

Food and Nutrition Service, USDA

§ 249.7

markets and roadside stands, and/or how SFMNP foods will be provided under the CSA program in that service delivery area; and

(ii) Be advised of the other types of services that are available to SFMNP participants, where such services are located, how they may be obtained, and why they may be useful.

(4) Persons found ineligible for the SFMNP during a certification visit must be advised in writing of their ineligibility, of the reasons for their ineligibility, and of their right to a fair hearing. The reasons for ineligibility must be properly documented and must be retained on file at the local agency. Such notice is not required when participation is denied solely because of lack of sufficient funding to provide SFMNP benefits to all eligible applicants.

(5) When a State or local agency pursues collection of a claim pursuant to § 249.20(c) against an individual who has been issued SFMNP benefits for which she/he is not eligible, the person must be advised in writing of the reason(s) for the claim, the value of the improperly issued benefits that must be repaid, and of his/her right to a fair hearing.

(e) *Certification without charge.* Certification for the SFMNP must be performed at no cost to the applicant or the authorized representative.

(f) *Use of proxies or authorized representatives.* At the State agency's discretion, a senior may designate an authorized representative (proxy) to apply for certification, shop at the farmers' market or roadside stands, and/or pick up their eligible foods from CSA program distribution sites on his/her behalf if the senior is unable to perform these actions. The State agency must obtain a signed statement from the eligible senior designating another individual as his/her authorized representative. A senior who has been certified to receive SFMNP benefits may designate an authorized representative at any point during the program's period of operation.

(g) *Processing standards.* (1) Applicants for the SFMNP must be notified of their eligibility or ineligibility for benefits, or of their placement on a waiting list, as described in paragraph

(g)(2) of this section, within 15 days from the date of application.

(2) When all available program benefits have been allocated to eligible participants, and there is a reasonable expectation that additional funds may become available to provide further SFMNP benefits to eligible seniors, the local agency must maintain a waiting list of individuals who contact the local agency to apply for the Program. Individuals must be notified of their placement on a waiting list within 15 days after they contact the local agency to request Program benefits. To enable the local agency to contact these individuals when caseload space becomes available, the waiting list must include the name of the applicant, the date placed on the waiting list, and an address or phone number of the applicant.

(h) *Limitations on certification.* If necessary to limit the number of participants, State agencies may impose additional eligibility requirements, such as limiting participant certification to certain geographic areas. Each State agency must specifically identify these limitations on certification in its State Plan.

§ 249.7 Nondiscrimination.

(a) *Civil rights requirements.* (1) The State agency must comply with the following requirements to ensure that no person shall, on the grounds of race, color, national origin, age, sex or disability, be excluded from participation, be denied benefits, or be otherwise subjected to discrimination, under the SFMNP:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title IX of the Education Amendments of 1972;

(iii) Section 504 of the Rehabilitation Act of 1973;

(iv) The Age Discrimination Act of 1975;

(v) Department of Agriculture regulations on nondiscrimination (parts 15, 15a and 15b of this title); and

(vi) Applicable FNS Instructions, including requirements for racial and ethnic participation data collection, public notification of the nondiscrimination policy, and annual reviews of each local agency's racial and

ethnic participation data (as required by title VI of the Civil Rights Act of 1964).

(2) Compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and regulations and instructions issued thereunder shall include, but not be limited to:

(i) Notification to the public of the nondiscrimination policy and complaint rights of participants and potentially eligible persons, which may be satisfied through FNS' required nondiscrimination statement on brochures and publications;

(ii) Review and monitoring activity to ensure SFMNP compliance with the nondiscrimination laws and regulations; and

(iii) Establishment of grievance procedures for handling participant complaints based on sex and handicap.

(b) *Complaints.* Persons seeking to file discrimination complaints may file them either with the Secretary of Agriculture, or the Director, Office of Civil Rights, USDA, Washington, DC 20250 or with the office established by the State agency to handle discrimination grievances or complaints. All complaints received by State agencies that allege discrimination based on race, color, national origin, or age shall be referred to the Secretary of Agriculture or the Director of the Office of Civil Rights, USDA. A State agency may process complaints that allege discrimination based on sex or disability if grievance procedures are in place.

Subpart D—Participant Benefits

§ 249.8 Level of benefits and eligible foods.

(a) *General.* State agencies must identify in the State Plan the fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs that are eligible for purchase under the SFMNP. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Dried fruits or vegetables, such as prunes (dried plums), raisins (dried grapes), sun-dried tomatoes, or dried chili peppers are not considered eligi-

ble foods in the SFMNP. Potted fruit or vegetable plants, potted or dried herbs, wild rice, nuts of any kind (even raw), honey, maple syrup, cider, seeds, eggs, meat, cheese, and seafood are also not eligible for purposes of the SFMNP. "Locally grown" means produce grown only within a State's borders but may be defined by State agencies to include border areas in adjacent States. Under no circumstances may produce grown outside of the United States and its territories be considered eligible food.

(b) *The value of the Federal benefits received.* (1) The Federal SFMNP benefit level received by each participant, whether individual or household, may not be less than \$20 per year or more than \$50 per year, except that:

(i) A State agency that operated the SFMNP in FY 2006 may continue to issue the same level of benefits that was provided to participants in FY 2006, even if the benefit level was less than \$20;

(ii) Participants served by a State agency that operated the SFMNP through a CSA program model in FY 2006 may, at the State agency's discretion, continue to receive the same CSA benefit levels that were provided to such participants in FY 2006, subject to the conditions set forth at § 249.14(e)(3), Distribution of Funds; and

(iii) Participants who are participating in the SFMNP through a CSA program may receive a higher total benefit level than participants participating in a check or coupon program model, as long as that level is consistent for all Senior CSA program participants and does not exceed the \$50 annual maximum per individual or household, except as provided in paragraph (b)(1) of this section.

(2) The total value of SFMNP benefits provided in a combination of program models, such as coupons/checks and bulk purchase, may not exceed the \$50 maximum benefit level set forth in paragraph 249.8(b)(1).

(c) *Participant or household benefit allocation.* (1) All SFMNP participants living in the areas served by the State agency must be offered the same amount of SFMNP benefits, regardless of the program model(s) used by that State agency.