

MAY 16, 1997

SUBJECT: Questions and Answers #4: Two-tier Reimbursement Structure for Family Day Care Homes Participating in the Child and Adult Care Food Program (CACFP)

TO: Regional Directors
Child Nutrition Programs
All Regions

Attached is the fourth set of questions and answers on the two-tiered reimbursement structure for family day care homes in the CACFP. Please forward these to your State agencies with instructions to disseminate to their sponsoring organizations as soon as possible. If you have any additional questions, please contact Ed Morawetz, Melissa Rothstein, or Janet Wallington at (703) 305-2620.

Original Signed

ROBERT M. EADIE
Acting Director
Child Nutrition Division

Attachment

Questions and Answers #4
Two-tiered Reimbursement for Family Day Care Homes

Tier I Day Care Homes

Elementary School and Census Data

1. **Question:** The March 10, 1997, memorandum on use of school and census data for making tier I classifications indicated that a sponsor may consult census data after having consulted elementary school free and reduced price enrollment data which does not support a tier I determination in areas in which the free and reduced price enrollment is above 40 percent. Can sponsoring organizations consult census data if they do not have access to elementary school data for schools with 40-49 percent free and reduced price enrollment?

Answer: The State CACFP agency can request that the State education agency provide data for schools with between 40 and 49 percent free and reduced price enrollment, or even data for all elementary schools in the State. However, section 210.19(f) of the interim rule requires only that the State education agency provide a list of schools with 50 percent or more free or reduced price enrollment. Sponsoring organizations which do not have access to data for schools below 50 percent may consult census data to attempt to qualify day care homes located in identifiable “pockets of poverty” as tier I day care homes. In these circumstances, sponsors must work very closely with their State agency to ensure that determinations are made using data that is reflective of an area’s socioeconomic circumstances.

2. **Question:** Is it ever permissible for a sponsoring organization to use census data to document tier I eligibility when school data shows free and reduced price enrollment of less than 40 percent?

Answer: We selected the 40 percent free and reduced price enrollment figure because of our belief that use of census data in other circumstances will rarely be productive. USDA will not categorically exclude the possibility of a sponsoring organization using census data in this situation. However, sponsors wishing to do so must work very closely with the State agency to determine the appropriateness of tier I classifications in the particular situation. If, for example, school data shows 35 percent free and reduced price enrollment, and census block group data seems to show a “pocket” of poverty with 53 percent, sponsors and the State agency should ask additional questions before simply asserting that any home in that particular block group is a tier I home. Appropriate questions could include: (1) Does the block group overlap several school boundaries, one of which is substantially poorer than the school with 35 percent free and reduced price enrollment?; and (2) Has the socioeconomic makeup of the area improved substantially since 1990? **The goal of all determinations should be to use the most representative and recent data which is reflective of an area’s current socioeconomic conditions.**

3. Question: Many elementary schools hold some slots for children who live outside of the school's official attendance area. What percentage of non-neighborhood enrollees in a school would invalidate the elementary school free and reduced price data, thus making it necessary for sponsoring organizations to examine census data instead?

Answer: The Department will not set a percentage of slots held for non-neighborhood children beyond which examination of census data instead of elementary school data is required. Generally, if an elementary school has a defined attendance area, elementary school free and reduced price enrollment data should be used. The Department recognizes that, for a variety of reasons, elementary schools with a defined attendance area will be attended by some children from outside that defined area. In such cases, use of school data is still warranted. However, in cases in which a school has a significant percentage of children in attendance who are not from the attendance area, for school choice or other reasons, the State agency should work with sponsoring organizations to decide what level of non-neighborhood children is acceptable. **The goal of all determinations should be to use the most representative and recent data which is reflective of an area's current socioeconomic conditions.**

4. Question: Can sponsoring organizations use more current elementary school free and reduced price enrollment data than that provided by the CACFP State agency?

Answer: No. In order to ensure that all sponsoring organizations have access to any updated information, sponsoring organizations will not be permitted to use free and reduced price information obtained from local school food authorities without the express prior consent of the State agency administering the CACFP.

