

Food and Nutrition Service, USDA

§ 220.9

Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Breakfasts are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) 4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 0 to 3 tablespoons of iron-fortified dry infant cereal.

(iii) *8 through 11 months.* Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required.

(A) 6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 2 to 4 tablespoons of iron-fortified dry infant cereal; and

(C) 1 to 4 tablespoons of fruit or vegetable.

(5) *Infant meal pattern table.* The minimum amounts of food components to serve to infants, as described in paragraph (j)(4) of this section, are:

BREAKFAST PATTERN FOR INFANTS

Birth through 3 months	4 through 7 months	8 through 11 months
4-6 fluid ounces of formula ¹ or breastmilk ^{2,3} .	4-8 fluid ounces of formula ¹ or breastmilk ^{2,3} ; and, 0-3 tablespoons of infant cereal ^{1,4} .	6-8 fluid ounces of formula ¹ or breastmilk ^{2,3} ; and 2-4 tablespoons of infant cereal ¹ ; and 1-4 tablespoons of fruit or vegetable or both.

¹ Infant formula and dry infant cereal must be iron-fortified.

² Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.

³ For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.

⁴ A serving of this component is required only when the infant is developmentally ready to accept it.

(k) *What about serving additional foods?* Schools may offer additional foods with breakfasts to children over one year of age.

(1) *Must schools offer choices at breakfast?* FNS encourages schools to offer children a selection of foods and menu items at breakfast. Choices provide variety and encourage consumption. Schools may offer choices of reimbursable breakfasts or foods within a reimbursable breakfast. When a school offers a selection of more than one type

of breakfast or when it offers a variety of food components, menu items or foods and milk for choice as a reimbursable breakfast, the school must offer all children the same selection(s) regardless of whether the child is eligible for free or reduced price breakfasts or must pay the designated full price. The school may establish different unit prices for each type of breakfast offered provided that the benefits made available to children eligible for free or reduced price breakfasts are not affected.

(m) *What must schools do about nutrition disclosure?* To the extent that school food authorities identify foods in a menu, or on the serving line or through other available means of communicating with program participants, school food authorities must identify products or dishes containing more than 30 parts fully hydrated alternate protein products (as specified in appendix A of this part) to less than 70 parts beef, pork, poultry or seafood on an uncooked basis, in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. Additionally, FNS encourages schools to inform the students, parents, and the public about efforts they are making to meet the nutrition standards (see paragraph (a) of this section) for school breakfasts.

[65 FR 26923, May 9, 2000, as amended at 65 FR 36317, June 8, 2000; 67 FR 36785, May 28, 2002]

§ 220.9 Reimbursement payments.

(a) State agencies, or FNSRO's where applicable, shall make reimbursement payments to schools only in connection with breakfasts meeting the requirements of § 220.8, and reported in accordance with § 220.11(b) of this part. School Food Authorities shall plan for and prepare breakfasts on the basis of participation trends, with the objective of providing one breakfast per child per day. Production and participation records shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of breakfasts needed and to reduce the resultant waste, any excess breakfasts that are prepared may be

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served to eligible children and may be claimed for reimbursement unless the State agency, or FNSRO where applicable, determines that the School Food Authority has failed to plan and prepare breakfasts with the objective of providing one breakfast per child per day. In no event shall the School Food Authority claim reimbursement for free and reduced price breakfasts in excess of the number of children approved for free and reduced price meals.

(b) The rates of reimbursement for breakfasts served to eligible children in schools not in severe need are the applicable national average payment factors for breakfasts. The maximum rates of reimbursement for breakfasts served to eligible children in schools determined to be in severe need are those prescribed by the Secretary. National average payment factors and maximum rates of reimbursement for the School Breakfast Program shall be prescribed annually by the Secretary in the FEDERAL REGISTER.

(c) The total reimbursement for breakfasts served to eligible children in, (1) schools not in severe need, and (2) severe need schools in State's with State Breakfast mandates as provided for in §220.9(e)(3) (i) and (ii) in any School Food Authority during the school year shall not exceed the sum of the products obtained by multiplying the total numbers of such free, reduced price and paid breakfasts, respectively, by the applicable rate of reimbursement for each type of breakfast as prescribed for the school year.

(d) For any school year, severe need reimbursement payments to any School Food Authority except as provided for in paragraph (c) of this section shall be the lesser of: (1) The cost of providing free and reduced price breakfast to eligible children in schools determined to be in severe need, less the reduced price payments received by such schools; or (2) the number of free and the number of reduced price breakfasts, respectively, that are served to eligible children in schools determined to be in severe need, multiplied by the applicable severe need reimbursement rates for such breakfasts.

(e) *Severe need schools.* The State agency, or FNSRO where applicable,

shall determine whether a school is in severe need based on the following eligibility criteria: (1) The reimbursement rate per meal established by the Secretary is insufficient to cover the costs of the school's breakfast program; (2) the school is participating in or desiring to initiate a breakfast program; and (3) 40 percent or more of the lunches served to students at the school in the second preceding school year were served free or at a reduced price. In addition, schools which are required by State law to serve breakfasts and which fail to satisfy the required 40 percent eligibility criteria are eligible for severe need reimbursement rates only for the following limited time periods:

(i) In States where the State legislature meets annually, the schools may receive severe need reimbursement rates until July 1, 1983; and (ii) in States where the State legislature meets biennially, the schools may receive severe need reimbursement rates until July 1, 1984. State agencies shall maintain on file, and have available for review and audits, their eligibility criteria for determining the severe need of schools and the source of the data to be used in making individual determinations. The State agency, or FNSRO where applicable, shall be responsible for establishing systems for determining breakfast costs where such costs are necessary to the determination of whether or not a school is in severe need.

(Sec. 6, Pub. L. 95-627, 92 Stat. 3620 (42 U.S.C. 1776; secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1753, 1759(a), 1758, 1773; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 and 1757); 44 U.S.C. 3506))

[Amdt. 25, 41 FR 34760, Aug. 17, 1976, as amended by Amdt. 29, 44 FR 48159, Aug. 17, 1979; Amdt. No. 38, 46 FR 50928, Oct. 16, 1981; 46 FR 51368, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982; 47 FR 31375, July 20, 1982; 48 FR 40196, 40197, Sept. 6, 1983; 60 FR 31222, June 13, 1995; 65 FR 26923, May 9, 2000]

§ 220.10 Effective date for reimbursement.

Reimbursement payments under the School Breakfast Program may be made only to School Food Authorities operating under an agreement with the State Agency or the Department, and may be made only after execution of