



DATE: July 26, 2013

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SUBJECT: Health and Safety in the Child and Adult Care Food Program

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

In monitoring day care homes and centers, it is important to remember that the facility's main priority is to protect the health and safety of those in care. Child and Adult Care Food Program (CACFP) regulations require sponsoring organizations to notify appropriate licensing or health authorities of conduct or conditions that pose an imminent threat to the health or safety of participants or to the public. This memorandum provides guidance to help sponsors detect and report the types of problems that rise to this higher level of concern.

CACFP monitors must exercise judgment in making a determination of an imminent threat. The Food and Nutrition Service (FNS) encourages State agencies and sponsors to establish written standards to help monitors measure the severity of a health or safety threat and procedures for monitors to follow when a determination of imminent threat has been made. Training for monitors on this topic is recommended as well.

*Caring for Our Children*¹ is a resource that provides additional guidance on managing, reporting, and documenting incidents of imminent threat. It recommends that child care facilities have written plans for reporting, managing, and training staff on what they determine to be incidents that threaten the health, safety, or welfare of children, staff, or volunteers.

Although CACFP monitors do not routinely assess health and safety issues during their onsite reviews, they must still be trained to recognize conditions that pose an imminent

threat to the health or safety of the participants. *Caring for Our Children* identifies a

¹ American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. 2011. *Caring for our children: National health and safety performance standards; Guidelines for early care and education programs. 3rd edition.* Elk Grove Village, IL: American Academy of Pediatrics; Washington, DC: American Public Health Association. Also available at <http://nrckids.org>.

number of circumstances that rise to the level of imminent threat, including:

- Lost or missing child;
- Suspected maltreatment of a child;
- Suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while they are on the premises of the child care facility;
- Injuries to children requiring medical or dental care;
- Illness or injuries requiring hospitalization or emergency treatment;
- Mental health emergencies;
- Health and safety emergencies involving parents or guardians and visitors to the child care facility;
- Death of a child or staff member (including a death that occurred outside of child care hours that had resulted from serious illness or injury at the child care facility); or
- The presence of a threatening individual who attempts or succeeds in gaining entrance to the facility.

If, for these or for any other reason, a monitor determines that a child or adult participant is in imminent danger, the monitor must call the proper authorities immediately and stay at the site until authorities have arrived.

CACFP monitors must understand that their response to imminent threats to the health and safety of participants in the CACFP should be applied consistently and fairly. The health and safety of those in care must be the overarching goal. Wherever there is a situation in CACFP involving a health or safety threat, FNS expects Program monitors to respond to the problem when they see it. This does not mean, however, that every licensing violation is an imminent threat to health and safety, or that State agencies may require CACFP sponsors to monitor for licensing agencies. (See CACFP 14-2013, *Monitoring of Licensing Requirements in the Child and Adult Care Food Program*, July 26, 2013.)

Responding to Health and Safety Threats in Day Care Homes

CACFP regulations give sponsors ample authority to act should they find that children at a day care home are not safe or that the day care home has engaged in activities that threaten public health or safety. Even if the proper authorities indicate that it is safe for the monitor to leave a home while they conduct further investigation or inquiry, the monitor and sponsor should still initiate a suspension and the serious deficiency process [7 CFR 226.16(l)(4)].

FNS expects sponsors to take immediate action to stop payments and suspend the day care home's CACFP participation and declare the home seriously deficient, regardless of any formal procedures pending or underway by the licensing authorities to revoke the home's license or approval. Applying the serious deficiency process further minimizes risk to the Program and underscores the sponsor's authority to determine whether a facility meets the requirements for CACFP participation.

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The suspension procedures outlined in the regulations [7 CFR 226.16(l)(4)(ii) – (iv)] require the sponsor to notify the day care home that its participation has been suspended, that the day care home has been determined seriously deficient, and that the sponsor proposes to terminate the day care home's agreement for cause. The sponsor also must provide a copy of the notice to the State agency. Keeping the State agency informed lets the State agency monitor the process and provide technical assistance when it is needed.

Once a day care home is suspended, participation, including all Program payments, remains suspended until the administrative review has been completed. If the suspension is overturned following the administrative review, the day care home may continue participation and may claim reimbursement for eligible meals served and documented during the suspension period.

Addressing Health and Safety Issues in Centers

This guidance also is intended to aid State agencies in detecting and reporting incidents of imminent threats that may occur in any CACFP setting, including independent child care centers, adult day care centers, at-risk afterschool centers, and emergency shelters. State agency monitors must take immediate action and follow the requirements for suspension of an independent institution's participation, for reasons of health or safety [7 CFR 226.6(c)(5)(i)].

When addressing health and safety issues in sponsored centers, CACFP sponsors of centers should use the process they have developed for notifying centers of suspension and serious deficiencies.

State agencies are reminded to distribute this information to Program operators immediately. Program participants should direct any questions regarding this memorandum to the appropriate State agency. State agency contact information is available at <http://www.fns.usda.gov/cnd/Contacts/StateDirectory.htm>. State agencies should direct questions to the appropriate FNS Regional Office.

Original Signed

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