

distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 1755(c) of this title.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

(June 4, 1946, ch. 281, § 16, as added Pub. L. 94-105, § 12, Oct. 7, 1975, 89 Stat. 515; amended Pub. L. 101-147, title III, § 309, Nov. 10, 1989, 103 Stat. 915; Pub. L. 105-336, title I, § 101(b), Oct. 31, 1998, 112 Stat. 3144.)

#### REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-336 substituted “1755(c)” for “1755(e)”.

1989—Pub. L. 101-147 inserted “Election to receive cash payments” as section catchline.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

### § 1766. Child and adult care food program

#### (a) Program purpose, grant authority and institution eligibility

##### (1) In general

##### (A) Program purpose

##### (i) Findings

Congress finds that—

(I) eating habits and other wellness-related behavior habits are established early in life; and

(II) good nutrition and wellness are important contributors to the overall health of young children and essential to cognitive development.

##### (ii) Purpose

The purpose of the program authorized by this section is to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children, and the health and wellness of older adults and chronically impaired disabled persons.

##### (B) Grant authority

The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain non-profit food service programs for children in institutions providing child care.

#### (2) Definition of institution

In this section, the term “institution” means—

(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

(B) any other private organization providing nonresidential child care or day care outside school hours for school children, if—

(i) at least 25 percent of the children served by the organization meet the income eligibility criteria established under section 1758(b) of this title for free or reduced price meals; or

(ii) the organization receives compensation from amounts granted to the States under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) (but only if the organization receives compensation under that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);

(C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));

(D) any other private organization acting as a sponsoring organization for, and that is part of the same legal entity as, one or more organizations that are—

(i) described in subparagraph (B); or

(ii) proprietary title XIX or title XX centers (as defined in subsection (o)(2));

(E) any public or private nonprofit organization acting as a sponsoring organization for one or more family or group day care homes; and

(F) any emergency shelter (as defined in subsection (t)).

#### (3) Age limit

Except as provided in subsection (r), reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with disabilities).

#### (4) Additional guidelines

The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.

#### (5) Licensing

In order to be eligible, an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—

(A)(i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

(ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

(B) if Federal, State, or local licensing or approval is not available—

(i) meet any alternate approval standards established by the appropriate State or local governmental agency; or

(ii) meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for the institution, meet State or local health and safety standards.

#### **(6) Eligibility criteria**

No institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child and adult care food program, or any other program under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program, for a period of time specified by the Secretary;

(C)(i) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and

(ii) in the case of a sponsoring organization, the organization shall employ an appropriate number of monitoring personnel based on the number and characteristics of child care centers and family or group day care homes sponsored by the organization, as approved by the State (in accordance with regulations promulgated by the Secretary), to ensure effective oversight of the operations of the child care centers and family or group day care homes;

(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited;

(E) in the case of a sponsoring organization, the organization has in effect a policy that restricts other employment by employees that interferes with the responsibilities and duties of the employees of the organization with respect to the program; and

(F) in the case of a sponsoring organization that applies for initial participation in the program on or after June 20, 2000, and

that operates in a State that requires such institutions to be bonded under State law, regulation, or policy, the institution is bonded in accordance with such law, regulation, or policy.

#### **(b) Limitations on cash assistance**

For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966 [42 U.S.C. 1779].

#### **(c) Formula for computation of payments; national average payment rate**

(1) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 1753 and 1759a of this title as appropriate (as adjusted pursuant to section 1759a(a) of this title).

(2) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 [42 U.S.C. 1773(b)] (as adjusted pursuant to section 1759a(a) of this title).

(3) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 1759a(a) of this title).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 1758 of this title.

(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B)).

(6) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without fur-

ther application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).<sup>1</sup>

**(d) Institution approval and applications**

**(1) Institution approval**

**(A) Administrative capability**

Subject to subparagraph (B) and except as provided in subparagraph (C), the State agency shall approve an institution that meets the requirements of this section for participation in the child and adult care food program if the State agency determines that the institution—

- (i) is financially viable;
- (ii) is administratively capable of operating the program (including whether the sponsoring organization has business experience and management plans appropriate to operate the program) described in the application of the institution; and
- (iii) has internal controls in effect to ensure program accountability.

**(B) Approval of private institutions**

**(i) In general**

In addition to the requirements established by subparagraph (A) and subject to clause (ii), the State agency shall approve a private institution that meets the requirements of this section for participation in the child and adult care food program only if—

- (I) the State agency conducts a satisfactory visit to the institution before approving the participation of the institution in the program; and
- (II) the institution—
  - (aa) has tax exempt status under title 26;
  - (bb) is operating a Federal program requiring nonprofit status to participate in the program; or
  - (cc) is described in subsection (a)(2)(B).

**(ii) Exception for family or group day care homes**

Clause (i) shall not apply to a family or group day care home.

**(C) Exception for certain sponsoring organizations**

**(i) In general**

The State agency may approve an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program only if the State agency determines that—

- (I) the institution meets the requirements established by subparagraphs (A) and (B); and
- (II) the participation of the institution will help to ensure the delivery of benefits to otherwise unserved family or

group day care homes or centers or to unserved children in an area.

**(ii) Criteria for selection**

The State agency shall establish criteria for approving an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program for the purpose of determining if the participation of the institution will help ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

**(D) Notification to applicants**

Not later than 30 days after the date on which an applicant institution files a completed application with the State agency, the State agency shall notify the applicant institution whether the institution has been approved or disapproved to participate in the child and adult care food program.

**(E) Permanent operating agreements**

**(i) In general**

Subject to clauses (ii) and (iii), to participate in the child and adult care food program, an institution that meets the conditions of eligibility described in this subsection shall be required to enter into a permanent agreement with the applicable State agency.

**(ii) Amendments**

A permanent agreement described in clause (i) may be amended as necessary to ensure that the institution is in compliance with all requirements established in this section or by the Secretary.

**(iii) Termination**

A permanent agreement described in clause (i)—

- (I) may be terminated for convenience by the institution or State agency that is a party to the permanent agreement; and
- (II) shall be terminated—
  - (aa) for cause by the applicable State agency in accordance with paragraph (5); or
  - (bb) on termination of participation of the institution in the child and adult care food program.

**(2) Program applications**

**(A) In general**

The Secretary shall develop a policy under which each institution providing child care that participates in the program under this section shall—

- (i) submit to the State agency an initial application to participate in the program that meets all requirements established by the Secretary by regulation;
- (ii) annually confirm to the State agency that the institution, and any facilities of the institution in which the program is operated by a sponsoring organization, is in compliance with subsection (a)(5); and

<sup>1</sup> See References in Text note below.

(iii) annually submit to the State agency any additional information necessary to confirm that the institution is in compliance with all other requirements to participate in the program, as established in this chapter and by the Secretary by regulation.

**(B) Required reviews of sponsored facilities**

**(i) In general**

The Secretary shall develop a policy under which each sponsoring organization participating in the program under this section shall conduct—

(I) periodic unannounced site visits at not less than 3-year intervals to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) at least 1 scheduled site visit each year to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations.

**(ii) Varied timing**

Sponsoring organizations shall vary the timing of unannounced reviews under clause (i)(I) in a manner that makes the reviews unpredictable to sponsored facilities.

**(C) Required reviews of institutions**

The Secretary shall develop a policy under which each State agency shall conduct—

(i) at least 1 scheduled site visit at not less than 3-year intervals to each institution under the State agency participating in the program under this section—

(I) to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) to improve program operations; and

(ii) more frequent reviews of any institution that—

(I) sponsors a significant share of the facilities participating in the program;

(II) conducts activities other than the program authorized under this section;

(III) has serious management problems, as identified in a prior review, or is at risk of having serious management problems; or

(IV) meets such other criteria as are defined by the Secretary.

**(D) Detection and deterrence of erroneous payments and false claims**

**(i) In general**

The Secretary may develop a policy to detect and deter, and recover erroneous payments to, and false claims submitted by, institutions, sponsored child and adult care centers, and family or group day care homes participating in the program under this section.

**(ii) Block claims**

**(I) Definition of block claim**

In this clause, the term “block claim” has the meaning given the term in section 226.2 of title 7, Code of Federal Regulations (or successor regulations).

**(II) Program edit checks**

The Secretary may not require any State agency, sponsoring organization, or other institution to perform edit checks or on-site reviews relating to the detection of block claims by any child care facility.

**(III) Allowance**

Notwithstanding subclause (II), the Secretary may require any State agency, sponsoring organization, or other institution to collect, store, and transmit to the appropriate entity information necessary to develop any other policy developed under clause (i).

**(3) Program information**

**(A) In general**

On enrollment of a child in a sponsored child care center or family or group day care home participating in the program, the center or home (or its sponsoring organization) shall provide to the child’s parents or guardians—

(i) information that describes the program and its benefits; and

(ii) the name and telephone number of the sponsoring organization of the center or home and the State agency involved in the operation of the program.

**(B) Form**

The information described in subparagraph (A) shall be in a form and, to the maximum extent practicable, language easily understandable by the child’s parents or guardians.

**(4) Allowable administrative expenses for sponsoring organizations**

In consultation with State agencies and sponsoring organizations, the Secretary shall develop, and provide for the dissemination to State agencies and sponsoring organizations of, a list of allowable reimbursable administrative expenses for sponsoring organizations under the program.

**(5) Termination or suspension of participating organizations**

**(A) In general**

The Secretary shall establish procedures for the termination of participation by institutions and family or group day care homes under the program.

