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Child and Adult Care Food Program: Definition of Provider's Own

Regional Directors
Child Nutrition Programs
All Regions

Section 17(a) of the National School Lunch Act limits participation in the Child and Adult Care Food Program to nonresidential institutions providing child care. While this provision clearly excludes residential institutions from the Child and Adult Care Food Program, it does not address the receipt of benefits by children who may, for various reasons, be in residence at child care facilities which are, in character, nonresidential and are, therefore, participating in the Child and Adult Care Food Program. We believe, based on the Congressional intent that the Child and Adult Care Food Program should serve only nonresidential child care situations, that children in residence with their child care provider are not eligible to receive Child and Adult Care Food Program benefits. One exception is a foster child who may be in residence with a provider. A foster child is a ward of a court or welfare agency, who has been placed in residence in a private household. Since the court or welfare agency retains legal responsibility for such a child, the foster home is an extension of that agency and a foster child is considered a household of one eligible for Child and Adult Care Food Program benefits. Also excepted are children of a family day care home provider (termed "provider's own children"), who may, by law, receive Child and Adult Care Food Program meal benefits if the provider's household qualifies for free or reduced price meals. Defining "provider's own child" for purposes of program eligibility is the subject of this memorandum.

In June of 1989, we sent a memorandum to all regions asking for comments on a draft instruction defining "provider's own children". That proposed definition included only the natural or adopted children of the provider, or children for whom the provider had legal guardianship or custodial responsibility, as the provider's own children. Based on a review of your comments and our own reflections, we find that the proposed definition was unnecessarily restrictive and burdensome on providers. In addition, several provisions of Public Law 101-147 are clearly directed at expanding Program participation in low-income areas. Informal extended family situations frequently exist in low-income households, and it would be contrary to the spirit of the law to exclude from the Program children living with grandparents or other nonparental family members. Therefore, the definition of "provider's own children," for purposes of receipt of Child and Adult Care Food Program benefits, is all residential children in the household who are part of the economic unit of the family. As in the school nutrition programs for purposes of the Child and Adult Care Food Program a family is defined as group of related or unrelated individuals who are not residents of an institution or boarding house, but who are living as one economic unit. An economic unit is a group of related or unrelated people who share housing and all significant income and expenses. Children whose parents or guardians have made a contractual agreement, whether formal or informal, with a provider for residential child care, and whose relationship with the provider is defined primarily by the child care situation, are not considered the "provider's own."

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.

At least one nonresidential child must be receiving care by the provider in order for the provider to qualify as a family day care home for Child and Adult Care Food Program eligibility purposes. For meals to be reimbursable under the Program, a nonresidential child must be in attendance and participating in the meal service.

/ORIGINAL SIGNED/

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