POLICY ALERT

Date: March 16, 2007
Reference: # CACFP ADC 2007-6
To: Child and Adult Care Food Program-Adult Day Care (CACFP-ADC) Contractors
Subject: Terms and Definitions
Effective Date: Immediately

Purpose

This Policy Alert REPLACES all terms and definitions in Policy Alerts CACFP ADC:
- 2003-3, Terms and Definitions
- 2005-1, Regulations and Guidance
- 2005-9, Viability, Capability, and Accountability (VCA) Standards
- 2005-12, Implementation of Meal Edit Checks
- 2006-1, Frequency of Monitoring Reviews and the Option to Implement Review Averaging
- 2006-4, New Training Requirements for Sponsoring Organizations
- 2006-8, Five-Day Reconciliation of Meal Counts for Sponsoring Organizations
- 2006-14, Monitoring Review Requirements

Implementation

Immediately

Definitions

Accountable – The new, renewing or updating contracting organization has in place internal controls to assure that Program funds for meals and administrative expenses are properly spent.

Administrative Costs – Costs incurred by a contracting organization related to planning, organizing, and managing a food service under the Program, and allowed by the HHSC.

Administratively Capable – The new, renewing or updating contracting organization has documented they have the staffing and expertise to meet all of the Program’s requirements.

Adult – Any individual 21 years of age or older.

continued

This Policy Remains in Effect Until Further Notice
**Adult Day Care Center** – Any public or private nonprofit organization or any for-profit center (as defined in this policy alert) which:

a) Is licensed or approved by Federal, State or local authorities to provide nonresidential adult day care services to functionally impaired adults or persons 60 years of age or older in a group setting outside their homes or a group living arrangement on a less than 24-hour basis; and

b) Provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services. Such centers shall provide a structured, comprehensive program that provides a variety of health, social and related support services to enrolled adult participants through an individual plan of care.

**Adult Day Care Facility** – A licensed or approved adult day care center under the sponsorship of a sponsoring organization.

**Adult Participant** – A person enrolled in an adult day care center who is functionally impaired or 60 years of age or older.

**Advance Payments** – Financial assistance made available to a contracting organization for its Program costs prior to the month in which such costs will be incurred. A full advance payment is 100 percent of the estimated amount that a contracting organization would earn during the month for which the advance payment is issued, and a partial advance is 50 percent of that same amount.

**Affiliated Facility** – A facility that is part of the same legal entity as the sponsoring organization.

**Aggregate** – The whole sum or amount (i.e. the total meal count by types for any day).

**Agreement** – An understanding between two or more parties that is duly executed and legally binding.

**Alternate Form** – A form developed by an entity other than HHSC to be used in place of an HHSC form.

**Annually** – Once during each Program Year.

**Appeal** – The fair hearing provided upon request to:

a) A contracting organization that has been given notice by the HHSC of any action or proposed action that will affect the contracting organization’s participation or reimbursement under the Program; and
b) A principal or individual responsible for a contracting organization’s serious deficiency after the responsible principal or responsible individual has been given a notice of intent to disqualify them from the Program.

**Block Claim** – A claim for reimbursement submitted by a facility in which the number of meals claimed for one or more meal type (breakfast, lunch, snack, or supper) is identical for 15 consecutive days within a claiming period. In Texas, facilities do not submit a “claim” to their sponsoring organization. Instead, they submit documentation of their meal counts. This documentation is considered a claim.

**Business Related Offense** – A business related offense includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.

**CACFP** – The Child and Adult Care Food Program.

**Center** – An adult day care center.

**Claiming Percentage** – The ratio of the number of enrolled adults in each eligibility category (free, reduced-price or paid) to the total of enrolled adults in the center or facility.

**Commodities** – Foods donated by the United States Department of Agriculture (USDA).

**Complete Monitoring Review** – A monitoring review that covers all the requirements on Form H1602, *Monitor Review*.

**Contract** – A binding agreement where there is an “exchange of legal consideration” (i.e., legally enforceable).

**Contracting Organization** – A sponsoring organization or an independent center that enters into an agreement with the HHSC to assume final administrative and financial responsibility for Program operations.

