

# Certification of Compliance with New Meal Pattern Requirements

# Agenda

- Background
- Certification - SFA Responsibilities
- Certification - State Agency Responsibilities
- SY 2012-13 Validation Reviews
- Administrative Reviews and Ongoing Compliance
- Reporting Requirements
- Implementation Funding
- Questions

# Background

# Background - HHFKA

- Requires SFAs follow the updated meal patterns (rule published January 26, 2012)
- Provides performance-based reimbursement for SFAs that demonstrate compliance with updated meal pattern – this includes both lunch and breakfast
- Additional reimbursement is available October 1, 2012
- 6 cents reimbursement will be adjusted beginning July 2013

# Background - Interim Rule

- The interim rule lays out the requirements and framework for certification for the performance-based reimbursement
- The certification process works as follows:
  - SFA submits certification documentation to State agency
  - State agency makes a certification determination within 60 days
  - State agencies conduct validation review of at least 25 percent of certified SFAs in SY 2012-13
  - Ongoing compliance with the meal pattern requirements is monitored during administrative reviews (CRE)
- State agencies will *not* be required to conduct administrative reviews (CRE) in SY 2012-13

# Background - Interim Rule

- Some aspects of the meal pattern are phased in over several years
- SFAs must demonstrate compliance with those requirements in effect at time of certification
- SFAs must demonstrate compliance with both breakfast and lunch if SFA offers breakfast

# Certification - Definition

- Paper or electronic documentation submitted to the State agency by the SFA to demonstrate compliance with new meal pattern requirements
- Documentation must include both breakfast and lunch if SFA offers breakfast
- Representative of meal service for all schools within the SFA
- State agency reviews and approves or denies documentation for certification

# Technical Assistance

- Q & As
- Prototype contract
- Tools to support certification will be issued in late May

# Certification – SFA Responsibilities

# Certification Options

- Option 1: SFA submits one week menus, menu worksheet and nutrient analysis
- Option 2: SFA submits one week menus, menu worksheet and simplified nutrient assessment
- Option 3: State agency on-site review

# Certification – Option 1

- SFAs must submit:
  - One week of menus for each menu type offered
  - Detailed menu worksheet
  - Nutrient analysis of calories and saturated fat for each menu type
- Menu worksheet includes food items and quantities used to assess compliance

# Certification – Option 2

- SFAs must submit:
  - One week of menus for each menu type offered
  - Detailed menu worksheet
  - Simplified Nutrient Assessment of calories and saturated fat for each menu type
- Simplified nutrient assessment will serve as a proxy for a nutrient analysis

# Certification – Option 3

- State agencies may document SFA compliance during an on-site review
  - Menus, menu worksheets with food items and quantities, nutrient analyses are required as part of the materials used to demonstrate compliance

# Certification Documentation

- **Menu Type:** For each certification option SFAs must submit one week of each menu offered (for both breakfast and lunch) within the SFA, by age grade group
- **Example:** If an SFA serves an elementary, middle and high school menu for lunch and one menu for breakfast, the SFA must submit four menus and four menu worksheets

# Certification Documentation

- FNS will provide State agencies and SFAs a prototype menu worksheet and simplified nutrient assessment tool
- FNS will provide guidance and training for these materials

# Certification Documentation

- Documentation must reflect current meal service:
  - Meals served in the calendar month the certification materials are submitted
  - Meals served in the month preceding the calendar month of submission

# Certification Documentation

- Early submission (before Sept 30, 2012)
- SFAs may submit documentation for compliance reflecting **planned** meal service for October or November 2012

# Certification Documentation

- Example
  - If an SFA submits certification documentation in August 2012, the documentation for compliance must reflect meals planned for October or November 2012

# Certification Documentation- Attestation

- As part of certification, SFAs must attest that:
  - They are in compliance with all current meal pattern requirements
  - Documentation is representative of the ongoing meal service within the SFA
  - The minimum required food quantities for all meal components are available to students in every serving line

# Annual Attestation

- Certified SFAs must annually attest, through SY 2014-15, to compliance with the meal pattern requirements, as new requirements are phased-in
- The attestation must be provided to the State agency as an addendum to the permanent agreement between States and SFAs

