times during the first year and will have a full review conducted over that period of time.**
- A. The Regulations do not itemize what has to be reviewed, only certain critical issues. As long as the SA insures that all necessary items are reviewed during the year, the first visit can be less than a complete review. (544)
- 15. If OSHCs are not on CACFP year around, can the number of monitoring reviews be prorated based on the number of months they are on the Program?**
- A. Yes, the number of reviews can be prorated based on the number of months the center is on the Program. (212)
- 16. Can the principle of prorating sponsor reviews (listed in Q&A 15 above) be applied to HS and other centers which operate fewer than 12 months?**
- A. Yes. An SA may develop such a policy. It is advisable that a review be required in the first 6 weeks of operation [for example, as for a new center in Part 226.16(d)]. Also, it is recommended that there be no more than 6 months between reviews. If problems are noted, the SO would be expected to do additional reviews. (437)

Outside School Hours Centers

1. **If a provision 1 or 2 school operates an OSHC, can the school IEFs be used for the OSHC?**
 - A. No. Documentation of currently enrolled children classified as F/RP must be available. This documentation for CACFP must be a completed household IEF which is not more than 12-months old and must be on file to substantiate meal counts and claims for reimbursement. [Part 226.19(b)(8)(i)]. (544)

Policy Statements

1. **If parents owe a nonpricing day care center money, can the center tell the parents their child will have to bring its own food if they don't pay?**
 - A. No, the center cannot do this and participate in the CACFP. The center will have to find another way to force the parents to pay or deny the child's admission to the center. (275)
2. **Can a day care center be both pricing and nonpricing on the CACFP?**
 - A. No, the Regulations [Part 226.23(a)] does not allow this. The policy statement must be either pricing or nonpricing. However, the institution could choose to be nonpricing and count all children as paid without collecting IEFs. If they choose to be pricing, IEFs must be collected to determine eligibility for paid, reduced price, and free categories. (322)

Pre-approval Visits

1. **SAs are permitted to allow licensing visits to count as pre-approval visits. How is a SA to implement this process?**
 - A. SAs need to contact licensing to determine if licensing reviews the areas that must be evaluated during pre-approval visits. SAs need to be aware of the content of these licensing visits. The purpose of pre-approval visits is to ensure that a site exists and that it is capable of providing meals to the population of children served. See CACFP-584. (641)
2. **Where licensing is not required but health and safety inspections are conducted, may the health and safety inspections suffice for the pre-approval visit?**
 - A. Again, SAs need to be aware of the content of these inspections. In order for these inspections to suffice for pre-approval visits, they must determine the existence of the site and that it is capable of providing meals to the population served. (641)

Procurement

1. **What kind of documentation is needed when a sponsor does not have to go out for formal bids?**
 - A. The sponsor must show that it allowed for competition. It must get price quotations by telephone or in writing. The record should reflect who was contacted, prices, dates, and the reason for not selecting the lowest bid (if applicable). (414)
2. **An SO of a center went out for bid for a FSMC. The only FSMC that responded was awarded the contract the prior year but had raised their prices significantly. Does the SO have to award the bid to that FSMC or since it is not in the best interest of the organization, can they go out for bid again?**
 - A. The SO may open the bid again, Part 226.22(h)(2)(ii)(E). (221)
3. **Must a sponsor include all food items in one request for bid or can the sponsor separate the bid by item type; i.e., frozen foods, dairy products, meats, etc.? However, when separated out, the individual requests for bid may be less than the small purchase threshold.**
 - A. The SA must determine what the sponsor's normal purchasing procedures are. If this is how the sponsor usually purchases these items, it is allowable to continue with that practice. In addition, sponsors are encouraged to, where feasible, separate large bids to allow for small and minority business participation. The sponsor cannot switch to this procedure to *get around* the bid requirements. (414)
4. **Do procurement procedures have to be followed if an SO does group purchasing for its FDCHs?**
 - A. Yes, procurement standards would need to be followed since the source of payment for the purchases is Federal money. (293)
5. **Must FDCH providers obtain price quotes from 3+ vendors when purchasing groceries/vended meals for their day care home?**
 - A. Providers are not required to follow Federal procurement regulations; however, states may have their own policies regarding secondary contracts. (653)
6. **Blank**
7. **What is the small purchase threshold for CACFP?**