**Contractor** – See “Contracting Organization” as defined in this policy alert.

**Current Income** – Income received during the month prior to application for free or reduced-price meals. If such income does not accurately reflect the household's annual income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

**Days** – Calendar days unless otherwise specified.
Disqualified – The status of a contracting organization or responsible principal or responsible individual that was declared seriously deficient and placed on the National Disqualified List.

Edit Check – A method of comparing information on a claim to other available information to determine the validity of the claim.

Enrolled Participant – An “Adult Participant” (excluding institutionalized individuals) for whom a signed document has been submitted indicating that the adult is enrolled for day care.

Expendable Equipment – All equipment, other than nonexpendable equipment, with a useful life of less than one year.

Facility – A sponsored affiliated or unaffiliated adult day care center.

Facility Profile – The criteria established by the sponsoring organization who has implemented monitoring review averaging to determine which facilities receive two, three, or four monitoring reviews.

Family – The adult participant, and if residing with the adult participant, the spouse and dependent(s) of the adult participant.

FDPIR Household – Any individual or group of individuals that is currently certified to receive assistance as a household under the Food Distribution Program on Indian Reservations.

Financially Viable – The new, renewing or updating contracting organization has the financial resources to meet all of the Program’s requirements.

Firm Fixed-price Contract – A contract in which the price paid to the supplier is on a lump sum or unit basis.

Fiscal Year – A period of 12 calendar months that constitutes as a contractor’s accounting year.

Five-day Reconciliation – A comparison of meal counts to enrollment and attendance records over a period of five consecutive days.

Food Component – One of the food groups that contributes to a reimbursable meal (e.g., fruit/vegetable).

Food Item – One of the food servings that contributes to a reimbursable meal (e.g., two servings of vegetables or fruits, or one of each).
Procedure continued

Food Service Management Company – An organization, other than a public or private nonprofit school, with which a contractor may sign a contract for preparing, and unless otherwise provided for, delivering meals, with or without milk, for use in the CACFP.

Food Stamp Household – Any individual or group of individuals that is currently certified to receive assistance as a household under the Food Stamp Program.

For-profit Center – An adult day care center providing nonresidential care to adults that does not qualify for tax-exempt status under the Internal Revenue Code of 1986. A for-profit center serving adults must meet the definition of adult day care center as defined in this policy alert and, during the calendar month preceding initial application or reapplication, the center receives compensation from amounts granted to the States under title XIX or title XX and twenty-five percent of the adults enrolled in care are beneficiaries of title XIX, title XX, or a combination of titles XIX and XX of the Social Security Act.

Free Meal – A meal served under the Program to an adult participant who is automatically eligible for free meals by virtue of food stamp or FDPIR recipiency or is a SSI or Medicaid participant.

Frontloading – Conducting a majority of monitoring reviews early in the Program Year.

Functionally Impaired Adult – Chronically impaired disabled persons 18 years of age or older, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, who are physically or mentally impaired to the extent that their capacity for independence and their ability to carry out activities of daily living is markedly limited. Activities of daily living include, but are not limited to, adaptive activities such as cleaning, shopping, cooking, taking public transportation, maintaining a residence, caring appropriately for one's grooming or hygiene, using telephones and directories, or using a post office. Marked limitations refer to the severity of impairment, and not the number of limited activities, and occur when the degree of limitation is such as to seriously interfere with the ability to function independently.

Group Living Arrangement – Residential communities which may or may not be subsidized by federal, State or local funds but which are private residences housing an individual or a group of individuals who are primarily responsible for their own care and who maintain a presence in the community but who may receive on-site monitoring.

Hearings Official – The independent and impartial official who conducts the hearing.

HHSC – The Texas Health and Human Services Commission.
Historically Underutilized Business – Any legal entity, including a corporation, sole proprietorship, or joint venture that is formed for the purpose of making a profit and in which at least 51 percent of all ownership interest in the entity is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including African Americans, Hispanic Americans, Native (Indian) Americans, and women. In addition to 51 percent ownership, individuals who are members of at least one of the above groups must have a proportionate interest and demonstrate active participation in the control, operation, and management of the entity’s affairs.

