

Administrative Manual

Family Day Care Homes Program
Child and Adult Care Food Program

CHILD NUTRITION PROGRAMS

The Utah State Office of Education
250 East 500 South
P.O. Box 144200
Salt Lake City, UT 84114-4200



Larry K. Shumway, Ed.D.
State Superintendent of Public Instruction
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QUICK REFERENCE FAMILY DAY CARE HOME PROGRAM

A

Accommodating Children with Special Dietary Needs

In the absence of guidance specific to the Child and Adult Care Food Program (CACFP), the policy *Accommodating Children with Special Dietary Needs in the School Nutrition Program* is considered to apply to the CACFP.

Administrative Budget

An administrative budget must be submitted to the USOE for approval each year and must represent projected administrative costs to be incurred in the normal course of conducting the program. Documented growth of participation for the prior year will justify an increase in the budget for the current year. The projected budget may be limited to 10% increase over the prior year unless sufficient justification is submitted and dependent on the SA's assessment of the situation. Additional growth past the 10% during the year will result in a budget amendment. The budget should be amended as needed during the year or as growth or other needs and changes occur. However, it is expected that at least one amendment will be submitted during the fiscal year adjusting the projected budget to be more in line with actual expenditures.

Projected costs must be:

- Necessary and reasonable for proper and efficient administration of the program.
- Authorized or not prohibited under state or local laws or regulations.
- Accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.
- Not chargeable to or included as a cost to any other federally financed program in either the current or prior period.
- Net of all applicable credits.
- Adequately documented.
- Approved by the board.

Generally Allowable Costs

These are customary costs that occur in the routine operation of the CACFP and which are allowed by 796-2 rev 3, OMB Circulars, FAR Part 31, Federal regulations and FNS and SA policies, guidance and instructions. These costs must be disclosed in the administrative budget and approved in advance by the SA. Approval of the budget results in the approval of the budget line items but is not a guarantee of allowability of any particular cost or funding of the budget line item (FNS 796-2 rev 3 (VIII D)).

Prior Approval

Prior approval is the phrase used to identify costs that must be specifically identified by item and amount during the budget submission process to permit the SA to fulfill the regulatory requirements of '226. The items must be specifically identified along with the cost before approval can be given (FNS 796-2 rev 3 (VIII E)).

Specific Prior Written Approval (SPWA)

This applies to costs that are not allowable unless the SA has provided the institution with specific prior written approval of both the cost and the amount of the cost that can be charged to the program before the cost is incurred. Specific prior written approval by the SA is required, because these costs are customarily incurred in the routine operation of the CACFP but can sometimes be necessary and reasonable for proper and effective program operations. Approval of a budget line item does not constitute adequate specific prior written approval for these costs. Whether submitted during the budget approval process or separately, the SA must approve or deny these specific requests in writing (FNS 796-2 rev 3 (VIII F)). (See **Specific Prior Written Approval (SPWA)**.)

Administrative Cost Payments

During any fiscal year, administrative cost payments to an SO are limited to payment of current rates times the number of homes participating, using the initial 50 homes, the next 150 homes, the next 800 homes, and additional day care homes as determined by the federal regulations.

Administrative Carry Over Payments

Although it is not required for a SO to retain carry over funds, a maximum of 10 percent of administrative payments not expended may be carried over into the next fiscal year. Any Administrative funds remaining at the end of the fiscal year that exceed 10 percent of that fiscal year's administrative payments must be returned to the SA. If any remaining carryover funds are not obligated or expended by the SO in the succeeding fiscal year, the sponsor is required to return the remaining funds to the SA.

Estimated carryover funds must be accounted for in the annual budget submitted to the SA for approval. An explanation must be included in the management plan explaining how the SO intends to use the carryover money. As soon as possible after the fiscal year closeout, the SO is required to submit an amended budget identifying the amount of administrative funds actually carried over and a description of the purpose(s) for which those funds have been or will be used. (See **Budget Procedure**)

Administrative Review (Appeal) for Providers

The SO must give a copy of Administrative Review rights and procedures to all providers annually and when the SO proposes to terminate or suspend the agreement with the provider for cause.

SOs may establish additional Administrative Review rights and procedures for providers in the Management Plan.

The SO must follow the same procedures for all Administrative Reviews. The SO must continue to pay all valid claims for reimbursement from the provider until the agreement is terminated. However, if the provider has been suspended and proposed for termination, payments are suspended.

Providers may retain legal counsel, or may be represented by another person. The day care home provider may review the records on which the decision was based. The provider can submit his/her refutation of the charges in writing or may appear in person at the hearing. In either instance, the provider is responsible for submitting information to prove he/she should not be terminated from the Program. All documentation must be submitted to the hearing officer prior to the hearing.

Administrative Review official(s) must make a determination based on the information provided by the SO and the day care home, and on federal and

state laws, regulations, policies and procedures governing the program. The determination made by the Administrative Review official(s) is the final administrative determination to be afforded the day care home.

As per the serious deficiency process, a proposed termination or suspension letter is sent, and will include the procedures under which the provider and responsible principles and individuals may request an Administrative Review of the proposed termination and disqualification. Within 10 days of receipt of the notice (as determined by the official documentation of the method of notification) the provider must submit a written request for an Administrative Appeal to the sponsoring organization. If the provider wants an in-person hearing with an appeal official, it must be stated in the request.

The SO must forward the request to the state office within 10 days, and must notify the provider of doing so. Any records the provider wants to submit to disprove the accusation must be submitted to the state agency within 15 days of notice to the provider by the SO that the request has been submitted. The hearing official will notify the provider, the SO, and the state agency at least 10 days prior of the hearing date, place, and time.

The hearing official will either make a decision from the records submitted by the provider, or by the records and the in-person hearing (if an in-person hearing is requested), within 30 days. A Memorandum of Decision will be supplied to the provider, SO and state agency. The review official decision is the final administrative determination of the termination process (see **Provider Suspension and Termination for Cause-Providers**).

Administrative Review (Appeal) for Sponsors

An SO may request an Administrative Review for the following proposed actions by the USOE:

- Denial of an application for participation
- Denial of an application submitted on behalf of a facility
- Proposed termination of the participation of the SO or a facility
- Proposed disqualification of a responsible principal or responsible individual
- Suspension of participation
- Start-up or expansion funds denial

- Denial of a request for an advance payment
- Recovery of an advance payment
- Denial of all or a part of a claim for reimbursement (see **Claim for Reimbursement**)
- Decision by the state agency not to forward to FNS an exception request by an institution for payment of a late claim, or a request for an upward adjustment to a claim
- Demand for the remittance of an overpayment
- Any other action of the USOE affecting the participation of the SO in the program or the SO's claim for reimbursement (e.g., insufficient validation of a claim)

Before initiating an Administrative Review, the SO may request a conference to provide an opportunity to discuss the situation, present information, obtain an explanation of relevant data, and clarify the decision rendered. Such a conference will not in any way affect the right to a fair hearing.

Following are the steps and timing of the Administrative Review process for SOs and responsible principals and other individuals:

1. The institution's executive director, chairman of the board of directors, and the responsible principals and responsible individuals will be advised in writing of the action being taken or proposed, and the grounds on which the USOE based its action. The notice will be sent by certified mail, return receipt requested, FedEx, or equivalent, and will include the procedures under which the institution and responsible principals and responsible individuals may request an Administrative Review of the action.
2. Within 15 days of receipt of the notice of action (as determined by U.S. Postal Service receipt, facsimile transmission receipt, e-mail transmission date stamp, FedEx documentation, or equivalent), the institution must request a review of the USOE's action. If the institution wants (or will want) an in-person hearing before the review official, this request must be included with the request for review.
3. The USOE must acknowledge receipt of the request for review within 10 days.

4. The institution and the responsible principals and responsible individuals may retain legal counsel or be represented by another person.
5. Upon request, any information on which the USOE's action was based must be available to the institution and the responsible principals and responsible individuals for inspection from the date of receipt of the request for an Administrative Review.
6. Within 30 days of the notice of action, the institution and the responsible principals and responsible individuals must submit any relevant documents to be reviewed regarding the action to the review official.
7. The review official must notify the institution and the USOE at least 10 days in advance of the place and time of the hearing.
8. If the institution's representative does not appear for the hearing, the review official may find in favor of the USOE or may reschedule the hearing at his/her option. The USOE may attend the hearing but is not required to.
9. The review official must be independent and impartial, must not have been involved in the action that is the subject of the Administrative Review, and must not have a direct or indirect personal or financial interest in the outcome of the Review. The institution and the responsible principals and responsible individuals are permitted to contact the review official directly (name and address will be furnished upon request to the USOE).
10. The review official must make a determination based solely on the information provided by the USOE, the institution, and the responsible principals and responsible individuals, and according to federal and state laws, regulations, policies, and procedures governing the program.
11. Within 60 days of the institution's receipt of the notice of action, the review official will render a decision regarding the USOE's action. The review official's decision will be sent directly to the institution, with a copy sent to the USOE.
12. The review official's determination is the final administrative determination the USOE is obligated to offer the institution and the responsible principals and responsible individuals.

Administrative Reviews are not allowed on adverse decisions made by FNS for exceptions to the claims submission deadlines and adjustments. Administrative Review requests to the USOE are also not allowed in cases where a claim against an institution was asserted by the USOE based upon federal audit findings. Demand for corrective action, whether due to findings of serious deficiency related to viability, capability, or accountability, or to other compliance issues, following a program review or an audit, does not entitle the SO to an Administrative Review, nor does termination, disqualification and placement on the national disqualified list.

The cost of an appeal is allowable; however, the cost of an arbitration is not. During a hearing, the review official only determines whether program requirements were met by both parties. In arbitration, the potential exists for a negotiated settlement which may not be founded on Program policies. Thus, the cost of arbitration is unallowable when arbitration is conducted in lieu of a hearing.

Adult Participant Meals

Adult meals served in day care homes are not eligible for federal reimbursement unless the adult participant is certified by a physician as mentally or physically disabled and participates in the program in a home where the majority of enrolled participants are children age 18 years or younger.

Advance Administration Funds

On the last working day of each month, advance funds for administrative expenses are available in amounts equal to:

- the prior month's actual expenses or
- current rates multiplied by the number of active, claiming providers or the lesser of the two.

SOs may choose to receive full or partial advances, or they may choose not to receive any advance payment.

As allowed by FNS 796-2, revision 3, the USOE computes the average of the outstanding advances and compares the result to the average monthly reimbursement earned year to date. Advance payments are adjusted to reconcile the amount of any increase or decrease. If an overpayment exists, the State agency may demand repayment. Since this method uses

averages, it is less sensitive to monthly variations in reimbursement earnings and will result in more uniform advance payments.

After three advance payments have been made to a SO, the USOE must ensure that no subsequent advance is made until the USOE has validated the SO's claim for reimbursement. This will be done for the third month prior to the month for which the next advance is to be paid. Each month the USOE will compare incoming claims against advances to ensure that the level of funds authorized does not exceed the claims for reimbursement received from the SO. Whenever this process indicates that excessive advances have been paid, the USOE will either demand repayment of excess advance funds or adjust subsequent payments to bring advance funds in line with actual claiming.

If the USOE has audit or monitoring evidence of extensive program deficiencies or other reasons to believe that an SO will not be able to submit a valid claim for reimbursement, advance payments will be withheld until the claim is received or the deficiencies are corrected.

If, as a result of year-end reconciliation, the USOE determines that reimbursement earned by a SO during a fiscal year is less than the amount paid, including funds advanced to the SO, the USOE will demand repayment of the outstanding balance.

Advance Food Service Payments

Advance payments for food service are not available in this program.

Agreement and Management Plan with the State Agency

The SO's Program Agreement with the USOE, plus any amendments to the agreement, are permanent, as are the the SO's nondiscrimination policy (Policy Statement). However the permanent agreement does not guarantee a sponsor the right to participate in the CACFP in the perpetuity; it simply relieves the SA and sponsor from the paperwork burden of including an agreement renewal every time the sponsor reapplies to participate. All institutions are required to reapply at intervals not to exceed three years.

Agreements may be amended if necessary and may be required to be resubmitted as determined to be necessary by the USOE. However, the SO shall annually submit an administrative budget, a media release (normally issued on behalf of all participating SOs by the USOE), and management

plan amendments to the USOE for approval. Evidence of continuing nonprofit status (copies of the prior year's IRS Form 990, Utah Department of Commerce Report, and the minutes of at least one governing board meeting) must be submitted.

Every three years, regulations require the SO to resubmit an application, management plan and budget materials to the state agency. The Program Agreement and Policy Statement are exceptions to this requirement. The SO must submit an electronic version of the Management Plan and Budget for approval. Once the budget receives preliminary approval, two hard copies of the budget summary pages must be submitted, both signed by the SO Director and a board member. The only parts of the Management Plan that will need to be submitted in a hardcopy format are those specifically requested within the Management Plan.

Whenever an amendment is made to either the Management Plan or Administrative Budget, the following must take place:

- An electronic copy must be sent to the USOE.
- Any hardcopies needed as documentation must also be sent to the USOE.
- If an amendment is made to the budget by the SO, a specialist will review the amendment and ask for clarification, if needed.
- Once the amendment receives preliminary approval the SO must send two hard copy budget summary pages with original signatures of the SO Director and a board member.
- Once the USOE receives the budget summary pages, they will be signed by an authorized representative, and one returned to the SO along with an approval letter and any line items which may require specific prior written approval (SPWA).

As part of the agreement with the state agency, the SO will fulfill the following program requirements:

- Supply monitoring, technical, and managerial personnel, as required according to 7CFR 226 and as needed, to administer the program and monitor performance.
- Train staff and providers in appropriate operation of the program.
- Conduct at least three provider reviews per year per provider to ensure compliance with program regulations (two provider

reviews must be unannounced; at least one of these must be a meal review). No more than 6 months can lapse between reviews. If the SO chooses to do review averaging, the number of reviews must equal three reviews per provider per year. No more than nine months may lapse between reviews (see **Monitoring**).

- Pay providers the full amount of reimbursement earned for meals served to enrolled children. Payment must be distributed within five days of receiving it from the state agency.
- Assist USOE staff in performing program compliance reviews so that program management is effective and adheres to requirement.
- Perform all other functions as required the 7 CFR 226, USDA, and USOE policy.
- Conduct audits as per 7CFR 3052 & OMB 133.

Allowable Costs

See OMB Circular A-122 and A110 (as applicable), 7CFR Part 226, 7CFR Part 3016 or 3019 (as applicable), and FNS Instruction 796-2, rev. 3.

Alternate Approval

Alternate care is available to providers who cannot qualify to obtain a child care license, but does not include those who have been denied a license or do not meet licensing standards. The Alternate Approval provider can only provide care for four or fewer children in their home at any one time.

The following are required elements to participate as an alternate care provider:

- Annual health inspection
- Annual fire inspection
- Current CPR and First Aid certification
- Current Food Handler's Permit
- Annual BCI check for residents of a household 18 years of age and older
- Annual Alternate Approval Compliance Certification Form

Arm's-Length Transactions

Less than arm's-length transactions must be disclosed. An arm's-length transaction is defined by the IRS as "a transaction between parties having

adverse (or opposing) interests; where none of the participants are in a position to exercise substantial influence over the transaction because of business or family relationship(s) with more than one of the parties” (Instructions for Form 1023, Appendix A).

These include related party transactions; ownership interests in equipment, supplies, vehicles and facilities; or other less than arm’s-length transactions that might create a conflict of interest. The SO must have in place policies and procedures to minimize the conflict of interest problem. These must also be disclosed in the Management Plan and Budget process and receive specific prior written approval. The sponsor must follow FNS 796.2(VIII)C, I(17)(a)(1),22(c), 36, and Glossary item “T.”

Failure to disclose pertinent information may result in disallowance of the cost and other administrative and legal consequences.

For any transaction, the following three questions should be asked. This particularity applies when hiring friends and family or a company that does more than one type of work for the organization, or friends or family of the sponsoring organization’s employees:

1. Is the type of work the person or organization is doing reasonable and expected for a sponsor’s needs?
2. Is the wage or cost comparable to what a non-related party would get paid?
3. Is the amount of time spent doing the job reasonable for the type of position?

If the answer to any of these questions is “no,” then the transaction is less than arm’s length and may not be allowable.

Attendance Documentation

Attendance and meal counts must be collected separately. All enrolled children, including the provider’s own, are required to be signed in/out on a daily basis and documented with:

- Time in/out.
- Signature or initials of the parent/guardian or other authorized designated person who picks up and drops off children.

Sponsors have the option of collecting time and attendance from providers or checking it during monitoring reviews; however, all providers must still submit daily attendance numbers to the SO as part of the claim process.

Audits

All SOs that expend total federal financial assistance in excess of \$300,000 will have an organization-wide audit conducted annually at the close of each fiscal year in accordance with OMB Circular A-133 and applicable compliance supplements. The audit must be conducted by an independent auditor. The audit will include program compliance and financial management of the SO.

Auditing firms contracted by FDCH sponsors to do consulting, tax, and month- or year-end accounting may not be involved in the SO's review or audit process. If the audit firm does any paid work for the SO, it may not perform the audit or review, or there must be a procedure in place to ensure "arm's-length" involvement.

The SO must submit its annual audit to the USOE within 30 days after the audit is completed, but no later than March 31 following the end of the audit period. The SO must also provide comments on the findings and recommendations in the audit report, including corrective action taken or planned and comments on the status of corrective action on prior findings. If the SO does not agree with findings of the audit affecting the participation of the SO in the program or the SO's claim for reimbursement, an Administrative Review may be requested (see **Administrative Review (Appeal) for Sponsors**).

The SO is to identify and retain a qualified auditor using appropriate procurement procedures (see 7CFR 3016 and 7CFR 3019, as applicable). The cost of the audit is an allowable expense which will, to the extent the audit addresses the CACFP, be reimbursed to the SO.

The following procedures must be followed in engaging an audit firm:

1. At least three written proposals must be obtained from different audit firms qualified to perform an A-133 audit.
2. The proposal that best meets the SO's needs (not necessarily the lowest-priced) should be selected.
3. Submit all proposals to the USOE, noting which is the preferred offeror and why. All proposals must include

certification from the offeror that it has not been debarred or suspended.

4. The selected audit firm may be engaged upon approval from the USOE.

SOs may contract for up to two three-year terms with the same auditing firm. After such a six-year period, a different audit firm must be selected.

