

overturned by the courts on the grounds that the CACFP regulations do not specifically authorize overclaims for those reasons.

In recognition of the fact that State agencies may review an institution's performance under the CACFP as infrequently as once every four years, effective administration depends on access to complete documentation of program activities for an entire review period. Such documentation is necessary for the Department and State agencies to maintain a check on possible fraud, abuse and mismanagement in the Program. Without proper records concerning the content and number of meals served, and documentation of participants' income category, there is no evidence that such participants were fed in accordance with basic program requirements, and no assurance that program funds were spent as mandated in the law and in the regulations.

Accordingly, the Department is proposing to amend Sections 226.14(a), 226.15(e) and 226.16(e), and to add new Sections 226.17(c), 226.18(g), 226.19(c), and 226.19a(c) to the CACFP regulations to clarify that failure to adhere to CACFP recordkeeping requirements may be used as a basis for State agencies to assess overclaims against sponsors.

This rulemaking also contains a technical change to the CACFP regulations which would transfer two recordkeeping responsibilities established for sponsoring organizations from Section 226.16(e) to Section 226.15(e).

Accordingly, the Department proposes to amend Sections 226.15(e) and 226.16(e) by moving Section 226.16(e) (1)–(2) to Section 226.15(e) under redesignated paragraphs (10) and (12).

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Records, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Part 226 is proposed to be amended as follows:

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.14, the introductory text of paragraph (a) is amended by adding a new sentence after the first sentence to read as follows:

§ 226.14 Claims against institutions.

(a) * * * State agencies may consider claims for reimbursement not properly payable if an institution does not comply with the recordkeeping requirements contained in this part. * * *

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3. In § 226.15:

a. The introductory text of paragraph (e) is revised;

b. Paragraphs (e)(10), (e)(11) and (e)(12) are redesignated as paragraphs (e)(11), (e)(13) and (e)(14);

c. New paragraphs (e)(10) and (e)(12) are added;

d. Newly redesignated paragraph (e)(11) is amended by removing the word “and” at the end of the paragraph;

e. Newly redesignated paragraph (e)(13) is amended by adding the word “and” after the semicolon at the end of the paragraph; and

f. Newly redesignated paragraph (e)(14) is amended by removing the first word “Maintain” from the paragraph.

The additions and revisions specified above read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) *Recordkeeping.* Each institution shall establish procedures to collect and maintain all necessary program records. Failure to maintain such records shall be grounds for denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained:

* * * * *

(10) Information concerning the dates and amounts of disbursement to each child care facility or adult day care facility with which it has a program agreement;

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(12) Information concerning the location and dates of each child care or adult day care facility review, any problems noted, and the corrective action prescribed and effected;

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4. In § 226.16, paragraph (e) is revised to read as follows:

§ 226.16 Sponsoring organization provisions.

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(e) Each sponsoring organization shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e) and any recordkeeping requirements established by the State agency in order to justify the administrative payments made in

accordance with § 226.12(a). Failure to maintain such records shall be grounds for the denial of reimbursement for the costs associated with those records during the period covered by the records in question.

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5. In § 226.17, a new paragraph (c) is added to read as follows:

§ 226.17 Child care center provisions.

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(c) Each child care center shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.

6. In § 226.18, a new paragraph (g) is added to read as follows:

§ 226.18 Day care home provisions.

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(g) Each day care home shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question.

7. In § 226.19, a new paragraph (c) is added to read as follows:

§ 226.19 Outside-school-hours care center provisions.

* * * * *

(c) Each outside-school-hours care center shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.

8. In § 226.19a, a new paragraph (c) is added to read as follows:

§ 226.19a Adult day care center provisions.

* * * * *

(c) Each adult day care center shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section. Failure to maintain such records shall