Except under unusual circumstances, USDA expects that the free and reduced price data will be updated by the State education agency no more frequently than annually, as required by P.L. 104-193. If, for example, free and reduced price data for a newly opened school becomes available after the annual list has already been provided, the NSLP State agency should provide updated data for this particular school. Similarly, if after the list of schools is provided, it is discovered that data provided by a particular school food authority is several years old, the State education agency should provide new data on those schools. Sponsors that are aware of particular circumstances that would warrant the issuance of new data should notify the State CACFP agency, which can communicate with the State education agency as necessary.

5. Question: If a sponsoring organization receives no response from a school district to a certified letter requesting boundary information, can the sponsor automatically consult census data for determining the eligibility of homes in that area?

Answer: In accordance with our March 10, 1997, memorandum concerning the use of school and census data for making tier I determinations, each State agency should provide sponsoring organizations guidance as to what constitutes a reasonable effort to obtain school boundary information.

Making Tier I Home Determinations

6. **Question:** How should a sponsor handle a day care home with two providers? Whose income is taken into account for purposes of making a tier I determination?

Answer: In general, income determinations should be based on whomever receives the reimbursement. For example, if two providers operate one day care home, and both receive a portion of the reimbursement, then both would have to be income-eligible in order for the home to be classified as a tier I home on the basis of providers' income. In addition, if one individual owns the day care home, and employs another as the caregiver, then only the income of the owner's household need be considered in making a tier I day care home determination.

7. **Question:** What type of documentation is acceptable for a sponsoring organization to have in its files to support tier I day care home classifications?

Answer: A sponsoring organization can support its classification of a day care home as a tier I home in various ways, including the following: (1) a school boundary-identifying map with each provider's address marked within the appropriate boundaries; (2) a letter from appropriate school officials, on official school stationery, identifying provider addresses that fall within the school's attendance area; (3) a memorandum to the files documenting telephone contacts with school officials (include name of official, title or position, date of contact, and specific provider addresses discussed and identified as being within the elementary school's boundaries); (4) a list of provider street addresses matched to eligible census block groups, as produced by a census software package; (5) a map showing provider addresses within eligible census block groups (from census software packages, or hard-copy census maps); or (6) an income eligibility statement for the provider's household, with verification sources attached. [This issue was also addressed to some extent in our April 25, 1997, memorandum concerning tier I determinations made on the basis of elementary school data.]

Categorical Eligibility

8. **Question:** Can a provider whose child is eligible for the Head Start Program be considered categorically eligible as a tier I day care home?

Answer: Yes. However, because of the restrictions on Head Start categorical eligibility contained in section 9(b)(6)(A)(iii) of the National School Lunch Act, for the purposes of verifying the provider's eligibility as a tier I day care home, the sponsoring organization must obtain documentation from the Head Start grantee that certifies that the child is enrolled in a Federally funded Head Start slot on the basis of a determination that the family meets the program's low-income criteria. A provider with a child participating in a State-funded Head Start slot, or a child enrolled in a non-low-income Federal slot, which could comprise up to 10 percent of a grantee's Federal Head Start slots, would not be categorically eligible as a tier I day care home on this basis. Since many households with children in Head Start also participate in the Food Stamp Program, we expect that use of Head Start to establish categorical eligibility as a tier I day care home will be limited.

Verification

9. **Question:** Is the sponsoring organization liable if a provider submits false information for purposes of verification of its household income?

Answer: No. However, the sponsoring organization should immediately terminate the provider upon learning that fraudulent information was submitted. In addition, if the State agency maintains a list of seriously deficient providers, such providers should be added to the list.

Tier II Day Care Homes

Meal Counting and Claiming

10. **Question:** Which month should a sponsor use for determining a home's enrollment or attendance for calculating the home's claiming percentage/blended rate?

Answer: For implementation, sponsors may use attendance or enrollment data from either June or July for calculating a tier II home's claiming percentage or blended rate. If June data is used, the resulting claiming percentage or blended rate would be applied for meals served in the home from July through December. Enrollment or attendance data for the next calculation would be collected in December, and the new claiming percentage or blended rate would be applied from January through June. If a sponsor elects to use data from July, then July would still be the first of six months that the resulting claiming percentage or blended rate is applied.