# Certification – State Agency Responsibilities

# Certification – State Agency Responsibilities

- Establish process for certification in the State based on interim rule and FNS guidance
- Train and disseminate information to SFAs
- Receive, review and approve/deny SFA certification documentation within 60 days of receipt
- Disburse 6 cents reimbursement to certified SFA

# Certification – State Agency Responsibilities

- State agencies may not approve/deny certification until July 1, 2012
- SFAs can start earning 6 cents reimbursement October 1, 2012

# Certification – State Agency Responsibilities

- For applications submitted on or before September 30, 2012, the State agency has 60 days from October 1, 2012 to review certification materials and make a determination

# Certification – State Agency Responsibilities

- Example
  - If an SFA submits certification materials on August 15, 2012 with planned menus for October 1, 2012, the State agency has 60 days from October 1, 2012 to make a certification determination

# Certification – State Agency Responsibilities

- Promptly disburse 6 cents reimbursement to the certified SFA for each lunch served beginning at the start of the month in which the certified menus are served

# Certification – State Agency Responsibilities

- Example
  - If menus for the week of March 15-19, 2013, are certified in May 2013, the State agency must retroactively reimburse the additional 6 cents for all lunches served on or after March 1, 2013

# SY 2012-13 Validation Reviews

# SY 2012-13 Validation Reviews

- **SY 2012-13 Validation Review:** An on-site visit conducted by the State agency to affirm that a certified SFA has been and continues to meet the updated meal patterns

# SY 2012-13 Validation Reviews

- Validation reviews are only required in SY 2012-13
- During a validation review, State agencies must:
  - Observe a meal service for each type of menu certified
  - Review the school production records for observed meals
  - Review the documentation submitted for certification

# SY 2012-13 Validation Reviews

- State agencies must conduct random on-site validation reviews of at least 25 percent of SFAs certified via documentation (Options 1 and 2)
  - 25 percent must include all large SFAs
- SFAs that receive certification through an onsite review (Option 3) are not required to receive a validation review
- Review one school representing each type of menu certified
  - Randomly selected by State

# SY 2012-13 Validation Reviews

- Draw “sample” during three time periods
  - October – December
  - January – March
  - April – June
- The total number of validation reviews at the end of SY 2012-13 must be at least 25 percent of certified SFAs in the State
- Must be completed by June 30, 2013

# SY 2012-13 Validation Reviews

- All large certified SFAs in State must have a validation review
- A large SFA (§210.18) includes:
  - All SFAs with 40,000 or more children
  - If there are less than 2 SFAs with 40,000 or more children, the 2 largest SFAs with at least 2,000 children

# SY 2012-13 Validation Reviews

- Two types of fiscal action:
  - Fiscal action associated with 6 cents
  - Fiscal action associated with free/reduced/paid reimbursement
- For validation reviews, just fiscal action associated with 6 cents

# SY 2012-13 Validation Reviews

- If the State agency is unable to validate the certification documentation, the State agency must assess:
  - Whether corrective action can occur immediately; and
  - The longevity and severity of the problems
- These assessments determine whether an SFA can earn the 6 cents in the future and what fiscal action occurs in the current month and prior periods

# SY 2012-13 Validation Reviews

- If corrective action does occur immediately
  - 6 cents is not turned off for future months
- If corrective action does not occur immediately
  - 6 cents must be turned off for future months

# SY 2012-13 Validation Reviews

- The longevity and severity of the violation determines fiscal action for the 6 cents
- States have discretion to determine proper fiscal action

# SY 2012-13 Validation Reviews

- SFAs whose 6 cents is turned off for future months as a result of the validation review must re-apply for certification

# Administrative Reviews (CRE) and Ongoing Compliance

# SY 2012-13 Administrative Reviews

- State agencies will *not* be required to conduct administrative reviews (CRE) in SY 2012-13 except for:
  - Additional Administrative Reviews
  - Administrative reviews of any “at-risk” SFAs
  - Planned follow up reviews
- FNS – 640 reporting is required for any administrative reviews conducted in SY 2012-13

# SY 2013-14 Administrative Review

- Final Meal Pattern Rule
  - 3 year State agency review cycle
    - Begins School Year 2013-14 (July 1, 2013)
    - Breakfast included in administrative review
  - SMI reviews eliminated
  - Modified Performance Standard 2 (CRE) Nutrition Provisions

