

May 17, 2024

Navneet Kaur Sandhu
Program Integrity and Innovation Division
USDA Food and Nutrition Service
1320 Braddock Place
Alexandria, VA 22314

Dear Ms. Sandhu,

Thank you for the request for comments on the USDA Proposed Rule: Serious Deficiency Process in the CACFP and SFSP (FNS-2024-0005-0001).

Background

For over two decades, the National CACFP Sponsors Association (NCA) has advocated for improvements to the serious deficiency process in an effort to achieve due process for institutions and operators of the CACFP. Advocacy included:

- 2015 Support for the Serious Deficiency Process priorities in the USDA Report to Congress: Reducing Paperwork in the CACFP
 - Support the sponsoring organization's ability to mediate and fix problems through improvements in the serious deficiency process
 - Expand the appeals process to resolve disputes over State-specific requirements
- 2016 Comment Letter and follow-up letter
- 2019 Comment Letter

Overview

NCA appreciates the opportunity to provide feedback for the Proposed Rule: Serious Deficiency Process in the CACFP and SFSP. Prior to authoring this comment letter, NCA interviewed stakeholders in the CACFP including sponsoring organizations, State agencies and providers, met with other national and regional organizations, held several listening sessions and reviewed feedback from stakeholders. The comments that follow were made with these major goals in mind:

- 1) The new serious deficiency process is rooted in due process.
- 2) Program oversight prioritizes technical assistance and training to encourage and support operators continued participation in the program.
- 3) The preservation of meal service to children.

USDA Food and Nutrition Service's (FNS) stated purpose of the serious deficiency process:

“The serious deficiency process provides a systematic way for State agencies and sponsoring organizations to correct **serious** management problems, and when that effort fails, protect child nutrition program integrity through due process.”

While NCA agrees that the serious deficiency process can be a tool used by State agencies and sponsoring organizations to address program compliance and integrity, NCA strongly believes the serious deficiency process:

- should be used for truly serious and/or systemic management problems.
- should be applied fairly and consistently across all States.
- should NOT be used for findings resulting from inadvertent human error or unintentional administrative error, even if repeated.
- should be focused on serious mismanagement, abuse, and fraud by institutions and facilities participating in the program.
- should be limited to federal regulations only and not state-specific requirements.

Feedback obtained through NCA member surveys and interviews indicates that it takes, on average, one year to really learn the CACFP. Several studies¹ indicate the paperwork requirements alone are a barrier to CACFP participation and have increased significantly since 2010 according to stakeholders.

NCA urges FNS to continue to place an emphasis on technical assistance and training. Feedback from stakeholders mentioned the CACFP “can feel punitive” and that the current serious deficiency process specifically was lacking due process. Therefore, NCA recommends FNS provide guidance to encourage State agencies and sponsoring organizations to use continuous technical assistance to resolve findings, even if repeated. Given the complexity of the CACFP, State agencies and sponsoring organization can expect to provide ongoing technical assistance and training to support learning the CACFP and to work to address barriers, such as cultural and language differences to ensure institutions and operators gain full understanding of the requirement of the program.

¹ USDA SNACS, October 2021; *The Child and Adult Care Food Program: Barriers to Participation and Financial Implications of Underuse*, April 2022; “It Has a Lot to Do With the Cumbersome Paperwork”: *Barriers and Facilitators of Center-Based Early Care and Education Program Participation in the Child and Adult Care Food Program*, August 2023

Section II, Part A – The Child and Adult Care Food Program (CACFP)

1. The CACFP Serious Deficiency Process

Definitions

NCA supports all definitions (referenced in Appendix A) proposed in this rule with the following exceptions:

- NCA recommends adding the word “federal” to the definition of finding. i.e., **Finding** means a violation of a **federal** regulatory requirement identified during a review.
- **Corrective action** is defined in this rulemaking to mean the implementation of a solution, written in a corrective action plan, to address the root cause and prevent the recurrence of a serious management problem. NCA recommends **corrective action** should only be used during the proposed serious deficiency process and that technical assistance and training should be used in all other instances.

Sponsoring organizations report that they often use, or State agencies require the use of, corrective action plans when providing technical assistance for any findings regardless of severity. To avoid confusion, NCA recommends FNS issue guidance to State agencies to restrict corrective action plans to the Serious Deficiency Process and use other nomenclature for technical assistance.