Household – Means “family” as defined in this policy alert.

Income Standards – The family size and income standards prescribed annually by USDA for determining eligibility for free and reduced-price meals under the National School Lunch Program and the School Breakfast Program.

Income to the Program – Any funds used in a contracting organization’s food service except Program payments. Examples include, but are not limited to, funds from other government sources, income from food sales to adults, cash donations, and grants from organizations or individuals.

Independent Center – An adult day care center that enters into an agreement with the HHSC to assume final administrative and financial responsibility for operating the Program.

Institution – A sponsoring organization or adult day care center, which enters into an agreement with HHSC to assume final administrative and financial responsibility for Program operations.

Internal Controls – The policies, procedures, and organizational structure of a contracting organization designed to reasonably assure that:

a) The Program achieves its intended result;

b) Program resources are used in a manner that protects against fraud, abuse, and mismanagement and in accordance with law, regulations, and guidance; and

c) Timely and reliable Program information is obtained, maintained, reported, and used for decision-making.

Key Activities – Essential CACFP activities, as defined by Special Nutrition Programs (SNP), performed to meet the requirements of the Program.

Lactose Intolerance – A term used to describe the inability to digest or absorb lactose, a type of sugar found in milk and milk foods.

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**Legitimate Block Claim** – A block claim that is an accurate meal count.

**Meals** – Food that is served to enrolled adult participants at a center or facility and which meets Program requirements.

**Medicaid** – Title XIX of the Social Security Act.

**Medicaid Recipient** – An adult participant who receives assistance under title XIX of the Social Security Act, the Grant to States for Medical Assistance Programs - Medicaid.

**Milk** – Pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

**Monitoring Review Averaging** – Conducting the same total number of annual monitoring reviews (three times the number of sponsored facilities) by reviewing some facilities twice a year and other facilities three or more times per year.

**Monitoring Review Cycle** – How often facilities must be reviewed.

**National Disqualified List** – The list, maintained by USDA, of contracting organizations, responsible principals and responsible individuals disqualified from participation in the Program.

**New Center** – An approved center that has not begun participation in the Program either under a sponsoring organization or as an independent center.

**Nonexpendable Equipment** – All equipment with a useful life of more than one year.

**Nonpricing Program** – A contracting organization in which there is no separate identifiable charge made for meals served to participants.

**Nonprofit Food Service** – All food service operations conducted by the contracting organization principally for the benefit of enrolled adult participants, from which all of the Program reimbursement funds are used solely for the operations or improvement of such food service.

**Nonresidential** – The same participants are not maintained in care for more than 24 hours on a regular basis.
Nonresidential Facility – A facility that does not keep the same participants for more than 24 hours on a regular basis. **Note:** In certain situations, when overnight care is occasionally provided, a center may be eligible for Program participation if the primary purpose of the center is to provide nonresidential care. Such centers must be licensed to provide overnight care, in addition to being licensed to provide nonresidential care.


Operating Costs – Expenses incurred by a contracting organization in serving meals to adult participants under the Program.

Participants – See “Adult Participants” as defined in this policy alert.

Participating Center – A center that claims meals for a given month is considered to be “participating in the Program for the claim month”.

Participating Facility – A facility that claims meals for a given month is considered to be “participating in the Program for the claim month”, and can be included in the sponsor’s claim for reimbursement.

Personal Property – Property of any kind except real property. It may be tangible (having physical existence such as fax machines, printers, copiers) or intangible (having no physical existence such as patents, inventions, and copyrights).

Potential Contractor – A sponsoring organization or independent center applying to participate in the Program for the first time or applying to participate in the Program after a lapse in participation.

Pricing Program – A contracting organization in which a separate identifiable charge is made for meals served to participants.

Principal – Any individual who holds a management position within, or is an officer of, a contracting organization, including all members of the contracting organization's board of directors.

Private, Nonprofit Organization – A private organization that is tax-exempt under the Internal Revenue Code of 1990.

Procurement – An orderly process of acquiring food, meals, equipment, other goods, and services whether by lease or purchase.

