



Child and Adult Care Food Program

Sponsor Manual 2015

Colorado Department of Public Health and Environment
Child and Adult Care Food Program
PSD-CAC-A4
4300 Cherry Creek Drive South
Denver, CO 80246-1530
303-692-2330



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado.

OVERVIEW

The Family Day Care Home (FDCH) Sponsor Manual is a compilation of the most relevant policies and procedures that Colorado CACFP Family Day Care Home Sponsoring Organizations (SO) must apply in their administration of the Child and Adult Care Food Program. * The policies and procedures described are based on federal regulations (7 CFR 226) and guidance governing the CACFP. Sponsors are advised to refer to both 7 CFR 226 and this manual for information on the rules they must apply in running the Program. A compilation of the CACFP regulations and applicable amendments can be found at <http://www.fns.usda.gov/fns/regulations.htm>.

Prior to publication in these manual, policies, procedures and instructions are transmitted to Sponsoring Organizations via written and electronic memorandum. The Appendix to this manual contains an index of all such policy and procedure memos issued by the Colorado Department of Public Health and Environment, Child and Adult Care Food Program (CDPHE-CACFP). Sponsoring Organizations are expected to retain copies of all issued policy memos for later reference. While the Sponsor Manual is a compilation of these policies, SO's may wish to refer to original memos for greater detail on some topics or to determine implementation dates. For example, policy memo #02-13 was provision of FNS Instruction 796-2, (revision 4), "Financial Management-CACFP". In addition to the guidance provided in Section 8 of this Manual, Sponsors should reference the full FNS Instruction for financial management information.

In some cases, policy memos are issued that replace guidance previously released on the same topic through other policy memos. When this occurs, only the most current and applicable policy will be included in the Sponsor Manual.

In addition to policy, procedures and instruction, the CDPHE-CACFP provides FDCH Sponsoring organizations with standard forms for use in administering the Program. Sponsors are alerted to availability and revision of these forms through policy and procedures memos. Sponsors are responsible for seeing that the most current versions of these forms are used.

** 226.15(m): Each institution must comply with all regulations issued by FNS and the Department, all instructions and handbooks issued by FNS and the Department to clarify or explain existing regulations, and all regulations, instructions and handbooks issued by the State agency that are consistent with the provisions established in Program regulations.*

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INTRODUCTION TO THE PROGRAM

OVERVIEW OF THE FAMILY DAY CARE HOME SPONSOR AND CDPHE-CACFP

Overview

Good nutrition is important to both growing children and adults. For this reason, the Colorado Department of Public Health and Environment, Child and Adult Care Food Program (CDPHE-CACFP) is funded by the United States Department of Agriculture (USDA) to provide reimbursement for nutritious meals served to eligible non-residential children in child care centers, family day care homes, homeless shelters, at-risk before and after school programs, Head Start and outside-school-hours programs, as well as meals for older adults in adult day care centers. The Child and Adult Care Food Program serves:

- ♦ Children under the age of 13.
- ♦ Migrant workers' children age 15 and under.
- ♦ Physically or mentally disabled persons receiving care in a family day care home (FDCH) or child care center where most participants are 18 years old or younger.
- ♦ Adults who are functionally impaired or over the age of 60 and unable to care for themselves.
- ♦ Residential children in homeless shelters under the age of 18.
- ♦ At-Risk children, up to 18 years old, enrolled in after school programs providing education or enrichment activities.

Goals

The goals of the Child and Adult Care Food Program are:

- ♦ To ensure that well balanced, nutritious meals are served to children in care.
- ♦ To help children learn to eat a wide variety of foods as part of a balanced diet.
- ♦ Provide reimbursement for meals served.

Home Participation

Family day care homes must be licensed and fit the USDA definition of a family day care or group home. Family day care homes must participate in the CACFP through a sponsoring organization.

CACFP regulations define a family 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.”

Family Day Care Home Sponsors

Licensed family childcare homes participate in the Child and Adult Care Food Program through affiliation with a Family Day Care Home (FDCH) Sponsor. FDCH Sponsors contract with the CDPHE-CACFP to provide total oversight of the Child and Adult Care Food Program (CACFP) for the facilities (homes) they sponsor. This includes ensuring that all related program regulations and instructions are followed and accepting final administrative and financial responsibility for food service operations in all of the homes under its jurisdiction.

All Family Day Care Home (FDCH) Sponsors must be either government or private non-profit institutions. Private individuals and for-profit organizations are not eligible to function as Sponsors.

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APPLICATION PROCEDURES

New Sponsor Applications

In order to apply for participation in the CACFP as a FDCH Sponsor, an institution must first complete a proposal including all of the documentation outlined below. Once an institution adequately demonstrates it has met these basic requirements, the remainder of the application will be provided along with technical assistance on its completion. As a part of this process, a Management Plan and first year Budget will need to be submitted.

The original proposal must include:

1. Proof of incorporation and certification, according to Colorado state law, as a tax-exempt organization.
2. Proof of recognition by the Internal Revenue Service as a private non-profit corporation under Internal Revenue Code (usually based on 501(c)(3) status).
3. Description of the institution's governing board, including current By-Laws and a listing of all members with job titles and expertise. Documentation must also show that the majority of board members do not stand to gain personal financial reward from the organization's activities and are not related to organization personnel or to each other.
4. Documentation that the institution would provide CACFP benefits to otherwise underserved facilities or participants. Description of the geographic area of the state the institution proposes to serve and documentation of the number of licensed childcare homes in that area that are currently not participating in the CACFP, are not on the CACFP National Disqualified List, and could not be served by existing CACFP FDCH Sponsors.
5. Certification that neither the organization nor any of its principals has ever been disqualified from participation in any other publicly funded program and that neither the organization nor any of its principals has been convicted in the last seven years of any activity that indicted a lack of business integrity (e.g., fraud, embezzlement, theft, forgery, bribery, etc.). A list of all of the publicly funded programs in which the institution and its principals has participated in the last seven years must be provided.
6. Documentation of financial viability, including adequate sources of funds to withstand temporary interruptions in program payments and/or repayment of fiscal claims against the institution. A copy of the organization's most recent outside audit and financial statements should be provided.
7. Documentation of administrative capability, including appropriate staff to adequately operate the program and provide supervision and monitoring of homes. Resumes for key personnel in the organization should be provided.
8. Documentation of the institution's accountability, including adequate financial management systems, recordkeeping systems, and training capability. A description of previous experience with the management of government funds and knowledge of public procurement and fiscal rules should be provided.

Questions regarding these instructions or the process for submission of the proposal should be directed to the CDPHE-CACFP office at (303) 692-2330. The proposal should be submitted to:

Child and Adult Care Food Program
Colorado Department of Public Health and Environment
PSD-CAC-A4
4300 Cherry Creek Drive South
Denver, CO 80246-1530

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Annual Recertification process for FDCH Sponsors

Sponsors must recertify for participation in the Program every fiscal year by completing the Institution Application in the CDPHE-CACFP web-based system, Colorado Healthy Eating Application and Reimbursement System (CHEARS). In addition, annually as part of the recertification process, Sponsors must submit a management plan update with accompanying administrative budget. An outline for submission of the plan is sent out by the CDPHE-CACFP every spring. Through the recertification process Sponsors must demonstrate that they are operating the Program in accordance with the Program regulations and requirements and that their organization is financially viable, administratively capable and accountable as described in 7 CFR 226.6.

THE INSTITUTION APPLICATION

For each fiscal year, the CDPHE-CACFP requires all Sponsors to complete the Institution Application, which appears as a required item in the online application packet in CHEARS. The Institution Application includes questions that pertain to the organization with which the CDPHE-CACFP has an agreement or contract. For instructions on how to complete the Institution Application and the annual recertification process in CHEARS, Sponsors can access the CDPHE-CACFP website at <https://www.colorado.gov/cdphe/cacfp>.

GENERAL ASSISTANCE FROM THE STATE AGENCY

The Colorado Department of Public Health and Environment is the agency in Colorado responsible for administering the Child and Adult Care Food Program. In this capacity, the CDPHE-CACFP provides the following assistance to sponsoring organizations:

- ♦ Reimburses Sponsors for eligible meals served to enrolled children by family day care home providers and for allowable administrative costs.
- ♦ Provides forms, publications, and guidelines to help Sponsors operate the Program.
- ♦ Provides technical assistance, information, training, and guidance on Program rules and regulations, recordkeeping requirements, application procedures, meal pattern requirements, nutrition, and financial management.
- ♦ Develops procedures for implementing Program policies with input from Sponsor representatives.
- ♦ Reviews and audits Sponsors to ensure they are operating in accordance with Program regulations and guidance.
- ♦ Establishes an appeal procedure for family day care home Sponsors to follow when the CDPHE-CACFP makes a decision that affects their participation or reimbursement.
- ♦ Ensures that Sponsors do not discriminate against any person on the basis of race, color, national origin, sex, age, or disability and that Sponsors inform providers of the procedure for filing a complaint.

REVIEWS OF SPONSORING ORGANIZATIONS

The CDPHE-CACFP conducts program reviews of FDCH Sponsors every other fiscal year. Fiscal reviews of Sponsors are conducted annually. Reviews of Family Day Care Home Sponsors with more than 100 sponsored homes will include visits to 5 percent of the first 1,000 homes and 2.5 percent of all homes in excess of 1,000. Reviews of Family Day Care Home Sponsors with less than 100 sponsored homes will include visits to 10 percent of all homes. At least 15 percent of the total number of facility reviews required will be unannounced. Reviews will be conducted for newly participating Sponsors with five or more sponsored homes within the first 90 days of participation.

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Reviews are conducted to determine if the Sponsors are in compliance with Program regulations and requirements. A form detailing the regulatory provisions and requirements to be examined by the CDPHE-CACFP will be provided to each Sponsor prior to a review and is available upon request at any time from the CDPHE-CACFP.

If during the review, the CDPHE-CACFP identifies Program deficiencies, the deficiencies will be discussed with the Sponsor's responsible principals and responsible individuals. The CDPHE-CACFP will request the Sponsor to submit a corrective action plan detailing the Sponsor's plan to resolve the deficiencies and ensure the Sponsor is complying with Program regulations and requirements. In some instances, the deficiencies may be serious and in those instances, the sponsoring organization may be declared seriously deficient in its operation of the CACFP.

DETERMINATION OF SERIOUS DEFICIENCIES

If in reviewing a new or renewing Sponsor application, the State agency (CDPHE-CACFP) determines that the Sponsor has committed one or more serious deficiencies, the State agency must deny the new or renewing Sponsor's application and disqualify the new or renewing Sponsor and the responsible principals and responsible individuals.

If in reviewing a participating Sponsor, the State agency (CDPHE-CACFP) determines the Sponsor has committed one or more serious deficiencies, the State agency must declare the Sponsor seriously deficient, give the Sponsor a corrective action plan and determine if the Sponsor has come into compliance and corrected the serious deficiencies in a timely manner. If the Sponsor does not correct the serious deficiencies, the State agency must propose to terminate the Sponsor and give the Sponsor appeal rights as outlined below.

The list of serious deficiencies is not identical for all types of Sponsors (new, renewing, and participating) as the type of information likely to be available to the CDPHE-CACFP is different, depending on whether the State agency is reviewing a new or renewing a Sponsor's application or is conducting a review of a participating Sponsor.

Serious Deficiencies for New Family Day Care Home Sponsors

Serious deficiencies for new Sponsors are as follows:

- ♦ Submission of false information on the Sponsors application, including but not limited to a determination that the Sponsor has concealed a conviction for any activity that occurred in the past seven years and that indicates 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
- ♦ Any other action affecting the Sponsor's ability to administer the Program in accordance with Program requirements [7 CFR 226.6(c)(1)].

Serious Deficiencies for Renewing Family Day Care Home Sponsors

Serious deficiencies for renewing Sponsors are as follows:

- ♦ Submission of false information on the Sponsors application, including but not limited to a determination that the Sponsor has concealed a conviction for any activity that occurred in the past seven years and that indicates 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

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- ♦ Failure to operate the Program in conformance with the performance standards set forth in paragraphs (b)(1)(xviii) and (b)(2)(vii); Failure to comply with the bid procedures and contract requirements of applicable Federal procurement regulations;
- ♦ Failure by a sponsoring organization to properly classify FDCH as tier I or tier II in accordance with 7 CFR 226.15(f);
- ♦ Failure by a sponsoring organization to properly train or monitor sponsored facilities in accordance with 7 CFR 226.16(d);
- ♦ Failure to perform any of the other financial and administrative responsibilities;
- ♦ Failure to properly implement and administer the day care home termination and administrative review provisions set forth at paragraph (l) of 7 CFR 226.16(l);
- ♦ Any other action affecting the institution's ability to administer the Program in accordance with Program requirements as outlined in 7 CFR 226.6(c)(2).

Serious Deficiencies for Participating Sponsors

Serious deficiencies for participating Sponsors are as follows:

- ♦ Submission of false information on the Sponsor's application, including but not limited to a determination that the Sponsor has concealed a conviction for any activity that occurred in the past seven years and that indicates 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;
- ♦ Permitting an individual who is on the National disqualified list to serve in a principal capacity with the sponsoring organization, permitting such an individual to serve as a principal in a sponsored center or as a FDCH provider;
- ♦ Failure to operate the Program in conformance with the performance standards set forth in paragraphs (b)(1)(xviii) and (b)(2)(vii);
- ♦ Failure to comply with the bid procedures and contract requirements of applicable Federal procurement regulations;
- ♦ Failure to return to the State agency any advance payments that exceeded the amount earned for serving eligible meals, or failure to return disallowed start-up or expansion payments;
- ♦ Failure to maintain adequate records;
- ♦ Failure to adjust meal orders to conform to variations in the number of participants;
- ♦ Claiming reimbursement for meals not served to participants;
- ♦ Claiming reimbursement for a significant number of meals that do not meet Program requirements;
- ♦ Failure of a sponsoring organization to disburse payments to its facilities in accordance with the regulations at 7 CFR 226.16(g) and (h) or in accordance with its management plan;
- ♦ Failure by a sponsoring organization of day care homes to properly classify child care homes as tier I or tier II in accordance with 7 CFR 226.15(f);
- ♦ Failure by a sponsoring organization to properly train or monitor sponsored facilities in accordance with 7 CFR 226.16(d);
- ♦ Use of child care home funds by a sponsoring organization to pay for the sponsoring organization's administrative expenses;
- ♦ Failure to perform any of the other financial or administrative responsibilities;

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- ♦ Failure to properly implement and administer the day care home termination and administrative review provisions set forth at paragraph (l) of this section and 7 CFR 226.16(l).
- ♦ The fact 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. However, this prohibition does not apply if the institution or the principal has been fully reinstated in, or is now eligible to participate in, that program, including the payment of any debts owed.
- ♦ Conviction of the institution or any of its principals for any activity that occurred during the past seven years that indicates 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
- ♦ Any other action affecting the Sponsor's ability to administer the Program in accordance with Program requirements.

Notice of Serious Deficiency

If the CDPHE-CACFP determines that a new, renewing or participating sponsoring organization has committed one or more serious deficiencies, the State agency will provide the sponsoring organization and the responsible principals and responsible individuals with notice of the serious deficiency(ies) and an opportunity to take corrective action. The notice will specify:

- ♦ The serious deficiency(ies) including appropriate citations from the CACFP regulation;
- ♦ The actions to be taken to correct the serious deficiency(ies);
- ♦ The time allotted to correct the serious deficiency(ies) in accordance to paragraph 7 CFR 226.6 (c)(4);
- ♦ That the serious deficiency determination is not subject to administrative review;
- ♦ That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in the State agency's proposed termination of the institution's agreement and the disqualification of the institution and the responsible principals and responsible individuals;
- ♦ That the institution's voluntary termination of its agreement with the State agency after having been notified that is seriously deficient will still result in the institution's formal termination by the State agency and placement of the institution and its responsible principals and responsible individuals in the National disqualified list;
- ♦ That, if the State agency does not possess the date of birth for any individual named as a "responsible principal or individual" in the serious deficiency notice, the submission of that person's date of birth is a condition of corrective action for the institution and/or individual.

Corrective Action

In response to a serious deficiency determination, the sponsoring organization must submit a written response indicating the corrective actions taken to resolve the serious deficiencies identified. The response must provide detailed information on the institution's internal controls used to ensure the serious deficiencies are fully and permanently corrected. An acceptable corrective action plan must include the following criteria:

- ♦ **What** are the serious deficiencies and the procedures that were implemented to address the serious deficiencies?

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- ♦ **Who** addressed the serious deficiencies? List the sponsoring organization staff responsible for this task.
- ♦ **When** was the procedure for addressing the serious deficiencies implemented? Provide a timeline for implementing the procedure (i.e., will the procedure be done daily, weekly, monthly, or annually, and when did implementation of the plan begin)?
- ♦ **Where** is the CAP documentation retained?
- ♦ **How** were staff and if applicable, the providers informed of the new policies and procedures (e.g., handbooks, training, website, emails, etc.,)

Supporting documentation must be submitted with the CAP to document that corrective actions have occurred; this might include copies of income eligibility forms, child enrollment forms, staff training documentation, home visit forms, menus, attendance records, meal count forms, etc.

Long-term Corrective Action Plans

In some instances, an institution's serious deficiencies may require a long-term revision of management systems or processes, such as the major reorganization of CACFP operations and management duties requiring actions by the board of directors. In such instances, the State agency may allow the institution more than 90 days to complete the corrective actions as long as the CAP is submitted to and approved by the State agency within 90 days (or a shorter deadline established by the State agency). The corrective action must include milestones and a completion date. In these instances, the State agency will monitor the full implementation of the CAP to ensure the serious deficiencies identified have been fully and permanently corrected within the timeframes specified in the CAP.

Successful Corrective Action

If corrective action has been taken within the allotted time to fully and permanently correct the serious deficiency (ies) to the State agency's satisfaction, the State agency will:

- ♦ Notify the institution's executive director and chairman of the board of directors and any other responsible principals and responsible individuals, that the State agency has temporarily deferred its serious deficiency determination and that the corrective actions must be permanent or the State agency must immediately issue a notice of proposed termination and disqualification.
- ♦ If the serious deficiency was determined on a new institution, the State agency must offer the institution the opportunity to resubmit its application. If the new institution resubmits its application, the State agency must complete its review of the application within 30 calendar days after receiving a complete and correct application.

At the same time that the notice is issued, the State agency must also update the State agency list to indicate that the serious deficiency(ies) have been corrected and provide a copy of the notice to the appropriate Food and Nutrition Service Regional Office (FNSRO) staff.

- ♦ If corrective action is complete for some but not for all parties cited in the serious deficiency notice, the State agency will continue actions against those parties and temporarily defer the serious deficiencies for the parties that completed the corrective action.

Unsuccessful Corrective Action

If the renewing or participating institution fails to implement a timely corrective action to fully and permanently correct the serious deficiency(ies) the State agency will notify the institution and its responsible principals and responsible individuals that the State agency is proposing to terminate the institution's agreement and to disqualify the institution and the responsible principals and responsible individuals. If the institution is a new institution, the State agency will notify the institution and its responsible principals and responsible individuals that the new application has been denied.

At the same time either notice is issued, the State agency will also update the State agency list and provide a copy of the notice to the appropriate USDA Regional Office. The notice will specify:

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- ♦ That the State agency is proposing to terminate the participating institution's agreement and disqualify the institution and its responsible principals and responsible individuals.
- ♦ If the institution is a new or renewing institution, that the institution's application has been denied and the State agency is proposing to disqualify the institution and the responsible principals and responsible individuals.
- ♦ The basis for the actions (including regulation citations).
- ♦ That, if the participating or renewing institution voluntarily terminates its agreement after receiving the notice of the proposed termination, the institution and the responsible principals and responsible individuals will be disqualified and placed on the NDL.
- ♦ That the institution may continue to participate and receive Program reimbursement for eligible meals served and allowable administrative expenses incurred until its appeal review is completed
- ♦ The procedures for seeking an administrative review of the application denial, or proposed termination, and disqualification

If the recertification process occurs before the time allotted for an institution to provide corrective action and/or the conclusion of any appeal actions requested by the participating institution, the State agency will temporarily extend the institution's agreement in accordance with the regulatory requirements in 7 CFR 226.6(c)(3)(iii)(D).

Program Payments

The CDPHE-CACFP is prohibited from paying any claims for reimbursement from a new institution for eligible meals served or allowable administrative expenses incurred until the State agency has approved its application and the institution and State agency have signed a Program agreement.

For renewing and participating institutions, unless participation has been suspended, the State agency will continue to pay any valid unpaid claims for reimbursement for eligible meals served and allowable administrative expenses incurred until the serious deficiency(ies) is corrected or the Sponsor agreement is terminated, including the period of any administrative review.

Administrative Reviews (Appeals)

The CDPHE-CACFP has procedures for offering administrative reviews (appeals) to Sponsors and responsible principals and responsible individuals. The administrative review (appeal) procedures are offered annually to all institutions. The following paragraphs detail the CDPHE-CACFP appeal procedures:

Actions Which Can Be Appealed

In accordance with 7 CFR 226.6(k), an institution or a responsible principal, or a responsible individual may appeal the following adverse actions by the Colorado Department of Public Health and Environment in administering the Child and Adult Care Food Program:

- ♦ Denial of an application for participation of a new or renewing institution.
- ♦ Denial of sponsored facility application.
- ♦ Proposed termination of an institution's agreement. The institution may be a new, renewing, or participating institution or a participating institution suspended for health or safety violations.
- ♦ Proposed disqualification of a responsible principal or responsible individual. The proposed disqualification of the responsible principal or responsible individual may be in a new, renewing, or participating institution or a participating institution suspended for health or safety violations.

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- ♦ Suspension of an institution's participation for health or safety reasons or submission of a false or fraudulent claim.
- ♦ Denial of an institution's application for start-up or expansion payments.
- ♦ Denial of a request for an advance payment.
- ♦ Recovery of all or part of an advance in excess of the claim for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.
- ♦ Denial of all or a part of an institution's claim for reimbursement (except for a denial based on a late submission under 226.10(e)).
- ♦ Decision by the Colorado Department of Public Health and Environment not to forward to the USDA Food and Nutrition Service 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 Colorado Department of Public and Environment affecting the participation of an institution in the Program or an institution's claim for reimbursement.

Actions Which May Not Be Appealed

In accordance with 7 CFR 226.6(k), an institution or a responsible principal, or a responsible individual may not appeal the following adverse actions by the Colorado Department of Public Health and Environment in administering the Child and Adult Care Food Program:

- ♦ Food and Nutrition Service of USDA to deny a claim deadline exception and a request for upward adjustments to a claim.
- ♦ Determination of serious deficiency.
- ♦ Disqualification and placement on State agency list and National disqualified list.
- ♦ Termination from the Child and Adult Care Food Program.
- ♦ Decision by the CDPHE-CACFP that an Institution's corrective action for noncompliance was not complete and permanent.
- ♦ Decision by the CDPHE-CACFP or the FSNRO that an Institution's corrective action is inadequate to be removed from the National Disqualified List.

Manner of Filing a Request for Administrative Review

- ♦ The CDPHE-CACFP will provide notice of the action or proposed action to the institution's executive director, chairman of the board of directors, and applicable responsible principals and individuals. The notice will include the basis for the action and the procedures under which the institution and the responsible principals or responsible individuals may request an administrative review of the action.
- ♦ An institution or responsible principal or responsible individual aggrieved by an adverse action of the Colorado Department of Public Health and Environment, outlined in items (a) through (l) above, may appeal such action by filing a timely request for administrative review. The request must be mailed to the Appeals Officer, c/o Office of Legal and Regulatory Compliance, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246. If the request is accepted, the CDPHE or its designee, the Office of Administrative Courts (OAC) will assign an administrative hearing officer, who will hear and decide the matter.

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- ♦ The request must be in writing and must state the name and address of the institution and the name and title of the person who signed the request. The request must be signed by a responsible representative of the institution. It need not be signed under oath.
- ♦ The request must be postmarked or received by the CDPHE Appeals Officer prior to midnight of the 15th calendar day after receipt of the Colorado Department of Public Health and Environment notice of adverse action. If the 15th day falls on Saturday, Sunday, or State legal holiday, the request will be considered timely if it is postmarked or received the next day which is not a Saturday, Sunday, or State legal holiday.
- ♦ An institution, responsible principal, or responsible individual which has filed an appeal and request for administrative review (i.e. appellant) will, upon request, be given copies of the information in the Colorado Department of Public Health and Environment files upon which the adverse action was based.
- ♦ An appellant may be represented by legal counsel, or be represented by another person.

Content of Request for Administrative Review

- ♦ At a minimum, a request for administrative review must clearly identify the adverse action being appealed, the basis of the appeal, and the relief or remedy sought. It must also include the date of the letter or other such written communication from the Colorado Department of Public Health and Environment notifying the organization or institution of the proposed adverse action, and the name and title of the Colorado Department of Public Health and Environment official who signed such letter or communication.
- ♦ If a hearing before the administrative hearing officer is desired, that must be clearly stated in the request for administrative review. The review will otherwise be limited to a review of written documents. Additionally, a hearing request will not be granted and the review will be limited to a review of written submissions concerning the accuracy of the state's determination if an application was denied or the state proposes to terminate the institution's agreement because: 1) the information submitted was false, or, 2) the institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list or is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program or has been convicted for any activity that indicates a lack of business integrity.
- ♦ An appellant may submit written information in support of its position at the time it files its appeal and request for administrative review with the Appeals Officer of the Colorado Department of Public Health and Environment. It may also submit additional written information to the designated administrative hearing officer up to 30 calendar days after receipt of the Colorado Department of Public Health and Environment notice of adverse action.

Procedures for Handling an Administrative Review

The Colorado Department of Public Health and Environment will receive and log each appeal and request for administrative review.

- ♦ The Colorado Department of Public Health and Environment will acknowledge all appeals in writing within 10 calendar days of receipt. The Office of Administrative Courts will also notify appellants which administrative hearing officer has been assigned to review their case and where they may send additional written information. If a hearing has been requested, the administrative hearing officer will contact the appellant to arrange a suitable date, time, and place for the hearing. The administrative hearing officer will notify the appellant and the Colorado Department of Public Health and Environment, Child and Adult Care Food Program representative of the scheduled date, time, and place of hearing by certified mail - return receipt requested at least 10 calendar days in

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advance. Failure of the appellant institution's representative or responsible principal; responsible individual or their representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the administrative hearing officer, unless the administrative hearing officer agrees to reschedule the hearing. A representative of the Colorado Department of Public Health and Environment, Child and Adult Care Food Program shall be allowed to attend the hearing to respond to the appellant's testimony and answer questions posed by the administrative hearing officer.

- ♦ The Colorado Department of Public Health and Environment or its designee, the Office of Administrative Courts will conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative hearing officer's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

Determination of the Administrative Hearing Officer

- ♦ The administrative hearing officer shall make a written determination based upon:
 - The timeliness of the request for administrative review;
 - Written information submitted by the Colorado Department of Public Health and Environment, Child and Adult Care Food Program;
 - Written information submitted by the appellant in support of its position;
 - Information presented orally at a hearing;
 - Federal and state laws, regulations, policies, and procedures governing the Child and Adult Care Food Program.
- ♦ Within 60 calendar days from receipt of the appeal and request for administrative review, the administrative hearing officer will make a determination on the action under appeal in accordance with the regulations governing the Child and Adult Care Food Program. This determination is the final administrative decision on the matter. It is not subject to further administrative review or reconsideration. (Note: The timeframe of 60 days is an administrative requirement and may not be used as a basis for overturning the State's action if a decision is not made within the specified timeframe.)
- ♦ The administrative hearing officer's determination will be sent by certified mail - return receipt requested - to the appellant institution or its representative. A copy will also be sent to the Child and Adult Care Food Program office. It will take effect immediately upon receipt by the appellant institution or its representative.
- ♦ In the case of a denial of an institution's or facility's application to participate in the Program, the determination of the administrative hearing officer will either sustain the denial or shall direct that the institution or facility be approved for participation. (Note: The Colorado Department of Public Health and Environment is prohibited from paying any claims for reimbursement from a new institution for eligible meals served or allowable administrative expenses incurred until they have approved the institution's application and signed a Program agreement.)
- ♦ In the case of a denial of all or part of a claim for reimbursement, start-up payment, advance payment, or demand for refund of an overpayment, the determination of the administrative hearing officer will either sustain the action under appeal or specify the amount of the claim for reimbursement, start-up payment, advance payment, or refund of overpayment to be paid. (Note: Interest will be assessed on the amount owed beginning with the initial demand for remittance of an overpayment and continuing through the period of the administrative review, unless the administrative hearing officer overturns the State's action.)

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In the case of a proposed termination of an institution's participation in the Program, the determination of the administrative hearing officer shall either grant the termination or shall direct that the institution be permitted to continue participation in the Program. Unless participation has been suspended, institutions may continue to operate under the Program during an appeal of termination, and shall be reimbursed for valid claims for eligible meals served and allowable administrative costs incurred during the period of the administrative review.

In the case of a suspension of an institution's or facility's participation in the Program, the determination of the administrative hearing officer shall either sustain the suspension or shall direct that the institution or facility be permitted to claim reimbursement for eligible meals served and allowable administrative costs incurred during the suspension period.

The CDPHE-CACFP will maintain searchable records of all administrative reviews and their disposition.

Actions Which May Not Be Appealed

In accordance with 7 CFR 226.6(k), an institution or a responsible principal, or a responsible individual may not appeal the following adverse actions by the Colorado Department of Public Health and Environment in administering the Child and Adult Care Food Program:

- ◆ Food and Nutrition Service of USDA to deny a claim deadline exception and a request for upward adjustments to a claim.
- ◆ Determination of serious deficiency.
- ◆ Disqualification and placement on State agency list and National disqualified list.
- ◆ Termination from the Child and Adult Care Food Program.
- ◆ Decision by the CDPHE-CACFP that an Institution's corrective action for noncompliance was not complete and permanent.
- ◆ Decision by the CDPHE-CACFP or the FSNRO that an Institution's corrective action is inadequate to be removed from the National Disqualified List.

Manner of Filing a Request for Administrative Review

- ◆ The CDPHE-CACFP will provide notice of the action or proposed action to the institution's executive director, chairman of the board of directors, and applicable responsible principals and individuals. The notice will include the basis for the action and the procedures under which the institution and the responsible principals or responsible individuals may request an administrative review of the action.
- ◆ An institution or responsible principal or responsible individual aggrieved by an adverse action of the Colorado Department of Public Health and Environment, outlined in items (a) through (l) above, may appeal such action by filing a timely request for administrative review. The request must be mailed to the Appeals Officer, c/o Office of Legal and Regulatory Compliance, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246. If the request is accepted, the CDPHE or its designee, the Office of Administrative Courts (OAC) will assign an administrative hearing officer, who will hear and decide the matter.
- ◆ The request must be in writing and must state the name and address of the institution and the name and title of the person who signed the request. The request must be signed by a responsible representative of the institution. It need not be signed under oath.

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- ♦ The request must be postmarked or received by the CDPHE Appeals Officer prior to midnight of the 15th calendar day after receipt of the Colorado Department of Public Health and Environment notice of adverse action. If the 15th day falls on Saturday, Sunday, or State legal holiday, the request will be considered timely if it is postmarked or received the next day which is not a Saturday, Sunday, or State legal holiday.
- ♦ An institution, responsible principal, or responsible individual which has filed an appeal and request for administrative review (i.e. appellant) will, upon request, be given copies of the information in the Colorado Department of Public Health and Environment files upon which the adverse action was based.
- ♦ An appellant may be represented by legal counsel, or be represented by another person.

Content of Request for Administrative Review.

- ♦ At a minimum, a request for administrative review must clearly identify the adverse action being appealed, the basis of the appeal, and the relief or remedy sought. It must also include the date of the letter or other such written communication from the Colorado Department of Public Health and Environment notifying the organization or institution of the proposed adverse action, and the name and title of the Colorado Department of Public Health and Environment official who signed such letter or communication.
- ♦ If a hearing before the administrative hearing officer is desired, that must be clearly stated in the request for administrative review. The review will otherwise be limited to a review of written documents. Additionally, a hearing request will not be granted and the review will be limited to a review of written submissions concerning the accuracy of the state's determination if an application was denied or the state proposes to terminate the institution's agreement because: 1) the information submitted was false, or, 2) the institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list or is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program or has been convicted for any activity that indicates a lack of business integrity.
- ♦ An appellant may submit written information in support of its position at the time it files its appeal and request for administrative review with the Appeals Officer of the Colorado Department of Public Health and Environment. It may also submit additional written information to the designated administrative hearing officer up to 30 calendar days after receipt of the Colorado Department of Public Health and Environment notice of adverse action.

Procedures for Handling an Administrative Review

- ♦ The Colorado Department of Public Health and Environment will receive and log each appeal and request for administrative review.
- ♦ The Colorado Department of Public Health and Environment will acknowledge all appeals in writing within 10 calendar days of receipt. The Office of Administrative Courts will also notify appellants which administrative hearing officer has been assigned to review their case and where they may send additional written information. If a hearing has been requested, the administrative hearing officer will contact the appellant to arrange a suitable date, time, and place for the hearing. The administrative hearing officer will notify the appellant and the Colorado Department of Public Health and Environment, Child and Adult Care Food Program representative of the scheduled date, time, and place of hearing by certified mail - return receipt requested at least 10 calendar days in advance. Failure of the appellant institution's representative or responsible principal; responsible individual or their representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the administrative hearing officer, unless the administrative hearing officer agrees to reschedule the hearing. A representative of the Colorado Department of Public Health and Environment, Child and Adult

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Care Food Program shall be allowed to attend the hearing to respond to the appellant's testimony and answer questions posed by the administrative hearing officer.

- ♦ The Colorado Department of Public Health and Environment or its designee, the Office of Administrative Courts will conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative hearing officer's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

Determination of the Administrative Hearing Officer

- ♦ The administrative hearing officer shall make a written determination based upon:
 - The timeliness of the request for administrative review;
 - Written information submitted by the Colorado Department of Public Health and Environment, Child and Adult Care Food Program;
 - Written information submitted by the appellant in support of its position;
 - Information presented orally at a hearing;
 - Federal and state laws, regulations, policies, and procedures governing the Child and Adult Care Food Program.
- ♦ Within 60 calendar days from receipt of the appeal and request for administrative review, the administrative hearing officer will make a determination on the action under appeal in accordance with the regulations governing the Child and Adult Care Food Program. This determination is the final administrative decision on the matter. It is not subject to further administrative review or reconsideration. (Note: The timeframe of 60 days is an administrative requirement and may not be used as a basis for overturning the State's action if a decision is not made within the specified timeframe.)
- ♦ The administrative hearing officer's determination will be sent by certified mail - return receipt requested - to the appellant institution or its representative. A copy will also be sent to the Child and Adult Care Food Program office. It will take effect immediately upon receipt by the appellant institution or its representative.
- ♦ In the case of a denial of an institution's or facility's application to participate in the Program, the determination of the administrative hearing officer will either sustain the denial or shall direct that the institution or facility be approved for participation. (Note: The Colorado Department of Public Health and Environment is prohibited from paying any claims for reimbursement from a new institution for eligible meals served or allowable administrative expenses incurred until they have approved the institution's application and signed a Program agreement.)
- ♦ In the case of a denial of all or part of a claim for reimbursement, start-up payment, advance payment, or demand for refund of an overpayment, the determination of the administrative hearing officer will either sustain the action under appeal or specify the amount of the claim for reimbursement, start-up payment, advance payment, or refund of overpayment to be paid. (Note: Interest will be assessed on the amount owed beginning with the initial demand for remittance of an overpayment and continuing through the period of the administrative review, unless the administrative hearing officer overturns the State's action.)

In the case of a proposed termination of an institution's participation in the Program, the determination of the administrative hearing officer shall either grant the termination or shall direct

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that the institution be permitted to continue participation in the Program. Unless participation has been suspended, institutions may continue to operate under the Program during an appeal of termination, and shall be reimbursed for valid claims for eligible meals served and allowable administrative costs incurred during the period of the administrative review.

In the case of a suspension of an institution's or facility's participation in the Program, the determination of the administrative hearing officer shall either sustain the suspension or shall direct that the institution or facility be permitted to claim reimbursement for eligible meals served and allowable administrative costs incurred during the suspension period.

The CDPHE-CACFP will maintain searchable records of all administrative reviews and their disposition.

Disqualification/National Disqualified List

When the time for requesting an administrative review (appeal) expires or when the administrative review (appeal) official upholds the State agency's denial and proposed disqualification, the State agency will notify the institution and the responsible principals and responsible individuals that the institution and the responsible principals and responsible individuals have been disqualified. At the same time the notice is issued, the State agency will also update the State agency list and provide a copy of the notice, the mailing address, and date of birth for each responsible principal and responsible individual to the appropriate FNSRO.

Once an institution, responsible principal, or responsible individual is placed on the National Disqualified List, they will remain on the list for seven years from the date of their disqualification. However, if the institution, responsible principals, or responsible individuals have failed to repay debts owed under the Program, they will remain on the list until the debt has been repaid.

No institution or individual on the National Disqualified List may participate in the Program nor act as a principal in any organization participating on the Program. Nor can they participate as a family day care home.

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SPONSOR RESPONSIBILITIES

OVERVIEW OF SPONSOR RESPONSIBILITIES TO PROVIDERS

The CDPHE-CACFP contracts with Sponsors to provide technical assistance and monitoring to family day care home providers who participate in the Child and Adult Care Food Program. Sponsors are required to perform the following functions:

- ♦ Ensure all providers are eligible to participate in the CACFP (see section 3) and that providers are informed of all CACFP requirements.
- ♦ Develop policies concerning licensing issues, training, program integrity, etc., that are implemented consistently.
- ♦ Train providers and key staff before they begin participating in the CACFP. Once a home begins to claim meals, another visit must be made within the first four weeks (28 days) of Program participation.
- ♦ Once a year at a minimum, review with all enrolled providers, the Provider's and Sponsor's Rights and Responsibilities as outlined on the Provider Agreement. The provider's daily responsibilities should be reviewed as well as what to expect during Sponsor monitoring or CDPHE-CACFP reviews.
- ♦ In addition to the above Program training, the CDPHE-CACFP requires Sponsors to provide nutrition related training to providers each year at no charge. Some examples of nutrition related training include nutrition for children, family-style meal service, nutrition education activities for children, menu planning, purchasing foods, food-borne illness, sanitation and proper food handling, discipline problems as they relate to food service, and methods of dealing with issues related to serving food to children.
- ♦ Respond to provider's requests for technical assistance.
- ♦ Provide CACFP recordkeeping forms to the provider.
- ♦ Determine if a family day care home provider qualifies for Tier I rates for his/her own children and all children enrolled in her family day care home or Tier II rates for all children enrolled in her family day care home.
- ♦ Maintain family size and income data (Provider Income Eligibility Form (IEF)) for those providers who want to use income to qualify their family day care home or their own children to be claimed at the higher Tier I rates.
- ♦ Maintain family size and income data using the Child Household Income Eligibility Form (CHIEF) on any child enrolled with a Tier II family day care home provider who is eligible for Tier I rates.
- ♦ Distribute reimbursement payments to the provider within five days of receiving meal reimbursement monies from the State agency.
- ♦ Monitor the food service in homes and ensure that the meals claimed are served to enrolled children regardless of race, color, national origin, age, sex, or disability.
- ♦ Ensure that all meals claimed by providers meet the meal pattern requirements of the CACFP. Ensure that CACFP meals are offered to all children and infants enrolled for care in the family day care home. Disallow reimbursement for those meals not meeting requirements.
- ♦ Visit each home at least three times per year to provide technical assistance and to ascertain compliance with Program regulations. Two of the three visits must include an observation of a meal approved to be claimed in the CACFP and must occur at an approved mealtime. The two mealtime visits must be made during meals that are regularly claimed in the CACFP. Two of the three visits must be unannounced. Visits must be a minimum of 30 minutes. No more than six months may elapse between visits. Conduct a five-day reconciliation of meal counts to enrollment and attendance records during the home visit.

