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SUBJECT: Child Nutrition Program Meal Service during Novel Coronavirus Outbreaks: Questions and Answers #3¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Summary: | (1)This memorandum provides clarification on questions related to the operation of the Child Nutrition Programs during the novel coronavirus (COVID-19) public health emergency. (2) This memorandum applies to State agencies administering and local organizations operating the Child Nutrition Programs. (3) This document relates to Program operations under 7 CFR 210, 220, 225, and 226 and waivers pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127). |
| Disclaimer: | The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. |

¹ Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this memo as not major, as defined by 5 U.S.C. § 804(2).

This memorandum includes questions and answers intended to provide clarification to State agencies and Program operators on the operation of the Child Nutrition Programs during the novel coronavirus (COVID-19) public health emergency.

Pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) has issued several Nationwide Waivers and has exercised existing statutory and regulatory authorities to support access to nutritious meals while minimizing potential exposure to the novel coronavirus. Additional information on the FNS Response to COVID—19 is available at:
<https://www.fns.usda.gov/disaster/pandemic/covid-19>.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of child and adult participants during a challenging time. State agencies are reminded to distribute this memorandum to Program operators immediately. Program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office.

Original Signed

Angela M. Kline
Director
Policy and Program Development Division
Child Nutrition Programs

Questions and Answers

Milk Requirements

- 1. If the public health emergency prevents Child Nutrition Program operators from obtaining fluid milk, can Program operators receive reimbursement for meals served without milk?**

Yes, if the State agency approves this flexibility. If emergency conditions temporarily prevent Program operators from obtaining milk, the State agency may allow Program operators to serve meals without milk, or in the National School Lunch Program (NSLP) and School Breakfast Program (SBP), with an alternate form of milk. This flexibility is permitted under existing Program regulations at 7 CFR 210.10(d)(2)(i), 220.8(d), 225.16(f)(6), and 226.20(e)(1), and does not require a waiver from the Food and Nutrition Service (FNS).

In addition, the Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs allows milk requirements to be waived when State agencies elect to participate in the waiver. Program operators need to contact their State agency for approval, which will be based on a targeted and justified need for serving meals without milk.

- 2. Are reimbursable meals under the NSLP Seamless Summer Option (SSO) required to offer at least two types of milk?**

Yes. However, if emergency conditions temporarily prevent Program operators from obtaining multiple types of milk, the State agency may allow Program operators to serve meals without milk, or with an alternate form of milk. Therefore, State agencies could approve Program operators to serve only one type of milk if that is all that is available. This flexibility is permitted under existing Program regulations at 7 CFR 210.10(d)(2)(i) and 220.8(d), and does not require a waiver from FNS.

SFSP Closed Enrolled Sites and Camps

- 3. Can schools with Unanticipated School Closures and Non-Congregate waivers operate a closed enrolled site as well as an open site under SFSP/SSO?**

Schools with Unanticipated School Closure waivers can operate a closed enrolled site as well as an open site at the same site if the sites are serving different children. The closed enrolled site must demonstrate that they will serve a population of children different from the children in the community at large that are being served by the open site. As such, the schools must have a system in place to monitor and ensure the same children are not being served by both sites. If the school is permitted to operate

a closed enrolled site, the school will still need to determine eligibility of children for free and reduced price meals through the approval of applications, or other approved data sources, unless a waiver allowing area eligibility is in effect.

4. Can “paid” students be enrolled at a closed enrolled SFSP/SSO site? Is the student turned away?

Dismissed schools operating as closed enrolled sites are permitted to enroll children who are eligible for paid meals as well as children who are eligible for free and reduced price meals as long as 50 percent or more of the enrolled students are certified as eligible for free or reduced price meals. As a closed enrolled site, the school will need to confirm the eligibility of each enrolled student as free, reduced price, or paid to ensure it meets the 50 percent threshold. State agencies and sponsors should make every effort to provide clear and accurate information to the public about closed enrolled feeding sites to avoid any situation where a child is turned away.

5. What are a closed school’s options if they do not meet the 50 percent threshold of children who are certified eligible for free and reduced price meals?

When operating as a closed enrolled site, schools have the discretion to target enrollment to children in low-income families. Avoiding overtly identifying children from low-income families will depend in large part on how the school intends to provide meals. Schools that don’t meet the 50 percent threshold could decide to locate meal distribution sites at places other than the school, where they could enroll and serve a greater number of children from low-income families. They could also consider delivering meals directly to the children from low-income families who attend the school. Another option could be to limit the number of children who can enroll in the site by extending invitations to low-income families first, as long as confidentiality is maintained. Applicable sites should refer to the publication, [*Summer Food Service Program \(SFSP\) and Seamless Summer Option \(SSO\) Meal Delivery Using Existing Authority*](#), issued on March 17, 2020, to protect the confidentiality of students and their households throughout this process.