**(B) Standards**

Procedures established pursuant to subparagraph (A) shall include standards for terminating the participation of an institution or family or group day care home that—

(i) engages in unlawful practices, falsifies information provided to the State agency, or conceals a criminal background; or

(ii) substantially fails to fulfill the terms of its agreement with the State agency.

**(C) Corrective action**

Procedures established pursuant to subparagraph (A)—

(i) shall require an entity described in subparagraph (B) to undertake corrective action; and

(ii) may require the immediate suspension of operation of the program by an entity described in subparagraph (B), without the opportunity for corrective action, if the State agency determines that there is imminent threat to the health or safety of a participant at the entity or the entity engages in any activity that poses a threat to public health or safety.

**(D) Hearing**

**(i) In general**

Except as provided in clause (ii), an institution or family or group day care home shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to terminate participation by the institution or family or group day care home under the program.

**(ii) Exception for false or fraudulent claims**

**(I) In general**

If a State agency determines that an institution has knowingly submitted a false or fraudulent claim for reimbursement, the State agency may suspend the participation of the institution in the program in accordance with this clause.

**(II) Requirement for review**

Prior to any determination to suspend participation of an institution under subclause (I), the State agency shall provide for an independent review of the proposed suspension in accordance with subclause (III).

**(III) Review procedure**

The review shall—

(aa) be conducted by an independent and impartial official other than, and not accountable to, any person involved in the determination to suspend the institution;

(bb) provide the State agency and the institution the right to submit written documentation relating to the suspension, including State agency documentation of the alleged false or fraudulent claim for reimbursement and the response of the institution to the documentation;

(cc) require the reviewing official to determine, based on the review, whether the State agency has established, based on a preponderance of the evidence, that the institution has knowingly submitted a false or fraudulent claim for reimbursement;

(dd) require the suspension to be in effect for not more than 120 calendar days after the institution has received notification of a determination of sus-

pension in accordance with this clause; and

(ee) require the State agency during the suspension to ensure that payments continue to be made to sponsored centers and family and group day care homes meeting the requirements of the program.

**(IV) Hearing**

A State agency shall provide an institution that has been suspended from participation in the program under this clause an opportunity for a fair hearing on the suspension conducted in accordance with subsection (e)(1).

**(E) List of disqualified institutions and individuals**

**(i) In general**

The Secretary shall maintain a list of institutions, sponsored family or group day care homes, and individuals that have been terminated or otherwise disqualified from participation in the program.

**(ii) Availability**

The Secretary shall make the list available to State agencies for use in approving or renewing applications by institutions, sponsored family or group day care homes, and individuals for participation in the program.

**(e) Hearings**

**(1) In general**

Except as provided in paragraph (4), each State agency shall provide, in accordance with regulations promulgated by the Secretary, an opportunity for a fair hearing and a prompt determination to any institution aggrieved by any action of the State agency that affects—

(A) the participation of the institution in the program authorized by this section; or

(B) the claim of the institution for reimbursement under this section.

**(2) Reimbursement**

In accordance with paragraph (3), a State agency that fails to meet timeframes for providing an opportunity for a fair hearing and a prompt determination to any institution under paragraph (1) in accordance with regulations promulgated by the Secretary, shall pay, from non-Federal sources, all valid claims for reimbursement to the institution and the facilities of the institution during the period beginning on the day after the end of any regulatory deadline for providing the opportunity and making the determination and ending on the date on which a hearing determination is made.

**(3) Notice to State agency**

The Secretary shall provide written notice to a State agency at least 30 days prior to imposing any liability for reimbursement under paragraph (2).

**(4) Federal audit determination**

A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

**(5) Secretarial hearing**

If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

**(f) State disbursements to institutions**

(1) IN GENERAL.—

(A) REQUIREMENT.—Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(B) FRAUD OR ABUSE.—

(i) IN GENERAL.—The State may recover funds disbursed under subparagraph (A) to an institution if the State determines that the institution has engaged in fraud or abuse with respect to the program or has submitted an invalid claim for reimbursement.

(ii) PAYMENT.—Amounts recovered under clause (i)—

(I) may be paid by the institution to the State over a period of one or more years; and

(II) shall not be paid from funds used to provide meals and supplements.

(iii) HEARING.—An institution shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to recover funds under this subparagraph.

(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), 2 meals and 1 supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.

(C) LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), a sponsoring organization of a day care

center may reserve not more than 15 percent of the funds provided under paragraph (1) for the administrative expenses of the organization.

(ii) WAIVER.—A State may waive the requirement in clause (i) with respect to a sponsoring organization if the organization provides justification to the State that the organization requires funds in excess of 15 percent of the funds provided under paragraph (1) to pay the administrative expenses of the organization.

(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) REIMBURSEMENT FACTOR.—

(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term “tier I family or group day care home” means—

(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title;

(bb) a family or group day care home that is located in an area served by a school enrolling students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 1758 of this title and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title.

(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title.

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(III) INFORMATION AND DETERMINATIONS.—

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 1758 of this title to be a child who is a member of a household whose income meets the income eligibility guidelines under section 1758 of this title.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

(dd) TRANSMISSION OF INCOME INFORMATION BY SPONSORED FAMILY OR GROUP DAY CARE HOMES.—If a family or group day care home elects to be provided reimbursement factors described in subclause (II), the family or group day care home may assist in the transmission of necessary household income information to the family or group day care home sponsoring organization in accordance with the policy described in item (ee).

(ee) POLICY.—The Secretary shall develop a policy under which a sponsored family or group day care home described in item (dd) may, under terms and conditions specified by the Secretary and with the written consent of the parents or guardians of a child in a family or group day care home participating in the program, assist in the transmission of the income information of the family to the family or group day care home sponsoring organization.

(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall

prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 1758 of this title, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

(cc) Such other simplified procedures as the Secretary may prescribe.

(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.

(B) ADMINISTRATIVE FUNDS.—

(i) IN GENERAL.—In addition to reimbursement factors described in subparagraph (A), a family or group day care home sponsoring organization shall receive reimbursement for the administrative expenses of the sponsoring organization in an amount that is not less than the product obtained each month by multiplying—

(I) the number of family and group day care homes of the sponsoring organization submitting a claim for reimbursement during the month; by

(II) the appropriate administrative rate determined by the Secretary.

(ii) ANNUAL ADJUSTMENT.—The administrative reimbursement levels specified in clause (i) shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available.

(iii) CARRYOVER FUNDS.—The Secretary shall develop procedures under which not more than 10 percent of the amount made available to sponsoring organizations under this section for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year.

(C)(i) Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to assist unlicensed family or group day care homes in becoming licensed.

(D) LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Subject to clause (ii), a State agency shall limit the ability of a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year.

(ii) GOOD CAUSE.—The State agency may permit or require a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year for good cause (as determined by the State agency), including circumstances in which the sponsoring organization of the family or group day care home ceases to participate in the child and adult care food program.

(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

(ii) SCHOOL DATA.—

(I) IN GENERAL.—A State agency administering the school lunch program under

this chapter or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 5 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

(4) By the first day of each month of operation, the State may provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

**(g) Nutritional requirements for meals and snacks served in institutions and family or group day care homes**

**(1) Definition of dietary guidelines**

In this subsection, the term "Dietary Guidelines" means the Dietary Guidelines for Americans published under section 5341 of title 7.

**(2) Nutritional requirements**

**(A) In general**

Except as provided in subparagraph (C), reimbursable meals and snacks served by in-

stitutions, family or group day care homes, and sponsored centers participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

**(B) Conformity with the dietary guidelines and authoritative science**

**(i) In general**

Not less frequently than once every 10 years, the Secretary shall review and, as appropriate, update requirements for meals served under the program under this section to ensure that the meals—

(I) are consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program authorized under this section, as indicated by the most recent relevant nutrition science and appropriate authoritative scientific agency and organization recommendations.

**(ii) Cost review**

The review required under clause (i) shall include a review of the cost to child care centers and group or family day care homes resulting from updated requirements for meals and snacks served under the program under this section.

**(iii) Regulations**

Not later than 18 months after the completion of the review of the meal pattern under clause (i), the Secretary shall promulgate proposed regulations to update the meal patterns for meals and snacks served under the program under this section.

**(C) Exceptions**

**(i) Special dietary needs**

The minimum nutritional requirements prescribed under subparagraph (A) shall not prohibit institutions, family or group day care homes, and sponsored centers from substituting foods to accommodate the medical or other special dietary needs of individual participants.

**(ii) Exempt institutions**

The Secretary may elect to waive all or part of the requirements of this subsection for emergency shelters participating in the program under this section.

**(3) Meal service**

Institutions, family or group day care homes, and sponsored centers shall ensure that reimbursable meal service contributes to the development and socialization of enrolled children by providing that food is not used as a punishment or reward.

**(4) Fluid milk**

**(A) In general**

If an institution, family or group day care home, or sponsored center provides fluid milk as part of a reimbursable meal or sup-

plement, the institution, family or group day care home, or sponsored center shall provide the milk in accordance with the most recent version of the Dietary Guidelines.

**(B) Milk substitutes**

In the case of children who cannot consume fluid milk due to medical or other special dietary needs other than a disability, an institution, family or group day care home, or sponsored center may substitute for the fluid milk required in meals served, a nondairy beverage that—

(i) is nutritionally equivalent to fluid milk; and

(ii) meets nutritional standards established by the Secretary, including, among other requirements established by the Secretary, fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk.

