
42 U.S. Code § 1766

Child and adult care food program

(a) Program purpose, grant authority and institution eligibility

(1) In general

(A) Program purpose

(i) Findings

Congress finds that—

- (I) eating habits and other wellness-related behavior habits are established early in life; and
- (II) good nutrition and wellness are important contributors to the overall 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 nonprofit 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 organization 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 providing 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 compensation 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 organization receives compensation under that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);
 - (C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));
 - (D) any other private organization acting as a sponsoring organization for, and that is part of the same
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legal entity as, one or more organizations that are—

- (i) described in subparagraph (B); or
 - (ii) proprietary title XIX or title XX centers (as defined in subsection (o)(2));
- (E) any public or private nonprofit organization 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), reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with disabilities).

(4) Additional guidelines

The Secretary may establish separate guidelines 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)
 - (i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or
 - (ii) be in compliance with appropriate procedures 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 standards established by the appropriate State or local governmental agency; or
 - (ii) meet any alternate approval standards 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 participate in the program unless it satisfies the following criteria:

- (A) accepts final administrative and financial responsibility for management of an effective 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 determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program, for a period of time specified by the Secretary;
- (C)
 - (i) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and
 - (ii) in the case of a sponsoring organization, the organization shall employ an appropriate 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 operations of the child care centers and family or group day care homes;

(D) in the case of a family or group day care home sponsoring organization that employs 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).

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