B

Board of Directors or Board of Trustees

See **Governing Board**.

Bonus and Incentive Awards

Requirements of bonus incentives are as follows:

- Proposal/implementation of something that produces a program cost reduction, such as improved efficiency.
- A special act or achievement that improves the program.
- Performance of assigned duties, however exceptionally well done, is not a reason for a bonus.

A bonus may be awarded when:

- It is based on an agreement reached before the service is rendered. (This may be accomplished with a general understanding or policy that meritorious service will be recognized pending availability of funds.)
- It is reasonable compared to the benefits realized.

To avoid the appearance of routine compensation and end-of-year maximizing of reimbursement, bonuses and incentives should be awarded and paid upon the occurrence of the meritorious service. The only conceivable exception to this policy would be years-of-service awards, but such awards may only be given after the required number of years, not annually **during** the years of accumulation.

Finally, bonuses/incentives are not to be a percentage of salary. Awards must be dollar amounts up to a limit to be set by the Sponsor Board. The amount of an award needs to be commensurate with the value of the accomplishment, not the position or salary of the employee.

The sponsors' budget, at the beginning of the year, should include an amount for potential bonuses. The budget can be given prior approval; however, the actual awarding of the bonus requires specific prior written approval (SPWA) at the time it is to be paid. Annual budgeting will not obviate the need for budget amendments. Bonus/incentive awards must be fully expensed before the end of the fiscal year.

Breast Milk

When breast milk is furnished to the provider by the parent for meals in which the breast milk is the only required component, the meal may be claimed by the provider for reimbursement. If a parent comes to the day care home to breastfeed her child, the meal is not to be claimed. Infants of the child care staff or provider who breastfeed their enrolled infants during daycare hours (at the day care facility) may have their meal claimed (see **Meal Requirements**).

Budget Amendments

Budget amendments must be submitted to the SA and approved before expenditures are made. All submissions of budget amendments are to be electronic and use the the budget and management plan pages of the originally approved documents. Line item amendments to the budget must correspond directly to the management plan and include an explanation and supporting documentation. Alternately, explanations may be made in the notes section of each affected line item, with supporting documentation submitted as with the original budget. Once the SA reviews and is satisfied with the budget amendment, a preliminary approval will be given. The SO must then submit two hard copies of the new budget summary page with original signatures of the SO director and a board member. As with the original budget, both copies will be signed by the USOE, with one returned to the SO for its files along with any line items that require specific prior written approval (SPWA). The budget must be followed as closely as possible and amended as needed throughout the year. An approval letter will accompany the budget summary when returned to the SO.

It is expected that budget amendments will be submitted a minimum of once a year. Amendments must be requested prior to money being expended.

Budget Procedure

An annual budget must be completed using the USOE-provided line-item Excel budget form. The triennial management plan or management plan amendments with all supporting documentation are to accompany the budget, although there may be occasions when the budget is amended when an explanation on the line page is sufficient. The budget will be compared to the management plan and the prior year's last approved budget amendment during the budget evaluation process. Reviewing the budget includes, but is not limited to, assessment of costs as allowable,

reasonable or necessary; adherence to FNS 796-2 revision 3; items that require prior approval and/or SPWA; and cohesiveness with the management plan.

Prior approval must be requested for one or more of the following reasons:

- Change in scope or procedures for activities described in the narrative even if there is no associated budget revision.
- Change in a key person specified in the budget or management plan job descriptions.
- Substantial increase (or decrease) in provider participation requiring additional funding approval.
- The inclusion (or addition) of proposed costs that require specific prior written approval in accordance with FNS Instr 796-2 Rev 3.
- Subaward, transfer or contracting out of any work not previously approved.
- Transfer of funds among direct cost categories, functions or activities approved at \$1,000 or more that exceeds or is expected to exceed ten percent of previously approved amounts.

Any program expenses covered by non-CACFP funds must be disclosed, including the source of the funds and the source of their use. Non-CACFP funds are to be used only for program-allowable purposes and are not to be used for non-allowable purposes.

Ten percent maximum on the amount of administrative funds that may be carried over based on the total amount of homes times rates administrative payments received by the FDCH sponsor over for the fiscal year. If the 10% carryover funds are not expended in the succeeding fiscal year, the SA will recover the remaining funds. A sponsor must use the carryover money in the new fiscal prior to using the current fiscal year's money.

Although FDCH administrative costs will be paid at the current homes times rates, sponsors are responsible for correctly accounting for costs and maintaining records and sufficient supporting documentation to demonstrate that costs claimed have been incurred, are allocable to the Program, and comply with applicable Program regulations and policies.

Amendments to the budget must be requested before the fact and will not be approved after September 1 (OMB Circular A-110). Amendments not receiving preapproval will be denied and the SO will be unable to use CACFP Administrative Funds for the requested budget line item.

Accrual accounting must be used for the final claim of each fiscal year so the end-of-year reconciliation and close-out can be performed. (See **Administrative Budget** and **Administrative Carry Over Payments**.)

Submission Procedure

All submissions are to be electronic, preferably in Word format. Hard copies of contracts, leases, insurance, advertising, etc. are to be submitted in conjunction with the electronic submissions. These items may also be scanned and e-mailed.

Once the SA reviews and approves the budget, a preliminary approval will be given to the SO. The SO must then submit two original hard copies of the budget summary page with SO director and board signatures. The SA will approve with authorized signatures and return one to the SO for its files.

Bulletins, USOE Policy

Bulletins issued by the USOE are considered policy and all institutions participating in any Child and Adult Care Food Program are required to adhere to the requirements they contain. Information found in the policy bulletins originates from applicable USDA regulations and policy memos. Additional requirements may be determined by the state agency to improve the operation and integrity of the program.

Bulletin Information Distribution to Providers Procedure

It is expected that information from USOE policy bulletins relevant to providers will be disseminated in the following manner:

When informing your providers of FDCH policy information received from the USOE, the expectation is that the SO will prepare it on its own organization's letterhead, summarizing the information and/or giving applicable instructions. The SO's contact information, not the USOE's, should be included.

If the SO has providers that need this information in a language other than English, the expectation, as required by regulation, is that the SO will translate the information so providers are able to understand and implement it.

C

Categorical Eligibility

Families are categorically eligible if they receive Supplemental Nutrition Assistance Program (formerly Food Stamps), Family Employment Program (FEP), or Food Distribution Program Program on Indian Reservations (FDPIR). Tier II client families have the same allowable programs, as well as additional allowable programs as distributed by the state agency each year.

Any child or adult receiving SNAP, FDPIR or FEP benefits is categorically eligible for free meals (higher Tier I rate reimbursement), and eligibility extends to all household members for the Child and Adult Care Food Program (CACFP) as long as at least one case number is on the Income Eligibility Form.

If parents share physical custody of a child who is eligible for free meals **because** of SNAP, FDPIR or FEP, the child will remain classified as free at either parent's home. Below are two examples of when other family members may or may not be eligible for free meals.

1. If the **child** is receiving SNAP, FDPIR or FEP and is eligible for free meals, other family members in either household may be claimed as free as long as other family members are listed on the IEF.
2. If the **parent or another household member** receives SNAP, FDPIR or FEP, the child can be eligible for free meals. The child will remain eligible for free meals when visiting or living at the other home; however, no one in the other home is eligible for free meals based on the child's eligibility.

If a provider qualifies for Tier I categorically, the sponsor must verify the information using the SNAP or FEP acceptance/determination letter. If a non-area eligible provider does not receive SNAP, FDPIR or FEP benefits but a child in the household does, the provider is eligible to be Tier I.

If a child receiving SNAP, FDPIR or FEP benefits moves in with a provider, and his/her family that was not previously eligible for Tier I rates, the provider would be eligible for Tier I. The same is true if an eligible child moves in with any family; the rest of the family would be eligible for higher

rate reimbursement as well, whether it was the provider's own family or a day care family.

If eligibility is based on a school-age child's receipt of benefits, a school's or district's benefit determination letter showing the child is eligible for free or reduced-price meals may be used in place of an IEF. (See **Income Eligibility Forms** and ***Eligibility Guidance for Family Day Care Homes***.)

Change in Household Income or Size

Changes in household income or size do not need to be reported during the year the IEF is in force (see ***Eligibility Guidance for Family Day Care Homes***).

Child Nutrition (CN) Labels

Commercially purchased combination food products, such as burritos, frozen pizza, corn dogs, chicken nuggets, etc. must have a CN label or product specification statement before the item can be considered creditable towards a reimbursable meal.

A CN label found on a combination food product clearly identifies the contribution of a product toward the meal pattern requirements, protects providers from exaggerated claims about a product, and provides a warranty against review findings if the CN-labeled product is used according to the manufacturer's directions. If a CN label is not available, a product specification sheet may be obtained from the manufacturer which specifies how much grain and/or meat/meat alternate is contained in the product. If a CN label or product specification sheet is not available for a combination food, the product cannot be used as part of a reimbursable meal.

USDA's Agricultural Marketing Service (AMS) has published a list of manufacturers that have met the Food and Nutrition Service's Quality Control Program requirements for the CN Labeling Program. This list can be found at <http://www.fns.usda.gov/cnd/cnlabeling/authorized.htm>.

Child's Income

The earnings of a child who is a full-time employee or recipient of a trust or other income and contributes to the household resources must be listed on the Income Eligibility Form. However, minimal earnings, such as from a paper route or babysitting, generally do not significantly affect the

household's level of income and need not be listed (see *Eligibility Guidance for Family Day Care Homes*).

Civil Rights

A variety of laws and policies protect the civil rights of various categories of people and prohibit discrimination against them. It is required that federal assistance programs be operated so that no one is discriminated against on the basis of specific characteristics.

The pertinent laws include the Civil Rights Act of 1964, Title VI (discrimination because of race, color, or national origin); the Education Amendments of 1972, Title IX (discrimination based on sex); the Rehabilitation Act of 1973, Section 504 and the Americans with Disabilities Act of 1994 (discrimination because of disability); and the Age Discrimination Act of 1975 (discrimination on the basis of age).

The protected classes for federal nutrition programs are, therefore, race, color, national origin, age, sex and disability.

In addition, it is required that providers or participants with limited English proficiency (LEP) be provided materials in the person's language of choice and provided translators if needed. The SO is not allowed to demand that the provider or participant provide their own translators. LEP would be considered under the protected class of national origin.

Additional complaints of discrimination would be program complaints, and not civil rights complaints.

Civil Rights Compliance Reviews

The USOE will conduct civil rights compliance reviews before awarding funding to sponsoring organizations, as part of the ongoing monitoring process required by program regulations, and on other occasions as necessary. SOs should conduct similar compliance reviews to assure that all day care homes meet the civil rights requirements.

Compliance Review by SA

Within one year following application approval, and regularly thereafter, the USOE will include civil rights compliance reviews in its continuing monitoring of all SOs. When a review of an SO is performed, the questions listed below will be investigated as a minimum:

- Are approved and denied free and reduced-price applications maintained on file?
- Do denied free and reduced-price applications come disproportionately from minorities?
- Is there a need for bilingual material or staff? If the need exists, how is it being addressed?
- What procedures are used to determine and process civil rights complaints?
- Do admission procedures restrict enrollment of minorities or other protected classes?
- Is the USDA poster (or an FNS-approved alternate) prominently displayed in the SO's office?
- Do free and reduced-price application letters provided to parents or guardians of participants and potential participants contain the nondiscrimination statement and the procedure for filing a complaint?
- Does the sponsor have a written procedure covering civil rights complaints, including a record log and other means of documentation?

Provider Compliance Review

SOs must ensure that facilities in which the program operates meet civil rights requirements.

Pre-approval Compliance Review

The SO must perform a pre-approval desk review of new providers to determine compliance with the civil rights laws. If a potential provider is found to be out of compliance, the SO may not enter into the proposed agreement. Information required to be submitted as part of a provider's application includes:

- Copies of letters to parents, public notices, and any other materials the provider uses to publicize program availability and non-discrimination requirements.
- Estimated data on the ethnic/racial makeup of the applicant provider's program service area and enrollment.
- A description of admission requirements to the provider's day care.

- The names of other agencies providing assistance to the provider, and whether the applicant has ever been found out of compliance by those agencies.

Ongoing Compliance Review

Reviews must be conducted as part of ongoing monitoring and administration. At a minimum, the review must examine whether:

- The provider serves meals to all attending children equally, regardless of the children's race, color, national origin, age, sex, or disability.
- The provider allows all children equal access to services and facilities regardless of the children's race, color, national origin, age, sex, or disability.
- Program materials in the provider's home are available to those parents with non-English reading skills in the parent's language.
- The provider is able to demonstrate how to accept a civil rights complaint.

Civil Rights Complaint Handling Procedures

Civil rights complaints are written or verbal allegations of discrimination based on race, color, national origin, age, sex, or disability. Any person claiming discrimination has a right to file a complaint within 180 days of the alleged discrimination. Sponsors must have written procedures on handling civil rights complaints, including a procedure on documentation and logging complaints.

A civil rights complaint based on race, color, national origin, or age may be received at the USOE, SO, or individual provider level, but it must be forwarded through the USOE to the USDA Regional Office. The regional office then forwards the complaint to the Civil Rights Division. Complaints of discrimination based on sex or disability must be forwarded to the USOE for investigation and disposition.

All complaints, whether written or verbal, must be accepted by the SO and forwarded to the USOE. An anonymous complaint should be handled the same way as any other. Complaint forms may be developed, but their use cannot be required. If the complainant makes the allegations verbally or in a telephone conversation and is reluctant or refuses to put them in writing, the person who receives the complaint must write up the description.

There must be enough information to identify the agency or individual toward which the complaint is directed and indicate the possibility of a violation. Every effort should be made to obtain at least the following information:

- Name, address, and telephone number or other means of contacting the complainant.
- The specific location and name where the program service or benefit is delivered.
- The nature of the incident(s) or action(s) that led the complainant to feel there was discrimination.
- The basis on which the complainant feels discrimination occurred (race, color, national origin, age, sex, or disability).
- The names, titles, and addresses of people who may have knowledge of the discriminatory action(s).
- The date(s) when the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

Civil Rights Data Collection and Reporting

The SO must develop a method for collecting and reporting data on the actual number of providers and children participating by both ethnic and racial category. The data may be collected by an SO official through observation or personal knowledge, or by voluntary self-identification by the family on enrollment forms or the free and reduced-price application form. In any case, the SO is responsible for identifying one ethnicity and one race per provider or child. The information must be kept on file for three years after the current year. Procedures must be established to ensure that the information is made available only to authorized state and federal officials during reviews, or as part of surveys approved by the U.S. Office of Management and Budget.

ETHNICITY:

Hispanic or Latino:

A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

Non-Hispanic or Latino

RACE:

American Indian or Alaskan Native:

A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian:

A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American:

A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Other Pacific Islander:

A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White:

A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Civil Rights Non-Compliance Resolution

Probable noncompliance is a factual finding, based on a review or other monitoring process, that certain civil rights requirements are not being met by an individual or organization. Once probable noncompliance is found, steps must be taken immediately to obtain voluntary compliance. If corrective action has not been completed within 60 days of the finding, a noncompliance report must be submitted through the USOE to the USDA Regional Office Civil Rights Division. Continued noncompliance may result in legal action.

Specific examples of discrimination and noncompliance with civil rights laws include:

- Exclusion of children from participation on the basis of race, color, national origin, age, sex, or disability.
- Disparate distribution of benefits and services to participants in programs.

- Differential treatment of a participant or group of participants on the basis of race, color, national origin, age, sex, or disability in determining whether admission policies, enrollment, quota, membership, or other requirements of a program have been met.
- Separation of persons by different meal periods, seating arrangements, or the way food is served because of race, color, national origin, age, sex, or disability.

Civil Rights Poster Display: "...And Justice For All"

At all SO sites, the nondiscrimination poster developed by the USDA must be displayed in a prominent place, visible to the public. Copies of the poster are periodically distributed to SOs by the USOE. The poster is also available online at <http://www.fns.usda.gov/cr/justice.htm>. Updates to this poster are provided by the Office of Civil Rights Programs branch.

Civil Rights Public Notification Program

Parents or guardians of children participating in the program and local minority and grassroots organizations must be informed of the availability of program benefits and services, the nondiscrimination policy, and all significant changes in existing program eligibility. Grassroots organizations are defined as any of those organizations at the local level that interact with potential participants, such as community programs, civic organizations, migrant groups, churches neighborhood councils, local chapters of the NAACP or JACL, or similar groups.

The SO must ensure that providers post the "Building for the Future" poster in a prominent location.

A "Building for the Future" flyer is available for the SO in 12 different languages. SOs need to add the sponsor's name and telephone number to the flyer and distribute it to all newly enrolled children's parents/guardians.

The SO must also make available to the public and to participants and potential participants in the program, upon request, information about program requirements and the procedures for filing a discrimination complaint in English and/or the appropriate language if the complainants do not speak English.

All forms of communication and printed program information, including the free and reduced-price notification letters and public press releases, must include the following full non-discrimination statement:

In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age or disability.

To file a complaint of discrimination, write USDA, Director, Office of Adjudication, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

The full statement is the preferred statement to use. If necessary, a smaller font size can be used than the rest of the text, but it must still be large enough to be reasonably readable.

When space prohibits the use of the full, lengthy statement, the following short statement may be used:

This institution is an equal opportunity provider.

The short statement may also be used on posters, outreach materials, and the like (usually on materials less than a page in length), where such things as graphics make it impractical to use the long statement, but it must be in the same font size as the publication.

Please note that the above non-discrimination statements cannot be modified. If an institution uses additional language, it must be included in a separate statement. Any future updates to this poster will be sent from the Office of Civil Rights Programs Branch.

Claim for Reimbursement

The claim for reimbursement must be completed and submitted to the USOE no later than the fifteenth calendar day of the month following the month being claimed; however, original claims must be submitted to the USOE within 60 days following the last day of the month to be claimed to be eligible for reimbursement. If the fifteenth day falls on a weekend or state or federal holiday, the claim will be due on the closest weekday. For example, if the fifteenth calendar day falls on a Saturday, Friday will be the

day the claim is due; if the fifteenth calendar day falls on a Sunday, the claim will be due on Monday.

The first to last days of each month will be the continuing claim period for both administrative and operational reimbursement. Claims are submitted online through CNPNWeb.

SOs will receive payment by the last working day of the month following the month claimed, if the claim is submitted on time.

