

participants when they are certified or recertified.

(b) *What must the local agency do if a CSFP participant is found to be committing dual participation?* A participant found to be committing dual participation must be discontinued from one of the programs (WIC or CSFP), or from participation at more than one CSFP site. Whenever an individual's participation in CSFP is discontinued, the local agency must notify the individual of the discontinuance, in accordance with § 247.17. The individual may appeal the discontinuance through the fair hearing process, in accordance with § 247.33(a). In accordance with § 247.20(b), if the dual participation resulted from the participant, or the parent or caretaker of the participant, making false or misleading statements, or intentionally withholding information, the local agency must disqualify the participant from CSFP, unless the local agency determines that disqualification would result in a serious health risk. The local agency must also initiate a claim against the participant to recover the value of CSFP benefits improperly received, in accordance with § 247.30(c).

§ 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.
- (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.

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

(ii) Each State agency that has participated in two or more caseload cycles receives caseload in an amount equal to its highest average monthly participation in one of the two periods of the previous fiscal year listed below. However, the State agency may not receive a base caseload in excess of its total caseload assignment for the previous cycle. The two periods are:

- (A) The full fiscal year; or
- (B) The final quarter of the fiscal year.

(2) *Additional caseload.* Each participating State agency may request, and receive, 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 to increase service to the elderly. State agencies which did not utilize at least 95 percent of their assigned caseload in one of the periods

of the previous fiscal year listed under paragraph (a)(1)(ii) of this section are not eligible for additional caseload. Of the 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:

- (i) Program participation of women, infants, and children, and the elderly in the State, in the previous fiscal year;
- (ii) The percentage of caseload utilized by the State in the previous caseload cycle;
- (iii) Program participation trends in the State in previous fiscal years; and
- (iv) 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, and the elderly, at new sites in this submission.