- **Serious Management Problems** is defined as the finding(s) that relate to the institution’s inability to meet the program’s performance standards or affects the integrity of a claim for reimbursement or quality of meal served in a day care home or center. NCA recommends Serious Management Problems be defined as the finding(s) that collectively indicate the institution is unable to meet the program’s performance standards or affects the integrity of a claim for reimbursement or meal pattern in a day care home or center. NCA believes referencing the meal pattern which is in regulation is more appropriate than using “quality of meals served” which is subjective and open to interpretation.
- NCA recommends that the term “**state agency list**” be more specific as State agencies have lists for many things such as creditable grains list. An example might be the Serious Deficiency Process Tracking list.
- The following terms were not defined: **false claim and fraudulent claim**. A false claim or fraudulent claim without specific definitions will lead to confusion.

NCA recommends the following definition that is based on the definition and narrative from the Serious Deficiency handbook: **false claim**: any claim that is made fraudulently or intentionally that cannot be verified with required documentation, i.e., enrollment statements, attendance records, meal counts, menus that comply with meal pattern requirements, costs records, etc.

NCA also recommends the following definition for **fraudulent claim**: any claim based on a misrepresentation of facts with the intention of wrongfully gaining reimbursement benefits. FNS should assure that the definitions for false and fraudulent claim be rooted in intent and NOT represent claims that are a result of inadvertent human error, which should be addressed with technical assistance.

Proposed Changes in the Serious Deficiency Process in the CACFP

NCA appreciates the improved clarity and the removal of harmful status labels such as “temporarily deferred” from the process. NCA supports the ability to return to good standing quickly and to also achieve a path to full correction through the proposed serious deficiency process. However, the process is still lacking in due process for participating centers, sponsors, and other program operators.

NCA supports the proposed serious deficiency process if it includes regulations that establish:

- the intent of the process is that it is used for only serious management problems and not findings that result from inadvertent human error,
- FNS will provide guidance and oversight to assure that interpretation of the five criteria is fairly and consistently implemented across states,
- and the following due process recommendations are added:
 - NCA recommends adding the right to refute or contest the serious management problem at the point of determination.
 - NCA recommends the requirement that State agencies and sponsoring organizations provide technical assistance and feedback during the Corrective Action Plan (CAP) Process.
 - NCA recommends the right to appeal the serious deficiency determination and not just the serious deficiency process.
 - NCA requests a specific process be established to allow early removal from the NDL.

Five Criteria

NCA supports the removal of the serious deficiency list(s) and the addition of the 5 criteria which include clarifying questions, if:

- FNS requires all five criteria be used in the evaluation process to determine if findings rise to the level of serious management problems.
- FNS issues clear guidance to support consistent and fair application across all States.

NCA does NOT support the five criteria if:

- both State agencies and sponsors are allowed to evaluate findings without applying all five criteria and clarifying questions.
- FNS does not issue clear guidance to support consistent and fair application across all States.

Practical Application:

This example was provided in the proposed rule as an example of severe and systemic findings.

“For example, missing the recording of meal counts at the point of service for one day out of a month could be resolved with technical assistance. However, a second review with the same problem or an initial review with multiple days of incomplete point-of-service meal counts could rise to the level of a serious management problem.”

NCA urges FNS to use examples that contain enough information to be evaluated by all 5 criteria and clarifying questions. This example above was used specifically in the first criteria referring to whether finding(s) were systemic and severe and the following wording, “could rise”, lacks clarity. NCA strongly encourages FNS to not use examples where only one criterion is applied.

Another example outlined in the proposed rule.

“A sponsoring organization that operates a variety of community programs may be at risk of serious management problems if it has limited staffing to support program operations or is devoting too small of a share of administrative resources to CACFP. More frequent monitoring by the State agency and sponsoring organization would help improve CACFP operations by identifying and addressing these weaknesses. However, if these measures are not effective, the State agency would have to apply the serious deficiency process to require the sponsoring organization to take specific corrective actions to protect program integrity.”

In this example above, prejudice is being applied by assuming that every agency needs a certain number of staff to run the program successfully and with integrity beyond the mandated staff ratio. What the example above fails to clarify is the actual weaknesses that may or may not have resulted from limited staffing. The example must state that the sponsoring organization was not adhering to federal program regulations due to limited staffing which resulted in a serious management problem.