**(C) Approval**

**(i) In general**

A substitution authorized under subparagraph (B) may be made—

(I) at the discretion of and on approval by the participating day care institution; and

(II) if the substitution is requested by written statement of a medical authority, or by the parent or legal guardian of the child, that identifies the medical or other special dietary need that restricts the diet of the child.

**(ii) Exception**

An institution, family or group day care home, or sponsored center that elects to make a substitution authorized under this paragraph shall not be required to provide beverages other than beverages the State has identified as acceptable substitutes.

**(D) Excess expenses borne by institution**

A participating institution, family or group day care home, or sponsored center shall be responsible for any expenses that—

(i) are incurred by the institution, family or group day care home, or sponsored center to provide substitutions under this paragraph; and

(ii) are in excess of expenses covered under reimbursements under this chapter.

**(5) Nondiscrimination policy**

No physical segregation or other discrimination against any person shall be made because of the inability of the person to pay, nor shall there be any overt identification of any such person by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

**(6) Use of abundant and donated foods**

To the maximum extent practicable, each institution shall use in its food service foods that are—

(A) designated from time to time by the Secretary as being in abundance, either nationally or in the food service area; or

(B) donated by the Secretary.

**(h) Donation of agricultural commodities by Secretary; measurement of value; annual readjustment of assistance; cash in lieu of commodities; Department of Defense child care feeding program**

(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 1755(c) of this title for the school year concerned.

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act [7 U.S.C. 1431], to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

**(i) Audits**

**(1) Disregards**

**(A) In general**

Subject to subparagraph (B), in conducting management evaluations, reviews, or audits under this section, the Secretary or a State agency may disregard any overpayment to an institution for a fiscal year if the total

overpayment to the institution for the fiscal year does not exceed an amount that is consistent with the disregards allowed in other programs under this chapter and recognizes the cost of collecting small claims, as determined by the Secretary.

**(B) Criminal or fraud violations**

In carrying out this paragraph, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.

**(2) Funding**

**(A) In general**

The Secretary shall make available for each fiscal year to each State agency administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount of up to 1.5 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

**(B) Additional funding**

**(i) In general**

Subject to clause (ii), for fiscal year 2016 and each fiscal year thereafter, the Secretary may increase the amount of funds made available to any State agency under subparagraph (A), if the State agency demonstrates that the State agency can effectively use the funds to improve program management under criteria established by the Secretary.

**(ii) Limitation**

The total amount of funds made available to any State agency under this paragraph shall not exceed 2 percent of the funds used by each State agency in the program under this section, during the second preceding fiscal year.

**(j) Agreements**

**(1) In general**

The Secretary shall issue regulations directing States to develop and provide for the use of a standard form of agreement between each sponsoring organization and the family or group day care homes or sponsored day care centers participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

**(2) Duration**

An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.

**(k) Training and technical assistance**

A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

**(l) Non-diminishment of State and local funds**

Expenditures of funds from State and local sources for the maintenance of food programs

for children shall not be diminished as a result of funds received under this section.

**(m) Accounts and records**

States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

**(n) Authorization of appropriations**

There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

**(o) Participation of older persons and chronically impaired disabled persons**

(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately  $\frac{1}{3}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.

(2) For purposes of this subsection—

(A) the term "adult day care center" means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term "proprietary title XIX or title XX center" means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act [42 U.S.C. 1396 et seq., 1397

et seq.] and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consultation<sup>2</sup> with the Assistant Secretary for Aging, shall establish, within 6 months of October 1, 1988, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965 [42 U.S.C. 3030e et seq.], for the same meal served.

(4) For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act [42 U.S.C. 1381 et seq., 1396 et seq.].

(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

**(p) Repealed. Pub. L. 111-296, title IV, § 441(a)(7), Dec. 13, 2010, 124 Stat. 3264**

**(q) Management support**

**(1) Technical and training assistance**

In addition to the training and technical assistance that is provided to State agencies under other provisions of this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

**(2) Technical and training assistance for identification and prevention of fraud and abuse**

As part of training and technical assistance provided under paragraph (1), the Secretary shall provide training on a continuous basis to State agencies, and shall ensure that such training is provided to sponsoring organizations, for the identification and prevention of fraud and abuse under the program and to improve management of the program.

**(r) Program for at-risk school children**

**(1) Definition of at-risk school child**

In this subsection, the term “at-risk school child” means a school child who—

(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 1760(d)(1)(A) of this title; and

(B) participates in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

**(2) Participation in child and adult care food program**

An institution may participate in the program authorized under this section only if the institution provides meals or supplements under a program—

(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

(B) with an educational or enrichment purpose.

**(3) Administration**

Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

**(4) Meal and supplement reimbursement**

**(A) Limitations**

An institution may claim reimbursement under this subsection only for one meal per child per day and one supplement per child per day served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year.

**(B) Rates**

**(i) Meals**

A meal shall be reimbursed under this subsection at the rate established for free meals under subsection (c).

**(ii) Supplements**

A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

**(C) No charge**

A meal or supplement claimed for reimbursement under this subsection shall be served without charge.

**(5) Limitation**

An institution participating in the program under this subsection may not claim reimbursement for meals and snacks that are served under section 1769(h) of this title on the same day.

**(6) Handbook**

**(A) In general**

Not later than 180 days after December 13, 2010, the Secretary shall—

<sup>2</sup>So in original. Probably should be “consultation”.

- (i) issue guidelines for afterschool meals for at-risk school children; and
- (ii) publish a handbook reflecting those guidelines.

**(B) Review**

Each year after the issuance of guidelines under subparagraph (A), the Secretary shall—

- (i) review the guidelines; and
- (ii) issue a revised handbook reflecting changes made to the guidelines.

**(s) Information concerning the special supplemental nutrition program for women, infants, and children**

**(1) In general**

The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

**(2) Requirements for State agencies**

Each State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

- (A) receives materials that include—
  - (i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;
  - (ii) the maximum State income eligibility standards, according to family size, for the program; and
  - (iii) information concerning how benefits under the program may be obtained;

(B) receives periodic updates of the information described in subparagraph (A); and

(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.

**(t) Participation by emergency shelters**

**(1) Definition of emergency shelter**

In this subsection, the term “emergency shelter” means—

- (A) an emergency shelter (as defined in section 11351 of this title); or
- (B) a site operated by the shelter.

**(2) Administration**

Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

**(3) Licensing requirements**

The licensing requirements contained in subsection (a)(5) shall not apply to an emergency shelter.

**(4) Health and safety standards**

To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State or local health and safety standards.

**(5) Meal or supplement reimbursement**

**(A) Limitations**

An emergency shelter may claim reimbursement under this subsection—

- (i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—
  - (I) not more than 18 years of age; or
  - (II) children with disabilities; and

(ii) for not more than 3 meals, or 2 meals and a supplement, per child per day.

**(B) Rate**

A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

**(C) No charge**

A meal or supplement claimed for reimbursement shall be served without charge.

**(u) Promoting health and wellness in child care**

**(1) Physical activity and electronic media use**

The Secretary shall encourage participating child care centers and family or group day care homes—

(A) to provide to all children under the supervision of the participating child care centers and family or group day care homes daily opportunities for structured and unstructured age-appropriate physical activity; and

(B) to limit among children under the supervision of the participating child care centers and family or group day care homes the use of electronic media to an appropriate level.

**(2) Water consumption**

Participating child care centers and family or group day care homes shall make available to children, as nutritionally appropriate, potable water as an acceptable fluid for consumption throughout the day, including at meal times.

**(3) Technical assistance and guidance**

**(A) In general**

The Secretary shall provide technical assistance to institutions participating in the program under this section to assist participating child care centers and family or group day care homes in complying with the nutritional requirements and wellness recommendations prescribed by the Secretary in accordance with this subsection and subsection (g).

**(B) Guidance**

Not later than January 1, 2012, the Secretary shall issue guidance to States and institutions to encourage participating child care centers and family or group day care homes serving meals and snacks under this section to—

- (i) include foods that are recommended for increased serving consumption in amounts recommended by the most recent Dietary Guidelines for Americans published under section 5341 of title 7, includ-

ing fresh, canned, dried, or frozen fruits and vegetables, whole grain products, lean meat products, and low-fat and non-fat dairy products; and

(ii) reduce sedentary activities and provide opportunities for regular physical activity in quantities recommended by the most recent Dietary Guidelines for Americans described in clause (i).

**(C) Nutrition**

Technical assistance relating to the nutritional requirements of this subsection and subsection (g) shall include—

(i) nutrition education, including education that emphasizes the relationship between nutrition, physical activity, and health;

(ii) menu planning;

(iii) interpretation of nutrition labels; and

(iv) food preparation and purchasing guidance to produce meals and snacks that are—

(I) consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program under this section, as recommended by authoritative scientific organizations.

**(D) Physical activity**

Technical assistance relating to the physical activity requirements of this subsection shall include—

(i) education on the importance of regular physical activity to overall health and well being; and

(ii) sharing of best practices for physical activity plans in child care centers and homes as recommended by authoritative scientific organizations.

**(E) Electronic media use**

Technical assistance relating to the electronic media use requirements of this subsection shall include—

(i) education on the benefits of limiting exposure to electronic media by children; and

(ii) sharing of best practices for the development of daily activity plans that limit use of electronic media.

**(F) Minimum assistance**

At a minimum, the technical assistance required under this paragraph shall include a handbook, developed by the Secretary in coordination with the Secretary for Health and Human Services, that includes recommendations, guidelines, and best practices for participating institutions and family or group day care homes that are consistent with the nutrition, physical activity, and wellness requirements and recommendations of this subsection.