With respect to closed enrolled sites that have been approved for non-congregate feeding and are also approved to deliver meals directly to homes, those sites may deliver meals only to enrolled children.

6. Under a Non-Congregate waiver, is the requirement that Summer Food Service Program (SFSP) sponsors operating a camp must provide an organized program for enrolled children also waived?

The Non-Congregate waiver applies to the requirement that meals provided under the Child Nutrition Programs must be served in a congregate setting and consumed by participants on site. It does not waive other Program requirements, such as the

requirement that camps must offer a regularly scheduled food service as part of an organized program for enrolled children. Sites that have been approved by their State agency to operate as a camp and are able to provide an organized program with appropriate safety measures with respect to COVID-19 may choose to serve meals in a non-congregate fashion, per the waiver.

7. Can a school food authority (SFA) operate as a SFSP camp and feed all of their enrolled children and only be reimbursed for the free and reduced price children?

Yes, however, it is at the State agency's discretion if an SFA-operated site can be approved to operate as a camp under the SFSP. If the State agency determines the site may be approved as a camp, the SFA would have to make eligibility determinations for all participants as required by 7 CFR 225.15(f). SFAs could claim only those meals served to children who are certified eligible for free and reduced price meals.

Site Finder – SFSP/SSO

8. Will the site finder mapping service be updated to show where SFSP sites are operating during these unanticipated school closures?

Yes. FNS started accepting SFSP site data submissions March 20, 2020 (cycle 1), and will continue accepting data weekly thereafter. The map will be refreshed and published weekly, as is the normal cycle over the summer. You can help FNS quickly publish the site data by using the template and instructions on the site, and emailing it, when you have your data ready, to sm.fn.summertechsupport@usda.gov. A PartnerWeb announcement went out on March 17, 2020 to let State agencies how they can submit their site data.

Child and Adult Care Food Program (CACFP) Meal Delivery

9. Under the Non-Congregate waiver, can CACFP operators deliver meals directly to children or adult participants' homes?

Yes. If the CACFP operator determines there is a need and it is logistically feasible to deliver meals directly to homes, it may do so with State agency approval and adherence to all Federal confidentiality requirements. If applicable, any State agency meal service times would also have to be waived, per the Meal Service Time nationwide waiver. Delivery could be completed by mail or delivery service, or hand-delivered by CACFP staff, volunteers, community organizations, or others. The State agency should consider the capacity of the CACFP operator to execute such an approach effectively, including meeting State or local food safety requirements. This option is only available to CACFP operators that provide care for enrolled children

and adult participants due to confidentiality and logistical requirements. Only meals delivered to enrolled children or adult participants will be reimbursable.

10. What funding is available for meal delivery?

There is no additional reimbursement for home delivery or mobile meals delivery, but related expenses, such as postage or delivery service fees, would be considered an allowable cost under the CACFP. Delivery costs could also be paid with non-program funds such as State or local funds, or private donations.

11. What are the requirements for initiating home meal delivery for a household?

CACFP operators must first obtain written consent from households of enrolled children (this could include email or other electronic means) that the household wants to receive delivered meals. In addition, CACFP operators should confirm the household's current contact information to ensure meals are delivered to the correct location.

It is critical that CACFP operators protect the confidentiality of children and their households throughout this process. The National School Lunch Act and the Family Educational Rights and Privacy Act (FERPA) do not authorize release of household contact information for children without first obtaining the written consent of the child's parent or guardian. The CACFP operator must make the first contact about meal delivery with the households of enrolled children, and adult participants, and must notify them if contact information will be shared with an external organization, for example, a local non-profit that will provide meal delivery. Once the CACFP operator receives written consent from the parent or guardian to release contact information, the information may be shared with other organizations involved with meal delivery.

12. Do home-delivered meals need to be shelf stable?

No. The type of meal offered will depend on the resources and capacity of the Program operator. Those that are able to prepare ready-to-eat meals and have the capacity to deliver meals daily in a way that meets State or local food safety requirements may do so.

13. Does the child or adult participant need to be present for home meal delivery?

No. As long as the CACFP operator has obtained the household's written consent to deliver meals and has verified the current address, the child or adult participant does not need to be present at the time of delivery. If the meals are shelf stable, no one need be present, as long as the address has been verified. Please consider State and local food safety requirements and best practices.

Multi-Program Sponsors

14. Are sponsors able to keep their CACFP at-risk afterschool care operations going, even if schools are implementing SFSP or SSO?

Yes. A sponsor is allowed to keep its CACFP At-Risk operations going while schools are closed, even if the school is serving meals under SFSP or SSO.

