

Testimony to the U.S. Department of Agriculture

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Good morning. My name is Ed Mattson and I am the Coordinator of the Child Care Food Program Roundtable here in California, and Vice President of the National CACFP Forum. I would like to thank the Department of Agriculture for the opportunity to speak here today.

I know my time is limited so I want to direct my comments specifically to a crisis we are experiencing here in California with respect to the family child care component of the program. It is a crisis unfortunately being experienced by a number of other states. In California, between December of 1996 and today, family child care sponsorships have dropped by a staggering 52%¹. Nationally between fiscal years 1996 and 2006 the rate is nearly 25%, with seven states having experienced drops of 40% or greater².

Why does this matter?

It matters because at a certain point when a sponsor closes down their providers either cannot find a replacement in their area, or in the case of many Tier II providers they decide the program is no longer worth the meager reimbursement rate if they have to get used to a new monitor, new forms and/or a new claiming system. In California total homes dropped 24% between March of 1997 and 2008. Tier II homes have dropped 51% during the same period. Nationally homes have dropped 25% in the ten year period 1996-2006, with 12 states experiencing drops of 40% or more³. It matters because when providers cannot find a sponsor or choose not to participate then the children suffer. They no longer have access to nutritious foods and nutrition education opportunities; they are no longer monitored three times a year. In California there are approximately 44,000 licensed family child care homes and only 18,305 submitted a claim for reimbursement in March 2008.

We have reached that tipping point here in California. Recently a large sponsorship with 900 homes self-terminated in the central Los Angeles area. So far only an estimated 450 have found a new sponsor. That sponsor decided to drop its homes program because of the strains imposed on its administration by adding too many providers from other closing sponsorships too fast, and due to the fact that, and I quote, “while the State had very extensive notes and findings on our deficiencies, we found no resources that could have helped us get the extra assistance and wherewithal to dig out from the sad state of affairs. We felt quite alone and not up to the formidable task of making needed reforms.”

¹ All California statistical information is based on FNS-44 Reports. All national information is based on FRAC's analysis “The Child and Adult Care Food Program Participation Trends,” 2007.

² IN, IA, LA, MA, RI, UT, WV

³ AL, CO, CT, HI, MS, NV, NH, NJ, OR, RI, UT, WA

The sad fact is that the program has become increasingly more difficult to administer; the expectations of zero tolerance by family child care providers is unrealistic; administrative reimbursement is woefully inadequate; and the former spirit of technical assistance and guidance from administering agencies has been replaced by one, to be blunt, of “take no prisoners.”

So how can we fix this mess?

We have a number of proposals that are included in my written testimony but I would like to highlight just a few that would make the sponsor’s job easier. We need to:

1. Increase administrative reimbursement to cover the costs of tiering, the integrity rules and signing up new providers;
2. Restore administrative advances (Since PL 104-193 16 states have decided to stop issuing administrative advances. It is totally unrealistic to expect sponsoring organizations to start up and/or maintain this program without an advance);
3. Simplify and/or make discretionary some of the most time consuming and ineffective integrity rules (such as block claiming and five day reconciliation);
4. Allow sponsors to retain earned administrative reimbursement;
5. Fix the financial viability rule (Sponsors can be financially viable without outside sources of income); and
6. Discourage state agencies from imposing stricter requirements.

There are also a number of recommendations to insure that provider’s continue to participate, including getting rid of tiering and going back to the one rate of reimbursement. But perhaps the single most effective thing the Department could do is to recognize that family child care does not fit into the one-size-fits-all mold of other institutional food programs, and cut the providers some slack when it comes to daily paperwork!

Thank you again for the opportunity to speak.

IMPROVING THE CACFP

Ideas for Improving the CACFP during Child Nutrition Reauthorization in 2009 (all provisions are for center and home programs unless otherwise specified)

The CACFP has always been about the food and how to insure that children in a child care setting receive nutritious wholesome foods that help their bodies grow up strong and healthy. With the current childhood overweight crisis in this country it has never been more important. One of the challenges has been how to meet this basic goal without overburdening the child care giver with paperwork designed with a more institutional setting in mind – namely, school lunch programs. Many child care settings, and certainly family child care, are not that rigid. A family child care provider has her hands full just keeping little ones entertained and fed. Paperwork is not a high priority in a typical day care setting. We recommend that legislators and administrators consider how we can reconcile the government’s need for accountability and the care giver’s need for flexibility and fluidity when you consider legislation and regulations governing the child care environment.

