## Minnesota Department of



# Food and Nutrition Service Memorandums on Definition of Provider's Own Children

This document contains the following current memorandums about restrictions on claiming Child and Adult Care Food Program reimbursement for meals served to a provider's own children.

Date	Memo	Subject(s)
March	View memo on Provider's	Definition of provider's own children; children of co-
2009	Own Children (includes	providers; children of assistants or helpers.
	text of USDA email	
	clarifications).	
October	View memo on Definition	General restrictions on program participation by
1990	of Provider's Own Child.	residential and "provider's own" children.

The following FNS memos or messages are no longer in effect and have been archived:

<sup>&</sup>quot;Definition of Provider's Own Children," July 2008 (email).

<sup>&</sup>quot;Eligibility for Children of Providers and Assistants," June 2008.

<sup>&</sup>quot;Meals Served to Providers' and Assistants' Own Children," September 2003.

<sup>&</sup>quot;Residential Children and Provider's Own Children," Memorandum T, September 1993.

<sup>&</sup>quot;Definition of Provider's Own Children," Memorandum A, November 1990.

### Minnesota Department of



To: Sponsors of Child and Adult Care Food Program – Homes

From: Joseph Lee, Policy Coordinator

Food and Nutrition Service

Minnesota Department of Education

Date: March 16, 2009

Subject: Provider's Own Children

The U.S. Department of Agriculture (USDA) clarifications regarding program participation by "provider's own children" that were received in June 2008 and February 2009 are provided below. As stated in the February 2009 USDA message quoted below, the limitations on program participation by provider's own children apply to "any children who live with the provider as part of the same economic unit." The definition of provider's own children is not limited to children who live in the home where the child care services are provided, as stated in the July 2008 e-mail on this subject.

If you have any questions about this information, contact the Minnesota Department of Education Food and Nutrition Service at 651-582-8526, 800-366-8922, or e-mail to mde.fns@state.mn.us.

#### Text of February 2009 USDA message:

The regulations allow reimbursement for meals served to the provider's own children if the children are enrolled in the program, enrolled nonresident children are present and participating in the program, and the children are eligible for free or reduced-price meals [7 CFR 226.18(e)]. The term "provider's own children" refers to any children who live with the provider as part of the same economic unit.

Please note that there can be variations in titles of those who are involved in childcare. Examples include, but are not limited to, "co-provider," "assistant," "helper," "teacher," or "aide." However, for our purposes, the provider is the caregiver that is a party to an agreement with a sponsor to provide meals under CACFP. Therefore, only those children who are part of the same economic unit as the provider are considered the provider's own children. Where two caregivers have entered into an agreement to participate in the program, each is considered a provider.

In this case, you indicated to us by phone that both providers are licensed and have entered into a CACFP agreement and that this situation is common in their State. Therefore, both caregivers would be considered providers and the meals served to their children would be reimbursable only if each provider is income eligible and other children, who are not the other provider's children, are present.

In those States where only one provider at a time may be licensed and enter into a CACFP agreement, the co-provider who is not a party to the agreement is no different than an employee reporting to work for any other employer. In that case, the child of an assistant or co-provider would be considered a nonresident child

enrolled in care at the day care home and meals served when those children are present would be reimbursable assuming the other requirements are met.

#### Text of June 2008 USDA message:

The national office recently received some correspondence on the issue of eligibility for children of hired assistant's in a family day care home. In the past, policy may have been interpreted in a way that treated children of hired assistant's in the same manner as a "provider's own" children. However, given the definition of provider's own children and the specific regulations currently in affect, the following response to the inquiry was made.

A family day care provider offers non-residential child care services out of her home. The group of related or nonrelated individuals that is living as one economic unit with the provider in the provider's home would be considered a family. The term "provider's own children" refers to any children who reside in the household, such as provider's own children by birth or adoption, grandchildren, or housemates' children, who are part of the economic unit.

The arrival of an assistant to the provider's home is no different than an employee reporting to any other worksite. The assistant's child is no more the "provider's own" than any other child in care. For that reason, the child of an assistant should be claimed as non-resident when the child is enrolled in care at the day care home and should be claimed in the appropriate category based upon the Tiering status of the home. If the day care home provider is Tier I eligible, then the assistant's child would be eligible to reimbursement at the Tier I rate. If the provider is Tier II, then the assistant, like any other parent, would need to complete an income eligibility form to determine eligibility.

Conversely, if the assistant caregiver is in fact a member of the household, assuming the role of assistant caregiver doesn't change that status. For example, as a day care home provider, I can't "hire" my husband (daughter, "life partner", roommate, etc) as an assistant caregiver for an hour a day to avoid considering his/her salary in determining household income for tiering purposes.



#### **United States Department of Agriculture**

Food and Nutrition Service Midwest Region

MWCN 202: CC2 October 22, 1990

FY 1991 Child and Adult Care Food Program Policy Memorandum 1- Definition of Provider's Own Child

State Directors Child Nutrition Programs

Section 17 of the National School Lunch act limits participation in the Child and Adult Care Food Program (CACFP) to nonresidential institutions providing day care. While this provision clearly excludes residential institutions from the CACFP, it does not address the receipt of benefits by children who may for various reasons be in residence at child care facilities which are nonresidential in character and are, therefore, participating in the CACFP. We believe, based on the Congressional intent that the CACFP should serve only nonresidential care situations that children in residence with their child care provider are not eligible to receive CACFP benefits.

One exception is a foster child who may be in residence with a provider. A foster child is a ward of a court or welfare agency, who has been placed in residence in a private household. Since the court or welfare agency retains legal responsibility for such a child, the foster home is an extension of that agency and a foster child is considered a household of one eligible for CACFP benefits.

Also excepted are children of a family day care home provider (termed "provider's own children"), who may, by law, receive CACFP meal benefits if the provider's household qualifies for free or reduced price meals. Defining "provider's own child" for purposes of Program eligibility is the subject of this memorandum.

Several provisions of Public Law 101-147 are clearly directed at expanding Program participation in low-income areas. Informal extended family situations frequently exist in low-income households, and it would be contrary to the spirit of the law to exclude from the Program children living with grandparents or other non-parental family members. Therefore, the definition of "provider's own children," for purposes of receipt of CACFP benefits, is all residential children in the household who are part of the economic unit of the family.

As in the school nutrition programs, for purposes of the CACFP a family is defined as a group of related or unrelated individuals who are not residents of an institution or boarding house, but who are living as one economic unit. An economic unit is a group of related or unrelated people who share housing and all significant income and expenses.

Children whose parents or guardians have made a contractual agreement, whether formal or informal, with a provider for residential child care, and whose relationship with the provider is defined primarily by the child care situation, are not considered the "provider's own".

We would also like to clarify that at least one nonresidential child must be receiving care by a provider in order for the provider to qualify as a family dare care home for CACFP eligibility purposes. Furthermore, in order for a provider's child's meal to be reimbursable under the Program, a nonresidential child must be in attendance and participating in the same meal service

If you have any questions regarding this policy, please contact my CACFP staff.

Theresa E. Bowman Regional Director

Child Nutrition Programs

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