Memo Code: CACFP 07-2006

February 23, 2006

SUBJECT: CACFP Policy #03-2006: Questions and Answers on State Agency Oversight Tools, Sponsor Oversight Tools, and Training and Other Operational Issues in the Child and Adult Care Food Program (CACFP)

TO: Child Nutrition Programs

This memorandum transmits Attachments 3 to 5, which provide answers to questions from our training last year on the second interim CACFP management improvement rule (69 FR 53501, September 1, 2004).

The topics addressed in these attachments are: State Agency Oversight Tools (Attachment 3), Sponsor Oversight Tools (Attachment 4), and Training and Other Operational Issues (Attachment 5). Attachments 1 and 2 were previously transmitted on September 23, 2005 and November 7, 2005 as CACFP Policy # 07-2005 and CACFP Policy # 01-2006, respectively. Taken together, the five attachments provide a complete set of answers to questions raised during training on the second interim rule.

Attachments

ATTACHMENT 3

Questions from New Orleans and Denver Training Sessions

III. QUESTIONS RELATING TO STATE AGENCY (SA) OVERSIGHT TOOLS

Enrollment Forms

1. Are enrollment forms required for children ages 7 to 12 in outside-school-hours care centers (OSHCC)? For example, if an eight-year old attends an OSHCC after school and receives a PM snack, is an enrollment form required?

Answer: No. Enrollment forms are not required for children attending OSHCCs, regardless of their ages. However, some State licensing regulations may still require OSHCCs to have enrollments on file. The interim rule does not exempt OSHCCs from complying with State requirements.

2. Why are OSHCCs exempted from collecting enrollment forms? Unlike at-risk snack programs, aren't OSHCCs usually enrolled programs, not drop-in programs? Are enrollment forms required if an OSHCC offers full day care when school is closed?

Answer: Enrollment forms are not required even if an OSHCC occasionally provides full day care. The William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336), which added the at-risk snack provisions to the National School Lunch Act, recognized that both at-risk and OSHC programs were similar in nature insofar as they were more likely to serve a drop-in population. Public comments on the proposed rule (65 FR 55101, September 12, 2000) further convinced the Food and Nutrition Service (FNS) that many OSHCCs frequently provide drop-in care. Commenters noted that, because of the drop-in nature of at-risk sites, emergency shelters, and many OSHCCs, requiring an enrollment form to be on file for each child was unrealistic, and might even discourage some sites from participating. Consequently, the second interim rule removed references to enrollment in OSHCCs that were previously found in §§ 226.2 and 226.19(b) of the regulations.

3. Why wasn't enrollment information included on the prototype free and reduced price application form? It would save time and increase the likelihood of parents providing the information.

Answer: Not all States would want to use the income eligibility form to capture enrollment information. Therefore, instead of reissuing the multilingual set of prototype forms and instructions, FNS has recommended that SAs or sponsoring organizations amend their income eligibility forms to collect required enrollment data, if they believe it necessary.

4. Would you expect an enrollment form to be updated in this situation: parents fill out an enrollment form in July; their child's schedule changes in January; and the discrepancy appears in a review conducted in March?

Answer: No. The interim rule requires that enrollment forms be updated once a year, so a form that was signed on July 10, for example, would have to be updated and placed in the files by the end of July of the following year. Either the SA or the sponsor should establish policies to help monitors differentiate between routine schedule changes and patterns of discrepancies between meal counts and enrollment information that may warrant further evaluation (e.g., through the use of household contacts).

5. If an enrollment form is submitted on September 7, 2005, must it be updated by September 7, 2006?

Answer: No. Although the regulations state that enrollment forms must be updated "every 12 months," SAs are free to apply a "rule of reason" in these circumstances. For example, many child care facilities enroll children at the beginning of the school year. If parents fail to return the form promptly, the provider or center will follow up to ensure that the enrollment is updated within a few weeks of the start of school. In such circumstances, it would be reasonable to say that the enrollment for a child submitted on September 7, 2005, was valid through the end of September 2006. [Note: This approach was suggested in Q&A's previously issued on December 23, 2004, Question # 8 under "Enrollment Forms."]

6. Since Head Start programs have the same hours every day, must they still collect enrollment forms from parents? Could they just ask parents to identify the session (AM or PM) which the child attends?

Answer: Yes. When a Head Start program has the same hours every day, the Head Start center may simply ask parents to identify the <u>session</u> their children attend when they enroll their children. Although Head Start enrollments are considered to be in effect for two years, Head Start requires centers to have parents confirm the enrollment information if their children participate for a second year. That would still enable a CACFP monitor to establish that a particular child was still a morning enrollee or an afternoon enrollee.

7. Please clarify the intent of the March 11, 2005 guidance. Must enrollment forms still be collected in a State that requires sign-in and sign-out sheets?

Answer: Yes. Each of the sponsor's facilities would still be required to annually collect signed and updated enrollment forms. However, the enrollment forms they collect would not have to include information on the days, hours, and meals children normally receive while they are in care. The sign-in and sign-out requirement means that those facilities already collect more specific information about the days and hours that each child is in care than the CACFP requires on an enrollment form.