COST ISSUES

There are a number of proposals for improving the program that will involve additional funding and depending upon the availability of funds any one or all of the following provisions are recommended:

Issue: Increase Tier II Reimbursement to a Level that is Adequate to Meet the Nutritional Needs of Children and Induce Providers to Participate on the CACFP

Background: The CACFP is a nutrition program not a welfare program. Reimbursement is an inducement to participate. Participation on the CACFP improves the overall quality and nutrition of the child care setting. It should be expanded to cover all child care in the nation. The severe reduction of reimbursement to non low-income Tier II providers in PL 104-193 (PRWORA) was a disaster. Since the implementation of the tiering system the number of homes participating in CACFP has dropped by 42% nationally. With childhood obesity at pandemic proportions we cannot afford to take children away from nutritious meals and nutrition education opportunities. Rather than cutting back we should be looking for ways to mandate participation on the CACFP.

	TIER II	TIER I
Supplements	\$0.17	\$0.61
Breakfast	\$0.41	\$1.11
Lunch & Supper	\$1.24	\$2.06

We defy anyone to buy a nutritious snack for 17 cents or a breakfast for 41 cents.

Another way to improve reimbursement for some Tier II providers without a great deal of extra funds would be to reset Tier I area eligibility to 40% from its current 50%. It was tried in Nebraska as a “rural” pilot and was modestly successful.

Recommendations:

1. Restore the one rate of reimbursement for family child care providers at the Tier I rate (we would not support this provision if it meant rolling back the Tier I rate however); or
2. Increase Tier II reimbursement to a more realistic level (we would recommend minimum Tier II rates of \$0.35 for a snack, \$0.75 for a breakfast and \$1.50 for a lunch); or
3. Set Tier I Area Eligibility to 40%.

Issue: Increase Family Child Care Administrative Reimbursement to a Level that is Adequate to Meet the Current Needs of Sponsoring Organizations

Background: Since Tiering, sponsors have been having an increasingly more difficult time making ends meet on the current administrative reimbursement rate. Add to that the crippling new requirements included in the First and Second Interim Rules and it is no wonder that 25% of sponsors have dropped the program. This includes many small and or rural sponsors. The close one-on-one interaction that providers once enjoyed with their sponsors, the hands-on nutrition education, has all but been eliminated. Sponsors can no longer afford to do anything more than conduct their required monitoring visits and meet all of their new obligations under the integrity rules.

Recommendations:

1. Administrative reimbursement rates should be raised to reflect the new administrative burdens imposed by the Tiering and integrity rules; or
2. If the budget simply does not allow an overall increase in administrative reimbursement, at least consider raising rates for services to rural or underserved areas; or
3. Another possible way to make a limited investment in the program would be at least to fund the portion of the program that has suffered the biggest hit since tiering – nutrition education. We recommend that funding be set aside for offering sponsoring organizations with an interest to add back in a nutrition education component. It could be funded similarly to the expansion funds currently allowed with a separate application and approval process.

Issue: Reimburse Sponsoring Organizations for Signing Up New Providers

Background: Family child care sponsoring organizations earn administrative reimbursement for each family child care home (provider) they sponsor. However they do not receive reimbursement for any month in which the provider does not claim meals for reimbursement. To add a new provider onto their program a sponsor must visit the provider’s homes and “sign them

up.” This generally involves giving them an orientation session on the food program, training them on the meal pattern, meal counting and claiming requirements and applicable paperwork. If the sponsoring organization is using special scannable claim forms or online claiming that can add additional training time. All of this activity usually takes place in the month prior to the provider’s first full month of claiming and therefore before the sponsor earns any administrative reimbursement. While the regulations do allow sponsors to apply for separate expansion funds for larger targeted outreach efforts, they do not cover these one-by-one sign ups.

Recommendation: Allow sponsoring organizations to claim new providers, as applicable, for the month prior to their beginning to claim meals for reimbursement to help defray the additional costs of signing them up and training them on program requirements.

Issue: Increase Reimbursement to Cover Increased Costs of Implementing USDA’s New Meal Pattern

Background: USDA recently sent the National School Breakfast and Lunch Programs meal pattern to the Institute of Medicine to be updated. CACFP needs an update that is consistent with the realities of child care and any updating of the meal pattern would likely require an increase in reimbursement to cover the additional costs.

Recommendation: We support an Institute of Medicine study to:

- Make recommendations for CACFP meal patterns and guidance reflecting the most recent Dietary Guidelines, other relevant nutrition science, and up-to-date knowledge on the best feeding practices in child care, and
- Determine the CACFP reimbursement rates needed to cover the costs of the revised meal pattern.

Issue: Make Nutrition Education Materials Available in More Languages and in Sufficient Quantities

Background: While the Department does offer some limited nutrition education materials for CACFP sponsors they are very frequently not offered in languages other than English and/or not offered in sufficient quantities. Sponsors do not have the funds to make copies for all of their providers.

