

the program into closer conformance with WIC in the important area of program integrity. They would also help to assure that CSFP benefits are available to those that really need the assistance.

In paragraph (c), we propose to include the requirement that the State or local agency provide an individual with written notification of disqualification from CSFP at least 15 days before the effective date of the disqualification. The notification must include the effective date and period of disqualification, the reason for the disqualification, and must indicate that the individual may appeal the disqualification through the fair hearing process. This is in accordance with the right of the individual to a fair hearing to appeal other adverse actions, including denial or discontinuance of benefits.

Caseload Assignment, Section 247.21

Currently, the processes of caseload assignment and allocation of administrative funds are described under § 247.10. We propose to include caseload assignment in this proposed § 247.21 and to describe the allocation of administrative funds in the proposed § 247.22. Currently, the order of caseload assignment is:

- (1) The three original elderly feeding projects.
- (2) Base caseload for each participating State agency, determined by participation in the previous year.
- (3) Expansion caseload requested by participating State agencies.
- (4) Caseload for States newly approved to participate in CSFP.

We propose to remove the assignment of caseload to the three original elderly feeding projects as the first step in the process of assigning caseload to State agencies. The original intent of this provision, which was included in the interim rule published in the **Federal Register** at 51 FR 32895 on September 17, 1986, was to ensure adequate caseloads to accommodate the original elderly pilot projects. Since that time, assigned caseloads have increased dramatically, far beyond the amount necessary to ensure continued participation of the elderly pilot participants.

We propose to change the terminology from "expansion" caseload to "additional" caseload. The term additional caseload is more appropriate, since it represents the caseload assigned to currently participating States in addition to the base caseload. The term expansion implies that the State is planning to expand to new areas of the State. However, more often caseload is

requested to allow service to additional participants at existing sites, or to return to the base caseload from the previous year.

Under § 247.10, State agencies are currently eligible to receive additional caseload if their monthly average participation during the preceding July through September or the prior fiscal year, or their participation during the month of September, equaled at least 90 percent of their assigned caseload level for the preceding caseload cycle. In addition to using participation in the month of September to meet the 90 percent caseload utilization requirement for the purpose of obtaining additional caseload, the month of September is also included in the determination of base caseload. In some instances, State agencies that cannot sustain an average participation rate of 90 percent over a prolonged period of time will significantly increase participation in the month of September in order to obtain additional caseload and administrative funds for the following caseload cycle.

As discussed in detail below, the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, 116 Stat. 134 (May 13, 2002)), requires that the Department provide State agencies with a grant per assigned caseload slot, adjusted annually to reflect inflation, to pay administrative costs. This change significantly increased the amount of funds available to support the program in 2003, and will continue to provide an enhanced, stable, and predictable administrative grant per assigned caseload slot. As a result, States are expected to more fully utilize assigned caseload. However, the establishment of an administrative grant per caseload slot also provides a greater incentive for States to request caseload in excess of what they can utilize. To ensure that additional caseload slots are allocated to States that are most likely to use them, we propose to implement more realistic, rigorous performance measures. The revised performance measures include (1) an increase in the caseload utilization requirement from 90 percent to 95 percent, and (2) the removal of participation during the month of September from the computation that determines base caseload and a State's eligibility for additional caseload.

In developing these proposals, we analyzed the performance of State agencies over the last three fiscal years. Based on this analysis, and the availability of a specific enhanced level of administrative funds, it has been determined that State agencies can reasonably be expected to meet these more rigorous measures. While these

measures may negatively impact a small number of States in any given year, they will have a positive impact on the program as whole by facilitating assignment of caseload slots to State agencies most likely to utilize them based on past performance. The allocation of caseload slots to such State agencies will ensure that the nutritional needs of low-income women, infants, children, and elderly persons are more fully met. We are specifically requesting comments on the removal of the month of September.

Currently, under § 247.10, State agencies are assigned the lesser of an equal share of caseload available for expansion (up to each State's expansion request), or the amount that FNS determines State agencies need and can effectively manage. The criteria for making this determination are currently described in general terms under § 247.5(a), as "demographic data" and "past performance of the State agency". We propose to include, in this proposed section, the more specific factors that FNS considers in assigning additional caseload to State agencies. The specific factors proposed here are those that we have used over the last few years, and that were described in policy guidance provided to State agencies in April 1999. The factors, in descending order of importance, include:

- (1) Program participation of women, infants, and children, and the elderly in the State in the previous fiscal year.
- (2) The percentage of caseload utilized by the State in the previous caseload cycle.
- (3) Program participation trends in the State in previous fiscal years.
- (4) Other information provided by the State agency in support of the request.

We propose to remove the current option to simply assign an equal amount of additional caseload to all States making requests. Since program needs and performances of States differ widely, it would not be a wise use of program resources to assign an equal amount of caseload to all.

We also propose to include the specific factors that FNS considers in determining how much caseload to assign to States approved to begin participation in the program. The factors include:

- (1) Justification provided by the State agency which includes names and locations of local agencies, the areas within the State that will be served, the amount of caseload necessary to support service to these areas; and
- (2) The total amount of caseload for new States that program funds will support.