



Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

DATE: June 24, 2016

MEMO CODE: SP 42-2016, CACFP 14-2016,

SUBJECT: Early Implementation of the Updated Child and Adult Care Food Program Meal Pattern Requirements and the National School Lunch and School Breakfast Programs' Infant and Preschool Meal Patterns

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum outlines options for implementing the updated Child and Adult Care Food Program (CACFP) meal pattern requirements and the updated infant and preschool meal pattern requirements in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) prior to the compliance date of October 1, 2017. This memorandum also includes questions and answers.

Background

The Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, amended section 17 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1766, to require the U.S. Department of Agriculture (USDA) to update the CACFP meal pattern requirements to make them more consistent with (a) the most recent version of the Dietary Guidelines for Americans, (b) the most recent relevant nutrition science, and (c) appropriate authoritative scientific agency and organization recommendations. On April 25, 2016 USDA's Food and Nutrition Services (FNS) published the final rule "Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act" (81 FR 24348) to update the CACFP meal patterns in 7 CFR 226.20. This final rule also revised the meal pattern requirements for infants and children aged 1 through 4 (preschool) in the NSLP and SBP, under 7 CFR 210.10 and 220.8, respectively, to match the CACFP meal pattern requirements.

Those operating the CACFP, NSLP, and SBP (CNP operators), which includes CACFP centers and day care homes and school food authorities, must comply with the updated meal pattern requirements no later than October 1, 2017.

Early Implementation

The updated meal patterns strengthen the nutritional quality of the meals served, allow CNP operators to serve more diverse and culturally appropriate foods, and address dietary needs of CNP participants. Early implementation will also benefit CNP operators by allowing them to phase-in implementation of the new requirements. FNS understands that many CNP operators are interested in implementing the updated meal pattern requirements before October 1, 2017. FNS strongly supports implementing the updated meal patterns as soon as possible because it will greatly benefit participating infants, children and adults.

CNP operators may begin implementing the updated CACFP meal pattern requirements and the updated NSLP and SBP infant and preschool meal pattern requirements that are consistent with the current meal pattern requirements (e.g. serving whole grain-rich foods, limiting juice and sugar, prohibiting flavored milk and grain-based desserts, etc.) as soon as is feasible for the CNP operator. However, there are some allowances under the updated meal patterns that are not allowed under the current meal patterns. Those include:

- Reimbursing infant meals when the mother breastfeeds on-site;
- Allowing yogurt, whole eggs, and ready-to-eat cereals under the infant meal pattern;
- Allowing juice to fulfill the entire vegetable component or fruit component;
- Serving meat and meat alternates in place of the entire grains component at breakfast no more than three times per week;
- Counting tofu and soy yogurts as a meat alternate;
- Allowing yogurt to be used to meet the fluid milk requirement for adults once per day;
- Permitting parents and guardians to provide one meal component for participants with non-disability medical or special dietary needs; and
- Extending offer versus serve to at-risk afterschool programs.

These allowances are inconsistent with the current CACFP meal patterns and the NSLP and SBP infant and preschool meal patterns. In recognizing the benefits of and CNP operators' interest in implementing the updated meal patterns prior to October 1, 2017, FNS is providing the following guidance for early implementation of the updated meal patterns.

Option 1: Specific Allowances

State agencies have the discretion to allow all of their CNP operators, state-wide, to begin implementing certain allowances in the updated meal patterns that are not allowed in the current meal patterns. FNS is extending this flexibility to State agencies to implement specific allowances state-wide because the allowances can be implemented by CNP

operators incrementally and effectively, without requiring full implementation of the updated meal patterns. State agencies may choose to implement one or more of the following allowances state-wide prior to October 1, 2017:

- Reimbursing infant meals when the mother breastfeeds on-site;
- Allowing yogurt, whole eggs, and ready-to-eat cereals under the infant meal pattern;
- Serving meat and meat alternates in place of the entire grains component at breakfast no more than three times per week;
- Counting tofu and soy yogurts as a meat alternate; and
- Allowing yogurt to be used to fulfill the fluid milk requirement for adults once per day.

State agencies must assess their own capabilities to train and monitor prior to implementing the allowances listed above state-wide. Once a State agency implements one or more of these allowances, meals that include these allowances can be claimed as a reimbursable meal.

All of the other new allowances provided in the updated CACFP meal patterns and the NSLP and SBP infant and preschool meal patterns that are inconsistent with the current meal pattern requirements cannot be incrementally and effectively implemented without also implementing all of the other updated meal pattern requirements. For example, offer versus serve in the at-risk afterschool program requires the separate vegetable component and separate fruit component provided under the updated meal patterns for successful implementation. Therefore, the following allowances in the updated meal patterns *cannot* be implemented singly without implementing the entire meal patterns (see Option 2):

- Allowing juice to fulfill the entire vegetable component or fruit component;
- Permitting parents and guardians to provide one meal component for participants with non-disability medical or special dietary needs; and
- Extending offer versus serve to at-risk afterschool programs.

Option 2: Entire Meal Patterns

FNS is also providing State agencies the discretion to approve CNP operators on a case-by-case basis to implement the *entire* updated meal pattern requirements prior to October 1, 2017. CNP operators that wish to implement the updated meal patterns in their entirety must receive approval from their State first. State agencies must only approve CNP operators to implement the entire updated meal pattern requirements prior to October 1, 2017 if the CNP operator can demonstrate their capacity to successfully implement all the updated meal pattern requirements and their capacity to fully train staff and monitor all the updated meal pattern requirements.