**(G) Additional assistance**

In addition to the requirements of this paragraph, the Secretary shall develop and provide such appropriate training and education materials, guidance, and technical assistance as the Secretary considers to be

necessary to comply with the nutritional and wellness requirements of this subsection and subsection (g).

**(H) Funding**

**(i) In general**

On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to provide technical assistance under this subsection \$10,000,000, to remain available until expended.

**(ii) Receipt and acceptance**

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under clause (i), without further appropriation.

(June 4, 1946, ch. 281, § 17, as added Pub. L. 94-105, § 16, Oct. 7, 1975, 89 Stat. 522; amended Pub. L. 95-166, §§ 3, 19(d), Nov. 10, 1977, 91 Stat. 1332, 1345; Pub. L. 95-627, § 2, Nov. 10, 1978, 92 Stat. 3603; Pub. L. 96-499, title II, §§ 207(a), 208(b), (c), Dec. 5, 1980, 94 Stat. 2602; Pub. L. 97-35, title VIII, §§ 810, 817(c), 819(k), Aug. 13, 1981, 95 Stat. 528, 532, 534; Pub. L. 99-500, title III, §§ 361, 372(a), Oct. 18, 1986, 100 Stat. 1783-367, 1783-369, and Pub. L. 99-591, title III, §§ 361, 372(a), Oct. 30, 1986, 100 Stat. 3341-370, 3341-372; Pub. L. 99-661, div. D, title IV, § 4401, title V, § 4502(a), Nov. 14, 1986, 100 Stat. 4079, 4080; Pub. L. 100-175, title IV, § 401, Nov. 29, 1987, 101 Stat. 972; Pub. L. 100-435, title II, §§ 211, 214, Sept. 19, 1988, 102 Stat. 1657, 1659; Pub. L. 100-460, title VI, § 641, Oct. 1, 1988, 102 Stat. 2265; Pub. L. 101-147, title I, §§ 105(a), (b), 131(b), title II, § 204(a), title III, §§ 310, 312(2), Nov. 10, 1989, 103 Stat. 883, 907, 909, 915, 916; Pub. L. 102-342, title II, §§ 202, 203, Aug. 14, 1992, 106 Stat. 913; Pub. L. 102-375, title VIII, § 811(a), Sept. 30, 1992, 106 Stat. 1295; Pub. L. 103-171, § 3(b)(4), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 103-448, title I, §§ 105(c), 109(b), 116, Nov. 2, 1994, 108 Stat. 4702, 4705, 4714; Pub. L. 104-193, title VII, § 708(a)-(j), Aug. 22, 1996, 110 Stat. 2293-2299; Pub. L. 105-336, title I, §§ 101(b), 107(a)-(j)(1), (2)(B), (3)(C), Oct. 31, 1998, 112 Stat. 3144, 3149-3153; Pub. L. 106-224, title II, § 243(a), (b)(1)-(4)(A), (5), (c)-(g)(1), (h), (i), June 20, 2000, 114 Stat. 413-420; Pub. L. 106-400, § 2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 106-472, title III, § 307(c), Nov. 9, 2000, 114 Stat. 2073; Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 101(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-214; Pub. L. 107-76, title VII, §§ 743, 771, Nov. 28, 2001, 115 Stat. 738, 745; Pub. L. 108-7, div. A, title VII, § 735, Feb. 20, 2003, 117 Stat. 43; Pub. L. 108-134, § 2, Nov. 22, 2003, 117 Stat. 1389; Pub. L. 108-211, § 2, Mar. 31, 2004, 118 Stat. 566; Pub. L. 108-265, title I, § 119(a)-(h), June 30, 2004, 118 Stat. 753-755; Pub. L. 110-134, § 29(c)(2), Dec. 12, 2007, 121 Stat. 1449; Pub. L. 110-161, div. A, title VII, § 744, Dec. 26, 2007, 121 Stat. 1881; Pub. L. 110-234, title IV, § 4002(b)(1)(B), (2)(Z), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, § 4(a), title IV, § 4002(b)(1)(B), (2)(Z), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 111-8, div. A, title VII, § 735, Mar. 11, 2009, 123 Stat. 559; Pub. L. 111-80, title VII, § 730, Oct. 21, 2009, 123 Stat. 2125; Pub. L. 111-296, title I, §§ 121, 122, title II, § 221, title III, §§ 331-335, title IV, § 441(a)(7), (8), Dec. 13, 2010, 124 Stat. 3205, 3224, 3248-3252, 3264.)

## REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(2)(B)(ii) and (o)(2)(B), (5)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI, XIX, and XX of the Act are classified generally to subchapters XVI (§1381 et seq.), XIX (§1396 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Child Nutrition Act of 1966, referred to in subsecs. (a)(6)(B), (f)(3)(A)(ii)(I)(bb), (E)(ii)(I), (q)(1), and (r)(1)(B), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Head Start Act, referred to in subsec. (c)(5), is subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

Part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(6), means part B of chapter 1 of title I of Pub. L. 89-10 which was classified generally to part B (§2741 et seq.) of division 1 of subchapter I of chapter 47 of Title 20, Education, prior to being omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

The Agricultural Act of 1949, referred to in subsec. (h)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified principally to chapter 35A (§1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

The Older Americans Act of 1965, referred to in subsec. (o)(3)(B), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218. Part C of title III of the Older Americans Act of 1965 is classified generally to part C (§3030e et seq.) of subchapter III of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (o)(5)(A), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

## CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

October 1, 1988, referred to in subsec. (o)(3)(A) [formerly (p)(3)(A)], was in the original "enactment", which was translated as meaning the date of enactment of Pub. L. 100-460, which amended subsec. (p)(3)(A) generally, to reflect the probable intent of Congress.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

## AMENDMENTS

2010—Subsec. (a). Pub. L. 111-296, §221(1), substituted "Program purpose, grant authority and institution eligibility" for "Grant authority and institution eligibility" in heading.

Subsec. (a)(1). Pub. L. 111-296, §221(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care."

Subsec. (d)(1)(E). Pub. L. 111-296, §331(a), added subpar. (E).

Subsec. (d)(2). Pub. L. 111-296, §331(b), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows:

"(2)(A) The Secretary shall develop a policy that—

"(i) allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 3-year intervals;

"(ii)(I) requires periodic unannounced site visits at not less than 3-year intervals to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program;

"(II) requires at least one scheduled site visit each year to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

"(III) requires at least one scheduled site visit at not less than 3-year intervals to sponsoring organizations and nonsponsored child care centers to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

"(iii) requires periodic site visits to private institutions that the State agency determines have a high probability of program abuse.

"(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(5) of this section."

Subsec. (e). Pub. L. 111-296, §332, inserted subsec. heading, added pars. (1) to (3), redesignated former pars. (2) and (3) as (4) and (5), respectively, and inserted par. headings, and struck out former par. (1) which read as follows: "Except as provided in paragraph (2), the State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section."

Subsec. (f)(3)(A)(ii)(I)(bb). Pub. L. 111-296, §121, struck out "elementary" after "school enrolling".

Subsec. (f)(3)(A)(iii)(III)(dd), (ee). Pub. L. 111-296, §333, added items (dd) and (ee).

Subsec. (f)(3)(B). Pub. L. 111-296, §334, added subpar. (B) and struck out former subpar. (B) which read as follows: "Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available."

Subsec. (g). Pub. L. 111-296, §221(2), added subsec. (g) and struck out former subsec. (g) which related to meals served by participating institutions and compliance assistance.

Subsec. (i)(2). Pub. L. 111-296, §335, added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent) of the funds used by each State in the program under this section, during the second preceding fiscal year."

Subsec. (j)(1). Pub. L. 111-296, §331(c), substituted "Secretary shall" for "Secretary may", struck out "family or group day care" after "agreement between each", and inserted "or sponsored day care centers" after "day care homes".

Subsec. (p). Pub. L. 111-296, §441(a)(7), struck out subsec. (p) which related to rural area eligibility determination for day care homes.

Subsec. (q)(3). Pub. L. 111-296, §441(a)(8), struck out par. (3). Text read as follows: "For each of fiscal years 2005 and 2006, the Secretary shall reserve to carry out paragraph (1) \$1,000,000 of the amounts made available to carry out this section."

Subsec. (r)(5), (6). Pub. L. 111-296, § 122, added pars. (5) and (6) and struck out former par. (5). Prior to amendment, text read as follows: "The Secretary shall limit reimbursement under this subsection for meals served under a program to institutions located in the District of Columbia and thirteen States, of which eleven States shall be Connecticut, Nevada, Wisconsin, Vermont, Maryland, West Virginia, Illinois, Pennsylvania, Missouri, Delaware, and Michigan and two States shall be approved by the Secretary through a competitive application process."

Subsec. (u). Pub. L. 111-296, § 221(3), added subsec. (u). 2009—Subsec. (r)(5). Pub. L. 111-80 substituted "the District of Columbia and thirteen" for "ten" and "eleven" for "eight" and inserted "Connecticut, Nevada, Wisconsin," before "Vermont,".

Pub. L. 111-8 substituted "located in ten" for "located in eight" and "of which eight" for "of which six" and inserted "Vermont, Maryland," before "West Virginia,".

2008—Subsec. (o)(5)(A). Pub. L. 110-246, § 4002(b)(1)(B), (2)(Z), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

2007—Subsec. (c)(5). Pub. L. 110-134 substituted "the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B))" for "the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))".