8. The sign-in and sign-out sheet must include the time each child arrives and departs, signed or initialed by the parent. Is an electronic log-in by parents, such as Procare Software, an acceptable alternative to the parent's initials or signature?

Answer: Yes. An electronic sign-in and sign-out system is acceptable.

9. What if a single institution has sign-in and sign-out requirements that were approved by the SA? Does the March 11, 2005 guidance apply in this instance? If not, why not?

Answer: No. The alternative offered in the March 11, 2005 guidance is only applicable in States where the use of sign-in and sign-out forms is required, either by the State CACFP agency or by the State licensing agency, for one or more types of facilities (e.g., child care centers or family day care homes). We believed that it would be administratively burdensome to ask SAs to implement this policy on an institution-by-institution basis.

Edit Checks

10. Does an SA have to provide appeal rights for denial of meal reimbursement when the number of meals exceeds the edit check threshold?

Answer: If, after working with an institution to resolve the claim problem, the SA determines that all or part of the claim must be denied, the institution must be given the opportunity to request an administrative review (appeal) of the claim denial, as specified in §§ 226.6(k)(2)(ix) and 226.7(k) of the regulations. The regulations at § 226.7(k) also require the SA to notify the institution of the problem within 15 days of receiving an incomplete or incorrect claim, and require the SA to pay the valid portion of the claim within 45 days of receipt.

11. In the Q&A's issued on December 23, 2004, FNS stated that SAs must seek permission if they wished to base State-level edit checks on anything but enrollment. However, during training, it was stated that State-level edit checks could be based on factors other than enrollment (e.g., attendance or licensed capacity). Which is correct?

Answer: During the training, we noted that some State claims processing systems use attendance data or licensed capacity as an additional comparison against meal counts. As long as enrollment is being used as an edit check, as required by § 226.7(k) of the regulations, the SA would not need to seek FNS regional office approval to use additional edit checks. However, an SA that wished to design an edit check system that did not use enrollment at all would need prior regional office approval.

12. In our State, we do not collect separate counts of AM and PM snacks. Each institution submits a count of the total number of snacks served. Will this need to change in order to implement the required edit checks (that is, will we now

have to require that all institutions submit separate counts of AM and PM snacks)?

Answer: As we indicated during the training, we have reconsidered the answer previously provided to this question in the Q&A's issued on December 23, 2004. SAs generally receive information on the total number of snacks claimed, and this number is often not broken down into separate AM and PM components. The SA may use total snacks as an edit check. However, please note that Question # 29, Attachment 4, below, clarifies that sponsors are required to have edit checks that differentiate between the types of snacks being claimed.

13. When a claim fails an edit check, must the institution submit a corrected claim?

Answer: Procedures will vary, depending on the nature of the problem and the SA's requirements. During the training, we gave an example of a simple error committed by a new staff person at an independent center that claimed an unapproved meal type for reimbursement. In this example, the SA resolved the problem over the telephone, and struck the unallowable meal type from the center's monthly claim. Generally, though, it is safer to require the institution to submit a corrected claim, regardless of whether the error was caused by a simple math mistake, a system malfunction, or some other problem.

14. Can an SA adjust a sponsor's claim downward without offering an appeal?

Answer: No. An appeal must be offered unless the sponsor consents to the SA's correction of a minor error, as described in Question # 13, above.

15. Some centers accurately report meals, but they fail edit checks because they exceed licensed capacity on some days. Is the SA required to deny claims for meals served in excess of licensed capacity?

Answer: Meals served to children in excess of licensed capacity are not eligible for Program reimbursement. When an edit check detects this type of situation, more research is warranted. It may be that the provision of part-time or shift care makes it appear that the center is exceeding its licensed capacity when it is not. However, if the center had actually served meals at any particular meal service in excess of licensed capacity, those meals would not be eligible for reimbursement.

16. When an edit check identifies an unapproved meal service and the SA denies payment, does the institution have the opportunity to appeal the denial?

Answer: Yes. In accordance with § 226.6(k)(ix), appeal rights must be given whenever a claim or a partial claim is denied.

Household Contacts

17. Since the new enrollment form requirements apply only to child care centers and family day care homes, could the SA exempt adult day care centers, emergency shelters, OSHCCs, and at-risk snack programs from its household contact system, both for household contacts conducted by the SA and by sponsors?

Answer: Section 226.2 defines "household contact" as a contact made by an SA or a sponsor "to an adult member of a household with a child in a family day care home or a child care center. . . ." Therefore, the SA's household contact system does not have to apply to adult day care centers, emergency shelters, at-risk snack programs, or OSHCCs.

Five-Day Reconciliations

18. Is the SA's five-day reconciliation of the sponsor supposed to check the sponsor's use of the five-day reconciliation, or should the SA also conduct its own five-day reconciliations?