The Path to Full Correction

NCA supports the following review cycles on the path to full correction outlined in the proposed rule for institutions: two full reviews, occurring once every 2 years and at least 24 months apart.

FNS has included several examples, including timelines for the path to full correction. In these examples, State agency reviews and the achievement of full correction are occurring in the same month. However, State agencies report that some reviews can take up to six months, extending the timeline for full correction.

Example of a path to full correction:

Example 1 provided by FNS in the proposed rule:

June 2020 – sponsor cited for serious management problem (now subject to review every 2 years)

May 2021 – full review (no new or repeat serious management problems)

May 2023 – full review (no new or repeat serious management problems)

May 2023 - achieved full correction

NOTE: Depending on the length of the review process by the State agency, full correction might occur as late as October 2023 per the example above.

FNS also included this statement on page 8 of the proposed rule (1st column, 1st paragraph): State agencies have the discretion to conduct reviews more frequently and in these cases all reviews must result in no new or repeat serious management findings.

NCA recommends FNS never use the term serious management findings. NCA suspects this is a technical error but cautions FNS to assure that “findings” never be used to refer to “serious management problems.”

NCA supports the following process on the path to full correction:

- If the same serious management problem occurs **BEFORE** full correction is achieved, this would result in proposed termination.
- If the same serious management problem occurs **AFTER** full correction is achieved, it would NOT be considered repeat and would NOT result in proposed termination. It would instead trigger a new serious deficiency process.

NCA also supports a final rule where the intent of the following process on the path to full correction is as follows:

- If a **new** serious management problem occurs **BEFORE** full correction of its initial serious management problem is achieved, then the institution would continue to be reviewed once every two years until at least two full reviews occurring at least 24 months apart reveal no new or repeat serious management problems.

NCA interprets this to mean that while the initial serious management problem might achieve full correction, the NEW serious management problem would trigger a NEW serious deficiency process (refer to flow chart).

In addition, NCA supports this process ONLY IF this does NOT apply to findings which do not rise to the level of a serious management problem(s) that may appear during the initial path to full correction. Findings resulting from inadvertent human error should not prevent an institution or program operator from achieving full correction. These findings should be addressed with technical assistance.

Should FNS intend for finding(s) identified during the path to full correction that DO NOT rise to the level of a serious management problem also trigger the serious deficiency process to begin again, then NCA opposes this process.

Good Standing

The status of good standing impacts not only the serious deficiency process but also the frequency of oversight by State agencies and sponsoring organizations.

NCA supports the definition of good standing as defined in this proposed rule. However, NCA is concerned that no timeline has been suggested for the return to good standing during the corrective action portion of the serious deficiency process. Thus, institutions and program operators could potentially remain out of good standing well after their corrective action plans have been fully implemented if the State agency or sponsoring organization has not yet confirmed their corrective action has been fully implemented.

This example is provided in the proposed rule for an operator moving out of good standing:

- May 2022 – Sponsor reveals serious management problem that results in an overclaim; results in sponsor not being in good standing
- June 2022 – State agency conducts a follow up review and determines that the corrective action has been fully implemented and the unearned reimbursement is fully repaid; at this point, **at the State agency's discretion**, the sponsor returns to good standing. However, the serious management problem is not yet considered fully corrected.