Subsec. (r)(5). Pub. L. 110-161 substituted "eight" for "seven" and "six" for "five" and inserted "West Virginia," before "Illinois, Pennsylvania,".

2004—Subsec. (a)(2)(B)(i). Pub. L. 108-265, § 119(a)(1), struck out "during the period beginning on December 21, 2000, and ending on June 30, 2004," before "at least".

Pub. L. 108-211 substituted "June 30, 2004" for "March 31, 2004".

Subsec. (a)(6)(B). Pub. L. 108-265, § 119(h)(1), inserted "and adult" after "child".

Subsec. (f)(3)(E)(iii). Pub. L. 108-265, § 119(b), substituted "5 years" for "3 years".

Subsec. (i). Pub. L. 108-265, § 119(c), inserted subsec. heading, designated existing provisions as par. (2), inserted par. heading, and added par. (1).

Subsec. (j). Pub. L. 108-265, § 119(d), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (p). Pub. L. 108-265, § 119(e), added subsec. (p).

Pub. L. 108-265, § 119(a)(2), struck out subsec. (p), which related to demonstration projects for qualification under this section of private for-profit organizations providing nonresidential day care services.

Subsec. (q)(3). Pub. L. 108-265, § 119(f), substituted "2005 and 2006" for "1999 through 2003".

Subsec. (t)(3). Pub. L. 108-265, § 119(h)(2), substituted "subsection (a)(5)" for "subsection (a)(1)".

Subsec. (t)(5)(A)(i). Pub. L. 108-265, § 119(g), in subcl. (I), substituted "18" for "12" and inserted "or" at end, redesignated subcl. (III) as (II), and struck out former subcl. (II) which read as follows: "children of migrant workers, if the children are not more than 15 years of age; or".

2003—Subsec. (a)(2)(B)(i). Pub. L. 108-134 substituted "March 31, 2004" for "September 30, 2003".

Pub. L. 108-7 substituted "2003" for "2002".

2001—Subsec. (a)(2)(B)(i). Pub. L. 107-76, § 743, substituted "2002" for "2001".

Subsec. (r)(5). Pub. L. 107-76, § 771, substituted "located in seven" for "located in six" and "of which five" for "of which four" and inserted "Illinois," before "Pennsylvania".

2000—Pub. L. 106-472, § 307(c)(1)(A), made technical amendment to section catchline.

Subsec. (a). Pub. L. 106-224, § 243(a)(1)-(7), inserted subsec. (a) heading, inserted par. (1) designation and heading before "The Secretary may carry", substituted par. (2) for "For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including,

but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for children with disabilities; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act (but only if such organization receives compensation under such title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less). In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, public or nonprofit private organizations that sponsor family or group day care homes, and emergency shelters (as provided in subsection (t) of this section).", inserted par. (3) designation and heading before "Except as provided in subsection (r)", inserted par. (4) designation and heading before "The Secretary may establish separate guidelines", inserted par. (5) designation and heading after "school children outside of school hours.", substituted "In order to be eligible," for "For purposes of determining eligibility—", struck out former par. (1) designation before "an institution (except a school or family", substituted "standards." for "standards; and", and substituted par. (6) designation and heading for former par. (2) designation and "No institution" for "no institution".

Subsec. (a)(2)(B). Pub. L. 106-554 substituted "children, if—" for "children for which", added cl. (i), and designated remaining provisions as cl. (ii).

Subsec. (a)(6)(B). Pub. L. 106-224, § 243(a)(8)(A), inserted ", or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program" before ", for a period".

Subsec. (a)(6)(C). Pub. L. 106-224, § 243(a)(8)(B), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(6)(C)(ii). Pub. L. 106-472, § 307(c)(1)(B), struck out "and" at end.

Subsec. (a)(6)(D). Pub. L. 106-224, § 243(a)(8)(C), substituted a semicolon for the period at end.

Subsec. (a)(6)(E), (F). Pub. L. 106-224, § 243(a)(8)(D), added subpars. (E) and (F).

Subsec. (d). Pub. L. 106-224, § 243(b)(1), inserted subsec. heading.

Subsec. (d)(1). Pub. L. 106-224, § 243(b)(1), added par. (1) and struck out former par. (1), which had provided that any eligible public institution would be approved upon its request, that any eligible private institution would be approved if it had been visited by a State agency and had either tax exempt status or had been operating a Federal program requiring nonprofit status, and set forth provisions relating to tax exempt certification of family or group day care homes, authorizing temporary participation for an institution moving toward compliance, and requiring notice of approval or disapproval of application within 30 days after filing.

Subsec. (d)(2)(A)(ii), (iii). Pub. L. 106-224, § 243(b)(2), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (d)(2)(B). Pub. L. 106-224, § 243(b)(3), substituted "subsection (a)(5)" for "subsection (a)(1)".

Subsec. (d)(3). Pub. L. 106-224, § 243(b)(4)(A), added par. (3).

Subsec. (d)(4). Pub. L. 106-224, § 243(b)(5), added par. (4).

Subsec. (d)(5). Pub. L. 106-224, § 243(c), added par. (5).

Subsec. (d)(5)(D). Pub. L. 106-472, § 307(c)(2), designated existing provisions as cl. (i), inserted cl. (i) heading, substituted "Except as provided in cl. (ii), an institution" for "An institution", and added cl. (ii).

Subsec. (f). Pub. L. 106-224, § 243(d)(1), inserted heading.

Subsec. (f)(1). Pub. L. 106-224, § 243(d), inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (f)(2)(C). Pub. L. 106-224, § 243(e), added subpar. (C).

Subsec. (f)(3)(D). Pub. L. 106-224, § 243(f), added subpar. (D) and struck out former subpar. (D), which required

the Secretary to reserve \$5,000,000 of the amount made available for fiscal year 1997 for grants to States to provide assistance to family or group day care homes and set forth provisions relating to allocation and retention of funds and additional payments.

Subsec. (p)(1). Pub. L. 106-224, §243(g)(1)(A), substituted “State-wide demonstration projects in three States” for “2 statewide demonstration projects” in first sentence of introductory provisions.

Subsec. (p)(3). Pub. L. 106-224, §243(g)(1)(B)(i), inserted “in” after “subsection” in introductory provisions.

Subsec. (p)(3)(C). Pub. L. 106-224, §243(g)(1)(B)(ii)-(iv), added subpar. (C).

Subsec. (p)(3)(C)(iii). Pub. L. 106-472, §307(c)(3)(A), substituted “all low-income families” for “all families”.

Subsec. (p)(3)(C)(iv). Pub. L. 106-472, §307(c)(3)(B), substituted “reported for fiscal year 1998” for “made”.

Subsec. (q)(2), (3). Pub. L. 106-224, §243(h), added par. (2) and redesignated former par. (2) as (3).

Subsec. (r)(2). Pub. L. 106-224, §243(i)(1), inserted “meals or” before “supplements” in introductory provisions.

Subsec. (r)(4). Pub. L. 106-224, §243(i)(2)(A), substituted “Meal and supplement” for “Supplement” in par. heading.

Subsec. (r)(4)(A). Pub. L. 106-224, §243(i)(2)(B), substituted “only for one meal per child per day and one supplement per child per day” for “only for—”, struck out “(i) a supplement” before “served under”, substituted a period for “; and”, and struck out cl. (ii) which read as follows: “one supplement per child per day.”

Subsec. (r)(4)(B). Pub. L. 106-224, §243(i)(2)(C), in par. heading, substituted “Rates” for “Rate”, added cl. (i), designated existing provisions as cl. (ii), and inserted cl. (ii) heading.

Subsec. (r)(4)(C). Pub. L. 106-224, §243(i)(2)(D), inserted “meal or” before “supplement”.

Subsec. (r)(5). Pub. L. 106-224, §243(i)(3), added par. (5).

Subsec. (t)(1)(A). Pub. L. 106-400 made technical amendment to reference in original act which appears in text as reference to section 11351 of this title.

1998—Subsec. (a). Pub. L. 105-336, §107(j)(3)(C), substituted “children with disabilities” for “children with handicaps” in two places in introductory provisions.

Pub. L. 105-336, §107(j)(2)(B), in third sentence of introductory provisions, substituted “public” for “and public” and inserted, “, and emergency shelters (as provided in subsection (t) of this section)” before period at end.

Pub. L. 105-336, §107(a)(1), in fourth sentence of introductory provisions, substituted “Except as provided in subsection (r) of this section, reimbursement” for “Reimbursement”.

Subsec. (a)(1). Pub. L. 105-336, §107(a)(2), added par. (1) and struck out former par. (1) which read as follows: “no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution’s license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; and”.

Subsec. (c)(6). Pub. L. 105-336, §107(b), struck out “(A)” before “A child” and struck out subpar. (B) which read as follows: “Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997.”

Subsec. (d)(1). Pub. L. 105-336, §107(c)(1), (d), inserted “has been visited by a State agency prior to approval

and it” after “if it” in second sentence, inserted “An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution.” after third sentence, and struck out at end “If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application.”

Subsec. (d)(2)(A). Pub. L. 105-336, §107(c)(2), substituted “policy that—” for “policy that”, inserted “(i)” before “allows institutions”, substituted “; and” for period at end, and added cl. (ii).

Subsec. (h)(1)(B). Pub. L. 105-336, §101(b), substituted “1755(c)” for “1755(e)”.

Subsec. (i). Pub. L. 105-336, §107(e), substituted “1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent)” for “2 percent”.

Subsec. (p)(4), (5). Pub. L. 105-336, §107(f), struck out pars. (4) and (5) which read as follows:

“(4) Such project shall—

“(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

“(B) terminate on September 30, 1998.