Answer: Both. SA monitors should evaluate the process used by the sponsor to conduct five-day reconciliations, to ensure the sponsor's compliance with the CACFP regulatory requirements. This would include a review of the sponsor's written instructions to monitors for conducting the reconciliation and documenting findings, and a "spot check" of the sponsor monitors' work in sampled facilities. In addition, SA monitors should conduct their own five-day reconciliation of the facilities selected for review.

Review Elements and Other SA Review Responsibilities

19. Regarding the requirement that SAs review an institution at least once every three years, does this literally mean that the next review must occur within 36 calendar months? For example, if the SA reviewed a center on January 5, 2005, would the next review have to be conducted by January 5, 2008, or could the next review occur later in Fiscal Year (FY) 2008?

Answer: The requirement to review an institution at least once every three years refers to whatever type of year (State fiscal, Federal fiscal, or calendar year) the SA uses to track its conduct of reviews, not to calendar months or specific dates. Therefore, if an SA using the Federal fiscal year reviewed a center on January 5, 2005, the next review would need to be conducted no later than September 30, 2008.

20. Section 226.6(m)(2) of the regulations requires SAs to target, for more frequent review, institutions whose prior reviews resulted in a notice of serious deficiency. Can you define "more frequent," and would that apply to every institution with a finding of serious deficiency?

Answer: The SA should establish a system of review priorities that enables it to determine on a case-by-case basis how often each institution must be reviewed to ensure that Program requirements are met and that corrective actions are complete and permanent. For example, an independent center determined to be seriously deficient in FY 2006 should be reviewed again in FY 2007 or 2008, rather than waiting the full three years before conducting the next review of that center.

21. Please clarify the SA's focus when reviewing facilities as part of a sponsor review. Are we to conduct our own review of the facility, or are we reviewing the way the sponsor conducted its reviews?

Answer: Both. First you are conducting your own review of the facility; second, you are comparing your results with those of the sponsoring organization in its recent reviews of the same facilities. In general, the results should be similar. Major discrepancies between your findings on the facilities reviewed and those of the sponsor could trigger more training, more frequent or extensive reviews, or a finding of serious deficiency.

22. During an SA review of a center sponsor with five centers, the SA is required to review one of the five centers. Does the review of free and reduced-price applications, conducted in accordance with § 226.23(h), verify applications in the one center reviewed, or in all five centers?

Answer: The regulation at § 226.23(h)(1) requires the SA to verify all of the sponsored centers' approved free and reduced-price applications (i.e., applications would be verified in all five sponsored centers). If these are nonpricing centers, the verification would be conducted in accordance with § 226.23(h)(1)(i)-(iv); if they are pricing programs, the verification would be conducted in accordance with § 226.23(h)(2)(i)-(ix).

23. When will new prototype review forms, which incorporate the provisions of the two interim rules, be issued?

Answer: The Management Improvement Guidance working group is scheduled to meet in 2006. We anticipate the revised forms will be available in FY 2007.

24. If records are not onsite during a review of an independent center, can they be sent in to the SA after the review and, if so, how long after the review?

Answer: One would expect records to be available for SA examination at the time of the review. Unless the SA determines that there are compelling, special circumstances, records that are not onsite in an independent center at the time of the review cannot be considered to be "available." The action the SA takes in response to inadequate record keeping should be appropriate to the severity of the violation.

25. When they find an income eligibility error, some SAs establish an overclaim going back to the beginning of the fiscal year, while others do not. Which approach is correct, or is this a matter of State discretion?

Answer: It is not a matter of SA discretion. If an income eligibility error has been found, as described in § 226.23(h)(4) of the regulations, the SA must adjust the institution's rate of reimbursement back to the month in which the incorrect eligibility figures were reported by the institution. It is possible that this would go back to the beginning of the fiscal year, but it could be more or less time, depending on when the incorrect information was first reported.

ATTACHMENT 4

Questions from New Orleans and Denver Training Sessions

IV. QUESTIONS RELATING TO SPONSOR OVERSIGHT TOOLS

Enrollment Forms

1. The script stated that the sponsors "collected" the enrollment forms. Does that mean that enrollment forms must be maintained at the sponsor level?

Answer: Not necessarily. However, enrollment forms must always be available to SA and sponsor reviewers. It is up to the SA to establish an appropriate policy regarding where enrollment forms must be maintained.

2. Is the SA still obligated to conduct household contacts when independent centers have sign-in and sign-out systems?

Answer: Household contacts with parents of children enrolled in an independent center are strongly encouraged, but the establishment of household contact policies is an SA responsibility. Although an independent center may be required to have sign-in and sign-out procedures, there may still be suspicious claiming patterns or other circumstances that the SA believes would warrant the initiation of household contacts.

3. Will a signed statement from a parent or a printout sent to the provider by the sponsor constitute annual update of the child's enrollment?

Answer: No. A signed statement from a parent that did not also certify that the child's days, hours, and meals received in care had not changed, would be insufficient. As indicated in the Q&A's issued on December 23, 2004, SAs may permit institutions to provide parents with the previous year's enrollment form, and to ask parents to indicate any changes and to sign and date the form. In that way, parents have an opportunity to indicate a change to their child's days, hours, and meals received in care.