If a provider is complying with requirements and procedures to renew licensing or approval, and there is no information that indicates licensing or approval will be denied, the provider may continue to participate in the program and earn reimbursement. It is assumed this provision extends to documentation of needed training, including that necessary for alternately approved relative care providers.

Only providers who were eligible during the claiming period may be claimed. Along with a status effective date, the documentation must include the appropriate license, residential certificate, or inspection renewal certificates to show that the provider was eligible during the claim period.

Provider money is flow-through money, and as a result Program money for eligible claims must be distributed to providers within five days of the sponsor receiving it from the state agency. (See **Provider Claims**)

Meal Claim Edit Checks

Sponsors are required to have monthly edit checks to ensure that:

- The facility has been approved to serve the meal types being claimed,
- The number of meals claimed does not exceed the number derived by multiplying approved meal types times days of operation times enrollment, and
- Unusual claiming patterns are detected.

Late Claims

The USOE may grant an exception no more frequently than once every three years for an original claim which exceeds the 60-day period. A formal request must be made for this exception. To

receives the exception, the SO must submit an acceptable corrective action plan to the USOE. The plan must address the problem contributing to the lateness and outline the actions to be taken to avoid future late claims. The decision to grant the exception will be made by the USOE based on the plan's acceptability.

Revised/Amended Claims

During the course of the year, it may be necessary to revise previously submitted claims. Such revised claims must be submitted within 90 days after the end of the month to which they apply. The USOE may grant an exception for an upward-amended claim received later than 90 days after the end of the month amended. A formal request must be made to the USOE for this exception to be forwarded to the USDA Regional Office for approval. This formal request must address the problem contributing to the need for the amendment and outline the actions to be taken to avoid future late amended claims. Downward amendments may be submitted at any time.

It is particularly important to note that, for any upward amendment, supporting information must also be provided (i.e., licenses/certificates and/or relative care inspections) to assure that the SO does not claim more than the approved number of eligible providers.

A SO may not stop payment on a claim unless a provider is suspended; however, an SO may disallow any portion of the claim that it knows to be invalid.

Claims Against Providers

The USOE does not establish claims directly against providers. Rather, the USOE may determine that a reimbursement was improperly made to a provider by the SO and assert a claim against the SO. (see **Administrative Review for Sponsors and Claims Against Sponsors.**)

Claims Against Sponsors (Overclaims)

The USOE will disallow any portion of a claim for reimbursement and recover any payment to an SO that is not properly payable. However, the USOE will notify the SO of the reasons for any disallowance or demand for repayment, and allow the SO full opportunity to submit

evidence at the Administrative Review (Appeal). (see **Administrative Review for Sponsors.**)

CNPWeb System

The CNPWeb System is a USOE computer database that identifies all providers by SO and allows SOs to claim administrative money and provider meals online. The database consists of a sponsor information sheet, budget summary page and facility sheets for each provider. The sponsor information sheet must be updated when any sponsor information on the sheet is changed, such as the e-mail address, phone number, address, etc. Once the changes are made, the sponsor must ensure the sheet is in pending approval status prior to the USOE giving final approval. Provider facility sheets must contain tier status, meal times, all licensing and approval dates and all other required information before a claim can be processed. It also must be in pending approval status to receive final approval from the USOE. (see **Claim for Reimbursement.**)

Combination Foods

Commercially purchased combination foods must have a CN label or product specification before using in a reimbursable meal (see **Child Nutrition (CN) Labels and Meal Requirements**).

Complaints Submitted to the USOE

When situations arise which prompt a complaint, the complainant should submit, in writing, who allegedly did what, when, to whom, and where. The SA will investigate and the complainant will be apprised of the outcome.

The USOE considers that "broadcast" complaints (by e-mail, or otherwise) suggest a lack of accountability on the part of the complainant. In addition, the utterance of false charges or misrepresentations which defame and damage another's reputation can be considered slander (or, in the written form, libel).

Contract Services

Contract (e.g., professional, technical, consultant) services are allowable when appropriate procurement procedures are followed and if the service is not performed by officers or employees of the SO. There should be adequate justification as to why the service is better performed under contract than by existing staff. The service may not include payment of

employee benefits or taxes on behalf of the contractor. Employees cannot also be contracted.

All services obtained outside the sponsoring organization must have an accompanying contract which spells out the terms of work and payment expected. Copies of all contracts must be provided to the USOE and included with the Management Plan.

Corrective Action

Any deficiency affecting, or potentially affecting, viability, capability, or accountability will require corrective action. Requirements for corrective action are not subject to Administrative Review (appeal). Corrective action may be assigned at the same time as the SO (or provider) is declared seriously deficient (depending on the seriousness of the problem), rather than prior to being declared seriously deficient. If the problem resulting in corrective action is not remedied, the SO (or provider) may be found seriously deficient. Corrective action assigned a result of a serious deficiency determination must be permanent, and the causes must be corrected. Reoccurrence of the problem after a serious deficiency determination will result in immediate program termination and national disqualification from program participation.

Sponsors

Corrective action for SOs may be based upon findings of an audit or review, or other information in which the USOE determines the SO to be out of compliance with program requirements that affect viability, capability, or accountability. Additional reviews may be made by the USOE to evaluate the SO's actions to resolve the corrective action or serious deficiency. The time frames for follow-up and compliance will be determined by the USOE on an individual basis. Inability or unwillingness to implement the required corrective action may result in a determination that the sponsor is seriously deficient in the operation of the program.

Providers

Providers found to be out of compliance with program requirements by the SO will be required to implement corrective action. A corrective action letter must be sent to the provider describing the problem and what must be done to permanently correct the problem. The provider must be given adequate time to submit a corrective action response, but should not be given more than 30

days to correct. A corrective action prototype letter has been developed by the USOE and is available for use by the SO. Inability or unwillingness to implement the required corrective action may result in a determination that the provider is seriously deficient in the operation of the program (see **Serious Deficiency-Providers**). A provider assigned to implement a corrective action may not transfer to another SO without agreement from the new sponsor to follow up on the corrective action. The transfer procedure is described under **Provider Transfers**.

Cost of Food Service Operation

Although SOs may not require providers to keep documentation of home operating costs, providers may maintain records to determine their accurate net income. These records can then be used as part of the verification documentation for Tier 1 income eligibility.

Creditable Foods

Creditable foods are those foods that meet nutritional guidelines for CACFP. It is the responsibility of the provider to prepare and serve meals that meet meal pattern requirements using creditable foods. It is the responsibility of the SO to evaluate and ensure provider meals meet the program requirements (see **7CFR 226.20, Crediting Foods Guide, and Monitoring**).

Critical Areas and Ratings

Tracking of the eight critical areas is mandatory. The purposes of the ratings are as follows:

1. Long-term evaluation of providers as individuals
2. Long-term evaluation of providers as a group
3. Identification of training needs
4. Tracking areas of needed supervision
5. Identification of widespread patterns
6. Accumulation of monitoring information

Critical Areas

There are eight “critical areas” observed in the course of required on-site monitoring visits. The critical areas are specified in regulatory requirements for monitoring and in the Sponsor/Provider agreement. Regulatory citations include 7CFR

Part 226.10(c)(3), .16(d)(4), .18(b)(14) and .18(e). The monitoring form includes several questions probing each of the critical areas. The first seven critical areas listed below are found in the monitoring form as detailed separately in “Common Provider Ratings.” The last two are taken from records on file in the sponsor’s office in conjunction with the monitoring visit.

1. Unexcused absence at mealtime when an unannounced review was attempted
2. Meal pattern compliance (observed service)
3. Menu and meal records compliance
4. Attendance and meal count records up to date facilitating the five-day reconciliation
5. Keeping enrollment information up to date
6. Imminent threat to children’s health or safety
7. Provider attendance at required training
8. Provider maintenance of a valid license, residential certificate or relative care approval

Along with the eight critical areas, a system of detecting unusual claiming patterns must be in place when unusual claiming patterns occur.

Ratings

Monitoring is defined as an effort to *evaluate* providers’ implementation of program requirements and objectives. Monitoring information is to be “accumulated” to identify pervasive training needs or successes.

The following rating system is implemented for long-term *evaluation* of providers individually and as a group. It is critical that sponsors implement this system consistently in order to ensure success of both providers and the sponsoring organization:

Review Ratings:

- 0 = Not looked at/not observed
- 1 = Good review, no problems noted
- 2 = Suggestions for improvement
- 3 = Corrective action/fiscal action

Ratings of 0 and 1 are straightforward. Considering all the questions associated with a critical area, things were observed or not; and there was compliance or not. A rating of 2 would indicate that suggestions were given for program improvement, but no follow-up is needed. A rating of 3 may require discussion with a supervisor. If problems found are correctable “errors” or “oversights,” the critical area would be rated 3, but follow-up is required and corrections must be made. It is also possible that money may be reclaimed. A serious deficiency is determined *separately* from a monitoring review, although it may result from a monitoring review.

Although these ratings are offered as an option, and the sponsor can also come up with its own ratings for the eight “critical areas,” no ratings can be considered as “may be a problem,” “probable,” or “not obvious.” A problem is found or it is not; an issue is a serious deficiency or it is not. If an issue is “probable,” then it is a corrective action and must be treated as such. Rating systems other than that presented must be approved by the state agency.

The ratings cannot be made and then allowed to stand in isolation. Sponsors create a summary of the findings to identify critical areas in which many providers are performing poorly, indicating a need for training, more monitoring, etc.

D

Denial of Applications and Termination of Institutions

The USOE must propose to terminate the program agreement with any SO that it determines to be seriously deficient and that has not corrected the serious deficiency and its causes. However, the USOE shall afford an SO every reasonable opportunity to correct problems before proposing to terminate the SO for being seriously deficient. The USOE must notify FNS whenever it has terminated the participation of a seriously deficient SO, at which time the SO will be placed on the National Disqualified List (NDL).

FNS may determine independently that an SO has been seriously deficient in its operation of the program and has not corrected the problem as required, and have the state agency follow the termination process.

Provider termination

The SO must propose to terminate the program agreement with any provider that it determines to be seriously deficient and that has not corrected the serious deficiency and its causes. However, the SO shall afford a provider every reasonable opportunity to correct problems before proposing to terminate the provider for being seriously deficient. The SO must notify the USOE whenever it has terminated the participation of a seriously deficient provider, at which time the provider will be placed on the National Disqualified List (NDL).

The time frame for termination and placement on the NDL is seven years. Evaluation of the termination and NDL will be determined on an individual basis according to the USOE's policies and FNS (See **Serious Deficiency–Sponsors** and **Serious Deficiency–Providers**).

Denial of Services

Excepting discrimination based on race, color, national origin, age, sex and disability, no regulation or other official guidance has been found that directs sponsoring organizations to accept any and all providers new to the sponsor for participation in the CACFP simply because they have applied.

The regulation requires a sponsor to “...provide adequate supervisory and operational personnel for the effective management and monitoring of the program at all facilities it sponsors” (7CFR Part 226.16(d)). It is up to the

sponsor to determine whether it has adequate resources to properly accomplish the required management and monitoring, given the geographic location of the provider, the provider's apparent capabilities, and any other considerations the sponsor determines to be relevant.

The sponsor should establish a written policy to apply when determining whether any given applicant provider will be served. Such a policy should supplement findings of the required pre-approval visit wherein determination is made "that the proposed food service does not exceed the capability of the child care facility" (7CFR Part 226.16(d)(1)).

It has been determined that, as long as denial is not based on legally prohibited discrimination, a sponsoring organization is not required to accept for sponsorship in the CACFP any and all day care home providers who apply to the organization. The sponsor is not obligated to state a reason for such denial, and to do so may be problematic.

If a denied provider lodges a complaint of discrimination based on any of the prohibited categories, the USOE and/or the USDA will immediately undertake an investigation. In such event, if it can be demonstrated that the sponsor has other providers that are of the same minority group as the denied provider, it would serve to support the sponsor's position that no proscribed discriminatory act controlled the decision.

Discrimination is not *per se* prohibited by civil rights laws. A sponsor is entitled, within the bounds of program rules, to make judgments in connection with acceptance or denial of providers, and the civil rights laws will not be read to prohibit a sponsor from regulating its own business, as long as the regulation is not discriminatory based on race, color, national origin, age, sex or disability (and religion or ancestry in Utah).

Denying Meals to Children

Denying or delaying meal benefits to any participant as a disciplinary action is prohibited. Detaining of children which results in their not participating in the (full) meal period is also contrary to the intent of the program and is also a civil rights violation.

Depreciated Equipment

The USDA has not given guidance on how long a selected type of equipment/computer should last; considering the rapid pace of changes in computer technology, a computer would age more quickly than other

equipment. Therefore, allowing a three-year straight-line depreciation is reasonable.

Disabilities (Persons with Disabilities)

Providers are required to make substitutions of foods for persons with disabilities who are unable, because of their disabilities, to consume specified food items. If the person has a disability, a licensed physician must so certify and should provide information regarding the substitutions or changes in foods to be made to the person's diet.

A person with disabilities is any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Such functions as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working are major life activities.

A physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or an anatomical loss affecting one or more of the following body systems: neurological, special sense organs, reproductive, genitourinary, skin, endocrine, musculoskeletal, cardiovascular, digestive, hemic and lymphatic, respiratory, and/or speech organs.

Physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, muscular dystrophy, cancer, diabetes, emotional illness, epilepsy, multiple sclerosis, heart disease, mental retardation, and drug/alcohol addiction.

Mental or psychological disorders include mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Providers are not to make the determination of whether a child is disabled, but the certification of a physician, as described above, may be used in support of a person being claimed as disabled. The certification must state the individual's disabling condition and the major life activity affected by the disability.

There is no upper age limit on the person being claimed, except that the majority enrolled in the facility must be 18 years of age or under.

Providers must accept the certification of a physician regarding a disability. Substitutions to the meal must be made for children who are unable to eat because of their disabilities when that need is supported by a statement signed by a licensed physician. The physician's statement must identify:

- The disability and an explanation of why the disability restricts the diet;
- The major life activity affected by the disability; and
- The food or foods to be omitted from the diet and the food or choice of foods that must be substituted.

Providers may make food substitutions, at their discretion, for individuals who do not have a disability, but who are medically certified as having a special dietary need. Such determinations must be supported by a statement which specifies the needed food substitutions and is signed by a licensed medical authority. Medical authorities include physicians, physician's assistants, nurse practitioners, nurses, and registered dietitians.

Medical statements must be kept on file for review. The provider is responsible for supplying any foods or food textures, and following the physician's directions as stated in the disability statement.

Disclosure of Children's Free and Reduced-Price Information

Except under limited circumstances, children's free and reduced-price meal status may not be disclosed, without parent/guardian consent, except to persons directly connected to certain education programs, health programs, means-tested nutrition programs, the Comptroller General of the United States and some law enforcement officials. However, officials may disclose children's free and reduced-price meal information to persons directly connected with the state Medicaid and the state Children's Health Insurance Program when parents/guardians do not decline to have their information disclosed.

Drug-Free Workplace

As a condition of receiving federal funds, institutions must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. Each

institution must distribute a copy of a statement describing its institution's drug-free policy to all employees. The statement must:

- Tell employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace.
- Specify the actions that that will be taken against employees for violating that prohibition.
- Let each employee know that as a condition of employment he/she must abide by the terms of the statement, and that he/she must notify the institution in writing if he/she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after conviction.

The institution must establish an ongoing drug-free awareness program to inform employees about:

- The dangers of drug abuse in the workplace.
- The policy of maintaining a drug-free workplace.
- Any available drug counseling, rehabilitation, and employee assistance programs.
- The penalties that may be imposed upon them for drug abuse violations occurring in the workplace.

If an employee is convicted of a drug violation in the workplace, the state agency must be notified in writing within ten days after learning of the conviction including the employee's position. The state agency will forward the notice of conviction to the federal agency governing the institution's award.

The sponsor should keep copies of the statement which shows the date they were distributed to all employees. New employees should be informed of the institution's drug-free policy upon hiring. Proof should also be kept that the institution offers an ongoing drug-free awareness program.

E

Economic Unit

An economic unit is a group of related or unrelated people who share housing, all significant income, and the expenses of its members. More than one economic unit may exist in a home; this is generally characterized by prorating expenses and economic independence (see *FDCH Eligibility Guidance for Family Day Care Homes*).

Eligibility of Provider's Own Children

The provider's own children are eligible only if:

- The provider's household has been determined as Tier 1 and is income or categorically eligible (see *Eligibility Guidance for Family Day Care Homes*).
- The provider's children are enrolled in the day care.
- The provider's children are participating in the meal service during day care hours.
- Enrolled nonresidential children are present and participating in the same meal service during day care hours.

Eligible Children's Meals

The meals of children enrolled in day care homes are eligible for reimbursement if they are:

- 12 years of age or under.
- Children of migrant workers and 15 years of age or under.
- Disabled at any age, and the majority of enrollees are 18 years of age or younger.

Eligible Providers

Eligible providers are those who have a current agreement and application with their SO, have a valid license, residential certificate or have been approved by their SO after all requirements have been met for relative care or alternate approval. A renewing provider who is "in process," but has not fully completed all renewal requirements, may still continue to participate; however it must be in the process of completing approvals, inspections, etc. A new provider must have all requirements met prior to being approved by an SO.

Emergency Residential Care

See **Residential Care**

Enrolled Children and Enrollment Records

Program regulations define an enrolled child as “a child whose parent or guardian has submitted to an institution (or facility) a signed document which indicates that the child is enrolled for child care.” Children are not “enrolled in CACFP”; they are enrolled in child care. All children in care in the home must be enrolled, regardless of tiering or claiming status. This includes the provider’s own children.

An enrolled child, therefore, is one whose parent or guardian has submitted a signed and completed enrollment form with the provider for day care services. If a provider’s own children are in the home during day care hours, they must also be enrolled for the day care meals/snacks that must be provided to enrolled children. The enrollment form must contain the child's full name, birth date, enrollment date, parent/guardian signature, normal days and hours in care, whether the child is a resident of the home, and the true relationship of the child to the provider. Enrollment must be updated annually and signed by a parent or guardian. The provider cannot claim a child for meal reimbursement if an enrollment form is not on file for that child. Original enrollment forms must be kept along with the annual enrollment update.

All children enrolled for care and present at the time of meal service are eligible to participate in all meals, whether or not the meal is eligible for reimbursement.

Meals for children not enrolled in day care are considered non-program meals and cannot be claimed.