“(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1998, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.”

Subsec. (q). Pub. L. 105-336, §107(g), added subsec. (q).

Subsec. (r). Pub. L. 105-336, §107(h), added subsec. (r).

Subsec. (s). Pub. L. 105-336, §107(i), added subsec. (s).

Subsec. (t). Pub. L. 105-336, §107(j)(1), added subsec. (t).

1996—Subsec. (a). Pub. L. 104-193, §708(a), substituted “initiate and maintain nonprofit food service programs” for “initiate, maintain, and expand nonprofit food service programs” in first sentence.

Subsec. (a)(2)(D). Pub. L. 104-193, §708(b), added subpar. (D).

Subsec. (c)(1) to (3). Pub. L. 104-193, §708(e)(4), inserted “except as provided in subsection (f)(3),” after “For purposes of this section.”

Subsec. (d)(1). Pub. L. 104-193, §708(c), struck out “, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application” before period at end.

Subsec. (f)(2)(B). Pub. L. 104-193, §708(d), substituted “2 meals and 1 supplement” for “two meals and two supplements or three meals and one supplement”.

Subsec. (f)(3). Pub. L. 104-193, §708(e)(1), inserted heading.

Subsec. (f)(3)(A). Pub. L. 104-193, §708(e)(1), added heading and text of subpar. (A) and struck out former subpar. (A) which read as follows: “Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the eligibility standards for free or reduced price meals under section 1758 of this title. The reimbursement factor in effect as of August 13, 1981, shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which such data are available. The reimbursement fac-

tor under this subparagraph shall be rounded to the nearest one-fourth cent.”

Subsec. (f)(3)(B). Pub. L. 104-193, § 708(f)(1)(A), struck out at end “The maximum allowable levels for administrative expense payments, as in effect as of August 13, 1981, shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes.”

Subsec. (f)(3)(C)(ii). Pub. L. 104-193, § 708(f)(1)(B), substituted “assist unlicensed family or group day care homes in becoming” for “conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become”.

Subsec. (f)(3)(D). Pub. L. 104-193, § 708(e)(2), added subpar. (D).

Subsec. (f)(3)(E). Pub. L. 104-193, § 708(e)(3), added subpar. (E).

Subsec. (f)(4). Pub. L. 104-193, § 708(f)(2), substituted “State may provide” for “State shall provide” in first sentence.

Subsec. (g)(1)(A). Pub. L. 104-193, § 708(g)(1), struck out at end “Such meals shall be served free to needy children.”

Subsec. (g)(1)(B). Pub. L. 104-193, § 708(g)(2), struck out at end “The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements.”

Subsec. (k). Pub. L. 104-193, § 708(h), added heading and text of subsec. (k) and struck out former subsec. (k) consisting of pars. (1) to (3) which related to training and technical assistance, monitoring, research, and demonstration projects.

Subsec. (m). Pub. L. 104-193, § 708(i), substituted “available at any reasonable time” for “available at all times”.

Subsec. (q). Pub. L. 104-193, § 708(j), struck out subsec. (q) which related to provision of information concerning special supplemental nutrition program for women, infants, and children.

1994—Subsec. (c)(5). Pub. L. 103-448, § 109(b), added par. (5).

Subsec. (c)(6). Pub. L. 103-448, § 116(a), added par. (6).

Subsec. (d)(2)(A). Pub. L. 103-448, § 116(b), substituted “3-year intervals” for “2-year intervals”.

Subsec. (f)(3)(C). Pub. L. 103-448, § 116(c), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (g)(1). Pub. L. 103-448, § 105(c), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k)(4). Pub. L. 103-448, § 116(d), added par. (4).

Subsec. (p). Pub. L. 103-448, § 116(e), substituted “25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,” for “25 percent of the children served by such organization” in par. (1)(A), “1998” for “1992” in par. (4)(B), and “1998” for “1994” in par. (5).

Subsec. (q). Pub. L. 103-448, § 116(f), added subsec. (q).  
1993—Subsec. (o)(3)(A). Pub. L. 103-171 substituted “Assistant Secretary for Aging” for “Commissioner of Aging”.

1992—Subsec. (a). Pub. L. 102-342, § 202, substituted “of its enrolled children or 25 percent of its licensed capacity, whichever is less” for “of the children for which the organization provides such nonresidential day care services”.

Subsec. (o)(2)(A)(i). Pub. L. 102-375 inserted “, or a group living arrangement,” after “homes”.

Subsec. (p)(5). Pub. L. 102-342, § 203, added par. (5).

1989—Pub. L. 101-147, § 105(a), substituted “Child and adult care food program” for “Child care food program” in section catchline.

Subsec. (a). Pub. L. 101-147, § 310(a)(1), substituted “children with handicaps” for “handicapped children” wherever appearing.

Subsec. (c). Pub. L. 101-147, § 312(2), substituted “reduced price” for “reduced-price” wherever appearing.

Subsec. (d). Pub. L. 101-147, § 204(a), designated existing provisions as par. (1), redesignated cls. (1) and (2) as (A) and (B), respectively, and added par. (2).

Subsec. (d)(1). Pub. L. 101-147, § 310(a)(2), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (e). Pub. L. 101-147, § 310(b), amended subsec. (e), as identically amended by Pub. L. 99-500 and 99-591, § 361, and Pub. L. 99-661, § 4401, to read as if only the amendment by Pub. L. 99-661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (f)(1). Pub. L. 101-147, § 310(a)(3)(A), substituted “day care” for “day-care”.

Subsec. (f)(2)(B). Pub. L. 101-147, § 310(a)(3)(B), struck out second period at end.

Subsec. (f)(3)(A). Pub. L. 101-147, § 312(2), substituted “reduced price” for “reduced-price”.

Subsec. (f)(3)(C). Pub. L. 101-147, § 105(b)(1), inserted before period at end of first sentence “and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas”, inserted “and expansion funds” after “start-up funds” in second, fourth, and fifth sentences and after “Start-up funds” in third sentence, and inserted after first sentence “Institutions that have received start-up funds may also apply at a later date for expansion funds.”

Subsec. (h)(1). Pub. L. 101-147, § 131(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 1755(e) of this title. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.”

Subsec. (k). Pub. L. 101-147, § 310(a)(4), redesignated subsec. (l) as (k) and struck out former subsec. (k) which related to study and report on maximum administrative payments reflecting costs of institutions.

Subsec. (l). Pub. L. 101-147, § 310(a)(4), redesignated subsec. (m) as (l). Former subsec. (l) redesignated (k).

Pub. L. 101-147, § 105(b)(2), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (m), (n). Pub. L. 101-147, § 310(a)(4), redesignated subsecs. (n) and (o) as (m) and (n), respectively. Former subsec. (m) redesignated (l).

Subsec. (o). Pub. L. 101-147, § 312(2), substituted “reduced price” for “reduced-price” in par. (4).

Pub. L. 101-147, § 310(a)(4), redesignated subsec. (p) as (o). Former subsec. (o) redesignated (n).

Subsec. (p). Pub. L. 101-147, § 310(a)(4), redesignated subsec. (q) as (p). Former subsec. (p) redesignated (o).

Pub. L. 101-147, § 105(b)(3)(A), inserted at end of par. (1) “Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately 1/3 of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, in-

cluding efforts to serve foods in forms palatable to participants.”

Pub. L. 101-147, §105(b)(3)(B), added par. (6).

Subsec. (q). Pub. L. 101-147, §310(a)(4), redesignated subsec. (q) as (p).

Pub. L. 101-147, §105(b)(4), added subsec. (q).

1988—Subsec. (f)(2)(B). Pub. L. 100-435, §211, inserted provisions relating to reimbursement to institutions maintaining a child care setting for eight or more hours per day.

Subsec. (h). Pub. L. 100-435, §214, designated existing provisions as par. (1) and added par. (2).

Subsec. (p)(3)(A). Pub. L. 100-460, §641(c), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.”

Subsec. (p)(4). Pub. L. 100-460, §641(a), added par. (4).

Subsec. (p)(5). Pub. L. 100-460, §641(b), added par. (5).

1987—Subsec. (p). Pub. L. 100-175 added subsec. (p).

1986—Subsec. (a)(1). Pub. L. 99-500 and Pub. L. 99-591, §372(a), and Pub. L. 99-661, §4502(a), amended par. (1) identically, substituting “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (e). Pub. L. 99-500 and Pub. L. 99-591, §361, and Pub. L. 99-661, §4401, amended subsec. (e) identically, designating existing provisions as par. (1), substituting “Except as provided in paragraph (2), the” for “The”, and adding pars. (2) and (3).

1981—Subsec. (a). Pub. L. 97-35, §810(a), inserted provisions respecting 25 percent requirement for children receiving nonresidential day care services, and reimbursement for meals and supplements.

Subsec. (b). Pub. L. 97-35, §810(b), substituted provisions respecting applicability of subsec. (f), for provisions respecting applicability of subsec. (c).

Subsec. (c). Pub. L. 97-35, §810(c), substituted provisions respecting applicability, determinations, etc., for national average payment rates for free lunches and suppers, etc., for provisions respecting formula for computation of payments, and applicability of national average payment rates.

Subsec. (f)(1). Pub. L. 97-35, §819(k), struck out authorization respecting financing the cost of meals.