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- ♦ Determine the number of children in the home. Make sure the number of meals claimed does not exceed the license capacity of the home. Report observations of over capacity to the licensing authorities.
- ♦ Not charge a fee to providers for CACFP services.
- ♦ Undertake corrective action when necessary. Give written notice to the family day care home (with a copy to the State agency) when the Sponsor has declared the provider seriously deficient and specify the serious deficiency(ies). The written notice must also inform the provider:
 - Of the actions it must take to correct the serious deficiency(ies).
 - Of the period of time allotted to correct the deficiency(ies) (unless the serious deficiency is related to health or safety issues).
 - That failure to fully and permanently correct the serious deficiency(ies) within the allotted period of time will result in the termination of the provider's agreement and placement of the provider on the National Disqualified List.
- ♦ At the end of the period allotted for corrective action, determine whether the corrective action that has been taken, fully and permanently corrects the serious deficiency(ies). If the Sponsor determines the provider has not taken corrective action to fully and permanently correct the serious deficiency within the allotted time, give the provider written notice of intent to terminate the agreement for cause. The written notice must also:
 - Inform the provider that they may request an administrative review (appeal) of the proposed termination.
 - Give the provider the procedures for seeking an administrative review (appeal).
 - Inform the provider that, if termination for cause occurs, the provider will be placed on the National Disqualified List.
 - Unless Program participation has been suspended because the serious deficiency is related to health and safety issues, inform the provider that she may continue to participate in the Program and receive Program reimbursement for eligible meals served until an administrative review is completed.
 - Notify providers and the CDPHE-CACFP, in writing, if the Sponsor decides to terminate the family day care home provider's agreement for cause or convenience.

CIVIL RIGHTS

Civil Rights Data Collection and Reporting Requirements

CACFP benefits must be available to all eligible individuals without regard to race, color, age, sex, disability or national origin. The USDA and the CDPHE-CACFP require civil rights data collection annually. All Sponsors must collect data by race and ethnic categories on potentially eligible populations in their program service areas. In addition, the data must include the actual number of children served by race or ethnic category. Regulations require this data collection to determine if:

- ♦ The Program is effectively reaching potential eligible beneficiaries.
- ♦ Targeted outreach is needed to reach certain groups and communities in the state.
- ♦ The Sponsor and family day care homes are in civil rights compliance.

On an annual basis, Sponsors are required to determine the number of potentially eligible children by the racial or ethnic categories in their program service areas. Sponsors may use census or public school enrollment data to obtain data on potentially eligible populations in their program service areas. Local libraries, schools, or the Internet are possible sources for census or school enrollment data.

Additionally on an annual basis, Sponsors are required to determine the number of children by racial or ethnic categories actually receiving meals in each family day care home participating in their sponsorships. In order to fulfill this requirement, Sponsors may collect the racial and ethnic

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information on an ongoing basis using the Child Enrollment Form (CEF) or may collect it annually using another process. Sponsors must include a description of the processes used to gather the Civil Rights Data Collection and Reporting Requirements in the Sponsors' Management Plans.

Whatever method is used to collect data, the data must be obtained from the provider. When collecting this information, Sponsors need to let their providers know this information is utilized to ensure that all children who are eligible for CACFP benefits receive them. No one home or provider is singled out to provide this information.

It is ideal for parents or guardians of the children to self-identify the racial and ethnic categories; however, if the parent or guardian declines to self-identify, Sponsors must inform the parent or guardian that the provider is required to make a visual identification of the enrolled children's race and record it on the CEF or in the alternate data system used by the Sponsor.

This information must be submitted annually as part of the Sponsor application renewal process.

Sponsors must keep civil rights information for all participating providers on file for three years and four months after the end of the current fiscal year. The CDPHE-CACFP will verify this information during the civil rights portion of the CDPHE-CACFP review of each Sponsor.

Sponsors must display the "And Justice for All" poster (provided by the CDPHE-CACFP). Sponsors must also:

- ◆ Upon request, provide Program materials for non-English speaking participants in the appropriate language. The USDA-FNS website at: <http://www.fns.usda.gov/school-meals/child-nutrition-programs> has prototype applications and some materials translated in a number of languages.
- ◆ Ensure participating providers receiving CACFP funds understand they cannot discriminate against enrolled children and their families or potential participating children and their families on the basis of religion or religious belief.
- ◆ Include the non-discrimination policy statement and the procedures for filing a complaint on all published, written information directed to families of children who are currently or potentially enrolled participants in the CACFP (Refer to the "And Justice for All" poster for policy statement and procedures). If the material is too small to include the full statement, the material must include, at a minimum, the following statement: "This Institution is an equal opportunity provider."
- ◆ Ensure providers are trained to annually give parents or guardians and new parents of enrolled children the copy of the Child Enrollment Form (CEF), which contains the "Dear Family" letter explaining the benefits of the CACFP.
- ◆ All participating Sponsors must notify the CDPHE-CACFP of any lawsuit filed against the sponsorship or any of their participating providers alleging discrimination on the basis of race, color, or national origin.

The agreement between the Sponsor and its family day care homes must contain a civil rights assurance statement, such as "The provider's home must be open to all children without regard to race, color, age, sex, disability, or national origin and that the provider will not discriminate against enrolled children and their families or potential participating children and their families on the basis of religion or religious belief.

On an annual basis, providers are required to give parents or guardians and parents of newly enrolled children the copy of the Child Enrollment Form (CEF), which contains the "Dear Family" letter explaining the benefits of the CACFP.

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SPONSOR RESPONSIBILITIES

Annual Civil Rights Training Requirements

In accordance with the United States Department of Agriculture (USDA)-Food and Nutrition Service (FNS) Civil Rights Instruction 113-1, revised November 8, 2005, all participating Institutions must ensure that frontline staff and managers of frontline staff be trained annually on civil rights requirements. Frontline staffs are those persons who interact with program applicants or participants (Sponsor staff and participating providers).

Topics selected for civil rights training should be applicable to the duties and skill level of the staff members. These topics include:

- Annual collection and use of civil rights data (reported race and ethnicity)
- The Institution's method of informing participants of CACFP availability, rights and responsibilities, nondiscrimination policy, and the procedure for filing a complaint
- Procedure for filing a complaint for discrimination
- Required reasonable accommodations of persons with disabilities
- The Institution's methods of providing language assistance when needed
- Conflict resolution
- Customer service

When completing annual CACFP training requirements for staff members, Sponsors must include civil rights training for applicable staff members. Sponsors must document all training conducted for staff members and maintain those records for review purposes.

Limited English Proficiency (LEP) Requirements

Limited English Proficiency (LEP) persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. All Sponsors must take reasonable steps to assure Limited English Proficiency persons have meaningful access to information about the CACFP and related services provided by the sponsorship.

PUBLIC RELEASE

The required annual public release announcing the availability of the CACFP will be distributed by the CDPHE-CACFP for each Sponsor.

CDPHE-CACFP TRAINING

Biannually, the CDPHE-CACFP offers training opportunities on subjects related to the CACFP during the Sponsors Meeting. A representative of the Sponsor should attend the meetings. Field staff is required to attend training provided by the CDPHE-CACFP for program monitors when those are offered.

THE USDA FOODS PROGRAM

Every spring, Sponsors have the option to select either USDA Foods or cash-in-lieu of USDA Foods for all participating providers. See Section 6 for more information.

RECRUITMENT OF FAMILY DAY CARE HOME PROVIDERS

Recruitment efforts by Sponsors shall be limited to providers in their service area who are not currently participating with another CDPHE-CACFP Sponsor. When a Sponsor contacts a potential provider in an attempt to enroll her, and the provider is already enrolled in the CACFP with another Sponsor, the conversation should cease immediately.

PROVIDER ENROLLMENT PROCEDURES

When enrolling a new provider, Sponsors must ensure that the provider meets all the requirements for participation in the CACFP (see Section 3).

With the initial inquiry, Sponsor representatives are to ask the providers if they are presently participating with another Sponsor. Also, be sure they understand that there may be other Sponsors in their area. Once they begin participating with one Sponsor, they may not concurrently participate in the Program with any other Sponsor.

The CDPHE-CACFP in accordance with the CACFP regulation restricts transfers of day care homes between Sponsors to no more than once a year. In addition, the Provider Agreement under the Rights and Responsibilities of the Child Care Home Provider outlines the requirement for providers to inform the Sponsor, in writing, of the desire to terminate the agreement. The new Sponsor must verify the provider has terminated the agreement with the current Sponsor (if currently participating under another Sponsor), prior to the effective date of the agreement with a new Sponsor. The effective date of the agreement with the Sponsor, for a provider who transfers, is the date located on the top portion of the Provider Agreement. The new Sponsor must be in agreement with the effective date listed in the new Provider Agreement form.

For example, if a provider signs an Agreement between Family Day Care Home Providers and a CACFP Sponsor (Provider Agreement) with a Sponsor and is approved in February, that provider may not transfer to another Sponsor until after January 31 of the following year.

Sponsors must inform the CDPHE-CACFP of those providers who previously participated with another Sponsor and are transferring to their sponsorship by using the Provider Transfer Verification Form. The Provider Transfer Verification Forms for providers requesting a Sponsor transfer must be submitted to the CDPHE-CACFP office each month during the Provider Application Approval Process. (See Page [21](#) of this section for additional information on Provider Transferring to Another Sponsor).

A provider may sign-on with another Sponsor before claiming meals with the original Sponsor if the first Sponsor agrees to terminate the agreement, and the agreement has not been submitted to the CDPHE-CACFP. In this case, the provider has not officially transferred and could make the switch without having used her one time per year transfer

For new providers, if separate Provider Agreements are submitted by different Sponsors for the same provider, the CDPHE-CACFP will accept and approve the agreement that the provider signed that has the earliest date. Therefore, before a Sponsor monitor agrees to visit a newly enrolling provider, the monitor should verify that the provider has not enrolled to participate with another Sponsor.

Sign-on visits for new providers are to occur individually in the family day care home. Group sign-ons are not allowed.

Completing the Provider Agreement

The CACFP regulation requires child care home providers and Sponsors to sign a Provider Agreement, which includes the provider's full name, mailing address, and date of birth. The Sponsor's monitor must ensure that the form is completed properly and the provider understands the terms of the agreement, the meals she will be serving, and that the boxes for the days she will be doing care are checked on the agreement. A provider may only receive reimbursement for days and meals that have been approved in advance on the Provider Agreement, e.g., breakfast, a.m. snack, and, Monday, Saturday, etc. The Sponsor must ensure the provider receives a copy of the agreement, and that the Sponsor monitor reviews the agreement with the provider at the time the provider joins the Program and once a year thereafter. The Sponsor must ensure the provider is aware that she/he may only transfer from one Sponsor to another once every year.

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If the provider is not currently participating in the CACFP, the agreement becomes effective when the provider signs and dates the agreement. A new agreement must be completed when a provider transfers to another Sponsor, when a provider has a change of address, or a change of legal name.

Sponsors are to maintain current mealtime information and at least update annually, or more often as needed, by recording the information on the Provider Agreement or on an alternate form.

All signed Provider Agreements or agreement amendments should be retained for each provider from the time they initially begin participation with a Sponsor to three years and four months after the end of the fiscal year in which their participation is terminated for cause or convenience.

State Agency Approval of Sponsored Homes Application

The CDPHE-CACFP must approve the Program participation of each family day care home and notify Sponsors of their decision. The responsibility to approve the participation of family day care homes may not be delegated to Sponsors.

Specifically, a family day care home is not eligible for reimbursement for meals served unless all of the following occurs:

I. The Sponsor has ensured the following:

- ♦ The family day care home and Sponsor have executed a Provider Agreement.
- ♦ The family day care home's licensure or alternate approval is effective. The Colorado Department of Human Services (CDHS) has informed the CDPHE-CACFP that the expiration/anniversary date of the renewed license is always the first date of the month displayed on the renewal sticker regardless of the effective date of the license. Therefore, for a provider's license with an effective date of March 12, 2014 and a renewal sticker of March 2014, the expiration/anniversary of the renewed license is March 1, 2015. Military licenses follow different ending dates as listed in the license.

If there is a delay in the family day care home provider receiving her current sticker due to CDHS administrative issues, alternate forms of documentation of licensing may be used temporarily. The documentation must include the following information:

- The provider's name (first and last), current address, and license number.
- The number and ages of children the provider is allowed to care for (including her own).
- The effective dates of the license if it is a 6-month provisional license or confirmation that CDHS has received the provider's continuation fee and the permanent license has been continued.
- Any license exceptions, experienced provider licenses, or waivers that have been granted to the provider must be fully documented.
- The information to document that the provider is currently licensed must be obtained in writing. The signature and date of the licensing specialist is required. The information must be clearly documented and legible.

Recommendations for License Letters and Reports of Inspection are only acceptable if they clearly show the provider is licensed. Many say they are recommended for licensing contingent upon certain issues being corrected. This type of documentation is not acceptable unless there is documentation indicating the issues have been corrected and the provider was licensed.

In those instances when the Reports of Inspection list the license number and the date of the report, and the CDHS Open List includes the effective and expiration dates of licenses, the

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CDPHE-CACFP will accept the new Report of Inspection form that states, “No violations were observed during this inspection,” and “A Regular Family Home License will be recommended with the following capacities and restrictions,” as the license documentation to approve providers for CACFP participation.

- ◆ The Sponsor has conducted a pre-approval or sign-on home visit and training.
- ◆ The family day care home has adequate documentation of the number of meals served and that the meals served meet Program requirements.

II. CDPHE-CACFP has confirmed the following:

- ◆ No child care home applying for approval is currently on the National Disqualified List.
- ◆ Each family day care home is currently licensed or otherwise approved to provide child care.
- ◆ No family day care home applying for approval is currently on the State agency’s list of providers disqualified from participation in the CACFP Drop While Under Corrective Action List.
- ◆ No facility is participating under more than one Sponsor.

A family day care home may receive reimbursement back to the first day of the month before the month in which its application is approved by the State agency, or the effective date of its Provider Agreement or license/alternate approval, whichever is later. Family day care homes may not be reimbursed prior to the effective date of the Provider Agreement or license/alternate approval date.

Sponsors may not include new, transferred, or reinstated providers on their claim until after State agency approval. This includes providers who move, change their legal name, and providers who change from alternative approval to licensure or from licensure to alternative approval. Sponsors must follow the deadlines for the submission of claims as outlined in Section 6.

Sponsors are responsible to ensure providers are not paid during a lapse in licensing.

THE CDPHE-CACFP FAMILY DAY CARE HOME PROVIDER APPLICATION UPLOAD AND APPROVAL PROCESS

For each claim month, FDCH Sponsors will submit applications for new providers and providers with important informational changes, complete provider terminations, and initiate transfers of providers from one Sponsor to another using the CDPHE-CACFP CHEARS web-based system.

Prior to the monthly FDCH approval process, Minute Menu will create an upload file containing changes to provider applications that were made in Minute Menu since the last upload file was created. Changes in Minute Menu, creation of upload files, and subsequent uploads into CHEARS can occur for any type of information change at any time. Changes may be grouped in single or multiple upload files in any way. However, at a minimum, the addition of new provider applications, changes requiring State Agency approval, and changes affecting claiming must at least be changed in Minute Menu and uploaded in CHEARS according to the timelines described below.

By the 5th day of each month, FDCH Sponsors are required complete the steps listed below. If the fifth of the month falls on a Saturday, Sunday or legal holiday, Sponsors must submit information on the first working day following the fifth of the month. The State Agency will process the information during the 5th-12th of each month as a priority item.

1. Make changes in Minute Menu that require State Agency approval. These include:
 - a. Addition of new providers or those who are reinstated

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- b. Legal name changes
 - c. Provider address changes
 - d. Provider license number changes other than dual foster licenses.
2. Upload the Minute Menu application files in CHEARS containing the above new provider records or changes, or manually enter them directly into CHEARS. If there are errors in any of the provider applications in CHEARS after the upload, click “modify” in CHEARS and correct the errors manually. Or, correct the error in Minute Menu, regenerate the upload file and upload it in CHEARS to correct the error.
3. View and complete the checklist. For each **new** provider, attach a scanned copy of the provider agreement **and** license to the checklist using the paperclip icon.
4. For each provider that has a name, address, or license number change, complete the FDCH Provider Change Form. Attach the form and a scanned copy of the child care license and new provider agreement (if required) to the attachments list on the application packet screen.
5. Once the applications are error-free, submit the application packet for approval. The main contact listed in the Institution Application will receive a confirmation email. Upon approval of the application packet the Sponsor will receive an email. If a correction is required, the State Agency will return the packet, which will generate an email to the Sponsor. Notes from the State Agency will appear in the application notes section of the application packet screen.

Terminating FDCH provider applications

By the fifth calendar day of each month, complete a FDCH Provider Change Form for providers who drop participation or are terminated for cause and attach it to the application packet in CHEARS. Although the Minute Menu upload files will still contain termination information, automated termination processes will not occur in CHEARS. Upon receipt of the FDCH Provider Change Form for the termination, the State Agency will terminate the provider application in CHEARS.

Uploading provider application changes that affect claiming

Make changes that affect claiming in Minute Menu and upload changes to provider applications in CHEARS at any time during the month, but at least prior to the submission of the claim for which the changes are effective. These changes do not cause applications to become unapproved in CHEARS and therefore do not require State Agency approval. Changes that affect claiming, but do not require State Agency approval include:

- a. Changes in approved meal types;
- b. Changes to the license expiration date;
- c. Changes in provider tier; and
- d. Changes in months of operation.

Uploading other changes to provider applications

For changes to application data that are not in either of the before mentioned groups, make these changes in Minute Menu and upload them in CHEARS at any time throughout the month. These changes will not cause the provider application to become unapproved in CHEARS, do not require State Agency approval, and do not affect claiming. These changes can be combined in the same upload files with other changes that require State Agency approval or affect claiming.

Provider Transfers

The CACFP regulation restricts transfers of day care home providers between Sponsors to no more than once a year in a 12-month period. In addition, the Provider Agreement, under the Rights and

Responsibilities of the Child Care Home Provider, outlines the requirement for providers to inform their current Sponsor, in writing, of the desire to terminate the agreement. The Sponsor accepting the transfer must contact the Sponsor releasing the provider and request a complete Provider Transfer Verification Form, which indicates the provider is in good standing.

By the first day of the month, Sponsors who are accepting transfers from another Sponsor must request the Sponsor releasing the provider to complete the Provider Transfer Verification Form. Once received from the Sponsor releasing the provider, the accepting Sponsor must submit the complete Provider Transfer Verification Form to the State Agency. The State Agency will complete the transfer of the provider to the accepting Sponsor in CHEARS and notify both Sponsors by email when this is complete. The Sponsor accepting the transfer must not upload or manually enter the transferred provider's application information in CHEARS until confirmation of the transfer is received from the State Agency. Once the accepting Sponsor receives confirmation, the upload or manual entry of the transferred provider application data must be completed by the 5th calendar day of the month, including completion of the checklist, and attachment of a scanned copy of the provider agreement and child care license to the Checklist in CHEARS.

Sponsors accepting transfers may not include new, transferred, or reinstated providers on their claim until after State agency approval of the provider application family day care home provider may receive reimbursement back to the first day of the month before the month in which its application is approved by the State agency, or the effective date of its Provider Agreement or license/alternate approval, whichever is later. A family day care home provider may not be reimbursed prior to the effective date of the Provider Agreement or license/alternate approval date.

Re-starting Providers

By the first day of the month, Sponsors who are adding providers who have previously participated in the CACFP must submit the completed Provider Re-start Verification Form. The State Agency will re-enroll the provider and notify the Sponsor by email when this is complete. The Sponsor must not upload or manually enter the re-enrolled provider's application information in CHEARS until confirmation of the re-enrollment is received from the State Agency. After the Sponsor receives confirmation, the upload or manual entry of the re-enrolled provider application data must be complete by the fifth calendar day of the month, including completion of the Checklist and attachment of a scanned copy of the provider agreement and the child care license in CHEARS.

Sponsors are able to check the status of the application approval process by logging into CHEARS. CHEARS will generate automatic email notifications to let the institution know if the Application Packet has been approved, or returned for corrections.

Sponsor's staff must be made aware that no changes can be accepted for the application approval process after the 5th of the month, unless the 5th is on a Saturday, Sunday, or legal holiday (see above).

When a Provider Moves

The following guidelines are for Providers who are planning to move:

- ◆ Providers should call the licensing specialist as far in advance as possible of the actual move to notify the licensing specialist of the move and to schedule a tentative date to inspect the new facility. A licensing agency visit will not be made until an application is received.
- ◆ Providers must supply the date of the move, in writing, to the FDCH Sponsor.

The provider's new license is effective the date the licensing specialist approves the new facility. If the site is approved, the licensing specialist will give the provider a copy of the inspection report with the date of the inspection. Provisional licenses are only valid for six (6) months; Providers can have only one provisional license at each location. The provider's license for his/her current facility is valid until the day of the move.

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In addition to ensuring the provider is licensed and able to provide child care at his/her new location, the Sponsor must also ensure that the provider qualifies for Tier I rates prior to reimbursing the provider for Tier I rates. If the provider received Tier I rates based on area eligibility at the previous address, the Sponsor must verify that the provider's new address falls in a Tier I category based on a school attendance area that has 50 percent or greater free and reduced price school meals. The Sponsor can verify the attendance area by using the school or school district maps, or contacting the appropriate elementary school official. See Section 5 for details on the documentation required.

The CDPHE-CACFP will approve the provider and will assign the provider's initial claim start date in CHEARS as the effective date of the license at the new address. Sponsors are responsible to ensure providers are not paid during a lapse in licensing.

The provider will be reimbursed for meals served at the new address after the provider receives the license for the new address and the provider's application at the new address has been approved by CDPHE-CACFP.

TIERING STATUS OF A PROVIDER WHO TRANSFERS FROM ONE SPONSORING ORGANIZATION TO ANOTHER

Sponsors are allowed to retain the previous tiering status based on area eligibility of a home that transfers from another Sponsor. However, the new Sponsor is responsible for collecting and closely reviewing the previous Sponsor's documentation to ensure the tiering determination was classified correctly. Sponsors are required to keep a copy of the previous Sponsor's documentation on file until a new determination of area eligibility is made.

If the tiering status based on area eligibility for a provider transferring to another Sponsor has changed based on new school or census data, and the new information determines the provider's area to be under 50% Free or Reduced applications, the new Sponsor is allowed to use previous area eligibility information and allow the provider to continue participating as a Tier I area eligible provider until the expiration of the previous Sponsor's five-year eligibility determination is reached.

On the other hand, if the area eligibility for a provider transferring to another Sponsor has changed based on new school or census data, and the new information determines the provider's area to be 50% or more Free or Reduced applications, the new Sponsor is allowed to reclassify the provider to allow the five-year eligibility to start once the provider is approved to participate under the new Sponsor.

REIMBURSING PROVIDERS

All family day care home providers must be approved for participation by the CDPHE-CACFP, via the CDPHE-CACFP web-based system through the Provider Application Upload Approval Process prior to the provider being reimbursed for meals.

Before they actually begin participation in the CACFP, providers and their key staff must be given initial training and the necessary forms for claiming reimbursement. Training is mandatory and must include instruction, appropriate to the level of experience and duties, on the following:

- ◆ CACFP Meal Patterns;
- ◆ Meal Counts;
- ◆ Claims submission and claim review procedures;
- ◆ Recordkeeping requirements;
- ◆ Explanation of the CACFP reimbursement system.

A provider may be reimbursed at the Tier I or Tier II rate. Only providers who are determined to be Tier I may be reimbursed for her own household children who are enrolled for care. See section 5 for

more information on determining whether a family day care home provider qualifies for Tier I or Tier II reimbursement and is eligible to claim her own household children who are enrolled for care.

Providers who are Eligible to Claim Their Own Children

A provider may begin claiming her own household children who are enrolled in care only after she has done the following:

- ♦ Has been determined by the Sponsor to qualify for Tier I rates by area eligibility or income eligibility.
- ♦ Completed an Income Eligibility Form (IEF), the income eligibility determination has been made by the Sponsor, and the form is signed and dated by the Sponsor. The form is valid for one year from the beginning of the month the Sponsor signs and dates the form.

Once the Sponsor has determined the provider's own household children are eligible to be claimed in the CACFP, the provider must complete a Child Enrollment Form (CEF) for her own household children before their meals can be claimed for reimbursement.

Finally, in order for a provider to claim a meal for reimbursement in the CACFP for her own household children, at least one other child, who is enrolled for care in the family day care home, must be in attendance for that meal and that child's meal must also be claimed for reimbursement in the CACFP.

When a provider is licensed to provide care at a location other than the provider's home, residential children at the licensed child care location are not to be considered the provider's own household children, and their meals may not be claimed for reimbursement.

See Section 5 for more information on Reimbursement for Meals Served to Provider's Own Household Children.

MEALTIMES AND PLACES

All meals claimed must be served at the approved child care site during the hours specified on the Provider Agreement or another form utilized by the Sponsor. The Sponsor must update mealtime information annually. Providers may request changes to their approved mealtimes at any time as their schedule changes. If the provider changes her mealtime during a meal, the change is effective for subsequent meals. The family day care home provider must be present at the meal unless substitute care is being provided. Meals served while on a picnic or field trip may be claimed if creditable meals are served. Restaurant meals are not allowed to be claimed for reimbursement on the CACFP.

Providers must serve meals during the mealtime ranges shown on the Provider Agreement or an alternate form utilized by the Sponsor. The provider must allow adequate time for children to eat within the mealtime range. Mealtimes should be written as a range of times during which the meal or snack will be served. Meals must be served within "traditional mealtimes," unless the provider receives approval to serve meals outside traditional mealtimes from the Sponsor that has obtained prior approval from the CDPHE-CACFP. (See the chart on the following page for traditional mealtimes.)

If providers have special situations that deviate from these times, please contact the CDPHE-CACFP office to discuss the appropriateness of the times the provider would like to serve meals. When contacting the CDPHE-CACFP be sure and provide the ages of the children and any special circumstances regarding the exception.

The CACFP is recognized as a means of providing nutritious meals to children and of helping them develop good eating habits that they will retain in later years. Young children need nutritious food at frequent intervals. Serving food frequently keeps children from becoming overtired and irritable. However, it is important to schedule the food service to allow sufficient time between meals and snacks so that children have time to eat, digest food, and play between meals. For example, if a

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provider serves breakfast at 9:30 a.m. and lunch at 11:30 a.m., a midmorning snack may not be necessary.

Mealtime should be a relaxed, pleasant experience for all participants. Adequate time shall be allowed to serve and eat the meal. Children should be encouraged, but not forced, to eat. Encouragement may be offered verbally and by setting an example. If children lose interest or dawdle, give them a reasonable time to eat, and then clear the table. There may be an exception to this with infants and toddlers who may need to eat more often. They may need to be served more meals than the number of meals a provider can claim in the CACFP.

The CACFP does not require providers to feed infants and toddlers at the same time as older children. The CDPHE-CACFP allows flexibility in the schedules for these children according to demand or frequent eating patterns. Infants should be allowed to eat on demand and establishing earlier feeding schedules can accommodate the feeding needs of young toddlers.

Providers must allow children adequate time to consume meals and snacks, which is approximately 30 minutes for meals and 20 minutes for snack. The CDPHE-CACFP also requires a span of at least two hours between the beginning of one meal or snack service and the beginning of the next meal or snack service. A span of at least 1 ½ hours should elapse from the end of one meal or snack service and the beginning of the next meal or snack service. If no snack is served, at least four hours must elapse between the beginning of the lunch service and the beginning of the supper service. Mealtimes may not exceed two hours in length. Snack times may not exceed one hour in length (see the chart below).

<u>SAMPLE MEAL/SNACK SCHEDULE</u>			
Breakfast:	6:45 a.m.- 8:45 a.m.	A.M. Snack:	9:00 a.m.- 10:00 a.m.
Lunch:	11:00 a.m.- 1:00 p.m.	P.M. Snack:	2:45 p.m.- 3:45 p.m.
Supper:	5:30 p.m.- 7:30 p.m.	Evening Snack:	7:30 p.m.- 8:30 p.m.
Can be modified within parameters listed below			
Mealtimes listed on the Provider Agreement should be within the following traditional mealtime periods:			
Meals		Meals	
Breakfast:	6:00 a.m.- 9:30 a.m.	-2 hours must lapse between start of meals and snacks.	
Lunch:	10:30 a.m.- 2:00 p.m.		
Supper:	5:00 p.m.- 7:30 p.m.		
Snacks		-Period cannot exceed 2 hours in length for meals, (i.e., 6:45-8:45 a.m., 7:30-9:30 a.m.; 11 a.m.-1 p.m., 12-2 p.m.; 5:30-7:30 p.m., 6-8 p.m., etc.)	
2 hours before or after the beginning of other meals. Mealtimes outside these times may receive approval by sending a written request to the Sponsor's office. Sponsors will request approval from the CDPHE-CACFP office.			
		Snacks	
		-Period cannot exceed 1 hour in length, (i.e., 9-10 a.m., 2:45-3:45 p.m.)	

MAXIMUM NUMBER OF MEALS CLAIMED

If a family day care home is approved to claim more than three meals, recordkeeping systems must show that no child is claimed for more than three meals (which include two meals and one snack or two snacks and one meal per child) per day. When the number of meals claimed exceeds the license capacity of the family day care home, or the family day care home meal count sheet shows several children coming and going between meals, the CDPHE-CACFP must be able to determine from documentation on the shift care form that the children were served the meal at different times.

For example, when three siblings ages 4 months, 2 years, and 3 ½ years are in care and the provider claims meals at full capacity for only two of the three siblings, i.e. the provider claims full capacity (6 + 2) at breakfast, including all three siblings and then at lunch she claims full capacity (6+2) but only

includes 2 of the 3 siblings, a shift care form would be needed to document what happened to the third sibling.

Providers may serve the same meal to more than one group of children. For example, lunch may be served to a group of children who are in care in the morning and then again to a group of children in care during the afternoon. In this case, documentation of shift care is required. Documentation of shift care must be kept in the provider's file to support the claim. Sponsors are responsible for reviewing the shift care roster to ensure children's meals are claimed appropriately. If the provider cares for a second group of children in the evening and is within her license capacity, she can claim up to two snacks and one meal for these children. The provider must fill out the documentation of shift care for each day that children are claimed, and attach it to the claim. All parents and/or guardians must also sign this form daily.

OVER CAPACITY

License capacity in child care settings is established to ensure the safety of children. The Colorado Department of Human Services, Office of Early Care and Learning considers over-capacity in homes and centers a violation at any magnitude for any period of time.

Therefore, the CDPHE-CACFP staff and monitors of sponsoring organizations must not disregard over-capacity when observed during home visits. FDCH sponsoring organization monitors should provide the over-capacity letter signed by the Director of the CDPHE-CACFP when over-capacity is first observed during home visits and report over-capacity to the Office of Early Child Care and Learning thereafter by contacting them by telephone or by letter.

Sponsoring organizations may detect potential over-capacity situations in homes during claims processing. The CDPHE-CACFP recognizes the difficulty in determining with confidence whether the inflated claim is due to record keeping errors or if the provider is truly in violation of license capacity. Therefore, unless sign-in and out records or other documentation supports with confidence that the provider is truly caring for more children than allowed, the CDPHE-CACFP does not require issuance of the over-capacity letter to the provider or reporting of over-capacity. If a provider claims reimbursement for meals in excess of license capacity, the sponsoring organization must disallow excess meals, notify the provider of the error, and remind the provider of the importance of caring for only the number children allowed by license capacity. Sponsoring organizations must take actions according to procedures to address inappropriate claiming and document all instances of claiming excess meals or visually observing over-capacity during the home visit.

In extreme cases, where the over-capacity situation poses a danger to the health and safety of children in care, the monitor and sponsoring organization must consider the situation an imminent threat to health and safety and follow the appropriate suspension and reporting procedures for day care homes.

COMPLETION OF ATTENDANCE RECORDS AND MENUS

Regardless of the recordkeeping methods used to track meal attendance and menus (manual, Internet, or scanning), the family day care home provider must complete meal attendance records and menus by the end of each day. The best practice is to have menus and meal attendance records filled out at or within 30 minutes of the meal service. Meal attendance records should not be filled out prior to the times meals are served.

A Sponsor monitor who, during a home visit, observes that menu and/or meal attendance records have not been completed for any days prior to the day of the home visit must disallow reimbursement for those meals if no additional documentation is kept. Meal counts and menus can be kept on a calendar or other paperwork if the available records are maintained daily and show the full name of each child in attendance and the number of meals by type served to enrolled children. A Sponsor monitor doing

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the home visit must be able to verify this information and the information must be consistent with the information on the claim form submitted to the Sponsor for reimbursement. Providers who have completed attendance records for meals not yet served must be told to discontinue this practice. It is acceptable if the menu and record of meal attendance are not recorded for the day of the visit, as the provider has until the end of the day to record this information. However, the provider should be encouraged to complete this information within 30 minutes of the meal service.

If a provider's monthly claim form is received and the claim has one or more menu components missing, the Sponsor must deduct the meal.

System to Ensure Accuracy

Sponsors must have a system in place that ensures the meal attendance and menu information submitted by the provider is the same as that viewed by the Sponsor monitor on the day of the home visit. If there is a difference, appropriate deductions must be made. One method the CDPHE-CACFP recommends is to circle and initial the menu on the day of the home visit and the children in attendance and then compare the home visit form to the claim record when claims are processed.

CHILD ENROLLMENT FORMS (CEFS)

A current Child Enrollment Form (CEF) must be on file for all enrolled children that includes the usual days and hours the child is in care and the usual meals the child will receive while in care including the providers' own children and any adults with disabilities enrolled for care in the family day care homes. The CEFs, like Income Eligibility Forms (IEFs) or Child Household Income Eligibility Forms (CHIEFs), are effective for 12 months and must be updated each year. This means that enrollment forms completed in October 2014 are effective until October 31, 2015. The CEF must be signed by the child's parent or guardian and must indicate the usual days and hours the child is in care and the usual meals the child receives while in care.

The CACFP regulations define an 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 attend, for the purpose of receiving child care and at least one CACFP meal, would be an enrolled child.

The CDPHE-CACFP allows FDCH Sponsors in Colorado to collect the CEF by using either of the following methods:

- 1) Print the CEF template and Dear Parent Letter provided annually by the CDPHE-CACFP. FDCH Sponsors must collect the original CEF from each provider that is signed and dated by the parent/guardian. By signing the CEF, the parent certifies the child's normal days, hours, and meals received while in care.
- 2) Use the electronic CEF from the Minute Menu System. The electronic CEF must include race and ethnicity information for parents/guardians, the latest USDA nondiscrimination policy statement, the CDPHE-CACFP telephone number in the Dear Parent Letter, and the following information for infants:

If FDCH Sponsors choose to use the electronic CEF, the use of the Minute Menu Enrollment Worksheet is not required. FDCH Sponsors must collect the original CEF printed from Minute Menu from each provider that is signed and dated by the parent/guardian. By signing the CEF, the parent certifies the child's normal days, hours, and meals received while in care.

If a provider uses the electronic CEFs, they must be readily available for review at all times by the Sponsors' monitors, the CDPHE-CACFP monitors, or USDA during reviews or audits. Providers must store a backup copy of CEFs in the event the primary electronic storage system is not functional. Regardless of the above methods used, FDCH providers may give a copy of the CEF to parents/guardians electronically, by fax, in-person using hard copy, or by any other means available to the provider.

Parents whose work schedule (and child care needs) varies from one week to the next must indicate on the CEF 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, the CDPHE-CACFP would ask the parents to estimate the hours and days they expect that their children will most often be in care.

Providers may use electronic means to share copies of the enrolled children's CEF with the parents/guardians. Providers may also store his/her own copies of the CEFs electronically. If the provider chooses to use electronic formats, the providers must ensure those records are readily available to review by the Sponsor's monitors, the CDPHE-CACFP monitors, or USDA during reviews or audits. When electronic formats are used, Sponsors and providers must ensure appropriate electronic backup systems are in place to protect the records stored in the home.

Annual Update of the Child Enrollment Form (CEF)

FDCH Sponsors may use the Minute Menu Enrollment Report or a copy of the latest approved system-generated copy of the individual CEF to conduct the required annual update of the CEFs. Regardless of the method used, the parents/guardians must sign and date the form or the report, certifying and/or updating the child's normal days, hours, and meals received while in care.

The CDPHE-CACFP encourages Sponsors to keep Minute Menu updated on regulatory policies and procedures that might impact the proper use of these forms and reports.

Sponsors may decide if they will track CEFs as they expire and renew them throughout the year or if they will institute an annual update system. For example: all CEFs are renewed in April or some other month of the Sponsor's choosing.

CEFs must be available and in the child care home for review during home visits and also in the provider's file at the sponsoring organization.

PROVIDER TRAINING

Sponsors must provide initial training and annual Program training to all family day care home providers and their key staff (substitutes/helpers). Training is mandatory and must include instruction, appropriate to the level of experience and duties, on the following:

- ◆ CACFP meal patterns;
- ◆ Meal counts;
- ◆ Claims submission and claim review procedures;
- ◆ Recordkeeping requirements;
- ◆ Explanation of the CACFP reimbursement system.

The initial training is required to be given during the sign-on visit when the Provider Agreement is explained and signed. During the four-week visit additional training is to be given to the provider on CACFP meal patterns, meal counts, claims submission and claim review procedures, record keeping requirements, and an explanation of the CACFP reimbursement system. This follow-up visit, within the first four weeks of operation, will also constitute the first required monitoring visit.

The provider, as well as any key staff must receive training on the CACFP program requirements. Key staff is defined as the provider with whom the Sponsor has an agreement and any permanent substitutes or helpers the provider employs that conducts the meal and/or completes meal counts, or other records when the provider is away from the child care home.

For example, if the permanent substitute prepares the meal and marks the children in attendance, that person would need to receive training on the requirements of the meal pattern and meal count

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completion. They would also need to receive training on recordkeeping requirements related to her duties, such as where records are kept and what to do if a Sponsor monitor, CDPHE auditors, or USDA conducted an unannounced visit.

In addition, once a year at a minimum, the CDPHE-CACFP requires Sponsors to review with all enrolled providers the Provider's and Sponsor's Rights and Responsibilities as outlined on the Provider Agreement. The provider's daily responsibilities should be reviewed, as well as what to expect during Sponsor monitoring or the CDPHE-CACFP reviews. In addition to annual Program and nutrition trainings, Sponsors are also required to offer providers an annual civil rights training.

Sponsors must document that providers and/or their key staff receive initial and annual Program, nutrition and civil rights training. Documentation of training completion may be kept in the provider's file or by other means. The provider's and key staff training documentation must list the date of the training, the provider's name, the location of the training, and the topics covered. Training can be given in organized workshop formats, one-on-one training in the provider's home, or by other means such as correspondence courses and training modules.

Examples of nutrition related training include nutrition for children, family-style meal service, nutrition education activities for children, menu planning, purchasing foods, food-borne illness, sanitation and proper food handling, discipline problems as they relate to food service, and methods of dealing with issues related to serving food to children.

Failure on the part of the Sponsor to provide training on the required content areas specified above, or a family day care home's failure to participate in training on the required content areas might be considered a serious deficiency.

Through the annual recertification process, Sponsors are required to certify that participating family day care homes received the required annual training. The CDPHE-CACFP requires Sponsors to submit the Sponsor's training plans for family day care homes in the Management Plan Update during the annual recertification process.

TRAINING OF FDCH SPONSOR STAFF

The CDPHE-CACFP requires the sponsoring organization monitoring staff and key staff responsible for CACFP duties at sponsored facilities to participate in training. The CDPHE-CACFP defines "key staff" as persons who oversee CACFP functions at for sponsored facilities.

Sponsoring organizations must provide initial and annual Program training to all program monitors and staff personnel. Sponsor's new staff will require more extensive training, while experienced staff may only require a refresher on the topics. Likewise, some staff may not require training in all areas, depending upon their CACFP duties. Sponsor staff including those performing monitoring duties must attend the offered training. All training provided must include instruction appropriate to the level of staff experience and duties on the following:

- ♦ Provider participation requirements;
- ♦ Monitor duties and responsibilities;
- ♦ CACFP meal patterns;
- ♦ Meal counts;
- ♦ FDCH eligibility requirements;
- ♦ Claims submission and claim review procedures;
- ♦ Claims processing: menu reviews to determine claim accuracy and meal eligibility;
- ♦ Activities related to the annual updating of Child Enrollment Forms;

- ♦ Record keeping requirements;
- ♦ Five-day reconciliation requirements;.
- ♦ Explanation of the CACFP reimbursement system;
- ♦ Civil Rights compliance and enforcement.