Exceptions to the Meal Pattern

See **Special Diet Statement**.

Expansion Funds

The Child and Adult Care Food Program (CACFP) regulations provide funds to family day care home sponsors to support activities to expand participation to homes located in low-income and rural areas. CACFP regulations 226.12(b) specifically limits funding of expansion money to sponsors in areas other than those specified in a prior request. This means sponsors have more than one opportunity to access expansion funds but

can only target a specific area once. In some instances, sponsors have used expansion funds to do statewide expansion projects. A statewide project is not an appropriate or effective use of expansion payment because it removes all opportunity for additional effort on the part of any institution participating in such a project. Moreover, by definition, expansion funds are provided to expand participation to homes located in low-income and rural areas. Since no "state" meets the definition of a rural area and it is equally unlikely that the entire state would be classified as low-income, it would be improper to engage in a statewide effort. Request must clearly identify a reasonable and specific under-served area. Expansion funds are not intended to be used as extra funding for routine outreach.

The basic requirements to receive expansion funds are as follows:

1. Currently participating SOs who have been on the Program for at least a year (a full year between receiving start-up funds and expansion funds).
2. Provision of the geographic boundaries of the area(s) in which the organization intends to use the Expansion Funds.
3. Provision of data to document a need for expansion into the area(s) listed in question number (school data, or census tract data or Metropolitan Statistical Area (MSA) to show areas or pockets of areas that are low income (50% or more low income)).
4. Explanation of plans to advertise for and contact potential providers.
5. Documentation of time necessary for expansion funds.
6. Not determined to be seriously deficient in operation.

An eligible Sponsoring Organization may receive expansion funds for a maximum payment of up to 50 homes at the currently assigned administrative rate times the first 50 homes for no more than two months of this amount. These funds may not be used for capital or structural expansions or changes.

F

Fair Labor Standards Act (FLSA)

A director, or other similar executive-level employee, would be considered FLSA exempt. Non-executive level employees are not FLSA exempt. A record of hours and work is to be kept for all FLSA exempt and non-exempt employees, and budget hours need to be noted on the appropriate budget line item. The Instruction at VIII I 23 c (1), (2) and (5) describes labor cost record keeping needs. This need not be elaborate or minute-by-minute accounting; nevertheless, some record of daily work activity is still needed.

Family Day Care Home

In order to participate in the CACFP as a day care home, day care must be conducted in a private residence. CACFP regulations define a day care home as “an organized non-residential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.” The benefits are intended for those which provide day care to small groups of children in a private home.

Family Day Care Information System (FDCIS)

The FDCIS is no longer in use; however, all previous FDCIS information and supporting documentation must be kept for three years after the current year, or until resolution of any audit or review questions.

Family-Style Meal Service

In family-style service, containers with food to accommodate all children are placed on the table, and children, with adult supervision and assistance, are expected to serve themselves. Unlike cafeteria lines or unitized meals in preset service, family style affords some latitude in the size of initial servings because food is actually available at each table for additional helping. When using family style the following guidelines must be used (FNS Instruction 783-9 rev 2):

- A sufficient amount of prepared food must be placed on each table to provide the full required portion of each of the food components for all children (and supervising adults) at the table.
- Children should initially be offered the full required portion of each meal component.

- The supervising adult must actively encourage each child to accept the full component. If the child refuses the first time, then the supervising adult should offer it again.

For safety reasons, food not used, but which has been put on the table, should be discarded, and not reserved for a later time.

Field Trips (Off-Site Meals)

Meals are to be served and consumed as part of the program on the provider's premises or on provider-related premises. Meals given to children to take home are not reimbursable. However, meals served to children on provider-supervised field trips may be reimbursed because they are consumed as part of a day-care function. Providers must notify SO's of the upcoming field trip meal and receive approval by the SO prior to service. Documentation must be maintained by the provider and SO to demonstrate approval. Meals served off-site should be subject to especially stringent sanitary and precautionary measures to avoid contamination and spoilage.

Meals containing components from restaurants will not be considered creditable under the CACFP unless a product analysis sheet is provided by the restaurant or its corporate office. Restaurant meals served during a field trip will need to be pre-approved by the sponsor prior to a field trip (see **Restaurant Meals**).

Financial Documentation

The SO is responsible for keeping all financial documentation needed to demonstrate compliance with federal regulations. It is recommended that the SO use the accrual-based accounting method (see **Administrative Budget & Provider Reimbursement**).

Five-Day Reconciliation

At each provider review the monitor is to reconcile the provider's meal counts to attendance and enrollment by participant for a minimum of five consecutive claiming days from the current or prior claiming period. The reconciliation may be based on on a random sample of the children for the five-day period.

For providers with eight or more claimed participants, eight (8) is the minimum sample size to be included in the reconciliation.

For providers with fewer than eight claimed participants, all will be included in the reconciliation (FDCH 02-06).

For Tier 1 providers who claim their own children, the sample used to conduct the five-day reconciliation must first be taken from non-resident claimed participants. "Provider's own" should be included in the reconciliation only if there are not enough non-resident claimed participants to fulfill the minimum required sample size.

This sample is not intended to be statistically valid; it is intended as a management tool designed to quickly determine whether the center has a problem with its meal counting and claiming procedures.

The five-day reconciliations will usually involve records from the current or previous month (or, for reviews conducted early in a month, perhaps some combination of days from the current and previous months). This will facilitate parent contacts, should those prove necessary.

However, the monitor can look at an earlier month if there are circumstances that warrant the monitor examining a five-day period from an earlier month (e.g., there are indications of an inaccurate meal count in an earlier month, but not in the current or previous month).

Food Allergies

See **Special Diet Statement**.

Foster Child

Foster children are categorically eligible for free meals as long as they are considered the responsibility of the State or have been placed by a court with a caretaker household.

A child who is placed informally with a family, or who is voluntarily living with a family that is not her or his birth family, is not considered a foster child and is not categorically free.

Households with foster and non-foster children will include the foster child as a household member, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children. Because the foster child becomes an extra person in the family, it may help the foster family's non-foster children qualify for free or reduced price meals based on household size and income. While the foster

child is categorically eligible, the rest of the foster family would be categorized based on their income or eligibility based.

Foster payments received by the family from the placing agency are not considered income and do not need to be reported. The presence of a foster child in the household does not make the other children or adults in the house eligible as do SNAP, FEP or FDPIR.

If a foster child moves back with her or his family, the child continues to remain free until the IEF expires. If the foster child's guardian family was reduced-price or free because of the number of people in the household, that household also continues to be free until the IEF expires.

If the foster child moves back home, then the child's family could reapply if the number in the family would now qualify them as free or reduced-price. The child would remain free until the original IEF expired.

A licensed provider is not allowed to also be a licensed foster parent, and would therefore be ineligible to participate as a provider on the Program.

Four-Week Visit

The first four-week visit is due four weeks from the time the provider begins operation (feeding children and keeping records). For the SO to be accurate with this date, it is recommended that the provider notify the SO in writing of their begin date. Use of a form letter would be satisfactory.

G

Governing Board (Board of Directors)

Sponsoring organizations are to be nonprofit entities and governed by a Board of Trustees or Board of Directors, also called a governing board.

The following standards have been established regarding composition of governing boards of private nonprofit organizations operating the CACFP.

- The majority of board members must be independent community members who have no direct financial ties to the outcomes of the Program (majority is more than 50%).
- Only a minority may be relatives of executives and/or staff. Relatives are defined as spouse, parent, grandparent, child, grandchild, sibling, in-law, step relative, cousin, niece/nephew, or aunt/uncle of the executive or staff member.
- Providers, staff members and/or organization executives *may* be board members but *must* abstain from voting on all issues where there is or may be a conflict of interest. However, such membership is strongly discouraged, as conflict of interest is built in, particularly in the case of providers and staff members.

Group Day Care Homes

Group care is limited to the number of children governed by current licensing rules.

H

Home Day Care

CACFP regulations define a day care home as “an organized non-residential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.” This means that for purposes of the CACFP, family and group day care homes are limited to the provider’s own private residence, the private residence of another, or a rented private residence. Commercial properties, including churches or schools, are not private residences and are not eligible to participate.

Home School

A provider offering a “home school” who wishes to participate in the program must be licensed or approved as a child care provider and meet all other requirements.

Homeless Children

Homeless children living with a family become part of the family’s economic unit.

Household Contacts

Utah has a federally mandated household contact policy. Household contacts are required by the sponsor under certain circumstances described below. It is also recommended that SOs have their own household contact policy to cover other circumstances not described in this section.

Circumstances triggering a household contact:

The Sponsoring Organization will need to contact households to verify enrollment, attendance and meals if the following are found during a Program monitoring review of any facility:

- Provider not home or no children present at review:
 - 1st or 2nd occurrence–household contact at discretion of sponsoring organization.
 - 3rd occurrence–household contact required.
- Consistently fewer children present during the review than claimed.

- Can't reconcile enrollment, meal counts and attendance.
- Claiming meals for children who are at school.
- 100% of parents refuse provider's house formula for infants.

System or procedure to conduct contacts

Any of the following methods of contact may be used. If there is no response for a particular method, a different one must be used. Household contacts will be considered satisfied if (1) a majority of contacts were successful, and (2) the successful contacts suggest that the issue was resolved. However, if no contact can be made, then other approaches must be tried, including further unannounced reviews of facilities, more detail review of claim history, etc. If household contacts are not satisfied, or show that a serious problem exists, such as that children claimed are not actually in care, further action must be taken. This action may include further investigation, determination of serious deficiency, or other such action as is deemed appropriate:

- Phone call: Calls should be placed at a time when children are not in care and parent or guardian is likely to be home. If parent/guardian is unable to be reached on first try, call will be placed at a different time of day. If still no contact, then:
 - Letter or postcard with questions similar to phone survey.
 - Visit (if problems are apparent and there is a general non-response to contacts, visits may be conducted).

Documentation of Household Contacts and Attempted Contacts

- Date
- Questions and answers (information obtained)
- Name and initials of person conducting interview
- File with CACFP files

Household Size

Household size influences both income eligibility and the number of outside day care children allowed in day care at any one time. A household is defined as a group of related or unrelated individuals who are not

residents of an institution or boarding house, but who are living as one economic unit (see **Economic Unit** and *Eligibility Guidance for Family Day Care Homes*).

Inactive Providers

Until a provider has been inactive (not submitting claims) for twelve months, the provider's agreement remains in force with the current sponsor. After 12 months the provider is free to transfer without a transfer form (see **Transfer Policy**).

Income and Income Verification

The definition of income is any money received on a recurring basis. If a child receives money on a regular, recurring basis, such as a newspaper delivery route or, for teenage children, a job at a fast food restaurant (even if the child only works once a week, or has a variable schedule), that money is available to the family and is considered family income.

If a child has a regular job as described above, even though he/she does not contribute money directly to the household, his or her money is still considered available for household use and is part of the family income. If the child is using his or her money to buy necessities, then the household money is offset, thereby indirectly contributing money to the household.

A provider is only required to report gross income, including day care income. Providers may maintain records to determine net income, but are not required to do so. If a provider wishes to submit documentation of net day care income in an effort to be Tier 1 eligible, it is at its discretion only. Sufficient documentation must be submitted to accurately document net day care income as part of the verification process.

When a new provider is calculating day care income, there may not initially be a full month's income and day care enrollment may be low. Therefore, an inaccurate net day care figure may be recorded. In order to arrive at net day care income that reflects a typical month, the SO should check income at the four-week visit. The SO may allow up to 45 days for new providers to update net day care income.

Verification of income must be submitted to the SO when the provider is determined Tier 1 by income. Providers and a provider and a spouse who are self-employed may submit a Schedule C. Providers who are not self-employed may submit pay stubs, W9, or other current proof of income. Verification for an IEF with an eligible case number will require a letter of determination from the corresponding agency.

Any subsidy a household receives through the prescription discount drug program must *not* be treated as income in determining eligibility for free and reduced-price meals (see ***Eligibility Guidance for Family Day Care Homes***).

Income Eligibility

Income eligibility must be determined for (1) Tier 1 providers who qualify by area who want to claim reimbursement for meals served to their own children, (2) low-income providers who do not live in a low-income area and desire Tier 1 reimbursement, and (3) client families of Tier 2 mixed providers who desire higher (Tier 1) reimbursement for enrolled children (see ***Eligibility Guidance for Family Day Care Homes*** and ***Tier 2 Mixed Providers***).

Income Eligibility Form (IEF)

The income eligibility form, also called a free-reduced price application, is used to collect information to determine Tier 1 providers by income or category and to determine if Tier 2 client families qualify for the higher reimbursement rate. Providers who are determined Tier 1 using the income eligibility form must verify the information. It is advisable that an excess of IEFs not be printed because of the possibility of state office or federally issued revisions.

Updated IEFs are issued annually by the SA and are to be used for the fiscal year for which they are intended. Old, unused IEFs are to be discarded at the close of the fiscal year (see ***Eligibility Guidance for Family Day Care Homes***).

Income Eligibility Form Approval

Final responsibility for a “complete” application belongs with the SO. A complete IEF should be approved/denied by the SO within ten days of receipt. The date of approval cannot be prior to the date the adult household member signed the application. IEFs are good from the beginning of the month in which they were approved and expire at the end of the same month a year later. Once properly approved for free or reduced-price benefits, a household will remain eligible for those benefits for the duration of the time the IEF is in effect.

However, if a household reports an income of zero (0), approval for free meals is temporary and must be checked within 45 days. If at that time the

household reports an income, it must be noted on the Income Eligibility Form (IEF), dated, initialed, and the source of information identified. The institution may instead choose to have the household complete a new IEF. Providers or families should never be requested to “backdate” an IEF.

Income Eligibility Form Maintenance

Original IEFs are to be on file at the SO’s office and filed alphabetically by family’s (or child’s) last name. IEFs for providers’ own eligibility should be filed separately from IEFs for day care families in mixed Tier 2 homes. Terminated and denied providers’ and families’ IEFs should be kept in further separated files in alphabetical order.

Changes in providers’ approval status must be changed in the CNPWeb system. IEFs must be kept for three years plus the current year. A master list of all qualifying providers and other children must be maintained and updated on a monthly basis. The SO must be able to account separately for the number (count) of provider IEFs versus family IEFs.

Income Not Necessary to Be Reported

See **Income and Income Verification** and *Eligibility Guidance for Family Day Care Homes*.

Infant Meal Pattern and Guidelines

Family day care homes participating in the CACFP must offer program meals to all enrolled day care children, including infants.

A facility may not avoid this obligation with respect to infants (children younger than 12 months) by stating the infants are not “enrolled in CACFP” or by claiming some logistical or cost barrier to offering an infant meal.

As long as the infant is in care during the meal service period, the facility must offer the infant a meal that complies with program requirements and the child’s needs. As with all children in participating facilities, an infant’s parent or guardian may decline what is offered and supply the infant’s meals instead, but such a choice cannot directly affect the fees paid for care, nor may a provider require it. An infant waiver is required for parents who choose to provide their own infant meals or formula. If the difference in preference is due to a child’s certified medical (disability) need, the facility must accommodate the preference as long as a medical statement is in place (see **Medical Statements**).

Reimbursable meals for infants only containing breast milk must be served and fed to the infant by the care giver.

Commercial combination dinners or foods for infants are not creditable and are *not* part of a reimbursable meal. It is impossible to determine the amount of each of the combined ingredients, such as in meat/vegetable combination dinners. Many commercial baby foods also contain ingredients other than meat, vegetables, or fruit. These foods often contain water and other fillers. Also, commercial baby foods that contain any type of filler, and are not plain, single-ingredient vegetables, fruits, or meats, are not creditable.

For a period of one month, when a child is weaning from infant formula to cow's milk, meals that contain infant formula may be reimburseable.

A mother who comes to the home to breastfeed her own child the meal may not be claimed unless another component is supplied by the provider.

Any baby food containing DHA cannot be used as part of a reimburseable meal but can, however, be used as an extra and is recommended to only be served to infants ages eight (8) months and older to prevent the possibility of food sensitivities or food allergies.

In-Kind Compensation

In-kind compensation is excluded from being counted as income to determine household eligibility (see *Eligibility Guidance for Family Day Care Homes*).

Institutionalized Child

An institutionalized child, like a foster child, is considered a family of one and therefore will have his/her own IEF. Only the income the child earns from full-time or part-time regular employment and/or personally receives while residing in the institution is considered income (see *Eligibility Guidance for Family Day Care Homes*).

Interpreter (Translator) Assistance for Licensing

Interpreter Assistance for Licensing is not an allowable program expense (FNS Instr 796-2 rev 3, VII A 3 a (p. 10)).

A conflict of interest is possible if the interpreter/monitor either intentionally or inadvertently misrepresents a fact, rule or value to either party and that misrepresentation is subsequently relied upon.

Obviously, sponsor employees are free to spend their own time as they see fit, including helping family day care providers become licensed by offering their service as interpreters. They should in no case, however, present themselves in such a situation as representing either any particular sponsor or the CACFP in general (see **OMB Circular A-122, 7CFR Part 226, 7CFR Part 3016 or 3019, and FNS Instruction 796-2, rev. 3**).

J

Job Descriptions

Job descriptions are to be completed as part of the budget process. Although the job descriptions have information for all aspects of running the Family Day Care Home Program, not all staff members will participate in all activities.

For example, the director is not to be a monitor, although some monitoring activities will be included in the director's duties when filling in temporarily for a missing monitor position or in the process of overseeing and evaluating monitors. When hired by the board, the director should be evaluated for experience with dealing with regulations, business experience, accounting, etc. The director's main duty is to be administration, and includes administrative paperwork such as the Management Plan and Budget, and overseeing all aspects of running the sponsorship.

Office staff and monitors may also have overlapping job descriptions, although, unlike the director, there is not a prohibition against a person being both office staff and a monitor.

People hired on a contractual basis are not to be included on the job descriptions. Their job duties should be detailed in a contract that is updated annually (see **Budget**).

L

Late Claims

Late claims (after 60 days) may only be approved by the SA if the claim was not able to be submitted due to an event beyond the institution's control. Loans for late claims may not be used with FDCH funds.

LDS Church Missionaries

(See **Missionaries, LDS.**)

License/Residential Certificate

To participate in the program a provider must have a license or residential certificate issued by the Office of Child Care Licensing or meet standards for Relative Care or Alternate Approval. If a provider's license or residential certificate or Relative Care or Alternate Approval expires and the SO has received no evidence of a timely renewal, the SO must not submit a claim for, or reimburse the provider for, meals served beyond the expiration date.

