Section, act June 4, 1946, ch. 281, § 15, as added June 30, 1971, Pub. L. 92-32, § 1, 85 Stat. 85, authorized use, during fiscal 1971, of not to exceed $35,000,000 from section 612c of Title 7, and not to exceed $100,000,000 during fiscal 1972 to carry out provisions of this chapter, with unexpended funds to remain available in accordance with last sentence of section 1752 of this title.

§ 1765. Election to receive cash payments

(a) Notwithstanding any other provision of law, where a State phased out its commodity 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.

Section, act June 4, 1946, ch. 281, § 15, as added June 30, 1971, Pub. L. 92-32, § 1, 85 Stat. 85, authorized use, during fiscal 1971, of not to exceed $35,000,000 from section 612c of Title 7, and not to exceed $100,000,000 during fiscal 1972 to carry out provisions of this chapter, with unexpended funds to remain available in accordance with last sentence of section 1752 of this title.
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 organi-
ization 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 pro-
viding 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 compensa-
tion 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 or-
ganization receives compensation under
that title for at least 25 percent of its en-
rolled children or 25 percent of its licensed
capacity, whichever is less); (C) any public or private nonprofit organi-
ization acting as a sponsoring organization
for one or more of the organizations de-
scribed in subparagraph (A) or (B) or for an
adult day care center (as defined in sub-
section (o)(2));
(D) any other private organization pro-
viding nonresidential child care or day care
homes; and

(ii) proprietary title XIX or title XX cen-
ters (as defined in subsection (o)(2));
(E) any public or private nonprofit organi-
ization 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), reim-
bursement may be provided under this section
only for meals or supplements served to chil-
dren not over 12 years of age (except that such
age limitation shall not be applicable for chil-
dren of migrant workers if 15 years of age or
less or for children with disabilities).

(4) Additional guidelines

The Secretary may establish separate guide-
lines 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) be licensed, or otherwise have
approval, by the appropriate Federal, State,
or local licensing authority; or

(ii) be in compliance with appropriate pro-
cedures 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 stand-
ards established by the appropriate State
or local governmental agency; or

(ii) meet any alternate approval stand-
ards 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 partici-
pate in the program unless it satisfies the fol-
lowing criteria:

(A) accepts final administrative and finan-
cial responsibility for management of an ef-
corative 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 deter-
mined to be ineligible to participate in any
other publicly funded program by reason of
violation of the requirements of the pro-
grame, for a period of time specified by the
Secretary;

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

(ii) in the case of a sponsoring organiza-
tion, the organization shall employ an ap-
propriate 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 oper-
ations of the child care centers and family
or group day care homes; and

(D) in the case of a family or group day
care home sponsoring organization that em-
ployed 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 further 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.).

(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 orga-
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(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

(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—

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

(b) to improve program operations; and

(ii) more frequent reviews of any institution that—

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

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

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

(d) 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 insti-
tutions 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 suspension 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 programs 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) 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 rounded down to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(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.

(v) REIMBURSEMENT.—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, 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—

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

(2) 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.
DAY CARE HOME SPONSORING ORGANIZATIONS—

- Funds may also apply at a later date for expansion of 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.

- 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.

(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 institutions, 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 supplement, 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 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 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 reimbursement 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 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. 30506 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.


(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

\footnote{So in original. Probably should be “consultation”}
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 1798(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—

(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, including 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.


REFERENCES IN TEXT


The Agricultural Act of 1949, referred to in subsec. (h)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1651, 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 this title and Tables.


CODIFICATION


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.
§ 1766

TITLe 42—THE PUBLIC HEALTH AND WELFARE


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. (b)(2). Pub. L. 111–296, § 331(b), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “(2) The Secretary shall develop a policy that—''

“(i) requires periodic announced 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 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. (c). Pub. L. 111–296, § 332, inserted subsec. heading, added pars. (1) to (5), 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 Secretary in the program authorized by this section, or its claim for reimbursement under this section.’’


Subsec. (f)(3)(B). Pub. L. 111–296, § 334, added subpar. (B) and struck out former subpar. (B) which read as follows: “Pam is of 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. (h)(1). 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 for the amounts made available to carry out this section.’’

Subsec. (q)(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.’’


2009—Subsec. (r)(5). Pub. L. 111–88 substituted “the District of Columbia and thirteen for ‘‘ten’’ and ‘‘eleven’’ for ‘‘eight’’ and inserted ‘‘Connecticut, Nevada, Wisconsin, Vermont, ‘‘fourteen for ‘‘eleven’’ and ‘‘for Vermont,’’ before ‘‘Virginia,’’ before ‘‘Virginia.’’’. Pub. L. 111–88 substituted ‘‘located in ten for ‘‘located in eight and of which eight for ‘‘of which six and Vermont, Maryland, before ‘‘West Virginia.’’.’’


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
gram 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 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 other demonstration 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 requirements 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 application, the State shall notify the institution within fifteen days of receipt of the application.”