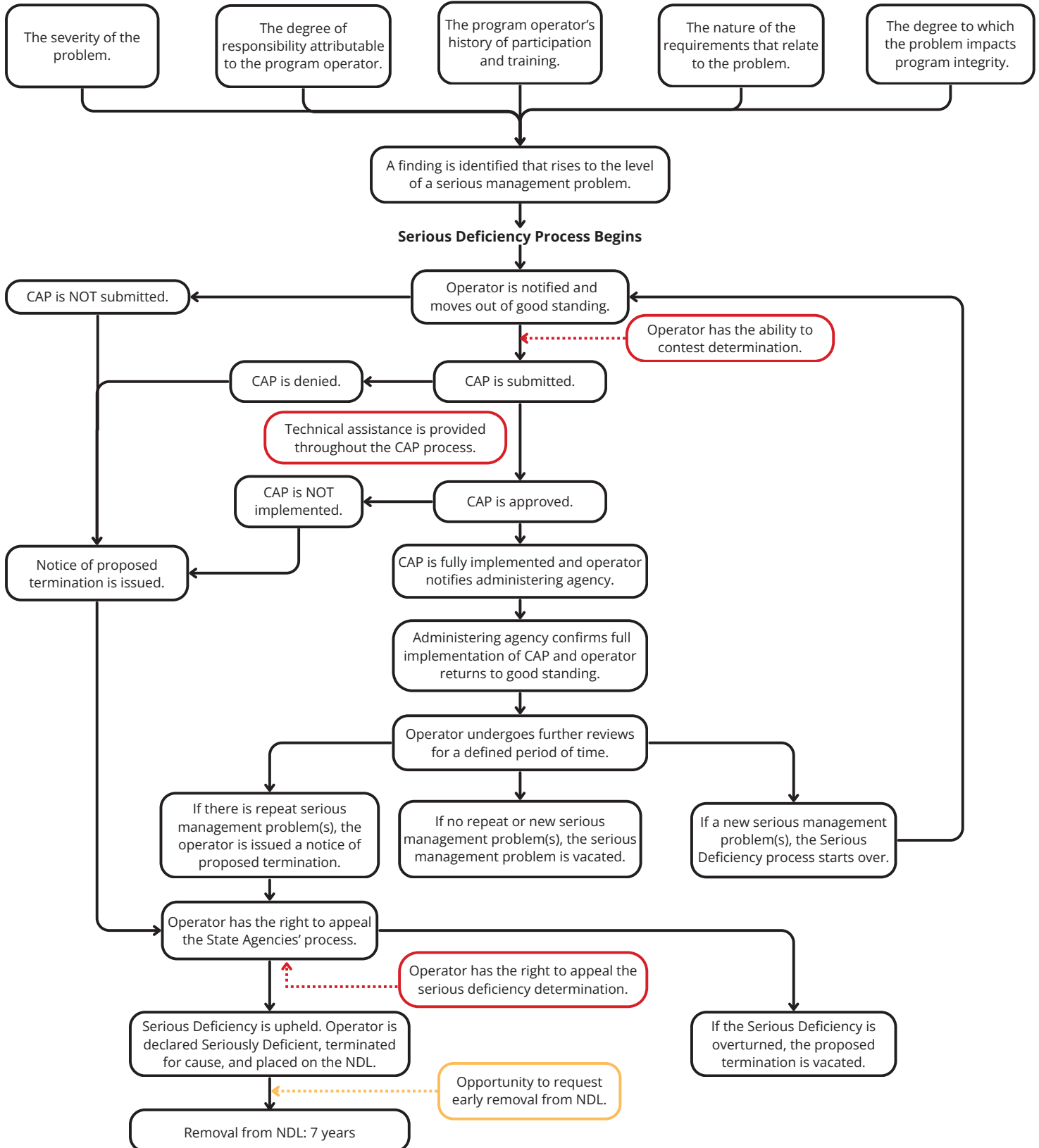
NCA strongly objects to the language “at the state agency’s discretion” above and recommends it be removed. Good standing should not be at the State agency’s discretion. The definition is clear: the status of a program operator that meets its program responsibilities, is current with its financial obligations, and if applicable, has fully implemented all corrective actions within the required time period. If an institution or a program operator has met all the aforementioned criteria they should immediately return to good standing.

NCA recommends adding timelines for the verification/ review process to determine if the corrective action has been fully implemented. Otherwise, it is possible that an institution or program operator could have potentially fully implemented their corrective action and then wait an undetermined amount of time before returning to good standing. FNS states that one of the goals of the serious deficiency process is to fully correct serious management problems as quickly as possible. This cannot happen if there is no required timeline added for verification or review that the corrective action plan has been fully implemented. Timelines are recommended below in the next two sections.

Overview of the Proposed Serious Deficiency Process with NCA Recommended Changes

The serious deficiency process can be a useful tool used by State agencies and sponsoring organizations to address program compliance and integrity, as long as it is rooted in fairness. NCA Recommended Additions are noted in **Red** boxes and NCA Recommended Codifications are noted in **Gold** boxes.