Additionally, a review of the following monitoring duties is recommended during training:

- ♦ Monitoring: all activities related to conducting on-site reviews, including planning and scheduling; pre-review preparation; travel; supervisory oversight of monitors and the monitoring function; time spent in the facility during the review; writing review reports; conducting follow-up reviews; and activities relating to the serious deficiency process (issuance of notice, evaluation of corrective action, appeal, and termination).
- ♦ Household contacts: procedures related to conducting parent contacts or surveys to help determine the validity of a provider's claim.
- ♦ On-site/other training: requirements related to the provision and documentation of both Program and nutrition training for providers.
- ♦ Technical assistance: as provided during a review.

The Sponsor must maintain records that document the attendance of all staff with monitoring duties at such trainings, the date of the training, and the topics covered during the training. Training may be provided in a group setting or one-on-one. If training and oversight is provided to the monitoring staff in the field, the documentation of training can also reflect those activities.

NEWSLETTERS

The CDPHE-CACFP expects all Sponsors to have some type of newsletter available for their providers. The CDPHE-CACFP would like to receive copies of each Sponsor's newsletter.

Newsletters produced by Sponsors must include the complete non-discrimination policy statement and the procedures for filing a complaint. Newsletters produced by Sponsors should ensure that:

- ♦ Graphics portray racial/ethnic balance.
- ♦ Source and/or author are acknowledged if material is not original to Sponsor.
- ♦ All statements are accurate as they relate to CACFP regulations and guidance.
- ♦ Accurate nutrition information is presented.
- ♦ Presentation of information is clear and concise.
- ♦ Information given is correct and relevant to the CACFP.
- ♦ Recipes include:
 - Description of how CACFP meal pattern requirements are met including yield, serving size, and age of child. For example, this recipe serves ten, 3-6 year olds to meet the meat/meat alternate component requirement at lunch or supper.
 - A disclaimer statement is included if brand name products and ingredients are used.

MATERIALS DEVELOPED WITH CACFP FUNDS

Proprietary materials are defined as items that are developed using CACFP administrative funds, including nutrition education materials, correspondence courses, videos, computer software, etc. All materials developed with CACFP funds are considered to be in the "Public Domain" and may be reproduced by others as long as credit is given to the source. All materials developed by the Sponsor must include the non-discrimination policy statement.

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If the Sponsor sells any proprietary materials, all income to the program, regardless of the category of income, must be retained and used only in the program. Examples of income might be gross income from the sale of cookbooks, rental fees from videos, or royalties or income earned from the sale or licensing of materials. In addition, the use of program or other income can only be used for allowable program purposes.

MONTHLY EDIT CHECKS

Monthly edit checks are review procedures that must be applied to a child care home provider's claim each month in order to help determine the claims validity. The monthly edit checks must ensure that:

- ♦ The child care home 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.

Discrepancies that are identified by the first two-edit checks listed above must be reviewed and any meals that were not eligible to be claimed must be disallowed.

PROVIDER MONITORING VIA HOME VISITS

The CACFP regulation requires Sponsors to provide adequate supervisory and operational personnel for the effective management and monitoring of the program at all family day care homes it sponsors. In order to meet this requirement, a Sponsor with participating family day care homes claiming breakfasts, suppers, post-supper snacks, or weekend meals must provide oversight of all types of meal services being claimed by the participating family day care homes. Monitoring all meal service types being claimed by the family day care homes is the only meaningful way for Sponsors to ensure that Program requirements are being met and that participating family day care homes are accurately claiming meals for each type of meal service they provide.

The requirement to “monitor all meal service types” does not require a sponsor to annually conduct reviews of each of the meal services being claimed at each family day care home. As long as, in the total of all reviews it conducts for itself, the sponsor provides oversight of all types of meal services being claimed, the Sponsor has met this regulatory requirement.

The phrase “oversight of all types of meal services” does not require a Sponsor to conduct the same percentage of reviews of each meal service as the percentage of each meal service claimed during the previous year. That is, if five (5) percent of the meals claimed in the prior year by a Sponsor of 500 homes were suppers, it would not be necessary for the sponsor to conduct exactly 5 percent of this year's reviews during the supper meal service. However, 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 family day care homes. In addition to conducting family day care homes reviews, a Sponsor might also provide oversight by conducting household contacts in family day care homes serving breakfasts, suppers, or weekend meals, in order to have parents verify their children's attendance at these meal services.

Sponsors must monitor all family day care homes to check for compliance with: the CACFP meal patterns, licensing, participation in Sponsor training, meal counts, menu and meal records, recordkeeping, and other Program requirements. Home visits also provide the opportunity to verify that the provider is doing child care and that records reflect meals served and children in attendance; and to provide assistance in all areas of Program operation.

- ♦ Monitoring visits must be conducted at each home no less frequently than three times every 12-month period. No more than six months may elapse between monitoring visits.

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- ◆ Sponsors must make pre-approval visits to homes that wish to participate in the Program. During the pre-approval visit, the monitor must discuss Program benefits and requirements and make sure that the FDCH provider is capable of providing the proposed food service.
- ◆ The first visit must be made during each home's first four weeks of CACFP operation and must be a meal visit.
- ◆ Visits must include observation of the complete meal service during at least two of the visits each year. This meal service must be approved to be claimed in the CACFP and must occur at a mealtime approved on the Provider Agreement or a substitute form. The meal observed must be a regularly claimed meal. For providers regularly claiming breakfasts, suppers, p.m. snacks, weekend, or holiday meals, monitoring visits are to be rotated so visits occur during these times.
- ◆ Two of the three visits per year must be unannounced. An "unannounced home visit " is a home visit for which no advance notice is given to the family day care home. FDCH Sponsors should not routinely follow the same cycle when conducting home visits. Instead, the pattern of unannounced home visits should be unpredictable to ensure that the home visit is genuinely unannounced. The CDPHE-CACFP further clarifies that no advance notice should be given to the family day care home regardless of the distance a Sponsor must travel to reach the home.
- ◆ Family day care home providers must notify their Sponsor in advance whenever the provider is planning to be out of their home with the children during the meal service period. If the provider fails to notify the Sponsor and an unannounced home visit is made during a scheduled mealtime, claims for meals that would have been served during the unannounced home visit must be disallowed.
- ◆ It is up to the discretion of the Sponsor to set guidelines for their staff on what amount of time, if any, to wait at the home for the family day care home provider to return before assuming the visit cannot be completed and therefore disallowing the meal. It is also up to the discretion of the Sponsor to set guidelines for how providers will give them advance notice of their absence.
- ◆ Visits must be a minimum of 30 minutes in length to minimally check names and ages of children present, enrollment forms, menus, license, complete the record reconciliation, and to give assistance to the provider. If the provider must leave before the Sponsor monitor is able to obtain the required information on a home visit, or before the monitor has been able to conduct the full 30-minute visit, the monitor must revisit the provider.
- ◆ Home visits must be made during the family day care home's normal hours of operation as specified on the Provider Agreement. Monitors making home visits must provide photo identification that indicates they are employees of the sponsoring organization.
- ◆ If during a home visit or review of a family day care home a Sponsor detects one or more serious deficiency(ies), the next home visit of that family day care home must be unannounced.

Elements of Home Visit

During home visits, program monitors are responsible for:

- ◆ Assessing if the provider has corrected problems noted in previous monitoring visits
- ◆ Assessing corrective actions for problems detected during monitoring visits;
- ◆ Informing the sponsor about any problems found during the visit;
- ◆ Assessing corrective action of problems found during the visits and ensuring that corrective action is completed and documented;
- ◆ Conducting follow-up monitoring visits as necessary;
- ◆ Preparing a complete report of the monitoring visit and ensuring that copies of the reports are included in an official file for each provider; and

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- ♦ Conducting a reconciliation of the provider's meal counts with enrollment and attendance records for a five-day period; and reconciling any discrepancies noted;

Monitors must verify the provider maintains the required records including:

- ♦ Licensing documentation is posted and current;
- ♦ The number of meals served by type;
- ♦ The provider's menus meet the Healthy Meal Initiative Policies and Program requirements. There are separate infant menus available.
- ♦ Attendance records are available;
- ♦ The provider has copies of the completed and current child enrollment forms for all children present and on the five-day reconciliation. CEFs are updated annually.

During home visit, monitors must also verify that:

- ♦ The provider's records are up-to-date, and daily records are completed by the end of each day.
- ♦ Meal attendance records are not filled out before meals are served.
- ♦ No more than two meals and one snack or two snacks and one meal per child per day are listed on the meal counts.
- ♦ The provider's own household children are claimed only when other enrolled children are present and claimed for the same meals.
- ♦ The family day care home provider is open for care and children are in attendance; whether or not the visit is a meal visit or a non-meal visit.
- ♦ Mealtime atmosphere is pleasant. Provider helps the children with their food. Ample food is available to meet the CACFP meal pattern Program requirements. Food texture is appropriate for children. Food colors vary.
- ♦ The provider is in compliance with the license capacity and staff ratios. Any license violations noted are addressed by issuing the CDPHE-CACFP Director's letter when over-capacity is observed for the first time; or reporting consecutive violations to the Colorado Department of Human Services Office of Early Child Care and Learning.
- ♦ The ages of children in attendance meets the CACFP regulatory requirements.
- ♦ The provider meets basic health and safety requirements. If serious problems are encountered, those are reported immediately to the appropriate authorities.
- ♦ The children and provider wash their hands before eating.
- ♦ The provider's home is open to all children without regard to race, color, sex, age, disability, or national origin.
- ♦ The provider is offering Program meals to all children and infants who are enrolled for care in the family day care home.
- ♦ The provider does shift care and documents it correctly, with daily sign in-sign out rosters that are signed by the parents.
- ♦ If applicable, commodities are used and stored appropriately.
- ♦ The provider is aware of training programs that are available and has met minimum training requirements.
- ♦ If the provider has any questions or needs CACFP-related information or training those are offered.

Five-day Record Reconciliation

In addition to performing the minimum review requirements listed previously, at each home visit the monitoring staff must conduct a five-day reconciliation or comparison of meal counts with attendance and enrollment records. Sponsors are required by regulation to conduct the annual update of the CEFs that list the usual hours and days in care and the usual meals received by enrolled children. The Sponsor's monitoring staff must use the updated CEFs to conduct the five-day reconciliation during family day care homes monitoring visits.

When conducting the 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.

To conduct the five-day reconciliation, the monitor would need access to all current enrollment forms, daily attendance records, and meal counts for the current or previous month (if the visit is conducted in the current month but there are less than 5-days available for the 5-day reconciliation). The five days of the 5-day reconciliation must be consecutive and must be the days the provider actually operated. If the provider was closed for an unexpected reason for example, weather or sickness, those days should not be included in the reconciliation. If the FDCH is open on holidays and weekends, those days should be included in the reconciliation. If some of the required information to conduct the 5-day reconciliation is available in the Sponsor's office, the monitor 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.

The initial step in conducting the five-day reconciliation is to determine whether the CEF information and sign-in and out/attendance records are current and accurate. When conducting the five-day reconciliation, the Sponsor staff should select five consecutive days during the current and/or previous claiming period. All meals claimed in the five-day period should be compared to the usual days and hours in care as listed on the CEF and to the sign-in and out /attendance records verified by the parents or guardians of the children in care. If a provider does not keep time-in/time-out records, the comparison would be made to the usual days and hours in care listed on the CEF. Based on the comparison, Sponsor staff must determine if the meal counts are accurate.

If discrepancies are detected, staff should investigate further by discussing the matter with the provider. There may be legitimate reasons that can be substantiated for some discrepancies. In other cases staff must take further action. Sponsors must consider their assessment and documentation of problems and/or deficiencies detected during previous home visits when determining the appropriate action to take. Appropriate action may include meal disallowance, further investigation, and/or establishment of a corrective action plan. In many cases the corrective action will include, and in some cases be limited to, ensuring that all Child Enrollment Forms are updated to contain current information. In all cases, staff should clarify Program rules and regulations with the provider and must document the discrepancies found and action taken.

Colorado Sign-in and out record requirements

The Colorado Department of Human Services Office of Early Care and Learning provisions requiring sign-in and out records are taken seriously to ensure the safety of children and considers missing or incomplete sign-in and out records a licensing violation. The Division of Child Care Rules Regulating Family Child Care Homes in 7.707.6 D, Sign In/Out Procedures states: *The provider must maintain a daily sign in/out method containing the date, the child's name, the time that the child arrived at and left the home, and the parent, guardian, or authorized person's signature. A full signature is required by the parent or guardian every time the child arrives at or leaves the home. The provider may sign in or out children who arrive directly from school or an activity as needed on a daily basis. The provider*

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must use their full signature. The parent/guardian must provide a signature on a weekly basis to verify the record. Because these records are required by the Office of Early Care and Learning, the CDPHE- CACFP staff also uses these records to complete the 5-day reconciliation of meal counts during Program reviews.

Monitoring of complete sign-in and sign out records is well within the scope of CACFP work for purposes of maintaining integrity in Colorado's CACFP. Monitors should continue to address missing or incomplete records with providers, and disallow meals according to procedures.

Monitoring of Healthier Meals Imitative Policies

Sponsors must train program monitors on the Colorado-specific HMI policies and required actions to assess compliance, offer assistance to providers, and document these efforts during monitoring visits. Program monitors must complete the following three actions during monitoring visits:

1. Assess menus for compliance with the Colorado-specific HMI policies. Monitors must review a minimum of two weeks (10 consecutive days in care) of menus for HMI compliance. If the home visit occurs at the beginning of a particular month, the monitor must review menus from the prior month to meet the two-week minimum.
2. Document results of the menu review on the monitoring form, indicating which requirements are met, and which are not yet achieved. FDCH Sponsors may consider a provider in compliance with Colorado-specific HMI policies if the providers' menus reflect compliance with two of the three Colorado-specific policies.
3. Provide nutrition education for any policies not yet achieved and document the information and resources provided.

Monitoring visit procedures pertaining to the USDA milk policy, as defined in the CDPHE- CACFP Procedure Memo FDCH #12-01 Milk and Water Policy and the USDA Questions & Answers on the Milk Policy, remain unchanged.

The CDPHE-CACFP will review the monitoring visit forms during State Agency reviews to assess sponsoring organizations' compliance with the three HMI monitoring actions described above. The CDPHE-CACFP will not consider providers' lack of compliance with the HMO policies findings for sponsoring organizations.

Documentation Relating to Home Visits

During one home visit each year, the home monitor must update Sponsor records, including CEFs, the meals the provider is approved to serve, and current mealtimes.

A record should be kept of all home monitoring visits indicating the dates, locations, problems noted, and corrective actions required. The provider should receive a copy of this form. In all cases, resolution of problems should be sought and noted in subsequent home visits and reviews of records.

Meal Disallowance as Related to Home Visits

For all visits, monitors must determine that key staff (providers and their permanent substitutes) have their CACFP paperwork available (menus and meal claims). If these are not available and/or up-to-date, then the provider's meals must be deducted back to the beginning of the month.

If the provider and/or the provider's key staff refuse to give the monitor access to her home, the monitor must still ask to see records for the month and to verify children are in attendance that day. If the provider and/or key staff cannot or will not provide records for the month, the meals must be

deducted back to the beginning of the month. If the provider has children in care but refuses to allow the monitor to enter the home to verify the children in attendance, meals for that day must be deducted. Additionally, the contact could not count as a full monitoring visit.

If an observed meal is not creditable, the meal must be disallowed.

During home visits, sponsor monitors must conduct a five-day reconciliation of meal counts with enrollment and attendance records. Based on the reconciliation, sponsor monitors must determine whether the meal counts are accurate. If there is a discrepancy between the enrollment or attendance records and the meal count records, the sponsor monitor must attempt to reconcile the difference and determine whether the establishment of an over claim is necessary.

Home Visits for Providers Doing Seasonal Care

In certain instances where family day care home providers are doing care less than four months during the year, Sponsors may visit these providers less frequently than they may visit providers doing year-round care. The Sponsor monitor may visit the home only once, but it has to be during the first four weeks the provider begins claiming meals. For example, providers who are teachers during the school year but take care of children in their home during the summer months need to be visited only once, but the visit must be during the first four weeks the provider claims meals.

In some cases, where the family day care home provider is doing care less than 12 months, fewer visits may be required. If the provider does care 5-8 months in a monitoring year, two visits are required. If the provider does care 9-12 months in a monitoring year, three visits are required. Again, no more than six months can elapse between visits.

Review Averaging

Sponsors are permitted at their discretion, to average their home visits. The Sponsor must conduct the same number of home visits (three times the number of homes). However, the Sponsor may arrive at that number by reviewing some homes twice a year and others more than three times per year.

If a Sponsor chooses to average home visits, each home must still receive at least two unannounced visits, at least one unannounced visit must be a meal visit, the first visit must be within the first four weeks of operation, and no more than six months can elapse between visits. If only two visits were done in a review year, the first visit of the next year must be within nine months of the previous visit.

Prior to averaging home visits, the Sponsor must submit their plan for implementing and tracking averaged visits to CDPHE-CACFP and the plan must receive approval from CDPHE-CACFP. Once the Sponsor's plan is approved, the Sponsor may average homes without notifying CDPHE-CACFP in advance.

PROGRAM INTEGRITY

Sponsors must identify, follow-up on, and correct non-compliance issues to bring providers into compliance. If a Sponsor doesn't perform their function of monitoring non-compliance and bringing providers into compliance or terminating providers, and a significant number of non-compliant providers are seen, the Sponsor would be out of compliance with their Program Agreement with CDPHE-CACFP.

The integrity process allows sponsors a systematic approach to address providers' noncompliance and allows providers the opportunity to correct areas of noncompliance within specific timeframes. Sponsors are responsible for reclaiming reimbursement from providers for previous claims determined to be invalid. For example, if a provider has been reimbursed for meals that were later determined not

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to have been served based on parent verification of children's attendance, the Sponsor is responsible for arranging to reclaim the reimbursement. Sponsors must make every effort to reclaim invalid reimbursement after a provider leaves the Program. If a Sponsor has exercised all available options to reclaim the reimbursement but has not been successful, the Sponsor should contact CDPHE-CACFP who may seek to have the debt forgiven by USDA.

Identification of Providers at High Risk of Program Non-compliance

To assure program integrity, Sponsors should use indicators of provider noncompliance, such as the following, to identify providers at highest risk of inappropriate claiming. Verification methods should then be used to validate claims and assure compliance.

- ◆ Providers who submit block claims.
- ◆ Providers whose claiming pattern is broken only by an announced or unannounced monitoring visit.
- ◆ Providers who regularly claim children on holidays.
- ◆ Providers whose completed claim is received prior to the last day of the month but completed through the last day of the month. (Sponsor will need to follow-up, as a provider cannot claim for a meal prior to serving it.)
- ◆ Providers who conduct extensive shift care.
- ◆ Providers who regularly receive greater than \$500 per month in reimbursement.
- ◆ Providers who have complaints or concerns expressed against them. Sponsors may use their own discretion to decide if secondhand information is reliable and warrants investigation. Sponsors should follow-up on complaints.
- ◆ Providers whose home visit information for meals claimed, menus, and children in attendance differs from the information submitted on the claim for reimbursement.
- ◆ Providers who are difficult to schedule or frequently unavailable to visit because they fail to provide advanced notice that they will be away from their home.
- ◆ Providers who deny monitors access to their home while children are in care or deny access to program records.
- ◆ Providers who continue to exceed license capacity requirements after reports of over license capacity have been made to CDHS.

Verification Methods to Validate Claims

There are several methods that can be used to investigate providers who are suspected of submitting invalid claims. Some of the possible methods include:

- ◆ Comparing a submitted claim to the information observed on a home visit;
- ◆ The five-day record reconciliation of meal counts with enrollment and attendance records conducted during home visits;
- ◆ Unannounced visits;
- ◆ Sign in/sign out sheets;
- ◆ Household contacts.

Comparing the submitted claims to home visit information and the five-day reconciliation are often the Sponsor's first methods to verify claims. If discrepancies are seen, Sponsors can use unannounced visits and sign in/sign out records to determine if the provider is submitting invalid claims. If either the unannounced visit or the sign in/sign out records indicate an invalid claim or if the information obtained from the unannounced visit or the sign in/sign out sheets needs further explanation, parent

verification or household contacts must be used. In some instances, it may be most appropriate to verify claims by conducting household contacts immediately after detecting discrepancies during home visits or on claims.

Parent Verification via Household Contacts

Parent verification involves ensuring that enrolled and claimed children were in the home at the times the meals that were claimed were served and that the child received the meal being claimed. In verifying the meals claimed for a child with the parent, the Sponsor may use either a letter or a phone call or a combination of both, to obtain information on the dates and times the child was in care, and if possible, the meals received while in care.

Sponsors must maintain systems, policies, and procedures for staff to use in conducting household contacts. These standard policies and procedures should specify:

- ♦ How household contacts will be conducted. For example, when contacts will be conducted by calling the household via telephone versus sending letters. (With either method, staff should ask open-ended questions to determine if the children were in care and if they received meals claimed by the provider.)
- ♦ Which staff members are responsible for each of the following activities: determining when household contacts will be made, conducting the contacts, documenting the results, and determining what action will be taken based on the results.
- ♦ That staff will attempt to contact all families with children in care if the provider's entire claim is suspect. (In some cases only a portion of the claim may be in question, in which case only some households may need to be contacted. For example, in the case where the children of three families are typically seen during home visits, but recently one family's child has been claimed but not seen.)
- ♦ Timelines staff will use when conducting household contacts. For example, how soon after the decision is made to conduct household contacts are they to be completed and how long are they to allow parents to respond. (It is in the best interest of the Sponsor to conduct a household contact as quickly as possible so as to assess the most current information.)
- ♦ What staff will do if a contact cannot be made due to circumstances such as, a disconnected phone, returned correspondence, or no one home.
- ♦ What documentation staff will maintain on file for each contact made, whether made verbally, in writing, or both. Different forms of documentation may be used for each. (Sponsors should, whenever possible, request that the individual providing the information send to them written documentation explaining any discrepancies between the provider's claim and children's attendance.)

If discrepancies are found between the provider's claim and children's attendance as reported by the parent or it is determined that parents cannot be reached and therefore cannot verify that their children are in care, the Sponsor should proceed with a discussion of the discrepancy with the provider and determine what action to take.

Follow-up and Documentation on Findings of Non-compliance

Once an investigation reveals that a provider is not in compliance with Program rules and/or has submitted an invalid claim, the Sponsor must determine if the deficiency/error is serious or less than serious. In order to determine this, the Sponsor should consider **frequency** and **severity** of the deficiency/error.

Frequency should be determined by reviewing the provider's historical record to see if the same or similar problem had been noted in the past and if so, how often. Severity should be determined by considering the error in relation to its consequences to Program integrity. For example, some

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deficiencies are so severe that even one occurrence could be considered serious; such as claiming multiple meals served to several children whose parents verified they were not in care. Some deficiencies or errors may not be considered severe, such as serving a non-creditable meal, but may be considered serious if found to occur frequently. In determining whether a deficiency is serious or less than serious, the Sponsor may want to additionally consider other factors, such as the provider's length of program experience and literacy level or English proficiency.

Sponsors must ensure that providers take corrective action to come into compliance with Program rules once a deficiency/error is detected, whether considered serious or less than serious. A provider who fails to correct serious deficiencies within the allotted time for correction must be dropped for cause from program participation (see page [47](#) for related procedures). A provider who fails to correct a deficiency/error considered less than serious, may then be considered seriously deficient in their operation of the CACFP.

Documentation must be maintained on the detection and resolution of all deficiencies /errors found, including the process and results of any related investigation or verification work conducted. In the case of serious deficiencies, documentation must include the information specified in the following procedures.

SERIOUS DEFICIENCY PROCESS

The following are noncompliance issues that rise to the level of a serious deficiency as listed in the CACFP regulation 7 CFR 226.16(l)(2). The serious deficiency may include, but are not limited to:

- ♦ Submission of false information on the application;
- ♦ Submission of false claims for reimbursement;
- ♦ Simultaneous participation under more than one Sponsor. 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 the public health or safety;
- ♦ A determination that the family day care home has been convicted of any activity that occurred in the past seven years and that indicated a lack of business integrity. A lack of business integrity includes deceit, 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 lack of business integrity as defined by the State agency, or the concealment of such conviction;
- ♦ Failure to participate in training; and
- ♦ Any other circumstances related to non-performance under the Provider Agreement, as specified by the Sponsor or the State agency.

If the Sponsor determines that a family day care home has committed one or more of the serious deficiencies listed above, the Sponsor must use the following procedures to provide the family day care home notice of the serious deficiency and offer the home an opportunity to take corrective action. However, if the serious deficiency(ies) constitutes an imminent threat to the health or safety of the participants, or the family day care home has engaged in activities that threaten the public health or safety, the Sponsor must immediately suspend the family day care home's CACFP participation prior to any formal action to revoke the home's licensure or approval.

Serious Deficiency Notice

The Sponsor must notify the family day care home that it has been found to be seriously deficient by using the CDPHE-CACFP Prototype Letters for the Serious Deficiency Process and must provide a copy of the notice to the State agency. According to the CACFP regulation 7 CFR 226.2 Notice means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by fax, or by email, that describes an action proposed or taken by the sponsoring organization with regard to a day care home's participation. The notice must specify the action being proposed or taken and the basis for the action. A notice is considered received by day care home five days after being sent to the addressee's last known mailing address, fax number, or email address. Any timeframes associated with a given notice start with the earliest form of transmission. It is a **best practice** to get proof of the delivery of the notice.

The serious deficiency notice must specify:

- ♦ Each serious deficiency(ies) (listing the serious deficiency and the regulatory citation that applies).
- ♦ The corrective actions to be taken by the family day care home to correct the serious deficiency(ies). The serious deficiency notices must provide detailed information on the provider's required corrective action plan (CAP) for the identified serious deficiency(ies), which are specific to the deficiency(ies) needing correction and which addresses the root causes of the problems discovered.
- ♦ The time allotted to correct the serious deficiency or deficiencies (**not to exceed 30 calendar days**).
- ♦ That the serious deficiency determination is not subject to administrative review
- ♦ (appeal);
- ♦ That failure to fully and permanently correct the serious deficiencies within the allotted timeframe will result in the issuance of a Notice of Proposed Termination and Disqualification of the family day care home agreement and disqualification of the family day care home;
- ♦ If the family day care home provider is eligible to receive Program payments during the period of corrective action. Usually the provider will receive payments for valid claims unless the home has been suspended for health and safety reasons. and
- ♦ That the family day care home's voluntary termination of its agreement after being notified of the serious deficiency determination will still result in the family day care home's formal termination by the sponsoring organization and placement of the family day care home and provider's names on the NDL [7 CFR 226.16(l)(3)].

At the same time notice is issued, the Family Day Care Home Sponsor must provide the serious deficiency notice and supporting documentation to the State agency (7 CFR §226.16(l)(3)(i)).

Provider Corrective Action Plan (CAP) Guidance

According to (7 CFR §226.16(l)(3)(F)(ii)), providers are required to submit a CAP detailing the corrective actions taken to fully and permanently correct each serious deficiency to the sponsoring organization. If the Sponsor determines that the corrective actions fully and permanently correct each serious deficiency, then the Sponsor will temporarily defer its serious deficiency determination.

In response to the Serious Deficiency Notice, the provider must submit a CAP that details the internal controls implemented to ensure that the serious deficiencies identified are fully and permanently corrected.

A successful CAP includes:

- ♦ The provider's full name, address, and date of birth.

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- ♦ Each serious deficiency and the procedures to be implemented to correct the issue;
- ♦ The timeframe for implementation of the procedures to correct the issue;
- ♦ The location where records will be kept associated with correcting the issue; and
- ♦ Supporting documentation as described below.
- ♦ The policies and procedures or other official documentation which ensures the serious deficiencies have been fully and permanently corrected.

The submission of the CAP must include the provider's official documentation demonstrating that the serious deficiencies have been fully and permanently corrected. The Sponsor will rely on the submission of this information to determine whether the provider has internal controls in place to ensure accountability. Therefore, the provider's CAP must address the following:

- ♦ **What** are the serious deficiency(ies) and the procedures that were be implemented to address the serious deficiency(ies)?
- ♦ **Who** addressed the serious deficiency? List personnel responsible for this task.
- ♦ **When** was the procedure for addressing the serious deficiency implemented? Provide a timeline for implementing the procedure (i.e., will the procedure be done daily, weekly, monthly, or annually, and when will it begin?)
- ♦ **Where** is the CAP documentation retained?
- ♦ **How** will the providers implement and maintain the new policies and procedures (e.g., Handbook, training, website, etc.)?

Additional **supporting** documentation must be submitted with the CAP. This might include copies of child enrollment forms, income eligibility form, staff training documentation, menus, sign-in and sign-out records, meal count forms, etc.

FDCH Sponsor Serious Deficiency Notification Process

At the same time a serious deficiency notice is issue, the Sponsor must send to the CDPHE-CACFP office the following information as required by the CACFP regulation and guidance:

1. Copies of the original notices of serious deficiencies mailed to providers placed on corrective action due to a serious deficiency. The notices must include:
 - a) The provider's name, address, and the date of the notice.
 - b) The serious deficiency (ies) including the regulatory citation that applies.
 - c) Actions to be taken to correct the serious deficiencies including the request to submit the provider CAP;
 - d) The time allotted to correct the serious deficiencies (**not to exceed 30 calendar days**);
 - e) That the serious deficiency determination is not appealable;
 - f) That failure to fully and permanently correct the serious deficiencies within the allotted time will result in issuance of a Notice of Proposed Termination and Disqualification and;
 - g) That voluntary termination of the agreement after being determined seriously deficient will result in issuance of a Notice of Termination and Disqualification and placement on the National Disqualified List.

The serious deficiency letter must be sent by certified mail/return receipt, an equivalent private delivery service (such as FedEx), or fax, or e-mail as required by the CACFP regulation 7 CFR 226.2. Please note that according to the CACFP regulation 7 CFR 226.2. definition of a "notice." if the notice is undeliverable, the notice is considered to be received by the day care home provider five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

2. Along with the copies of the serious deficiency notices, the Sponsor must send to the CDPHE-CACFP office copies of the return receipts, equivalent private delivery service (such as FedEx), or fax, or e-mail from the Sponsors' serious deficiency correspondence sent to providers. The dates will be tracked in the CDPHE-CACFP Corrective Action, Drop While Under Corrective Action (DUCA), and Termination Lists.

Successful Corrective Action

If the provider submits corrective action plan and the documentation submitted by the provider within the 30 calendar days demonstrates correction of the serious deficiencies identified, the serious deficiency determination must be temporarily deferred. As required by 7 CFR 226.16(l)(3)(i)(C), the family day care home has 30 calendar days to correct the serious deficiencies, not simply to provide a plan for correcting. If the corrections are made to the sponsoring organization's satisfaction, the sponsoring organization must:

- ♦ Notify the family day care home that the sponsoring organization has temporarily deferred its serious deficiency determination; and
- ♦ Remind the family day care home that the corrective action must be permanent or the serious deficiency process will be reinstated starting with the Notice of Proposed Termination and Disqualification.
- ♦ At the same time this notice is issued, the sponsoring organization must provide the CDPHE-CACFP with:
- ♦ A copy of the CAP submitted by the provider to the sponsoring organization listing the provider's signature date; and
- ♦ A copy of the temporarily deferred notice sent to the provider once the CAP and the documentation submitted by the provider within the 30 calendar days addresses the serious deficiencies identified and is accepted by the Sponsor.

Unsuccessful Corrective Action

If the CAP and the documentation submitted by the provider by the 30 calendar days do not meet the CAP requirements, or no CAP is submitted; or if the provider voluntarily terminates CACFP participation before completing corrective action or drops while under corrective action; the Sponsor must issue a Notice of Proposed Termination and Disqualification and provide a copy of the notice to the CDPHE-CACFP.

The Proposed Termination Notice must specify:

- ♦ The provider's name, address, license and the date of the notice.
- ♦ That the family day care home's opportunity for an administrative review (appeal) of the proposed termination.
- ♦ The reason for the proposed termination is because the family day care home did not correct the serious deficiency(ies).
- ♦ That the family day care home may continue to participate and receive Program reimbursement for eligible meals served until its administrative review (appeal) is concluded.
- ♦ That the family day care home that termination of the home's agreement will result in the home's termination for cause and disqualification.
- ♦ That if the family day care home seeks to voluntarily terminate its agreement after receiving the Notice of Proposed Termination and Disqualification, the home will be placed on the National Disqualified List.
- ♦ If the provider requests an appeal, Sponsors must follow the minimum appeal procedures listed on page 52 of this section.

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As stated in the USDA Serious Deficiency, Suspension, & Appeals for State Agencies & Sponsoring Organizations handbook, *“the issuance of the notice of intent to terminate does not mean that the DCH should stop working on corrective action. In fact, the sponsoring organization can accept corrective action at any point up until the appeal deadline has passed or the DCH’s agreement is terminated. If the DCH submits documented evidence which convinces the sponsoring organization that the DCH has fully and permanently corrected the serious deficiency, the sponsoring organization may accept the DCH’s corrective action and temporarily defer the proposed termination. This is not considered a “settlement agreement” because it would be acceptable corrective action. Note again that if the DCH later fails to maintain this corrective action, the sponsoring organization **must** immediately re-issue a notice of proposed termination and disqualification [7 CFR 226.16(l)(3)].”*

Sponsors must continue to pay any valid claims for reimbursement for eligible meals served until the serious deficiency is corrected or the family day care home is terminated, including the period of any administrative review (appeal).

TERMINATION (DROPPED FOR CAUSE) AND DISQUALIFICATION PROCESS

Termination for cause is defined as the termination of a family day care home’s Provider Agreement by the Sponsor due to the home’s violation of the agreement. FDCH Sponsors must initiate action to terminate the agreement of a family day care home for cause if the Sponsor determines the home has committed one or more serious deficiency(ies) as listed above and the home has not corrected the serious deficiency within the allotted time for correction.

The Sponsor must immediately terminate the family day care home’s agreement and disqualify the home when the administrative review (appeal) official upholds the Sponsor’s proposed termination and proposed disqualification, or when the home’s opportunity to request an administrative review (appeal) expires. The Sponsor must immediately:

- ♦ Notify the provider that the provider agreement has been terminated and that the family day care home has been disqualified. The Termination Notice and the Termination and Disqualification Notice Form must contain the following information:
 - The provider’s name , address, date of birth and the date of the notice;
 - If applicable, and if the provider fail to repay a debt, the amount of any determined debt associated with the provider;
 - The name and address of sponsoring organization.
 - The reason for disqualification.
- ♦ At the same time the notice is issued, the Sponsor must provide a copy of the termination and disqualification notice and the Termination and Disqualification Notice Form to the CDPHE-CACFP within 10 calendar days of the notification for inclusion on the NDL

The CDPHE-CACFP office tracks the serious deficiency process on the CA-DUCA-Term Lists, which is shared with FDCH Sponsors on a monthly basis.

SUSPENSION PROCESS

When conducting Child and Adult Care Food Program (CACFP) monitoring of day care home providers, monitors must remember that the provider’s main priority is to protect the health and safety of those in care. CACFP regulations require sponsors to notify appropriate licensing, health, or other authorities of conduct or conditions that pose an imminent threat to the health or safety of participants or to the public. USDA released policy, CACFP 13-2013 on Health and Safety in the CACFP, and provided State agencies with additional guidance regarding health and safety in the December 2013 publication,

Serious Deficiency, Suspension, & Appeals for State Agencies & Sponsors Handbook. Since the release of the USDA policy and guidance on health and safety, the CDPHE-CACFP in collaboration with the Colorado Department of Human Services (CDHS), Division of Early Care and Learning, Child Care Licensing worked together to achieve a level of consistency between the CDPHE-CACFP, CACFP sponsors, and CDHS child care licensing professionals when making a determination of imminent threat to health and safety. The information listed below provides additional guidance to help sponsor monitors detect and report the types of problems that rise to this higher level of concern.

Identifying imminent threat to health and safety and immediate response

CACFP regulation 7 CFR 226.16(l)(4)(i) requires sponsoring organizations to take immediate action described in this section when any staff member identifies imminent threat to health and safety by either of the following methods:

- a) State or local health or licensing officials have cited a day care home provider for serious health or safety violations. If the CDPHE-CACFP receives notification of any imminent threat to health and safety citation, the CDPHE-CACFP will notify the sponsor.
- b) Sponsoring organization staff members identify an imminent threat to the health or safety of children while at a day care home or that the day care home provider has engaged in activities that threaten public health or safety.

While at a day care home, CACFP monitors must exercise judgment in making a determination of imminent threat to health and safety. Although the CDPHE-CACFP does not require monitors to routinely assess health and safety issues during their onsite visits, sponsors must train monitors to recognize and respond to conditions that pose an imminent threat to the health or safety of the children or the public.

The following list includes examples of what the CDPHE-CACFP and the CDHS, Child Care Licensing would consider an imminent threat to health and safety in family day care homes. This list is not all-inclusive, as the types of all possible dangerous situations cannot be fully anticipated. Likewise, some of the examples might vary in nature and severity, which requires judgment to decide whether children or the public are in danger. Depending upon the circumstances, the situations in this list may or may not result in the immediate issuance of an order of summary suspension of a child care license by the CDHS, Child Care Licensing.

- ♦ Inadequate or incompetent supervision
- ♦ Providing care for twice the allowed number of children per qualified staff member
- ♦ Providing care for an excessive number of children beyond the authorized license capacity; over-capacity for very young children and infants is especially concerning, even when license capacity is exceeded by a small number of children and infants.
- ♦ Unsanitary or unsafe conditions in the physical environment that remain uncorrected after citation by the local health inspection agency or fire department; includes, but not limited to unsanitary food service or water, inadequate light, poor ventilation, lack of overall sanitation, inadequate heating, or malfunction of the fire detection or prevention system
- ♦ Lost or missing child
- ♦ Suspected maltreatment, abuse, or neglect of a child in the home
- ♦ Formal charge of child abuse in the home
- ♦ Suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while on the premises of the home
- ♦ Injuries to children requiring medical or dental care
- ♦ Illness or injuries requiring hospitalization or emergency treatment
- ♦ Mental health conditions or situations impacting the competency of the care provider

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- ♦ Health and safety emergencies involving parents or guardians and visitors to the home
- ♦ Death of a child or staff member (including a death that occurred outside of the home that had resulted from serious illness or injury while in care at the home)
- ♦ Presence of a threatening individual who attempts or succeeds in gaining entrance to the home
- ♦ Care provided by staff under the influence of drugs or alcohol

If, for these or for any other reason, a monitor determines that a child or the public is in imminent danger, the monitor must call the proper authorities immediately and stay at the site until authorities have arrived. Wherever there is a situation in CACFP involving a health or safety threat, USDA Food and Nutrition Service expects monitors to respond to the problem when they see it. If the licensing agency cannot make an immediate onsite visit, the sponsoring organization will take action that is consistent with the recommendations and requirements of the licensing agency. Sponsor responses to imminent threats to the health and safety of children in the CACFP should be applied consistently and fairly.

In the CACFP, immediate action is required of sponsors once the determination of imminent threat is made, as described in this section even if the licensing agency has not yet taken formal action to revoke the day care home provider's license or approval. If the proper authorities (may include, but not limited to CDHS licensing staff, fire department personnel, law enforcement, health department officials) indicate it is safe to leave the day care home while the investigation continues, the monitor and sponsoring organization must immediately initiate action as described below.

Regulatory processes in response to health and safety threats in day care home providers:

CACFP regulations give sponsors ample authority to act should they find that children at a day care home provider are not safe or that the day care home provider has engaged in activities that threaten public health or safety. Even if the proper authorities indicate it is safe for the monitor to leave a home during further investigations or inquiry, the monitor and sponsor must still initiate the suspension and serious deficiency process [7 CFR 226.16(l)(4)] as described below.

USDA Food and Nutrition Service expects sponsors to take immediate action to stop payments and suspend the day care home provider's CACFP participation and declare the home seriously deficient, regardless of any formal procedures pending or underway by the licensing authorities to revoke the home's license or approval. Applying the serious deficiency process further minimizes risk to the CACFP and underscores the sponsor's authority to determine whether a facility meets the requirements for CACFP participation.