Subsec. (h)(1)(B). Pub. L. 105–336, §101(b), substituted “175(c)” for “175(e)”.

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

Subsec. (p)(4), (5). Pub. L. 105–336, §107(d), struck out paras. (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, 1996.

(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1996, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance appropriations Acts.”


Subsec. (s). Pub. L. 105–336, §107(g), added subsec. (s).


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. (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. (g)(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)(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 reimbursement 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 factor 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 reimbursements provided to such 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)(4). Pub. L. 104–193, §708(f)(2), 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. (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 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.


Subsec. (g)(1). Pub. L. 103–448, §104(c), designated existing provisions as subpar. (A) and added subpar. (B).


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


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”.


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


Subsec. (b). 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. (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, § 313(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 1756(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. (a) as (k) and subsec. (k) which related to study and report on maximum administrative payments reflecting costs of institutions.


Pub. L. 101–147, § 105(b)(2), redesignated existing provisions as par. (1) and added par. (2).

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


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 1/2 of the daily recommended dietary allowance established by the Food and Nutrition Board 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.”


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, § 611(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)(5). Pub. L. 100–460, § 611(b), added par. (5).

1987—Subsec. (p). Pub. L. 100–175, § 211, inserted provisions relating to reimbursement to institutions maintaining a child care setting for eight or more hours per day.


Subsec. (b). Pub. L. 97–95, § 810(b), substituted provisions respecting applicability of subpar. (f) for provisions respecting applicability of subsec. (c).

Subsec. (c). Pub. L. 97–95, § 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)(2) to (5). Pub. L. 97–95, § 810(d), in par. (2) substituted provisions setting forth formula for disbursements for meals for all children served, increasing the maximum per meal rate 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. 97–95, § 810(e), struck out par. (3) which related to provisions respecting meals served by institutions, and redesignated pars. (3) and (4) as (2) and (3), respectively.
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State plans. Former subsec. (j) redesignated (i).

Subsec. (i) which related to information required from State plans. Former subsec. (j) redesignated (i).

Subsec. (j) to (l), Pub. L. 97–35, §§810(f), 817(c)(2), redesignated subssecs. (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. See subsec. (j) to (l) redesignated (k) to (r), respectively.

Subsec. (m), Pub. L. 97–35, §817(c), struck out subsec. (m) which related to withholding of funds. See 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. See subsec. (q) redesignated (n).

Subsecs. (o) to (r), Pub. L. 97–35, §817(c)(2), redesignated subssecs. (o) to (r) as (i) 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, §206(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”.

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.

1979—Subsec. (i). 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.

Subsec. (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


Effective Date of 2008 Amendment


Effective Date of 2004 Amendment


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 29, 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 enactment of this Act.”


Effective Date of 1998 Amendment


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.

**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. 100–175].”

**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. 100–345 to be effective and implemented on July 1, 1989, and amendment by section 214 of Pub. L. 100–345 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(4) of Pub. L. 100–345, 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 814(a), (f), (g), 817(c), and 819(d) of Pub. L. 97–35 effective Oct. 1, 1981, see section 825(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 822(a)(1)(B)(D)–(F), (3), (4), (6) of Pub. L. 97–35.

**Effective Date of 1980 Amendment**
Pub. L. 96–499, title II, § 204(b), Dec. 2, 1980, 94 Stat. 2662, 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**

**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 subsection (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)(4)(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, § 294(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 at 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; Pub. L. 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 in accordance with paragraph (2)."

Similar provisions were contained in the following prior appropriation act:


PAPERWORK REDUCTION

EARLY CHILD NUTRITION EDUCATION

1. a. SUBJECT TO THE AVAILABILITY OF FUNDS MADE AVAILABLE UNDER PARAGRAPH (6), FOR A PERIOD OF 4 CONSECUTIVE 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. STATUTES.—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; and

(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 GRANTS.


(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 the 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, 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(4) and (5)) 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, and 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. 2602, related to adjustments required under the former pars. (1) through (3) of subsec. (c) of this section applicable 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 after school 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.


References in Text


Amendments

1998—Subsec. (a)(1). Pub. L. 105–336, § 108(a)(1), substituted “supplements under a program organized primarily to provide care for” for ““supplements to”.

Subsec. (a)(2)(C). Pub. L. 105–336, § 108(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: “are participating in the child care food program under section 1766 of this title on May 15, 1989.”

Subsec. (b). Pub. L. 105–336, § 108(b), substituted “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.” for “served to children—

“(1) who are not more than 12 years of age; or

“(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.”

Subsec. (c). Pub. L. 105–336, § 108(c), added par. (1), designated existing provisions as par. (2), inserted heading, and substituted “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” for “For the purposes”.

Effective Date of 1998 Amendment


Regulations

Pub. L. 101–147, title I, § 106(b), Nov. 10, 1989, 103 Stat. 886, provided that: “Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the [Richard B. Russell] National School Lunch Act [this section] (as added by subsection (a) of this section).”

§ 1766b. Repealed.