When new mixed tier II homes enter the program after the July implementation, the first month of the home's participation in the CACFP would be the month of enrollment/attendance data collection, and the resulting claiming percentage or blended rate would be applied to meals served during that first month and for the next five months thereafter.

11. **Question:** How should meals be claimed when a day care home provider arranges for substitute care for enrolled children? For example, what if a provider who is closed for one week places her enrolled children in the homes of other providers in the area?

Answer: In general, meals should be reimbursed at the rates appropriate for the substitute caregiver. For example, when a provider in a tier II mixed home temporarily places her enrolled children in a tier I home, the children's meals will be reimbursed at the tier I rates. The same rule applies when the substitute caregiver operates a tier II mixed home, except that the reimbursement method used by the substitute's sponsoring organization must also be taken into account.

If the mixed tier II home's sponsor uses claiming percentages or blended rates, then the temporary children's meals can be included in the substitute provider's daily meal counts and reimbursed at the home's previously established claiming percentage or blended rate. However,

if actual counts are used, the temporary children's meals should be reimbursed at the tier II rates unless eligibility information exists on the temporary children and can be obtained by the substitute caregiver's sponsor. For example, if a provider of a tier I day care home places her enrolled children in temporary substitute care in a mixed tier II day care home whose sponsor employs actual meal counts, then the meals served to these children in temporary care would be reimbursed at the tier II rates, since there would be no eligibility information available for any but the provider's own children.

12. Question: Can a provider selectively identify for its sponsoring organization those children whom the provider suspects or believes may be eligible, and have income eligibility statements distributed only to the households of those children?

Answer: No. If a provider elects to have income-eligible children identified, all households of enrolled children in the home must receive an income eligibility statement, with the exception of those children for whom the provider or sponsor already possess documentation of categorical eligibility. This could occur when a provider receives payment for a child's care in the form of a subsidized voucher (and the voucher program has been determined by USDA or the State agency to meet the income criteria); when the household provides the sponsor or provider an official letter issued by the welfare or other office documenting the household's participation in a qualifying program, such as the National School Lunch Program; or when the sponsoring organization has access, for reasons unrelated to the CACFP, to eligibility information for another qualifying program. Although the benefit associated with a determination of eligibility in a tier II day care home goes directly to the day care provider in the form of higher reimbursements, and not to the households of enrolled children as it does in the School Nutrition Programs, a determination of eligibility for child enrolled in a tier II day care home could indirectly affect the household (e.g., if a day care provider charged higher rates for the care of non-income-eligible children). Therefore, all households should be afforded the opportunity to demonstrate their eligibility in a tier II home in which the provider elects to have income-eligible children identified.

13. Question: If a sponsoring organization reimburses its tier II mixed homes using claiming percentages or blended rates, must the sponsor immediately process income eligibility statements for children enrolling in a home after the claiming percentage or blended rate has been established?

Answer: Since the claiming percentage or blended rate must only be recalculated at least every six months, sponsors are not required to determine the eligibility of newly enrolled children until the time of the next calculation. However, in order to ensure that the claiming percentage or blended rate is based on current income information, sponsors must collect income eligibility statements from newly enrolled children no earlier than 60 days prior to recalculating the claiming percentage or blended rate.

14. Question: If a child enrolled in a tier II day care home attends an elementary school with 50 percent or more of enrolled children eligible for free or reduced price meals, are meals served to that child automatically eligible for the tier I rates of reimbursement?

Answer: No. The child's household must be determined eligible for free or reduced price meals (either through completion of an income eligibility statement or by identifying the child as categorically eligible) in order for meals served to the child to be eligible for tier I rates of reimbursement.

15. Question: How should sponsoring organizations using blended rates pay their tier II providers when the claim amount that they receive from the State agency does not exactly correspond to the amount due to providers? Is additional documentation necessary in these situations?