Serious Deficiency, Suspension and Proposed Termination procedures for day care home providers (imminent threat to health and safety)

The suspension procedures outlined in the regulations [7 CFR 226.16(l)(4)(ii) - (iv)] require the sponsor to notify the day care home provider that its CACFP participation has been suspended, that the day care home provider has been determined seriously deficient, and that the sponsor proposes to terminate the day care home provider's agreement for cause. The sponsor also must provide a copy of the notice to the CDPHE-CACFP. The CDPHE-CACFP will monitor the process and provide technical assistance when needed.

A suspension is the only time a sponsor can combine a notice of serious deficiency with a notice of proposed termination and proposed disqualification. A suspension is the only time a sponsor can stop paying day care home providers before providing the opportunity to correct the problems and appeal the termination.

When issues of imminent threat to the health or safety of the children or the public are detected in a family day care home provider participating in CACFP, the Sponsor must use the CDPHE-CACFP prototype letter, *Notice of Serious Deficiency, Suspension, Proposed Termination and Proposed Disqualification for Providers (Combined notice - health threat)* adapted from the USDA and submit a copy of the notice to the CDPHE-CACFP office.

The notice must state:

- ♦ The serious deficiency found including the regulatory citation;
- ♦ That the day care home may only appeal the proposed termination;
- ♦ That participation, including all CACFP payments, is suspended until the appeal is concluded;
- ♦ That if the hearing official overturns the suspension, the day care home provider may claim reimbursement of eligible meals served during the suspension;
- ♦ That termination from the CACFP will result in placement of the day care home provider on the National Disqualified List;
- ♦ That the day care home provider's voluntary termination of its agreement with the sponsoring organization after receiving the notification will still result in the day care home provider's formal termination by the sponsoring organization and placement on the National Disqualified List; and
- ♦ The sponsoring organization's appeals procedures [7 CFR 226.16(l)(4)(ii)(A)(ii)(A)-(E)].

Once a day care home provider is suspended, participation, including all CACFP payments, remains suspended until the administrative review is complete if the day care home provider submits a request for appeal by the established deadline. If the suspension is overturned following the administrative review, the day care home provider may continue participation and may claim reimbursement for eligible meals served and documented during the suspension period.

CACFP regulations prohibit a sponsoring organization from making any Program payments to a day care home provider that has been suspended until any appeal of the proposed termination is completed. If the suspended day care home prevails in the appeal of the proposed termination, the sponsoring organization must reimburse the day care home for all eligible meals served during the suspension period that are properly documented [7 CFR 226.16(l)(4)(iv)]. If the provider loses the appeal, payments are not to be made to the provider.

Day care home provider agreement termination and disqualification procedures (imminent threat to health and safety)

If the day care home provider appeals the sponsoring organization's suspension, proposed termination, and proposed disqualification, and the hearing official upholds the sponsoring organization's action, the sponsoring organization will terminate the day care home provider's agreement and disqualify the day care home provider immediately following the hearing official's decision. The sponsoring organization must issue the notice of termination and disqualification to the day care home provider [7 CFR 226.16(l)(4)(iii)].

The notice must state:

- That the day care home provider has been terminated from the Program; and
- That the day care home provider will be added to the National Disqualified List.

The CDPHE-CACFP prototype letter, adapted from the USDA prototype letter, *Notice of Termination and Disqualification - Suspension of Day Care Home Provider for Imminent Threat to Health and Safety* must be used if the sponsoring organization wins the appeal/prehails/decision is upheld. The sponsoring organization must submit a copy of the letter issued to the day care home provider to the CDPHE-CACFP office.

If the day care home provider does not request an appeal, the sponsoring organization will immediately terminate the day care home provider's agreement and disqualify the day care home provider when the opportunity for the provider to request the appeal expires. At the same time, the sponsoring organization must issue the notice of termination and disqualification to the day care home provider.

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The CDPHE-CACFP prototype letter, adapted from the USDA prototype letter, *Notice of Termination and Disqualification - Suspension of Day Care Home Provider for Imminent Threat to Health and Safety* must be used if a provider does not submit a request for appeal. The sponsoring organization must submit a copy of this letter to the CDPHE-CACFP office.

DROPPED FOR CONVENIENCE PROCESS

Termination for convenience is defined as termination of a family day care home's Program agreement by either the Sponsor or the family day care home due to considerations unrelated to either party's performance of Program responsibilities under the agreement.

A Sponsor may drop a home for convenience only for reasons unrelated to the provider's performance under the contract. Because termination for convenience is not based on the "fault" of the other party, providers who have had their Program agreement terminated for convenience are not placed on the National Disqualified List. In addition, if a provider's agreement is terminated for convenience by its Sponsor, the provider may participate in the Program under another Sponsor, and their participation would not be subject to the provider transfer limits.

There are a number of circumstances under which a Sponsor could legitimately determine it had to terminate a provider's agreement for convenience. For example, if a Sponsor operated the Program in 200 homes in 4 counties, but 2 of the homes were located in the most remote county and were farthest from the Sponsor's offices, the Sponsor might conclude that it was no longer cost-effective to Sponsor these providers. Therefore, in order to maintain the Sponsor's financial viability, the Sponsor could legitimately terminate the provider's agreement "for convenience."

The Sponsor should notify the family day care home, in writing, at least 30 calendar days in advance of the date of the last meal the Sponsor would reimburse. The letter must indicate the reason the provider is being dropped and the last date for which the provider's meals will be reimbursed. The intent of this procedure is to allow the provider to sign-on with another Sponsor and avoid losing any days of participation in the CACFP as she switches Sponsors.

ADMINISTRATIVE REVIEW (APPEAL) PROCESS

FDCH Sponsors in Colorado are responsible for the administrative review (appeal) of any proposed termination of a family day care home's agreement for cause and the related proposed disqualification of the home and the suspension of any home's participation for serious health or safety violations. Sponsors must provide their family day care home providers with their administrative review (appeal) procedures on an annual basis, whenever an action that can be appealed is taken, or upon request.

Minimum Appeal Procedures

- ♦ The Sponsor must show uniformity in the appeals process. The same procedures must apply to all homes.
- ♦ Sponsors must allow representation. Providers may represent themselves, retain legal counsel, or be represented by any other person of their choosing.
- ♦ Sponsors must allow for review of the record and opposition. The provider must have the opportunity to review the record on which the sponsor's action was based, and refute the action in writing. Sponsors may establish a requirement that they have the opportunity to review any documentation or evidence the provider intends to offer to dispute the Sponsor's action. It is especially important that both parties to the appeal have the chance to review all of the documentation when a decision is going to be made solely on the written record.
- ♦ The hearing official must be independent and impartial. This means that, although the hearing official may be an employee of the State agency or an employee or board member of the

sponsoring organization, he or she must not have been involved in the action that is the subject of the appeal or have a direct personal or financial interest in the outcome of the appeal.

If the hearing official is an employee of the sponsor, he or she may not occupy a position in which he or she is potentially subject to undue influence from the individual responsible for the sponsoring organization's action, nor may he or she occupy a position in which he or she may exercise undue influence on the individual responsible for the action.

The provider must be permitted to contact the hearing official directly if he or she so desires.

- ♦ The hearing official must make a decision based only on the information provided by the Sponsor and the provider, and on Federal and State laws, regulations, policies, and procedures governing the Program.
- ♦ The hearing official must inform the Sponsor and the provider of the appeal's outcome within the period of time specified in the Sponsor's appeal procedures. This timeframe is an administrative requirement for Sponsors and may not be used as a basis for overturning the termination if a decision is not made within the specified timeframes.
- ♦ The determination made by the hearing official is the final administrative determination to be afforded the family day care home. So, since the State agency delegates to its Sponsors the responsibility for hearing appeals and if a decision is upheld, the home may not then appeal the decision to the State agency.
- ♦ Although hearing official may choose to offer in-person hearings, there is no requirement that they do so.

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SPONSOR RESPONSIBILITIES

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PROVIDER RESPONSIBILITIES

FAMILY DAY CARE HOME ELIGIBILITY REQUIREMENTS

The CACFP regulation defines a day care home as an “organized, non-residential child care program for children enrolled in a private home that is licensed or approved as a family or group day care home and under the auspices of a Sponsor.”

The current laws and regulation limit participation in the CDPHE-CACFP to homes providing non-residential child care. The only residential children whose meals may be claimed for reimbursement are:

- ♦ The provider’s own household children if the provider is income eligible.
- ♦ Foster children.
- ♦ Children for whom providers have been given legal guardianship.
- ♦ Children who have been placed in the provider’s household and are a ward of a court or welfare agency.

Only family day care home providers who give care in their private residence or the private residence of another can participate in the CACFP as a family or a large child care home. Any commercial properties, churches, or schools are not considered private residences. Therefore, no one operating a child care from one of these sites is eligible to participate in the CACFP as a family day care home.

A family day care home provider is limited to one home per provider. She cannot be licensed in two homes at different times or days of the week. A provider may be licensed and participate in the CACFP in one home but may work as a helper or substitute in another home.

In instances where more than one provider operates out of the same residence:

- ♦ Both individuals must be licensed or appropriately approved at the same residence.
- ♦ Each provider must care for different children on different shifts.
- ♦ Each provider must participate under the same Sponsor.

LICENSING REQUIREMENTS

To participate in the CACFP in Colorado, each family day care home provider must have a valid license from the Colorado Department of Human Services (CDHS) or alternate approval documentation to operate a family day care home. The provider must comply with the CDHS licensing requirements which stipulate the number and ages of children allowed in care in her home. Family day care home providers are required to notify their sponsor in a timely manner of any changes to their license or if they become unlicensed.

The CDHS renews permanent licenses annually. Each year, the provider receives a sticker that indicates the provider has renewed her license for that year. The expiration/anniversary date of the renewed license is always the first date of the month of the year displayed on the renewal sticker regardless of the effective date of the license.

Requirements for Documenting that Providers Licensed

To ensure that providers are licensed prior to reimbursing them for meals served, CDPHE-CACFP requires all FDCH Sponsors to:

- ♦ Have documentation of the family day care home provider’s current license in the provider’s file prior to the Sponsor reimbursing the provider for meals.

- ♦ Check the provider's license capacity against the claim for reimbursement during claims processing to:
- ♦ Ensure that family day care home providers are not reimbursed if they claim meals over their license capacity, unless a shift roster shows the children are coming and going during the mealtime.
- ♦ Ensure the provider is not over her license capacity at any one time.
- ♦ Have each Program representative check licenses during monitoring visits to determine if the provider is currently licensed and compare this information to the file information.

If there is a delay in the family day care home provider receiving her current sticker due to CDHS administrative issues, alternate forms of documentation of licensing may be used temporarily. The documentation must include the following information:

- ♦ The provider's name (first and last), current address, and license number.
- ♦ The number and ages of children the provider is allowed to care for (including her own).
- ♦ The effective dates of the license if it is a 6-month provisional license or confirmation that CDHS has received the provider's continuation fee and the permanent license has been continued.
- ♦ Any license exceptions, experienced provider licenses, or waivers that have been granted to the provider must be fully documented.
- ♦ The information to document that the provider is currently licensed must be obtained in writing. The signature and date of the licensing specialist is required. The information must be clearly documented and legible.

Recommendations for License Letters and Reports of Inspection are only acceptable if they clearly show the provider is licensed. Many say they are recommended for licensing contingent upon certain issues being corrected. This type of documentation is not acceptable, unless there is documentation indicating the issues have been corrected and the provider was licensed.

In those instances when the Reports of Inspection list the license number and the date of the report, and the CDHS Open List includes the effective and expiration dates of licenses, the CDPHE-CACFP will accept the new Report of Inspection form that states, **"No violations were observed during this inspection,"** and **"A Regular Family Home License will be recommended with the following capacities and restrictions,"** as the license documentation to approve providers for CACFP participation.

Dual License

Some family day care home providers have a dual license. A dual license is issued to providers who are both foster parents and licensed child care home providers. In such cases, the license will list the number of child care children and the number of foster children the provider may have in care.

CDHS is now issuing an additional child care license to providers who have a dual foster care license, which included day care and foster care children identified under one license number. Consequently, those providers now have two different license numbers.

The CDPHE-CACFP web-based system only has the capability to store one license number. Therefore, the CDPHE-CACFP requires FDCH Sponsors to:

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Not change the provider's existing dual foster care license number in the Minute Menu system to the new license number.

- ♦ Modify the affected providers' applications in the Minute Menu system by selecting "Dual Foster License Home" for the license type prior to the next provider application upload into the CDPHE-CACFP web-based system. This will alert the CDPHE-CACFP staff of those providers with dual license numbers.
- ♦ Submit a copy of the new license number issued by CDHS to the CDPHE-CACFP office. In this instance of dual license numbers, FDCH Sponsors do not need to submit a new Provider Agreement for the affected providers.

Participating Family Day Care Home Providers Who Operate Home School Programs

A provider who operates a home school must be licensed as a family day care home provider in order to participate as a family day care home in the CACFP. If the provider is income eligible and has a child care program, she may claim her own school age children at lunch if she has a "home school" program for them. This applies to children who have not yet reached the age of 13. A note must be placed in the provider's file indicating the reason a school age child is claimed for lunch on a school day.

The license capacity for a provider with a 6+2 license who operates a home school must include the school age child as one of the base 6 capacity during the school year. However, during the summer and school holidays they can be counted in the +2 count.

A child who is of school age and attends a "home school" may not be claimed by a different provider at lunchtime unless it is a "school holiday" and so indicated on that provider's claim form. If a child attends a "home school" at a home other than his/her own, that school age child may be claimed by that provider if the Sponsor has a note in the provider's file indicating that she operates a "home school."

School age children in "home school" may be claimed for snacks whenever school is not in session and if there is documentation in the file of the specific school schedule. For example, if a provider operates home school from 8:00 a.m. - 12:00 p.m., the provider may claim afternoon snacks if the school times and dates are documented in writing on the Meal Count Sheet /Meal Attendance Record or on an alternate form. Also, if the child is ill or it is a "school holiday," there must be documentation on the claim in the file. During "home school-hours", children cannot be claimed for a snack unless it is a school holiday, or the child is ill and there is documentation in the provider's file in the Sponsor's office.

OVERVIEW OF ELIGIBILITY OF CHILDREN

- ♦ All children must be enrolled for care with the family day care home provider. The term children includes infants birth through 11 months of age and children 1 year of age and older.
- ♦ Children must be under 13 years of age, unless they are children of migrant workers, or developmentally disabled.
- ♦ The provider's own children are eligible only if the provider's household is determined to be income eligible.
- ♦ Kindergarten and school age children are only eligible to be claimed for a.m. snack when the child is in care during school holidays, legal holidays, or when the child is ill. Kindergarten and school age children may be claimed for lunch when the child is in care. For example, a family day care home provider may live close to a school and the parent may choose to have the child return to the care of the provider for lunch. Any time a kindergarten or school age child is claimed for an a.m. snack or lunch, the reason why must be documented on the provider's Meal Count Sheet/Meal Attendance Records or another form.

ENROLLMENT OF CHILDREN

All children and infants claimed on the CDPHE-CACFP must be enrolled for care. The Child Enrollment Form (CEF) must be signed by the parent/guardian some time during the month the child/infant is enrolled in the home. A provider may not receive reimbursement for a child's meals without a completed CEF on file in the Sponsor's office. One copy of this form should be maintained in the home and one by the sponsoring agency. A CEF must be completed for the provider's own children, including foster children. All enrolled children must have a CEF that includes the usual days and hours the child is in care and the usual meals the child will receive while in care. The CEF, like Income Eligibility Forms (IEF) or Child Household Income Eligibility Forms (CHIEFs), is effective for 12 months and must be updated each year. This means that enrollment forms completed in October 2014 are effective until October 31, 2015. The CEF must be signed by the child's parent or guardian and must indicate the usual days and hours the child is in care and the usual meals the child receives while in care. Sponsors may decide if they will track CEFs as they expire and renew them throughout the year or if they will institute an annual update system. For example: all CEFs are renewed in April or some other month of the Sponsors choosing. Copies of CEFs must be available and in the child care home for review during home visits and in the provider's file at the Sponsor's office.

RESIDENTIAL CHILD CARE

Provider's Own Household Children

"Provider's own children" is defined as all residential children related and unrelated in the household who are part of the same household economic unit. A household is defined as a group of related or unrelated individuals who are not residents of an institution or boarding home but are living as one economic unit and who share housing and all significant income and expenses. A household, therefore, is not necessarily defined by the traditional husband/wife/child family interpretation. In some situations, more than one economic unit may live within one structure.

Children whose parents or guardians have made a contractual agreement, whether formal or informal, with a provider for residential child care, and whose relationship with the provider is defined primarily by the childcare situation, are not considered the "provider's own."

Only providers who are determined to be Tier I eligible and meet eligibility requirements based on their household income may be reimbursed for their own household children who are enrolled for care. A provider may begin claiming her own household children who are enrolled for care only after she has done the following:

- ◆ Has been determined by the Sponsor to qualify for Tier I rates by income eligibility.
- ◆ Completed an Income Eligibility Form (IEF), the income eligibility determination has been made by the Sponsor, and the form is approved, signed and dated by the Sponsor. The form is valid for one year from the beginning of the month the Sponsor signs and dates the form. (See section 5 for more information on determining whether a family day care home provider qualifies for Tier I reimbursement and is eligible to claim her own household children who are enrolled for care.)
- ◆ Households that report zero ("0") income on their income eligibility forms are eligible for a 12 months period and sponsors do not need to obtain a new form until the required annual update.

Once the Sponsor has determined the provider's own household children are eligible to be claimed in the CACFP, the provider must complete a Child Enrollment Form (CEF) for each of her own household children prior to their meals being claimed for reimbursement. At least one other non-residential child who is enrolled for care in the family day care home must be in attendance and claimed for the same meal for the provider's own household children's meal to be eligible for reimbursement.

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Residential Foster Children

The Healthy, Hunger-Free Kids Act of 2010 provides categorical eligibility for Tier I meal reimbursement without further application to any foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household.

Households with foster and non-foster children may choose to 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. This will streamline the application process and may help the foster family's non-foster children qualify for Tier I meals based on household size and income.

When households with foster and non-foster children choose to include the foster child(ren) as a household member(s) in the household income applications (Provider IEF or CHIEFs), the funds paid to the household in the child's behalf are not considered income to the foster family. Other personal use income to be reported on income applications would be cash personally received by the child including, funds received from trust accounts, from the child's family for personal use, and from full-time or regular part-time employment. Funds identified for shelter, care, and medical and therapeutic needs are not considered as income for the child. Where CDHS funds cannot be identified by category, no portion of the provided funds is considered income.

Providers may claim meals served to foster children residing in the home only if enrolled children who live outside the provider's home are also present and being claimed for that meal as participants in the CACFP. The provider does not have to be income eligible to claim meals for an eligible foster child.

Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact.

Emergency Temporary Residential Care

Situations have arisen where, due to circumstances beyond the parent's or guardian's control, children who are enrolled in the family day care home and the CACFP need to be temporarily housed at the provider's residence overnight. Such situations include those in which something unexpected happens, such as a snowstorm, and/or where parents/guardians are unable to pick up their child(ren).

When an emergency temporary residential situation occurs, the children may continue to be considered "non-residential" for Program purposes for up to three days. Reimbursement may be claimed by the provider for the meals served to these children within Program limits, i.e., no more than two meals and one snack per child per day, for a maximum of three consecutive calendar days. This policy is intended to provide Program benefits to children who are otherwise eligible for them. It does not extend benefits to children who are permanent residents in an institutional setting.

Special Considerations for Military Families

Children from military families residing with a family day care home provider while the parents or guardians are under military deployment are not considered a "provider's own" child. In this special situation, the child would continue to participate in the meal service as a nonresidential participant and is eligible to be claimed for two meals and one snack, or two snacks and one meal. 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.

Residential Children Who Are Not the Provider's Own or Foster Children

When a provider is licensed to provide care at a location other than the provider's home, residential children at the licensed child care location are not to be considered the provider's own household children and their meals may not be claimed for reimbursement.

Exemptions to household applications

Each child residing in a Residential Child Care Institution (RCCI) is considered a household of one. An application is completed for each child unless the RCCI uses an eligibility documentation sheet for all children residing in the RCCI. The documentation sheet must provide information indicating the child's name and the personal income received by the child, the child's date of birth, date of admission, and date of release. The documentation sheet must be signed by an appropriate official and provide the official's title and contact information.

Children attending but not residing in an RCCI are considered members of their household and their eligibility is determined using a household application or through direct certification.

ELIGIBILITY FOR FREE MEALS AND DISASTER BENEFITS

Children Experiencing Homelessness

Children residing in or evacuated from disaster areas may be determined homeless under the McKinney-Vento Homeless Assistance Act. These children are categorically (automatically) eligible for free meals in the Child Nutrition Programs. A homeless liaison may make the determination of homelessness and provides a list of all children determined homeless due to a disaster situation. The institution or the sponsor must certify these children for free meals.

In cases where a household from a designated disaster area moves in with another household, the homeless liaison may determine the displaced individuals homeless under the McKinney-Vento Homeless Assistance Act. Displaced children and adult participants in CACFP are automatically eligible for tier I meals in family day care homes, even if they are temporarily residing with another family. The host family may include the displaced family members and any income provided to them when applying for free or reduced price meals.

Institutions and sponsors that require eligibility information can receive certification of the participant's homeless status from the agency that assisted with the evacuation or that is providing shelter. If the child is not residing in an emergency shelter, the institution should have an adult living with the child complete an income eligibility form indicating that the child is homeless. No further information is required to certify the child's eligibility.

Disaster Benefits from the Supplemental Nutrition Assistance Program

Children in households receiving Disaster Supplemental Nutrition Assistance Program (D-SNAP) benefits are categorically eligible for free meals (tier I meals) in the Child Nutrition Programs. Certification of these children may be accomplished through direct contact with the SNAP agency or by an application submitted by a household with a case number.

Emergency Shelters in the Child and Adult Care Food Program

Emergency shelters that provide temporary housing to displaced families are eligible to participate in CACFP. Where significant numbers of persons are being temporarily housed, State agencies may designate any appropriate facility as an emergency shelter, and may waive institution application requirements in these situations. When State agencies have designated a facility as an emergency shelter, all children through age 18 may receive up to three free meals (breakfast, lunch, and supper) each day.

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An “appropriate facility” may include a school or an institution which, although it is not providing actual shelter, is nevertheless providing meals to displaced families who are being temporarily housed elsewhere, in locations that may not have the means to provide meal services to these temporary residents.

Certification by School Officials

School officials may submit applications on behalf of children they know to be homeless and therefore categorically eligible for free meals. See Part 3 of the Eligibility Manual for School Meals for additional information on this option.

Duration of Eligibility

Children certified for tier I meal benefits because of a disaster situation are no longer *temporarily* approved because households are no longer required to report changes in income or household size. CACFP participants remain eligible for tier I meal benefits for 12 months.

ELIGIBILITY OF SCHOOL AGE CHILDREN

Kindergarten Children

All kindergarten children, whether attending half day or full day kindergarten, must have written verification by the provider that the child is enrolled in kindergarten. The written verification, including the school schedule, must be maintained in the provider’s file at the family day care home Sponsor’s office. Kindergarten children are considered as school age children when they are enrolled and attending a kindergarten program. Any child six years of age and older is considered as a school age child. School age children are counted in the “+2” part of the license capacity.

Provider’s Own Household School Age Children

In license situations of (6+2), if a licensee has more than two school age children of her own, those additional school age children count against the total license capacity. For example, if a provider has three school age children of her own, the provider can only have five preschoolers and her own three school age children. A provider’s own school age child who is home ill does not count against the license capacity. Children who are home frequently due to chronic illness would count against the license capacity.

Head Start Children

Head Start Eligibility for Free Meals, children enrolled in Federal and State-funded Head Start or Early Head Start Programs and pregnant mothers enrolled in Early Head Start, are categorically eligible to receive free meal benefits without further application or eligibility determination. If a child who is eligible for Head Start benefits also attends a FDCH, the child is automatically eligible for Tier I CACFP meals at the child care facility without further application or eligibility determination. However, one of the following documentation from the Head Start program must be on file:

- 1) An approved Head Start application;
- 2) A statement of Head Start enrollment or;
- 3) A list of participants from a Head Start official listing the Early Head Start or Head Start child’s or pregnant mother’s name.

Ill Child

A child who is in kindergarten in the morning or a school age child may be claimed for morning snack and lunch if the child is in care due to illness. The provider must note on the Meal Count Sheet/Meal Attendance Records, or another form, why a school age or morning kindergarten child is being claimed during the day.

School Holidays

A child who is in kindergarten in the morning or a school age child may be claimed for morning snack and lunch if the child is in care due to a school holiday. The provider must note on the Meal Count Sheet/Meal Attendance Records, or another form, why a school age or morning kindergarten child is being claimed during the day.

Children Claimed for Lunch during School Days

Kindergarten and school age children may be claimed for lunch when the child is in care. For example, a family day care home provider may live close to a school and the parent may choose to have the child return to the care of the provider during lunch. The provider may feed the child lunch and claim the child for lunch. However, anytime a school age or kindergarten child is claimed for lunch, the reason why must be documented on the provider's Meal Count Sheet/Meal Attendance Records or another form.

Legal Holidays

Providers must document on the Meal Count Sheets/Meal Attendance Records, or another form, when they are doing care on legal holidays. Legal holidays include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

DEVELOPMENTALLY DISABLED INDIVIDUALS

If there are developmentally disabled individuals in the home 13 years of age or older, they may be claimed on the CACFP when enrolled for care if:

- ♦ The majority of the children in care are under the age of 18 years of age.
- ♦ The facility is licensed as a family day care home (personal care boarding homes do not qualify as family day care homes).
- ♦ The developmentally disabled individual is enrolled for care in the family day care home.
- ♦ The provider has a Special Diet Statement completed by the individual's licensed physician documenting the individual has a developmental disability that substantially interferes with activities of daily living. The Special Diet Statement is valid for one year.

To determine if a family day care home provider who is caring for a developmentally disabled individual is within her license capacity, the following guidance must be used:

- ♦ If the developmentally disabled individual is the provider's own child or a member of the provider's own household and is twelve years of age or older, the individual will not count in the provider's license capacity.
- ♦ If the developmentally disabled individual is enrolled in the home for care and is not the provider's own child or a member of the provider's own household, then the individual is part of the provider's license capacity, regardless of the age of the individual. If the child is under the age of six, they will count in the preschool capacity.

REIMBURSING PROVIDERS

Before they actually begin participation in the CACFP, providers should be given basic Program information, including instruction on the meal patterns, meal counts, claims submission and review procedures, recordkeeping requirements, and reimbursement systems and the necessary forms for claiming reimbursement. All participating family day care home providers may be reimbursed at the Tier II rate. To qualify for the higher Tier I rate, providers must either be in an area that is eligible to receive the higher Tier I rate or provide the Sponsor with family size and income data to determine if the provider's household qualifies for the higher Tier I rates. Only providers who are income eligible may claim their own household children (see section 5).

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DAILY RECORDKEEPING

Internet, written, or scannable records must be kept on a daily basis which show the children claimed for meals and the foods served at each meal.

MENUS AND MEAL COUNTS

The provider is required to keep daily records of:

- ♦ Menus of the foods served to enrolled children at each meal each day. The menus must be completed by the end of each day.
- ♦ The number of meals served to each child broken down by child's first and last name and meal type each day (Meal Count Sheets, Meal Attendance Records, Internet or scanned records). Meal Count Sheets, Meal Attendance Records, and Internet or scannable records must be completed by the end of each day.
- ♦ The number of enrolled children that receive a meal each day.
- ♦ Although the provider has until the end of each day to complete the menus and Meal Count Sheets, Meal Attendance Records and Internet or scannable records, CDPHE-CACFP recommends that records be completed at or within 30 minutes of the meal service. Meal Count Sheets, Meal Attendance Records, and Internet or scannable records should not be filled out before meals are served.
- ♦ The person filling out the Meal Count Sheets, Meal Attendance Records, and Internet or scannable records must be present during the meal service.

INFORMING SPONSORS OF CHANGES THAT AFFECT CACFP PARTICIPATION

It is the responsibility of the family day care home provider to inform the sponsoring organization of any changes in the operation of the family day care home that affects their participation on the CACFP. The following changes must be reported in a timely manner:

- ♦ Children being added to or dropped from enrollment.
- ♦ Child Enrollment Forms (CEF) must be updated on an annual basis.
- ♦ Changes in mealtime ranges for meals served as listed on the Provider Agreement and in the Provider application in CHEARS.
- ♦ Changes in meals approved to be served on the Provider Agreement and in the Provider application in CHEARS.
- ♦ Any license capacity changes.
- ♦ Changes in license status.
- ♦ Change of address anytime the provider moves from one licensed location to another location.
- ♦ Change of name.

AVAILABILITY OF CACFP RECORDS

The family day care home provider must agree to make written, Internet, or scannable Menu and Meal Count Records available to the Sponsor, the CDPHE-CACFP or the USDA. Records may be reviewed during visits to the provider's family day care home. If the provider has a permanent substitute, the substitute must be trained on Program requirements and know where records are kept and be able to show them to the Sponsor, the CDPHE-CACFP, or the USDA. Visits will be conducted during normal hours of operation. Sponsors may request that menu and meal count records be submitted to the Sponsor by a specific day each month for claims processing purposes. Failure to make menu and meal

count records available, in a timely manner, may result in the loss or delay of reimbursement. Family childcare home providers should inform the parents of enrolled children that they participate in the CACFP with a Sponsor and that the Sponsor may call the parent to verify the menu and meal count records.

REQUIREMENTS FOR SERVING AND CLAIMING MEALS

- ◆ The provider may only claim meals for eligible children enrolled in the family day care home.
- ◆ The provider must serve all children and infants enrolled for care a complete, developmentally appropriate meal and/or snack. Meals served must meet the CACFP requirements for the ages of children being served. No more than three meals may be claimed per child per day. If three are claimed, one must be a snack.
- ◆ Meal counts and menus can be kept on a calendar or other paperwork if all the required information is clearly written. Available information must indicate the number of meals served to each child listed with the child's full name and meal type served each day. A Sponsor monitor doing the home visit must be able to verify this information and the information must be consistent with the information on the claim form submitted to the Sponsor.
- ◆ If a provider's monthly claim form is received and the claim has one or more menu components missing, the Sponsor must deduct the meal.
- ◆ Providers must ensure meal count records are completed by the end of the day. Meals must be disallowed any time meal count records are not up to date.
- ◆ The provider can claim meals up to, but not exceeding, license capacity.
- ◆ The provider will not receive reimbursement for meals served to children who have reached their 13th birthday unless they are children of migrant workers who are 15 years of age and under or persons who are mentally or physically disabled (see below).
- ◆ The provider can claim meals for mentally or physically disabled participants over age 13, as long as the majority of the participants are under 18 years of age (pregnant teenagers are not considered physically disabled).
- ◆ The provider must submit menus and meal count records to the Sponsor on a timely basis each month. Failure to do so may result in a loss or delay of reimbursement.
- ◆ The provider must complete written, Internet, or scannable menu and meal count records on a daily basis. These records must be available for Sponsor representatives to review during home visits. Failure to have menu and meal count records completed on a daily basis and available for Sponsor monitors to review during home visits will result in a loss of payment for any days or meals that are not complete.
- ◆ The provider must document school holidays, sick days, etc. when morning kindergarten or school age children are claimed for lunches and morning snacks during school times. The written documentation of the child's school schedule must be maintained in the provider's file with the Sponsor. For claim validation purposes, providers may be required to provide the Sponsor with a copy of the child's official school schedule.
- ◆ The provider must document that she is doing care on legal holidays when children are claimed for meals. Legal holidays include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- ◆ The provider may request changes to their approved mealtimes at any time as their schedule changes.
- ◆ The provider may not charge a parent/guardian a separate fee for meals.

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See section 4 for more information concerning the service of meals.

Menus

Written, Internet, or scannable menus must be available for review by the Sponsor, the CDPHE-CACFP, or the USDA during the time the family day care home is operating. Written, Internet, or scannable menus must be maintained for all meals served and claimed for reimbursement. If the provider is using a numbered cycle menu system, the cycle menu must be available for review and the menu number must be written on the monthly meal count sheet or meal attendance record, indicating the provider is keeping records on a daily basis and following her cycle menus.

The family day care home providers must complete written, Internet, or scannable meal count records or meal attendance records and menus by the end of each day. The best practice is to have menus and meal count sheets or meal attendance records filled out at or within 30 minutes after the meal service. Separate menus must be maintained for infants. Infants who are being fed formula must have a Child Enrollment Form on file prior to their meals being claimed for reimbursement. The Child Enrollment Form must indicate if the parent accepts the provider's choice of iron-fortified infant formula or if the parents will supply the iron-fortified infant formula of their choice. Children may be fed the infant meal pattern up to the end of the month after they reach their first birthday.

Written, Internet, or scannable menus must be reviewed by the Sponsor to ensure meals meet the CDPHE-CACFP minimum meal pattern requirements and are nutritious (see Section 4-Meal Pattern Requirements).

Attendance Records or Meal Count Sheets and Menus

The written, Internet, or scannable meal count sheets or meal attendance records and menus must be available for review by the Sponsor, the CDPHE-CACFP, or the USDA during the time the family day care home is operating. Meal count sheets or meal attendance records must include each child's full name, age, and the specific meals claimed for that child on each day of the month and the provider's signature verifying the accuracy of the record. Meal count sheets or meal attendance records should not be filled out prior to the times meals are served. A Sponsor representative who observes menus and meal count sheets or meal attendance records during a home visit that are not completed for any days prior to the day of the home visit must disallow reimbursement for those meals. Providers who have completed meal count sheets or meal attendance records for meals not yet served must be told to discontinue this practice. It is acceptable if the meal count sheets or meal attendance records and menus are not recorded for the day of the visit, as the provider has until the end of the day to record this information. However, the provider should be encouraged to complete this information within 30 minutes of the meal.

Provider Mealtimes

Mealtimes should be written as the range of times during which the meal or snack will be served on the Provider Agreement or on an alternate form. Providers must allow adequate time for the children to eat the meal within the approved mealtime range.

Meals must be served within "traditional mealtimes" unless the provider receives approval to serve outside traditional mealtimes from the CDPHE-CACFP through the Sponsor. Meals outside these times may receive approval. The request should be submitted in writing to the Sponsor.

Two hours must elapse between start times of meals or snacks.

Mealtimes may not exceed two hours in length. Snack times may not exceed one hour in length. (See the chart below).

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PROVIDER RESPONSIBILITIES

<u>Sample Meal/Snack Schedule</u>			
Breakfast:	6:45 a.m. - 8:45 a.m.	A.M. Snack:	9:00 a.m. - 10:00 a.m.
Lunch:	11:00 a.m. - 1:00 p.m.	P.M. Snack:	2:45 p.m. - 3:45 p.m.
Supper:	5:30 p.m. - 7:30 p.m.	Eve. Snack:	7:30 p.m. - 8:30 p.m.
Can be modified within parameters listed below Mealtimes listed on the Provider Agreement should be within the following traditional mealtime periods:			
<u>Meals</u> Breakfast:: 6:00 a.m. - 9:30 a.m. Lunch: 10:30 a.m.- 2:00 p.m. Supper: 5:00 p.m.- 7:30 p.m.		<u>Meals</u> 2 hours must lapse between start of meals and snacks. <hr/>	
<u>Snacks</u> 2 hours before or after the beginning of other meals.		Period cannot exceed 2 hours in length for meals, i.e., 6:45-8:45 a.m., 7:30-9:30 a.m.; 11 a.m.-1 p.m., 12-2 p.m.; 5:30-7:30 p.m., 6-8 p.m., etc. <hr/>	
		<u>Snacks</u> Period cannot exceed 1 hour in length, i.e., 9-10 a.m., 2:45-3:45 p.m.	
Mealtimes outside these times may receive approval by sending a written request to the Sponsor's office. Sponsors will request approval from the CDPHE-CACFP office.			

Shift Care

If a provider is claiming more meals than license capacity for any meal, or the meal count sheets or meal attendance record shows children are coming and going between meals the provider must maintain a shift care roster showing when the children arrived and left. From this roster, the Sponsor staff must be able to determine that the children were served at different times and the provider was not over her license capacity.

The provider must have shift care rosters for each day children are claimed, and these must be attached to the claim submitted for reimbursement. The shift care roster must show the child's full name, days in care, time-in and time-out, and be signed by the parents/guardians attesting the accuracy of the information.

DOCUMENTATION OF NON-DISCRIMINATION

The provider must serve meals to all attending children and infants regardless of race, color, national origin, age, sex, or disability and allow all children equal access to the child care services and facilities. The provider must provide meals to all enrolled children and infants without an extra charge to the child's parent or guardian. The provider is required to give each parent/guardian a copy of the Child Enrollment Form containing the Dear Parent Letter.

PROVIDER ADVANCE NOTIFICATION OF MEALTIME ABSENCES

The CACFP regulation requires family day care home providers to notify their Sponsor in advance whenever they are planning to be out of their home with the children during the meal service period. If the family day care home provider fails to notify the Sponsor and an unannounced visit is made during

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PROVIDER RESPONSIBILITIES

a scheduled mealtime, claims for meals that would have been served during the unannounced visit must be disallowed.

MONITORING VISITS

Providers must allow representatives from the Sponsor, the CDPHE, the USDA, or independent auditors hired by the Sponsor, the CDPHE-CACFP, or the federal government to come into their home during any hours the family day care home provider has stated that she serves meals on her Provider Agreement and on the Provider application in CHEARS for the purpose of reviewing the CACFP operation. This would include any suppers, weekend meals, or holiday meals in which the provider has claimed children's meals for reimbursement.

The family day care home provider should expect to be monitored at least three times a year in her home by the Sponsor. Of these three visits, two visits will be unannounced visits, and two will be conducted at mealtimes. See Section 2 for more information about monitoring visits.

COMPLETION OF TRAINING

Providers must complete one nutrition related training, one Program training, and one civil rights training session per year as required by the Sponsor. Failure to do so may result in the Sponsor determination of serious deficiency and possible termination of the provider's participation in the CACFP. At a minimum, the required Program training must include instruction appropriate to the level of the provider's experience and duties, on the CACFP meal patterns, meal counts, claims submission and review procedures, record keeping requirements, and provider reimbursement procedures. If the provider has a permanent substitute/helper, the substitute/helper is considered a key staff member and must also receive annual training appropriate to the level of the substitute/helper's duties. In addition, the provider and any key staff must participate in civil rights training and in nutrition related training. Some examples of nutrition related training include nutrition for children, family-style meal service, nutrition education activities for children, menu planning, purchasing foods, food-borne illness, sanitation and proper food handling, discipline problems as they relate to food service, and methods of dealing with issues related to serving food to children.

Sponsors must document that providers and/or their key staff (substitute/helper) receive initial and annual Program training. This may be kept in the provider's file or by other means and should include a description of the topics covered during training. Sponsors must also document that providers participate in at least one nutrition-related training and a civil rights training each year. Records should be maintained that list the date of the training, the provider's name, the location, the date of the training, and the topics covered. Training can be given in organized workshop formats, one-on-one training in the provider's home, or by other means such as correspondence courses and training modules.

Failure on the part of the Sponsor to provide training on the required content areas, specified above, or a family day care home's failure to participate in training on the required content areas can be considered a serious deficiency.

Sponsors are required to annually certify that the Sponsors' family day care homes have received training as outlined above. Colorado currently requires that Sponsors submit their training plans for family day care homes in the Management Plan process. Annual certification will be a part of the Management Plan process.

STATE AGENCY APPROVAL OF HOMES

A family day care home is not eligible for reimbursement for meals served until the home has been approved for participation by CDPHE-CACFP.

To help the CDPHE-CACFP in the approval process the Sponsor will ensure the following:

- ♦ The family day care home and Sponsor executes a Provider Agreement. If the provider is not currently participating in the CACFP, the agreement becomes effective when the provider signs and dates the agreement. A new agreement must be completed when a provider transfers to another Sponsor, when a provider has a change of address, or a change of legal name, or drops from the program and then re-activates with the same Sponsor at a later date.
- ♦ The family day care home's licensure or alternate approval is effective. The CDHS has informed the CDPHE-CACFP that the expiration/anniversary date of the renewed license is always the first date of the month displayed on the renewal sticker regardless of the effective date of the license. Therefore, for a provider's license with an effective date of March 12, 2014 and a renewal sticker of March 2014, the expiration/anniversary of the renewed license is March 1, 2015.
- ♦ The Sponsor has conducted a pre-approval or sign-on home visit and training.
- ♦ The family day care home has adequate documentation of the number of meals served and that the meals served met Program requirements.