Five Criteria for Identifying a Serious Management Problem



2. Oversight and Implementation of the Serious Deficiency Process in Institutions

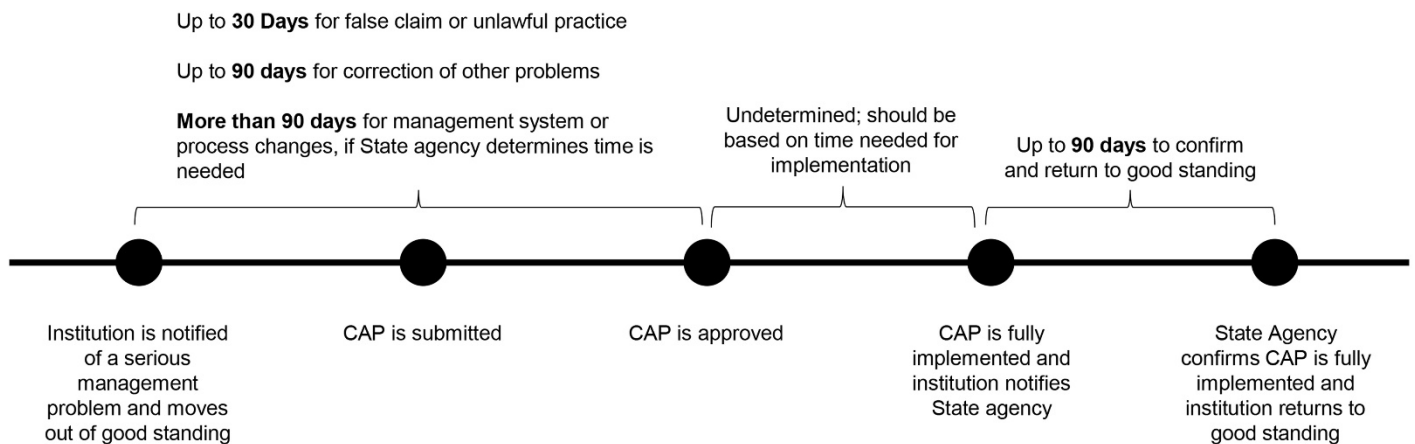
NCA supports the timelines proposed to submit and approve corrective action plans for institutions:

- up to 30 days for a false claim or unlawful practice
- up to 90 days for correction of other problems, and
- more than 90 days for management system or process changes, if the State agency determines that a longer time frame is needed.

The goal of the corrective action plan process is to fully correct as soon as possible in order to return the operator to good standing. Therefore, NCA recommends the following additions:

- the addition of technical assistance for institutions during the corrective action process.
- the addition of timelines for confirming corrective action plans have been fully implemented; once the institution has notified the State agency that they have fully implemented the corrective action plan, State agencies should confirm implementation within 90 days of this notification in order for the institution to return to good standing.

Corrective Action Plan (CAP) Process Timeline for Institutions



NCA notes that the following is mentioned in the proposed rule: “If corrective action is complete for the institution but not for all the responsible principals and responsible individuals or vice versa, proposed § 226.25(a)(6)(ii)(A)(2) addresses partial achievement of corrective action.” However, no further explanation is provided so NCA requests further clarification on an explanation of partial achievement of corrective action and also the implications of partial achievement.

Fair Hearings

Fair hearings are intended to provide due process and thus, the hearing official should be truly independent and impartial and not a person who is employed by the State agency who oversees the institution or program operator being heard.

NCA recommends the use of independent administrative law judges, such as the Office of Administrative Hearings, or a similar department to serve as the hearing official during the appeal.

NCA recommends adding the ability to appeal the serious deficiency determination, not just the serious deficiency process to the appeals process.

3. Oversight and Implementation of the Serious Deficiency Process in Day Care Homes and Unaffiliated Sponsored Centers

NCA supports the extension of the application of the serious deficiency process to unaffiliated sponsored centers.

