

MAY 02, 1994

Child and Adult Care Food Program (CACFP) Memorandum # 1-94
Group and Family Day Care Homes

Regional Directors
Special Nutrition Programs
All Regions

As promised at the National Summer Food Service Program and Child and Adult Care Food Program Conference in Baltimore, this memorandum provides a re-statement of the Food and Nutrition Service (FNS) policy regarding the definition of group and family day care homes in the Child and Adult Care Food Program (CACFP).

As you are aware, National School Lunch Act makes a number of very significant distinctions between the administrative requirements and responsibilities it places on day care homes and the larger, more complex child care operations which take place in day care centers. Unlike child care centers, day care homes are not required to obtain tax exempt status; maintain documentation of operating costs and menu production records; or collect applications for free and reduced-price meals to families of the children participating. Day care homes are allowed a flat rate of reimbursement, while child care centers must base claims for reimbursement on more complicated sets of claiming percentages and/or calculations.

CACFP regulations define a day care home as "an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization. This means that, for purposes of the CACFP, family and group day care homes are limited to the provider's own private residence, the private residence of another or a rented or unoccupied private residence. Commercial properties including churches or schools are not private residences and are not eligible to participate in the CACFP as family day care homes.

In addition to the above, under the CACFP, family day care providers are limited to one "home" per provider. In instances where more than one provider operates out of the same residence, both individuals must be licensed or appropriately approved at the same residence, care for different children on different shifts, and each provider must participate under the same sponsoring organization.

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.

We are sympathetic with the concern raised by some that our definition of "day care home" includes rental property (other than that which is occupied by the provider) and the recommendation that such rental property should be removed from the category of eligible homes. However, since the policy interpretation described in paragraph three of this memorandum has been in place for a number of years, we are not removing it at this time. We have determined that the Administrative Procedures Act (APA) requirements would mandate that we go through the public comment and rulemaking process to change this established policy and remove currently eligible facilities from the program. We will consider a proposed rule to effect this change in the future.

As we have previously acknowledged, we understand that this policy re-statement will result in the removal of facilities now operating in the CACFP as day care homes. This situation differs from the one above, and does not raise APA issues, since we are not changing the policy previously established by FNS. In this situation, we are clarifying incorrect interpretations and misunderstandings of published rules. Therefore, we reiterate our position stated in our October 8, 1993 memorandum that homes which are made ineligible by this action shall be allowed to participate in CACFP until September 30, 1994. However, effective immediately, no new providers may be approved that do not comply with the provisions of this memorandum.

If you have any questions concerning this policy, please contact Robert Eadie or Norma Ball at (703)305-2621.

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ALBERTA C. FROST
Director
Child Nutrition Division