As part of the Provider Application Process, the Sponsor must attach the following supporting documentation in the CDPHE-CACFP CHEARS web-based system by the 5th day of each month:

- ♦ The Provider Agreement signed by the family day care home provider and the Sponsor.
- ♦ The family day care home's documentation of licensure or alternate approval.
- ♦ The Participating Provider Change Form for those providers with a legal name, address, or license number change.
- ♦ The Provider Transfer Verification Form for those providers transferring from another Sponsor.

The CDPHE-CACFP will check the names of added providers against the National Disqualified List and the Dropped While Under Corrective Action List, review documentation of licensure or alternate approval, and ensure that providers are not participating on two different Sponsors at the same time. If the family day care home provider has been approved to participate, the CDPHE-CACFP will complete the approval process via the CDPHE-CACFP CHEARS web-based system by the 12th of the month.

A family day care home may receive reimbursement back to the first day of the month before the month in which its application is approved by the State agency or the effective date of its Provider Agreement or license/alternate approval, whichever is later. Family day care homes may not be reimbursed prior to the effective date of the Provider Agreement or license/alternate approval date.

Sponsors may not include new, transferred, or reinstated providers on their claim until after State agency approval. This includes providers who move, change their legal name, and providers who change from alternative approval to licensure or from licensure to alternative approval. A family day care home may receive reimbursement back to the first day of the month before the month in which its application is approved by the State agency or the effective date of its Provider Agreement or license/alternate approval, whichever is later. Family day care homes may not be reimbursed prior to the effective date of the Provider Agreement or license/alternate approval date.

Please refer to the CDPHE-CACFP Family Day Care Home Provider Application Upload and Approval Process on pages 24-27 in Section 2 for the procedures to follow when providers move, transfer, or restart participation.

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Tier I Providers Who Transfer to Another Sponsor

Sponsors are allowed to retain the previous tier status based on area eligibility of a home that transfers to its sponsorship from another Sponsor. However, the new Sponsor is responsible for collecting and closely reviewing the previous Sponsor's documentation to ensure the tier determination was classified correctly. Sponsors are required to keep a copy of the previous Sponsor's documentation on file until a new determination of area eligibility is made.

If the tier status based on area eligibility for a provider transferring to another Sponsor has changed based on the new census or school data and the new information determines the provider's area to be under 50% Free or Reduced applications, the new Sponsor is allowed to use previous area eligibility information and allow the provider to continue participating as a Tier I area eligible provider until the expiration of the previous Sponsor's five-year eligibility determination is reached.

On the other hand, if the area eligibility for a provider transferring to another Sponsor has changed based on the new census or school data, and the new information determines the provider's area to be 50% or more Free or Reduced applications, the new Sponsor is allowed to reclassify the provider to allow the five-year eligibility to start once the provider is approved to participate under the new Sponsor.

Changing Sponsors When a Provider Moves to an Area not Covered by the Present Sponsor

If a provider moves to an area not covered by her present Sponsor, the provider may transfer to another Sponsor who serves that area without having the transfer count as her one time per year transfer.

In such cases, it is suggested that the family day care home Sponsors involved work together to affect an orderly transfer to the Sponsor serving the provider's new area. The provider must notify the current Sponsor of the move and fill out another Provider Agreement with the new Sponsor.

The provider must also contact the CDHS and arrange for the new home to be inspected and licensed. The transfer must occur at the end of the month so that the provider does not claim for meals with two Sponsors in the same calendar month.

Sponsors may not include new, transferred, or reinstated providers on their claim until after State agency approval. This includes providers who move, change their legal name, and providers who change from alternative approval to licensure or from licensure to alternative approval. A family day care home may receive reimbursement back to the first day of the month before the month in which its application is approved by the State agency or the effective date of its Provider Agreement or license/alternate approval, whichever is later. Family day care homes may not be reimbursed prior to the effective date of the Provider Agreement or license/alternate approval date.

TERMINATING THE PROVIDER AGREEMENT

Providers, who are in good standing, may terminate their Provider Agreement to participate in the Child and Adult Care Food Program by informing their Sponsor in writing of their desire to terminate the Agreement. (See pages 25-26 in Section 2 for information on provider's transfer from one Sponsor to another.)

PROGRAM INTEGRITY

After initial training and technical assistance, providers must participate on the CACFP by operating within the rules and regulations of the program. If a Sponsor identifies non-compliance with the program rules, they must follow-up on and correct the non-compliance issues to bring providers into compliance.

The Sponsor is also responsible for reclaiming reimbursement from providers for previous claims determined to be invalid. For example, if a provider has been reimbursed for meals that were later determined not to have been served based on parent verification of children's attendance, the Sponsor is responsible for arranging to reclaim the reimbursement. For claims validation purposes, Sponsors may contact the parent/guardian of the enrolled child and verify that the child was in attendance for the meal/meals claimed.

Follow-up and Documentation on Findings of Noncompliance

Once a Sponsor determines that a provider is not in compliance with Program rules and/or has submitted an invalid claim, the Sponsor must ensure that the provider takes corrective action to come into compliance with Program rules. A provider who fails to correct serious deficiencies within the allotted time for correction (not to exceed 30 calendar days) must be dropped for cause from Program participation.

Refer to the Serious Deficiency Process outline on pages 43-47 in Section 2 of this manual for the integrity procedures that must be followed when provider's issues of noncompliance are identified.

USE OF COMMODITY FOODS

Providers must agree to utilize USDA Commodity Foods according to Program regulations, should their Sponsor make commodities available to them.

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MEAL PATTERN REQUIREMENTS

INTRODUCTION

Meal patterns are divided into two categories: meals for infants (ages birth through 11 months of age) and meals for children (ages 1 through 12 years). There is a substantial difference in required meal components between these groups. Meals claimed for reimbursement must contain all required components in at least the amounts specified for each age group. Other foods may be added for variety and interest and to enhance meal acceptability.

INFANT MEAL PATTERN

It is important to note there is a separate CDPHE-CACFP meal pattern for infants. Infants are grouped into three age categories:

- ♦ Birth through 3 months of age
- ♦ 4 through 7 months of age
- ♦ 8 through 11 months of age

There are three different meal patterns: breakfast, snack, and lunch/supper. Meals served to infants who need to be fed foods other than those listed for their age category may be claimed only with a special diet statement from a recognized medical authority. A special diet statement must be in the provider's file for each infant who receives foods substituted for those in the meal patterns (see page 79). Meals for infants may not be claimed based on meal patterns fed to older children without a special diet statement.

Family day care homes participating in the CACFP must provide Program meals to all eligible children who are enrolled and participating in the CACFP. The CACFP defines an enrolled child as "a child whose parent or guardian has submitted to an institution a signed document which indicates that the child is enrolled for child care." CDPHE-CACFP further clarifies a child is enrolled for care when a verbal or written contract has been agreed upon between the family day care home provider and the parent/guardian for the care of the child.

Therefore, if an infant is enrolled for child care and present during the meal service period, the family day care home provider participating in the CACFP must offer the infant a complete, developmentally appropriate meal that complies with the CACFP Infant Meal Pattern requirements for the age of the infant. CDPHE-CACFP defines an infant as a child from birth through 11 months of age.

The family day care home provider must keep the required records to document meals served. The required records for all infants in care, include the Child Enrollment Form, meal attendance records, and menus. The Child Enrollment Form must indicate if the parent accepts the provider's formula or if the parents will supply their own formula.

Any infant meals claimed for reimbursement and not supported by the required infant menus, meal attendance records, and a completed Child Enrollment Form must be disallowed. In addition, the provider must be notified that she/he does not comply with program requirements and appropriate follow-up by the Sponsor must be noted in the provider's files.

CDPHE-CACFP requires that family day care home providers offer parents of infants enrolled in family day care homes with the choice of at least one iron-fortified infant formula. It is recommended that choices of formula include one **milk-based, iron-fortified infant formula** and one **soy-based, iron-fortified infant formula**. Family day care home providers caring for infants are strongly encouraged to select one or two infant formulas that satisfy the needs of one or more infants in care. The decision to decline the infant formula provided by the family day care home provider rests with the parent or guardian.

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MEAL PATTERNS

A parent or guardian may elect to decline the infant formula provided by the family day care home provider and supply a formula of their choice. Regardless of whether the parent/guardian or the provider purchases the formula, the meals and/or snacks may be claimed for reimbursement as long as the provider serves the infant a complete meal and/or snack that is developmentally appropriate and that meets the CACFP Meal Pattern for the age of the infant. Once an infant is developmentally ready to receive additional components in the CACFP Meal Pattern, at least one of the components must be purchased by the family day care home provider. Providers may choose to purchase all components to serve the infants in their care.

Infants with Documented Special Needs

If the special needs infant **requires a special formula**, the family day care home must provide the formula required on the Special Diet Statement in order to claim the meals. If providing the special formula is an undue hardship, the family day care home provider may request a waiver for the parent/guardian to supply the formula from the Colorado Department of Public Health and Environment-Child and Adult Care Food Program (CDPHE-CACFP). The family day care home provider must submit the waiver request to their Sponsor and the Sponsor must submit the request to CDPHE-CACFP. If the waiver is granted, as long as the family day care home supplies the other food components as specified in the CACFP Infant Meal Pattern, the meal or snack can be claimed. If the family day care home provider has been keeping records, the meals meet the CACFP Infant Meal Pattern guidelines, and the waiver is granted, meals can be claimed retroactive from the date the waiver is granted. However, claims must still meet the current claim submission requirements.

Special Considerations for Parents or Providers Who Receive WIC Benefits

- Q. Can a family day care home provider claim her own infant when formula furnished to her by the Women, Infants, and Children's (WIC) Program is the only food item served?**
- A.** Yes. A family day care home provider can claim her own infant when only formula or breast milk is given to the infant. The formula may be either store bought or provided by WIC. As always the provider must be income eligible to claim her own children and at least one other enrolled and participating child care child must be present at the meal service.
- Q. Can a mother who is on WIC decline the formula choice provided by the family day care home provider, and provide the family day care home with WIC formula for her infant? In this case, can the family day care home provider still claim the infant?**
- A.** Yes. As long as the formula is a creditable formula, the Child Enrollment Form is on file and the family day care home provider serves the infant a developmentally snack/snack that meets the CACFP Meal Pattern requirements. Once the infant is developmentally ready to receive additional meal pattern components, the provider must purchase and supply at least one of the required components to be eligible to claim the meal/snack for reimbursement.

Breastfed Infants

Meals and snacks of breastfed infants, birth through 3 months of age may be claimed if the parent provides the breast milk and the family day care home provider feeds the breast milk to the infant. For infants that are 4 through 7 months of age, if the parent provides the breast milk and the family day care home provider feeds the breast milk and any other CACFP Infant Meal Pattern components as specified in the infant meal pattern, that the infant is developmentally ready to accept, the home provider may claim the infant. For infants 8 through 11 months of age, the family day care home provider must provide the other food components as specified in the CACFP Infant Meal Pattern to claim the meals and snacks for the infant.

Providers are permitted to serve less than the minimum regulatory serving of breast milk to infants who regularly do not consume that amount of breast milk. However, if the full portion is not initially offered, the provider must offer additional breast milk if the infant is still hungry.

Special Considerations for Parents Who Breastfeed Their Infants

Q. If a mother visits the family day care home to nurse her infant, is the meal reimbursable?

- A. No. Although all efforts for mothers to breastfeed their infants should be strongly encouraged, the caregiver must provide some type of service in order to be reimbursed for a meal. CACFP reimburses child care facilities for the cost of preparing and serving nutritious meals and snacks to infants and children receiving child care. In the case of breastfed infants, CACFP reimburses the facility for the cost of preparing the bottle and feeding the infant. When a parent nurses her own child, the services for which the provider would receive reimbursement are not being performed. However, the meal would be reimbursable for infants over 3 months of age who are developmentally ready for solid foods, if the rest of the required components as specified in the CACFP Infant Meal Pattern were provided by the family day care home provider.

Infant formula is defined in this Program as any iron-fortified infant formula intended for use as a sole source of food for normal, healthy infants. It must be served in a liquid state at the manufacturer's recommended dilution. Low-iron formula is not acceptable because the iron content does not meet the definition for iron-fortified infant formula. See the *Creditable Foods Guide* for more information about creditable infant formulas.

Infant cereal is defined as any iron-fortified dry cereal specially formulated for and generally recognized as cereal for infants that is routinely mixed with formula or other fluid prior to consumption.

Only iron-fortified infant formula or breast milk may be served to infants less than one year of age as part of a reimbursable breakfast, lunch/supper, or snack.

Infant meals from birth through 11 months of age must contain iron-fortified infant formula or breast milk unless supported by a special diet statement from a recognized medical authority. The one exception is that snacks for infants from 8 months through 11 months of age may contain full strength 100% fruit juice.

Hot dogs, frankfurters, corn dogs, and sausages are not creditable for infants. Fish sticks, patties, nuggets, or other commercial breaded or battered seafood products or canned, fresh, or frozen fish with bones are not creditable for infants.

It is not required that infants be fed at the same time as other children. For infants, all required food components must be provided in order to qualify for reimbursement but may be served within a span of time consistent with the infant's eating habits. USDA has developed an infant feeding guidance book (FNS-258), which may be available from the CDPHE-CACFP for your field monitors. Also, please see the food chart detailing Infant Meal Patterns below.

SECTION 4
MEAL PATTERNS

CHILD AND ADULT CARE FOOD PROGRAM
REQUIRED AMOUNTS OF FOOD TO SERVE INFANTS OF SPECIFIED AGES

Even though the infant meal pattern specifies breakfast, snack, lunch, and supper, these are just guidelines. Infants should be fed on demand and should not, in any way, be restricted to a rigid feeding schedule. You may find that some infants must be fed every 2 hours and will receive 5-6 meals while in care.

BREAKFAST:	Birth through 3 Months of Age	4 through 7 Months of Age	8 through 11 Months of Age
Breast Milk or Infant Formula (Iron-fortified)	4-6 fl. oz. ⁽¹⁾	4-8 fl. oz. ⁽¹⁾	6-8 fl. oz. ⁽¹⁾
Infant Cereal (Iron-fortified, dry)	None	0-3 Tbsp. ⁽²⁾	2-4 Tbsp.
Fruit or Vegetable or Both (not juice)	None	None	1-4 Tbsp.

1. A serving of less than the minimum amount of breast milk may be offered for the infant who regularly consumes small portions. Additional breast milk must be offered if the infant is still hungry.
2. A serving of this component is required only when the infant is developmentally ready to accept it.

SNACK	Birth through 3 Months of Age	4 through 7 Months of Age	8 through 11 Months of Age
Breast Milk or Infant Formula (Iron-fortified)	4-6 fl. oz. ⁽¹⁾	4-6 fl. oz. ⁽¹⁾	2-4 fl. oz. ⁽¹⁾ (may substitute full strength 100% fruit juice)
Crusty Bread or Crackers	None	None	0-1/2 slice of crusty bread <u>or</u> 0-2 cracker-type products ⁽²⁾

1. A serving of less than the minimum amount of breast milk may be offered for the infant who regularly consumes small portions. Additional breast milk must be offered if the infant is still hungry.
2. A serving of this component is required only when the infant is developmentally ready to accept it.

LUNCH OR SUPPER	Birth through 3 Months of age	4 through 7 Months of age	8 through 11 Months of age
Breast Milk or Infant Formula (Iron-fortified)	4-6 fl. oz. ⁽¹⁾	4-8 fl. oz. ⁽¹⁾	6-8 fl. oz. ⁽¹⁾
Fruit or Vegetable or Both (not juice)	None	0-3 Tbsp ⁽²⁾	1-4 Tbsp
Infant Cereal (Iron-fortified, dry)	None	0-3 Tbsp ⁽²⁾	2-4 Tbsp
AND/OR			
Meat or Meat Alternate ⁽³⁾ One of the following or combinations that make up required amount:			
Meat, poultry, fish, egg yolk, or cooked dry beans or peas ⁽²⁾	None	None	1-4 Tbsp
or Cheese	None	None	½ - 2 oz.
or Cottage cheese or Cheese food/spread	None	None	1-4 oz. (volume) 1-4 oz. (weight)

1. A serving of less than the minimum amount of breast milk may be offered for the infant who regularly consumes small portions. Additional breast milk must be offered if the infant is still hungry.
2. A serving of this component is required only when the infant is developmentally ready to accept it.
3. Hot dogs, frankfurters, corn dogs, and sausages are not creditable for infants. Fish sticks, patties, nuggets, or other commercial breaded or battered seafood products or canned, fresh, or frozen fish with bones are not creditable for infants.

MEAL PATTERN REQUIREMENTS FOR CHILDREN (1-12 YEARS)

There are three meal patterns for older children in the CACFP: breakfast, snack, and lunch/supper. Children are grouped into three age categories:

- ♦ 1 through 2 years
- ♦ 3 through 5 years
- ♦ 6 through 12 years

Children may be served **larger** portions than the CDPHE-CACFP requirements. The CDPHE-CACFP policy is that the minimum amounts of food must be served to the children. Children should never be forced to consume any food but rather be encouraged to try the foods served. See the food charts on following pages detailing children's meal patterns.

Breakfast:

Three components are required: fluid milk, a bread or bread alternate, and a fruit or vegetable or juice.

Snack

A snack must contain a component from each of two **different** food groups. The food groups include fluid milk, fruit or vegetable or juice, meat or meat alternate, and bread or bread alternate. At snack, serving two kinds of food from the same group (e.g., meat and cheese, or apples and orange juice) will not satisfy the requirement regardless of quantity. In addition, fluid juices cannot be served with milk as the only other snack component if the provider wishes to claim reimbursement for the snack.

Lunch/Supper

Five components are required. They are fluid milk, a meat or meat alternate, a bread or bread alternate, and two different fruits or vegetables or a fruit and a vegetable. The required quantity of meat refers to lean meat after cooking. Two forms of the same fruit or vegetable would count as only one of the two required fruits/vegetables. Juices may be used to satisfy no more than half of the fruit/vegetable requirement at lunch. Bread items must contain whole grain or enriched flour, meal, bran, or germ as the heaviest ingredient in the product, unless the product is a fruit or vegetable bread, in which case the fruit or vegetable could be the heaviest ingredient and the whole grain or enriched flour, meal, bran or germ would have to be the second heaviest ingredient.

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MEAL PATTERNS

CHILD AND ADULT CARE FOOD PROGRAM
REQUIRED AMOUNTS OF FOOD TO SERVE CHILDREN AGES 1 THROUGH 12

BREAKFAST:	1 through 2	3 through 5	6 through 12
Milk, fluid	½ cup	¾ cup	1 cup
Fruits and Vegetables ⁽¹⁾ Fruit and/or vegetable or full strength juice or any combination that makes up required amounts of fruit, vegetable and/or juice	¼ cup total	½ cup total	½ cup total
Bread and Bread Alternates ⁽²⁾ Bread, cornbread, biscuits, rolls, muffins, etc. or cold dry cereal ⁽³⁾ or cooked cereal or cooked pasta or noodle products or cooked cereal grains or any combination that make up required amounts of bread/bread alternate	½ slice ¼ cup or ⅓ oz. ¼ cup ¼ cup ¼ cup ¼ cup total	½ slice ⅓ cup or ½ oz. ¼ cup ¼ cup ¼ cup ¼ cup total	1 slice ¾ cup or 1 oz. ½ cup ½ cup ½ cup ½ cup total

1. When raisins are served at breakfast, a second fruit or vegetable or juice must be served.
2. Bread, pasta, or noodle products and cereal grains shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain, bran, germ, or enriched meal or flour; cereal shall be made with whole grain, bran, germ, or enriched meal or flour, or fortified with iron, thiamine, niacin, and riboflavin.
3. Either by volume (cup) or by weight (ounce), whichever is less.

SNACK	1 through 2	3 through 5	6 through 12
Milk, fluid	½ cup	½ cup	1 cup
Fruits and Vegetables ⁽¹⁾ Fruit and/or vegetable or full strength juice or any combination that makes up required amounts of fruit, vegetable and/or juice	½ cup total	½ cup total	¾ cup total
Bread and Bread Alternates ⁽²⁾ Bread, cornbread, biscuits, rolls, muffins, etc. or cold dry cereal ⁽³⁾ or cooked cereal or cooked pasta or noodle products or cooked cereal grains or any combination that make up required amounts of bread/bread alternate	½ slice ¼ cup or ⅓ oz. ¼ cup ¼ cup ¼ cup ¼ cup total	½ slice ⅓ cup or ½ oz. ¼ cup ¼ cup ¼ cup ¼ cup total	1 slice ¾ cup or 1 oz. ½ cup ½ cup ½ cup ½ cup total
Meat and Meat Alternates Lean meat or poultry or fish ⁽⁴⁾ or cheese or eggs or cooked dry beans or dry peas or nut or seed butter or peanuts, soy nuts, tree nuts or seeds, or any combination that make up required amounts of	½ oz. ½ oz. ½ egg ½ cup 1 Tbsp. ½ oz.	½ oz. ½ oz. ½ egg ½ cup 1 Tbsp. ½ oz.	1 oz. 1 oz. 1 egg ¼ cup 2 Tbsp. 1 oz.

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SNACK	1 through 2	3 through 5	6 through 12
meat/meat alternates or yogurt	¼ cup	¼ cup	½ cup

1. When raisins are served at snack, a second fruit or vegetable or juice must be served.
2. Bread, pasta, or noodle products and cereal grains shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain, bran, germ, or enriched meal or flour; cereal shall be made with whole grain, bran, germ, or enriched meal or flour, or fortified with iron, thiamine, niacin, and riboflavin.
3. Either by volume (cup) or by weight (ounce), whichever is less.
4. Edible portion as served (lean, cooked meat without bone).

LUNCH/SUPPER	1 through 2	3 through 5	6 through 12
Milk, fluid	½ cup	¾ cup	1 cup
Fruits and Vegetables ⁽¹⁾ Fruit and/or vegetable (2 selections)	¼ cup total	½ cup total	¾ cup total
Bread and Bread Alternates ⁽²⁾ Bread, cornbread, biscuits, rolls, muffins, etc. or cooked pasta or noodle products or cooked cereal grains or any combination that make up required amounts of bread/bread alternate	½ slice ¼ cup ¼ cup ¼ cup total	½ slice ¼ cup ¼ cup ¼ cup total	1 slice ½ cup ½ cup ½ cup total
Meat and Meat Alternates ⁽³⁾ Lean meat or poultry or fish ⁽⁴⁾ or cheese or eggs or cooked dry beans or dry peas or nut or seed butter or peanuts, soy nuts, tree nuts or seeds, or any combination that make up required amounts of meat/meat alternates	1 oz. 1 oz. ½ egg ¼ cup 2 Tbsp. ½ oz.	1½ oz. 1½ oz. ¾ egg ¾ cup 3 Tbsp. ¾ oz.	2 oz. 2 oz. 1 egg ½ cup 4 Tbsp. 1 oz.
No more than 50 percent of the requirement shall be met with nuts or seeds; nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirements. One ounce of nuts or seeds equals one ounce cooked lean meat, poultry, or fish.			

1. Serve two or more different fruits or vegetables or a fruit and a vegetable. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
2. Bread, pasta, or noodle products and cereal grains shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain, bran, germ, or enriched meal or flour; cereal shall be made with whole grain, bran, germ or enriched meal or flour, or fortified with iron, thiamine, niacin, and riboflavin.
3. Edible portion as served (lean, cooked meat without bone).
4. A typical serving of peanut butter is often less than the three tablespoons required to meet the 1½ ounce meat/meat alternate requirement for a 3 through 5 year old. Therefore, when serving peanut butter at lunch, a second meat/meat alternate must be served to ensure enough protein is available. For example: serve one tablespoon peanut butter in a sandwich and serve one ounce of string cheese.

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COLORADO CACFP HEALTHIER MEAL INITIATIVES

The current United States Department of Agriculture (USDA) Meal Pattern for CACFP allows for a wide variety of foods designed to meet basic nutrition requirements. Colorado CACFP is moving beyond these requirements with the Colorado Healthier Meals Initiative, a set of nutrition policies aimed at improving the nutritional intake of children. These new policies require participating institutions to meet the following requirements:

Policy 1: 1% or fat free milk for children ages 2 years and older (USDA policy since September 2011)

- 1% or fat-free milk has the same nutrients as other milks but with less solid fat and fewer calories.
- Studies show no compromise in growth when switching to lower fat milk.

Policy 2: Limit 100% fruit juice to no more than twice per week

- Fruits and vegetables are more nutritious than fruit juice and provide dietary fiber. 100% fruit juice offers no nutritional advantage over whole fruits.
- Overconsumption of 100% fruit juice can contribute to overweight and obesity.
- Providing fruits and vegetables to children instead of fruit juice reinforces healthier eating habits as children reach new developmental stages.

Policy 3: Limit processed meats to once per week

- Processed meats are typically high in sodium, saturated fat and total fat.
- Replacing processed meats with lean meats and/or meat alternates greatly reduces the amount of calories, sodium, and fat in children's diets.

Policy 4: At least one whole grain product per day

- Whole grains are an excellent source of nutrients such as iron, magnesium, selenium, B vitamins and dietary fiber. Increase whole grain intake by replacing refined grains with whole grains whenever possible.

CREDITABLE FOODS

Creditable foods are those foods that meet guidelines set by the USDA and the CDPHE-CACFP. Creditable foods also apply to infants. It is the responsibility of the FDCH provider to prepare and serve meals that meet the CDPHE-CACFP infant or child meal pattern and creditable food requirements. Information on the kinds of foods that are creditable may be found in the *Creditable Foods Guide*, a Program resource issued by the CDPHE-CACFP, available to all FDCH Sponsors and their monitors to use in the process of training providers.

EXCEPTIONS TO THE MEAL PATTERN

The CACFP regulations require providers to offer meals and snacks which meet the meal patterns identified in the Program regulations to all participants. Federal regulations further require substitutions of the standard meal patterns for participants who are considered developmentally disabled (handicapped) under 7 CFR Part 15b and whose disability restricts their diet. Providers are required to offer Program meals to participants who are developmentally disabled whenever Program meals are offered to the general populations served by the Program. Providers may also offer substitutions for other participants who are not developmentally disabled but are unable to consume regular Program meals because of medical or other special dietary needs.

Reimbursement for meals served with an authorized substitute food to developmentally disabled participants or to participants with other special dietary needs shall be claimed at the same reimbursement rate as meals that meet the meal pattern. Such meals must be provided at no separate charge for the substituted food item(s) either to a developmentally disabled participant or to a participant with other special dietary needs.

Providers should work closely with the parent(s) or responsible family member(s) and with all other school, child care, medical, and community personnel who are responsible for the health, well-being, and education of participants with developmental disabilities or with other special dietary needs to ensure that reasonable accommodations are made to allow such individuals' participation in the meal service. This cooperation is particularly important when accommodating participants whose developmental disabilities require significant modifications or personal assistance.

A **"Handicapped person"** is defined in 7 CFR 15b.3(i) as any person who has "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 an impairment" (Exhibit A, 7 CFR 15b.3).

"Major life activities" are defined in 7 CFR 15b.3 (k) as "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."

The Americans with Disabilities Act Amendments Act of 2008 (ADAAA), amended the Federal definition of disability, broadening it to cover additional children and individuals who might be identified by their licensed physician as having a food-related disability. Therefore, for the purposes of identifying individuals with disabilities the ADAAA added a new category called "Major Bodily Functions." "Major Bodily Functions" refers to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

Determinations of whether or not a participant has a disability that restricts his or her diet are to be made on an individual basis by a licensed physician. (Licensed physicians include Doctors of Osteopathy.) The physician's medical statement of the participant's disability must be based on the regulatory criteria for "handicapped person" defined in 7 CFR Part 15b.3 (i) and contain a finding that the disability restricts the participant's diet. In those cases in which the provider has consulted with the physician issuing the statement and is still unclear whether the medical statement meets the regulatory criteria, the provider may contact our office.

If a participant who has been determined to be disabled must restrict his or her diet, substitute foods shall be provided by the provider when supported by a special statement signed by a licensed physician. The medical statement shall identify:

- ◆ The participant's disability and an explanation of how the disability restricts the participant's diet.
- ◆ The major life activity affected by the disability.
- ◆ The food(s) to omit from the participant's diet and the recommended substitute food(s). If the disability requires modifications to calorie intake or the use of a liquid nutritive formula, the physician must indicate this information in the statement. For textural modifications to the regular Program meal that does not modify the food components of the Meal Pattern, the medical statement is recommended, but not required
- ◆ All substitutions shall be documented on the "Special Diet Statement/Special Accommodation Form." This document must be maintained with the child's provider, as well as in the FDCH Sponsor's file. These documents must be available for review upon request.

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- ♦ The Special Diet Statement/Special Accommodation Form must be revised annually, except for infants for whom the Special Diet Statement/Special Accommodation Form must be revised every six months.

The CACFP regulations do not require providers to make substitutions for children whose conditions do not meet the definition of "handicapped person" set forth in 7 CFR 15b.3 (i). In most cases, staff members can manage special dietary needs of non-handicapped children within the normal meal service when a variety of nutritious foods are offered to the children. Generally, children who have food allergies, intolerances, or are overweight or have elevated blood cholesterol generally do not meet the definition of "handicapped persons," as defined in 7 CFR 15b.3(i). However, if, according to the physician's assessment:

- ♦ The food allergies may result in severe, life threatening reactions (anaphylactic reactions); or
- ♦ The overweight condition is severe enough to substantially limit a major life activity.

In these situations, the participant meets the definition of "handicapped person," and the provider must offer the substitutions prescribed by the physician.

Providers are not required to make substitutions for participants whose conditions do not meet the definition of "handicapped person" set forth in 7 CFR 15b.3 (i). For example, individuals who are overweight do not meet the definition of "handicapped person," and thus providers are not required to make meal substitutions for them. In fact, in most cases, the special dietary needs of non-handicapped participants may be managed within the normal Program meal service when a variety of nutritious foods are offered to participants.

All food services should be provided in the most integrated setting appropriate to the needs of the disabled participant. Providers should ensure that disabled participants participate with all other children present to the maximum extent appropriate to the needs of the disabled participant in question.

Participants with Other Special Dietary Needs

Providers may, at their discretion, make substitutions for individual participants who are not "handicapped persons," as defined in 7 CFR 15b.3 (i), but who are unable to consume a food item because of medical or other special dietary needs. Such substitutions should be made on a case-by-case basis when supported by a statement signed by a recognized medical authority. In these cases, recognized medical authorities may include a licensed physicians, physician's assistant, nurse practitioners, or registered dietitians. For these participants, the "Special Diet Statement/Special Accommodation Form." shall include:

- ♦ An identification of the medical or other special dietary need which restricts the participants' diet.
- ♦ The food or foods to be omitted from the participants' diet and the food or choice of foods that may be substituted.

Medical Exceptions

If a meal is being claimed for reimbursement, the meal pattern requirements may be varied under the following situations:

- ♦ **Medical Exceptions:** Substitutions may be made for foods if a child is *unable*, because of medical or other special dietary needs, to consume such foods. Substitutions shall be made only when supported by a Special Diet Statement/Special Accommodation Form from a recognized medical authority that includes recommended alternate foods. Providers are encouraged to provide food substitutions to accommodate medical or other special dietary needs of individual children. Substitutions may be made:
 - **For medical reasons.** Such substitutions shall be authorized by a **recognized medical authority**, i.e., a physician, a mid-level caregiver such as a physician's assistant, nurse

practitioner, child health associate, or a registered dietitian. The recognized medical authority should specify in writing the food(s) that may be substituted for the meal component. If the substitution is for an extended length of time, medical orders for such substitution should be revised on an annual basis, except for infants for whom the form must be revised every six months.

Example: The parent or guardian obtains a medical order signed by a recognized medical authority that eliminates fluid milk from the child's diet and prescribes the substitution of yogurt or cheese.

Special Exceptions

The following situations require prior approval from the CDPHE-CACFP:

- ♦ **Special Exceptions:** The CDPHE-CACFP may approve variations in the food components of meals on an experimental or continuing basis for any provider where there is evidence that such variations are nutritionally sound and are necessary to meet religious or physical needs. Please contact the CDPHE-CACFP for prior approval.

When a parent asks a provider to not serve a food that is a part of the required meal component as specified in the minimum CACFP meal patterns because he/she does not want the child to have the food, and the provider wants to claim the meal for reimbursement, the provider would still need a *Special Diet Statement/Special Accommodation* Form signed by a recognized medical authority such as a licensed physician, physician's assistant, nurse practitioner, or a registered dietitian, in order to claim the meal. The *Special Diet Statement/Special Accommodation* Form must state the reason(s) why food(s) different from what the pattern requires is necessary, and a substitute food(s) must be listed.

Example: In an orthodox Jewish home, the provider would like to serve full-strength juice instead of the milk component of the lunch two days a week when meat is served as part of the lunch.

If the substitution being made is creditable and meets the meal pattern, the provider may claim the meal without a medical statement. However, the substitute foods must be written on the menu and production record for that meal. For example, the child cannot eat tomatoes so the provider substitutes green beans, which is another creditable vegetable in the fruit/vegetable/juice component. Some examples in the table below will help illustrate these different situations.

Provider Provides:	Parent Provides:	Can Provider Claim?
Low-iron formula or food that deviates from the meal pattern plus rest of meal	Medical statement	Yes
Low-iron formula or food that deviates from the meal pattern plus rest of meal	No medical statement but parent wants the child to get the food	No
High-cost* formula or food or not-readily-available* formula or food plus rest of meal	Medical statement	Yes
<p>***"Not-readily-available" usually means there is difficulty in obtaining the food. "High cost" could mean that the item is at least two times as expensive as normal assuming that the food was already expensive. However, we realize situations vary. These are general guidelines to help you make the best decision. The CDPHE-CACFP will help you to come to a decision but will generally leave the final choice up to the provider.</p>		

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MILK SUBSTITUTES

In the case of children and adults who cannot consume fluid milk due to medical or other special dietary needs, other than a disability, milk substitute beverages may be served in lieu of fluid milk. Milk substitute beverages, such as soymilk, must be nutritionally equivalent to milk and meet the nutritional standards for the 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. These nutritional standards per cup of milk are as follows:

Nutrient	USDA Requirement Per Cup	Daily %
Calcium	276 mg	28%
Protein	8 g	16%
Vitamin A	500 IU	10%
Vitamin D	100 IU	25%
Magnesium	24 mg	6%
Phosphorus	222 mg	22%
Potassium	349 mg	10%
Riboflavin	0.44 mg	26%
Vitamin B-12	1.1 mcg	18%

Milk substitutions are at the option and the expense of the facility. If the parent/guardian submits a written request using the Milk Substitute Parent Request Form for a creditable milk substitute and chooses to provide the substitute, the institution may serve the requested substitute and claim reimbursement. If the parent/guardian submits a written request for a creditable milk substitute and chooses to not provide the substitute, the caregiver has the option to supply the milk substitute and claim reimbursement, or to not supply the milk substitute and decline reimbursement. Milk substitutes that do not meet the above nutrient requirements are not creditable for meal reimbursement. Contact product manufacturers to obtain accurate nutritional information. In addition, a list of identified creditable milk substitutes is listed on the CDPHE-CACFP website.

If the substitute food item is not creditable, such as almond or rice milk, the site must obtain a Special Diet Statement/Special Accommodation Form signed by a recognized medical authority, which supports the need for the substitute. In these cases, recognized medical authorities include physicians, physician assistants, nurse practitioners, or Registered Dietitians. The CDPHE-CACFP recommends the use of the CACFP form for special diets and for the medical authority to sign; however, alternate forms, which present the same information, are acceptable. Special Diet Statement/Special Accommodation Forms for children over the age of one year must be updated annually. For infants under the age of 12 months, the Special Diet Statement/Special Accommodation Form must be updated every six months. The supporting statement must include:

- An identification of medical or other special dietary needs that restricts the child's diet.
- The food or foods to be omitted from the child's diet; and
- The recommended substitute food(s).

The CACFP reimburses Institutions for meals that contain authorized food substitutes at the same reimbursement rate as meals that meet the CACFP Meal Pattern requirements. The Institutions must not charge separately for the substituted food(s) either to a developmentally disabled child or to a child with other special dietary needs.

Providers should work closely with parents or other responsible family members and all other medical, and community personnel who are responsible for the health, well-being, and education of the children with developmental disabilities or with other special dietary needs, to ensure reasonable accommodations to allow their participation in the meal service. This cooperation is particularly

important when accommodating children whose developmental disabilities require significant modifications or personal assistance.

Exceptions to the Meal Pattern for Other Special Dietary Needs or Situations

The CDPHE-CACFP may approve modifications to the meal pattern on an experimental or continuing basis when evidence exists that such variations are nutritionally sound and necessary to meet ethnic, religious, economic, or physical needs. Institutions must contact the CDPHE-CACFP for approval.

In the event of a disaster, the CDPHE-CACFP may temporarily allow Institutions to claim meals for reimbursement that do not meet the CACFP Meal Pattern requirements.

When a parent asks staff members not to serve a food that is a required meal component, as specified in the CACFP Meal Pattern, the institution cannot claim the meal for reimbursement. If the participating site provides an appropriate creditable substitution that meets the CACFP Meal Pattern, the institution may claim the meal. However, a staff member must record the substitute food on the menu and production record for that meal.

MEAL PATTERN FLEXIBILITIES DUE TO DISASTER RESPONSE THAT REQUIRE THE CDPHE-CACFP OR THE FOOD AND NUTRITION SERVICE (FNS) APPROVAL

Child Nutrition Program policies are designed to allow flexibility and support continuation of meal benefits to participants in disaster areas. There are existing flexibilities in meal service requirements and administrative procedures that make it easier for institutions, and sponsors to operate and respond to disaster situations. In the event of a natural disaster, the CDPHE-CACFP may temporarily allow providers to serve meals for reimbursement that do not meet the requirements of this section.

If due to a natural disaster, any of the sponsored family day care home provider need a modification to the meal components or the meal service as listed below, the institution or site must have prior approval. Please contact the CDPHE-CACFP office at (303) 692-2330 to request prior approval if the modifications to the meal pattern listed below affects any participating family day care home provider:

- ♦ The time of meal service or the use of offer versus serve;
- ♦ The need to serve meals without milk or with an alternate form of milk, such as canned or dry milk (7 CFR 210.10(m)(2)(i); 7 CFR 225.16(f)(6); 7 CFR 226.20(e));
- ♦ If changes to other meal component requirements are needed; or
- ♦ If conditions exist that prevent family day care home providers from obtaining fluid milk; or
- ♦ If any participating provider affected by a natural disaster requires special modifications.

PARENTS PROVIDING FOOD

When parents provide foods for birthdays and other occasions, the provider may not claim the meal if the foods provided are the necessary components. If the parents provide an additional food such as cake for lunch or snack (as an extra), and the provider provides the required components, then the meal may be claimed.

MEALS EATEN AT ANOTHER LOCATION

Payment may be made only for meals served to enrolled children who are present and participating in the CACFP during the meal service. Meals “packed” at home and sent with a child to eat at another location are not eligible to be claimed for the CACFP reimbursement, nor are meals eaten or purchased at a restaurant. If the provider takes the group of day care children on a “picnic” or field trip and brings food from the provider's home for the children, the meal can be claimed.