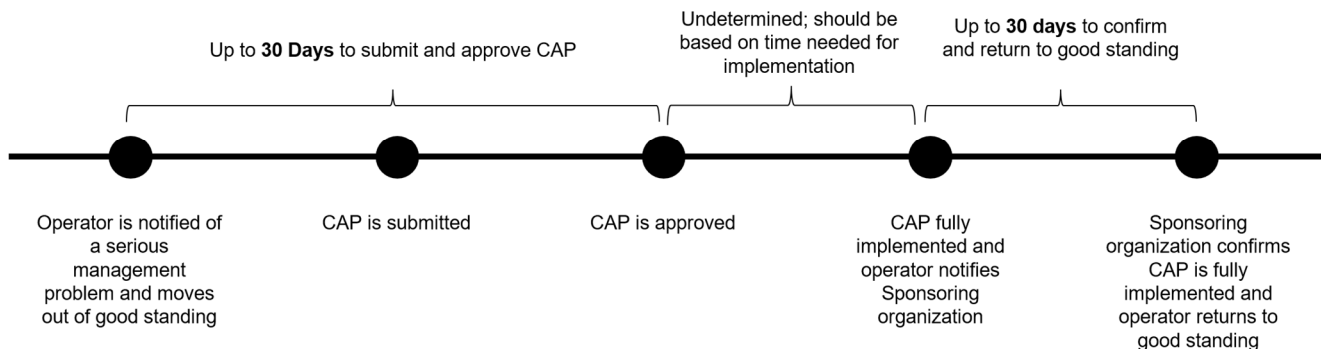
NCA supports the timelines for corrective action plans for day care homes and unaffiliated centers:

- up to 30 days to submit and approve a corrective action plan.

The goal of the corrective action plan process is to fully correct as soon as possible in order to return the operator to good standing. Therefore, NCA recommends the following additions:

- the addition of technical assistance for program operators during the corrective action process.
- the addition of timelines for confirming corrective action plans have been fully implemented; once the program operator has notified the sponsoring organization that they have fully implemented the corrective action plan, sponsoring organizations should confirm within 30 days of this notification in order for the program operator to return to good standing.

Corrective Action Plan (CAP) Process Timeline for Operators (Day Care Homes and Unaffiliated Centers)



NCA supports the path the full correction for day care homes and unaffiliated centers as described in the proposed rule.

“Full correction is achieved when, after three consecutive reviews are complete, the day care home or unaffiliated center demonstrates that it has no new or repeat serious management problems, as described in proposed § 226.25(c)(3)(ii) and (iii). After full correction is achieved, any recurrence of the same serious management problem would require the sponsoring organization to issue a new notice to restart the serious deficiency process. Serious management problems that occur after full correction is achieved would not lead to an immediate proposal of termination.”

Fair Hearings

Fair hearings are intended to provide due process and thus, the hearing official should be truly independent and impartial and not an employee of the sponsoring organization that makes the determination.

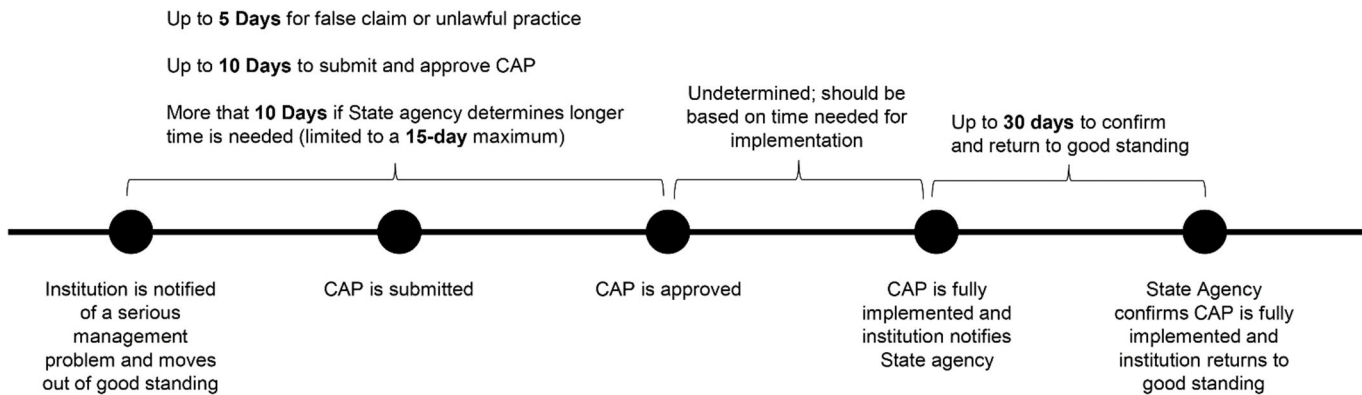
NCA recommends adding the ability to appeal the serious deficiency determination, not just the serious deficiency process to the appeals process.

Section II, Part B – Summer Food Service Program (SFSP)

NCA supports applying the proposed serious deficiency process to the SFSP.

NCA supports the timeframes for the corrective action plan for SFSP (up to 10 calendar days), however NCA requests FNS add a timeframe for confirming the full implementation of the corrective action plan.

