

May 23, 2006

MEMO CODE: CACFP 12-2006

SUBJECT: Issues Relating to Block Claims Submitted by Sponsored Child Care Centers and Family Day Care Homes

TO: Child Nutrition Programs

Effective October 1, 2005, sponsoring organizations were required to comply with new regulatory provisions pertaining to the conduct of unannounced facility reviews in response to a facility's "block" claim. On July 1, 2005, we issued CACFP Policy # 03-05, "Documenting Reasons for Block Claims by Child Care Centers and Day Care Homes." That guidance permitted sponsoring organizations to meet the requirement for an unannounced follow up review, under certain circumstances, by evaluating and documenting the reason for a block claim **prior** to the facility's first submission of a block claim during the current review year. However, the July 1, 2005, guidance was effective only through the end of Fiscal Year 2006. This memorandum addresses the extension of the original guidance, as well as several other questions that have arisen regarding implementation of the block claim requirement.

Extension of July 1, 2005, Guidance

This memorandum extends the July 1, 2005, guidance through fiscal year (FY) 2007 (i.e., through September 30, 2007). That means that sponsors may continue to document reasons for a block claim observed in the facility's records during an unannounced review. The facility-specific documentation collected during the unannounced review will relieve the sponsor from having to conduct an unannounced follow up review, in response to that facility's submission of a block claim in its meal counts, for the remainder of the current review year.

Definition of the "Current Review Year"

We have been asked whether the "current review year" must be defined as the Federal fiscal year.

The answer is "no". In our guidance, we have been using the Federal fiscal year for illustrative purposes, because we believe that many State agencies (SAs) define the Federal fiscal year and the review year as being the same. In fact, the "current review year" can be any consecutive 12-month period defined by the State agency (SA) or sponsor (provided that the sponsor's definition is not prohibited by the SA), including:

- The Federal fiscal year;
- The State fiscal year;
- The calendar year;
- A 12-month period beginning on the provider's first day of operation; or
- Any other 12-month period defined or agreed to by the SA.

However, regardless of how the SA defines the current review year, the SA must be able to track the sponsor's facility reviews and determine that the sponsor has met all review requirements set forth in § 226.16(d)(4)(iii).

Use of “Checklists” by Sponsor Monitors

We have been told that at least one SA has provided its sponsoring organizations with a “checklist” that sponsor monitors can use in determining whether the facility had a valid reason for submitting a block claim.

We wish to reiterate what we stated in training, and in the previous guidance issued on July 1, 2005. “Valid reasons” for the existence of a block claim that would exempt the sponsor from conducting additional unannounced follow up reviews for the 12-month period are limited to those reasons discussed in the preamble to the interim rule (69 FR 53501, September 1, 2004); in the questions and answers on that rule issued on September 1, 2004, and December 23, 2004; and in the training materials on the second interim rule that were forwarded to SAs on July 1, 2005.

Whenever a sponsor monitor documents valid reasons for a facility's submission of a block claim, those reasons must be specific to the facility, and must be well-documented. Thus, a checklist with a mark next to one or more reasons (e.g., “cares for sick children”) is not adequate to document that there is a valid reason for the block claim, since it can be completed without careful thought by the sponsor monitor. There must be additional explanation of why the monitor believes this to be a valid reason for this facility's block claim. Thus, if a monitor checks “provider accepts sick children”, the monitor must also note in the remarks section of the form that he/she has examined the provider's written policy regarding caring for sick children, or has observed sick children in the home during a review, or has some other reason to believe that this is a valid excuse for the facility to have block claims.

Starting Date of the 60-day “Clock”

Finally, we have been asked about a discrepancy between the wording in the preamble and the regulatory language at § 226.10(c)(3) of the second interim rule. The preamble states (69 FR 53519, September 1, 2004) that the sponsor is required “to conduct an unannounced review of the facility within 60 days of receiving the block claim from the facility.” (emphasis added) The regulatory language, however, states that the sponsor

must conduct an unannounced review “within 60 days of the discovery of the block claim.” (emphasis added)

At the time that the regulation was written we assumed that, due to sponsors’ desire to pay facilities quickly, very little time would elapse between the receipt of a facility’s meal count and the discovery of a block claim. However, some SAs have told us that this is not always the case, that the beginning and ending dates of the 60-day period are difficult to determine, and that additional clarification is needed in the final rule. In advance of that clarification, some SAs have promulgated policies and procedures to promote uniform understanding of the starting date of the 60-day “clock” within their State. For example, one State agency requires the sponsor to date stamp the meal count upon receipt, and use that as the start of the 60-day “clock” if a block claim is subsequently identified.

We support all such SA efforts to promote consistent implementation within their State, even though that they may result in inconsistencies between States. In order to promote National uniformity in the final rule, we intend to clarify that the 60-day clock must start on the day that the facility’s meal count is received by the sponsoring organization.