4. Must all enrollments expire on the same date?

Answer: No. Enrollment forms do not have to expire at the same time. As discussed during the training, and in the Q&A's issued on December 23, 2004, FNS allows sponsors to stagger the collection of forms. The only limitation is that enrollment forms cannot be in effect for more than 12 months. [NOTE: See also Attachment 3, Question # 5, above.]

5. Does the new requirement for normal days and hours in care on the enrollment form mean that the provider cannot claim meals served to a child at other times?

Answer: No, not at all. The expanded information on the enrollment form is intended to serve as a red flag for CACFP monitors during on-site reviews. FNS understands that there are many legitimate discrepancies between a child's projected schedule and the actual attendance and meal counts recorded by a facility. Asking parents to estimate when their children will be in care provides the monitor with information that will make it easier to detect when meal counts are being inflated.

6. How should parents fill out an enrollment form when their work schedule (and child care needs) varies from one week to the next?

Answer: When parents work swing or rotating shifts, FNS would expect them to indicate on the enrollment forms that they work multiple shifts, and that their children would be in care for different hours on different days. Although their schedules may be unpredictable, we would ask the parents to estimate the hours and days they expect that their children will most often be in care.

7. For the provider's own children, must enrollment forms be updated annually and must the provider note the normal days, hours, and meals their children receive on the forms (since providers can only claim their children's meals when other children are present)?

Answer: Yes. Signed and completed enrollment forms, containing the newly-required information on days, hours, and meals received in care, are required for every enrolled child who receives at least one Program meal, including the provider's own. If the State's licensing rules exempt provider's own children from being enrolled for care, the relevant information must still be captured and updated annually to comply with CACFP requirements. In this case, annually updated information on the child's expected days, hours, and meals received in care might be captured on a form other than an "enrollment" document.

8. What is the definition of an enrolled child? Is it a child who attends a child care facility at least once during the month, or is it a child who may attend, based on the yearly enrollment update?

Answer: Section 226.2 defines enrolled child as a child whose parent has submitted a signed document indicating that the child is enrolled for child care. Any child who could be in attendance, for the purpose of receiving child care and at least one CACFP meal, would be an enrolled child. As pointed out in guidance issued on November 15, 2004, the regulations already require that each child in a family day care home, using blended rates or claiming percentages, receive at least one meal in the claiming period. In addition, with regional office approval, SAs may require that a child be present for a meal service for purposes of establishing a blended rate or claiming percentage in a center, or for the purpose of establishing a for-profit center's monthly eligibility.

9. Do Head Start centers need to have enrollment forms if they have attendance sheets? If so, do they need to capture information on each child's expected days, hours, and meals received in care if all of the children receive the same meals and are in care on the same days?

Answer: Yes. Children in Head Start centers must still be enrolled for care, and the new information on the child's expected days, hours, and meals received in care must be captured on the enrollment form. However, because the majority of Head Start programs enroll children in a particular "session" (i.e., AM session, PM session, or all day) and provide the same meals to all children in that session, such Head Start centers are permitted to simply capture information on the enrollment form about which session the child will attend that year.

10. Are enrollment forms required for adults with disabilities in day care homes?

Answer: Enrollment forms must be on file for each participant who receives at least one Program meal while receiving day care. Adult participants who are able to do so can sign their own enrollment forms. If the adult participant is not able to sign his or her own enrollment form, then the provider (if the adult is the "provider's own") or the adult's caregiver, or other adult family member would sign the enrollment form. If the State's licensing rules exempt these adults from being enrolled for care, the relevant information must still be captured and updated annually to comply with CACFP requirements. In this case, annually updated information on the adult's expected days, hours, and meals received while in care might be captured on a form other than an "enrollment" document.

11. Does the SA have to review enrollment forms when it has already reviewed sign-in and sign-out sheets during a review of a large center?

Answer: Yes. However, the SA would modify its procedures and simply check to see that the enrollment forms were current and had been signed by a parent.

12. Why do centers have to have CACFP enrollment forms if the State licensing agencies already require enrollment forms for all children in child care?

Answer: There is no requirement for a "CACFP enrollment form." Rather, it is required that children be "enrolled for care" in order for their meals to be eligible for CACFP reimbursement. If the licensing agency mandates that its enrollment form be utilized in that State, then the form must be annually reviewed and signed by a parent or guardian, and must include the newly-required information on each child's expected days, hours, and meals received in care. If the State licensing agency will not amend its form, we have instructed SAs to capture the required information on each child's expected days, hours, and meals received in care in some other fashion.

13. If a child care facility provides transportation does it still need to include normal hours of care on the enrollment forms?

Answer: Yes. The enrollment forms must still include the children's normal days and hours in care.

<u>Edit Checks</u>

14. When should a block claim result in a declaration of serious deficiency?

Answer: The interim rule does not attach a "penalty" to the submission of a block claim, nor does it dictate specific circumstances under which a block claim should lead to a declaration of serious deficiency. Rather, the term "block claim" is descriptive: it describes a pattern of claiming that constitutes a "red flag" and triggers a required follow-up action on the part of the sponsor (the sponsor must conduct an unannounced review of the facility within 60 days of receiving the claim). The unannounced review provides the sponsor's monitor with valuable information which will enable the monitor to more accurately assess the circumstances that resulted in the block claim, and to determine whether there is a legitimate reason for the block claim.