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MEAL PATTERNS

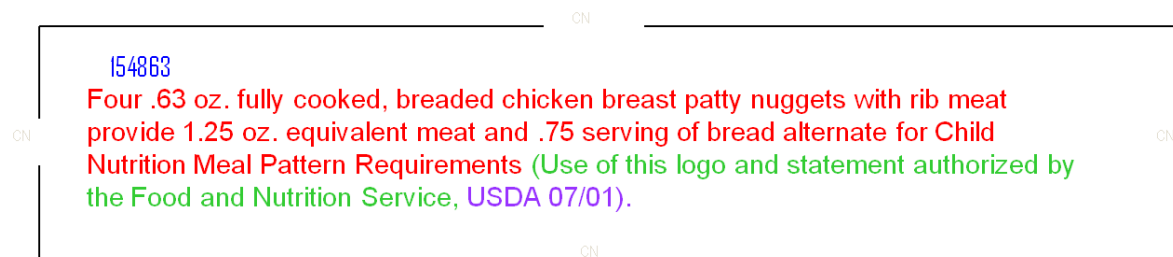
CHILD NUTRITION LABELING

The Child Nutrition (CN) labeling program is a voluntary federal labeling program for Child Nutrition Programs that allows manufacturers to state a product's contribution to the meal pattern requirements on their labels. CN labels may be found on main dish products that contribute significantly to the meat/meat alternate component, such as beef patties, pizzas, burritos, egg rolls, and breaded fish portions. In addition, juice and juice drink products that contain at least 50 percent full strength juice by volume may be labeled. Products with the CN label are most generally available through food brokers and distributors, and in many cases, are not readily available to family day care homes.

A CN label will always contain the following:

- ♦ The CN logo, which is in a distinct border.
- ♦ The meal pattern contribution statement.
- ♦ A 6-digit product identification number.
- ♦ USDA/FNS authorization.
- ♦ The month and year of approval.

Sample Label Statement:



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REIMBURSEMENT FOR MEALS SERVED IN FAMILY DAY CARE HOMES

CLASSIFICATION OF FAMILY DAY CARE HOMES IN THE CACFP

Introduction

This chapter focuses on the responsibilities of family day care home (FDCH) Sponsors participating in the Child and Adult Care Food Program (CACFP) for determining eligibility for Tier I or Tier II reimbursement under the two-tier reimbursement system. The reimbursement structure targets higher reimbursement to child care home providers located in low-income areas and to providers and children from low-income households. The basis for the determination of eligibility is the Income Eligibility Guidelines (IEG) used to determine eligibility for free and reduced price meals in school meal programs which are updated annually to adjust for inflation. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 targets higher reimbursement rates based on:

- The location of the child care home.
- The income of the child care provider's household.
- The income of the child's household.

Sponsor Responsibilities for Tier Determinations

Sponsors are responsible for determining the classification of a family day care home as a Tier I home. If the Sponsor has not been able to verify that the home meets one of the above criteria for Tier I classification, the home must be classified as a Tier II child care home.

Since there is a significant financial benefit associated with the classification of a home as a Tier I child care home, the State agency will establish an over claim against the Sponsor if there is an indication that the Sponsor has intentionally or negligently misclassified the home.

Sponsors will need to be familiar with the requirements for Tier I classification and maintain appropriate documentation to support their determinations of each family day care home's eligibility for Tier I benefits. Sponsors should maintain on file the documentation used to determine the classification of the home as Tier I for as long as the classification is in effect plus three fiscal years. (The length of time the Tier I classification is in effect will be different depending on the method used, as explained in the discussions below about using school or census data or the provider's income or categorical eligibility). The classification documentation and all other records to support reimbursement claims must be retained for three years after the end of the fiscal year to which they pertain, or longer if there is an ongoing audit or investigation. They must also be made available to the State agency, the CDPHE, or the General Accounting Office for review or audit at any reasonable time and place.

TIER I CHILD CARE HOMES

Child care homes participating in the Child and Adult Care Food Program (CACFP) are classified as Tier I homes either by location of the home in an eligible area ("area eligibility") or by the provider's income. After a home has been classified as Tier I, all meals served to enrolled children are reimbursed at Tier I rates regardless of the income of the enrolled children's household. However, if the Tier I classification is based on area eligibility, the provider must still submit an income eligibility statement in order to receive reimbursement for meals served to his/her own children. Under the CACFP regulations, 226.2, area eligibility is defined as follows:

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REIMBURSEMENT FOR MEALS SERVED IN FAMILY DAY CARE HOMES

- ♦ A child care home that is located in an area served by a school enrolling elementary, middle, and high school students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price meals.
- ♦ A child care home that is located in a geographic area, as defined by FNS based on census data, in which at least 50 percent of the children residing in the area are members of households which meet the income standards for free or reduced price meals.

In addition, the provider's household income may be used to classify a home as Tier I. In this case, the law requires that the household income be verified. The definition in 226.2 is:

- ♦ A child care home that is operated by a provider whose household meets the income standards for free or reduced price meals, as determined by the Sponsor based on a completed free and reduced price application, and whose income is verified by the Sponsor of the home in accordance with 226.23(h)(6).

TIER I CLASSIFICATION BASED ON AREA ELIGIBILITY

Use of School Data

The National School Lunch Program (NSLP) requires an annual determination of categorical eligibility or income eligibility using the current year's Income Eligibility Guidelines (IEG), this information is up to date and reflects current school year information. No later than February 1, the NSLP State agency must provide the CACFP State agency a list of elementary, middle, and high schools in the State in which at least 50 percent of the enrolled children have been determined to be eligible to receive free or reduced price meals. The CACFP State agency, in turn, is required to provide all Sponsors in the State with this information no later than February 15 each year.

The United States Department of Agriculture (USDA) has guidance on the use of school data when determining area eligibility in situations when the school attendance areas may not accurately reflect the population of the school for which eligibility data is used. The guidance acknowledges that when children in the public system regularly attend school outside a designated attendance area, the effective use of school data to determine area eligibility may be compromised. In these situations, the percentage of children eligible for free and reduced price meals in a school is not necessarily an accurate reflection of the children living in the attendance area of the school.

In school systems where students are transported by bus outside of their neighborhood schools, to a school they wish to attend, or when students attend charter or private schools that draw students from multiple areas, the school data may not accurately reflect the economic conditions of the surrounding area.

According to USDA guidance, in school districts where busing or school of choice policies are in place, if the site is located in the school for which data is pulled, CACFP Sponsors may use the free and reduced school data for that individual school.

Additionally, the USDA guidance states that when busing or school of choice is in place but school attendance areas are still defined, Sponsors may determine school and non-school site eligibility based on the enrollment or attendance data obtained for:

- ♦ The school children attend, or
- ♦ The school the children would have attended (i.e., the neighborhood school where children live) if school busing or school choice policies were not in effect.

CACFP Sponsors may determine a provider to be area eligible under the second option described above only if the school food authority (SFA) is able to document the percentage of children eligible for free and reduced-price meals at each school before and after students are reassigned. The same method of

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REIMBURSEMENT FOR MEALS SERVED IN FAMILY CHILD CARE HOMES

determining site eligibility must be used for all sites participating under that program Sponsor to avoid duplicate counting.

If the school district does not have a defined school attendance area, the use of school data is not permitted for non-school sites. Census data may be used as the first choice for determining area eligibility for FDCH providers instead of the option described above.

The CDPHE-CACFP recommends that Sponsors contact the school district if any conflicting information arises regarding charter schools and area eligibility.

The CDPHE-CACFP continues to observe different trends and changes in the structure of schools across the state and expect changes in school names and/or statuses in future school data reporting. As indicated above, Sponsors are required to continue to verify information with school authorities or by other methods to ensure accurate determination of area eligibility for Tier I homes. The Sponsor must document this verification.

The Sponsor's determination that a child care home is located in an eligible low-income area will generally be in effect for five years when the determination is based on school data.

The State agency or the sponsoring organization may change a Tier I categorization if new information becomes available to indicate the area is no longer a low-income area.

The NSLP data for newly opened schools will not be available until after the following school year's data is released. Therefore, Sponsors should attempt to qualify providers at Tier I rates based on household income until the new NSLP data becomes available for the newly opened school.

Prioritizing area eligibility data in CACFP

The USDA-FNS revised the regulatory requirements for FDCH Sponsors to use school data first when making area eligibility determinations of FDCH providers for Tier I benefits. The new guidance allows FDCH Sponsors to use either school or census data, in no particular order, when making providers' area eligibility determinations.

Area eligibility determination using school Community Eligibility Provision (CEP) data

The USDA-FNS policy requires CACFP sponsoring organizations, institutions and State agencies to use Community Eligibility Provision (CEP) data to determine area eligibility for family day care homes located in attendance areas of schools that have elected the CEP for the National School Lunch Program (NSLP). Schools may elect the CEP as an individual school, as part of a group of schools, or as part of a district.

The intent of the CEP is to improve access to free school meals in eligible high-poverty Local Educational Agencies (LEA) and schools, and to eliminate the administrative burden of collecting household applications in the NSLP. In Colorado, the CEP for schools was available for the first time in July 2014. A school, group of schools, or district is eligible for the CEP if the Identified Student Percentage (ISP) for the school or group of schools is at least 40%. The ISP is the percentage of enrolled students in a school, group of schools, or district that are certified for free meals through means other than individual household applications (identified students). To calculate the ISP, divide the number of identified students by the number of enrolled students and multiply the result by 100.

If school data from schools that have elected the CEP are used to determine area eligibility for family day care homes, the determination must be based on the individual school's ISP multiplied by a factor determined by USDA-FNS (currently 1.6). If the result is equal to or greater than 50%, the family day care homes in the attendance area of the individual schools are area eligible. The multiplier factor is used to provide an estimate of the total number of students eligible for free and reduced price meals

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in eligible schools. USDA-FNS may change the multiplier to a number between 1.3 and 1.6. Any future changes to the factor will be communicated in advance of implementation through the Federal Register.

Annually, in July or shortly thereafter, the Colorado Department of Education (CDE) will provide CEP data to the CDPHE-CACFP. The CDPHE-CACFP will release this data to FDCH Sponsors upon receipt. The data will include the list of schools that have individually elected the CEP or are part of a CEP group or district. The data will include the ISP for individual schools and the calculation of the individual school ISP multiplied by the factor (currently 1.6). The result must be at least 50% for family day care homes in the individual schools' attendance areas to be area eligible.

The CEP data obtained annually during the month of July from the Colorado Department of Education, will display the "ISP % Multiplied by Factor" column, which is ready for use by FDCH Sponsors without further calculation. If the figure in the ISP % column is at least 50%, family day care homes in the attendance areas of the individual schools are area eligible.

The CDPHE-CACFP encourages FDCH Sponsors to review the current CEP data annually once the data is released, to assess whether any participating Tier II providers might be area eligible based upon the CEP data.

The use of the CEP data is required for any new area eligibility determinations as of January 6, 2015.

Each year, FDCH Sponsors in Colorado will receive two sets of School Data from the CDPHE-CACFP:

1. ***The K-12 Free and Reduced Lunch Eligibility District and School Data:***
The CDPHE-CACFP will provide this data annually in February. FDCH Sponsors must use this data to determine area eligibility for homes in attendance areas of schools that are not using the CEP option.
2. ***The Colorado CEP School Districts and Individual Schools CEP Percentages and Factor Calculations:***
The CDPHE-CACFP will provide this data annually in July or shortly thereafter. FDCH Sponsors must use this data to determine area eligibility for homes in attendance areas of schools that are using the CEP option as individual schools, as part of a group of schools, or as part of a district.

Use of Census Data

The CACFP family day care homes (FDCH) located in low-income areas are eligible to receive tier I rate of reimbursement for all meals served to enrolled children. The National School Lunch Act (NSLA) allows the use of census data to establish that an area is eligible for the tier I rates (42 U.S.C. 1766(f)(3)(A)(ii)). The NSLA permits identification of such areas through the use of census data (42 U.S.C. 1761(a)(1)(A)(i)).

Previously, decennial census income data used to establish these areas were based on the 10-year long form sample. Beginning in 2005, the Census Bureau began to annually estimate household income using the American Community Survey (ACS). The ACS is an ongoing survey that provides annual estimates, based on sampling data, in order to give communities more current information than the decennial census is able to provide.

The ACS estimates are considered the most reliable and precise data, especially for small areas such as census block groups. Census Block Groups (CBG) will continue to be the geographical unit used to assess eligibility for CACFP when using census data.

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Area Eligibility Using Census Data

The CACFP regulation 7 CFR 226.6(f); 7 CFR 225.6(c) requires FDCH Sponsors to use the most recent census data when establishing family day care home providers' eligibility based on census data. The Census Bureau will now estimate household income annually using the ACS and the Food and Nutrition Service (FNS) will release the new estimates every year. However, in order to reduce burden and maintain consistency within the Programs, providers' area eligibility determinations based on census data are now effective for five years.

Sponsors must annually inform Tier II FDCH providers of the annual option to be considered for reclassification when the new census data become available each year and that reclassification may be made at any time for Tier II homes. Additionally, Sponsors must review all Tier I day care homes currently eligible based on census data and make a new determination using the newly available census data, as well as other available methods. Sponsors may choose to reconsider FDCH classification during the next scheduled on-site review.

When using census data to establish a family day care home provider's eligibility for Tier I reimbursement, at least 50 percent of the children residing in the area must be members of households that meet the eligibility requirements for free or reduced price school meals. Occasionally, a potential CACFP day care home or SFSP or SSO site is determined not to be area eligible, but is located immediately adjacent to an eligible area. This proximity suggests that the children residing in the area from which the homes or site would most likely draw participants would have a likelihood of similar census demographics.

In recognizing this likelihood and allowing additional flexibility in the use of census data to establish area eligibility, sponsoring organizations can ensure area eligibility determinations accurately identify areas in which poor economic conditions exist. Therefore, the CACFP FDCH providers and Summer Food Service Program (SFSP) sites will be considered area eligible using either Census Block Groups (CBGs) or Census Tracts if the providers' addresses are located in a CBG that qualifies under either CACFP or SFSP. Census Tracts are geographical units that consist of one or more CBGs. The USDA annual data release includes a column of CBGs for CACFP and a separate column for SFSP, and a column (with the heading "Eligible") to indicate whether the CBG is eligible under either Program.

To determine eligibility of a family day care home based on the analysis of the proposed location, up to three adjacent CBGs may be averaged using a weighted average to determine eligibility. In each of the CBGs included in the average, at least 40 percent of children must be eligible for free or reduced-priced meals. Census Tracts may not be combined.

In order for a CACFP provider to be eligible for Tier I reimbursement, 50 percent or more of the children in a CBG must be eligible for free or reduced price school meals.

Based on analysis of the proposed location, with both the CDPHE-CACFP and the USDA Regional Office approval, up to three adjacent CBGs may be averaged, using a weighted average, to determine eligibility. In all CBGs in the average calculation, including the CBG for the provider's address, at least 40 percent of children must be eligible for free or reduced-price meals. Census Tracts may not be combined.

The CACFP family day care homes and SFSP and SSO sites are considered area eligible if:

1. 50 percent or more of the children in a CBG are eligible for free or reduced-price school meals;
2. 50 percent or more of the children in a Census Tract are eligible for free or reduced-price school meals; or
3. The percentage of children eligible for free or reduced-price meals in up to three adjacent CBGs when averaged is 50 percent or more, provided that at least 40 percent of children in

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each of the combined CBGs, including the CBG for the provider's address, are eligible for free or reduced-price meals.

The following three circumstances may serve as a guide to assist Sponsors in determining the use of Census data:

The FDCH is located in a rural area, where geographically large school attendance (elementary, middle, and high school) areas occasionally obscure localized pockets of poverty, which can be identified through use of census data.

School data show an area to be close to the 50 percent threshold for area eligibility (that is, between 40 and 49 percent), and the special tabulation of the census data reveals a portion of the school's attendance area in which 50 percent or more of children are income eligible.

The local elementary, middle, or high school data does not reflect the surrounding area's socioeconomic condition due to the use of busing or other non-neighborhood bases (e.g. "magnet schools," "charter schools," etc.) for defining school attendance areas.

When Census data is used to determine a FDCH's eligibility for Tier I benefits, the determination will remain in effect for **five years**.

Using Census Data

There are three options Sponsors may use to determine area eligibility using Census Data:

Option 1: Determine eligibility using the FNS Area Eligibility Mapper

The FNS Area Eligibility Map includes an address search that will return eligibility information as well as other demographics. This map also includes zoom capabilities and map comparison for identifying areas of need. <http://www.fns.usda.gov/areaeligibility>.

Option 2: Determine eligibility using the 2014 FRAC Summer Food Mapper

1. Go to either FRAC map:

a. CACFP: <http://216.55.182.132/FairData/CACFP/map.asp?command=scope&map=0>

b. SFSP and SSO: <http://216.55.182.132/FairData/SummerFood/map.asp?command=scope&map=0>

Option 3: Combining CBGs:

Areas that are ineligible using Option 1 and Option 2, may be eligible using Option 3. Up to three adjacent CBGs where at least 40 percent or more of the children in each CBG are eligible for free or reduced-price meals may be combined to determine eligibility. If the combination of adjacent CBGs results in a weighted average of 50 percent or more free and reduced-price eligible, the CBG can be considered eligible.

To calculate the weighted average, the following are important:

- Only up to three CBGs may be averaged, and one of these must include the CBG in which the day care home or summer site is located.
- All CBGs included in the weighted average have 40 percent or more children eligible for free or reduced-price meals
- The CBGs must be adjacent to, or share a border with the CBG where the day care home or summer site is located.
- Either data for CACFP (0-12 year olds) or SFSP and SSO (0-18 year olds) must be used to determine the weighted average. Either of these numerators and denominators may be used to determine eligibility using the weighted average but the same data set must be used across CBGs.

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Sponsors must receive approval from the CDPHE-CACFP and the USDA Regional Office prior to changing the tiering information in the provider's application; or reimbursing the provider at the Tier I rate based on CBGs averaging determinations.

As part of the monthly Provider's Approval process and by the fifth of the month, Sponsors using Option 3, must submit the list of providers (participating and new) determined area eligible, to the CACFP program assistant. If the fifth of the month falls on a weekend or a legal holiday, the information must be sent on the first working day after the fifth day of the month.

If providers were previously determined area eligible by using the averaging of the CBGs, submit the list of providers and the documentation used to make the determinations, to the Sponsor's assigned Nutrition Consultant. The Nutrition Consultant will verify the determinations made by the Sponsor, and if the Nutrition Consultant's assessment is the same as the Sponsor's, the CDPHE-CACFP office will submit the provider's determination to the USDA Regional office for approval. If the determination made by the Sponsor is approved by the CDPHE-CACFP and by the USDA Regional Office, the effective date of eligibility will remain the date on which the Sponsor made the determination.

Documentation of Area Eligibility

A Sponsor must determine and document school attendance area information for each family day care home. Most commonly, Sponsors would obtain an official school-boundary identifying map, match provider addresses to the map's boundaries, and retain the map as documentation. If such maps were unavailable, the Sponsor would need to contact school officials to verify the attendance area of the schools serving its providers and document the results of this contact, either with a letter from a school official to the Sponsor or with a memorandum to the files detailing the information provided by the school officials and the complete name, title, and telephone number of the school official(s) consulted. A memo to the files should always be dated and initialed. The documentation in the file must also include the effective and expiration dates of eligibility.

Similarly, if census information were used to determine area eligibility, the Sponsor would need to maintain census block group boundary maps for providers to document their eligibility to receive Tier I reimbursement. The FRAC Maps provide a list of providers' street addresses matched to eligible census blocks. Such lists may also be maintained as documentation.

Sponsors should maintain on file the documentation used to determine the classification of the home as Tier I for as long as the classification is in effect plus three years after the end of the fiscal year to which they pertain, or longer if there is an ongoing audit or investigation.

TIER I CLASSIFICATION BASED ON ELIGIBILITY OF PROVIDER

In order to classify a child care home as Tier I based on the provider's household income or categorical eligibility, the Sponsor must:

- ♦ Have on file a completed income eligibility form (IEF) for the provider, which lists all household members and income or shows categorical eligibility
- ♦ For each income eligibility form (IEF), check that the math is correct and total household income and family size are within the current income eligibility guidelines (IEG).
- ♦ Verify, using outside sources, that the information submitted by the provider is accurate.

All three of the above steps must have been completed before reimbursing the provider for meals at the Tier I rates.

Classification Based on Categorical Eligibility of Provider

A provider may demonstrate that they meet the criteria for Tier I meal reimbursement, if any member of their household receives the benefits of the Supplemental Nutrition Assistance Program (SNAP), previously known as the Food Stamp Program; the Temporary Assistance to Needy Families Program (TANF); or the Food Distribution Program on Indian Reservations (FDPIR). However, the Sponsor must also verify this information.

If the child care home is receiving Tier I rates based on the provider's household income, categorical eligibility, SNAP, TANF or FDPIR, eligibility must be re-determined annually.

Documentation for Assistance Programs using requires that the household list a case number on the application. For the extension of categorical eligibility, validation means a confirmation of an active case number.

Categorical Eligibility of Foster Children

In addition to the categorically eligible programs listed above, the Healthy, Hunger-Free Kids Act of 2010 provided categorical eligibility for Tier I meals without further application, to any foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household.

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. Another way to obtain documentation for the categorical eligibility of the foster child would be to request a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, a phone call to the placement agency to confirm the child's status and income should be made prior to denying the foster child Tier I meals.

The Healthy, Hunger-Free Kids Act of 2010 also allows households with foster and non-foster children to include foster children as household members, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children as long as there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child. This streamlines the income application process and may help the day care home foster family's non-foster children or the foster household qualify for Tier I meals based on household size and income.

In processing the income applications, Sponsors would certify the foster child for Tier I meals without requesting an application as long as there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child. Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact. Once the documentation for the foster child is available, Sponsors could make an eligibility determination for the remainder of the household based on the household's income (including personal income earned by the foster child) or other categorical eligibility information reported on the application.

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Other personal use income to be reported on income applications listing foster children (Provider's IEF or CHIEF forms to qualify other household children) would include cash personally received by the child including, but not limited to, funds received from trust accounts, from the child's family for personal use, and from full-time or regular part-time employment. In addition, funds provided by Colorado Department of Human Services (CDHS) that are specifically identified by category for personal use of the child such as clothing, school fees, and allowances are counted as income. Funds identified for shelter, care, and medical and therapeutic needs are not considered as income for the child. Where CDHS funds cannot be identified by category, no portion of the provided funds is considered income.

As before, foster payments received by the family for the placement of a foster child are not considered income to the family and do not need to be reported. Please note that the presence of a foster child in the household does not convey eligibility for free meals to all children in the household in the same manner as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Food Distribution Program on Indian Reservation (FDPIR) participation does.

It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court based systems.

The presence of a foster child in the household does not convey automatic eligibility for the family day care home provider or for Tier I meal reimbursement to all children in the household in the same manner as participation in Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Food Distribution Program on Indian Reservation (FDPIR).

Because some adopted children were first placed in families as foster children, once the child is adopted, she/he is no longer categorically eligible for free meals as a foster child. Due to year-long eligibility, the free eligibility status of a foster child would not change within the year (including up to 30 operating days in the subsequent school year) if the child is adopted. However, for the subsequent years, an adopted child must now be determined eligible based on the economic unit and all income available to that household, including any adoption assistance, when making an eligibility determination.

Verification of Provider's Household Income or Categorical Eligibility

Sources of information for verification of the provider's household income or categorical eligibility include written evidence, collateral contacts, and/or systems of records.

1. Written Evidence

Written evidence shall be used as the primary source of information for verification. Such evidence may be submitted by the provider along with the provider's income eligibility form (IEF). Written evidence includes:

- ♦ Written confirmation of a household's circumstances, such as pay or wage stubs from employers or a letter from employers confirming wages.
- ♦ Acceptable written evidence of pay or wages must contain the name of the household member; amount of income received, the date the income was received and the time period the income was received. For example, a pay stub with no date would be insufficient.
- ♦ Tax forms.

Note: The Sponsor may use income tax forms as verification for self-employed persons. However, income is defined differently for USDA programs than the Internal Revenue Service (IRS) for income tax purposes defines income. Please see "Worksheet for Using IRS

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1040 to determine USDA Eligibility for Provider's Household Income," which is distributed each spring in the form revision packet for further information.

- ♦ A current "Notice of Eligibility" for benefits or current certification that a member of the household participates in the SNAP, TANF, or FDPIR or award letters from the welfare department or other government agencies which establish the households eligibility to receive SNAP, TANF, or FDPIR.

Note: A SNAP, TANF, or FDPIR document that does not specify the certification period is not adequate for documentation. For example, the SNAP identification card is not acceptable because it usually does not have an expiration date.

USDA-FNS-Memo CACFP-520 dated June 9, 1997, states that, "because of the inherent difficulties in verifying the income of self-employed persons, Form 1040 will often be the best source of information for verifying household income." Therefore, CDPHE-CACFP recommends that the IRS Form 1040 and the Schedule C be used as the preferable written evidence for verifying provider's income. If the IRS Form 1040 no longer accurately reflects the provider's household income, the provider must submit a written note explaining the reason. The provider then must submit proof of current income and expenses.

When using monthly income and expenses the provider must report current income on the IEF. The definition of current income is income received by the household for the current month, the amount projected for the first month for which the application is filled out, or the month prior to the application. If this income is higher or lower than usual and does not fairly or accurately represent the household's actual circumstances, the household may, project its annual rate of income based on the guidelines listed under Special Situations on page 104.

Providers must submit proof of monthly child care income along with the IEF (if the provider is not area eligible). Proof consists of dated copies of receipts given to the parents with the parent's signature, dated copies of checks received from parents, or copies of checks received from CDHS. The proof of child care income must be dated for the month prior to the month the IEF is being completed and submitted. Proof of income must be kept on file.

2. Collateral Contacts

A collateral contact should be used only in cases when the provider has not been able to provide adequate written evidence. The provider may designate a collateral contact outside the household who is knowledgeable about the household's circumstances and can give verbal confirmation of the household's income or food stamp or welfare receipt.

Collateral contacts include employers, social service agencies, migrant worker agencies, and religious or civic organizations.

The collateral contact should not be someone who might be affected by the provider's receipt of higher Tier I rates-such as a family member or other relative, neighbor, or household of the children in the provider's care.

The collateral contact may be made in person or by phone. However, all collateral contacts must be documented, dated, and initialed by the Sponsor. (Documentation should be complete enough that an independent outside auditor could contact the collateral contact at a later date for verification. Therefore the documentation should include the complete name of the person spoken with, the title of the person spoken with, the agency contacted, and the phone number.)

3. Agency Records

The Sponsor may also submit the name and case number (provided on an income eligibility form IEF) of a categorically eligible provider to the local SNAP, TANF, FDPIR, or welfare office to request verification of the provider's categorical eligibility. SNAP, TANF, FDPIR, or welfare offices are

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permitted to release eligibility information from their files to other Federal assistance programs and federally assisted State programs. The Sponsor should request information for the most recent month available.

Note: This is different from Direct Certification, which is not currently allowed in the CACFP. Direct Certification is a simplified method of determining eligibility for free meals in the school programs by contacting local welfare agencies for lists of eligible participants, without having the family complete an eligibility statement.

Documentation of Verification

The Sponsor must keep a record of the source of information used to verify the provider's household income or categorical eligibility. The Sponsor must retain either:

- All documents submitted by the household.
- Photocopies of the documents.
- In situations where the actual documents or photocopies cannot be kept (or the photocopy is unreadable), the Sponsor must make a written record of the documents submitted by the household including the type of document, e.g., wage stubs or letter from an employer, income shown on the document, time period of the income, and the date of the document.

If verification consists of other agency records or collateral contact, that verification must be documented and retained by the Sponsor.

Sponsors should maintain on file the documentation used to determine the classification of the home as Tier I for three years after the end of the fiscal year to which they pertain, or longer if there is an ongoing audit or investigation.

Provider's Own Children

Meals served to the provider's own children may only be reimbursed if the following four conditions exist:

- The provider has been determined to be eligible for Tier I rates based on area eligibility or income eligibility.
- The provider's children must be enrolled and participating in the child care program during the time of the meal service.
- At least one other enrolled nonresidential child must be present and participating in the same meal service.
- The Sponsor must have an income eligibility form (IEF) on file for the provider's household showing that the provider's household is income eligible or categorically eligible. If the provider is area eligible for Tier I rates, a completed IEF without documentation is required. If the provider is income eligible for Tier I rates, the IEF must be completed and documentation verifying the information on the IEF must be on file as well.

Definition of "Provider's Own Children"

"Provider's own children "are all residential children related and unrelated in the household who are part of the same household economic unit. A household is defined as a group of related or unrelated individuals who are not residents of an institution or boarding home but are living as one economic unit and who share housing and all significant income and expenses. A household, therefore, is not necessarily defined by the traditional husband/wife/child family interpretation.

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Children whose parents or guardians have made a contractual agreement, whether formal or informal, with a provider for residential child care, and whose relationship with the provider is defined primarily by the child care situation, are not considered the “provider’s own.”

Note: An economic unit is a group of related or unrelated people who share housing and/or all significant income and expenses of its members. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child’s status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact.

The Healthy, Hunger-Free Kids Act of 2010 also allows households with foster and non-foster children to include foster children as household members, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children as long as there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child. This streamlines the income application process and may help the day care home foster family’s non-foster children or the foster household qualify for Tier I meals based on household size and income.

However, children who live in the home without formal legal placement by a court or other agency of government must be considered members of the household. The family may consider these children “foster” children, but unless they are the legal responsibility of a court or welfare agency, they must be considered members of the household for purposes of determining eligibility for Tier I reimbursement.

Other residential children who live in the dwelling where care is given are reimbursable only if they can be considered the provider’s own.

Note: If the provider has been determined to be eligible for Tier I rates due to area information- either school or census data—the provider’s own children will be eligible for reimbursement only if the provider has filled out an income eligibility form and has been determined to qualify for benefits on the basis of household income or because any member of the household participates on SNAP, TANF or FDPIR. This does not include the “expanded” categorical eligibility, which may be used to qualify children in mixed Tier II homes as explained below.

Verification for Provider’s Own Children-Area Eligibility

In cases where the other children in the home are eligible for Tier I rates due to area eligibility, the Sponsor must ensure that the provider’s income eligibility statement has been filled out completely and totals are added correctly prior to making a determination that the provider’s own children may be reimbursed for program meals. However, the Sponsor is not required to verify the information on the

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income eligibility statement from other sources. (This type of verification was previously used in “non-pricing” programs.)

COMPLETING THE PROVIDER HOUSEHOLD INCOME ELIGIBILITY FORM (IEF)

The “Dear Family Day Care Home Provider” cover letter, distributed to Sponsors each spring, has specific instructions on filling out the IEF.

Households Receiving SNAP, TANF, FDPIR Benefits

Households in which one or more members of the household receive benefits from the Supplemental Nutrition Assistance Program SNAP (previously known as the Food Stamp Program), the Temporary Assistance to Needy Families Program (TANF), or Food Distribution on Indian Reservations Program (FDPIR) qualify for Tier I rates and are eligible to claim meal reimbursement for their own household children enrolled in the CACFP. An IEF must be filled out, approved by the Sponsor, and on file prior to paying Tier I rates. A SNAP, TANF, or FDPIR case number must be listed on the IEF in Section (A) and documentation showing eligibility of benefits at the time the IEF is completed (Quest Card and Social Security Numbers are not acceptable).

Non-SNAP, TANF, or Non-FDPIR Households

For households that are not receiving SNAP, TANF or FDPIR benefits, the entire IEF must be completed. Below are explanations of sections (A) through (F).

CACFP Site Eligibility Waivers due to Disaster Response

Based on the significant needs of each community, FNS Regional Offices may waive the requirements under CACFP that sponsors document that each site is serving an area in which poor economic conditions exist 7 CFR 226.2 (tier I day care home). These requirements may be waived for existing eligible providers whose family day care home is located in the area damaged by a natural disaster that must relocate to areas that are not eligible based on school or census data. Please contact the CDPHE-CACFP office at (303) 692-2330 to request prior approval if this modification affects any of your sponsored family day care home provider due to a natural disaster.

Section (A) Names and Ages of Household Children for Whom Application is Made

Under names and ages of provider’s own household children for whom application is made, providers must list the names and ages of their own household children who are enrolled in the CACFP. Only children under the age of 13 are eligible to be claimed on the CACFP, unless the child is developmentally disabled.

Section (B) Net Child Care Income

If a provider has an IRS 1040 Form from the prior year that is still indicative of her household and child care income, the provider must submit the IRS Form 1040 and Schedule C and skip the expenses and income lines of Section B. The Sponsor will use the CDPHE-CACFP worksheet “Worksheet for Using IRS 1040 to Determine USDA Eligibility for Provider’s Household Income” to determine if the provider is income eligible.

If the IRS Form 1040 is no longer indicative of the provider’s household and/or child care income, the provider must submit a written note explaining the reasons. The provider must then submit current income and expenses. Current income and expenses income received by the household for the current month, the amount projected for the first month for which the application is filled out, or the month prior to the application.

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If providers are using current income and expenses to complete the IEF they may deduct all child care expenses such as child care related automobile, building and utility expenses, taxes, telephone costs, the cost of food served to enrolled child care children, child care insurance, etc., from their total gross child care income to calculate net child care income. The net child care income is then included as a part of household income. Food costs may only be listed for child care children. The cost of food for household children enrolled in the child care may not be listed.

All child care income must be listed. If the provider's net child care income is negative, it may only be listed as "zero" income. A negative dollar amount may never be shown. CACFP reimbursement must be included as part of child care income. However, any reimbursement received by the provider from CDPHE-CACFP for meals served to the provider's own household children should not be listed on the form as income.

The provider must complete the lines that ask whether income is weekly, monthly, or yearly and the number of children in care.

Since child care income and expenses can be irregular, income may be averaged over the prior 12 months. When averaging income, use the 12 months prior to the month the IEF is completed.

When a provider has start-up costs, she should divide those costs by 12 months and deduct that amount from the first month's income. A new provider may not put down an "expected" amount of CDPHE-CACFP reimbursement until it is received. When the first full reimbursement is received, the provider should refigure her income. The same applies to food costs. If the provider is just beginning to care for children, zero child care income may be listed. To determine monthly child care income and expenses please refer to the Child Care Monthly Income and Expenses Worksheet distributed in the spring forms revision packet each year.

Section (C) Total Household Income Per Month or Year

The provider must list all household members' names not listed in Section (A). If using the IRS Form 1040, list the other household member's names. If the other household members had income that was not reported on the provider's IRS Form 1040 include that income as well. If figuring income using monthly income and expenses, the provider must list all other household members names and the prior month's gross cash income (self-employed report net cash income), by source, for all members of the household before deductions in the appropriate boxes. Regardless of when cash income is earned, it must be declared for the month in which it is received. Listed below are types of income that must be included:

Earnings from work

- ♦ Wages, salaries, tips, and commissions;
- ♦ Net income from self-owned business and farms; and
- ♦ Strike benefits, unemployment compensation, and worker's compensation.

Welfare/child support/alimony

- ♦ Public assistance payments/welfare benefits (e.g., TANF, General Assistance/General Relief); and
- ♦ Alimony or child support payments.

Note: Benefits under SNAP and FDPIR are not counted as income.

Retirement/disability benefits

- ♦ Pensions, retirement income, veterans' benefits;
- ♦ Social security;

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- ♦ Supplemental security income; and
- ♦ Disability benefits.

Any other income

- ♦ Net rental income, annuities, and net royalties;
- ♦ Interest and dividend income;
- ♦ Cash withdrawn from savings;
- ♦ Income from estates, trusts and/or investments;
- ♦ Regular contributions from persons not living in the household; and
- ♦ Any other money that may be available to pay for the child(ren)'s meals.

Household income reported on the IEF application must be a definite number and may not be given as a range between two figures. Irregular self-employment income, such as farm income, may be averaged over the prior 12 months.

Note: Use the following when converting income of the household members or child care income from weekly, bi-weekly or monthly to annually:

- ♦ Multiply weekly income by 52 to convert to annual income;
- ♦ Multiply bi-weekly income by 26 to convert to annual income; or
- ♦ Multiple monthly income by 12 to convert to annual income.

SPECIAL SITUATIONS

Adopted Child

An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. If the adoption is a “subsidized” adoption, which may include children with special needs, the subsidy is included in the total household income.

Because some adopted children were first placed in families as foster children, parents may not be aware that, once the child is adopted, s/he is no longer categorically eligible for free meals as a foster child. Due to year-long eligibility, the free eligibility status of a foster child would not change within the year (including up to 30 operating days in the subsequent school year) if the child is adopted. However, for the subsequent school years, an adopted child must now be determined eligible based on the economic unit and all income available to that household, including any adoption assistance, is counted when making an eligibility determination.

Alimony and Child Support

Any money *received* by a household in the form of alimony or child support is considered income to the receiving household. Any money *paid* by a household in the form of alimony or child support is not excluded as income for that household.

Child's Income

The earnings of a child who is a full-time or regular part-time employee, or who receives income from other sources, such as Supplemental Security Income or Social Security, must be listed on the application as income. Infrequent earnings, such as income from occasional baby-sitting or mowing lawns, are not counted as income and should not be listed on the application.

Deployed Service Members

Any member of the armed services who is activated or deployed in support of any military combat operation is counted as a household member. Any money made available by them or on their behalf for the household is included as income to the household with the exception of combat pay, as discussed below under Military Compensation.

Farmers

Net income for a self-employed farmer is figured by subtracting operating expenses from gross receipts. A farmer is anyone who operates a farm on his own account as an owner, renter, or sharecropper.

A farmer's operating expenses include the cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, such as rent, interest on farm mortgages, farm building repairs, and farm taxes (but not state and federal taxes).

Gross receipts include, but are not limited to, the value of all products sold, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and the like.

The value of fuel, food, or other farm products used for family living is not included as part of a farmer's net income.

Note: Remember, if negative income occurs, it must be listed as zero income.

Foster Child's Income

If the household where the foster child resides applies for benefits for their non-foster children, then the foster child's personal income is considered when making an eligibility determination. The foster child's income can be from a part-time job or from any funds provided to the child for his/her personal use. (It is optional for the household to list foster children residing in their care.)

Garnished Wages and Bankruptcy

Income is the gross income received by a household before deductions. In the case of garnished wages and income ordered to be used in a specified manner, the total gross income must be considered regardless of whatever portions are garnished or used to pay creditors.

Income for a Child Residing in an Residential Child Care Institution (RCCI) or Institutions

Only the income earned by a child from full-time or regular part-time employment and/or personally received by the child while in residence at the RCCI or institution is considered income.

Income for the Self -Employed

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 (but 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 the 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).

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Income from Wages and Self-Employment

Households with income from wages and self-employment must list each amount separately. When there is a business loss, income from wages must not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero.

Military Benefits

Benefits paid directly to the service person, such as housing allowances and food or clothing allowances, are considered income.

Other Business Persons

Net income for self-employed business persons other than the family day care home provider is also figured by subtracting business expenses from gross receipts. Business refers to a professional enterprise or partnership (farming is explained above).

Self-employed persons may use their latest Schedule C Business Profit and Loss to verify their most current yearly net income.

Expenses include the cost of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid business taxes (not personal income taxes), etc.

Gross receipts include the total value of goods sold or services rendered by the business.

The value of saleable merchandise consumed by the proprietors of retail stores is not included as part of net income.

Projected Income for Seasonal Workers

Seasonal workers, such as migrant workers and others, whose income fluctuates, usually earn more money in some months than in other months. Consequently, the previous month's income may distort the household's actual circumstances. In these situations, the household may project its annual rate of income and report this amount as its current income. If the prior year's income provides an accurate reflection of the household's current annual rate of income, the prior year may be used as a basis for the projected annual rate of income. Or, the income may be averaged over the prior 12 months.

In making the eligibility determination, the Sponsor must determine the period of time any earnings are received for seasonal workers as well as the amounts and sources. Seasonal workers include those with annual employment contracts but who may choose to have their salaries paid over a shorter period of time. This includes school employees. The Sponsor must determine the full amount of income available to such workers contractually on an annual basis and convert all income sources to annual amounts. This treats these employees in the same manner as employees who choose to have their salaries paid over the full year.

Income Not to Be Reported

Income that should not be reported includes any cash income or value of benefits a household receives from any federal program that excludes reporting such income by legislative prohibition. (Also, see definition of Child's Income later in this section). Examples are:

- ◆ The value of Food Stamps received under SNAP (previously known as the Food Stamp program).
- ◆ The value of free or reduced price meals received in schools and child care centers and family day care homes (under the National School Lunch Act).
- ◆ The value of day care benefits received under Title XX of the Social Security Act.
- ◆ Title XX payments from CDHS are considered income to the child care provider.