Program – The Child and Adult Care Food Program authorized by section 17 of the National School Lunch Act, as amended.

continued
Procedure continued

**Program Payments** – Financial assistance in the form of advance payments or reimbursement paid or payable to contracting organizations for operating costs and administrative costs.

**Program Year (PY)** – A period of 12 calendar months beginning October 1 of any year and ending September 30 of the following year.

**Proprietary Title XIX Center** – Any private, for-profit center providing non-residential adult day care services for which it receives compensation under Title XIX of the Social Security Act, and in which at least 25 percent of all enrolled participants received Title XIX/Title XX benefits during the calendar month preceding initial application or annual reapplication for Program participation.

**Proprietary Title XX Center** – Any private, for-profit center providing non-residential adult day care services for which it receives compensation under Title XX of the Social Security Act, and in which at least 25 percent of all enrolled participants received Title XIX/Title XX benefits during the calendar month preceding initial application or annual reapplication for Program participation.

**Publicly Funded Program** – Any program or grant funded by public funds included, but not limited to, federal, state, or local government funds.

**Reduced-price Meal** – A meal served under the Program to an adult participant from a family that meets the income standards for reduced-price school meals.

**Reimbursement** – Federal financial assistance paid or payable to contracting organizations for Program costs within the rates assigned by the HHSC.

**Renewing Contractor** – A sponsoring organization or independent center that is participating in the Program at the time it submits a renewal application.

**Responsible Principal or Responsible Individual** –

a) A principal, whether compensated or uncompensated, who HHSC or USDA determines to be responsible for a contracting organization's serious deficiency;

b) Any other individual employed by, or under contract with, a contracting organization, who HHSC or USDA determines to be responsible for the serious deficiency; or

c) An uncompensated individual who HHSC or USDA determines to be responsible for a contracting organization's serious deficiency.

continued
SSI Participant – An adult participant who receives assistance under title XVI of the Social Security Act, the Supplemental Security Income (SSI) for the Aged, Blind and Disabled Program.

Seriously Deficient – The status of a contracting organization that has been determined to be non-compliant in one or more aspects of its operation of the Program.

Sponsoring Organization (Sponsor) – a public or nonprofit private organization which is entirely responsible for the administration of the food program in:
   a) One or more day care homes.
   b) A child care center, outside-school-hours care center, at-risk afterschool snack program care center, or adult day care center, which is a legally distinct entity (i.e., unaffiliated) from the Sponsoring Organization.
   c) Two or more child care centers, outside-school-hours care centers, at-risk afterschool snack program care centers, or adult day care centers.
   d) Any combination of child care centers, adult day care centers, day care homes, outside-school-hours care centers, and at-risk afterschool snack program care centers.

The term “Sponsoring Organization” also includes a for-profit center that is entirely responsible for administration of the Program in any combination of two or more child care centers, outside-school-hours care centers, at-risk afterschool snack program care centers, or adult day care centers provided that the centers are part of the same legal entity (i.e., affiliated) as the Sponsoring Organization.

State Agency – The Texas Health and Human Services Commission (HHSC).

Termination by Mutual Consent – The termination of a contracting organization’s Program agreement by either the contracting organization or HHSC due to considerations unrelated to either party’s performance of Program responsibilities under the agreement.

Termination for Cause – The termination of a contracting organization’s Program agreement by HHSC due to a determination of serious deficiency in the organization’s operation of the Program.

Title XVI – Title XVI of the Social Security Act that authorizes the Supplemental Security Income for the Aged, Blind, and Disabled Program - SSI.

Title XIX – Title XIX of the Social Security Act that authorizes the Grants to States for Medical Assistance Programs - Medicaid.

Title XX – Title XX of the Social Security Act.

Unaffiliated Facility – A legally distinct entity from the sponsoring organization.
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<td><strong>Unsubstantiated Block Claim</strong> – A block claim that does not have the documentation to verify that the block claim is valid.</td>
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<td><strong>USDA</strong> – The United States Department of Agriculture.</td>
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<td><strong>Verification</strong> – A review of the information reported by the contracting organizations to the HHSC regarding the eligibility of participants for free or reduced-price meals.</td>
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