



Food and
Nutrition
Service

Braddock
Metro Center

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Braddock
Place
Alexandria
VA 22314

DATE: October 9, 2020

CODE: COVID-19: Child Nutrition Response #69

SUBJECT: Nationwide Waiver to Allow Reimbursement for Meals Served Prior to Notification of Approval and Provide Flexibility for Pre-Approval Visits in the Summer Food Service Program-EXTENSION ¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Issuing Agency/Office: | FNS/Child Nutrition Programs |
| Title of Document: | Nationwide Waiver to Allow Reimbursement for Meals Served Prior to Notification of Approval and Provide Flexibility for Pre-approval Visits in the Summer Food Service Program-EXTENSION |
| Document ID: | |
| Z-RIN: | |
| Date of Issuance: | October 9, 2020 |
| Replaces: | N/A |
| Summary: | (1) FNS waives the requirement that reimbursement shall not be paid for meals served at a site before the sponsor has received written notification that the site has been approved for participation in the Program found at 7 CFR 225.9(d). (2) FNS waives the requirement for the State agency to conduct pre-approval visits of SFSP sponsors and sites found at 7 CFR 225.7(d)(1). (3) This waiver applies to State agencies administering the Summer Food Service Program. |
| Disclaimer: | The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127). |

Pursuant to section 2202(a) of the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), and in light of the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is granting a nationwide waiver to allow State agencies to reimburse Summer Food Service Program (SFSP) sponsors for meals served prior to the sponsor receiving written notification that the sponsor or site has been approved for participation in the Program. FNS is also waiving

¹ Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this waiver as *not major*, as defined by 5 U.S.C. § 804(2).

the requirement for State agencies to conduct pre-approval visits of SFSP sponsors and sites. This waiver is expected to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID 19).

On October 9, 2020 FNS issued *COVID 19: Child Nutrition Response #59 – EXTENSION* allowing the SFSP and the National School Lunch Program (NSLP) Seamless Summer Option to continue to operate through June 30, 2021.

Section 2202(a) of the Act permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary.

Under SFSP regulations at 7 CFR 225.9(d), reimbursements shall not be paid for meals served at a site before the sponsor has received written notification that the site has been approved for participation in the Program. Additionally, SFSP regulations at 7 CFR 225.7(d)(1), specify that State agencies are required to conduct pre-approval visits of sponsors and sites to assess the applicant sponsor's or site's potential for successful Program operations. However, FNS recognizes that allowing State agencies to reimburse new SFSP sponsors for meals served prior to receiving written approval and providing flexibility with regard to pre-approval visits will enable new sponsors to more quickly transition to SFSP. Expanded operation of SFSP facilitates will facilitate the safe provision of meals by eliminating the need to collect cash payments, at meal site, which speeds up service of meals, thereby reducing contact and potential exposure to COVID-19.

Therefore, FNS waives, for all SFSP State agencies that elect to be subject to this waiver, the requirement included at 7 CFR 225.9(d) that reimbursements shall not be paid for meals served at a site before the sponsor has received written notification of approval for participation in the Program. In addition, FNS waives the requirement included at 7 CFR 225.7(d)(1) that State agencies conduct pre-approval visits of SFSP sponsors and sites. This waiver is effective immediately, supersedes the previous waiver, and remains in effect through June 30, 2021. All other requirements in 7 CFR 225.9(d) and 7 CFR 225.7(d) remain in effect, including the requirement that sponsors are not eligible for meal reimbursements unless they have executed an agreement with the State agency and all reimbursements shall be in accordance with the terms of that agreement.

This waiver remains retroactive for approved SFSP sponsors for allowable meals served during the initial COVID-19 emergency response through August 30, 2020, but that were served prior to their written approval to operate SFSP.

As State agencies are reviewing SFSP sponsor applications and making decisions on which sponsors should serve the community, please note that while this waiver allows State agencies to reimburse sponsors for meals served prior to notification of approval, if a sponsor is ultimately not approved to participate in SFSP, the meals that the denied sponsor served are not eligible for reimbursement. Although under this waiver State

agencies are not required to conduct pre-approval visits, State agencies have the discretion to conduct pre-approval visits in order to assess the applicant sponsor's or site's potential for successful Program operations and to verify information provided in the application.

As required under Program regulations at 225.6(b)(3), State agencies must notify applicants of the approval or disapproval within 30 days of receiving a complete and correct application from a sponsor. State agencies are strongly encouraged to streamline their application process to ensure applications are processed as quickly as possible to minimize the risk that sponsors that are ultimately not approved to participate in the Program serve meals that are not eligible for reimbursement.

State agencies are reminded that regulations found at 225.6(c) allow school food authorities applying to operate the SFSP at the same sites where they provide meal services through the NSLP to follow the application requirements for experienced SFSP sponsors and sites.

Additionally, 225.6(b)(5) outlines the priority system that must be followed in approving applications to operate sites that propose to serve the same area or the same enrolled children. In approving sites, State agencies must avoid duplication of services within SFSP and SSO, consider the resources and capabilities of each applicant, and give school food authorities highest priority. This is especially important when utilizing the SFSP during the school year.

Consistent with section 2202(a)(2) of the Act, this waiver applies automatically to all States that elect to use it, without further application. State agencies must inform their FNS Regional Office if they elect to be subject to the waiver.

As required by section 2202(d), each State that receives this waiver must submit a report to the Secretary not later than 1 year after the date such State received the waiver that includes:

- A summary of the use of this waiver by the State agency and local program operators, and
- A description of whether this waiver resulted in improved services to children.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of child and adult participants during a challenging time. State agencies should direct questions to the appropriate FNS Regional Office.

A handwritten signature in black ink that reads "Sarah E. Smith-Holmes". The signature is written in a cursive style with a large initial 'S'.

Sarah Smith-Holmes
Director
Program Monitoring and Operational Support Division