If there is no legitimate reason for the submission of a block claim, SAs would have some latitude in defining the next steps to be taken by the sponsor. However, regardless of the specific requirements of SA policy, we would expect that policy to result in quick and effective action by the sponsor to ensure that the facility did not submit additional block claims.

15. Once a legitimate reason is documented for a facility to submit a block claim, does the legitimate reason have to be re-documented each year?

Answer: Yes. As explained in the regulations at § 226.10(c)(3), the sponsor's determination that a legitimate cause exists for block claiming by the facility must be established and documented in the facility's case file for each annual review period.

16. Would FNS provide more guidance on what would constitute a "legitimate" explanation of a block claiming pattern? Would you provide a list of reasons besides the possible reasons mentioned in the training?

Answer: During the presentation on sponsor oversight tools, we gave a general rule to follow in determining whether a block claim may be legitimate:

> The lower the number of nonresidential children in the home, or the lower the number of nonresidential families being served, the more likely it is that the home could trigger a block claim.

Although it is neither possible nor desirable to provide a comprehensive list of the circumstances that could justify a block claim, we have previously identified the following situations as examples of legitimate explanation of a block claim:

- A day care home caring for one or two nonresidential children whose single parent has no sick leave benefits;

- A day care home located near a low-wage factory that specializes in care for sick children of the factory workers; and

- A day care home that offers drop-in care and is always filled to capacity.

No doubt there are other circumstances that could legitimately explain a block claim. These situations can only be determined by the sponsor, which has knowledge of the specific circumstances occurring in its facilities.

17. Can a sponsor substitute average daily attendance or licensed capacity for enrollment in its edit check system and, if so, would this require prior SA or regional office approval?

Answer: During the training, we noted that some sponsors' claims processing systems use attendance data or licensed capacity as an additional comparison against meal counts. As long as enrollment is being used as an edit check, as required by § 226.7(k) of the regulations, the SA would not need to seek FNS regional office approval to use additional edit checks. However, a sponsor that wished to design an edit check system that did <u>not</u> use enrollment at all would need prior SA and regional office approval.

18. Can a sponsor employ an edit check that is more restrictive than the minimum edit checks required by the regulations?

Answer: Yes, as stated in the preceding answer. However, the SA would always have to ensure that, whatever edit checks the sponsor employs, they include the minimum requirements for edit checks set forth at § 226.10(c) of the regulations.

19. Does "15 consecutive days" (in the definition of "block claim" at § 226.2) refer to calendar or operating days?

Answer: The term "consecutive days" refers to operating days. As discussed in the preamble to the second interim rule and during the training, if a facility is providing child care every day of the week, a block claim could occur in just over two weeks of claiming the same number of meals for a meal type (e.g., breakfasts). However, if a facility operates 5 days a week, Monday through Friday, the same block claiming pattern would be established at the end of the third week.

20. Must the "15 consecutive days" occur in one claiming month to constitute a "block claim," or must sponsors track a block claim across two months?

Answer: The definition of a block claim in § 226.2 of the regulations identifies a block claim as the same number of meals claimed per meal type for a 15-day period <u>within the</u>

claiming period (emphasis added). In most cases, a claiming period will coincide with a calendar month.

21. Is occasional week-end care part of the 15 consecutive days, if a home normally provides child care Monday through Friday and occasionally on a Saturday?

Answer: Not necessarily. Because the purpose of the block claim is to identify patterns, the SA could consider this situation differently. The SA could define consecutive days as the 15 days of normal operation and exclude the odd day.

22. If a child leaves on day 5 of a 15-day period, and another child comes in, is it still a block claim?

Answer: Yes. The edit check identifies the same number of meals per meal type served over a consecutive 15-day period in a claiming period. The meals do not have to be tracked to each child. The identification of a block claim does not automatically signal a false claim. Rather the edit check functions as a "red flag" to alert the sponsor to a possible problem with the claim that requires sponsor follow-up.

23. Since the definition of a block claim is based on the total number of each meal type served, can SAs "refine" that definition in situations where the sponsor's claiming system allows them to track the meals received by each child?

Answer: SAs must not "modify" the § 226.2 definition of what constitutes a block claim, and the unannounced follow-up review required by § 226.10(c)(3) would still need to be conducted, even if the sponsor's claiming system allows them to discern that different children received the meals on different days. However, if the sponsor's claiming system allows them to track the meals received by each child each day, that information can be a part of the sponsor's documentation of the reason that the facility submitted a block claim in a particular month.

24. How will an unannounced follow-up review help prevent block claiming?

Answer: The unannounced follow-up review required by § 226.10(c)(3) can help by allowing the sponsor to:

- Compare the number of meals served on the day of the review to the number of meals typically being claimed by the facility; and

- Assess whether there is a legitimate reason for the block claiming pattern that was detected.