- A. Public CACFP institutions must follow their state or local rules. A public entity with a small purchase threshold of \$25,000 would have to follow that rule for small purchases rather than the Federal threshold. Not-for-profit institutions may follow their own procurement procedures as long as those are consistent with the Federal requirements, or the not-for-profit institution may follow Federal requirements. This means that the small purchase threshold for not-for-profit institutions would be \$100,000 if following Federal requirements or less if following its own, more restrictive threshold. The small purchase threshold for for-profit institutions is \$10,000 as stated in Part 226 Regulations. (707)

Serious Deficiency Process

1. Can a center which has been disqualified (put on the NDL) reapply for the Program?

- A. Yes. However, the SA must obtain complete corrective action and obtain FNS RO approval prior to approving the application. (544)

2. An individual is listed on the NDL. This individual changed his/her name and is now at a different center participating in the CACFP. Is this allowable?

- A. No. It is the individual not the name that is seriously deficient. Individuals who are on this list, even if the name is changed, may not hold positions involving the CACFP. However, individuals may request that their name be removed by contacting their SA. If the SA is satisfied that an individual's name should be removed, the request needs to be forwarded to the RO. (641)

3. What is the procedure for removing a provider's name from the NDL?

- A. It will be similar to the process used to remove institutions from the NDL, except that the SA will be the sole judge of whether a FDCH provider has completed corrective action. The SO should submit a recommendation and the SA will determine if the FDCH provider should be removed. The reason the SA will be the sole judge is because of possible competitive pressures between sponsors and the potential financial motives for bringing a FDCH provider back on the CACFP inappropriately. (653)

4. How should an SA handle a center's request to be removed from the NDL?

- A. It would be inappropriate to simply say no to all requests. FNS does not expect SA's to drop everything to consider a request for removal from the NDL, but the SA has an obligation to review materials offered as proof of corrective action (burden of proof is on the institution). The SA's decision to not submit the information to FNS for approval is not appealable.

5. **A center's license has been revoked and the licensing agency has defined 'revoke' as a non-licensed status during the center's appeal to the licensing division. Should the SA use suspension procedures or regular serious deficiency procedures to move to terminate the center from the Program?**
- A. Since the center is no longer licensed, they are not eligible to be on the Program. There is no need to suspend since payment cannot be made anyway.

Sponsoring Organizations

1. **Can a stamped signature be used for signatures on sponsor/provider agreements rather than an original signature?**
- A. The SA should check what is required in state contract law. If the state contract law does not allow for stamped signatures, an original signature is required on the agreement. (601)
2. **Blank**
3. **Can a nonprofit SO of FDCHs sponsor ADC centers? Also, since the SO would not get administrative funds to administer the program for centers, could they charge a fee for their services?**
- A. Based on the definition of a SO in the regulations, a nonprofit SO of FDCHs could sponsor ADC centers. An amount could be charged for their services since this is allowable for child care centers and would also apply to ADC centers as well. (180)
4. **A SO is filling a staff position and has a person in mind. Does the SO have to advertise the position?**
- A. Not based on CACFP requirements, but the institution, especially if it is a public entity, may have requirements. (430)
5. **A military base does licensing for day care homes on the base. The military base at one time was also a FDCH SO. Now it only refers its licensed providers to one off-base SO. However, there are three other SOs in the state. Can the SA require that the military base be required to refer to all four SOs?**
- A. Yes. Then the providers may choose which SO to contact. (580)
6. **May a SO of FDCHs have a permanent agreement with its FDCHs?**
- A. Yes. A SO may have permanent agreements with its FDCHs. However, there are some items that need to be updated annually, such as licensing. (376)

Tiering

Also See Q&A memos CACFP-496, CACFP-499, CACFP-506, and CACFP-517: CACFP Tiering Implementation Q & As

- 1. A sponsor has a provider that it expects to qualify for Tier I. It has been reimbursing meals for the provider's own child at Tier II rates. Is this allowable?**
 - A. No. By definition, there will be no reimbursement to a provider's own child in a Tier II home. Meals for this child should not be reimbursed. Reimbursement for these meals should be recovered in an overclaim. (567)

- 2. For a foster child living in a Tier II home, how is the child's eligibility determined?**
 - A. The foster child is considered a family of one. The family's income would not be considered in determining the child's income eligibility. (534)

- 3. A corporation has a FDCH which is not in a Tier I area. The corporation does not have an income and believes it should be seen as zero income and be Tier I by that fact. Can this be done?**
 - A. No. The corporation is not a household and that is the entity that must be tested. In this case, the SO should test the income of the person giving care (the provider) in that home. If the person giving care says they are just an employee and does not want to have their income tested, then the FDCH will have to be Tier II. (544)