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- ♦ Student financial assistance, such as grants and scholarships awarded to help meet educational expenses, is not to be reported. However, any extra cash left over after the cost of education would be considered income.
- ♦ Foster payments received by the family for the placement of a foster child are not considered income to the family and do not need to be reported.
- ♦ Loans are not considered earned income since these funds are only temporarily available and must be repaid.
- ♦ Value of in-kind compensation, such as housing for clergy and similar non-cash benefits; and
- ♦ Occasional earnings received on an irregular basis (not recurring, such as payment for occasional baby-sitting or mowing lawns).

Payments from Federal programs which are excluded from consideration as income by legislative prohibition:

- ♦ Value of assistance to children and their families under the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, and the Food and Nutrition Act of 2008;
- ♦ Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- ♦ Any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents, and others) of the Domestic Volunteer Service Act of 1973 to the extent excluded by that Act;
- ♦ Payments to volunteers under section 8(b)(1)(B) of the Small Business Act (SCORE and ACE);
- ♦ National Flood Insurance Program (NFIP) payments—payments received by property owners under the NFIP;
- ♦ Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes;
- ♦ Student financial assistance received under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Education Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship Programs, to the extent excluded by that Act;
- ♦ Payments under the Agent Orange Compensation Exclusion Act (Public Law 101-201);
- ♦ Payments under the Child Care and Development Block Grant (Public Law 102-508);
- ♦ Payments and allowances to individuals participating in AmeriCorps to the extent excluded by the National and Community Service Act of 1990;
- ♦ Payments under the Low-income Home Energy Assistance Act (Public Law 99-125);
- ♦ Payments under the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1989 (Public Law 100-707);
- ♦ Payments received under the Carl D. Perkins Vocational Education Act, as amended by the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990 (Public Law 101-392);
- ♦ Value of any child care payments made under section 402(g)(1)(E) of the Social Security Act;
- ♦ Value of any “at-risk” block grant child care payments made under section 5081 of Public Law 101-508, which amended section 402 of the Social Security Act;
- ♦ Value of any child care provided or paid for under the Child Care and Development Block Grant Act, as amended (Public Law 102-586, Sec. 8(b));
- ♦ Payments received under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of \$2,000;
- ♦ Payments received under the Cranston-Gonzales National Affordable Housing Act (Public Law 101-625); and
- ♦ Payments received under the Housing and Community Development Act of 1987.

This list is *not* all inclusive. Legislation is periodically enacted that excludes income for the purpose of the meals served in child nutrition programs. Here is a link to the list of income excluded by Federal law that is maintained by the Supplemental Security Income Program:

http://www.socialsecurity.gov/OP_Home/cfr20/416/416-app-k.htm

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This website may assist you in determining if benefits from other programs are excluded as income from Federal means-tested programs. Determining officials should contact the State agency when there is a question of whether specific payments are to be included as income. The household always has the right to provide documentation or to request a determination about a source of income that may be excluded for the purposes of the child nutrition programs.

Military Compensation

The value of “in kind” compensation allowances, such as military base housing or other subsidized housing, medical, and dental services, are not counted as income. Only cash payment for housing is counted as income except in the case of “privatized military housing.” If the service member receives a housing allowance for privatized military housing, the allowance will appear on the Leave and Earnings Statement (LES); however, the allowance amount is excluded from income for CACFP purposes. This income exclusion is only for service members living in housing covered under the Military Housing Privatization Initiative and not for service members living off-base in the general commercial/private real estate market.

House payments in lieu of child support do not count as income.

Public Law 109-163 (January 6, 2006) made the Department of Defense’s Family Subsistence Supplemental Allowance (FSSA) permanently available. Therefore, the exclusion of the FSSA as income for the Child Nutrition Programs (CNP) is also permanent.

The FSSA, as defined by the CACFP-763 Memorandum, is the Family Subsistence Supplemental Allowance paid by the Department of Defense to certain members of the Armed Forces and their families. The FSSA is designed to bring a household’s income up to 130% of the Federal poverty line and decrease the reliance on Food Stamps for affected members and their families. The amount of the FSSA, based on household size and income, may not exceed \$500 per month.

In addition, new USDA guidance allows the exclusion of military Combat Pay and/or Deployment Extension Incentive Pay (DEIP) for the purpose of determining eligibility for Tier I meals for children and households of deployed military personnel in those instances when Combat Pay and/or Deployment Extension Incentive Pay (DEIP) are listed as part of the income received by the service member on the military Leave and Earning Statement (LES) or on similar household income documentation.

Combat Pay is excluded if:

- ♦ It is received in addition to the service member’s basic pay;
- ♦ It is 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
- ♦ It was not received by the service member prior to his/her deployment to or service in the designated combat zone.

Combat pay as described above is extended to Deployment Extension Incentive Pay (DEIP). DEIP is given to active-duty service members who agree to extend their military service by completing deployment with their units without re-enlisting.

This exemption applies only until the service members return to their home station. DEIP payments provided to service members who are not considered deployed are not exempt.

Lump Sum Payments

Lump sum payments, including severance pay or large cash settlements, are not counted as income since they are not received on a regular basis. These funds may be received by the provider or members of the provider’s household as compensation for a loss that *must* be replaced, such as

payment from an insurance company for fire damage to a house, or they may be payments from lottery or other winnings. When lump sum payments are put into a savings account and the household regularly draws from that account for living expenses, the amount withdrawn is counted as income on the IEF.

Section (D) Social Security Number

The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, amends statutory requirements for collection of Social Security Numbers (SSN) in all Child Nutrition Programs, including CACFP.

The provisions of the Healthy, Hunger-Free Kids Act of 2010 also amends the Richard B. Russell National School Lunch Act and removes the requirement that the adult household member who signs a household income application for Tier I meals also must provide his or her complete SSN as a condition of eligibility and now requires that only the last four digits of the SSN must be provided on the application.

Therefore, it is not mandatory to supply the complete SSN of all adult members (age 21 and older) of the household. However, failure to provide the last 4 digits of the SSN will result in the denial of the IEF, with the exception of the situations cited previously (i.e., where a SNAP, TANF, or FDPIR case number is listed). According to sections 9 and 17 of the NSLA, the last 4 digits of the SSN must be provided in order to claim meal reimbursement. If the provider or adult household member who signs the IEF does not have a SSN, the word, "None" must be written on the IEF.

Section (E) Signature of Adult Household Member

The signature of an adult household member is required. The address, telephone number, and signature date of the parent/guardian/adult household member signing the IEF must also be included. An IEF must be signed and dated by the parent/guardian/adult household member prior to the Sponsor approving the IEF. An IEF is valid only after the Sponsor approves, signs, and dates the form.

Section (F) Sponsor's Approval of the Income Eligibility Form

A provider may not claim meals at the Tier I rate for all of her child care children or claim her own household children's meals until the IEF is approved, signed, and dated by the Sponsor's representative.

Submission of documentation of income and expenses listed on the IEF is not required if a provider is Tier I by area eligibility and is completing the IEF to claim her own household children. However, documentation must be kept at the provider's residence and must be produced if the Sponsor has a need to verify unreasonable income or expenses.

Eligibility Duration

In accordance with 7 CFR §226.23(f), CACFP institutions must collect and report to State agencies free, reduced-price, and paid meal eligibility information. Family Day Care Home Sponsors must collect income information for income eligible providers receiving Tier I benefits, and for children claimed for Tier I benefits in a Tier II home. Such information must be updated annually and may not be more than 12 months old. Income eligibility forms should be considered current and valid until the last day of the month in which the form was dated one year earlier. Therefore, an income form signed and dated by a Sponsor on January 12, 2015, is valid until January 31, 2016.

Sponsors may now choose between the following dates to use as the effective date of providers' and children's eligibility for CACFP benefits.

- 1) The date the provider, or parent/guardian (for the CHIEF) sign the income eligibility form; or

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- 2) The date on which the Sponsor's official makes the determination, and signs and dates the income eligibility form.

Sponsor officials must decide which date to use as the effective date and apply the same method to all eligibility determinations made for all applicable homes and participants of sponsored homes. This new flexibility applies only to eligibility determinations made on completed income eligibility forms that contain all required information. However, if the date of the parent, guardian or participant signature is not within the month of certification by the institution or the immediate-preceding month, the revised USDA guidance indicates the effective date must be the date on which the institution's official makes the eligibility determination.

Example:

For non-school CACFP institutions, if an individual Income Eligibility Form is signed and dated by the parent, guardian or participant on February 23, but is not received by the institution and certified until March 2, for which month does the income eligibility determination become effective? What if the form is received and certified April 2nd?

If the CACFP institution is using the date of the parent, guardian, or participant signature to determine eligibility, an individual Income Eligibility Form signed and dated by a parent, guardian or participant in February and certified in March would be valid effective February 1.

However, if the form was received and certified in April, meaning there was a delay in either submitting or certifying the form until the month of April, the form is valid effective April 1. Because the date of the parent, guardian or participant signature is not within the month of certification or the immediately-preceding month, the effective date must be the date of certification by the institution.

Change in Income

Households are not required to report changes in circumstances, such as an increase in income, a decrease in household size, or when the household is no longer certified eligible for benefits through the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF). Once a household or a child is approved for Tier I benefits, eligibility remains in effect for a period not to exceed 12 months, regardless of any change in circumstances.

Elimination of Temporary Approval

Eligibility determinations for providers' income eligibility forms that report zero (0) household income and zero (0) child care income, and for children's income eligibility forms that report zero (0) household income are effective for 12 months. The policy now allows for 12 months of eligibility for these providers and households without a need to obtain a new form every 45 days until an income amount is reported.

Temporarily approved status in CACFP refers to those providers' IEF applications listing zero (0) household income, zero (0) child care income, and zero (0) household income on the CHIEF applications. Households that report zero (0) income on their income eligibility forms are eligible for a 12 months period and sponsors do not need to obtain a new form until the required annual update.

TIER II CHILD CARE HOMES

A Tier II family day care home is defined as one that does not meet the criteria for classifying a home as Tier I. That is, it would not be located in an area that meets the criteria for having 50 percent or more of children eligible for free or reduced price meals using appropriate area data nor would the provider's household have submitted an income eligibility form (IEF) documenting income eligibility (at or below 185 percent of the Federal poverty guidelines) or categorical eligibility.

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Tier II child care homes (those child care homes that do not qualify to receive higher Tier I rates) may still receive Tier I rates for those children enrolled in their care who are individually determined to be eligible for Tier I reimbursement. The child care home provider has the option to decide whether or not they wish to take advantage of this option.

Mixed Tier II Homes

Those Tier II homes that receive some combination of Tier I and Tier II reimbursement rates for meals served to enrolled children are considered to be “mixed Tier II” homes. The provider will receive Tier I rates for meals served to children who have been determined to be eligible based on household size and income or receipt of categorically eligible benefits, and Tier II rates for meals served to all other children. For a family day care home provider to receive Tier I rates in a mixed Tier II home, the provider must request that the child/children’s parent/guardian or adult household member submit a completed Child Household Income Eligibility Form (CHIEF) to the Sponsor.

Note: Meals served to all enrolled children in Tier II homes that have not been determined to be eligible for Tier I rates will be reimbursed at the lower Tier II rates.

Note: The Sponsor is responsible for maintaining confidentiality of the information provided by the individual households about their income and household size and receipt of any Federal or State benefits.

DEFINITIONS

Adopted Child

A child for whom a family has accepted legal responsibility. The adopted child is reported as a member of the household in which she/he resides.

Alimony and Child Support

Any money received by a household in the form of alimony or child support is considered income to the receiving household. However, any money paid out for alimony or child support may not be deducted from that household’s reported gross income.

Child’s Income

The earnings of a child who is a full-time or regular part-time employee or who receives income from other sources such as Supplemental Security Income or Social Security *must* be listed on the IEF as income. However, occasional earnings, such as income from occasional babysitting or mowing lawns, should not be listed on the IEF as income.

Child Living with One Parent, Relative, or Friends

In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom s/he resides. Children of divorced or separated parents are generally part of the household that has custody.

If a child is placed in a relative’s home by a State child welfare agency or court system, the child is considered a foster child and eligible for free meals. Informal arrangements among relatives do not qualify a child as a foster child and thus the child is not categorically eligible for free meals. Whether placed by the state welfare agency or a court, in order for a child to be considered categorically eligible for free meals, the State must retain legal custody of the child.

Foreign Exchange Student

A foreign exchange student is considered to be a member of the household in which s/he resides (i.e., the household hosting the student).

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Foster Child

A child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household.

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact. A foster child's eligibility status for free meals does not extend to other children in the household.

Household

A group of related or unrelated individuals, who are not residents of an institution or boarding home, but are living as one economic unit and who share housing and all significant income and expenses.

Household Members Living Apart

Household members living apart on a temporary basis are considered household members. Household members living overseas or not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility, but any money made available by them or on their behalf for the household should be included as income to the household. The definition of "extended" varies with the situation. Please call the CDPHE-CACFP.

Institutionalized Child

A child who resides in a residential-type facility which the State has determined is not a boarding school. Such a child is considered to be a household of one.

Joint Custody

In cases where joint custody has been awarded and the child physically changes residence, the child is part of the household where she/he resides. When the number in the household is determined for a provider who may be income eligible, the household size may vary based on the number of children physically residing in the home at any one time. Since the child is part of each parent's economic unit while the child resides at the respective household, both parents may include the child as a household member. In situations when the mother's income results in eligibility for free meals but the father's application is denied, the child would receive free meals regardless of which parent had custody at the time.

In a split custody situations when one parent does not want to accept free meals and a child is eligible for free meals based on the application submitted by the other parent, meals for that child can't be claim at the free rate, if the child is residing with the parent who does not want the free benefits.

Other Source Categorical Eligibility

Other Source Categorical Eligibility designations are those categories which make children automatically eligible for free benefits, either through direct certification or application, because the children are:

- ♦ Enrolled in a Federal Head Start Program;

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- ♦ Enrolled in State-funded pre-kindergarten classes using identical or more stringent eligibility criteria than the Federal Head Start Program (because the eligibility requirement for participation in the Colorado Preschool Programs in Colorado is not income based, the use of this category does not apply in Colorado);
- ♦ Enrolled in Even Start - a participant in a Federally-funded Even Start Family Literacy Program for pre-school and pre-kindergarten children;
- ♦ Determined to be a homeless child by the school district's homeless liaison or by the director of a homeless shelter;
- ♦ Determined to be a migrant child by the State or local Migrant Education Program (MEP) coordinator or homeless liaison;
- ♦ Determined to be a runaway child who is receiving assistance from a program under the Runaway and Homeless Youth Act and is identified by the local educational liaison;
- ♦ Determined to be a foster child whose care and placement is the responsibility of the State or is *formally* placed by a court with a caretaker household, and the State retains legal custody of the child.

CATEGORICAL ELIGIBILITY

Categorical eligible children are those children automatically eligible for free meal benefits because they, or any household member, receive benefits under Assistance Programs or those children who are designated as members of Other Source Categorically Eligible Programs. An individual child's eligibility for free meals under any of the Other Source Categorically Eligible Programs does not convey to other children in the household.

There are two ways children may be classified as categorically eligible:

- ♦ Through participation in Assistance Programs- SNAP/FDPIR or TANF (a child or any member of the household, receives benefits from SNAP/FDPIR or TANF as determined through direct certification or an application with appropriate case numbers); or
- ♦ Through Other Source Categorically Eligible designation- children documented under the applicable definition in this section as: o Homeless, runaway, or migrant;
- ♦ A foster child; or
- ♦ Enrolled in a Federally-funded Head Start Program or a comparable State-funded Head Start Program or pre-kindergarten programs, or in an Even Start Program (because the eligibility requirement for participation in the Colorado Preschool Programs in Colorado is not income based, the use of this category does not apply in Colorado).

The household indication of an Other Source Categorically Eligible status must be confirmed prior to certification for free or reduced price meals.

Other source categorical eligibility

Besides the foster child, children identified as homeless, runaway and migrant are also categorically eligible for free meals and are referred to Other Source of Categorical Eligibility. The status of the homeless, runaway and migrant children may be documented as eligible by the homeless liaison, the State Migrant Education Program (MEP) coordinator, or the Runaway and Homeless Youth Act official. The status of the homeless, runaway or migrant children must be confirmed prior to certification for free or reduced meals. A child's eligibility for free meals under Other Source Categorical Eligibility does not extend to any other child in the household.

Categorical eligibility of the foster child

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written

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communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor should contact the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals.

If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact.

Head Start Eligibility for Free Meals, children enrolled in Federal and State-funded Head Start or Early Head Start Programs and pregnant mothers enrolled in Early Head Start are categorically eligible to receive free meal benefits without further application or eligibility determination. If a child who is eligible for Head Start benefits also attends a FDCH, the child is automatically eligible for Tier I CACFP meals at the child care facility without further application or eligibility determination.

Eligibility determinations for Child Nutrition Programs are made on an annual basis. As long as the child is enrolled in Head Start or Early Head Start at the time the annual eligibility determination is made, all reimbursable meals served to that child may be claimed at the free rate.

Sponsors may establish eligibility of all Head Start enrollees through documentation provided by the Head Start program. Forms of acceptable documentation include:

- ♦ An approved Head Start application;
- ♦ A statement of Head Start enrollment; and
- ♦ A list of participants from a Head Start official

All CACFP reimbursable meals served to children enrolled in Head Start or Early Head Start may be claimed at the free rate by child care centers or Tier I rates in day care homes in which they are enrolled.

Only children enrolled in Head Start are categorically eligible. Categorical eligibility based on Head Start enrollment **does not** extend to all children in the same household or to the provider.

Head Start serves primarily children from families with household incomes at or below the Federal poverty level. However, a small proportion of children in families with household incomes above the poverty level may also be served. The Improving Head Start for School Readiness Act of 2007 (Public Law 110-134) amended sections 9(b)(12)(A)(iii) and 17(c)(5) of the Richard B. Russell National School Lunch Act to make any child enrolled in Head Start categorically eligible for free meals without further application or eligibility determination.

Participation in a State-funded or Indian Tribal Organizations (ITO)-funded pre-kindergarten program may be a basis for extending automatic eligibility for free meals if the State agency or ITO ensures that:

- ♦ The State-funded or ITO-funded pre-kindergarten program uses income eligibility criteria which are identical to, or more stringent than, the Head Start Program;
- ♦ If the State or ITO-funded program is modeled on the Head Start Program and can serve some percentage of children from households with income over Head Start's income guidelines, it can differentiate between children receiving State or ITO funding based on income and children receiving funding based on other criteria;
- ♦ If pre-kindergarten funding is provided under more than one State-funded or ITO-funded program and the programs use different income standards, it can differentiate between the children in each program; and
- ♦ Income determinations for the State-funded or ITO-funded program do not exceed 12 months in length.

Once the State or ITO certifies that all of these conditions have been met, FNS Regional Offices are authorized to approve categorical eligibility to children participating in the State-funded or ITO-funded pre-kindergarten program for up to one year. The approval may be renewed every year once the FNS Regional Office receives the State agency's or ITO's certification that its State-funded or ITO-funded program still meets these four criteria.

Categorical Eligibility of Homeless Children

A child is considered homeless if he/she is identified as lacking a fixed, regular and adequate nighttime residence by the homeless liaison or the director of the shelter. The definition includes:

- ♦ Children and youths who are sharing housing of other persons due to loss of housing, economic hardship, or a similar reason, or are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- ♦ Children and youths who are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;
- ♦ Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- ♦ Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- ♦ Migratory children who qualify as homeless because the children are living in the circumstances described above.

Once a homeless child's eligibility is established, the child remains eligible for a period of one year regardless of where the child lives (host family or secures a permanent residence, or returns to his/her own home), or if the child's status has changed. In this situation:

- ♦ The homeless child's eligibility status cannot be conveyed to the other children in either the host or home.
- ♦ The host family can include the child as a member of the household if they apply for benefits while the child is living with them and, if the child moves out of the home, there is no change in eligibility status of the household, or the remaining children because of year-long eligibility.
- ♦ When the child returns to his home family, the child is counted as a household member if his/her family applies for benefits for the other children in the household. By the same token, if the homeless child leaves the family which has an approved application on file, the status of the remaining children does not change unless something happens that would increase their benefits.

Homeless Children Residing with Another Household

A child or family may temporarily reside with another household and still be considered homeless under the definition of homeless in the McKinney-Vento Homeless Assistance Act. In these cases, the household size and income of the host family are not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless. When a host family applies for free and reduced price meals for their own children, the host family may include the homeless family as household members if the host family provides financial support to the homeless family, such as shelter, utilities, clothing, or food. In such cases, the host family must also include any income received by the homeless family. Sponsors must determine eligibility for the host family in the traditional manner. These provisions apply as long as the homeless family is not a separate economic unit. However, free meal eligibility for the homeless child is based on the documentation provided by the homeless liaison, even when the child is included on the host family's free and reduced price meal application.

Categorical Eligibility of Runaway Children

A runaway child is a child who is receiving assistance under the Runaway and Homeless Youth Act (RHYA) and is identified by the homeless liaison or an official from the program.

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Acceptable documentation to substantiate participation in a program for runaway children sponsored by RHYA must include:

- The child's name or a list of names of participating children;
- The effective date(s); and
- The signature of the school district's homeless liaison or other appropriate officials.

Documentation of enrollment in an RHYA-funded program is acceptable in lieu of a free and reduced price meal application.

Extension of Categorical Eligibility

Meals served to children in Tier II child care homes are eligible for Tier I reimbursement if any member of the children's household meets one of the following conditions:

- ♦ They may be determined to be "income eligible" if they have completed a Children Household Income Eligibility Form (CHIEF), which shows that their household income is at or below 185 percent of the income guidelines for poverty.
- ♦ They may be classified categorically eligible through participation in the SNAP, TANF, FDPIR (a child or any member of the household that receives benefits from SNAP, FDPIR, or TANF), or certain State programs, through Other Source Categorically Eligible designation if they participate in Head Start or Early Head Start, or children that are documented as homeless, migrant, runaway or as a foster child.
- ♦ They may meet the "expanded" categorical eligibility criteria if they are participating in or subsidized under any "Federally or State supported child care or other benefit program with an income eligibility limit that does not exceed" 185 percent of poverty. See the current year CHIEF form for a list of programs that qualify for categorical eligibility in Colorado.

Note: The "expanded" categorical eligibility criteria were established by P.L.104-193 only for children enrolled in Tier II homes. It does not apply to determination of eligibility of the provider for Tier I status, or of the provider's own children in Tier I child care homes, or to enrollees in other child or adult day care centers.

Note: Since a child care home may qualify as a Tier I home on the basis of the provider's household eligibility for free or reduced price meals, by definition there will be no meals reimbursed for provider's own children in Tier II homes.

CONFIDENTIALITY OF INFORMATION

In order to provide confidentiality to households, Sponsors are prohibited from making Tier I eligibility information concerning individual households available to child care home providers. This information may only be made available to persons directly connected with the administration and monitoring of the Program.

Therefore, Sponsors may inform providers in Tier II homes only of the numbers of enrolled children determined by the Sponsor as eligible for Tier I benefits. The providers may not be informed of the names of children eligible for either Tier I or Tier II reimbursement.

DISTRIBUTION AND RETURN OF CHILD HOUSEHOLD INCOME ELIGIBILITY FORMS

The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, modified the requirements for the transmission of household income information by Tier II family day care home providers in the CACFP to their sponsoring organization.

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The new provisions allow Tier II family day care home providers in the CACFP to assist in the transmission of household income information from families of enrolled children to their Sponsors. However, the provisions of the Act also specify that if a Tier II family day care home provider wishes to collect and transmit household information, the provider or the Sponsors must ensure that each household of enrolled children knows:

- ♦ The household is not required to complete the CHIEF form in order for their children to participate in CACFP.
- ♦ If the household chooses to complete the CHIEF form, the household has the option of either:
 1. Returning the form directly to the Sponsor at the address indicated on the form; or
 2. Returning the CHIEF form to the provider with the written consent authorizing the provider to collect the CHIEF form and transmit the form to the Sponsor on the household's behalf.

Note: The Sponsor may wish to provide stamped, self-addressed envelopes to facilitate the return of the completed CHIEF. This is not required; however, it is in the best interests of the Sponsor and the child care provider to encourage households to return completed CHIEFs promptly.

PROHIBITION OF OVERT IDENTIFICATION

The distribution and return of CHIEF forms must be handled in such a way as to eliminate the possibility of overt identification of which children are eligible for Tier I or Tier II rates.

COMPLETING THE CHILD HOUSEHOLD INCOME ELIGIBILITY FORM (CHIEF)

The provider or Sponsor can fill out the provider's name, license number, and county.

Section (1) Children Enrolled in the Child Care Home

List all children in the household who are enrolled for care with the family day care home provider. Children must be under the age of 13 or developmentally disabled to qualify for benefits.

Section (2) Automatic Qualifying Programs

If the child or children who are applying for Tier I rates are participating on one of the listed programs, they may automatically qualify for Tier I rates if the case number is listed beside the appropriate qualifying program. For Head Start and the National School Lunch Program, the parent/guardian/adult household member will need to supply a letter from the program stating the child is eligible to receive benefits from the listed program.

These automatic-qualifying programs can only be used in a Tier II family day care home as categorically eligible programs. They do not apply to providers trying to become eligible for Tier I rates for all child care children or to claim their own children.

Other sources of categorical eligibility

Children may be classified as categorically eligible through Other Source Categorically Eligible designation such as:

- ♦ Homeless, runaway, or migrant;
- ♦ A foster child; or
- ♦ Enrolled in a federally-funded Head start Program

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written

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communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact.

The Healthy, Hunger-Free Kids Act of 2010 also allows households with foster and non-foster children to include foster children as household members, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children as long as there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child. This streamlines the income application process and may help the day care home foster family's non-foster children or the foster household qualify for Tier I meals based on household size and income.

It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court based systems.

Children enrolled in Federal and State-funded Head Start or Early Head Start Programs and pregnant mothers enrolled in Early Head Start who also attend a FDCH, are categorically eligible to receive free meal (Tier I meal reimbursement) benefits without further application or eligibility determination.

Section (3) Other Household Members and Current Household Income

List the names of all household members, other than the children listed in section 1, even if they are not related to you by blood or marriage. The parent/guardian/adult household member must use current income. Current income is the income received by the household for the current month, the amount projected for the first month for which the application is filled out, or the month prior to the application.

Section (4) Social Security Number

The adult household member who signs the form must also supply the last 4 digits of their Social Security Number (SSN) for the form to be valid. Write "none" if there is no SSN. If the CHIEF is being submitted to receive Tier I rates for a foster child, the form must be signed by an adult member of the foster home. However, a social security number is not needed for the foster child's CHIEF to be valid.

Section (5) Address, Signature, and Date

The parent/guardian/adult household member must sign and date the CHIEF before the Sponsor may approve the form. The parent/guardian/adult household member will also need to fill in their address and phone number.

Sponsor Approval of the CHIEF

After the Sponsor has received a completed CHIEF form that has been signed and dated, it is the Sponsor's responsibility to approve the form. The Sponsor must read the form and make sure it is complete and that any calculations are correct. After the Sponsor determines that the form is complete, correct, and valid, they will use the current years Household Income Eligibility Guidelines to determine if the child/children are eligible to receive Tier I rates. If the child/children are eligible, the Sponsor can approve the form and sign and date it.

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The Sponsor may not reimburse a Tier II provider for children at the Tier I rates until a valid complete CHIEF form has been submitted to the Sponsor and approved, signed, and dated by the Sponsor. The CHIEF form expires 12 months after the month in which the Sponsor approves, signs, and dates the form. For example, a form submitted, approved, signed, and dated in January 12, 2015 is good from January 1, 2015 through January 31, 2016.

Sponsors may now choose between the following dates to use as the effective date of providers' and children's eligibility for CACFP benefits.

- 1) The date the provider, or parent/guardian (for the CHIEF) signs the income eligibility form; or
- 2) The date on which the Sponsor's official makes the determination and signs and dates the income eligibility form.

Sponsor officials must decide which date to use as the effective date and apply the same method to all eligibility determinations made for all applicable homes, and participants of sponsored homes. This new flexibility applies only to eligibility determinations made on complete income eligibility forms that contain all required information. However, if the date of the parent, guardian or participant signature is not within the month of certification by the institution or the immediately-preceding month, the revised USDA guidance indicates the effective date must be the date on which the institution's official makes the eligibility determination.

Chief Forms and Foster Children

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact.

To ease the application process and to help children of the foster family qualify for Tier I meal reimbursement based on the household size and income when completing the Children Household Income Eligibility Form (CHIEF), the foster parents are able to include foster and non-foster children on the same household application as long as there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child. When listing household income on the CHIEF, only the income earned by the foster child must be listed. Foster payments received by the family for the placement of a foster child are not considered income to the family and do not need to be reported.

It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court based systems.

MONITOR'S CHECKLIST FOR EXPLAINING THE PROVIDER IEF TO NEW PROVIDERS

This is an example of a monitor's checklist. It may be used to help train monitors on the IEF.

New providers will need to provide documentation of business and household income. This may be difficult for her to do the first time because the provider may have just opened her child care business

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and may be unfamiliar with how to fill out the application and how to document the income and expenses for her brand new business.

Emphasize to the provider that she will need to send in both the application form and documentation of her household income (receipts for household income are required as documentation). The provider does not need to send in actual receipts to document her child care business expenses, but the receipts must be on file where she can locate them to show food program personnel during visits.

Step 1: Documenting Household Income

A. Child Care Business Expenses

Using the Child Care Monthly Income and Expense Worksheet, show the provider how to list her expenses. Child care business expenses are deducted from child care business income. When applying for household eligibility on the food program, the provider's net child care income (after expenses) is recorded on the application.

Remind the provider to separate the expense of food for the child care children from the rest of the business expenses. Show the provider where these figures go in Section B of the application

B. Child Care Business Income

Using the Child Care Monthly Income and Expense Worksheet, show the provider how to list her income. Show the provider where this figure goes in Section B of the application.

Explain to the provider how to estimate her food program income. (Find out how many children she will claim and which meals she will be claiming. Show her how to multiply the meal reimbursement rates by the total number of meals by type). Show the provider where this figure goes in Section B of the application.

C. Other Household Income

The provider's spouse or other household member's income must be reported. This income is reported as gross income (before deductions). Document this income with copies of paychecks or pay stubs, which clearly show the employee's name, the gross amount paid, and the pay period covered. They should be labeled with the pay schedule. Is the person paid weekly, bi-weekly, monthly, or other? Copies of paychecks must list the date for the month prior to the month the IEF is being completed and submitted.

Does the provider receive any other income such as child support, alimony, Social Security payments, or retirement income? Any funds that are received by the household on a regular basis must be included on the application. This income is also reported as gross income (before expenses). Copies of checks may be used to document this type of income and must have been dated for the month prior to the month the IEF is being completed and submitted.

Does the provider have a second job? Income from a second job must be documented with copies of paychecks or payment records which show a date for the month prior to the month the IEF is being completed and dated. The provider's income from a second job is reported as gross income (before expenses or deductions).

Step 2: Filling Out the Application

A. Review the form with the provider

1. List children 12 years and under in Section A.

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2. List the provider's own name, spouse or other adult household members, and children 13 years and over in Section C.
 3. Be sure to fill in Total Number in Household correctly. (The number of names listed in Section A and Section C equals the total number in the household.)
- B. Expenses**
Show the provider where to fill in her child care business expenses, food expense, business income, and food program income in Section B of the application.
- C. Income**
Show the provider the box in Section C to report her net child care income (goes in the column under gross salary and wages).
- D. Other Sources of Income**
Show the provider where to fill in the income amounts for her other sources of income.
- E. Other Household Members' Income**
Show the provider where to fill in the income amounts for other household members in Section C. (Beside other household members' names.)

The remainder of the form is self-explanatory. Remind the provider to be sure to complete all of the information requested, as incomplete forms may result in delays in getting her application approved.

Step 3: When Will the Information Need to be Updated?

The provider needs to know when she will need to reapply for Tier I rates:

- ♦ If the application will be good for the rest of the year, let the provider know that her 1040 income tax form is likely to be the best documentation for future years.
- ♦ If her 1040 will not be representative of her child care income, she will need to repeat the documentation process as outlined above. The information will need to reflect her current situation.
- ♦ Households that report zero ("0") income on their income eligibility forms are eligible for a 12 months period and sponsors do not need to obtain a new form until the required annual update.

All updated forms must be accompanied by updated documentation if documentation was required for the original application.

Foster Child

A foster child is automatically eligible for Tier I meal reimbursement and may be certified without an application if there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household.

To ease the application process and to help children of the foster family qualify for Tier I meal reimbursement based on the household size and income when completing the Children Household Income Eligibility Form (CHIEF), the foster parents are able to include foster and non-foster children on the same household application as long as there is documentation from an appropriate State or local agency indicating the status of the child to be a foster child. When listing household income on the CHIEF only the income earned by the foster child must be listed. Foster payments received by the family for the placement of a foster child are not considered income to the family and do not need to be reported.

Family Day Care Home Sponsors may obtain documentation for the categorical eligibility of the foster child by requesting a copy of a written communication between the foster family and the placement agency in which the status of the child financial arrangement is stated. If the foster family is unable to

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provide this information, the Sponsor might place a telephone call to the placement agency to confirm the child's status and income prior to denying the foster child Tier I meals. If this last option is used, the Sponsor must ensure the information is documented with a memorandum to the file or attached to the foster child CEF, which includes the date the contact was made, the name, title, and telephone number of the placement agency staff providing the information, and the signature or initials of the Sponsor staff making the contact.

PROGRAM PAYMENTS

SPONSOR REIMBURSEMENT

Sponsors receive two types of reimbursement; reimbursement for administrative costs and reimbursement for creditable meals served by family day care home providers. New Sponsors submitting applications may be eligible for start up funds. Existing Sponsors that demonstrate a need for expansion to un-served or underserved areas of the population may be eligible for expansion funds. Information on the last two types of funds is available upon request from the CDPHE-CACFP.

SUBMITTING A CLAIM FOR REIMBURSEMENT

Claims for both administrative costs and creditable meals are submitted electronically through the CDPHE-CACFP web-based system. CDPHE-CACFP processes claims once a month. Sponsors are provided with a list of claim due dates at the beginning of each fiscal year. Claims not received by the established due date may not be processed until the next month. Federal regulations allow the CDPHE-CACFP 45 days from receipt of claims to pay reimbursement.

Claim errors identified by the system will displayed on the claim form and must be corrected before the claim can be processed. Correction of errors may delay the payment. Accuracy in completion of the claim is vital for timely payment.

SUBMISSION DEADLINES

Original claims for reimbursement must be submitted within 60 calendar days of the end of the claim month through the CDPHE-CACFP web-based system. Upward adjustments to the Sponsor's claim for reimbursement must be submitted within 90 calendar days after the end of the month claimed. Downward adjustments must be submitted whenever an adjustment is made to a provider's claim. All claims for reimbursement received after 90 calendar days of the end of the month claimed must include *only* downward adjustments for provider meal expenses.

Claims for reimbursement for administrative expenses are not subject to the 60/90 day time frames.

LATE CLAIMS

If a Sponsor fails to submit a claim within the required 60/90 calendar-day period specified above, Sponsors may file a one-time exception request. This exception may be used once every three years. In order to receive the exception, the Sponsor must submit the following documentation:

- ◆ A written description of circumstances that contributed to the late filing.
- ◆ Actions taken to prevent future late claims.
- ◆ An assurance by the Sponsor that they understand this is a one-time exception.

The CDPHE-CACFP will inform the Sponsor in a timely manner if the exception is approved or denied.

Accountability and Verification Procedures for Late Claims due to Natural Disaster

In disaster situations, claims submitted outside of the 60/90-day requirement, as a result of a disaster, might not be subject to the one-time exception for late submissions. Please contact the CDPHE-CACFP office for additional guidance if your institution or participating providers need to reconstruct unsubmitted claims due to loss of current records; or if records required for review purposes, such as paid claims or approved applications are destroyed due to a natural disaster. When making this notification, please indicate the circumstances and dates of the losses, and the types and approximate age of the records that were lost.

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PROGRAM PAYMENTS

Institutions, and sponsors that are operational, but unable to maintain normal accountability systems, including counting, claiming, and monitoring, must contact the CDPHE-CACFP office to request guidance on how to proceed.

METHOD OF PAYMENT

Sponsors may elect to receive reimbursement through a warrant issued by the State Treasurer or via electronic funds transfer (EFT). The EFT method automatically deposits the funds in the Sponsor's bank account. No remittance statement is sent upon transfer of funds; therefore, Sponsors electing to receive reimbursement via electronic funds transfer must track the amount of funds received.

REIMBURSEMENT RATES

The reimbursement rates for administrative costs and creditable meals are adjusted annually, on July 1, to reflect changes in the Consumer Price Index. The new rates are sent to each Sponsoring organization in a memo from the CDPHE-CACFP each July.

ADMINISTRATIVE COSTS

Claims for reimbursement of administrative costs must contain actual expenditures for costs incurred by the Sponsoring organization in operating the CACFP, even if the expenditures exceed the allowable reimbursement.

All expenditures must be supported by the necessary documentation, such as receipts, invoices, mileage logs, daily time records, etc. In addition, all expenditures must be allowable and all required approvals must be obtained prior to any expenditures or commitments being made. Information on allowable costs and required approvals is contained in the Financial Management section.

Administrative reimbursement is determined by multiplying the number of family and group day care homes submitting a claim for reimbursement during the month by the appropriate annually adjusted administrative reimbursement rate. Sponsors also have the option to receive administrative reimbursement based on actual expenses or may decline administrative reimbursement. If the Sponsor elects to receive actual expenses, the total reimbursement may not exceed the reimbursement that would have been earned under the "homes x rate" calculation.

Sponsors must track administrative costs to ensure that all costs are within the budgeted line item amounts.

CARRY OVER FUNDS

Sponsors who elect to receive administrative reimbursement based on the homes x rate calculation are permitted to carry over a maximum of 10 percent of unused administrative reimbursement into the succeeding fiscal year. 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 CDPHE-CACFP. If the 10 percent carryover funds are not expended in the succeeding fiscal year, the Sponsor is required to return the unused funds to the CDPHE-CACFP. A sponsor can avoid that situation by using its payments for CACFP administrative costs on a first-in-first-out basis.

YEAR-END ADJUSTMENTS

Sponsors must ensure that all costs submitted to the CDPHE-CACFP are allowable. This includes an evaluation of all invoices to ensure the date the goods or services were received are claimed in the

appropriate fiscal year. If the fiscal year has ended, the Sponsor must submit an adjusted claim for reimbursement for the fiscal year affected within 90 calendar days.

ADVANCES

Sponsors may request to receive an administrative advance. An advance payment is financial assistance made available to a Sponsor for administrative costs prior to the period in which the expenses are incurred. The purpose of the advance payment is not to render the Sponsor financially viable. Sponsors must have a backup plan in place should a disruption to their administrative advance occur.

Advances are limited to the Sponsor's most recent homes times rate formula result. A Sponsor may request an advance greater than their most recent homes times rate formula result if the Sponsor's administrative costs for the year-to-date are more than their accumulated homes times rate formula result. All administrative advance payments are reconciled monthly against the actual administrative costs claimed by the Sponsor. Advance payments will be withheld or adjusted when:

- ◆ A Claim for Reimbursement has not been received by the CDPHE-CACFP.
- ◆ The CDPHE-CACFP has reason to believe the Sponsor will not be able to submit a valid claim.
- ◆ The claims submitted show the advance to be greater than reimbursement earned.

REIMBURSEMENT OF CREDITABLE MEALS

Sponsors receive reimbursement for creditable meals served in the Sponsor's FDCHs. Reimbursement for these costs are calculated based on the meals served and the Tier status of the FDCH. For example, if a FDCH is Tier eligible then they will be reimbursed for the meals served at the current Tier rates. See the section titled "Reimbursement for Meals Served in Family Day Care Homes" for further details on tiering.

The record of meals served by FDCH providers is usually received by the Sponsoring organization between the 1st and the 10th of the month. The Sponsoring organization must then compile all of the claims received from their homes when submitting an original claim for reimbursement to the CDPHE-CACFP.

Prior to submitting a claim for reimbursement to the CDPHE-CACFP, the Sponsor must ensure that all claims are based on the actual number of meals served in the FDCH and that all supporting documentation has been received for each provider claim. For example, if a Sponsor has not received a child enrollment form from a provider for a child claimed, the Sponsor must deduct the applicable children's meals from the provider's claim prior to submitting the claim to the CDPHE-CACFP.