Subsec. (f)(2) to (5). Pub. L. 97-35, §810(d), in par. (2) substituted provisions setting forth formula for disbursements for meals for provisions setting forth maximum per meal rates of reimbursements, struck out par. (3) which related to election rights of institutions other than family or group day care home sponsoring organizations, redesignated par. (4) as (3) and, as so redesignated, substantially revised and restructured provisions, and redesignated par. (5) as (4).

Subsec. (g). Pub. L. 97-35, §810(e), struck out par. (2) which related to prohibitions respecting meals served by institutions, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (i). Pub. L. 97-35, §§810(f), 817(c)(2), struck out subsec. (i) which related to information required from State plans. Former subsec. (j) redesignated (i).

Subsecs. (j) to (l). Pub. L. 97-35, §§810(g), 817(c)(2), redesignated subsecs. (k), (l), and (o) as (j), (k), and (l), respectively, and in subsec. (l), as so redesignated, struck out provision respecting availability of funds from food service equipment program. Former subsecs. (j) to (l) redesignated (i) to (k), respectively.

Subsec. (m). Pub. L. 97-35, §817(c), struck out subsec. (m) which related to withholding of funds. Subsec. (p) redesignated (m).

Subsec. (n). Pub. L. 97-35, §§810(f), 817(c)(2), struck out subsec. (n) which related to appropriations, etc., for equipment assistance. Subsec. (q) redesignated (n).

Subsecs. (o) to (r). Pub. L. 97-35, §817(c)(2), redesignated subsecs. (o) to (r) as (l) to (o), respectively.

1980—Subsec. (a). Pub. L. 96-499, §207(a), included in definition of “institution” any private organization providing nonresidential day care services for which compensation was received from amounts granted to the States under title XX of the Social Security Act.

Subsec. (c). Pub. L. 96-499, §208(b), inserted provision in pars. (1), (2), and (3) that the average payment rates for supplements served in such institutions was to be three cents lower than the adjusted rates prescribed by the Secretary in accordance with the adjustment formulas contained in such pars. (1), (2), and (3).

Subsec. (n)(1). Pub. L. 96-499, §208(c), substituted “\$4,000,000” for “\$6,000,000”.

1978—Subsec. (a). Pub. L. 95-627 excepted family or group day care homes from licensing requirements, set out guidelines for institutions providing care for children outside of school hours, and set out criteria for determining eligibility under this section.

Subsec. (b). Pub. L. 95-627 substituted provisions limiting the aggregate amount of cash assistance to a State under this section for provisions setting out a formula for computation of payments under this section and adjustments to such payments. See subsec. (c) of this section.

Subsec. (c). Pub. L. 95-627 substituted provisions relating to the formula for the computation of payments under this section and the prescription of a national average payment rate for provisions relating to the maintenance of national nutritional standards and the prohibition of discrimination and identification of children unable to pay under the program.

Subsec. (d). Pub. L. 95-627 substituted provisions stating requirements for approval for participation in the program and requiring written notification of such approval or disapproval for provisions relating to State disbursements to participating institutions.

Subsec. (e). Pub. L. 95-627 substituted provisions relating to fair hearings for provisions relating to donations of agricultural commodities and cash in lieu of commodities. See subsec. (h) of this section.

Subsec. (f). Pub. L. 95-627 substituted provisions relating to disbursements to participating institutions by the State for provisions calling for direct disbursements to participating institutions by the Secretary and prescribing conditions therefor.

Subsec. (g). Pub. L. 95-627 substituted provisions relating to meals served at participating institutions and the necessary nutritional content thereof for provisions prohibiting the diminution of expenditures by State and local sources by reason of the availability of Federal funds.

Subsec. (h). Pub. L. 95-627 substituted provisions relating to donations of agricultural land commodities and cash in lieu of commodities for provisions authorizing appropriations to meet the administrative expenditures of the Secretary.

Subsec. (i). Pub. L. 95-627 substituted provisions relating to information required from State plans for provisions requiring adequate accounts and general record-keeping by States, State educational agencies, and participating institutions.

Subsec. (j). Pub. L. 95-627 substituted provisions relating to the availability of Federal funds to the States for audits of participating institutions for provisions relating to food service equipment assistance and the apportionment of unused funds.

Subsec. (k). Pub. L. 95-627 substituted provisions relating to the use of a standard form of agreement and the issuance of regulations pertaining to such use for provisions relating to the issuance of rules and regulations to carry out this section by the Secretary.

Subsecs. (l) to (r). Pub. L. 95-627 added subsecs. (l) to (r).

1977—Subsec. (e). Pub. L. 95-166, §19(d), substituted in last sentence “school year” for “fiscal year” in three instances.

Subsec. (j)(1). Pub. L. 95-166, §3, substituted “food service equipment assistance” for “nonfood assistance”.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a note under section 1751 of this title.

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(Z) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 119(a), (b), (d)–(f), (h) of Pub. L. 108-265 effective June 30, 2004, and amendment by section 119(c), (g) of Pub. L. 108-265 effective Oct. 1, 2004, see section 502(a), (b)(2) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-224, title II, §243(b)(4)(B), June 20, 2000, 114 Stat. 417, provided that: “In the case of a child that is enrolled in a sponsored child care center or family or group day care home participating in the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) before the date of the enactment of this Act [June 20, 2000], the center or home shall provide information to the child’s parents or guardians pursuant to section 17(d)(3) of that Act [42 U.S.C. 1766(d)(3)], as added by subparagraph (A), not later than 90 days after the date of the enactment of this Act.”

Pub. L. 106-224, title II, §243(g)(2), June 20, 2000, 114 Stat. 419, provided that: “The Secretary may carry out demonstration projects in the State described in section 17(p)(3)(C) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1766(p)(3)(C)], as added by paragraph (1)(B)(iv), beginning not earlier than October 1, 2001.”

## EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 107(j)(1), (2)(B) of Pub. L. 105-336 effective July 1, 1999, see section 107(j)(4) of Pub. L. 105-336, set out as a note under section 1761 of this title.

Amendment by sections 101(b) and 107(a)–(i), (j)(3)(C) of Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-193, title VII, §708(k)(1), (2), Aug. 22, 1996, 110 Stat. 2299, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall become effective on the date of enactment of this Act [Aug. 22, 1996].

“(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1) and (4) of subsection (e) [amending this section] shall become effective on July 1, 1997.”

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 105(c) and 116 of Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of this title.

Amendment by section 109(b) of Pub. L. 103-448 effective Sept. 25, 1995, see section 109(c) of Pub. L. 103-448, set out as a note under section 1758 of this title.

## EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-375, title VIII, §811(b), Sept. 30, 1992, 106 Stat. 1295, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if the amendment had been included in the Older Americans Act Amendments of 1987 [Pub. L. 100-375].”

## EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 131(b) of Pub. L. 101-147 effective July 1, 1989, see section 131(c) of Pub. L. 101-147, set out as a note under section 1755 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 211 of Pub. L. 100-435 to be effective and implemented on July 1, 1989, and amendment by section 214 of Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(4) of Pub. L. 100-435, set out as a note under section 2012 of Title 7, Agriculture.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-175 effective Oct. 1, 1987, see section 701(a) of Pub. L. 100-175, set out as a note under section 3001 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 810(a), (f), (g), 817(c), and 819(k) of Pub. L. 97-35 effective Oct. 1, 1981, see section 820(a)(3), (4) of Pub. L. 97-35, set out as a note under section 1753 of this title. For effective dates of amendments by section 810(b)–(e) of Pub. L. 97-35, see section 820(a)(1)(B)–(D), (3), (4), (6) of Pub. L. 97-35.

## EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-499, title II, §207(b), Dec. 5, 1980, 94 Stat. 2602, provided that: “The amendment made by subsection (a) of this section [amending this section] shall apply with respect to all fiscal years beginning on or after October 1, 1980.”

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-627 effective Oct. 1, 1978, see section 14 of Pub. L. 95-627, set out as a note under section 1755 of this title.

## EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-166, §19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

## IMPLEMENTATION OF 1989 AMENDMENTS

Pub. L. 101-147, title I, §105(d), Nov. 10, 1989, 103 Stat. 885, provided that:

“(1) EXPANSION; DEMONSTRATION PROJECT.—The Secretary of Agriculture shall implement the amendments made by subsections (b)(1) and (b)(2) [amending this section] not later than July 1, 1990.

“(2) DIETARY REQUIREMENTS FOR ADULT DAY CARE FOOD PROGRAM.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b)(3) [amending this section].”

## REGULATIONS

Pub. L. 104-193, title VII, §708(k)(3), Aug. 22, 1996, 110 Stat. 2300, provided that:

“(A) INTERIM REGULATIONS.—Not later than January 1, 1997, the Secretary of Agriculture shall issue interim regulations to implement—

“(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e) [amending this section]; and

“(ii) section 17(f)(3)(C) of the [Richard B. Russell] National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

“(B) FINAL REGULATIONS.—Not later than July 1, 1997, the Secretary of Agriculture shall issue final regulations to implement the provisions of law referred to in subparagraph (A).”

Pub. L. 101-147, title II, §204(b), Nov. 10, 1989, 103 Stat. 910, provided that: “Not later than July 1, 1990, the Secretary shall issue final regulations to implement the amendments made by subsection (a) [amending this section].”