Corrective Action Plan (CAP) Process Timeline for SFSP Institutions (SFSP sponsors)



NCA supports the timeline to full correction which is as follows:

- at least two full reviews, occurring once every year— with the first and last full review occurring at least 12 months apart— demonstrate that the sponsor has the ability to operate SFSP with no new or repeat serious management problems.

Section II, Part C – Suspension

Suspension in the CACFP

NCA supports the proposed suspension for false and fraudulent claims in the CACFP when the claim is determined to meet the definitions of false or fraudulent claims recommended by NCA.

false claim: any claim that is made fraudulently or intentionally that cannot be verified with required documentation, i.e., enrollment statements, attendance records, meal counts, menus that comply with meal pattern requirements, costs records, etc.

fraudulent claim: claim based on a misrepresentation of facts with the intention of wrongfully gaining reimbursement benefits.

NCA has concerns about the ramifications of suspension, especially since false and fraudulent claims were not defined by FNS in the proposed rule. NCA fears that claims resulting from inadvertent human error could result in suspension because of a lack of clarity provided by FNS. Furthermore, NCA is concerned that withholding payment from program operators and institutions without due process could threaten their organization / business as most operate on slim margins.

Suspension in the SFSP

NCA supports the proposed suspension for false and fraudulent claims in the SFSP for the same reasons stated above in the CACFP section and selects Option 2.

Option 2 would require the State agency to propose suspension based on a sponsor's submission of a false or fraudulent claim, at the same time that the serious deficiency process is implemented. The suspension would remain in effect until the false or fraudulent claim is corrected or a fair hearing of the suspension completed. Although there would be no formal termination of the agreement, the sponsor would not be eligible to participate in SFSP during the period of suspension. All payments of claims for reimbursement would be suspended. If a fair hearing overturns the suspension, the sponsor would be eligible for retroactive reimbursement.

Section II, Part D – Disqualification and the National Disqualified List

NCA supports the extension of termination for cause and the national disqualified list to unaffiliated centers and SFSP.

NCA supports the removal of the serious deficiency process for new applicants for both CACFP and SFSP.

Disqualification

Reciprocal Disqualification

NCA supports Option 2 and recommends this process also be applied to CACFP and SFSP institutions. NCA supports adding responsible principals and responsible individuals to the National Disqualified List, but requests that State agencies also have the discretion to determine if the CACFP or SFSP institution and sponsored facilities should not be subject to disqualification and placement on the National Disqualified List.

Option 2 would require the State agency to terminate the school food authority's agreement to operate CACFP or SFSP. In this case, the responsible principals and responsible individuals would be disqualified from program participation, placed on the National Disqualified List, and ineligible to participate in any Child Nutrition Program. However, the State agency would have discretion to disqualify and place the school food authority, itself, on the National Disqualified List. If the State agency determines that the school food authority should not be subject to disqualification and placement on the National Disqualified List, there would be no impact on the school food authority's ability to operate other Child Nutrition Programs, including the National School Lunch and School Breakfast Programs.

Section II, Part E – Multi-State Sponsoring Organizations (MSSO)

NCA does not support the MSSO provisions of the proposed rule. NCA recommends FNS not include any of the MSSO provisions in the final rule and instead conduct a request for information to receive further input regarding the MSSOs in the CACFP and SFSP.

While NCA understands the purpose of the new MSSO provisions were proposed to streamline oversight and minimize burden, NCA is concerned that the current proposal will have the opposite effect. Currently, there is no consistency across states with regard to CACFP processes and many states have implemented State-level requirements that further contribute to these inconsistencies.

NCA believes that creating a cognizant state agency will only further increase the administrative burden at the state level.

NCA requests further research on the ramifications and consequences of these proposed provisions which could negatively impact participation in the CACFP and could significantly increase the paperwork burden for MSSOs.

NCA is also concerned with the potential loss of meals to large populations of children should an MSSO become seriously deficient in one state, which could lead to the MSSO becoming seriously deficient across all states.

Additional

NCA recommends that FNS conduct an analysis of State Agency Lists and the National Disqualified list to determine the type of findings that have resulted in the application of the current serious deficiency process, as well as disqualification from the CACFP. NCA recommends that FNS conducts an additional analysis after the implementation of a final rule for serious deficiency in the CACFP and SFSP to evaluate whether the new process has ensured that only severe, systemic management problems result in the application of the serious deficiency process and mitigated any circumstances where the process would be inappropriately applied for minor findings or inadvertent human error.