25. If a sponsor does not have an automated claim system, how can it check for block claims?

Answer: If the sponsor does not have an automated system, the sponsor's staff will have to manually check the claims submitted by facilities each month.

26. Does a sponsor with a manual system need to apply each of these three edit checks to every provider's meal count? Our sponsors with manual systems check 25 percent of the claims each month, and then more if at least 2 percent are in error.

Answer: Yes. The edit checks specified in § 226.10(c) of the regulations must be applied to each facility's claim each month. Checking a percentage of the sponsor's facilities is not an acceptable method of complying with these requirements.

27. For a sponsored center, are the edit checks applied to each classroom, or to the center as a whole?

Answer: The edit checks are to be applied to the center as a whole.

28. Should sponsors inform providers of the block claim requirement? If they do, it seems likely that providers who are submitting fraudulent claims will simply avoid triggering the block claim edit check.

Answer: Each sponsoring organization can make this determination. It is likely that providers or centers will find out about the edit checks anyway. Furthermore, if a sponsor detects a suspicious claiming pattern and suspects that a facility is submitting false claims, even if the number of consecutive days is less than 15, the sponsor should schedule an unannounced review as soon as possible.

29. Do sponsors' edit checks have to be able to separately track different types of snacks?

Answer: Sponsoring organizations <u>are</u> required to have edit checks that differentiate between types of snacks. If they did not, it would be difficult to tell whether a facility was claiming for three meals (e.g., breakfast, lunch, and PM snack) or four meals (e.g., breakfast, lunch, and both snacks). Therefore, sponsor edit check systems should be designed to capture information on each meal type, and therefore must be capable of distinguishing between AM and PM snacks. [See Q&A # 12 in "State Oversight Tools," above, with regard to SA edit check requirements.]

30. In examining the reasons for a block claim, if the provider states that she always cares for sick children, how should the sponsor document the accuracy of her statement?

Answer: The sponsor will be able to assess this statement when it conducts the unannounced follow-up review, examines the enrollment forms, and observes the number of children in care. In addition, even if the sponsor determines that the provider has a legitimate reason for the block claim, the subsequent unannounced review will allow the sponsor to observe the number of children present and further confirm, or refute, the

provider's statement. The sponsor may also wish to use household contacts to obtain additional information about the number of children typically in care for a particular meal service.

31. If sponsors only collect the aggregate monthly number of meals served by their facilities, they can't check for a block claim, except when they are conducting a review.

Answer: All institutions and facilities have been required (since long before the second interim rule) to keep daily meal counts, by meal type. [See §§ 226.15(e)(4), 226.16(e), 226.17(b)(8), 226.18(e), 226.19(b)(7), and 226.19a(b)(9).] In order to implement the block claim edit check, the sponsor must collect these daily meal counts, by meal type, for each facility they sponsor. The delayed implementation of this provision (The rule was published on September 1, 2004, but the edit check provisions took effect on October 1, 2005.) was designed to give sponsors time to make any changes necessary to bring their payment and edit check systems into compliance with the new requirements.

32. If a seriously deficient provider submits a block claim, can the sponsor combine its block claim follow-up review with its follow-up to determine whether corrective action was taken on the serious deficiency?

Answer: Yes. The sponsor should gather as much information as possible during any unannounced review.

33. Our State's internet-based claims system will not accept a claim for a meal service that has not been approved. Does the sponsor still need to have its own edit check of meal types being claimed?

Answer: Yes. Even though the SA's claims system may capture facility-level data, sponsors must still have the required edit checks in place so that they, not the SA, are taking responsibility for the validity of the claims being submitted by their facilities.

Household Contacts

34. Since the new enrollment form requirements apply only to child care centers and family day care homes, could the SA exempt adult day care centers, emergency shelters, OSHCCs, and at-risk snack programs from its household contact system, both for household contacts conducted by the SA and by sponsors?

Answer: Section 226.2 defines "household contact" as a contact made by an SA or sponsor "to an adult member of a household with a child in a family day care home or a child care center. . . ." Therefore, the SA's household contact system does not have to apply to adult day care centers, emergency shelters, at-risk snack programs, or OSHCCs.

35. How can information from household contacts be used in appeals? Should a sponsor initiate the serious deficiency process based on a household contact conducted by telephone? What if the parents initially report that their children were not in care, without documenting it in writing, and later, change their story?

Answer: Even if the SA's household contact system permits sponsors to make oral household contacts, it is essential for each SA to establish a policy to verify information from household contacts in writing. When household contacts are conducted over the telephone, the sponsor should ask the parent to sign and date a statement to verify the details of the telephone conversation. Even if the parents later change their account, the existence of the original signed statement will be useful if the provider later appeals a proposed termination.

36. Is it acceptable for the SA to develop a household contact system that is targeted to certain claiming patterns or events, rather than random?

Answer: The interim rule requires each SA to develop a system that defines the circumstances under which State and sponsor monitors will conduct household contacts. The SA can determine whether specific events will trigger a household contact, whether household contacts will be random, or both. Household contacts might be especially effective when they are targeted to investigate instances of block claiming and other suspicious claiming patterns, systemic irregularities in a center's income eligibility determinations, or a provider's repeated absence at the time of unannounced visits.

