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§ 247.20 Program violations.

(a) *What are program violations in CSFP?* Program violations are actions taken by CSFP applicants or participants, or the parents or caretakers of applicants or participants, to obtain or use CSFP benefits improperly. Program violations include the following actions:

- (1) Intentionally making false or misleading statements, orally or in writing;
- (2) Intentionally withholding information pertaining to eligibility in CSFP;
- (3) Selling commodities obtained in the program, or exchanging them for non-food items;
- (4) Physical abuse, or threat of physical abuse, of program staff; or
- (5) Committing dual participation.

(b) *What are the penalties for committing program violations?* If applicants or participants, or the parents or caretakers of applicants or participants, commit program violations, the State agency may require local agencies to disqualify the applicants or participants for a period of up to one year. However, if the local agency determines that disqualification would result in a serious health risk, the disqualification may be waived. For program violations that involve fraud, the State agency must require local agencies to disqualify the participant from CSFP for a period of up to one year, unless the local agency determines that disqualification would result in a serious health risk. The State agency must require local agencies to permanently disqualify a participant who commits three program violations that involve fraud. For purposes of this program, fraud includes:

- (1) Intentionally making false or misleading statements to obtain CSFP commodities;
- (2) Intentionally withholding information to obtain CSFP commodities; or
- (3) Selling CSFP commodities, or exchanging them for non-food items.

(c) *What must the local agency do to notify the individual of disqualification from CSFP?* The local agency must provide the individual with written notification of disqualification from CSFP at least 15 days before the effective

date of disqualification. The notification must include the effective date and period of disqualification, the reason for the disqualification, and a statement that the individual may appeal the disqualification through the fair hearing process, in accordance with § 247.33(a).

§ 247.21 Caseload assignment.

(a) *How does FNS assign caseload to State agencies?* Each year, FNS assigns a caseload to each State agency to allow persons meeting the eligibility criteria listed under § 247.9 to participate in the program, up to the caseload limit. To the extent that resources are available, FNS assigns caseload to State agencies in the following order:

(1) *Base caseload.* The State agency may not receive base caseload in excess of its total caseload assigned for the previous caseload cycle. Base caseload is determined in the following manner:

(i) Each State agency entering its second year of program participation receives base caseload equal to the amount assigned to it in its first year of participation; and

(ii) A State agency that has participated in two or more caseload cycles receives base caseload equal to the highest of:

(A) Average monthly participation for the previous fiscal year; or

(B) Average monthly participation for the last quarter of the previous fiscal year; or

(C) Participation during September of the previous fiscal year, but only if:

(1) The full-year appropriation for the preceding fiscal year was enacted on or after February 15; and

(2) The State agency received additional caseload equal to or greater than 10 percent of its base caseload in the previous caseload cycle; and

(3) October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

(2) *Additional caseload.* Each participating State agency may request additional caseload to increase service to women, infants, and children, and the elderly. Requests by State agencies to increase service to women, infants, and children receive priority over requests

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to increase service to the elderly. Eligibility for and assignment of additional caseload are determined in the following manner:

(i) A State agency entering its second year of program participation qualifies to receive additional caseload if the State achieved a participation level which was equal to or greater than 95 percent of assigned caseload for the previous caseload cycle, based on the highest of:

(A) Average monthly participation for the previous fiscal year; or

(B) Average monthly participation for the last quarter of the previous fiscal year; or

(C) Participation during September of the previous fiscal year, but only if:

(1) The full-year appropriation for the preceding fiscal year was enacted on or after February 15; and

(2) October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

(ii) A State agency that has participated in two or more caseload cycles qualifies to receive additional caseload if the State achieved a participation level which was equal to or greater than 95 percent of assigned caseload for the previous caseload cycle, based on the highest of:

(A) Average monthly participation for the previous fiscal year; or

(B) Average monthly participation for the last quarter of the previous fiscal year; or

(C) Participation during September of the previous fiscal year, but only if:

(1) The full-year appropriation for the preceding fiscal year was enacted on or after February 15; and

(2) The State agency received additional caseload equal to or greater than 10 percent of its base caseload in the previous caseload cycle; and

(3) October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

(iii) Of each eligible State agency's request for additional caseload, FNS assigns an amount that it determines the State needs and can efficiently utilize. In making this determination, FNS considers the factors listed below, in descending order of importance. If

all reasonable requests for additional caseload cannot be met, FNS assigns it to those States that are most likely to utilize it. The factors are:

(A) Program participation of women, infants, and children, and the elderly in the State, in the previous fiscal year;

(B) The percentage of caseload utilized by the State in the previous fiscal year;

(C) Program participation trends in the State in previous fiscal years; and

(D) Other information provided by the State agency in support of the request.