Recommendation: We recommend that funding be allotted for developing more materials and printing them in sufficient quantities.

NO COST ISSUES - Legislative

Issue: Restore Family Child Care Sponsor Administrative Advances

Background: PL 104-193 (PRWORA) reversed long standing provisions of the law and allowed State agencies discretion in making advance payments. In a recent survey sixteen no longer offer sponsor administrative advances. This misguided change has hurt family child care sponsoring organizations. The CACFP is a reimbursement program; that means sponsoring organizations, like businesses everywhere, must make payroll and cover other program expenditures until such time that the State agency pays their claim for reimbursement. The regulations currently give State agencies up to 45 days to do so. If the claim for reimbursement, in accordance with program rules, is submitted by the 10th of the month following the month of the claim, and the State agency takes its full 45 days to process and pay a claim (as is common in California for instance) the sponsoring organization must operate for almost two months before receiving reimbursement.

Current regulations allow state agencies to monitor advance funds outstanding by conducting monthly reconciliations with earnings. Proper implementation of such safeguards already in the regulations should insure fiscal accountability.

Recommendation: We recommend that legislation be changed to allow the sponsoring organization to make the decision of whether or not to receive an advance payment.

Issue: Allow Family Child Care Sponsoring Organizations to Keep Their Earned Administrative Reimbursement

Background: Currently sponsoring organizations (sponsors) submit program budgets as part of their annual renewal application process to their State agency. State agencies review and approve the budgets. Administrative reimbursement is based on the lesser of the approved budget, actual reported costs or earned reimbursement (providers claimed X per provider reimbursement) with an overriding limit of 30% of total provider payments. This system works comparatively well except in instances where a sponsoring organization wants to economize one year to allow for a larger than normal expenditure in the next, or in instances where the number of providers is in flux and difficult to predict. Under the current system, if a sponsor economizes one year in an attempt to set aside funding for a future purchase they are penalized by the reimbursement structure and lose the reimbursement. Under the current system, sponsoring organizations are sometimes forced to cut back on spending towards the end of the year to insure their costs do not exceed earned reimbursement. This then may appear to administrative agencies as a case of more than adequate reimbursement rates, or mismanagement, when in actual fact it is a case of prudent fiscal management.

Recommendation: There are a number of possible solutions to this dilemma. Sponsors could a) be granted relief from the cost comparison and be paid strictly on homes X rates, similar to the Simplified Summer Food Service Program; b) be allowed to “carry over” a percentage of their earned reimbursement in any given year (like WIC), c) be allowed to submit a multi-year budget

(not more than 3 years) that would allow them to project a set aside for a pre-approved long term purchase plan, or deal more effectively with fluctuations in provider claiming patterns, or d) a combination of the above.

Issue: Reconsider Often Overbearing/Ineffective Integrity Rules and Allow Their Use as Management Tools Rather Than One-Size-Fits-All Requirements

Background: In the second Interim Rule (9/1/2004) the Department promulgated a series of administrative procedures that sponsoring organizations (sponsors) must follow with little regard to their applicability or effectiveness and with disregard for their ultimate administrative cost. Sponsors have been paying the price ever since, many of which have dropped off the program due to excessive under funded administrative requirements. The most egregious of these include block claiming, five day reconciliation and in some cases household contacts.

1. **Block Claiming** – Under the current rules, a family child care provider (provider) is considered to have “block claimed” if they have recorded or submitted a claim where for any 15 consecutive day period in a claiming month they claim the same number of meals (for instance, if they claim 5 PM Snacks for 15 consecutive days). If a provider block claims, the sponsoring organization must “validate” the claim during an unannounced visit. Anecdotal evidence compiled by the CCFP Roundtable and the National CACFP Forum has found that less than 1% of the validated block claims could not be justified (TSA has also found similar results). It is clearly a mistake to require sponsors to spend so much time on this ineffective effort.

Recommendation: We understand what the Department was trying to do with this provision but feel a more effective approach would be to either a) allow sponsors to use block claim validation as a management tool, in addition to other such tools, when and where they judge it appropriate, or b) at least minimize the impact on workload by restricting the “block claiming” designation to claims larger than 5 meals and/or to 30 consecutive days. We feel that the first option is preferable but would be willing to work with the Department on the second, if necessary. It is important to consider just how frivolous it seems to be spending so much time pursuing a block claim for 3 AM Snacks. The expense of the validation review far exceeds the potential lost reimbursement.