37. Could an SA develop a household contact policy that exempted small sponsors (say, less than five facilities) or certain types of sponsors (say, sponsors of Head Start centers)?

Answer: No. The SA's household contact system must establish household contact requirements for all types of sponsors. As the training has stressed, household contacts provide an independent way to check the accuracy of a facility's meal counts, which is critical regardless of the sponsor's size. However, in defining their household contact system, SAs could, if they chose, establish different types of household contact requirements for different types or sizes of sponsors.

Five-Day Reconciliations

38. Are adult day care sponsors exempted from conducting a five-day reconciliation?

Answer: No. Although the word "children" is used in describing the five-day reconciliation requirement at § 226.16(d)(4)(ii), we clarified in the training that this requirement applies to reviews conducted by sponsors of child or adult care facilities. The word "participants" will be inserted in lieu of the word "children" at § 226.16(d)(4)(ii) of the final regulation.

39. Given the number of participants in a typical center, and the fact that most centers are reimbursed on the basis of a blended rate or a claiming percentage, is it realistic to require sponsors of centers to include a five-day reconciliation in each of their three annual onsite reviews?

Answer: Please consult the guidance we provided on this issue in CACFP Policy # 07-2005, dated September 23, 2005, and entitled, "Conducting a Five-Day Reconciliation in Centers Participating in the Child and Adult Care food Program (CACFP)."

40. Slide 11 of the training on sponsor oversight tools states that a sponsor monitor can start reviewing all aspects of a day care home's operation prior to the onsite review, except for the five-day reconciliation, based on records in the sponsor's office. In fact, some SAs don't require that enrollment forms be maintained in the home. In these cases, it wouldn't be feasible to conduct a reconciliation in the home. Must a day care home sponsor conduct a five-day reconciliation in the home, during the onsite review, or could the reconciliation be conducted in the sponsor's office prior to the review?

Answer: CACFP Policy # 07-2005, referenced above, cites §226.16(d)(4)(i) and (ii), which requires that the five-day reconciliation be part of the review. To conduct the reconciliation, the reviewer would need access to all current enrollment forms, and daily attendance records and meal counts for the current or previous month. If this information is available in the sponsor's office, the reviewer could perform the reconciliation in the office prior to arriving at the home and then complete any necessary follow-up work on the reconciliation during the visit to the home.

41. How can a sponsor monitor conduct a five-day reconciliation if the enrollment forms have not been updated as required?

Answer: The initial step in conducting a five-day reconciliation is to determine whether the enrollment and attendance data are current and accurate. If the monitor determines that the enrollment data are not current or accurate, then attendance data should be used to conduct the reconciliation. In this case, the monitor would require corrective action to bring the facility into compliance with the enrollment requirements at § 226.15(e)(2) of the regulations. Depending on the facility's previous record, the corrective action might or might not be part of a declaration of a serious deficiency.

42. In order for an onsite review to count as one of the three required annual reviews, must a five-day reconciliation be performed? What if the review is conducted between the 1st and 5th of the month, and the provider has mailed all of its prior month's documentation to the sponsor?

Answer: Yes. Sponsors must conduct a five-day reconciliation of enrollment or attendance records to meal counts as part of the onsite review, as specified in

§ 226.16(d)(4)(ii). When scheduling onsite reviews, the sponsor should consider factors such as the availability of information needed for the review.

43. In a five-day reconciliation, what constitutes a discrepancy? Enrollment, attendance, and meal counts will rarely be the same.

Answer: When conducting a five-day reconciliation, the monitor's task is to determine whether the meal counts were accurate when compared to the daily or shift attendance for all meal types for the selected five-day period. Enrollment data serves as a check on the attendance data. If attendance exceeds enrollment, for any day or for any shift (if shift care is provided), the monitor must determine the source of the error (e.g., inaccurate attendance records, missing enrollment forms) before the five-day reconciliation can be completed, and the nature of the required corrective action can be determined.

Review Elements (and Other Questions Related to Sponsor Reviews)

44. Must the SA require time-of-service meal counts in a family day care home with more than 12 children?

Answer: The SA may, but is not required to, require time-of service meal counts in family day care homes with more than 12 children. The SA may require time-of-service counts in other homes that have been found seriously deficient due to problems with meal counts and claims, regardless of the home's size.

45. If the home is licensed as a group home, is a time-of-service meal count required?

Answer: Again, there is no Federal requirement for time-of-service meal counts in home facilities. The SA could impose a time-of-service meal count requirement for any type of day care home, regardless of whether or not it was a "group home," in homes with more than 12 children enrolled.

46. Can the SA require a time-of-service count if the licensed capacity is more than 12, even though enrollment is less than 12?

Answer: No. Section 226.15 (e)(4) states that time-of-service meal counts may only be required in day care homes providing care for more than 12 children in a single day. License capacity is not the threshold; instead it is the number of children actually in care, or in this case, enrolled.