- 4. The final regulation on tiering (Improved Targeting of Day Care Home Reimbursement, dated February 24, 1998) changed the SA level, non-pricing verification conducted [226.23(h)(1)]. To which types of entities does this apply?**
 - A. Verification procedures at the SA level were changed for reviews of SOs of FDCHs ONLY. Verification for pricing and non-pricing centers, or sponsors of centers has not changed. (544)

- 5. A provider moved to another residence within the same school boundaries. The school was over 50 percent F/RP eligible last year when the provider was originally determined. However, the school has fallen below 50 percent this year. The provider was Tier I; can she remain Tier I?**
 - A. No. The provider was eligible through her previous address, but she must be reevaluated like any other provider who moved into the area. Therefore, she would be Tier II now using current school data. (552)

6. **A husband and wife have a license for a FDCH which their niece is operating for them. The CACFP agreement with the SO is with the niece. Whose income level is used to establish Tier I or II?**
- A. Although the license is for the aunt/uncle, the CACFP agreement is with the niece. Therefore, the income of the niece would be used for the determination of Tier I or II. (555)
7. **A Tier II mixed provider chooses one method of obtaining low income information for the children in his/her care and then changes his/her mind to another method. The Tier II mixed provider decides to have the SO provide IEFs to all children in care. After it is determined which children's meals will be reimbursed at the Tier I rate, the provider changes his/her mind to have parents provide in-hand documentation showing participation in state eligible plans. Is this acceptable and how is it to be handled?**
- A. Yes. The sponsor may allow the provider to change his/her mind on the method used to collect low-income documentation. Any children who are determined to be eligible for the Tier I rate will remain with that determination until such time that determination expires even though the provider changes his/her mind. (601)
8. **An income eligible school (for tiering purposes) is closing due to age and cost to repair. The other two schools that will be serving the area after closure of the aging school will not be income eligible. May providers that were determined Tier I eligible using the old school's data finish their 3-year eligibility or should their tiering status be redetermined using the new schools' data?**
- A. The providers may remain at Tier I until the end of their 3-year eligibility. (630)
9. **A provider is married to her second husband and they live in the same residence. He has a letter stating that he contributes nothing to her children from another marriage. Because of this written letter, the children were able to get Food Stamps. However, the CACFP definition of household would include the second husband and his income in the household. Is this provider approved as a Tier I FDCH based on Food Stamp Program eligibility or does an IEF need to be completed for the household including all family members and household income?**
- A. As long as the household/children are approved for Food Stamps, they are automatically approved for CACFP; therefore, the provider would be classified as Tier I. The Food Stamp Program Regulations state that if a man and woman are married, they should be considered as one household. If they are not married, they might be able to maintain a separate household status. In this situation, we would recommend that the state Food Stamp office be contacted regarding the discrepancy described above. (684)
10. **Can the 2000 Census information provided for CACFP be used to make eligibility determinations on military bases?**

- A. The 2000 Census data can be used. The Bureau of Census has informed us that the 2000 data collection did not distinguish military bases differently from any other group of people or location. The 1990 census excluded military bases information. (722)

Title XX

Also See Q&A memo CACFP-638: Public Law 106-554 Q & As Edition 1, Free/Reduced Price For-profit Centers

- 1. In determining the 25 percent eligibility requirement for a proprietary Title XX center, can children be counted toward meeting the 25 percent criteria if they are Title XX eligible but the Title XX funds are not received by the center? (180)**
 - A. No, CACFP Regulations allow proprietary institutions to claim reimbursement for only those months in which at least 25 percent of the enrolled children or license capacity were Title XX beneficiaries. Therefore, the Title XX funds must be received by the center. (180)
- 2. A SO has two Title XX centers. One center did not have the 25 percent of enrolled children that were Title XX beneficiaries. Can the meals for the other center be claimed?**
 - A. Yes, those meals can be claimed. (221)
- 3. A Title XX center submitted its renewal forms; however, for 3 months prior, the center did not meet the 25 percent enrollment requirement. Based on Part 226.6(b)(8), the 25 percent enrolled in the most recent calendar month must be documented. Can the center renew their application or must they wait until the month after the 25 percent has been met to send in their renewal forms?**
 - A. Since this is a renewal and not a new center, the center can renew their application with the understanding the claim will be submitted when the 25 percent requirement is met. (275)
- 4. In determining eligibility of a Title XX center can a fraction over 24 percent be rounded upward to establish 25 percent; i.e., 24.6 percent rounded to 25 percent.**
 - A. No, it must be 25.0 percent or more. (322)
- 5. A proprietary Title XX center participating in the Program is being sold to a new owner. May it continue to participate in the Program without a break in reimbursement?**