Providers must submit renewal documentation to the Office of Child Care Licensing prior to the license/certificate expiration date. A receipt from the licensing office, a canceled check dated prior to the expiration date, or a letter from the agency indicating that renewal is expected will be considered timely information and will allow the provider to continue participating in the Program.

SOs shall submit to the USOE documentation that facilities under their jurisdiction are in compliance with licensing/approval requirements prior to submitting the provider's claim (see **License/Residential Certificate Renewal**).

License Capacity

Reimbursement may not be claimed for meals served to children in excess of the provider's approved capacity. It is the provider's responsibility to control attendance so that capacity is not exceeded. Although there may be occasions beyond the immediate control of the provider (late parents, bad weather, etc.) when some slight violation occurs for a short time, SOs should consider chronic overcapacity a requirement for a corrective action plan with the provider that should be reported to the Office of Child Care Licensing. If the problem persists, the provider should be declared

seriously deficient for failure to comply with licensing rules, and serious deficiency procedures should then be followed.

The provider can be reimbursed for the number of children allowed by the state license or certificate. It is up to the provider to deal with city ordinances, although the provider should be within the local legal limits.

If chronic overcapacity becomes a safety issue, then suspension procedures should be implemented (see **Provider Suspension**).

Licensing Assistance

The SO may use administrative money to assist new potential providers who qualify for Tier 1 (by area or IEF) with some of the cost related to obtaining a license or residential certificate or relative care approval or alternate approval up to \$300. In addition, if an SO has received "Expansion Funds," new low-income providers may be assisted to meet requirements for licensing/certification with a grant of up to \$300, claimable as an administrative expense. For purposes of this assistance, a new provider is defined as one who has not previously been licensed, certified or participated on the CACFP. These funds may not be used for capital or structural improvements. In both cases, the provider is responsible for requesting help with licensing costs and must show why licensing cost help is needed (see **Expansion Funds**).

M

Management Plan

According to federal regulation, every three years a complete Management Plan will be requested along with the attending budget.

The Management Plan describes how the SO will establish and maintain viability, capability, and accountability in all aspects of the Program. The plan demonstrates that the budget is sufficient and reasonable for program operations. Capability is exhibited in detailed information about what the SO will do to ensure compliance with state requirements and federal regulations at all levels. The plan must also detail how the SO will be accountable for federal funds in its operation and disbursement of provider reimbursements, administrative costs, and management of the program. The Management Plan is considered permanent for three years, but amendments must be submitted to the USOE for approval as they are determined to be needed. The Management Plan and Budget are integral parts of each other, and often amending one will result in amending the other. Although amendments must be submitted when the SO makes changes to the Management Plan and/or Budget, the USOE will also request annual updates for renewal.

Meal Accountability

Providers must maintain records to document eligibility of meals claimed for reimbursement. Minimum records include (1) participation counts, (2) complete menu information, documentation of children enrolled, and documentation that outside day care children are present and participating when the providers' own enrolled children (for qualifying Tier 1 providers) are participating in meals.

Meal Counts

Providers who are not group homes (eight or fewer children) should have meal counts recorded no later than the end of the service day, and are not to be recorded in advance of meal service. Providers with 12 or more children enrolled and attending in any one day must take point of service meal counts.

Point of service meal counts

Point of service (POS) is defined as the point in the meal service when the child has received (pre-plated) or has the opportunity to receive (family style) the complete reimbursable meal.

- Pre-plated: child has actually *received* his/her complete reimbursable meal.
- Family style: enough food must be prepared to serve each child the full required amount. The food and the child must both be at the table, with the child having had the opportunity to serve her or himself *all* the components of a reimbursable meal.
- Count is not taken prior to the child being at the table with the complete meal in front of him or her, nor is it taken after the child has left the table.

Providers who have been found seriously deficient due to problems with their meal counts and claims must use a point of service count.

Meal Disallowance

Meal disallowance happens when a provider fails to supply reimbursable meals or have required documentation in place to support reimbursable meals, eligible participants, or home eligibility. CACFP regulations do not provide for claiming grace periods to new homes that fail to serve reimbursable meals. Emphasis should be placed on the importance of training, early monitoring, and technical assistance to ensure that new providers are able to serve reimbursable meals that meet meal pattern requirements.

Meal Documentation

There must be sufficient records to document meal compliance. The meal or menu record must include:

- The menu, showing the required food items that meet the meal pattern.
- Substitutions, if any.
- Portion sizes of all menu items.

Written menus must be maintained by providers and in the SO's provider files for all meals claimed for reimbursement. The requirement for meal records may be met by menus prepared every day or by reference to specific cycle menus. Menus must show specific food items such as "baked

chicken,” “oatmeal cookies,” “orange juice,” etc., not generic foods such as “crackers,” “juice,” or “chicken.”

Providers using their own menus need to have those menus maintained in their files. Providers using sponsor menus must show in their files that they are using sponsor menus. Separate menus must be maintained for infants.

Cycle menus developed by the SO must be approved by the USOE prior to their use. Menus created by the providers must be approved by the SO prior to those meals being claimed.

Meal Limits per Child per Day

Sponsors are not expected to limit providers’ claims for meals that are or might be served to the same child(ren) by another institution. For example:

A child could be simultaneously enrolled in a family day care home and a commercial center and even attend both the same day. The sponsor should not attempt to reduce the number of meals the FDCH provider claims for that child when in her/his care just because the child might have had meals at the center.

For example, provider’s school age child comes home for lunch during the school day. Assuming all other criteria are met, there is no reason the provider cannot claim this child’s meal. The sponsor is not responsible for what the child does at school, including participating in school lunch.

However, when a sponsor of homes has records that show that a child is claimed for more meals than the limit by more than one provider, there is a problem. The providers or the sponsor or the parent must determine which three meals are to be claimed for reimbursement. The sponsor must assure that no more than three meals are claimed per child per day combined among all child care institutions the child attends.

Meal Pattern Exceptions

Meal requirements may be varied only for medical exceptions for individual dietary problems, special exceptions granted by the FNS for experimental study, exceptions due to religious reasons (as allowed by '226), and emergencies as a result of disasters recognized by FNS.

FNS may approve variations in the food components of the meal on an experimental or continuing basis where there is evidence that such variations are nutritionally sound and necessary to meet ethnic, religious, economic, or physical needs.

In accordance with this provision, Seventh Day Adventist providers may use meat alternates (plant protein products) at the 100 percent level to meet the meat/meat alternate component. See the *Food Buying Guide* for an approved list of meat alternates.

Also in accordance with this provision, meals served to Jewish children participating in the program may be exempted from the enrichment portion of the bread requirement during the religious observance of Passover. Other variations in the meal pattern may be made in accordance with Jewish dietary laws. Contact the USOE for a copy of FNS guidance on this issue.

Meal Requirements

Meals served must meet CACFP federal regulations as found in 7CFR 226. Exceptions to the meal pattern must be documented by a medical statement or a special diet statement (see **Meal Pattern Exceptions** and **Special Dietary Needs**).

When parents or others provide foods for special occasions, the meal served must meet the component requirements and the provider must supply at least one component to claim the meal. If parents provide an additional food (such as cake) for lunch or snack, such foods should be served after the required components to help ensure that children's nutritional needs are met. Parents should not be asked to supply any or all of the food for any meals. It is anticipated that foods donated by parents will be a rare occurrence and may occur as a result of a child's illness, parental preference for certain food items, or as a treat for a child's birthday.

Before providers can serve commercially prepared products in meals they plan to claim for reimbursement, they need to have either a CN label or product specification sheet on file as required by Appendix C to part 226-Child Nutrition (CN) Labeling Program to be in compliance with this requirement and avoid an overclaim.

A CN label found on a combination food product clearly identifies the contribution of a product toward the meal pattern requirements, protects providers from exaggerated claims about a product, and provides a warranty against review findings if the CN labeled product is used according to the manufacturer's directions.

Meal Service

Institutions and facilities which receive their meals from schools participating on the National School Lunch or Breakfast Program may allow the use of offer versus serve only if it is used in the same manner as the school uses it, using the school's meal patterns. These institutions will generally be those operated by a school or having a contract (food service agreement) with a school for meals and this rule is only for school-age children. Offer versus serve (OVS) cannot be used with snacks, as there are only two items.

OVS is not considered appropriate for preschool children and is not to be used with them. It may interfere with Program nutrition goals and the CACFP institution's efforts to introduce new foods to children. Rather, family-style meal service, as described in FNS Instruction 783-9, Rev. 2, is to be used as a way to provide younger children some choice in the types and amounts of food selected.

Meal Times and Places

To be reimbursed, meals must be served at the approved sites and during the hours and days agreed upon in the program application. The different meal types are expected to be served during the approximate times shown below:

Breakfast	6:30 a.m. – 9:30 a.m.
Morning Snack	9:30 a.m. – 11:00 a.m.
Lunch	11:00 a.m. – 2:00 p.m.
Afternoon Snack	2:00 p.m. – 4:30 p.m.
Dinner	4:30 p.m. – 7:00 p.m.
Snack	7:00 p.m. – 9:00 p.m.

At least two hours must elapse between beginning times of meals or snacks for the same group of children. The program application should be updated when the provider finds it necessary to change meal service times.

Meals served off site are considered a field trip and must receive prior approval from the SO. Meals served outside of the specified and approved times are not reimbursable unless exceptions are approved on a case-by-case basis.

Media Release

SOs must annually provide the information media serving the area from which the SO draws its attendance with a public release. The release shall announce the availability of meals to participating children at no separate charge. All releases must include the civil rights nondiscrimination statement. The SO is not required to pay for publication of the announcement. The USOE currently provides this information to the media on behalf of all currently participating Utah Sponsors (see **Civil Rights Public Notification Program**).

Medical Exceptions

Substitutions may be made in the meal pattern if individual participating children are unable, because of medical or special dietary needs, to consume specific foods.

Documentation must be completed and kept on file concerning the medical or special dietary need (see **Disabilities, Special Diet Statement, and Special Dietary Needs**).

Military Families and Eligibility

Military housing allowance for privatized housing is excluded as income for the purpose of income eligibility forms; military housing allowances for on-base housing must be included as income on the Application for Free and Reduced-Price Meal Benefits. Military combat pay is also excluded from the IEF.

Any Family Subsistence Supplemental Allowance (FSSA) that a household receives is to be treated as income in determining eligibility for free and reduced-price meals (CACFP 645).

Educational scholarships and military assistance for education, including the GI Bill, are to be excluded as income even when part of the assistance is provided for room and board.

Deployed service members and that portion of their income made available to the household are to be listed on the income eligibility form.

The determining official would count the service member as a part of the household in establishing a day care home provider's eligibility for Tier 1 reimbursement rates. Deployed members would continue to be considered members of the household for purposes of determining eligibility.

Deployment of a parent or guardian may also affect the eligibility of a child who temporarily resides with a day care home provider to receive meals in the Child and Adult Care Food Program. Although the child may live with the provider while the service member is deployed, the child would not be considered a "provider's own" child. In this special situation the child would continue to participate in the meal service as a non-residential participant. To claim reimbursement for program meals, the day care home provider must have power of attorney, custody, or an agreement established by the military to provide residential care to the child.

Combat pay is defined as an additional payment made under Chapter 5 of Title 37 of the United States Code, or as otherwise designated by the Secretary to be excluded, that is received by the household member who is deployed to a designated combat zone. Combat pay is excluded if it is:

- Received in addition to the service member's basic pay,
- Received as a result of the service member's deployment to, or service in, an area that has been designated as a combat zone, and
- Not received by the service member prior to his/her deployment to or service in the designated combat zone.

A combat zone is any area that the President of the United States designates by Executive Order as an area in which the U.S. Armed Forces are engaging or have engaged in combat. As with other types of income commonly received by military personnel (such as the Basic Allowance for Housing or Basic Allowance for Subsistence payments), combat pay received by service members is normally reflected in the entitlements column of the military Leave and Earning Statement (LES). Information regarding deployment to or service in a combat zone may also be available through military orders or public records on deployment of military units.

Under current policy (please reference pages 32-33 of the Eligibility Guidance for School Meals manual issued August 2001), household members who are temporarily absent from the household are considered

household members, and their income is included with other household income when making an eligibility determination. Household members not living with the household for an *extended period of time* or living overseas are not included as members of the household for eligibility purposes, and only that portion of their income made available by them or on their behalf to the household is counted as income to the household.

Another possible situation that might arise is one in which BOTH parents in the household are military personnel who are being deployed, and the child or children are sent to live with a relative or friend or day care home provider. In such a situation the child should still be considered to be a member of the original household that includes him or herself and his or her deployed parents, and the only part of the parents' *military* income to be counted is that which the parents are sending back from deployment to support the child.

Milk Standards

Fluid milk includes pasteurized fluid cow's milk which may be unflavored or flavored, skim milk or nonfat milk, lowfat milk, whole milk, lactose reduced milk, lactose-free milk, or cultured buttermilk, all of which meet State and local standards for such milk. The milk must contain vitamins A and D at levels specified by the FDA, and must be consistent with State and local standards of identity. The type of milk does not affect the reimbursement rate. However, SOs are responsible for making sure that the milk claimed for reimbursement meets all requirements as stated above.

Fat-Free and Low-Fat Milk

Milk served in the CACFP must be consistent with the most recent version of the Dietary Guidelines for Americans, which states fluid milk served in CACFP to participants two years of age and older must be fat-free or low-fat milk, fat-free or low-fat lactose-reduced milk, fat-free or low-fat lactose-free milk, fat-free or low-fat buttermilk, or fat-free or low-fat acidified milk. Milk served must be pasteurized fluid milk that meets State and local standards, and may be flavored or unflavored. Whole milk and reduced-fat (2%) milk may not be served to participants over two years of age.

Non-dairy Beverages

Children who cannot have fluid milk due to medical or other special dietary needs other than a disability may be served non-dairy

beverages in place of fluid milk. Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk, as outlined in the National School Lunch Program (NSLP) regulations at 7 CFR 210.10 (m)(3).

Parents or guardians may now request in writing non-dairy milk substitutions, as described above, without providing a medical statement.

As an example, if a parent has a child who follows a vegan diet, the parent can submit a written request to the center asking that a substitution be made. The written request must identify the medical or other special dietary need that restricts the child's diet. The provider then has the option of providing the substitution. The provider cannot, however, require the parent to provide the substitute; the provider is required to buy it. No additional meal reimbursement is available for serving non-dairy substitutions.

Milk substitutes must meet the same standard of identity as fluid cows milk. See the current listing from the state office for acceptable substitutes.

If the child has a medical disability, the requirements remain the same. The parent must submit a medical statement signed by a licensed physician that states the disability and the results of drinking the milk, and the beverage to replace the milk. This is the only time the non-dairy product can vary from those listed above.

Emergencies

If unusual or emergency conditions temporarily prevent a provider that normally has a supply of acceptable milk from obtaining it, the USOE may approve use of an alternate form of milk or even no milk. The provider is to make the request to the SO; the SO will forward the request to the USOE for approval. Documentation of the situation must be maintained.

In an approved emergency when fresh milk is not available, ultra-high-temperature (UHT) long-shelf-life milk must be used. In a continuing emergency, the SA may approve service of meals without

milk, provide an equivalent such as UHT, canned or dry milk is used (see **Meal Pattern Exceptions** and **Special Diet Statement**).

Missionaries, LDS

Missionaries living away from home are part of the economic unit of a family applying for free or reduced-price meals and should be included in the household size.

Monitoring

The SO must monitor and review all providers' operation of the program to assess compliance with meal pattern, record keeping, and other program requirements. Monitoring reviews must be conducted at least three times per year with no more than six months between reviews, unless review averaging is used. The first review must be conducted during the provider's first four weeks of operation, counting from when the provider begins operations. No more than six months may elapse between reviews. In conducting the review, the SO must use the pre-approval monitoring form and monitoring form developed by the SA. If the SO wants to make additions to the form, it must be approved by the SA prior to use.

SOs must make a minimum of two unannounced reviews per provider each year. One unannounced review must occur during a meal service, meaning that the monitor must observe all of the children whose meals will be claimed actually eating the meal or snack (not just food preparation or cleanup or eating by *some* but not all, children, being claimed as eating the meal). Monitoring reviews are to be planned so they do not occur on a predictable basis (same month, same week, etc.). It is imperative that sponsors follow up on providers appropriately to prevent program abuse. Follow-up visits should be budgeted appropriately. A meal ratio review does not count as a meal observation.

It is up to each SO to implement a system in which at least the minimum number of monitoring visits are completed for all claiming days, particularly for weekends and holidays.

Sponsors must ensure that the timing of unannounced reviews is varied in a way that would ensure they are unpredictable to the facility.

Meal Observation

One unannounced meal observation must be conducted a year. An entire meal must be observed from start to finish, not just part of the meal.

Meal Ratio Review

A meal ratio reviews occurs when the monitor sees just part of the meal, or the meal still on the table, and the monitor can verify the children that were present for the meal. It does not replace a meal review.

Review Elements

Sponsoring organizations must conduct reviews as part of the effective management and monitoring of the CACFP at all facilities they sponsor. Required review elements include:

- a) An assessment of the facility's compliance with program requirements pertaining to
 - i) The meal pattern;
 - ii) Licensing or approval;
 - iii) Attendance at training;
 - iv) Meal counts;
 - v) Menu and meal records; and
 - vi) The annual updating and content of enrollment forms.

- b) An assessment of whether the facility has corrected problems noted on the previous review(s). Written documentation of areas of non-compliance found on reviews must include a plan for corrective action and a deadline for completion. A summary of the action actually taken must be recorded by the sponsor on the next visit.

- c) A reconciliation of the facility's meal counts with enrollment and attendance records for a five-day period. This review must examine the meal counts recorded by the facility for the most recent five consecutive days during the current and/or prior claiming period. If the monitor determines that an earlier five consecutive day period is indicative of meal count inaccuracies, he/she may examine this earlier five-day period to conduct and document the reconciliation rather than the most recent five-day period.

For each day examined, use enrollment and/or attendance records to determine the number of children in care during each meal service and attempt to reconcile those numbers to the numbers of breakfasts, lunches, suppers, and/or snacks recorded in the facility's meal counts for that day, to determine if the meal counts were accurate. If there is a discrepancy between the number of children enrolled or in attendance on the day of review and prior meal counting patterns, make an attempt to reconcile the difference and determine if an overclaim is necessary.