# SY 2013-14 Administrative Review

- First year of new 3 year cycle State agency must review any SFA whose review was postponed in SY 2012-13
- In addition, State agencies are required to conduct an administrative review of non-certified SFAs early in the review cycle

# Administrative Review Fiscal Action (6 cents)

- Ongoing compliance assessed during administrative reviews
- Any violation of Performance Standard 2 requirements set forth in the new lunch pattern will result in a “turning off” of the 6 cents reimbursement unless immediate corrective action occurs
- Since 6 cents reimbursement is earned for lunches, SFAs cannot lose 6 cents for breakfast violations during an administrative review

# Administrative Review Fiscal Action (6 cents)

- If the SFA is able to correct a Performance Standard 2 violation by the end of the week in which the administrative review is conducted, the State agency need not turn off the 6 cents reimbursement
  - For example, if the school is missing a vegetable subgroup during the administrative review and is able to change its food order to include the missing vegetable subgroup during the week of review, then the SFA would not lose the 6 cents reimbursement

# Administrative Review Fiscal Action

- As always, State agencies must recover improperly paid funds
  - Includes free/reduced price/paid reimbursement plus 6 cents
- States have discretion in determining longevity and severity of violations

# Administrative Review Fiscal Action

	Missing Menu Items/Food Items	Milk Type and Vegetable Subgroup	Whole Grain Rich, Food Quantities and Dietary Specs
<b>Standard Fiscal Action for F/R/P (from updated Meal Pattern rule)</b>	Immediate fiscal action <b>required</b>	Fiscal action required for unresolved, repeat violations (after technical assistance and corrective action have taken place)	State agencies may take fiscal action for unresolved, repeated violations (after technical assistance and corrective action have taken place)
<b>New Fiscal Action for 6 cents</b>	Standard fiscal action includes 6 cents	Standard fiscal action includes 6 cents	Standard fiscal action includes 6 cents
	Absent immediate corrective action, must turn off 6 cents for future months	Absent immediate corrective action, must turn off 6 cents for future months	Absent immediate corrective action, must turn off 6 cents for future months

# Ongoing Compliance

- State agencies must provide technical assistance to SFAs who violate the lunch and breakfast requirements after certification
- 6 cents reimbursement can be “turned back on” when SFA demonstrates they are back into compliance with the lunch requirements
- An on-site review is not required for the 6 cents to be turned back on

# Noncompliance

- It is important to note that when non-compliance with the new meal pattern is found during a SY 2012-13 validation review, the SFA must re-apply for certification
- When non-compliance is found during an administrative review, the 6 cents reimbursement is turned off but the SFA need not go through the entire certification process again they only must demonstrate when they come back into compliance

# Ongoing Compliance

- Persistent or repeated failure to meet standards should be dealt with on a case-by-case basis
- Could result in withholding of reimbursement until compliance is achieved

# Appeals

- SFAs cannot appeal the State agency's denial of certification
- SFAs can appeal the State agency turn off of the 6 cents reimbursement

# Reporting Requirements

# Reporting Requirement

- State agencies must:
  - include meal counts earning 6 cents reimbursement on the FNS-10
  - include 6 cent reimbursement on FNS-777 quarterly report
  - submit an additional quarterly report detailing the disbursement of 6 cents reimbursement including:
    - Total number of SFAs in the State
    - Names and locations of certified SFAs
    - For each SFA, total number of lunches earning the 6 cents reimbursement for each month

# Reporting Requirement

- FNS-10 is currently being updated
- Prototype reporting template is being created for quarterly report

# Implementation Funding

# Implementation Funding

- The HHFKA provides \$47 million in each of fiscal years 2012 and 2013 for State agencies to support implementation activities for the new meal pattern
- These funds may be used for the following activities associated with the implementation of the new meal pattern and the 6 cents reimbursement:
  - Training for SFAs
  - Technical Assistance
  - Certification activities
  - Oversight activities

# Certification Contractor

- State agencies may use these funds to procure a contractor to conduct certification activities on behalf of the State agency
- The contractor could also be used to conduct validation reviews on behalf of the State agency
- FNS is working to finalize a prototype request for proposal for State agencies to use to procure a contractor to provide certification services

# Questions?

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