2. **Five Day Reconciliation** – Under the current rules, a sponsor must include as part of its 3 required monitoring visits per year to each child care facility a five-day reconciliation. That means they must examine the meal counts recorded by the facility for five consecutive days and for each day examined must use enrollment and/or attendance records to determine the number of children in care during each meal service and attempt to reconcile those numbers to the numbers of meals claimed. As in the above discussion about block claiming, this is a rather tedious process that is not being evenly implemented across the country due to its very complexity, and is for the most part ineffective in preventing or discovering facility malfeasance. At best it should be set aside as a management tool that a sponsor can use when necessary and at its worse it is a nightmare leading to more labor intensive efforts at contacting parents, etc.

Perhaps the biggest problem with this provision is the lack of clear written guidance from USDA on how it is to be accomplished and therefore very inconsistent implementation by state agencies. At its worst it has become a case where sponsors are being expected to track individual children's daily enrollment changes. The problem is that no child enrollment form can capture the fluidity of a modern child's life. Enrollment forms would need to be updated by parents monthly or even weekly as schedules change. The amount of time and effort it takes to discover that a child might have eaten a meal outside of their "normal hours of care" is crashing the program under its own weight.

Recommendation: We recommend that the process be considered one of many management tools that a sponsor can use if they suspect a problem. If the Department is unwilling to give up on this provision then we recommend one of two more cost effective approaches. First, we recommend that the process be much more simplified. As part of his/her facility review a sponsor monitor would a) ensure each child observed is enrolled, and b) compare the numbers of children claimed or observed on the day of the review to those in attendance and claimed in the previous five day period. If there were a noticeable change in number of total meals claimed between the two periods the monitor would investigate further. But if there were no significant differences the process would stop there. There would be no need to scrutinize individual enrollment forms.

3. **Household Contacts** – Under the current rules state agencies are given considerable latitude to set household contact rules. Some states are fairly reasonable in their approach while others go over the top requiring household contacts in too many questionable instances. A household contact is generally made when a sponsor feels that a provider may have inflated her meal counts or otherwise lied about some aspect of the program. Sponsors then contact the parents of the provider's enrolled children to determine when and if their children were in care. On its surface this seems like a reasonable management tool. In actual fact it is frequently inconclusive, ineffective or both. They can lead to inconclusive "he said, she said" situations with no proof. Parents frequently call their provider to discuss the query prior to responding.

Recommendation: We recommend that household contacts be used sparingly and only when absolutely necessary to investigate possible fraud.

Issue: Allow Centers to Base Reimbursement Rates on Area Eligibility

Background: Centers now have the option to base their reimbursement rates on a) actual meals served, or b) claiming percentages. Collecting family size and income information is a tremendous paperwork burden for many centers and center sponsors.

Recommendation: We recommend that centers be allowed a third option, to base their reimbursement rate on the percentage of free and reduced price eligible children in their local elementary school. If the local school's enrollment is 50% free, 25% reduced-price and 25% paid, then the center could use those rates just as they now use a claiming percentage. This

would save them a great deal of paperwork and allow them to devote more time to preparing nutritious meals and conducting nutrition education.

NO COST ISSUES - Regulatory

Issue: Clarify Definition of Family Child Care Sponsor “Financial Viability”

Background: PL 106-224 (ARPA) required that sponsoring organizations be able to demonstrate “financial viability.” We believe that the regulations and policies implementing this requirement have been overly restrictive, misapplied and/or used to penalize smaller nonprofit organizations with no other sources of funds but program reimbursement – a significant portion of total sponsoring organizations prior to 2002.

Recommendation: We recommend that the term be redefined or clarified to make it clear that if a sponsoring organization can demonstrate its ability to meet program obligations with *only* program reimbursement, that it be determined to be meeting the requirement, as long as the other financial management requirements are demonstrated. We should not assume such organizations are noncompliant strictly because they may not be able to “one day” repay some imaginary future program overclaim. If we held businesses to the same standard we would not have business in America.

Issue: Discourage State Agencies from Imposing Stricter Program Requirements

Background: One of the issues of great concern these past few years has been the lack of consistency between states in the implementation of the rules. Some states and USDA regions seem to be more liberal than others or more conservative depending upon where a sponsor is located. One possible explanation is the newness of State and USDA Regional Office staffs, the lack of training opportunities and/or the lack of financial or personnel resources to do adequate training. Another might be a carryover from many years ago when the USDA Regional Office system allowed and even encouraged more regional interpretation of the rules to fit regional circumstances. With the advent of the electronic/computer age that need has diminished.

Recommendation: We recommend first that USDA not grant states the authority to impose stricter rules unless they can demonstrate the need and only then with specific prior written approval. Second, we recommend that state agency and Regional Office staffs receive adequate training and resources.