Review Averaging

At their discretion, sponsors may "average" their reviews of facilities. The intent is to permit sponsors to focus their review efforts on facilities that are more likely to commit errors (i.e., newer facilities and facilities with a history of operational problems). The sponsor must inform the SA that they will utilize the "review averaging" option and must amend their management plan to describe how it plans to implement the review averaging option.

Sponsors electing this option must conduct the same *total* number of annual reviews (three times the number of facilities they sponsor) as before, but may arrive at that number by reviewing some facilities twice a year, and other facilities more than three times per year. However, *each facility must receive two unannounced reviews per year*. A facility must receive no less than three reviews per year if it has had documented problems during the year.

Averaging would work somewhat differently for each sponsor, depending on the nature of its concerns about its problem-prone providers. For example, in some cases, a sponsor might want to make four unannounced reviews of each problem-prone provider during the year. In other cases, it might be more appropriate to make two unannounced and two announced reviews of each problem-prone provider.

The percentage of all reviews conducted by the sponsor should be roughly proportional to the percentage of each type of meal being claimed by its facilities. This means the sponsor, during the course of conducting monitoring reviews, must observe and review each type of meal that its facilities are claiming. This does not mean that every meal an individual facility is claiming must be reviewed, but

that overall, the types of meals must be fairly distributed in being monitored. Since monitoring reviews must be conducted in proportion to meals claimed, providers must be monitored according to the ratio of the number of providers claiming on weekends and holidays.

The monitor must observe all of the children whose meals will be claimed actually eating the meal or snack. It is not sufficient to see just the food preparation, cleanup or only some of the children eating, and conclude that the meal met requirements.

Providers who are reviewed only twice as part of review averaging must have no more than nine months lapse between reviews.

N

Net Income from Self-Employment

Although gross income is required for regular jobs, self-employed persons can use net income.

Self-employed persons may use last year's income as a basis to project their current year's net income, unless their current net income provides a more accurate measure. Self-employed persons are credited with net income rather than gross income. Net income for self employment is determined by subtracting business expenses from gross receipts. Gross receipts include the total income from goods sold or services rendered by the business; deductible business expenses include the cost of goods purchased, rent, utilities, depreciation charges, wages and salaries paid, and business taxes (not personal, Federal, State, or local income taxes).

Non-deductible business expenses include the value of salable merchandise used by the proprietors of retail businesses. Net income for self-employed farmers is figured by subtracting the farmer's operating expenses from gross receipts. Gross receipts include the value of all products sold; money received from the rental of farm land, buildings, or equipment to others; and incidental receipts from the sale of items such as wood, sand, or gravel. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies; cash wages paid to farmhands; depreciation charges; cash rent; interest on farm mortgages; farm building repairs; and farm taxes (but not local, State, and Federal income taxes). When there is a business loss, income from wages may not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero income.

For a household with income from wages and self-employment, each amount must be listed separately (see *Eligibility Guidance for Family Day Care Homes*).

Non-Citizens

Citizenship status is not a criterion for eligibility to receive meal benefits in any Child Nutrition Program. Eligibility is based on the same household size and income criteria for all children regardless of U.S. citizenship. There is no requirement to determine the citizenship of providers.

Non-Creditable Foods

Only creditable foods must be used towards a reimbursable meal as specified by CACFP regulations. The only instance when a meal can deviate from the meal pattern is when a medical statement or a special diet statement is in place (see *Crediting Foods in the Child and Adult Care Food Program* and **Meal Pattern Exceptions**).

Non-Pricing Program

The FDCH Program is a non-pricing program, and meals may not be charged for separately.

Nonprofit Program Operation

All agencies, organizations, institutions and individuals receiving federal financial assistance must operate on a nonprofit basis. SOs are required to maintain appropriate revenue and expenditure records to document the nonprofit operation of their programs. Determination of nonprofit operation is made by evaluating the financial status of the program as a whole. All funds accruing to these operations, including interest, must be used to reduce cost, to purchase supplies, and to maintain services and equipment used in administration of the program.

Nonprofit Status

Nonpublic (non-governmental) SOs must have already obtained nonprofit status with the Internal Revenue Service or must be operated as part of another non-profit organization. The SO must maintain its compliance with all Internal Revenue Service and Utah Department of Commerce reporting requirements for nonprofit organizations. The SO must forward a copy of its IRS Form 990, its Utah Department of Commerce registration, and the minutes of at least one governing board meeting to the USOE with its annual budget.

P

Point of Service Meal Counts

See **Meal Counts**.

Pre-operational (Pre-approval) Visit

A pre-operational visit and training must be conducted prior to approving a provider to participate on the Program. The purpose is to help the provider understand Program requirements and to verify the provider can implement those requirements. Training must include the CACFP meal pattern and all required paperwork. In addition, the provider must sign the FDCH agreement and complete the application.

Pre-Plated Meal Service

All components are measured and required portions (by age) are served to each child.

Preschools

Preschools must meet all licensing or residential certificate requirements as a childcare facility to be able to participate.

Procurement Policy

Procurement means purchasing, renting, leasing, or otherwise acquiring supplies, services, or equipment by the SO. The SO must have procurement policies in place, although it is required to follow state and federal purchasing guidelines which are designed to ensure fair and equal treatment of all persons and organizations wishing to conduct business with SOs. Different policies apply according to cost levels. Complete documentation must be kept of all purchases and the procurement method used. This documentation must be available to the USOE, USDA and its representatives, as well as for required audits. All proposed purchases must be budgeted and receive approval from the USOE prior to purchasing as well as approval from the SO's governing board. If a sponsor operates other programs under their agency, and purchases are allocated as a percentage cost to each program, the USDA policy for RFPs still applies to the total cost of the item, since it must be considered as a unit not just the CACFP allocation (CACFP 758).

The small purchase threshold for a non-governmental, nonprofit organization operating USDA entitlement programs is \$100,000 (or the amount set by the governing board, but not more than \$100,000).

For purchases of \$25,000 or more in goods or services from any individual, company or group, include one of the following:

- A clause verifying that the person(s) and/or company(ies) signing the contract have not been excluded or disqualified from doing business with the federal government.
- Use the Internet to check the list yourself by going to <http://epls.arnet.gov>. Save a copy of the page showing that the company or individual doing business with you is *not* on the list.
- Use a certification form which the contractor signs verifying they have not been excluded or disqualified from doing business with the federal government (see **OMB Circular A-110 or A-122, 7CFR Part 226, 7CFR Part 3016 or 3019, and FNS Instruction 796-2, rev. 3**).

Whatever the simplified acquisition threshold, commonly referred to as the small purchase threshold, for CACFP small purchase procedures are must be used. Those procedures are the simple and informal procurement methods used to secure services, supplies, or other property that falls below the established threshold. While relatively simple and informal, small purchase procedures must still be conducted in a competitive manner.

There are several things to be aware of:

- 7 CFR Part 3016.60(b) and 7 CFR Part 3019.43 excludes any person that develops or drafts specifications, requirements, statements or work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or subgrantee in conducting a procurement under USDA entitlement programs from competing for contract awards resulting from that procurement, regardless of the procurement method used.
- CFR Part 3016.60(c) prohibits the use of statutorily or administratively imposed in-state or local geographical preferences, except when procuring certain architectural or engineering services.

- The state procurement office should be contacted for questions concerning state and local procurement standards.

Procurement rules must be consistent with state and federal rules. The board of directors of a non-governmental organization is the governing body responsible for ensuring that its rules comply with the federal standards. The board is also responsible for maintaining any necessary records documenting compliance.

The State Agency is required to ensure that organizations are in conformance with the standards. The State Agency will disallow improperly procured costs and require the sponsor to use funds from sources other than the administrative money to fund such disallowed costs.

Program Compliance Review

The USOE reviews SOs to ensure they operate in accordance and compliance with program regulations. Complete program reviews are required at a minimum of once every two years for SOs with 200 or more providers, or every four years for SOs with 199 or fewer providers. More visits may be scheduled at USOE discretion. Reviews of SOs with 200 or more providers will include visits to five percent of the first 1,000 providers and 2.5 percent of all providers in excess of 1,000. Reviews of SOs with fewer than 200 providers will include visits to 10 percent of providers. Reviews of providers are conducted on a random drop-in basis, but may also be targeted to identified providers. The USOE reserves the right to review SOs as often as needed to ensure program compliance.

A program review will examine compliance with all program requirements to assess SO viability, capability, and accountability. It will include a thorough review of the financial statements and status of the SO, including monitoring, processing of provider and administrative claims, and serious deficiency process.

Provider Agreement

The agreement between the SO and the provider stipulates the rights and responsibilities of each. The agreement is permanent but must be updated whenever the state office publishes an amendment or updated agreement. The provider agreement is developed by the SA and is the official form that must be used.

Provider Application

The provider application must be completed upon joining the program and must be completed annually or unless major changes occur. The annual renewal date is the first day of the month in which the original application was dated. This is also the date at which the provider is free to transfer to another SO. The form developed by the SA must be used, but additional information may be added by the SO.

Provider Application Denial

A sponsoring organization has the right to deny any providers application as long as the denial is not based on discrimination of the six protected classes.

If a denied provider lodges a complaint of discrimination based on any of the prohibited classes, the USOE and/or USDA will immediately undertake an investigation. All providers must be treated with the same rules and procedures to prevent substantiated accusations of discrimination.

Discrimination is not in itself prohibited by civil rights laws. A sponsor is entitled, within the bounds of program rules, to make judgments in connection with acceptance or denial of providers, and the civil rights laws will not be read to prohibit a sponsor from regulating its own business as long as the regulation is not discriminatory based on race, color, national origin, sex, age, or disability (and religion or ancestry in Utah per the Utah Public Accommodations Law, Utah Code Ann. § 13-7-3).

Provider Claim

The SO must notify the provider of the schedule for claims submission. The SO is also responsible for making sure the provider claim is accurate and is responsible to the SO for errors that might cause under or over-reporting. The SO is ultimately responsible to the USOE for claims accuracy.

SOs must perform complete verification of 100% of provider claims, and claims must be in the possession of the SO prior to submission of a claim to the USOE for a provider.

Providers must submit their original claim no later than 60 days from the end of the claim period to the sponsor. One time exceptions do not pertain to the provider.

Complete provider claim verification includes:

- No more than two meals and one snack or two snacks and one meal can be claimed per child per day.
- A child enrollment form must be on file for each child whose meals are claimed for reimbursement.
- Enrollments must be renewed annually, and must include the normal days and hours in care and the normal meals the child would receive.
- A menu record must be submitted for every meal claimed for reimbursement.
- Menus must be in accordance with program meal pattern requirements.
- Providers whose own children's meals are claimed for reimbursement must be Tier 1; qualify by the current income standards using the income eligibility guidelines; and have have enrolled, nonresident children present and participating in the meals.
- Reimbursement shall not be paid for meals served to children in excess of the provider's approved capacity.
- Only meal types specified in a provider's approved application, served within the specified, approved meal times, may be claimed for reimbursement.
- Meals served off-site must have had prior approval by the sponsor.
- A special diet statement or disability statement signed and dated by the appropriate recognized medical authority must be on file for any child with a special diet requirement whose meals are claimed (see **Special Dietary Needs**).
- Upon receipt of program money from the SA, the SO must distribute reimbursement to all claiming providers within five working days.
- If the SO has established a time limit for submission of claims, that time limit must be stated by the SO in its agreement with the provider. When establishing a time limit for claim submission, the SO should consider internal processing time lines as well as the USOE's time lines for submission of SO claims for reimbursements, and the 60 day original claim

submission deadline as well as the 90 days for claim amendments. (see **Claim for Reimbursement**).

Provider Monitors

Providers working as monitors as well providers must demonstrate there is no conflict of interest and that both duties can be performed satisfactorily. The SO must develop a method of evaluating the provider/monitor's work to ensure effective participation in both capacities. A provider should not monitor for the same SO from which program reimbursement is received.

Provider Opinion Surveys

Provider opinion surveys regarding state agencies or bureaus should be avoided for the following reasons:

- The survey misrepresents the relationship between the sponsors and an agency/ bureau and/or between an agency/bureau and the USOE.
- The survey asks about issues and requirements which are non-negotiable. It implies that the sponsor or USOE can or will change any negative findings.
- The survey, in many respects, casts the agency/bureau and its licensors in a bad light and invites providers to be antagonistic toward licensors when their cooperation and support is needed (e.g., in distribution of advertising flyers to licensees, passing on information about providers CACFP participation, etc.).

Provider Recordkeeping

Copies of the following records must be maintained by providers as documentation of program compliance:

- Permanent agreement and any amendments
- Current application
- Child care license, residential certificate or relative care care or alternate approval (including fire and health certificates)
- Participants' enrollment and renewal information
- Participants' attendance records

- Meal counts by type
- Menus
- Monthly claims

Provider Recruitment

Recruitment efforts by SOs must be limited to providers who are not currently participating with another SO. If the SO contacts a provider who is already enrolled with another program, the SO must end the conversation. If a currently participating provider contacts an SO, the SO may answer questions, but may not try to recruit or otherwise sway the provider (see **Recruitment** and **Provider Transfers**).

Because it is an unallowable program expense, monitors, employees, or contractors may not be paid a recruitment fee, or paid a bounty, for signing up new providers, regardless of where the money comes from.

Sponsors also may not substitute increased participation, as measured by meals, children, or provider, as a basis for either regular compensation or incentive payments.

Provider Reimbursement

The provider has the right to receive, in a timely manner, the full food service rate for each qualified meal served to enrolled children for which the SO has received payment from the USOE. SOs must disburse reimbursement payments for eligible meals to their participating providers who have submitted valid claims within five working days of receipt of funds from the USOE. The only allowable deduction from a provider's reimbursement would be for the cost of food(s) provided directly by the SO with the provider's express written agreement.

Withholding a provider's reimbursement is not allowed. Not processing a provider's valid claim is not allowed. If a provider fails to attend required training, or otherwise complete program requirements, the provider should have corrective action assigned. If the provider refuses, the provider may be declared seriously deficient. If the provider fails to perform the required corrective action and has been declared seriously deficient, termination should be proposed. The provider's claims must be accepted and submitted for payment until such time as the termination takes place. Any claim or portion of a claim deemed to be invalid should

not be paid. If the provider submits information to validate the claim, and the claim is then validated, it should be paid.

Outstanding Checks or Funds

All checks that have been issues to providers, which are not cashed within six months, must be returned to the SA. The time period begins on the date the check is written (as shown on the check). This policy also pertains to flow-through funds which have been received but not issued to providers.

Provider Renewal

If a provider is complying with requirements and procedures for renewing a license or residential certificate, and there is no reason to believe that approval will be denied, the SO may allow the provider to continue to participate in the program and receive reimbursement. This also applies to renewing relative care and alternate approval providers.

The sponsor must make a judgement as to what is adequate evidence of compliance.

Provider Residence

A provider may participate on the Program even if not operating in his/her own residence, although a provider must conduct day care in a private residence in order to be eligible to participate. A day care home is defined as "an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization." This means that, for purposes of the CACFP, family and group day care homes are limited to the provider's own private residence, the private residence of another or a rented or unoccupied private residence. Commercial properties, including churches or schools, are not private residences and are not eligible to participate in the CACFP as family day care homes.

Provider Suspension

In the event of an imminent threat to health or safety of children in care and/or the public, the SO must suspend the provider from participation in the program and notify licensing of the finding. If licensing concurs with the sponsor and agrees there is an imminent threat to health or safety, the SO must send a notice of suspension to the provider, identify the reason for the suspension, and propose termination and disqualification for cause.

The SO must allow the provider to request an Administrative Review (appeal) of the suspension and proposed termination, and the SO must forward the notice to the USOE. At this point the termination process must be followed. If the provider requests an Administrative Review, the administrative hearing officer's decision may uphold the SO or the provider. If the SO is upheld, the SO sends a letter to the provider terminating the agreement for cause and disqualifying the provider. A copy of this letter must be sent to the USOE at the same time. If the provider is upheld in the hearing, the SO must send a letter rescinding the actions and pay the outstanding valid claims (if any). A copy of the letter must also be sent to the USOE. If there is an imminent threat to the health or safety of children in care with a relative care or alternate care provider, the sponsor should contact Child Protective Services or the local law enforcement agency instead of licensing (see **Termination for Cause-Providers**).

Provider Training

See **Training, Providers**.

Provider Transfers

Allowable transfers

A provider may transfer from one SO to another during (1) the provider's annual renewal month, which is the month the provider signed the agreement, or (2) with sponsor and/or USOE approval at any other time. A provider may not transfer more than once in a 12-month period.

Transfers taking place outside the normal transfer month are generally for special reasons only. The current and new SO may allow a transfer if they both agree. If an agreement cannot be reached, a provider may submit a request for transfer "for cause" to the USOE. A detailed written justification must be attached to the transfer request form if it is to be considered by the USOE.

A provider who becomes inactive during the year, regardless of the reason, remains with the sponsor who has the agreement with the provider until the expiration of the renewal month.

All transferred providers are considered new and the requisite new provider procedures must be followed.

Procedure

The provider may obtain a transfer request form from the USOE or the new SO. Once the provider completes the form, it must be sent to the current sponsor (or USOE if “for cause”). The current sponsor completes their portion of the form and returns it to the provider. The provider then gives the form to the new sponsor, who completes the form and submits a copy to the USOE. Upon receipt of the transfer form, the USOE will transfer the provider from the old sponsor to the new sponsor on CNPWeb. The new sponsor will complete CNPWeb for the transferred provider. Sponsors who bypass this process are subject to overclaim of any reimbursement paid to the provider prior to the official transfer by the USOE.

Prior to accepting a new provider at any time the new sponsor must check both the terminated provider list and the inactive list on CNP Web. If a provider is on the terminated list he or she cannot be accepted by a sponsor. If a provider is on the inactive list but has a current agreement with another sponsor, an agreed-upon transfer must formally take place or the provider is ineligible to change sponsors until the expiration of the renewal month.

Conditions for Transfer

- The provider must not have been terminated by a previous SO (providers who have been terminated remain on the disqualified list for seven years or until any debt to the program is repaid, whichever is longer). The sponsor must check CNPWeb’s terminated provider list.
- The provider must not owe funds to the SO.
- If a SO accepts the transfer of a provider who is completing corrective action, the new SO must:
 - Obtain a copy of the required corrective action from the old sponsor.
 - Continue the corrective action and follow up for an additional three months.
 - Conduct a monthly review of the provider during the corrective action.
 - Make at least one parent contact.
- The provider may not transfer if there is an unresolved serious deficiency or pending proposed termination.