## INTERAGENCY COORDINATION TO PROMOTE HEALTH AND WELLNESS IN CHILD CARE LICENSING

Pub. L. 111-296, title II, §222, Dec. 13, 2010, 124 Stat. 3228, provided that: “The Secretary [of Agriculture]

shall coordinate with the Secretary of Health and Human Services to encourage State licensing agencies to include nutrition and wellness standards within State licensing standards that ensure, to the maximum extent practicable, that licensed child care centers and family or group day care homes—

“(1) provide to all children under the supervision of the child care centers and family or group day care homes daily opportunities for age-appropriate physical activity;

“(2) limit among children under the supervision of the child care centers and family or group day care homes the use of electronic media and the quantity of time spent in sedentary activity to an appropriate level;

“(3) serve meals and snacks that are consistent with the requirements of the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); and

“(4) promote such other nutrition and wellness goals as the Secretaries determine to be necessary.”

#### REDUCING PAPERWORK AND IMPROVING PROGRAM ADMINISTRATION

Pub. L. 111-296, title III, §336, Dec. 13, 2010, 124 Stat. 3252, provided that:

“(a) DEFINITION OF PROGRAM.—In this section, the term ‘program’ means the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

“(b) ESTABLISHMENT.—The Secretary [of Agriculture], in conjunction with States and participating institutions, shall continue to examine the feasibility of reducing unnecessary or duplicative paperwork resulting from regulations and recordkeeping requirements for State agencies, institutions, family and group day care homes, and sponsored centers participating in the program.

“(c) DUTIES.—At a minimum, the examination shall include—

“(1) review and evaluation of the recommendations, guidance, and regulatory priorities developed and issued to comply with section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; Public Law 108-265); and

“(2) examination of additional paperwork and administrative requirements that have been established since February 23, 2007, that could be reduced or simplified.

“(d) ADDITIONAL DUTIES.—The Secretary, in conjunction with States and institutions participating in the program, may also examine any aspect of administration of the program.

“(e) REPORT.—Not later than 4 years after the date of enactment of this Act [Dec. 13, 2010], the Secretary shall submit to Congress a report that describes the actions that have been taken to carry out this section, including—

“(1) actions taken to address administrative and paperwork burdens identified as a result of compliance with section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; Public Law 108-265);

“(2) administrative and paperwork burdens identified as a result of compliance with section 119(i) of that Act for which no regulatory action or policy guidance has been taken;

“(3) additional steps that the Secretary is taking or plans to take to address any administrative and paperwork burdens identified under subsection (c)(2) and paragraph (2), including—

“(A) new or updated regulations, policy, guidance, or technical assistance; and

“(B) a timeframe for the completion of those steps; and

“(4) recommendations to Congress for modifications to existing statutory authorities needed to address identified administrative and paperwork burdens.”

#### RECOVERY AND REALLOCATION OF AUDIT FUNDS

Pub. L. 109-97, title VII, §769, Nov. 10, 2005, 119 Stat. 2159, provided that: “Hereafter, notwithstanding any other provision of law, funds made available to States administering the Child and Adult Care Food Program, for the purpose of conducting audits of participating institutions, funds identified by the Secretary as having been unused during the initial fiscal year of availability may be recovered and reallocated by the Secretary: *Provided*, That States may use the reallocated funds until expended for the purpose of conducting audits of participating institutions.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-447, div. A, title VII, §796, Dec. 8, 2004, 118 Stat. 2852.

#### PAPERWORK REDUCTION

Pub. L. 108-265, title I, §119(i), June 30, 2004, 118 Stat. 755, provided that: “The Secretary of Agriculture, in conjunction with States and participating institutions, shall examine the feasibility of reducing paperwork resulting from regulations and recordkeeping requirements for State agencies, family child care homes, child care centers, and sponsoring organizations participating in the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).”

#### EARLY CHILD NUTRITION EDUCATION

Pub. L. 108-265, title I, §119(j), June 30, 2004, 118 Stat. 755, provided that:

“(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (6), for a period of 4 successive years, the Secretary of Agriculture shall award to 1 or more entities with expertise in designing and implementing health education programs for limited-English-proficient individuals 1 or more grants to enhance obesity prevention activities for child care centers and sponsoring organizations providing services to limited-English-proficient individuals through the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) in each of 4 States selected by the Secretary in accordance with paragraph (2).

“(2) STATES.—The Secretary shall provide grants under this subsection in States that have experienced a growth in the limited-English-proficient population of the States of at least 100 percent between the years 1990 and 2000, as measured by the census.

“(3) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

“(A) developing an interactive and comprehensive tool kit for use by lay health educators and training activities;

“(B) conducting training and providing ongoing technical assistance for lay health educators; and

“(C) establishing collaborations with child care centers and sponsoring organizations participating in the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) to—

“(i) identify limited-English-proficient children and families; and

“(ii) enhance the capacity of the child care centers and sponsoring organizations to use appropriate obesity prevention strategies.

“(4) EVALUATION.—Each grant recipient shall identify an institution of higher education to conduct an independent evaluation of the effectiveness of the grant.

“(5) REPORT.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Health, Education, Labor, and Pensions, of the Senate a report that includes—

“(A) the evaluation completed by the institution of higher education under paragraph (4);

“(B) the effectiveness of lay health educators in reducing childhood obesity; and

“(C) any recommendations of the Secretary concerning the grants.

“(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$250,000 for each of fiscal years 2005 through 2009.”

STUDY OF IMPACT OF AMENDMENTS BY PUB. L. 104-193  
ON PROGRAM PARTICIPATION AND FAMILY DAY CARE  
LICENSING

Pub. L. 104-193, title VII, §708(l), Aug. 22, 1996, 110 Stat. 2300, directed Secretary of Agriculture, in conjunction with Secretary of Health and Human Services, to conduct study and report to Congress not later than 2 years after Aug. 22, 1996, on impact of the amendments made by section 708 of Pub. L. 104-193, amending this section, on the number of family day care homes and day care home sponsoring organizations participating in the child and adult care food program established under this section, the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary, the rate of growth of such numbers, the nutritional adequacy and quality of meals served in family day care homes, and the proportion of low-income children participating in the program prior to such amendments to this section and the proportion of low-income children participating in the program after such amendments to this section, and further required each State agency participating in the child and adult care food program under this section to submit to the Secretary of Agriculture data necessary to carry out this study.

FAMILY OR GROUP DAY CARE HOME DEMONSTRATION  
PROJECT

Pub. L. 100-435, title V, §503, Sept. 19, 1988, 102 Stat. 1672, as amended by Pub. L. 101-147, title I, §105(c)(1), Nov. 10, 1989, 103 Stat. 885, directed Secretary of Agriculture to conduct a demonstration project to begin 30 days after Sept. 19, 1988, but in no event earlier than Oct. 1, 1988, in one State (selected by the Secretary) regarding the Child Care Food Program authorized under 42 U.S.C. 1766 in which day care institutions and family or group day care sponsoring organizations shall receive a reimbursement (in addition to that received under 42 U.S.C. 1766(d) and (f)) for providing one additional meal or supplement for children that are maintained in a day care institution or in a family or group day care home setting for eight or more hours per day, directed Secretary to submit a preliminary report to Congress not later than Aug. 1, 1989, and a final report after the conclusion of such project, with project to terminate Sept. 30, 1990.

REVIEW AND REVISION OF NUTRITION REQUIREMENTS  
FOR MEALS SERVED UNDER BREAKFAST PROGRAM;  
PROMULGATION OF REGULATIONS

Pub. L. 99-500, title III, §330(b), Oct. 18, 1986, 100 Stat. 1783-363, Pub. L. 99-591, title III, §330(b), Oct. 30, 1986, 100 Stat. 3341-366, and Pub. L. 99-661, div. D, title II, §4210(b), Nov. 14, 1986, 100 Stat. 4074, directed Secretary of Agriculture to review and revise nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and this section to improve nutritional quality of meals, taking into consideration both findings of National Evaluation of School Nutrition Programs and need to provide increased flexibility in meal planning to local food authorities, and to promulgate regulations to implement revisions not later than 180 days after Oct. 18, 1986.

ADJUSTMENTS IN NATIONAL AVERAGE PAYMENT RATE  
FOR SUPPLEMENTS DURING FISCAL YEAR ENDING SEP-  
TEMBER 30, 1981

Pub. L. 96-499, title II, §208(a), Dec. 5, 1980, 94 Stat. 2602, related to adjustments required under the former pars. (1) through (3) of subsec. (c) of this section appli-

cable in determining the national average payment rate for supplements during the fiscal year ending Sept. 30, 1981.

§ 1766a. Meal supplements for children in after-  
school care

(a) General authority

(1) Grants to States

The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements under a program organized primarily to provide care for children in afterschool care in eligible elementary and secondary schools.

(2) Eligible schools

For the purposes of this section, the term “eligible elementary and secondary schools” means schools that—

- (A) operate school lunch programs under this chapter;
- (B) sponsor afterschool care programs; and
- (C) operate afterschool programs with an educational or enrichment purpose.

(b) Eligible children

Reimbursement may be provided under this section only for supplements served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 1760(d)(1)(A) of this title.

(c) Reimbursement

(1) At-risk school children

In the case of an eligible child who is participating in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a supplement provided under this section to the child shall be—

- (A) reimbursed at the rate at which free supplements are reimbursed under section 1766(c)(3) of this title; and
- (B) served without charge.

(2) Other school children

In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 1766(c)(3) of this title (as adjusted pursuant to section 1759a(a)(3) of this title).

(d) Contents of supplements

The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this chapter shall apply to the content of meal supplements served under programs operated with assistance under this section.

(June 4, 1946, ch. 281, §17A, as added Pub. L. 101-147, title I, §106(a), Nov. 10, 1989, 103 Stat. 885; amended Pub. L. 105-336, title I, §108, Oct. 31, 1998, 112 Stat. 3153.)