Answer: As indicated in our response to Question #32 and Attachment 2 of Q&A #3, using blended rates may result in differences between what is paid to the sponsor by the State and what must be paid to providers. Over time, the differences should be inconsequential. Due to the rounding of the blended rate, a sponsor may in some months receive slightly more or less funds than precisely needed to pay provider claims. However, as blended rates change, and as providers join or leave the sponsorship, this condition should even out over time.

Sponsors using blended rates should develop a consistent policy for paying claims to their tier II "mixed" providers. This policy could involve the sponsor keeping the funds from those months when the sponsor receives more than is necessary to pay provider claims, in order to cover those months when the sponsor receives less than needed. Regardless of the policy adopted, sponsors should document how they handle these differences on a monthly basis. [As a reminder, funds paid by the State for meal claims can only be spent for that purpose, and sponsor administrative funds may not be used to make up shortfalls in provider reimbursement.]

16. Question: Can a sponsoring organization implement a policy to recalculate the claiming percentage or blended rate for a mixed tier II day care home more frequently than every 6 months only in cases in which it would benefit the provider?

Answer: No. As indicated in response to Question #27 in Q&A #3, if a sponsoring organization recalculates claiming percentages or blended rates for its mixed tier II homes more frequently than every 6 months, a recalculation must be done for every mixed tier II home under its sponsorship with the same frequency. Essentially, a sponsor must have a consistent policy for making more frequent recalculations, and this policy must account equally both for changes that increase a provider's reimbursement and for those that decrease it.

Expanded Categorical Eligibility

17. Question: What is sufficient documentation for programs identified as meeting the criteria for expanded categorical eligibility for use in tier II day care homes when such programs do not issue case numbers to participants?

Answer: Since the law and the interim rule do not require that sponsors conduct verification of income eligibility statements for children enrolled in tier II day care homes, sponsors may accept a household's identification on the income eligibility statement of its participation in an

approved Federal or State identified categorically eligible program as sufficient documentation for categorically eligible programs that do not utilize case numbers. Though they are not required to do so, sponsors may verify households' participation in these programs through contact with officials of the categorically eligible program.

The only partial exception to this rule involves the Head Start Program. Because of the restrictions on Head Start categorical eligibility contained in section 9(b)(6)(A)(iii) of the National School Lunch Act, the sponsoring organization may not simply accept the household's self-identification of a child as a Head Start participant. Rather, the sponsoring organization must obtain documentation from the Head Start grantee that certifies that the child is (1) enrolled in a Federally funded Head Start slot and (2) is from a household which meets Head Start's low-income criteria.

For categorically eligible programs that do use case numbers, a participating household must provide the case number on the income eligibility statement.

Questions Pertaining to All Homes

Administrative Funds

18. Question: How is the 30 percent limit on a sponsoring organization's administrative funds determined? Is this a monthly or an annual limitation?

Answer: Section 226.12(a) of the regulations indicates that, during any fiscal year, administrative payments to a sponsoring organization may not exceed 30 percent of the total amount of administrative payments and food service payments. Sponsors that may be affected by this limitation should carefully track their percentage throughout the fiscal year so that they are aware if they are approaching the limit.

Verification

19. Question: Are State agencies still required to perform "nonpricing" verification for all of the individual eligibility statements collected in day care homes?

Answer: Yes. In accordance with Section 226.23(h)(1), State agencies are required to perform "nonpricing" verification for 100 percent of the individual eligibility statements collected for: (1) providers' own children qualifying in tier I area-eligible homes; and (2) households of identified income-eligible children enrolled in tier II homes. Nonpricing verification involves a review of all approved income eligibility statements to ensure that the application is properly completed by the household, and that the sponsor has correctly determined the eligibility of the child based on the information on the application. However, in accordance with FCS Instruction 776-9, Verification of Eligibility Procedures in the Child and Adult Care Food Program, State agencies that wish to use alternative approaches, such as statistical sampling, for conducting verification of income eligibility statements, should submit a plan for review and approval by the regional office. Instruction 776-9 has additional details on what should be contained in such a plan.