PAYMENTS TO PROVIDERS

Sponsors must disburse all FDCH provider reimbursement payments within five (5) working days of receipt of payment from the CDPHE-CACFP. The reimbursement check must be issued to the individual provider, not the name of the family day care home, nor to more than one provider. The full amount of meal reimbursement shall be disbursed to each FDCH on the basis of the number of reimbursable meals and snacks served to enrolled and participating children. Exceptions to this occur when a disallowance is made as part of the Sponsor's monthly claim review, parent audit, monitoring review or audit by the Sponsor or the CDPHE-CACFP.

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PROGRAM PAYMENTS

OVERPAYMENTS TO PROVIDERS

When the Sponsoring organization has determined that meals were paid in error, the Sponsoring organization is required to repay the reimbursement. If the overpayment was a result of an error the Sponsor made, then the Sponsor is responsible for the overpayment; however, the Sponsor may choose to collect the reimbursement from the provider. If the overpayment was a result of an error made by the provider, the Sponsor must recover the funds from the provider. In either case, a revised claim for reimbursement must be submitted to the CDPHE-CACFP along with the required documentation.

In most instances, any unearned funds paid to a provider by a Sponsor must be recovered by the CDPHE-CACFP from the Sponsor. The Sponsor must decide whether to pursue the collection of the funds from the provider taking into account the impact their action has on the Sponsor's viability and accountability. Sponsors may not use federal funds, including CACFP administrative funds, to repay unearned funds.

The CDPHE-CACFP may elect not to require the Sponsor to repay unearned provider payments only to the extent that the Sponsor is able to demonstrate that it was not responsible for the overpayment and that every effort has been made to recover the funds. CDPHE-CACFP envisions very few instances where a provider is overpaid and the Sponsor bears none of the responsibility.

INTEREST

When an overpayment is identified, either by a review conducted by USDA, CDPHE-CACFP, or outside auditors, in accordance with 7 CFR 226.14(a), the Sponsor is required to repay the amount within 30 calendar days from receipt of the notice of over-claim. If payment is not received within 30 calendar days, CDPHE-CACFP is required to assess interest on the amount owed at the Current Value of Funds Rate (CVFR), which is published by the United States Treasury Department in the Federal Register. Simple interest will accrue on the unpaid over-claim monthly until paid in full. CACFP funds cannot be used to repay an audit assessment or over-claim and/or interest assessed on an audit assessment or over-claim. Non-federal funds must be used to repay the over-claim and accrued interest. CDPHE-CACFP is also required to issue a Notice of Serious Deficiency if the debt is not paid in 30 calendar days. If payment is not made within 60 calendar days of the initial notice, CDPHE-CACFP must issue a Notice of Proposed Termination and Disqualification and the outstanding debt plus any accrued interest will be submitted to the State of Colorado Central Collection Agency.

PROVIDER REIMBURSEMENT

The Sponsor is responsible for ensuring that the claim for reimbursement is accurate and that adequate documentation to support the claim is available and maintained on file. Sponsors must review all provider claims that are received prior to submitting the claim for reimbursement to the CDPHE-CACFP. All provider claims received must include the necessary supporting documentation. Any claims received that are not fully documented must be disallowed or the portion not supported disallowed.

PROVIDER PAYMENTS

Providers must be reimbursed for all allowable meals served in their FDCH. Sponsors must remit payment to the providers within five (5) working days of receipt of payment from the CDPHE-CACFP. Sponsors may remit payment via electronic funds transfer to the provider.

Sponsors may not reduce or withhold any reimbursement to the provider except for the reasons described on the following page. It is not allowable for a Sponsor to reduce a provider's reimbursement for the stop payment fees associated with reissuing a provider's lost check.

MONTHLY EDIT CHECKS

Monthly edit checks are review procedures that must be applied to a child care home provider's claim each month in order to help determine the claim's validity. The monthly edit checks must ensure that:

- ♦ The child care home 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 the days of operation times enrollment.

Discrepancies that are identified by the first two edit checks listed above must be reviewed and any meals that were not eligible to be claimed must be disallowed.

WITHHOLDING OR REDUCING PROVIDER'S REIMBURSEMENT

Sponsors may withhold or reduce a provider's reimbursement when a disallowance is made as part of a monthly claim review, monitoring review, or audit conducted by the Sponsor or CDPHE-CACFP. Withholding or reducing of any providers' reimbursement must be made when there is evidence of noncompliance with CACFP regulations. Sponsors must inform the FDCH provider in writing of the reason for the disallowance. Those reasons must be fully documented on the FDCH provider's claim and retained in the Sponsor's file.

CLAIMS PROCESSING AND THE HMI POLICIES

FDCH Sponsors are not required to review menus for compliance with the Colorado-specific policies or assess over-claims during claims processing related to these policies. Sponsors are also not expected to allocate additional administrative funds for claims processing pertaining to these policies. However, FDCH Sponsors must continue to review menus and assess over-claims during claims processing pertaining to the USDA policy requiring service of 1% or fat-free milk for children ages 2 years and older, as defined in the CDPHE-CACFP Procedure Memo FDCH #12-01 Milk and Water Policy.

LATE PROVIDER CLAIMS

Sponsors may establish time frames in which FDCHs are required to submit their meal claims; however, Sponsors must submit all upward revisions to their Claims for Reimbursement within 90 calendar days following the end of the month claimed. If a FDCH submits a meal claim on the 89th calendar day following the end of the month claimed, the Sponsor would have to process that claim and submit it to the CDPHE-CACFP by the 90th calendar day.

RECONCILING PROVIDER REIMBURSEMENTS

Sponsors must prepare monthly provider reimbursement reconciliation reports. Regulations require Sponsors to provide assurance that FDCH providers received the correct payments and that CDPHE-CACFP ensures that the Sponsor is properly disbursing the funds it receives.

Reconciliation records provide, in a single location, all of the claiming and payment information about a specific FDCH provider. Sponsors must maintain records of all transactions documenting payment to a FDCH provider. These records must document by date the amount of every payment requested by and paid to each FDCH, as well as the amount requested from and paid by CDPHE-CACFP. Any differences between the amount requested and the amount paid must be explained. At a minimum, these reconciliation records must contain:

- ♦ Name of the FDCH provider;

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PROGRAM PAYMENTS

- ♦ Identification number of FDCH provider ;
- ♦ Meal counts;
- ♦ Claim month;
- ♦ Amount paid to the provider;
- ♦ Check number or EFT transaction;
- ♦ Check date or EFT transaction date;
- ♦ Amount claimed to CDPHE-CACFP;
- ♦ Date claimed to CDPHE-CACFP; and
- ♦ Date provider check or EFT was paid by the bank.

If applicable, reconciliation records must also contain:

- ♦ Amount of amended claim paid to the provider ;
- ♦ Check number or EFT transaction of amended claim;
- ♦ Check date or EFT transaction date of amended claim;
- ♦ Amount of amended claim submitted to CDPHE-CACFP;
- ♦ Date amended claim submitted to CDPHE-CACFP; and
- ♦ Date amended claim check or EFT was paid by the bank.

OUTSTANDING PROVIDER PAYMENTS

Sponsors must track all outstanding provider payments that have not been cashed. The Sponsor must make a good faith effort to determine why the check remains un-cashed. This may include telephone calls, on-site visits, or written inquiries to the provider.

By January 31st of every year, Sponsors must return funds for outstanding provider payments over 9 months old. It is preferred that funds are returned through submission of a revised claim for reimbursement; however, the Sponsor can return funds via check made payable to the Colorado Department of Public Health and Environment. The Sponsor must keep documentation of the claim revision or check copy and the Outstanding Check Return Detail Form on file.

If a provider requests a replacement check after the revised claim for reimbursement has been processed by the CDPHE-CACFP, the provider must submit a request in writing to the Sponsor. The Sponsor must input an additional revised claim for reimbursement, and submit a memo to the CDPHE-CACFP with an explanation for the revised claim for reimbursement.

CLAIMS AGAINST SPONSORING INSTITUTIONS

The CDPHE-CACFP shall disallow any portion of a claim for reimbursement and recover any payment to a Sponsor not properly payable under 7 CFR Part 226. The CDPHE-CACFP will notify the institution of the reason(s) for any disallowance or demand for repayment and will allow the institution full opportunity to submit evidence on appeal as directed in CDPHE-CACFP's appeal procedures. Sponsors may not use any federal funds, including CACFP administrative funds, to repay unearned funds.

USDA FOODS

FDCH Sponsors in Colorado may choose to either provide USDA Foods for the family day care homes that it Sponsors or to receive the cash-in-lieu of USDA Foods for its homes, which is approximately 0.2475 cents more for each lunch and supper. The choice they make must apply to all homes under its Sponsorship.

If a Sponsor wishes to begin providing USDA Foods for all of its providers, they must contact CDPHE-CACFP by January 15 of the year prior to the fiscal year they wish to begin providing USDA Foods. The

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Sponsoring organization will then need to sign an agreement with the Colorado Department of Human Services, Food Distribution Program. They must also have a signed agreement in place with each provider by the beginning of the fiscal year. Charges to the providers for the provision of USDA Foods must not exceed the Sponsor's cost.

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CODE OF STANDARDS OF CONDUCT

Sponsors must have a written Code of Standards of Conduct. This policy shall govern the performance of the officers and employees of the Sponsor. The Sponsor's policy should contain, at a minimum, the following elements concerning employee conduct:

- ◆ Unethical or compromising practice in relationships, actions, and communications must be avoided.
- ◆ All program activities must be conducted in accordance with Sponsor policies and program regulations.
- ◆ Activities that would create a conflict between personal interests and the interests of the CACFP must be avoided.
- ◆ Officers or employees shall not participate in the selection if a conflict of interest or a possible conflict of interest would be involved.
- ◆ Officers or employees shall not solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, vendors, or potential vendors.
- ◆ Penalties for violation of the Code.

MONITORING STAFFING REQUIREMENTS

Federal regulations require CACFP Sponsors to "employ an appropriate number of monitoring personnel based on the number and characteristics" of facilities sponsored. Based on this statutory requirement, Sponsors of homes must employ staff sufficient to ensure that, for each 50-150 homes sponsored, at least one full-time equivalent (FTE) staff year is devoted to monitoring. It is further specified in 7CFR 226.6(b) that compliance with these staffing standards is a condition of Sponsor eligibility by making documentation of compliance a key part of meeting the Performance Standard of Administrative Capability.

All Colorado FDCH Sponsors of 50 or more homes must document that they meet compliance with these standards.

Monitoring Definition

The CACFP administrative funding provided to Sponsors supports a variety of management functions. For home Sponsors, these include monitoring, training, technical assistance, eligibility determinations (whether the home is licensed or approved, whether it is Tier 1 or Tier 2 and, in mixed Tier 2 homes, child eligibility), claims processing, enrollment paperwork, and Program outreach. For purposes of determining the monitor-to-home ratio and compliance with this policy, the following defines which staff duties will count as monitoring and which will not.

Not Monitoring Related: Supervisory or non-supervisory activities related to:

- ◆ Facility eligibility: day care home tiering determinations, for-profit center determinations, facility licensing status, pre-approval visits, facility applications and agreements, free or reduced price/tiering determinations for individual children.
- ◆ Program outreach: recruitment activities designed to bring non-participating facilities in to CACFP; retention activities.
- ◆ Initial and annual training: general training of facilities and Sponsor staff on Program requirements.

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- ♦ Technical assistance: if provided over the telephone.
- ♦ Claims processing: aggregation of facility meal counts for claims submission; edit checks.
- ♦ Enrollment paperwork: handing facilities' enrollment forms.

Monitoring-Related:

Supervisory or non-supervisory activities related to:

- ♦ Monitoring: all activities related to conducting on-site reviews, including planning and scheduling; pre-review preparation; travel; supervisory oversight of monitors and the monitoring function; time spent in the facility during the review; writing review reports; conducting follow-up reviews; and activities relating to the serious deficiency process (issuance of notice, evaluation of corrective action, appeal, and termination).
- ♦ Parental contacts: conducting parent contacts or parent surveys to help determine the validity of a provider's claim.
- ♦ On-site/Other training: All on-site training that occurs during a facility review; initial or subsequent training of Sponsor staff that relates to the monitoring function.
- ♦ Technical assistance: if provided during a review.
- ♦ Claims processing: menu reviews to determine claim accuracy and meal eligibility.

Note that, for both training and technical assistance, some of the activities count as monitoring and some do not. In order to simplify the determination of FTEs for Sponsors, and because it is assumed that training and technical assistance provided during a review are likely related to the review findings, all time spent in the facility by the monitor as part of the review can be counted as "monitoring-related duties."

Documenting and Determining Compliance with Staffing Standards

In order to count all staff time that contributes to the total monitoring effort, the Sponsor's management plan must clearly describe the monitoring-related duties of each person on the Sponsor's staff and the number of hours and percentage of time the Sponsor estimates that each staff member will spend on monitoring duties. Employee job descriptions for each job or job category/classification must be provided in the management plan and must include the number and percentage of hours devoted to monitoring, as defined above.

Based then, on the information provided in the management plan, the total number of monitoring-related FTEs for each Sponsor will be calculated. CDPHE-CACFP will determine a ratio of the monitoring-related FTEs to the number of homes claimed in order to determine if each Sponsor meets the Federal staffing standard of one full-time equivalent for each 50-150 homes claimed. (As this calculation will be made in August when management plans are considered for approval, the number of homes claimed will be based on the average number of homes a Sponsor has claimed to that point in the fiscal year or the final number of homes claimed (after revisions) for March of that year, whichever is lower.)

State Staffing Factors

State Agencies are required to develop "staffing factors" that are consistent with the Federal staffing standards, and that the State anticipates using in making determinations as to whether, within the acceptable Federal monitor-to-home range, an individual Sponsor has devoted an adequate number of FTE's to the monitoring function. CDPHE-CACFP will consider the following factors in making this determination:

- ♦ The geographic location of homes. (In other words, are most homes located in rural areas, urban areas, or both?)

- ♦ The geographic dispersion of homes. (In other words, are all of the Sponsor's homes clustered in particular area, or are they widely scattered throughout a large area?)
- ♦ The literacy level and the language spoken by home providers.
- ♦ Previous CACFP review results and if the Sponsor has had problems with provider compliance.
- ♦ The experience level of providers and monitors. Sponsors likely would need to spend more time, on average, monitoring providers without significant experience in CACFP, and new monitors would likely take longer to conduct the review.

OUTSIDE EMPLOYMENT POLICY

Federal regulations require all CACFP Sponsors to have personnel policies that restrict outside employment by employees that would interfere with their performance of Program-related duties and responsibilities, including outside employment that constitutes a real or apparent conflict of interest. The policy must apply to all employees of the Sponsor who have responsibilities relating to the operation of the CACFP. The policies do not have to bar employees from holding second jobs; however, a full-time employee cannot reasonably be expected to perform his/her Program duties while holding a second full-time job. Therefore, in establishing limits on outside employment, such policies should take into account the number of hours being charged to the CACFP and the nature of the Sponsor-related duties the employees perform which are paid out of CACFP funds.

SECURITY POLICIES

Sponsors must have an established, documented security policy. The Sponsor's security policy should address not only computer security but security of all assets of the Sponsor. Following are examples of items that should be included in the Sponsor's security policy:

- ♦ Position security should be defined to determine how individuals interact with computers and the access and authorities needed to perform their jobs.
 - Security levels should be limited.
 - Separation of duties should be implemented.
- ♦ User security should ensure the Sponsor that effective administration of users' computer access is maintained.
 - Processes should be defined for user account management, including password maintenance.
 - Procedures should be in place to detect unauthorized/illegal activities.
- ♦ Contingency plans should be documented to ensure the Sponsor's critical functions are operating in the event of a disruption.
- ♦ Procedures should be in place in the event of a computer security incident. Sponsors should also plan for prevention of computer security incidents.
- ♦ Plans should be in place for backups of data that will support the continued operation of the Sponsor, should a disruption to operations occur.

RECORDKEEPING REQUIREMENTS

Sponsors are required to maintain records to support compliance with program regulations, the monthly claim for reimbursement, and the monthly contract reimbursement statement. All electronic and paper records relating to the CACFP, including financial records must be retained for a period of three (3) years and four (4) months following the end of the applicable fiscal year. If audit findings

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have not been resolved, the records shall be retained until the issues identified in the audit are resolved.

Sponsors must make these records available for review to authorized officials of the USDA, the Federal Government Accounting Office (GAO), the State, and auditors representing federal, state, or local government.

The following electronic or paper records shall be retained for three (3) years and four (4) months:

- ♦ Copies of the management plan and supporting documentation submitted to the CDPHE-CACFP.
- ♦ Enrollment documents for each child claimed. All children claimed for reimbursement must be enrolled at the home for care. Enrollment documentation must be complete and obtained by the Sponsor before any meals can be claimed for a child.
- ♦ Meal count records. Each monthly claim for reimbursement must be supported by meal count records for each meal served during the month. The meal count record must indicate the meal served to each child by type of meal (breakfast, lunch, supper, or AM, PM or night snack). The provider must record the meal served to each child daily. Records must support each child's attendance for meals claimed.
- ♦ Copies of FDCH licenses.
- ♦ Records of participation for children by race and ethnicity.
- ♦ Copies of menus.
- ♦ Documentation of training to providers.
- ♦ Documentation of each monitoring visit, any problems noted, and the corrective action taken.
- ♦ Documentation of tiering determination.
- ♦ Income applications.
- ♦ Copy of latest review and any corrective action, if necessary.
- ♦ Correspondence with the CDPHE-CACFP.
- ♦ Correspondence with FDCH providers.
- ♦ Documentation of the dates and amounts of disbursement to each provider, including reconciliations of provider reimbursements.
- ♦ Copies of monthly claims for reimbursement and monthly contract reimbursement statements.
- ♦ Financial records to support administrative costs reported on the monthly claim.
 - Copy of approved budget and any subsequent revisions.
 - Copies of all original and revised contract reimbursement statements.
 - Receipts for any administrative costs charged to CACFP.
 - Time sheets to support personnel costs charged to CACFP.
 - Mileage records.
 - Copies of any contracts for personnel, equipment, or professional services.
- ♦ Voided checks
- ♦ A-133 audit and corrective action, if necessary.
- ♦ Receipts for all CACFP reimbursements received from the CDPHE-CACFP for administrative costs and meal reimbursements.

- ♦ Bank reconciliations and bank statements.

The following records shall be retained as described below:

- ♦ Outstanding check documentation must be kept permanently.
- ♦ Equipment inventories and disposition records must be kept permanently.
- ♦ Provider Agreements must be retained the entire time a provider is participating and until three (3) years and four (4) months following the FDCH provider's termination.

MANAGEMENT PLAN AND ADMINISTRATIVE BUDGET

Submission of the Management Plan and Budget

Sponsors must submit a management plan update annually as directed by CDPHE and an administrative budget each fiscal year, for approval as a part of the Sponsor's annual recertification. The management plan must include information sufficient to document the Sponsor's compliance with the performance standards of viability, capability, and accountability. Each management plan shall include all of the information as outlined in the management plan outline provided annually by the CDPHE-CACFP.

Sponsors must submit an administrative budget each fiscal year based on current program needs and on anticipated needs. If the Sponsor receives administrative reimbursement based on the homes x rate and anticipates having carry over funds, an estimate of the carryover funds must be included in the budget. Sponsors must submit their budget on the approved form provided by CDPHE-CACFP.

When preparing the annual budget, FDCH Sponsors must follow the instructions included with the budget form supplied annually by the CDPHE-CACFP. In addition, Sponsors should review FNS Instruction 796-2, Revision 4, and OMB Circular A-122. These instructions will guide the Sponsors in determining if a cost is allowable and if the expenditure has prior approval or disclosure requirements.

When approving Sponsors budgets, the CDPHE-CACFP will evaluate each line based on necessity, reasonableness, and allowability, the dollar amount appropriated to each item, and the allocation method used for shared costs. Also reviewed is the size of the Sponsor, its prior history, and the average administrative costs from prior years.

Budget Tracking and Reporting

Sponsors are responsible for tracking actual administrative costs with the approved administrative budget and the allowable homes times rate formula result. Sponsors must monitor each budget line item and expenditure to ensure that it is within the approved line item amount and prior approval has been obtained. Sponsors must also ensure that expenditures are within the earned homes times rate formula result. If expenditures exceed the homes times rate formula result, Sponsors must have procedures for ensuring adequate financial resources are available.

Budget Revisions

Throughout the fiscal year, Sponsors may find that the approved budget may need to be revised due to an increase or decrease in the number of homes sponsored by the organization, line item increases or decreases, or when the carry over amount is finalized and approved by the CDPHE-CACFP after fiscal year close-out has occurred.

Sponsors must submit a revised budget on the original budget form submitted for the fiscal year and include appropriate justifications for revisions. Budget revisions for line items which are classified as generally allowable costs and result in an increase or decrease of less than 15%, may be made without

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approval from the CDPHE-CACFP. However, Sponsors must inform the CDPHE-CACFP of such budget revisions. Generally allowable costs include:

- ♦ General salary adjustments if the budget revisions are within the Sponsor's written compensation plan and do not affect staffing as outlined in the management plan. Please refer to FNS Instruction 796-2, Revision 4, to make sure the salary adjustment does not require specific prior written approval.
- ♦ Office supplies
- ♦ Postage
- ♦ Leased office equipment
- ♦ Dues, memberships, and subscriptions, unless memberships for civic or community organizations are included
- ♦ Advertising costs for recruitment, solicitation of bids for procurement, disposal of equipment
- ♦ Office space, unless a special lease arrangement is included
- ♦ Utility costs
- ♦ Telephone expenses, except cell phone costs
- ♦ Provider education materials, as long as materials are CACFP related

Budget revisions made to line items that require prior approval or specific prior written approval must be submitted to the CDPHE-CACFP 30 calendar days prior to the effective date of the revision. For example, budget revisions for December must be received by November 1. Budget items that require prior approval or specific prior written approval must be specifically identified by item and amount during the budget revision submission. Refer to the Financial Management Section of the FDCH Sponsor's Manual for information on cost items requiring prior approval or specific prior written approval.

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FINANCIAL MANAGEMENT

FINANCIAL MANAGEMENT STANDARDS

Sponsors are required to implement the following financial management standards. These standards must be applied to activities and funds related to administrative as well as provider reimbursements.

- ◆ Provide accurate, reliable, current and complete disclosure of the financial results of the CACFP.
- ◆ Maintain records as part of the financial management and program administrative management system that accurately and fully identifies the source and use of funds for the CACFP. This includes both federal and non-federal funds. These records must identify obligations, un-obligated balances, assets, outlays, CACFP revenues, interest, and other income by source, debt, and other liabilities.
- ◆ Maintain effective control over and accountability for all funds, property, and other assets. Sponsors must adequately safeguard all such assets and assure they are used only for CACFP purposes.
- ◆ Conduct a comparison of outlays to budget amounts with a procedure for ensuring that the required prior approvals are obtained for variations between approved budget amounts and actual outlays.
- ◆ Ensure accurate and timely disbursements of provider payments.
- ◆ Establish written procedures for determining the reasonableness, allowability, and allocation of costs in accordance with 7 CFR 226, FNS Instruction 796-2, Rev. 4, CDPHE-CACFP financial management requirements, and the OMB cost circulars.
- ◆ Maintain source documents that support the accounting records.
- ◆ Provide full disclosure of the financial management system, records, source documents, and results of CACFP operations upon request to representatives of the CDPHE-CACFP, USDA, external auditors, and other federal and state agencies.

INTERNAL CONTROLS

Sponsors must meet the following objectives of maintaining adequate internal control over Program activities and funds. These objectives include:

- ◆ Properly recording and accounting all transactions.
- ◆ Prepare reliable financial statements and CDPHE-CACFP reports.
- ◆ Maintain accountability over assets.
- ◆ Comply with applicable laws, regulations, instructions, and guidance.
- ◆ Safeguard funds, property, and other assets against loss from unauthorized use or disposition.
- ◆ Ensure that only eligible FDCH providers receive CACFP funds and that the amounts provided are calculated in accordance with Program regulations.

PROGRAM INCOME

Sponsors must accurately record any income that supports the operations of the CACFP. This income occurs in two categories: program income and other income.

Program income is the gross income earned from activities supported by the Program. When the Sponsor's program is limited to the CACFP, program income is limited to the income that results from operating the CACFP. Examples of program income for a Sponsor are proceeds from the disposition of

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equipment or income earned from the sale or licensing of materials that were developed using CACFP funds.

Other income includes other funds that result from Program operations or are applied to Program operations. Examples include: cash donations specifically earmarked for use in the CACFP, interest earned on advance administrative funds up to \$250, or interest earned on reimbursement funds.

All income to the CACFP, either program or other income, must be retained and used only for allowable purposes by deducting the income from the CACFP family day care home Sponsor's administrative costs to determine net reimbursable administrative costs. It is unallowable for family day care home Sponsors to generate income from the sale of materials created with CACFP funds to support or pay for costs that are not allowable costs for the CACFP.

INTEREST INCOME

Interest can be earned on advance and reimbursement funds. Different requirements apply to the interest earned on reimbursement and advance funds. Different requirements also apply when interest is earned on advance funds by public and nonprofit Sponsors.

Interest earned on reimbursement funds is other income to the Program and must be recorded and used for allowable Program purposes by deducting the income from the Sponsor's administrative costs to determine the net reimbursable administrative costs.

Interest earned on advance funds may be retained up to \$250 per federal fiscal year in sponsoring organizations that are not for profit. The interest is other income to the Program and must be recorded and used for allowable Program purposes by deducting the income from the Sponsor's administrative costs to determine the net reimbursable administrative costs. Any interest earned in excess of \$250 per federal fiscal year according to Public Law 106-224 and 7 CFR 3019.22(k)(3) must be remitted to the U.S. Department of Health and Human Services, Payment Management Systems, P. O. Box 6021, Rockville, MD 80852.

For public institutions, interest earned on advance funds may be retained up to \$100 per federal fiscal year. The interest is other income to the Program and must be recorded and used for allowable Program purposes by deducting the income from the Sponsor's administrative costs to determine the net reimbursable administrative costs. Any interest earned in excess of \$100 must be remitted to USDA through the CDPHE-CACFP.

BASIC GUIDELINES FOR DETERMINING ALLOWABILITY OF COSTS

Sponsors must account for all costs through the consistent use of generally accepted accounting principles. Costs must be reported on either a cash basis, which recognizes revenues and costs when cash is actually received and expended, or an accrual basis, which recognizes revenues and costs when incurred and uses payables and receivables. Regardless of the basis, all costs must be treated consistently.

All administrative costs claimed by the Sponsors must be necessary, reasonable, and allowable for the proper and efficient administration of the CACFP. Necessary costs are defined as those costs that represent an activity or function that is recognized as ordinary and necessary for the operation of the Program and which must be accomplished to fulfill regulatory requirements for proper and efficient administration of the Program. Reasonable costs are those costs that do not exceed what a prudent person would incur under the same circumstances.

Allowability of costs is determined according to the following principles:

1. OMB Circular A-21, "Cost Principles for Educational Institutions;"

2. OMB Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments;”
3. OMB Circular A-122, “Cost Principles for Non-Profit Organizations;” and
4. FNS Instruction 796-2, Revision 4

The OMB circulars are available in electronic form on the OMB Home Page at <http://www.whitehouse.gov/omb/circulars/>.

Administrative costs must be properly allocated so that only the allowable share of the cost is charged to the CACFP. These costs must be prorated on a consistent and rational basis in accordance with generally accepted accounting principles.

Only the net cost is allowable. Administrative costs must be offset by applicable credits, such as purchase discounts, rebates or allowances, or erroneous charges.

APPROVAL REQUIREMENTS

All administrative costs incurred by the Sponsor require some level of approval by the CDPHE-CACFP. The three levels of approval are described below:

1. Generally allowable costs are those costs that occur in the routine operation of the CACFP and are allowed by the OMB Circulars and FNS Instruction 796-2. While generally allowable, Sponsors must disclose these costs in their administrative budget and these costs must be approved in advance by the CDPHE-CACFP through the annual management plan and budget process. Approval of the budget results in the approval of the generally allowable costs.
2. Prior Approval is required of those costs identified in the OMB Circulars as generally allowable costs, but due to limitations imposed by CACFP regulations, may require prior approval. Costs identified as requiring prior approval must be specifically identified by item and amount in the Sponsor’s administrative budget. When properly disclosed, the CDPHE-CACFP’s approval of the budget meets the requirement for prior approval. If the cost is not included in the Sponsor’s approved budget, the Sponsor must submit a request for prior approval before any expense is incurred. If prior approval is not received, the cost is unallowable.
3. Specific Prior Written Approval is required for those costs that are not customarily incurred in the routine operation of the CACFP. Approval of a budget line item does not constitute adequate specific prior written approval for these costs. The Sponsor must specifically identify and request approval of these costs during the annual budget approval process or submit a separate request to the CDPHE-CACFP prior to funds being expended. The CDPHE-CACFP will approve or deny requests for these costs in writing. Costs identified as requiring specific prior written approval may include costs identified in the OMB Circulars as allowable costs, but due to limitations imposed by CACFP regulations, may require specific prior written approval. If specific prior written approval is not received prior to the expense being incurred, the cost is unallowable.

Refer to the FNS Instruction 796-2, Revision 4 for selected items of cost and the required approvals. Below is a table that outlines the cost items requiring prior approval or specific prior written approval.

FNS 796-2, Revision 4					
Cost Items Requiring Prior Approval, Specific Prior Written Approval, and/or FNSRO					
Topic	Section	Page #	Prior Approval	Specific Prior Written Approval	FNSRO Approval
Advertising and Public	3 a (2)	19	Yes		

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FNS 796-2, Revision 4 Cost Items Requiring Prior Approval, Specific Prior Written Approval, and/or FNSRO					
Topic	Section	Page #	Prior Approval	Specific Prior Written Approval	FNSRO Approval
Relations Costs					
Communications	8 a (1)	21	Up to SA	Yes	
Contributions and Donation Costs	10 a	22		Yes	
Day Care Home Licensing Standards Costs	12 a (1, 2, & 3)	26		Yes	
Depreciation and Use Allowance	13 a (1)	28		Yes	
	13 b	28		Yes	
	13 d (1)(a)	29		Yes	
	13 d (1) (c)	30		Yes	
Employee Morale, Health, and Welfare Costs and Credits	14	32		Yes	
Expensing Equipment and Other Property	16 a	34		Yes	
Facilities and Space Costs	17 a (3)	38		Yes	
Insurance	21 a (2)(a)	37		Yes	
	21 a (2)(b)	37		Yes	
	21 a (2)(c)	37		Yes	
	21 a (2)(d)	37		Yes	
Interest, Fund Raising, and Other Financial Costs	22 a (1)(a) i	38		Yes	
	22 a (1)(a) ii	38		Yes	
	22 a (2)	38		Yes	
	22 c (1)	40		Yes	
	22 c (2)	40		Yes	Yes
Labor Costs	23 d (1)	48		Yes	
	23 d (2)	48		Yes	
	23 d (3)	48		Yes	
	VI D 3	7		Yes	
Overtime, Holiday Pay, and Compensatory Leave	23 h	50		Yes	
	23 i	51		Yes	
Severance Pay	23 j	52		Yes	
	23 k	55		Yes	
Legal Expenses and Other Professional Services	24 a (1)	56		Yes	
	24 a (2)	56		Yes	
Management Studies	26 a	58		Yes	
Materials and Supplies	27	58		Up to SA	
Meetings and Conferences	28 a (1)	59	Yes		
	28 a (2)	59		Yes	
Membership, Subscriptions, and Professional Organization Activities	29 a (4)	60			Yes
Participant Training and Other Participant Support Costs	30 a (1)	61	Yes		
	30 a (2)	62	Yes		
	30 a (3)	62	Yes		
Proposal Costs	32	64		Yes	

FNS 796-2, Revision 4 Cost Items Requiring Prior Approval, Specific Prior Written Approval, and/or FNSRO					
Topic	Section	Page #	Prior Approval	Specific Prior Written Approval	FNSRO Approval
Publication, Printing and Reproduction	33	64	Yes		
Purchased Services-Other	34 a (1)(a)	65	Yes		
	34 a (1)(b)	65	Yes		
	34 a (2)	65		Yes	
Rental Costs	36 d	68		Yes	
Termination Costs	38 a	71		Yes	
Travel	39	72	Yes		

DISCLOSURE REQUIREMENTS

In accordance with FNS Instruction 796-2, Revision 4 and OMB circulars, Sponsors are required to disclose any related party transactions, less-than-arms-length transactions, ownership interests in equipment, supplies, vehicles, and facilities, or any other information that assists the CDPHE-CACFP in making an informed assessment of the allowability of a particular cost. All such transactions require specific prior written approval from the CDPHE-CACFP. Administrative cost items requiring disclosure must be explained during the budget submission process or in a separate request. Failure to disclose such transactions or information in the specific prior approval request will result in the disallowance of the cost.

SELECTED ITEMS OF COST

Costs frequently occurring in organizations operating the CACFP are listed in the FNS Instruction 796-2, Revision 4, Part VIII, pages 17-74. These costs include generally allowable costs, costs requiring prior approval, costs requiring specific prior written approval, and unallowable costs. Sponsors should refer to the FNS Instruction prior to budget submission, budget revision requests, or payment of an invoice to determine if a cost is allowable, requires prior approval, or specific prior written approval; and if required approvals have been received.

Prior to any funds being expended, Sponsors must implement policies and procedures that require documented approval of expenditures by Sponsor management. During the CDPHE-CACFP's fiscal review, invoices will be reviewed to determine that the Sponsor's policies and procedures regarding internal approvals are being followed.

ALLOCATION OF COSTS

Costs that benefit more than one program or benefit CACFP and non-CACFP activities must be properly allocated. Only the share of the costs that benefit the CACFP can be assigned as program costs. The Sponsor must include documentation of the method used to allocate shared costs with their budget and specific prior written approval is required.

For any cost that is shared, the Sponsor must clearly document each item of cost, the total amount being paid by the organization, the portion of the cost assigned to the CACFP, and the method by which the CACFP portion was determined.

SECTION 8

FINANCIAL MANAGEMENT

MATERIALS DEVELOPED WITH CACFP FUNDS

Proprietary materials are defined as items that are developed using CACFP administrative funds, including nutrition education materials, correspondence courses, videos, computer software, etc. All materials developed with CACFP funds are considered to be in the “public domain” and may be reproduced by others as long as credit is given to the source. All materials developed by the Sponsor must include the non-discrimination policy statement.

If the Sponsor sells any proprietary materials, all income to the program, regardless of the category of income, must be retained and used only in the program. Examples of income might be gross income from the sale of cookbooks, rental fees from videos, or royalties or income earned from the sale or licensing of materials. In addition, the use of program or other income can only be used for allowable program purposes.

UNALLOWABLE COSTS

Costs may be unallowable as stated in the OMB Circulars or FNS Instruction 796-2. Costs that are allowable may become unallowable due to the actions or inactions of the Sponsor, for example any expense where the Sponsor failed to maintain the documentation to support the costs charged to the Program.

PURCHASING/PROCUREMENT REQUIREMENTS

Sponsors must comply with the procurement standards and guidelines in 7 CFR 226.22. These standards shall not relieve the Sponsor of any contractual responsibilities under its contracts. The Sponsor is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of the CACFP.

Sponsors must use their own procurement procedures that reflect applicable state or local laws and regulations. The underlying foundation of all procurements is that regardless of the method used, the procurement is conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. To the extent possible, efforts must be made to include small, minority, and woman owned firms on the solicitation list.

Most procurements obtained by a Sponsor will follow the small purchase procedures. Small purchase procedures are simple and informal procurement methods used in the purchase of goods and services that do not exceed the aggregate amount of more than \$150,000.

General Procurement Guidelines

- ♦ When soliciting quotes or bids, Sponsors must adequately and consistently describe the item or service to be purchased to each prospective vendor.
- ♦ The lowest bid shall be accepted.
- ♦ Documentation of the price and rate quotations must be kept on file for three (3) years and four (4) months from the end of the fiscal year the quote was taken.
- ♦ Sponsors must obtain all required prior approvals or specific prior written approvals from CDPHE-CACFP before a commitment to purchase is made.

Procurement Dollar Limits

Sponsors may establish their own procurement procedures, which reflect applicable State or local laws and regulations, provided that these procedures conform to the standards, set forth in this section. Sponsors must include in their procurement procedures dollar thresholds that describe the method of

solicitation that must be used. All purchases require written supervisory approval. The following are the maximum procurement dollar limits Sponsors may use in implementing their procurement policies:

- ♦ Purchases under \$5,000 require written justification for the purchase and written supervisory approval.
- ♦ Purchases between \$5,000 and \$25,000 require a minimum of three (3) verbal quotations that must be documented in writing. The documentation must include the date, vendors contacted, prices quoted, the person who provided the quotation, and shipping information.
- ♦ Purchases between \$25,000 and \$150,000 require a minimum of three (3) written quotations.
- ♦ Purchases greater than \$150,000 require competitive sealed bidding. Sponsors should contact the CDPHE-CACFP for guidance.

INVENTORY REQUIREMENTS

Sponsors must maintain accurate inventory records for equipment acquired with federal funds. A physical inventory of equipment must be taken, and the results reconciled with the equipment inventory records at least once every two years. Any differences between the physical inventory and the inventory records must be investigated and recorded. A control system must be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Inventory records must include the following information:

- ♦ A description of the equipment.
- ♦ Manufacturer's serial number, model number, or other identification number.
- ♦ Acquisition date.
- ♦ Acquisition cost.
- ♦ Information from which one can calculate the percentage of CACFP funds used to purchase the equipment.
- ♦ Location and condition of the equipment.
- ♦ Disposition data, including date of disposal and method of disposal.

EQUIPMENT DISPOSITION REQUIREMENTS

When a Sponsor chooses to dispose of equipment purchased with CACFP funds, the following transfer and disposition instructions apply when the equipment has a fair market value of \$5,000 or more per unit. The Sponsor may retain the equipment for other uses; however, the reimbursement must be made to the CACFP for the fair market value of the equipment. If the Sponsor does not wish to retain the equipment, then the CDPHE-CACFP must be notified. USDA will be notified to determine the disposition requirements.

If the equipment has a fair market value less than \$5,000, the Sponsor may retain the equipment and use for purposes other than the CACFP, the Sponsor may transfer the equipment to another Sponsor within the State of Colorado, or the equipment may be disposed of by selling the equipment. The proceeds from the sale of the equipment must be used for the purposes of the CACFP.

When equipment purchased with CACFP funds is disposed, the Sponsor must record that information on their inventory of equipment.

SECTION 8

FINANCIAL MANAGEMENT

AUDITS

The audit requirements for CACFP Sponsors are outlined in 7 CFR Part 3052 and OMB Circular A-133. These requirements state that any organization that receives more than \$500,000 in federal dollars in any year shall have an audit conducted.

Audits of Sponsors must be conducted annually, and the audit requirement is generally met by an organization wide or single audit, though in certain instances a program specific audit can be substituted. Program specific audits are allowed when a Sponsor operates only one federal program. The CACFP does not currently have a program specific audit guide. In the absence of an audit guide, the responsibilities are the same as they would be for an audit of a major program in a single audit.

An organization wide or single audit means that an audit is conducted of all funds received by an organization, inclusive of federal, state, local, and private funds. An organization wide or single audit combines a financial statement audit with an audit of programmatic compliance. An organization wide audit may be useful for a Sponsor if they intend to receive funding from other organizations.

A program specific audit means that an audit is conducted of program compliance.

Sponsors must submit a copy of their audit report to the CDPHE-CACFP within 30 calendar days after the audit is completed or nine (9) months following the end of the fiscal year being audited, whichever is earlier. If the audit had no findings or questioned costs related to the CACFP, then the Sponsor may submit written notification to the CDPHE-CACFP of no related or prior audit findings.

The CDPHE-CACFP is required to follow up on any findings or questioned costs identified during the Sponsor's audit. The CDPHE-CACFP will issue a management decision on the findings or questioned costs and ensure that corrective action is taken. Once corrective action is completed, the CDPHE-CACFP will issue a closure notice.

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