

Food and Nutrition Service, USDA

§ 247.6

7 CFR part 15, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process.

(14) A description of the fair hearing procedures for participants.

(15) If a State agency wishes to initiate service to the elderly, or request expansion caseload to serve the elderly, a description of plans for providing program benefits to elderly persons within the State during the caseload cycle. Such description shall include—

(i) An identification of the elderly population to be served, including documentation of the extent of need in the proposed service area; and

(ii) A description of the means by which the State agency will meet the needs of the homebound elderly.

(b) *Submission of local agency information.* Local agencies under the State agency's jurisdiction may be required to submit information, similar to the preceding requirements, to the State agency for its use in assuring compliance with this section.

(c) *Amendments.* Except as provided in paragraph (a) of this section, the State agency may amend the State Plan at any time. The State agency shall submit the amendments to FNS for approval.

(d) *Retention of copy.* A copy of the approved State Plan shall be kept on file at the State agency for public inspection.

(Approved by the Office of Management and Budget under control number 0584-0063)

(44 U.S.C. 3506; E.O. 12372 (July 14, 1982, 47 FR 30959); secs. 401(b), Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)))

[46 FR 6341, Jan. 21, 1981, as amended at 47 FR 746, Jan. 7, 1982; 48 FR 29123, June 24, 1983; 51 FR 32900, Sept. 17, 1986; 53 FR 4838, Feb. 18, 1988; 62 FR 55145, Oct. 23, 1997]

§ 247.6 Selection of local agencies.

(a) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit a written application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. If the State agency and the local agency are the same, this requirement does not apply. The State

agency shall notify the agency of the approval or disapproval of its application within 30 days of receipt of the agency's application. If the application is denied the State agency shall advise the agency of the reasons for the denial in writing and the right to appeal as set forth in § 247.22 of this part. When an agency submits an application and there are no funds to serve the area, the applicant agency shall be notified within 30 days of receipt of the application that there are currently no funds available for Program initiation or expansion. The State agency shall return the application and maintain a record of the name and address of the applicant agency. The potential agency whose application was returned shall be notified by the State agency when funds become available. The State agency may approve the application of a local agency in an area already served by the Program or a WIC program only if a new local agency is necessary to serve the full extent of need in that area or population. If the State agency approves the operation of a new local agency in an area already served by an existing Program or a WIC Program, documentation which indicates the need for both local agencies in that area shall be maintained on file at the State agency for FNS review and evaluation.

(b) *Agreements between State and local agencies.* (1) State agencies shall enter into agreements with local agencies which are approved to participate in the Program. If the State agency and the local agency are the same, this requirement does not apply. Copies of the agreement shall be kept on file at both the State and local agency for purposes of review and audit. Such agreements shall be in writing and shall contain the following:

(i) An assurance that local agencies will comply with all the fiscal and operational requirements prescribed by the State agency as required by this part; (ii) an assurance that local agencies will provide nutrition education as required by this part; (iii) for those local agencies in existence prior to March 3, 1978, an assurance that they will continue arrangements with

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health service providers for the provision of services to Program participants at least at the level that existed on March 2, 1978, and for other local agencies, an assurance that they will advise participants of the importance of health care and where low-income persons can obtain such care; (iv) an assurance that issuance of supplemental food is in accordance with this part and FNS food package instructions; (v) a statement that local agencies are responsible to the State agency for any loss resulting from improper or negligent issuance by them of prescriptions for supplemental foods; (vi) a statement that local agencies are responsible to the State agency for any Program losses caused by other agencies which have entered into agreements with the local agency; (vii) the names and address of each certification, food distribution and storage site under the jurisdiction of the local agency; and (viii) an assurance that the local agencies will maintain accurate and complete records with respect to their activities under the Program and retain such records for a period of 3 years following the date of submission of the final expenditure report for the period to which the report pertains.

(c) *Agreements between local agencies and other agencies.* A local agency which cannot fulfill one or more of these requirements shall enter into written agreement with another agency(s) in order to comply with these requirements. The written agreement shall state the Program responsibilities of the other agency, shall be approved by the State agency, and shall be on file at both the State agency and local agency. State agency approval of agreements with applicant agencies shall be accomplished during the application process.

(Approved by the Office of Management and Budget under control number 0584-0063)

[46 FR 6341, Jan. 21, 1981, as amended at 47 FR 746, Jan. 7, 1982]

§ 247.7 Certification.

(a) *Eligibility requirements.* To be certified as eligible to receive supplemental foods under the Program, each applicant shall meet the following requirements:

(1) Categorical eligibility as an infant, child, pregnant, postpartum or breastfeeding woman, or elderly person;

(2) For women, infants and children, income eligibility for local benefits under existing Federal, State or local food, health or welfare programs for low-income persons;

(3) For elderly persons certified on or after September 17, 1986, household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services. Elderly persons certified before September 17, 1986, shall be subject to the terms and conditions in effect on the date of their certification.

(4) At the State agency's discretion, be determined by a physician, a staff member of the local agency or his or her designee to be at nutritional risk; and

(5) Meet a residency requirement if one is established by the State agency. The State agency may determine a service area for any local agency, and may require that an applicant be residing within the service area at the time of application to be eligible for the Program. However, the State agency may not impose any durational or fixed residency requirements. For example, migrant and seasonal farmworkers entering a CSFP service area shall be considered as meeting the residency requirement.

(b) *Processing standards.* (1) When there are no funds available to provide program benefits, the local agency shall maintain waiting lists of individuals who visit the local agency to apply for the Program. To enable the local agency to contact the individuals when caseload space becomes available, these waiting lists shall include the name of the applicant, the date placed on the waiting list, an address or phone number of the applicant and the applicant's status, i.e., pregnant, breastfeeding, child's age. Individuals shall be notified of their placement on a waiting list within 20 days after they visit the local agency during clinic office hours to request Program benefits.

(2) The following priorities based on categorical eligibility shall be applied when vacancies occur after the local