(3) *New caseload.* Each State agency requesting to begin participation in the program, and with an approved State Plan, may receive caseload to serve women, infants, and children, and the elderly, as requested in the State Plan. State agency requests to initiate service to women, infants, and children receive priority over requests to initiate service to the elderly. Of the State agency's caseload request, FNS assigns caseload in an amount that it determines the State needs and can efficiently utilize. This determination is made based on information contained in the State Plan and on other relevant information. However, if all caseload requests cannot be met, FNS will assign caseload to those States that are most likely to utilize it.

(b) *When does FNS assign caseload to State agencies?* FNS must assign caseload to State agencies by December 31 of each year, or within 30 days after enactment of appropriations legislation covering the full fiscal year, whichever comes later. Caseload assignments for the previous caseload cycle will remain in effect, subject to the availability of sufficient funding, until caseload assignments are made for the current caseload cycle.

(c) *How do State agencies request additional caseload for the next caseload cycle?* In accordance with §247.6(d), a State agency that would like additional caseload for the next caseload cycle (beginning the following January 1) must submit a request for additional caseload by November 5, as an amendment to the State Plan. The State agency must also describe plans for serving women, infants, and children,

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and the elderly, at new sites in this submission.

§ 247.22 Allocation and disbursement of administrative funds to State agencies.

(a) *What must State agencies do to be eligible to receive administrative funds?* In order to receive administrative funds, the State agency must have signed an agreement with FNS to operate the program, in accordance with § 247.4(a)(1), and must have an approved State Plan.

(b) *How does FNS allocate administrative funds to State agencies?* (1) As required by law, each fiscal year FNS allocates to each State agency an administrative grant per assigned caseload slot, adjusted each year for inflation.

(2) For fiscal year 2003, the amount of the grant per assigned caseload slot was equal to the per-caseload slot amount provided in fiscal year 2001, adjusted by the percentage change between:

(i) The value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

(ii) The value of that index for the 12-month period ending June 30, 2002.

(3) For subsequent fiscal years, the amount of the grant per assigned caseload slot is equal to the amount of the grant per assigned caseload slot for the preceding fiscal year, adjusted by the percentage change between:

(i) The value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(ii) The value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(c) *How do State agencies access administrative funds?* FNS provides administrative funds to State agencies on a quarterly basis. Such funds are provided by means of a Letter of Credit, unless other funding arrangements have been made with FNS. The State agency obtains the funds by electroni-

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cally accessing its Letter of Credit account.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.23 State provision of administrative funds to local agencies.

(a) *How much of the administrative funds must State agencies provide to local agencies for their use?* The State agency must provide to local agencies for their use all administrative funds it receives, except that the State agency may retain for its own use the amount determined by the following formula:

(1) 15 percent of the first \$50,000 received;

(2) 10 percent of the next \$100,000 received;

(3) 5 percent of the next \$250,000 received; and

(4) A maximum of \$30,000, if the administrative grant exceeds \$400,000.

(b) *May a State agency request to retain more than the amount determined by the above formula in the event of special needs?* Yes, the State agency may request approval from FNS to retain a larger amount than is allowed under the formula prescribed in paragraph (a) of this section. However, in making its request, the State agency must provide justification of the need for the larger amount at the State level, and must ensure that local agencies will not suffer undue hardship as a result of a reduction in administrative funds.

(c) *How must the State agency distribute funds among local agencies?* The State agency must distribute funds among local agencies on the basis of their respective needs, and in a manner that ensures the funds will be used to achieve program objectives.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.24 Recovery and redistribution of caseload and administrative funds.

(a) *May FNS recover and redistribute caseload and administrative funds assigned to a State agency?* Yes. FNS may recover and redistribute caseload and administrative funds assigned to a State agency during the fiscal year. FNS will redistribute these resources to other State agencies in accordance with the provisions of §§ 247.21(a) and