- The transfer of a provider who has had a serious deficiency temporarily deferred may be accepted if no funds are owed. The new sponsor must obtain a copy of the serious deficiency paperwork from the old sponsor. If the serious deficiency recurs under the new sponsor, termination procedures must be initiated.

If a provider is not permitted to transfer or the transfer is not completed for any reason, it is not necessary to submit the transfer form to the USOE.

Withdrawal, Inactivity, and Transfer

A provider formally withdrawing from the food program must submit a signed letter documenting the request to the sponsor. This letter formalizes the withdrawal from the program; however, the provider's agreement and application remain in force until the renewal date.

Regardless of withdrawal or periods of inactivity, a provider may not sign up with a different sponsor until a provider transfer takes place or the provider has not claimed for 12 months.

Steps for Withdrawn or Inactive Providers

- If a provider is inactive for vacation or other personal reasons, on CNPWeb uncheck the months the provider will not be claiming.
- If a provider is inactive for unknown reasons on CNPWeb uncheck the months through the renewal month or for 12 months, whichever is longer.
- If a provider submits a formal withdrawal letter, inactivate the provider on CNPWeb.

Provider Unannounced Reviews by the USOE

All reviews of providers conducted by the USOE will be done on an unannounced (drop-in) basis. If provider reviews are done in conjunction with sponsor compliance reviews, the sponsor will be notified in enough time to have the files ready. The sponsor is not to notify providers of the possibility of drop-in reviews. The SA has the right to perform provider drop-in reviews without the knowledge of the SO, either in conjunction with a compliance review, or not (see **Program Compliance Review**).

Provider Withdrawal Rights

Provider requests for withdrawal from the program need to be in writing. A provider no longer wanting to participate on the food program must submit a signed letter documenting the request to the sponsor. Once this documentation is received, the provider must be inactivated in the CNPWeb system. If a provider notifies the sponsor in a manner other than writing, then within a reasonable time after phone or other communication, the sponsor should send a withdrawal confirmation letter if the provider does not do so.

A provider who does not submit a claim for six months may be inactivated or withdrawn without written notification from the provider. The sponsor must send a letter to the provider notifying them of doing so.

A provider may not come on the Program under a different sponsor until their most recent application has expired or unless a provider transfer takes place. Once the application has expired, and the provider is withdrawn, the provider must be treated as a new provider.

Provider's Income Eligibility

A provider qualifying for Tier 1 by income must qualify using the current income eligibility guidelines. This information must be verified using the most recent income (prior month) which consists of paystubs, day care receipts, official letters from appropriate people, etc. Although the most recent income is preferred, prior year tax forms can be used for self-employed spouses. If the provider qualifies by SNAP, FEP or FDPIR, an official determination letter from the qualifying agency must be used for verification. A provider who qualifies for Tier 1 by area can qualify to claim their own children with the use of IEF, however the IEF does not need to be verified (see ***Eligibility Guidance for Family Day Care Homes*** and ***Categorical Eligibility***).

Provider's Own Children

A provider may only claim residential children when they are considered the provider's own children. The term "provider's own children" refers to any children who reside in the household, such as the provider's own children by birth, step children, or adoption, grandchildren, or housemates' children, who are part of the economic unit.

If the children are foster children, wards of the court, or if the provider has legal guardianship of the children, then the children are treated as the

provider's own children for claiming purposes (meaning an outside child must be present); however, a foster child is still considered a family of one for IEF purposes. See the Eligibility Guidance for special situations in determining household size (see *Eligibility Guidance for Family Day Care Homes*).

Public Information

All information provided to the public and providers, such as flyers, brochures, workshop or training announcements, posters, billboards, advertisements, and printed instructions, must contain the nondiscrimination statement. Photographs or other graphics providing information about the program should convey the message of equal opportunity by displaying beneficiaries from different minority groups. Public service announcements lasting 30 seconds or less on radio or television may include a shortened form of the required nondiscrimination statement. Information must be available to non-English-speaking providers and parents in the language they speak. The SO must also provide interpreters at its own expense (see **Civil Rights**).

R

Records Availability

All accounts and records of the SO and participating providers pertaining to the program must be made available to representatives of the USOE and/or the USDA for audit or review during day care hours and at any other reasonable time and place.

Records Retention

All records are to be retained for a period of three years after the fiscal year to which they pertain, except that if audit or review findings have not been resolved, the records must be retained beyond the end of the three-year period for as long as may be required for the resolution of the issues raised by the audit or review. This includes the retention of records for three years after the final claim is submitted to the USOE.

The following documents are permanent and are to be kept until three years plus the current year after the SO is no longer on the program:

- The CACFP Agreement and amendment.
- The CACFP Policy Statement.
- Current IRS 501(c)(3) if the institution is a nonprofit organization.
- Bylaws and/or articles of incorporation if the institution is a nonprofit organization.

When a provider is disqualified, the provider's records must be retained by the sponsor for at least three years after it comes off the disqualified list, since the documentation supporting the disqualification must be available to respond to any challenge to the individual's inclusion on the NDL, or to a request for removal from the NDL.

If a serious deficiency is rescinded, the records must be retained for at least three years after the serious deficiency is satisfied.

Providers are also required to keep their records for three years plus the current year. Providers must maintain, and have on hand for immediate review, all records that support their program activities for the current month, as well as the previous twelve months of operation. Records should include documentation of attendance, enrollment, meal counts and menus. Providers may store the remaining two years of

records off site; however, they must still be in the control of the provider and accessible within a reasonable amount of time. Failure to keep records is grounds for denial of reimbursement, since the claim can't be validated.

Recovery of Overpayments

The USOE will recover outstanding start-up and advance payments from SOs which, in the opinion of the USOE, will not be able to earn these payments. Other unearned administrative and operational payments will also be subject to recovery, such as unearned provider reimbursement or lack of sponsor records. SOs should have a plan in place for repayment of overclaims should they occur, including recovery from providers or use of alternate resources. Start-up and advance payments will be recovered when an a sponsoring organization closes. A demand for repayment may be subject to an Administrative Review.

Recruiting

SOs must limit recruitment efforts to providers who are not currently participating with another SO. When an SO contacts a potential provider and finds that the provider is already enrolled in the program with another SO, the effort must be terminated (see **Provider Recruitment**).

Refugees

Refugees living with a sponsor family, together with that family, usually fit the definition of family as "...a group of related or non-related individuals who are not residents of an institution or boarding house, but who are living as one economic unit." Refugee families living on their own are otherwise no different from any other household or family (see ***Eligibility Guidance for Family Day Care Homes***).

Relative Care

Relative care and alternate approval options are available to those providers who care for only related children. Meal service and the way in which children are cared for should be no different for a relative care provider than a licensed or residential certified provider.

The relative care level of participation will follow current licensing child-to-provider ratios. A total of eight slots are available, counting the provider's own children less than four years of age. A maximum of two babies under the age of two will be allowed when eight children are in

care, and a maximum of three babies will be allowed when six children are in care. There will be no group care-level equivalency.

All day care participants must be related and, upon request, the provider must be able to show proof of relationship to the Sponsoring Organization. For purposes of qualifying under the relative care option, the provider must be related to each child in care as one of the following: sibling or step-sibling 18 or over providing care for sibling(s) 12 or under from a separate household, aunt, uncle, grandparent, step-aunt, step-uncle, step-grandparent, great aunt, great uncle, or great grandparent.

A relative care provider must complete the following four requirements prior to participation:

1. Annual BCI check for all residents of a household 18 years of age and older.
2. Completion of annual Food Program training, as required by sponsor.
3. Completion of initial Relative Care Provider Compliance Certification Form.
4. Annual renewal of Relative Care Provider Compliance Certification Form.

If a license or RC has been denied or rescinded for cause, the provider cannot then become a relative care provider on the FDCH program.

Alternate approval is also available to providers who care for four or fewer children and cannot qualify for a child care license as long as the provider has not been denied a license or RC for cause. Conditions are the same as for relative care, with the provider caring for one or more non-related children.

Reportable Household Income

Household income is all income a household receives on a regular basis, including income withdrawn from a bank or other account to cover living expenses, and is reported as gross income, before any taxes or other deductions. Income from children who have regular jobs is also considered income. This income includes earnings from work, welfare, child support, alimony, pensions, retirement, social security, and any other income as defined by the Eligibility Guidance. Income for a self-employed

provider or spouse is defined as gross receipts minus expenses. See the Eligibility Guidance for exceptions and special situations.

Research and Evaluation

Institutions, facilities and contractors participating in the Child Nutrition Programs are required to cooperate with Department of Agriculture officials and contractors conducting evaluations and research if asked to do so.

Residential Care

Participation in the program is limited to homes providing nonresidential care. The only residential children whose meals may be claimed for reimbursement are the provider's own children in Tier 1 homes and foster children (children for whom the court has legal guardianship) or other children over whom the provider has legal guardianship. A foster child is considered a family of one, and as long as the foster child is eligible to claim by income, then he/she can be claimed regardless of whether or not the provider's own children can be claimed. Other children who can be considered residential children who are part of the provider's economic unit are children for whom the provider has a letter from the Department of Human Services authorizing the provider to act on behalf of the child.

It is recognized that situations may arise in which, due to circumstances beyond the provider's immediate control, children need to be temporarily housed at the provider's residence overnight. Such situations include circumstances which render the parent/guardian unable to pick up the child(ren), including, but not limited to, parents in the Armed Forces (single parents only) being called up on emergency or temporary duty. Under these circumstances, the children may continue to be considered "nonresidential" for program purposes, and reimbursement may be claimed by the provider for the meals served to these children within program limits (no more than two meals and one snack per child per day) for a maximum of three consecutive days. Non-residential children are not part of the provider's economic unit. Children in regular residence with the provider are not eligible for benefits, with the exception of foster children as described above and the provider's own children.

Children who are in care for 24 hours or more are no longer residential children, are not considered the provider's own children, and cannot be claimed. Children must be in their parents' care for a portion of the 24-hour day.

Residential Certificate

A Residential Certificate is applied for through Child Care Licensing (see **License** and **License/Residential Certificate Renewal**).

Restaurant Meals

Meals containing components from restaurants will not be considered creditable under the CACFP unless a product analysis sheet is provided by the restaurant or its corporate office which shows how the food product meets CACFP requirements. This applies not only to field trips, but to meals served in the family day care home, since restaurant meals do not generally meet the intent of the program.

The product analysis sheet for each food item used to meet the CACFP meal pattern must include:

- Food item.
- Serving size.
- Detailed listing of creditable component per serving size.

Restaurant meals served during a field trip will need to be pre-approved by the sponsor prior to a field trip and must include the product analysis sheet.

Review Averaging

See **Monitoring**.

S

Sanitation and Safety

Providers must maintain proper sanitation and health standards in the storage, preparation, and service of food in conformance with all applicable state and local laws and regulations. Further details are given in the most recent Utah Sanitation Code, which may be obtained from the local or state health department.

The SO is expected to report to Child Care Licensing any licensed or residential provider found to have serious safety or sanitation problems. For relative care and alternate care providers, Child Protective Services must be contacted. A provider may be suspended from participation if the SO finds (and Child Care Licensing or Child Protective Services concurs) that an imminent health-or life-threatening safety or sanitation problem exists (see Provider Suspension). If a provider refuses to comply with correction of health and sanitation issues, the provider is to be suspended, declared seriously deficient, and proposed for termination and disqualification.

Self-Employment

The net income (after deductions) should be used to determine income of someone who is self-employed when determining household income; however, a loss that exceeds zero must be recorded as zero (see **Net Income From Self-Employment**).

Serious Deficiency Procedures

To keep all serious deficiency letters consistent, it is required that all sponsors use the prototype serious deficiency letters developed and distributed by the USOE. Once the sponsor has written a serious deficiency letter, it must be submitted to our office for review prior to sending it the provider. The USOE will review the letter and notify the sender of needed changes or of approval of distribution of the letter.

When the serious deficiency letter is mailed to the provider by the sponsor, a copy must be **immediately** sent to the state agency as well. Failure to send copies of each letter at each serious deficiency step could result in corrective action for the sponsor.

All documents, including the certified mail receipts, which relate to the serious deficiency process must be maintained in the sponsor's office. These documents will be reviewed during the FDCH Sponsor review.

Serious Deficiency–Providers Process

The SO can require corrective action without declaring the provider seriously deficient. Some problems in program operation, although not in accordance with program requirements, are easily fixed and do not warrant the provider being declared seriously deficient. The SO has the discretion to distinguish between occasional errors and systemic errors, as well as between major and minor errors.

Providers who fail to perform corrective action may be determined to be seriously deficient. If a problem is pervasive and/or systemic, the sponsor may skip corrective action and move directly into serious deficiency.

Serious deficiency is the process used to inform program recipients of program agreement violations. The process includes a determination that a program violation has occurred and a notice to the provider informing her/him of the nature of the violation(s) and giving the opportunity for corrective action. If the provider fails to perform adequate corrective action, the provider is proposed for program termination and disqualification from future participation. The provider has the right to request an administrative review (appeal) to determine whether the proposed termination/disqualification is approved. If the provider does not perform the satisfactory corrective action and does not request an administrative hearing for the proposed actions, the provider is terminated from the program and will be disqualified from program participation for seven years or longer until all debts are paid.

A provider who was terminated prior to 2005 may be reinstated by the USOE, even though seven years have not transpired, if the conditions which caused the serious deficiency have been rectified to the satisfaction of the USOE and no debt to the program is owed. If the provider adequately performs the corrective action, the serious deficiency is rescinded, with the caveat that the problem must not occur again.

When the SO declares a provider seriously deficient, the provider must be given the opportunity for corrective action, to be implemented in 30 days or less but enough time to correct the problems; depending on the

circumstances, the provider may have less than 30 days to implement the corrections. If the provider fails to implement the corrective action after a seriously deficiency has been declared, the SO's next step is to propose termination.

Causes for the determination of serious deficiency include any of the following:

- Submission of false information on the application.
- Submission of false claims for reimbursement.
- Simultaneous participation under more than one sponsoring organization.
- Non-compliance with the program meal pattern.
- Failure to keep required records.
- Conduct or conditions that threaten the health or safety of a child(ren) in care, or of the public (suspension).
- A determination that the day care home has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity; a lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the state agency, or the concealment of such a conviction.
- Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the SO or the state agency.

The SO must send a notice (certified/return receipt or equivalent) to the provider detailing the serious deficiency and the corrective action. The SO must give the provider no more than 30 days to perform the corrective action. A copy of the letter declaring the provider seriously deficient must be forwarded to the USOE. The full name and date of birth of the provider must be on all SD letters. All letters involving the serious deficiency process must be signed by the director of the sponsoring organization. The corrective action must be permanent and the cause of the serious deficiency corrected when a serious deficiency is declared. If the same problems occur at a later date (after a serious deficiency was declared and

corrective action was first performed successfully), the SO must immediately propose termination of the provider for cause with no further opportunity for corrective action. The SO has the discretion to determine whether the problem is the same as prior problems and warrants termination (see **Termination for Cause–Providers**).

Copies of the following documents must be submitted promptly to the USOE in regards to the serious deficiency process:

- The Seriously Deficient notice sent to provider
- The proposed termination letter sent to the provider
- The results of the administrative review, if one was requested and held
- The letter terminating participation sent to the provider
- The letter sent to the provider closing the serious deficiency if the corrective action is accomplished in a satisfactory manner

Serious Deficiency–Sponsors Process

Serious deficiencies for participating sponsors include:

- Submission of false information on the institution’s application, including but not limited to a determination that the institution has concealed a conviction for any activity that occurred during the past seven years and that indicates a lack of business integrity. This includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.
- Permitting an individual who is on the National Disqualified List to serve in a principal capacity with the institution, or permitting such an individual to serve as a principal in a sponsored center or day care home.
- Failure to operate the program in conformance with the standards set forth in the regulations at 7CFR Part 226.
- Failure to comply with the bid procedures and contract requirements of applicable federal procurement regulations.
- Failure to return to the USOE any advance payments that exceeded the amount earned for serving eligible meals

(advance for meals not allowed in Utah), or failure to return disallowed start-up or expansion payments.

- Claiming reimbursement for meals not served to participants.
- Claiming reimbursement for a significant number of meals that do not meet program requirements.
- Use of a food service management company that is in violation of health codes.
- Failure to disburse payments to facilities in accordance with the regulations at 7CFR Part 226.16(g) and (h) or in accordance with its management plan.
- Failure to properly classify day care homes as Tier 1 or Tier 2 in accordance with 7CFR Part 226.15(f).
- Failure to properly train or monitor sponsored facilities in accordance with 7CFR Part 226.16(d).
- Use of day care home funds to pay for the sponsoring organization's administrative expenses.
- Failure to perform any of the other financial and administrative responsibilities required by 7CFR Part 226.
- Failure to properly implement and administer the day care home termination and Administrative Review provisions set forth in 7CFR Part 226.6 (l) and 7CFR Part 226.26(l).
- The fact that the institution or any of the institution's principals have been declared ineligible for any other publicly funded program by reason of violating that program's requirements.
- Conviction of the institution or any of its principals for any activity that occurred during the past seven years and that indicates a lack of business integrity. This includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.

An SO found exhibiting any of the above deficiencies will be declared seriously deficient and allowed the opportunity for corrective action. The finding of serious deficiency does not entitle the SO to an Administrative Review.

Sick Children

School-age children ages 12 or younger may be claimed on the program if the child is home due to illness and other conditions for claiming resident children are met. If the SO allows a school-age child to be claimed, the provider must provide documentation to show why a school-age child is being claimed on a school day.

Special Diet Statement

Any child served a meal which does not meet CACFP meal pattern requirements must have a special diet statement on file if the child is to be claimed. If medically necessary, the substitution must be made. If not medically necessary, but preferred by a parent or medical practitioner, or if there are special dietary needs, substitutions may be made (but are not required). If the substitutions are medically necessary (affecting the child's life or life skills), the statement must be signed by a physician. If the substitution does not affect the child's life or life skills, the substitutions can be authorized by a recognized medical authority, such as a physician, a registered dietician, nurse practitioner or dietician. The medical authority must specify, in writing, the food(s) to be omitted from the child's diet, what life-changing factors affect the child and the food(s) to be substituted. If possible, food(s) should be substituted with similar type foods (see **Special Dietary Needs**).

