

SEPTEMBER 03, 1992

Implementation of P.L. 102-342 Provision on Proprietary Title XX Center Participation in the Child and Adult Care Food Program

Regional Directors  
Special Nutrition Programs  
All Regions

Section 17(a) of the National School Lunch Act (NSLA) previously allowed the participation of a proprietary Title XX child care center “if such organization receive[d] compensation under such title for at least 25 percent of the children for which the organization provides such nonresidential day care services.” Public Law 102-342, the Child Nutrition Improvement Act of 1992, enacted on August 14, 1992, amended the Title XX provision of the NSLA. The statute, as amended by Public Law 102-342, now allows the participation of a proprietary child care center if it receives compensation under Title XX “for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less.”

Proprietary center providers have long argued that the former Title XX provision did not fairly deal with the situation where centers, because of varying attendance schedules, served large numbers of Title XX children each day, but whose total enrollment, including occasional attendees, was less than the 25S required. A child enrolled in the center attending once a week would, by the old “enrollment” method, receive the same consideration toward the Title XX count as a child who attended the center everyday. The P.L. 102-342 change would allow centers with an enrollment larger than the licensed capacity to use licensed capacity as their threshold, thus qualifying for CACFP participation based on the number of Title XX children in attendance each day, rather than total enrollment.

We will be developing regulatory amendments to conform Part 226 to the statute, However, since this provision is intended to be effective with the enactment of the statutory amendment, we are issuing this memorandum to allow for the immediate implementation of this provision prior to promulgating regulations. For the same reason, we are issuing it without first taking comment from you. If you have questions and/or concerns relative to its implementation, please let us know and we will address them as they arise.

Thus, with the issuance of this memorandum, proprietary Title XX child care centers may now participate in the CACFP if at least (1) 25 percent of their enrollment or (2) 25 percent of their licensed capacity, whichever is less, receives Title XX benefits.

If you have any questions concerning this issue, please contact Susan Azeka or James O’Donnell at (703)305-2621

/ORIGINAL SIGNED/

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