47. For onsite reviews, should affiliated centers have records onsite, or at the sponsor's facility?

Answer: Records must be available for SA examination at the time of the review. The SA may establish specific requirements regarding the location of the records for various types of facilities.

48. The requirement to include the observation of a meal service in at least one unannounced facility review can be difficult to accomplish when SAs or sponsors establish meal times that stretch over several hours. In order to facilitate unannounced monitoring of meal services, would FNS issue guidance stating that meal times must be a range of at least "X" number of minutes and that the meal must be served during the specified meal period?

Answer: SAs may establish meal time requirements as provided in §226.20(k). Consistent with the discretion given to SAs in the regulations, FNS does not plan to issue guidance on this subject.

49. Do all three reviews of each facility conducted annually by sponsors have to be conducted onsite?

Answer: Yes. Even though monitors may review many records in the sponsor's office prior to the review (See Question # 40, above.), an onsite review must still be conducted.

50. During a meal service observation, is a sponsor monitor required to be in the facility for the entire meal service period?

Answer: Not necessarily. If the monitor has completed all of the necessary review elements, the monitor may leave. If the monitor has come to review a facility at a scheduled meal time and no one is present, the monitor can either wait for the entire meal service to verify that the provider is missing the meal service, or they can conduct a review at another nearby facility and return before the end of the meal service, either to conduct the review or to verify that the provider missed the meal service.

51. The training stated that "health, safety, and sanitation" had been removed as a required review element in the second interim rule. However, § 226.20(l) of the regulations states that proper sanitation and health standards must be met.

Answer: Section 226.20(l) is intended to give SAs ample authority to act should they find that the children are not safe, or that the food service is being improperly handled.

52. May sponsors claim meal types (e.g., a supper or a post-supper snack) that they do not intend to monitor?

Answer: No. Although it would be impractical for the sponsor to review each meal service at each facility every year, sponsors must provide reasonable oversight of each meal service claimed by their facilities. This requirement will be discussed in more detail in forthcoming guidance entitled, "Sponsor Monitoring of Facilities in the Child and Adult Care Food Program."

Review Cycle for Sponsored Facilities (and Use of Review Averaging)

53. Must there be no more than six months (nine months if using review averaging) between facility reviews from one fiscal year to the next? In other words, if a sponsor is reviewing a facility three times per year and conducts its third review for FY 2005 on August 15, 2006, must that facility's first review in FY 2007 occur no later than six calendar months later (i.e., by February 15, 2007)?

Answer: Yes. This helps the sponsor to ensure that each facility continues to meet Program requirements on an ongoing basis. It also gives the sponsor enough time to conduct the remaining reviews required for the year, or to follow up on any issues that may arise during the reviews. If the sponsor is using review averaging, the nine-month requirement would be applied in the same way.

54. If the sponsor is notified by the State licensing agency of a problem at one of its facilities, will the subsequent review count as one of the three required reviews?

Answer: Yes. It will count as long as it covers all of the required review elements.

ATTACHMENT 5

Questions from New Orleans and Denver Training Sessions

V QUESTIONS RELATING TO TRAINING AND OTHER OPERATIONAL ISSUES

Facility Training

1. Please clarify the term "annual training." Does it mean that training must be given within a 12-month period?

Answer: No. As stated in the presentation on training, annual training may be scheduled at slightly different times each year. The basic requirement is that, during each year (however the SA defines a year – fiscal or calendar), the facility's key staff must be trained. For example, in a State which uses the Federal fiscal year, a sponsor that conducts training in November 2004 and April 2006 is complying with the regulations because training was held during Federal FY 2005 and 2006.

2. Please clarify: do the new regulations cover only facility training, or are independent centers and sponsors also required to attend training?

Answer: Facilities, independent centers and sponsors are all required to attend training. Section 226.6(a) requires SAs to provide training and technical assistance to institutions. Facility-level training requirements are addressed at §§ 226.15(e)(14), 226.16(d)(2)-(3), 226.17(b)(9), 226.18(b)(2), 226.19(b)(7), and 226.19a(b)(11).

Times of Meal Service and Other Changes

3. Does the food stamp list consist of current participants only (i.e., providers participating at the time that the list is submitted)?

Answer: Yes.

4. Slide 12 of the training on meal service times states that, in order to be eligible to earn reimbursement, the new center must: be licensed or approved; have had a pre-approval visit; have records documenting the number of meals served; and serve meals that have met the Program meal pattern. Does this mean that a new center can't begin to earn reimbursement until the day of the pre-approval visit?

Answer: No. SAs that choose to allow centers to be reimbursed for allowable meals, served in the calendar month preceding the calendar month in which a Program

agreement is executed, must ensure that all of the above conditions are met before the center signs an agreement and begins to receive Program reimbursement. The application of these requirements to centers and homes is discussed in a May 14, 2001, memorandum entitled, "State Agency Approval of Sponsored Facilities' Applications and Reimbursement to Facilities at the Time of Their Initial Approval in the Child and Adult Care Food Program (CACFP)."