Once again, we appreciate the opportunity to comment on this proposed rule and remain available to answer questions or provide further clarification of our recommendations as needed.

On behalf of the Board of Directors, and our community, thank you for your work at streamlining and improving the CACFP & SFSP.

Sincerely,



Lisa Mack
President & CEO

Appendices

Appendix A. Definitions

Definitions that will be added or replace current definitions in 7 CFR 226.2

Cognizant Regional office means the FNSRO which acts on behalf of the Department in the administration of the Program and is responsible for determining which State agency has cognizance when a multi-State sponsoring organization operates the Program.

Cognizant State agency (CSA) means the agency which is responsible for the administration of the Program in the State where a multi-State sponsoring

Contingency plan means the State agency's written process for the transfer of sponsored centers and day care homes that will help ensure that program meals for children and adult participants will continue to be available without interruption if a sponsoring organization's agreement is terminated.

Corrective action means implementation of a solution, written in a corrective action plan, to address the root cause and prevent the recurrence of a serious management problem.

Disqualified means the status of an institution, facility, responsible principal, or responsible individual who is ineligible for participation in the program.

Fair hearing means due process provided upon request to:

An institution that has been given notice by the State agency of an action that will affect participation or reimbursement under the program;

A principal or individual responsible for an institution's serious management problem and issued a notice of proposed termination and proposed disqualification from program participation; or

An individual responsible for a day care home or unaffiliated center's serious management problem and issued a notice of proposed disqualification from program participation

Finding means a violation of a regulatory requirement identified during a review.

Fiscal action means the recovery of an overpayment or claim for reimbursement that is not properly payable through direct assessment of future claims, offset of future claims, disallowance of overclaims, submission of a revised claim for reimbursement, or disallowance of funds for failure to take corrective action to meet program requirements.

Full correction means the status achieved after a corrective action plan is accepted and approved, all corrective actions are fully implemented, and no new or repeat serious management problem is identified in subsequent reviews, as described in proposed § 226.25(c).

Good standing means the status of a program operator that meets its program responsibilities, is current with its financial obligations, and if applicable, has fully implemented all corrective actions within the required period of time.

Hearing official means an individual who is responsible for conducting an impartial and fair hearing—as requested by an institution, responsible principal, or responsible individual responding to a proposal for termination—and rendering a decision.

Lack of business integrity means the conviction or concealment of a conviction for fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice.

Legal basis means the lawful authority established in statute or regulation.

National Disqualified List (NDL) means a system of records, maintained by the Department, of institutions, responsible principals, and responsible individuals disqualified from participation in the program.

Notice means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a State agency or FNS with regard to an institution's program reimbursement or participation. Notice also means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a sponsoring organization with regard to a day care home or unaffiliated center's participation.

Program operator means any entity that participates in one or more Child Nutrition Programs.

Responsible individual means any individual employed by, or under contract with an institution or facility, or any other individual, including uncompensated individuals, who the State agency or FNS determines to be responsible for an institution or facility's serious management problem.

Responsible principal means any principal, as described in this section, who the State agency or FNS determined to be responsible for an institution's serious management problem.

Review cycle means the frequency and number of required reviews of institutions and facilities

Serious Management Problems: the finding(s) that relate to the institution's inability to meet the program's performance standards or affects the integrity of a claim for reimbursement or quality of meal served in a day care home or center.

Seriously deficient means the status of an institution or facility after it is determined that full corrective action will not be achieved and termination for cause is the only appropriate course of action.

State agency list means an actual paper or electronic list, or the retrievable paper records, maintained by the State agency, that includes information on institutions and day care home providers or unaffiliated centers through the serious deficiency process in that State. The list must be made available to FNS upon request and must include information specified in proposed § 226.25(b).

Termination for cause means the termination of a program agreement due to considerations related to an institution or a facility's performance of program responsibilities under the agreement between:

- A State agency and the independent center,
- A State agency and the sponsoring organization,
- A sponsoring organization and the unaffiliated center, or
- A sponsoring organization and the day care home.

Definitions of administrative review, administrative review official, and the combined term, 'responsible principal or responsible individual' would be removed from 7 CFR 226.2.