Special Dietary Needs

There are two reasons for accommodating children with special dietary needs. The first reason is that the person has a disability, which is defined as a "physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment." The second is having a special dietary need which may not be a disability, "but is medically certified as having a special medical or dietary need." This is all determined on a case-by-case basis, and "covers only those children who may have a food intolerance or allergy that do not have life-threatening reactions when the child is exposed to the problem food."

A disability requires a physician's statement, which must identify "the child's disability, an explanation of why the disability restricts the child's diet, the major life activity affected by the disability, the food or foods to be omitted from the child's diet, and the food or choice of foods that must be substituted." It is recommended that the substituted foods be nutritionally

equivalent. However, the doctor's statement is considered a prescription and must be followed by the institution or facility.

Substitutions for other children with other special dietary needs must be medically certified as having a special medical or dietary need. These substitutions must be supported by a statement which explains the food substitution that is requested, and must be signed by recognized medical authority. This statement must include an identification of the medical or other special dietary condition which restricts the child's diet, the food or foods to be omitted from the child's diet, and the food or choice of foods to be substituted. Again, it is recommended the substituted foods be nutritionally equivalent.

Physicians, physician assistants, and nurse practitioners are considered recognized medical authorities.

Institutions may not charge extra fees to serve meals to children with disabilities or for children with meal accommodations. Medical statements must be kept current.

Parental Preferences

Vegetarian or vegan meals are at the discretion of the institution/facility, and it is recommended there be a written policy in place to handle these situations.

Non-Dairy Beverages

Parents or guardians may request in writing non-dairy milk substitutions without providing a medical statement. The parent can submit a written request to the child's caretaker asking that soy milk be served in lieu of cow's milk. The written request must identify the medical or other special dietary need that restricts the diet of the child. Such substitutions are at the option and the expense of the facility. The requirements related to milk or food substitutions for a participant who has a medical disability and who submits a medical statement signed by a licensed physician remain unchanged. For the list of substitutions contact the USOE (see **Accommodating Children with Special Dietary Needs**).

Specific Prior Written Approval (SPWA)

A CNP Specialist will initial a hard copy of all items requiring SPWA and send a copy to the sponsor for their files accompanying the budget approval letter. The management plan and budget must correspond

directly with one another. The following budget line items require SPWA (see **Administrative Budget**):

- Board Compensation
- Contracted Services
- Equipment
- Insurance
- Dues
- Other Administrative Expense
- Rental/Lease (Equipment, Space, Vehicle, etc.)
- Out-of-State Travel
- Licensing Related Expense

Sponsor Record Keeping

Each SO must establish procedures to collect and maintain all necessary program records. Such records include:

- Copies of all applications and supporting documents submitted to the USOE (agreement, management plan, administrative budget, amendments).
- Enrollment documentation of each child claimed for meals.
- Information used to determine the eligibility of providers' enrolled children.
- Information used to classify providers as Tier 1.
- Information used to determine the eligibility of enrolled children in Tier 2 homes for Tier 1 reimbursement.
- Daily records indicating the number of participants in attendance and the number of meals, by type (breakfast, lunch, supper, and supplements) served to participants.
- Copies of invoices, receipts, or other records required by USOE financial management instruction to document administrative costs claimed by the SO and income to the program.
- Receipts for all program payments received from the USOE.
- Copies of menus and any other food service records required by the USOE.
- Information on provider training session date(s) and location(s), as well as topics presented and names of participants.
- Information on staff training session date(s) and location(s), as well as topics presented and names of participants.

- Information concerning dates and amounts of disbursement of reimbursements to each provider.
- Applications and agreements for participation from providers.
- Information concerning dates and locations of each monitoring visit to providers, including any problems noted and corrective action expected and taken.
- Information regarding provider serious deficiencies and Administrative Reviews.

Sponsor Training

The annual FDCH conference conducted by the USOE is considered mandatory training for all Sponsoring Organizations. FDCH forums are also considered mandatory unless otherwise noted; additional mandatory trainings may also be presented at other times, and Sponsoring Organizations will be notified in advance. Failure to attend the conference or mandatory training will initiate a corrective action. The next failure to attend will initiate the serious deficiency process.

Emergencies or situations may conflict or prevent a Sponsoring Organization from attending a mandatory conference or training. To avoid corrective action or possible serious deficiency, please contact our office as soon as possible. Waivers will not be granted for convenience or last minute requests unless it is an emergency.

Stepchild

If the stepchild is supported by and lives with the parent, he/she is considered a member of the household. If a step-parent supports a stepchild to the same extent as a natural or adoptive parent, the stepchild must be counted in the total family size.

Subsidized Adoption

These children are typically former foster children and/or children with special needs (those with physical or mental disabilities or suffering from the effects of abuse or neglect). The household has adopted the child or children, and a Department of Human Services agency provides a monthly income to assist in paying for each child's care and expenses. In making eligibility determinations, the child should be considered a member of the household, with the money for the child's needs counted as part of the household's total income.

There are some rare instances in which the term “subsidized adoption” refers to a legal arrangement in which the child is not considered to be in the custody of any household but is under the legal guardianship of the court. In this case, the child should be treated as a foster child and a family of one (see *Eligibility Guidance for Family Day Care Homes*).

Substitute Providers

The CACFP, as it relates to family day care, was intended to support the actual care givers who are meeting the immediate needs of the program beneficiaries (the children). There is no provision in the program regulations or guidance for a third party between the sponsor and the day care provider. There may be occasions when a provider will have a helper due to a need for the provider to be off-site during the day for errands (going to the grocery store or picking children up from school or other brief absence). However, such a situation is different than that in which the provider is habitually or regularly absent and is basically "contracting out" the child care, or has a director in charge of the child care while the owner is absent.

The individual signing the agreement with the sponsoring organization as the provider must be the person who is on site providing care and operating the CACFP. It is expected that the provider who has signed the agreement with the sponsor will be absent no more than 20% of the time.

If the provider must be gone more than 20% of the time, it must be temporary, involving extenuating circumstances (such as the birth of a baby or a family "tragedy") that should be pre-approved by the sponsor. Such consideration should accommodate providers who want to keep their child care open and not lose clients if something untoward happens in their family and a temporary substitute is required (CACFP 724 - 35, 36).

T

Termination for Cause–Providers

If the provider fails to implement corrective action after being declared seriously deficient, the SO's next step is to propose termination. Proposed termination is also used when the provider has been declared seriously deficient in the past and has successfully completed corrective action, but now the problem has reappeared. The provider has the right to request an Administrative Review (appeal) of the proposed termination. If the Administrative Review officer(s) upholds the SO, or if the provider does not request an Administrative Review of the proposed termination, the SO must terminate the provider and notify the SA, which will submit the provider's name to the list of national disqualified providers. The circumstances surrounding all the actions should be carefully documented. Valid claims for program payments to the provider must continue throughout this process.

If the provider requests an Administrative Review of the proposed termination, the Administrative Review officer(s) makes a determination to uphold the SO or to uphold the provider. If the SO is upheld, the SO must send a letter of termination to the provider. If the provider is upheld, following the directions of the Administrative Review officer(s), the SO is to rescind the proposed termination. Copies of the serious deficiency, successful corrective action, proposed termination/disqualification, actual termination/disqualification, and/or rescission of the actions must be sent to the USOE. The notice of termination/disqualification must give the mailing address(es) and date(s) of birth for the provider listed in the letter.

Termination for Convenience–Providers

A SO may drop a home for convenience if necessary. Reasons for dropping a home for convenience may include the inability of the SO to meet the requirements for reviews due to inaccessibility of the home after a provider has moved, or similar reasons.

Termination for convenience does not include personality conflicts, since the sponsor will still be serving the providers area. The provider can transfer to another sponsor that serves his/her area if the following conditions have been met:

- Provider has no unresolved serious deficiency or pending proposed termination.
- If a sponsoring organization accepts the transfer of a provider who is completing corrective action, the new sponsor must observe the provider on corrective action for an additional three months, visit the provider once a month and make at least one parent contact.
- The provider must not owe funds to the sponsor organization.
- The provider must not have been terminated by a previous Sponsoring Organization.

If there is no other sponsor that serves the provider's area, the current sponsor would have to continue to provide services.

Termination or Suspension of Program Participation

See **Corrective Action, Provider Suspension, Serious Deficiency and Termination for Cause.**

Tier 2 Homes

The definition of Tier 2 homes is homes that do not qualify as Tier 1 and are reimbursed at the lower rate for all children's meals claimed. The Tier 2 provider is not allowed to claim their own children, regardless of whether there are outside day care children present. This provider chooses not to distribute IEFs to day care families, or none of the families qualify to be claimed at a higher rate.

Tier 2 Mixed Homes

Tier 2 mixed is the reimbursement rate for which a home qualifies if the home does not meet the requirements for Tier 1 and chooses to distribute income eligibility forms to all the parents of the children participating in the child care. In this situation one or more of the children qualify to be claimed at a higher rate, either by income or category. The SA will annually distribute a list of program that will categorically qualify a day care family. IEFs must be returned directly to the SO's office, unless written permission is obtained from the parent to return the IEF to the provider. This is done through the USOE-issued parent letter for Tier 2 mixed homes.

Children enrolled in Tier 2 homes are categorically eligible for Tier 1, or the higher reimbursement rate, if participation in SNAP, FEP, or FDPIR is reported on an IEF.

For confidentiality purposes, providers are not to be informed of eligibility levels of children in their care. Furthermore, in the event that they deduce such eligibility, they may not establish different charges for care of children who qualify for the lower reimbursement rate.

Providers have authority to collect the household income eligibility forms from households and transmit them to their sponsors. However, if Tier 2 family day care home providers wish to collect and transmit household information, they or the sponsors must ensure that each household knows:

- The household is not required to complete the income eligibility form in order for their children to participate in CACFP; and
- Households have the option, if they choose to complete the income eligibility form, of either:
 - Returning the form directly to the sponsor at the address indicated on the form; or
 - Returning the form to the provider with written consent allowing the provider to collect the form and transmit it to the sponsor on the household's behalf.
- Written consent is given by initialing in the correct spot found in the USOE issued Tier 2 parent letter.

Tier Changes

Reimbursement

Because currently a provider cannot be reimbursed for more than one tier in a month, one of the two options listed below may be utilized for any given provider.

Option 1: When a change occurs, the provider will only be reimbursed for all meals at Tier 2 rates for the entire month. A provider who is only eligible to receive Tier 1 rates for a portion of a month would not be eligible to receive the higher rate of reimbursement for the entire month. Providers cannot receive a higher reimbursement rate than they were eligible to receive for

that portion of the month they were Tier 2. For example, a provider who was eligible to receive Tier 2 rates for the first 18 days of the month and then eligible to receive Tier 1 rates for the remaining 12 days would then be reimbursed at the Tier 2 rate for the entire month.

Option 2: Providers may elect to receive payment for only that portion of the month they were eligible to receive Tier 1 rates and *not be paid* for the portion of the month they were eligible to receive Tier 2 rates. This option would be advantageous to a provider who was eligible for Tier 1 rates for the greater part of the month and eligible to receive Tier 2 rates for only a few days. For example, a provider who was eligible to receive Tier 1 rates for the first 20 days and eligible to receive Tier 2 rates for the remaining three days could then elect to be reimbursed for the only the first 27 days at the Tier 1 rate. The provider would receive no reimbursement for the meal served the last seven days.

The sponsor should work with the provider to determine which option works best for the provider. The reasons for the choice are to be well documented, including why different processes are used for different providers.

Reporting

A provider must be classified as either Tier 1 or Tier 2 for reporting purposes. A single provider cannot be reported in both tiers, since that would inflate the data. It is suggested a set date be chosen, and whatever tier the provider is classified on at that date is the tier to be reported on the claim for reimbursement.

Tier Determination

Tier determination must be done in a specific priority as required by regulation. Determination must be done by (1) school area, then (2) census then by (3) income.

School Area

Tier 1 determination by school area is valid for five years from the date of determination. Documentation of school qualification must be by either (1) a map of the eligible school boundaries showing the provider's home within those boundaries or (2) information from the school certifying the provider's home is within the eligible

school boundaries. This could include a written note signed by the school official, or documentation of a phone call with the official's name and date, and the initials of the person making the call.

School area is determined by schools whose enrollment is 50% or more free and reduced-price. A list of qualifying schools as determined by the October Survey is distributed by the SA each year.

Census Data

The duration of determination for site eligibility based on census data is be five years. This means eligibility must be reassessed every five years for providers relying on census data to establish eligibility. Documentation for census must be by the provider's address and where it falls in the qualifying census block area. The census block must be 50% or more free or reduced-price eligible.

Income Eligible

Tier 1 determination is good for one year from the original month of determination. Income-eligible providers must not qualify by school or census and must have a current IEF which qualifies the provider by income, with accompanying verification. A provider cannot be required to provide expense documentation; however, if the provider wishes, he/she may provide it to reduce his/her gross income.

Once a tier is determined it is advisable that the sponsor not redetermine until the end of the determination time period. If it is discovered the tier has changed, whether upward or downward, the sponsor must make the appropriate change (see ***Eligibility Guidance for Family Day Care Homes*** and ***Verification Procedures for Income Eligibility***).

Training, Providers

The sponsor is required to provide a minimum of two hours of Program training annually. Providers are required to attend at least two hours of Program training annually. Program topics must include, but are not limited to, the following mandatory key topics:

- meal patterns
- meal counts
- claims submission
- recordkeeping

- reimbursement system
- any other training content as mandated by the SA

Training on additional topics is optional, but does not replace the mandatory key topic training. Other potential topics include food-borne illness, purchasing food, and discipline problems as they relate to the service of food service on the program. All training must be documented with an agenda that specifies the date(s) and time(s) of training and the topics covered. A provider sign-in attendance sheet also needs to be kept to document providers' attendance.

Training Sessions

The SO should offer multiple training sessions and make them as convenient as possible, both in location and timing. One-on-one training as the only training for a given provider may be allowed under extenuating circumstances, such as a provider's remote location from usual training sites.

Non-Attendance at Training

Reimbursement claims and/or checks may not be withheld because a provider did not attend training. However, if a provider refuses to attend training, the provider will need to take corrective action (such as attendance at a make-up or later session). If the provider continues to neglect attendance for any reason, serious deficiency may be declared.

Licensed or Residential Certificate providers must meet all requirements of Child Care Licensing. It is up to Child Care Licensing as to whether the SO's program-specific training may be counted (see **Alternate Approval** and **Relative Care for specific training requirements requirements**).

Meals Served During Training

"Cost for meals...served to participants but not to guests, when Program training is presented concurrent with the meal service" is allowable (VIII I 30 a (1)(d)). This means the training program is to be continuous through the meal service. Cost of meals served to guests of participants (spouses, children) is not allowable.

Training, Sponsors

The annual FDCH conference presented by the USOE is considered mandatory training for all sponsoring organizations. Occasionally mandatory trainings will be presented at FDCH forum; additional mandatory trainings may also be presented at other times. Sponsoring organizations will be notified of mandatory training outside the annual conference. Failure to attend the conference or any mandatory training will initiate a corrective action. The next failure to attend will initiate the serious deficiency process.

Emergencies or situations may conflict or prevent the Sponsoring Organization from attending a mandatory conference or training. To avoid corrective action or possible serious deficiency, contact the SA as soon as possible.

Training, Staff

Sponsors are required to train staff on required key topics at least annually. These key topics, as appropriate to the staff's level of responsibilities, include:

- Meal patterns.
- Meal counts.
- Claims submission.
- Claim review procedures.
- Recordkeeping requirements.
- Explanation of the Program's reimbursement system.

All training must be documented with a dated agenda with the specific topics covered and sign in sheet for the attendees. There must also be policy and procedure in place for those employees who do not attend training.

U

Unavailability of School Lunch Program

If a school lunch program is not available to school-age children (off-track, summer vacation, holidays, etc.) enrolled school age children may be served at the provider's home. The SO may require that the provider also note on the claim form why a school-age child is being claimed for lunch on a school day.

Unusual Claiming Patterns

Unusual claiming patterns may include a claim with no variation in meal counts, for any single meal type or combination of meal types, or for a single child, for any continuous amount of time in which meals are claimed within the claim month.

The SO must have a written procedure in place identifying what an unusual claiming pattern is, and the follow up that will be conducted. Follow-up should include unannounced follow up reviews and parental contacts. However, if a SO is able to determine and document there is a valid reason for the unusual claiming pattern, the sponsor is not required to conduct another unusual claiming pattern related unannounced follow up review of the facility for the remainder of the current review year.

Unusual claiming patterns can be evaluated and documented during monitoring when it is first discovered, prior to the submission of the claim. This will enable the SO to provide effective oversight of Program integrity, while also promoting efficient use of sponsor resources.

Valid reasons for the existence of unusual claiming patterns that would exempt the sponsor from conducting additional unannounced follow-up reviews for the 12-month period are limited to logical and compelling reasons. Some examples might be: a small day care home has the policy to take children even when they are sick, or the provider has a list of drop-ins that it accepts whenever there is a vacancy. These reasons must be investigated, explained and documented during the unusual claiming pattern review process.

The USOE must be able to track the sponsor's facility reviews and make sure that the program requirements have been met.

W

Water

Water should be available to children throughout the day; however, is not to replace milk during meals. The use of water at snacks is encouraged when another beverage is not being served, and it should be served in lieu of other high-calorie beverages or high calorie sweetened beverages, juice drinks, sports drinks, soda, etc. that are served outside of mealtimes.

Withholding of Claims or Checks

Withholding of a claim is unallowable for any reason unless the claim is unable to be validated. If the claim, or any portion thereof, cannot be validated, then that claim should not be paid. Otherwise, claims must continue to be paid during the corrective action process, the serious deficiency process, or during the interim in which the provider is waiting to attend training.

Women Infants and Children (WIC) Information

Each sponsoring organization must ensure that WIC information is distributed to all parents of enrolled children, including the provider.

Z

Zero Income

An IEF reporting zero income may allow a provider to be Tier I or a child to be claimed at the Tier I, or higher, rate; however, the income must be evaluated every 45 days until income is actually reported. Follow-up on the zero income must be documented and can be done on the current IEF with the result of the follow-up, the date, and the initial of the person doing the follow-up. Once the family begins to receive an income, a new IEF must be completed.