

SEPTEMBER 13, 1999

SUBJECT: Timing of Corrective Action in Serious Deficiency Cases

TO: Program Directors
Special Nutrition Programs
All Regions

As you know, regulations at 7 CFR 226.6(c) give State agencies the responsibility to terminate child care institutions that the State agency determines to have been seriously deficient in the operation of one of the child nutrition programs. Before the State agency can terminate an institution, it must give the institution "every reasonable opportunity" to correct its problems. That means that the State must give the institution complete notice of what the problems are that have given rise to the finding of serious deficiency, the steps that the institution must take in order to correct the problems, and how much time the institution has to correct them. The institution must also be given notice that if it does not correct the problems within the specified period of time, it will be terminated from the program. We have had a number of questions about how much time the State agency must allow for corrective action before terminating an institution.

There is no definitive amount of time that institutions must be given in order to complete corrective action. The amount of time needed depends on the nature of problem giving rise to the finding of serious deficiency and the corrective action necessary. It would take a child care center much longer to correct accounting system problems than to serve larger portion sizes. In each instance, the State agency would establish a reasonable fixed period of time by which corrective action must be achieved. In some cases it may be appropriate to give as little as twenty-four hours for corrective action. For example, when a director or other principal in a child care institution is indicted for fraud relating to one of the child care programs, the corrective action would require a showing that the indicted individual has been removed from the principal position. It is reasonable that this action would not take more than twenty-four hours.

We hope this information is helpful. Please let us know if you have any questions or require further clarification on these issues.

/ORIGINAL SIGNED/

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