Technical Assistance

If a State agency chooses to implement the first option, second option, or both, they must inform their Regional Office in writing prior to implementation. The written request must include what option(s) is being implemented and the start date. FNS is in the process of developing resources for State agencies and CNP operators to assist with implementation. Specifically, FNS is developing a training that will be available to State agencies on the updated meal pattern requirements. State agencies will have the opportunity to attend this training in-person in the fall of 2016. FNS strongly recommends that State agencies work with their Regional Office to answer questions and determine effective strategies for early implementation.

FNS emphasizes that State agencies cannot disallow meals that are not compliant with the updated meal patterns until the updated meal patterns are implemented on October 1, 2017, including when a State chooses to implement one or both of the options provided in this guidance. In all cases, meals that meet the current meal pattern requirements must not be disallowed prior to October 1, 2017. FNS further emphasizes that State agencies should not undertake new paperwork requirements to ensure compliance with the new allowances to avoid adding unnecessary administrative burdens to CNP operators. For example, FNS suggests that State agencies update existing forms to document that a mother breastfeeds on-site, rather than creating a new form for that purpose.

The approach outlined in this memorandum for early implementation of the updated CACFP meal pattern requirements and the updated NSLP and SBP infant and preschool meal patterns provides State agencies with a controlled phase-in and with expansive discretion to determine what is feasible for their CNP operators.

State agencies are reminded to distribute this information to Program operators immediately. Program operators should direct any questions regarding this memorandum to the appropriate State agency. State agency contact information is available at <http://www.fns.usda.gov/cnd/Contacts/StateDirectory.htm>. State agencies should direct questions to the appropriate FNS Regional Office

Original Signed

Angela Kline
Director
Policy and Program Development Division

Attachment

Questions and Answers

- 1. Why does the final rule include an effective date (June 24, 2016) and an implementation date (October 1, 2017)?**

The effective date indicates when the rule has the force of law. This is traditionally 30 to 60 days after a final rule is published.

The implementation date indicates when State agencies and CNP operators must begin complying with the provisions within the rule. An implementation date of October 1, 2017 offers CNP operators ample time to learn, understand, and comply with the updated meal pattern requirements.

- 2. Can operators of the Special Milk Program (SMP) begin implementing the updated fluid milk requirements that were established through the CACFP meal pattern final rule prior to October 1, 2017?**

Yes, SMP operators may begin to follow the updated fluid milk requirements as soon as they would like, and no later than October 1, 2017. This is because the updated fluid milk requirements established for the SMP program by the CACFP meal pattern final rule do not contradict the current SMP fluid milk requirements.

- 3. Does a State agency need to notify their Regional Office each time they approve a CNP operator to fully implement the updated meal patterns?**

No, the State agency only needs to notify their Regional Office once that they are electing to approve CNP operators, on a case-by-case basis, to implement the entire updated meal patterns. State agencies should maintain a list of CNP operators that are approved to fully implement the updated meal pattern requirements.

- 4. Can CNP operators stop serving flavored milk to children 1 through 5 prior to October 1, 2017?**

Yes, CNP operators may stop serving flavored milk to children 1 through 5 immediately, and no later than October 1, 2017. Similarly, CNP operators may start to serve whole grains, no longer serve grain-based desserts, serve breakfast cereals and yogurts within the corresponding sugar limits, limit juice, no longer deep-fat fry foods on-site, serve whole unflavored milk to one year olds, and serve fat-free flavored milk to children 6 years old and older and adults. All of these provisions are consistent with the current meal pattern requirements so CNP operators may begin to follow them at any time, but no later than October 1, 2017.

5. If a State agency allows CNP operators to serve tofu prior to October 1, 2017, can meals containing tofu that are served prior to October 1, 2017 be claimed for reimbursement?

Yes, if a State agency chooses to allow their CNP operators to start serving tofu prior to October 1, 2017 meals containing tofu may be claimed for reimbursement prior to October 1, 2017.

Infant meals that include a mother breastfeeding onsite, yogurt, whole eggs, or ready-to-eat cereals at snack may be claimed for reimbursement if the State agency elected to implement those allowances prior to October 1, 2017. Additionally, child and adult meals that contain a meat or meat alternate at breakfast in place of the grains component (no more than three times per week), tofu, and yogurt in place of milk once per day (for adults only) may be claimed for reimbursement if the State agency elected to implement those allowances prior to October 1, 2017.

6. What crediting information is available on tofu and soy yogurts if a State agency allows them to be served prior to October 1, 2017?

State agencies and CNP operators must follow the serving size requirements for tofu and other soy products that are outlined in the updated meal pattern charts. FNS is in the process of developing guidance on the crediting of tofu and soy yogurts. In the meantime, State agencies and CNP operators may follow the crediting information on tofu and soy yogurts that is outlined in SP 16-2012 *Crediting of Tofu and Soy Yogurt Products* (<http://www.fns.usda.gov/sites/default/files/SP16-2012os.pdf>) and in the “Food Buying Guide for School Meal Programs” (<http://www.fns.usda.gov/tn/food-buying-guide-school-meal-programs>).

7. Under the updated meal patterns there is a separate vegetable component and a separate fruit component. How will CNP operators know what counts as a vegetable or fruit if their State agency allows them to implement the entire new meal pattern prior to October 1, 2017?

CNP operators that are approved by their State agency to implement the entire updated meal patterns prior to October 1, 2017 may use the “Food Buying Guide for School Meal Programs” (<http://www.fns.usda.gov/tn/food-buying-guide-school-meal-programs>) when trying to determine what counts as a vegetable or as a fruit. The “Food Buying Guide for School Meal Programs” provides a list of creditable vegetables and a list of creditable fruit. However, these lists are not an exhaustive list of all creditable vegetables and fruits.

CNP operators may also visit ChooseMyPlate.gov to see what is considered a vegetable and what is considered a fruit. CNP operators should work with their State agency when they have questions about the crediting of foods.