

## §215.7a

to programs authorized under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966.

(Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772); secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1759(a), 1773, 1758); 44 U.S.C. 3506)

[Amdt. 13, 39 FR 28416, Aug. 7, 1974]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §215.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### §215.7a Fluid milk and non-dairy milk substitute requirements.

Fluid milk and non-dairy fluid milk substitutes served must meet the requirements as outlined in this section.

(a) *Types of fluid milk.* All fluid milk served in the Program must be pasteurized fluid milk which meets State and local standards for such milk, have vitamins A and D at levels specified by the Food and Drug Administration, and must be consistent with State and local standards for such milk. Lactose-free and reduced-lactose milk that meet the fat content and flavor specifications for each age group may also be offered. Fluid milk must also meet the following requirements:

(1) *Children 1 year old.* Children one year of age must be served unflavored whole milk.

(2) *Children 2 through 5 years old.* Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk.

(3) *Children 6 years old and older.* Children 6 years old and older must be served low-fat (1 percent fat or less) or fat-free (skim) milk. Milk may be flavored or unflavored.

(b) *Fluid milk substitutes.* Non-dairy fluid milk substitutions that provide the nutrients listed in the following table and are fortified in accordance with fortification guidelines issued by the Food and Drug Administration may be provided for non-disabled children who cannot consume fluid milk

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due to medical or special dietary needs when requested in writing by the child's parent or guardian. A school or day care center need only offer the non-dairy beverage that it has identified as an allowable fluid milk substitute according to the following table.

Nutrient	Per cup (8 fl oz)
Calcium .....	276 mg.
Protein .....	8 g.
Vitamin A .....	500 IU.
Vitamin D .....	100 IU.
Magnesium .....	24 mg.
Phosphorus .....	222 mg.
Potassium .....	349 mg.
Riboflavin .....	0.44 mg.
Vitamin B-12 .....	1.1 mcg.

[81 FR 24375, Apr. 25, 2016, as amended at 82 FR 56714, Nov. 30, 2017; 83 FR 63790, Dec. 12, 2018; 85 FR 74849, Nov. 24, 2020; 87 FR 7006, Feb. 7, 2022]

### §215.8 Reimbursement payments.

(a) [Reserved]

(b)(1) The rate of reimbursement per half-pint of milk purchased and (i) served in nonpricing programs to all children; (ii) served to all children in pricing programs by institutions and School Food Authorities not electing to provide free milk; and (iii) served to children other than needy children in pricing programs by institutions and School Food Authorities electing to provide free milk shall be the rate announced by the Secretary for the applicable school year. However, in no event shall the reimbursement for each half-pint (236 ml.) of milk served to children exceed the cost of the milk to the school or child care institution.

(2) The rate of reimbursement for milk purchased and served free to needy children in pricing programs by institutions and School Food Authorities electing to provide free milk shall be the average cost of milk, i.e., the total cost of all milk purchased during the claim period, divided by the total number of purchased half-pints.

(c) Schools and child-care institutions having pricing programs shall use

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the reimbursement payments received to reduce the price of milk to children.

(Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772); Omnibus Reconciliation Act of 1980, sec. 209, Pub. L. 96-499, 94 Stat. 2599; secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; secs. 805 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1773))

[Amdt. 13, 39 FR 28416, Aug. 7, 1974, as amended by Amdt. 16, 43 FR 1060, Jan. 6, 1978; 44 FR 10700, Feb. 23, 1979; Amdt. 17, 44 FR 33047, June 8, 1979; 46 FR 51365, Oct. 20, 1981; Amdt. 23, 47 FR 14134, Apr. 2, 1982; 82 FR 56714, Nov. 30, 2017]

### § 215.9 Effective date for reimbursement.

(a) A State Agency, or FNSRO where applicable, may grant written approval to begin operations under the Program prior to the receipt of the application from the School Food Authority or child-care institution. Such written approval shall be attached to the subsequently filed application, and the agreement executed by the School Food Authority or child-care institution shall be effective from the date upon which the School Food Authority or child-care institution was authorized to begin operations: *Provided, however*, That such effective date shall not be earlier than the calendar month preceding the calendar month in which the agreement is executed by the State Agency or by the Department.

(b) Reimbursement payments pursuant to § 215.8 shall be made for milk purchased and served to children at any time during the effective period of an agreement between a School Food Authority or child care institution and the State agency or the Department.

(Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766))

[32 FR 12587, Aug. 31, 1967, as amended by Amdt. 5, 37 FR 14686, July 22, 1972; Amdt. 13, 39 FR 28417, Aug. 7, 1974; Amdt. 16, 43 FR 1060, Jan. 6, 1978; 44 FR 10700, Feb. 23, 1979]

### § 215.10 Reimbursement procedures.

(a) To be entitled to reimbursement under this part, each School Food Authority shall submit to the State agency, or FNSRO where applicable, a monthly Claim for Reimbursement.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the Reports of School Program Operations required under § 215.11(c)(2). Unless otherwise approved by FNS, the Claim for Reimbursement for any month shall include only milk served in that month except if the first or last month of Program operations for any year contains 10 operating days or less, such month may be added to the Claim for Reimbursement for the appropriate adjacent month; however, Claims for Reimbursement may not combine operations occurring in two fiscal years. If a single State agency administers any combination of the Child Nutrition Programs, the SFA shall be able to use a common claim form with respect to claims for reimbursement for meals served under those programs. A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency, or FNSRO where applicable, not later than 60 days following the last day of the full month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not postmarked and/or submitted within 60 days shall not be paid with Program funds unless FNS determines that an exception should be granted. The State agency, or FNSRO where applicable, shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month and are reflected in the final Report of School Program Operations (FNS-10) for the claim month which is required under § 215.11(c)(2). Upward adjustments in Program funds claimed which are not reflected in the final FNS-10 for the claim month shall not be made unless authorized by FNS. Downward adjustments in Program funds claimed shall always be made, without FNS authorization, regardless of when it is determined that such adjustments are necessary.