

JAN 24, 1997

SUBJECT: Questions and Answers #2: 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 second set of questions and answers on the two-tiered reimbursement structure for family day care homes in the CACFP. Please forward them to your State agencies as soon as possible. We also encourage you to continue forwarding any new questions that you, your State agencies, and sponsoring organizations have on the two-tiered reimbursement structure.

If you have any additional questions, please contact Ed Morawetz or Melissa Rothstein at (703) 305-2620.

**Original Signed**

TERRY A. HALLBERG  
Acting Director  
Child Nutrition Division

Attachment

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

*Questions and Answers #2  
Two-tiered Reimbursement for Family Day Care Homes*

**Tier I Day Care Homes**

***Elementary School and Census Data***

**Question:** When using school data to qualify a day care home as a tier I home, should the sponsor use data from the elementary school that is geographically closest to the day care home, or the school that serves the home?

**Answer:** In accordance with the definition of “tier I day care home” contained in the law and in Section 226.2 of the interim regulations, sponsors should use data from the elementary school that serves the day care home. In most situations, the nearest school will be the one that serves the home, but in some cases it may not.

**Question:** In addition to the three circumstances enumerated in the preamble to the interim regulation (i.e., bussing, rural areas, schools close to 50 percent eligible), is it ever appropriate to use census data, instead of elementary school data, to document that an area is low-income?

**Answer:** Although school data is generally preferable to census data because it is updated annually and is almost always more current than census data, census data may be used to classify a home as a tier I day care home when such data is determined to accurately reflect an area’s socioeconomic conditions. When the sponsor has concerns regarding which data is most appropriate, it should consult with the State agency.

**Question:** Are State agencies which administer the National School Lunch Program (NSLP) required to provide elementary school boundary information when they provide the list of schools with 50 percent or more free or reduced price eligibles?

**Answer:** No. The interim regulations do not require NSLP State agencies to provide school boundary information. However, sponsors should request boundary information from local school districts, and notify their State agency immediately if they have difficulty obtaining this information.

**Question:** In a situation in which residents of an area are not assigned to attend a specific elementary school, but rather may choose from among several schools to attend, how should elementary school free and reduced price data be used? Should sponsors use data from the school that a particular provider’s children attend?

**Answer:** Since data from any one of the schools that students in the area may attend does not provide a complete assessment of the socioeconomic status of the area as a whole, school data is not appropriate in this case. Instead, to classify day care homes located in such an area, sponsors should use either census data or document that individual providers are low-income.

**Question:** The law specifies that a tier I determination based upon elementary school free and reduced price enrollment data is valid for three years. If free and reduced price enrollment data changes to less than 50 percent in year two or three, must the sponsor reclassify the tiering status of the home? Similarly, if an elementary school attendance area changes in year two or three, must the sponsor reevaluate the tiering status of the home?

**Answer:** No. However, when determining the status of new providers who enter the program, the sponsoring organization is required to use the most recent data available. Although this may result in two providers in the same neighborhood being classified differently, the sponsoring organization is not required to reevaluate the tiering status of a home until the three-year period expires.

However, Sections 226.6(f)(9) and 226.15(f) of the interim regulation provide the sponsoring organization, the State agency, and the Department with the authority to change a home's determination if information becomes available that demonstrates that a home is no longer in a qualified area. This authority provides the sponsor and the State agency with the flexibility to respond to different circumstances as appropriate. For example: (1) If the economic conditions of a particular area improve substantially over a short period of time, homes in that area should be reclassified by the sponsor; and (2) If elementary school boundary changes cause a shift in free and reduced price enrollment from 52 percent to 48 percent, sponsors would not be able to qualify new homes entering the program as tier I homes, but there is no compelling reason to change previously-classified tier I homes until the three-year period is expired.

**Question:** Since the law specifies that a tier I determination based on elementary school data is valid for three years, can a sponsoring organization use the 1996/1997 elementary school free and reduced price enrollment data for three years?

**Answer:** No. Updated elementary school free and reduced price enrollment data must be used each year. The sponsoring organization must use the most recent available data for classifying new homes as they enter the program. As indicated above, this may result in two providers in the same neighborhood being classified differently since the sponsoring organization is not required to reevaluate the status of a home until the three-year period expires.

**Question:** Can sponsors use free and reduced price eligibility information from private schools as well as public schools?

**Answer:** No. In contrast to private schools, public schools generally draw from specifically defined geographic attendance areas. Therefore, sponsors are required to use free and reduced price elementary school data from public schools in making tier area determinations.

**Question:** How will area eligibility on military bases be determined?

**Answer:** The special tabulation of census data excludes military personnel residing on military bases. Therefore, sponsors attempting to qualify day care homes located on military bases as tier I day care homes should use elementary school data or the provider's household income.

**Question:** When using area data to determine the tiering status of providers who operate day care homes in residences other than their own, should the sponsoring organization consider where the provider lives, or where the provider operates the day care service?

**Answer:** A sponsoring organization must always consider where the care is provided when determining whether a day care home qualifies as a tier I home on the basis of area data. For example, a provider who herself lives in a low-income area, but who provides care for children in a residence in a non-low-income area, would not qualify as a tier I day care home on the basis of area data. Such a provider could only qualify as a tier I home by demonstrating, as verified by the sponsoring organization, that her household income is at or below 185 percent of poverty.

## **Tier II Day Care Homes**

### ***Individual Eligibility Determinations***

**Question:** Is it permissible for providers to distribute income applications to individual households of enrolled children in tier II homes, rather than the sponsor, as long as the completed applications are sent directly to the sponsor?