15. Can an SFA or other sponsor that participates in both SFSP or SSO and CACFP At-Risk provide meals and snacks through SSO or SFSP and At-Risk to each participant? Do the Programs have to be operated at the same site or different sites? Can participants pick up multiple meals at once?

An SFA or a community organization, if approved to operate both Programs, can locate them at the same or at different sites. The SFA or community organization may allow children to pick up multiple meals from each Program at one time. However, the maximum number of meals that may be offered to each child may not exceed the number of meals allowed by each Program. Under SFSP and SSO, up to two meals or one meal and one snack, per child, per day, in any combination except lunch and supper, are allowed. Under CACFP At-Risk, up to one snack and one meal per child per day are allowed. If the SFA or community organization is operating both Programs at the same site and all the meals for both Programs are picked up at the same time, each Program must keep accurate meal counts and claim only the meals served for that specific Program.

The State agency may approve a plan that includes pick-up of meals for multiple days, up to one week at a time. The State agency should consider the expected duration of the school closure and the capacity of the sponsor to execute such an approach effectively, including meeting State or local food safety requirements.

Claims and Payments

16. Is a waiver needed to provide advances to SFSP or SSO sponsors operating during unanticipated school closures?

No. A waiver is not needed to provide advances to SFSP and SSO sponsors operating during the unanticipated school closures due to COVID-19. Advances requested by a sponsor must comply with the requirements established in 7 CFR 210.8(d) for SSO and SFSP regulations at 225.9(c). For SFSP, the regulations indicate that the payments must be made by June 1, July 1, and August 1. Therefore, payments may be made at any time prior to these dates.

17. If a Community Eligibility Provision (CEP) school operates a closed enrolled site through the SFSP or SSO, does the Program operator claim the meals based on the established claiming percentages?

No. Although CEP schools submit their National School Lunch and School Breakfast Program claims based on a claiming percentage, meals served during unanticipated school closures are claimed through the SFSP or SSO. Therefore, meals served through SFSP and SSO at sites located at CEP schools during unanticipated school closures are claimed at the SFSP or SSO free rate.

Civil Rights

18. Do you need to have “And Justice for All” (AJFA) posters on mobile routes for COVID-19 meal distribution?

The AJFA poster must be prominently displayed in all facilities and locations that distribute program benefits or administer services. Due to COVID-19, if printed AJFA posters are not available for display, paper copies may be substituted as necessary, including use of the 2015 AJFA poster, if new (2019) posters have not been received. Meals delivered from stationary vans or buses should display the AJFA poster. For vehicles making door-to-door drop deliveries at homes and businesses, the AJFA poster does not need to be displayed.

19. Must the State agency meet public notification requirements for the temporary site? If so, can the notification be tailored to the needs of the site and target parents and the local community with, for example, a letter to parents and posters in the community or an announcement on the radio?

During this public health emergency, States are not relieved of their obligation to provide outreach and assistance to persons with disabilities and persons with limited English proficiency (LEP). State agencies should consider the best options when conducting outreach to include: (1) letters to parents; (2) electronic postings; (3) text messages; (4) Public Service Announcements; and (5) partnering with community organizations that represent or advocate on behalf of vulnerable populations. All materials should be in a language and alternative format that the participant can understand.

20. Are States required to provide free language assistance?

During this public health emergency, States are not relieved of their obligation to ensure meaningful access to services for limited English proficient persons. This includes both providing interpretation services and translating critical documents. More guidance can be found in the publication, [*Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin*](#)

Discrimination Affecting Persons With Limited English Proficiency at
<https://www.govinfo.gov/content/pkg/FR-2014-11-28/pdf/2014-27960>.

21. Is providing auxiliary aides and services required?

States are required to provide auxiliary aides and services for those who may need special assistance as long as doing so does not fundamentally alter the nature of the program. Planning for new sites and new methods of delivery should include considering how individuals with disabilities will be identified and served. State agencies should focus on determining how they can help persons with disabilities have equal access to the program(s) and not on establishing additional criteria that participants must meet to receive an accommodation.

Weekend and Holiday Meals

22. May Program operators serving meals through the Summer Food Service Program or the National School Lunch Program Seamless Summer Option (SSO) during an unanticipated school closure serve meals on weekends or previously scheduled days off, such as spring break and teacher work days?

Yes. Where schools are closed for an unanticipated school closure due to COVID-19, with State agency approval, SFSP and SSO service institutions may serve meals on days when schools had originally planned to be closed, including weekends, spring break, and other previously scheduled days off. After careful review, FNS has determined that, because the unanticipated pandemic school closures justify continued operation of SFSP and SSO, such meals may be served when there is an ongoing unanticipated closure due to COVID-19. Please note that after your school year ends, SFSP and SSO-operate under normal summer conditions (which also includes weekends and holidays with State agency approval).