- A. Yes, assuming the center's 25 percent eligibility for the previous month would have been met under the former owner. However, the new owner should be made aware that he/she would be held responsible for any previous record keeping errors which might be found during a subsequent review or audit. (400)
- 6. For proprietary for-profit centers, is there a CACFP requirement to have a Federal tax identification number?**
- A. No. However, some states have this as a requirement to pay claims. (414)
- 7. Are Title XX centers required to complete the Office of Budget and Management Data Collection Form that is required of other entities that are required to have a single audit?**
- A. No. This form is only for non-profit organizations which exceed the \$300,000 threshold. Title XX centers do not fall into this category. (555)
- 8. Since institutions may not participate in CACFP if they have been determined to be ineligible in any other publicly-funded program for violating that program's requirements, may an institution participate if their Title XX contract is pulled for any reason?**
- A. Institutions terminated for cause from participating in another publicly funded program may not participate in CACFP. It appears that in various states, Title XX contracts can be pulled due to reasons that may not be serious in nature. In this situation, as long as the status of the Title XX contract is in good standing, the institution may participate in CACFP. (641)
- 9. To determine the 25 percent eligibility requirement of enrolled children in a proprietary Title XX center, how is enrollment determined when there are outside-school-hours children in attendance?**
- A. The total enrollment means all children enrolled in the center. (180)

Training

- 1. What policy/regulatory support does a SA have for requiring mandatory attendance of CACFP institutions at SA provided CACFP integrity training?**

- A. The general rule on SA training of institutions is stated at Part 226.6(a): "Each SA shall provide . . . sufficient training and technical assistance to institutions . . . to facilitate expansion and effective operation of the Program." In other words, SAs are required to provide training, and this requirement can only be met if institutions attend, or otherwise participate in, the training. Each SA is the judge of what constitutes attendance at or participation in training, and each SA must develop its own method of handling cases where institutions fail or refuse to attend or participate in required training. The bottom line, though, is that an institution that fails or refuses to attend or participate is out of compliance with the Regulations and "seriously deficient", in accordance with Part 226.6(c)(3)(ii)(C), (Q), (U), and, by inference, (O). (722)

Verification

1. In a pricing program, can the SA delegate the responsibility for verification to the sponsor?

- A. The SA may request the institution's assistance in acquiring the verification information, but the responsibility for actually conducting verification must be retained by the SA. (198)

Other

1. What are the publication dates of OBM Circulars A-110, A-122, 7 CFR 3015, and 7 CFR 226, and where can they be found on the internet?

- A. OPM Circular A-110, Dated November 19, 1993 as revised August 29, 1997; and OBM Circular A-122, dated June 1, 1998 are found at:

<http://www.whitehouse.gov/wh/eop/omb> 7 CFR 3015 and & 7CFR 226, both dated January 12, 1998, are found by choosing "National Archives and Records Administrator's Office of Federal Register" at the following address:
<http://www.access.gpo.gov> (580)

2. May Federal publications be reprinted? May Team Nutrition materials be reprinted?

- A. Materials developed with Federal funds are in the public domain. These materials can be reprinted with no problems, including Team Nutrition materials. If the state changes the document or modifies it to make it state-specific, then "USDA" should not be printed on the Team Nutrition logo. Some states replace "USDA" with their state name on the logo for materials they have developed or reprinted. However, Disney characters are no longer being used. There should be no reproduction of materials that contain Disney characters. (641)

3. Typically, emergency shelters serve meals to everyone. How should an emergency shelter participating in the CACFP document nonprofit food service?

- A. It is up to the SA to determine what it believes is reasonable for determining nonprofit food status and develop its own requirements. CACFP-572 says that emergency shelters must keep records that are adequate to determine the nonprofit status of the food service. The SA's procedures should include requirements that the shelter maintain a daily roster of children receiving meals, total meal counts by type, and menus for infant meals and meals served to children. These records can be used when determining nonprofit food service. (586)