

Public Notices and Waivers

Waiver related to Delaying Provisions of the Program Integrity Rule in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver to delay implementation of the following Child Nutrition Program Integrity Final Rule provisions by six months to allow additional time to plan and prepare for the significant changes:

- 7 CFR 226.6(m)(6) to increase the frequency of reviews for some institutions operating the CACFP.
- 7 CFR 226.7(b)(1)(i) to annually review at least 1 month's bank account activity for all sponsoring organizations.

These provisions currently have a compliance date of 8/23/24, and the State Agency is seeking to delay until 2/24/25.

Waiver related to congregate feeding requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the Congregate Feeding Requirements found in 7 CFR 226.17(b)(9) and 7 CFR 226.19a(a)(11). The State agency is seeking to provide continuity of meal service to low income children and older adults during unexpected day care center closures due to COVID-19, and to support social distancing measures to prevent the spread of COVID-19 by allowing meals and snacks to be served in non-congregate settings.

Waiver related monitoring requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the requirement found in 7 CFR 226.16(d)(4) and 226.16(d)(4)(iii). The State agency is seeking to provide flexibility with meeting the monitoring requirements during COVID-19 to support social distancing measures to prevent the spread of COVID-19 by allowing monitoring visits to be suspended during this time.

Waiver related meal pattern requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the requirement found in 7 CFR 226.20. The State agency is seeking to provide flexibility with meeting meal pattern requirements on a case by case basis and under extenuating circumstances when there is a food shortage during COVID-19.

Waiver related claim submission requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the requirement found in 7 CFR 226.10(e). The State agency is seeking to allow flexibility with submitting late claims without requiring sponsors to use one-time exceptions during the COVID-19 public health crisis.

Waiver related to individual income eligibility requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the income eligibility requirements found in 7 CFR 226.23(e)(1). The State agency is seeking to provide continuity of meal service to low income children and older adults during unexpected day care center closures due to COVID-19, and to support social distancing measures to prevent the spread of COVID-19 by suspending the requirement to distribute income eligibility forms and claim all meals and snacks in the Free category.

Waiver related to allowing CACFP At-Risk through the summer

The New York State Department of Health is applying for a waiver of the At-Risk meal service requirements found in 7 CFR 226.17a(b)(i). The State agency is requesting a waiver allowing CACFP at-risk afterschool programs to continue serving meals during the summer months, after the end of the regular school year.

Waiver related to claim submission requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the requirement found in 7 CFR 226.10(e). The State agency is seeking approval to provide flexibility with payment of late claims, on a case by case basis and under circumstances which the Sponsor could not control.

Waiver related monitoring requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the requirement found in 7 CFR 226.16(d)(4) and 226.16(d)(4)(iii). The State agency is seeking to provide flexibility with meeting the monitoring requirements during COVID-19 to support social distancing measures to prevent the spread of COVID-19 by allowing off-site monitoring and unannounced visits to be reduced during this time.

Waiver related to At-Risk Activity requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the requirement found in 7 CFR 226.17a(b)(1)(ii) and (iii). The State agency is seeking approval to provide flexibility with the requirement to provide an education or enrichment activity for At-risk afterschool care centers providing non-congregate meals.

Waiver related monitoring requirements in the Child and Adult Care Food Program

To support social distancing measures to prevent the spread of COVID-19, the State Agency is requesting a waiver of the following requirements:

- 7 CFR 226.6(m)(3)(iv) which requires a review of any applicable instructions and handbooks issued by FNS and the Department, and any instructions and handbooks issued by the State agency which are not inconsistent with the provisions of this part;
- 7 CFR 226.6(m)(3)(vi) which requires a review for compliance with the requirements for annual updating of enrollment forms;
- 7 CFR 226.6(m)(3)(vii) which requires observation of a meal service;

- 7 CFR 226.6(m)(6) which requires an annual review of at least 33.3% of all institutions;
- 7 CFR 226.6(m)(6)(i) which requires reviewing independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years, including reviews of 10% of their facilities;
- 7 CFR 226.6(m)(6)(ii) which requires reviewing sponsoring organizations with more than 100 facilities at least once every two years, including reviews of 5% of the first 1,000 facilities and 2.5% of the facilities in excess of 1,000; and
- 7 CFR 226.6(m)(6)(iii) which requires reviewing new institutions that are sponsoring organizations of 5 or more facilities within the first 90 days of Program operations.

The State Agency is also requesting a waiver of the following requirements for Sponsoring Organizations:

- 7 CFR 226.16(d)(4)(iii) which requires that sponsoring organizations review each CACFP facility three times per year;
- 7 CFR 226.16(d)(4)(iii)(A) which requires that at least two of the three reviews be unannounced;
- 7 CFR 226.16(d)(4)(iii)(B) which requires that at least one unannounced review include observation of a meal service;
- 7 CFR 226.16(d)(4)(iii)(C) which requires that at least one review be made during each new facility's first four weeks of Program operations; and
- 7 CFR 226.16(d)(4)(iii)(D) that not more than six months may elapse between reviews.

Waiver related to congregate feeding requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the Congregate Feeding Requirements found 7 CFR 226.19(b)(6)(iii), 7 CFR 226.17a(m), 7 CFR 226.2 (Meals), and 7 CFR 226.17a(b)(1)(ii) and (iii) for At-Risk afterschool programs. The State agency is seeking to provide continuity of meal service to low-income children and teens participating in At-Risk afterschool programs during unexpected day care center closures by allowing meals and snacks to be served in non-congregate settings.

Waiver related to Family Day Care Home monitoring requirements in the Child and Adult Care Food Program

The New York State Department of Health is applying for a waiver of the Monitoring Requirements found at 7 CFR 226.16(d)(4)(iii) for Sponsors of Day Care Homes. The State agency is seeking to allow Sponsors of Day Care Homes to conduct one or more of the three annually required monitoring reviews offsite (virtually) due to challenges caused by staffing shortages, public health concerns, weather-related/natural disasters, and identified safety issues.