**Answer:** Yes. Providers in tier II homes are permitted to distribute income applications to individual households of enrolled children as long as the completed applications are sent by households directly to the sponsor. This will facilitate the application process, while maintaining the confidentiality of the income information provided by households.

**Question:** Will income eligibility determinations made prior to July 1, 1997, have to be redone once new income guidelines are published in July?

**Answer:** No. As in the Summer Food Service Program, when determining the eligibility of enrolled children, the sponsor must use the guidelines in effect at the time the determination is made.

**Question:** Will providers of tier II day care homes be informed of the eligibility status of enrolled children?

**Answer:** The provider is not permitted to see the individual income eligibility determinations nor may the provider be informed as to the eligibility status by name of the children in care. However, in accordance with Section 226.23(e)(1)(i), sponsors will be permitted to inform providers in tier II homes of the number of children in each eligibility category. This will assist providers in more accurately tracking their reimbursement, while protecting the confidentiality of the households of enrolled children, as the law intended.

**Question:** Will sponsors be required to inform households completing an income eligibility statement of their eligibility status?

**Answer:** Not routinely. However, the eligibility status of children from households in tier II homes submitting an income eligibility statement should be made available by sponsors to such households upon their request.

### ***Categorical Eligibility***

**Question:** Will FCS provide a list of Federal categorically eligible programs for use by sponsors in determining the eligibility status of children enrolled in tier II homes?

**Answer:** Yes. As soon as possible, FCS will issue a list of Federal programs that meet the criteria for categorical eligibility.

**Question:** Will States be required to provide sponsors a list of State programs that meet the criteria for categorical eligibility?

**Answer:** Yes. Section 226.6(f)(10) of the interim regulation requires State agencies to annually provide sponsoring organizations with a list of State-funded programs which will qualify a meal served in a tier II home for the tier I rate. We have also become aware that State agencies that administer the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) have the option of extending categorical eligibility for WIC benefits to participants in State-administered programs with income eligibility criteria at or below 185 percent of the federal poverty guidelines. State WIC agencies that exercise this option are required to maintain a list of the State programs that they have determined qualify for this categorical eligibility. Therefore, we encourage State CACFP agencies to contact State WIC agencies to determine if such a list is available. Although not all State WIC agencies will have such a list and the lists that are available may not contain all of the State programs with income criteria at or below 185 percent of poverty, we believe this contact may be helpful to many CACFP State agencies.

### ***Meal Counting and Claiming***

**Question:** Will State agencies be permitted to prescribe one meal counting and reporting procedure Statewide for all sponsoring organizations of day care homes?

**Answer:** No. In accordance with Section 226.13(d), each sponsoring organization selects the method (either claiming percentages, blended rates, or actual counts) for reimbursing its tier II day care homes which are eligible for two levels of reimbursement. The sponsor must select one method for use in all of its homes, and may change this method no more frequently than annually. If claiming percentages or blended rates are selected, the sponsor must recalculate each home's claiming percentage or blended rate at least semiannually.

### ***Verification***

**Question:** Will sponsors be required to perform extensive verification of eligibility information

for income eligibility statements submitted on behalf of children in tier II homes?

**Answer:** No. The interim regulation does not require sponsors to perform verification of income eligibility information for children enrolled in tier II homes. However, in accordance with P.L. 104-193 and Section 226.23(h)(6), sponsors must verify the income of all providers whose day care homes qualify as tier I homes on the basis of the provider's household income prior to approving a home as a tier I day care home. Details on how to perform this verification will be contained in future separate guidance on free and reduced price eligibility determinations under the new day care home tiering system; in the interim, this verification should follow the procedures established for use in the School Programs.

### **Questions Pertaining to All Homes**

#### ***Reporting***

**Question:** What will State agencies be required to report on the FCS-44, "Report of the Child and Adult Care Food Program"? When will the form be changed?

**Answer:** The FCS-44 is currently being revised to collect the following data from State agencies: (1) on a quarterly basis, the number of tier I day care homes tier II day care homes without any identified income-eligible children, and tier II day care homes with one or more identified income-eligible children; and (2) on a monthly basis, the number of tier I meals and tier II meals. We will inform regional offices and State agencies as soon as clearance of the form is obtained.

#### ***Tiering Status***

**Question:** When a provider moves from one sponsor to another, can the tiering status of the home move with the provider, or will the new sponsor be required to document the home's status as tier I or tier II?

**Answer:** Although it is permissible for sponsors to retain the previous tiering status of a home that transfers to its sponsorship, the new sponsor will be financially liable for a misclassification of a home. Therefore, we encourage sponsors to recertify a home's tiering status when it enters its sponsorship. If the provider has relocated, a new determination would be necessary.

**Question:** Will the State agency be required to verify the accuracy of the tiering classification at the time of approval of the home, or can the information be verified at the time the sponsor is reviewed?

**Answer:** Section 226.6(1) of the interim regulations requires that State agency reviews of sponsoring organizations include evaluation of the documentation used by sponsors to classify their day care homes as tier I homes. The interim regulation does not require State agencies to verify the accuracy of the tiering classification at the time of approval of the home. However,

due to the potentially significant financial liability to sponsor or a State agency if homes are misclassified as tier I homes by sponsors, the Department strongly encourages States to review the documentation supporting tiering classification for at least some homes at the time the sponsor initially makes the determination. In addition, States should review the process that the sponsor is using to make tier I determinations.

### *Miscellaneous*

**Question:** Does the “30 percent of total operating costs” factor specified in Section 226.12(a) for determining day care administrative payments remain in effect?

**Answer:** Yes. There is no change in the interim regulation to the requirement 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 for day care home operations.” A preliminary analysis revealed that the 30 percent cap will affect only sponsors that have both (a) extremely high participation by tier II children and (b) small numbers of children participating.