

§ 226.24

eligibility information. The agreement or MOU should include information similar to that required for disclosures to Medicaid and SCHIP specified in paragraph (m)(2) of this section.

(2) For disclosures to Medicaid or SCHIP, the State agency or child care institution, as appropriate, must have a written agreement with the State or local agency or agencies administering Medicaid or SCHIP prior to disclosing children's free or reduced price meal eligibility information to those agencies. At a minimum, the agreement must:

(i) Identify the health insurance program or health agency receiving children's eligibility information;

(ii) Describe the information that will be disclosed;

(iii) Require that the Medicaid or SCHIP agency use the information obtained and specify that the information must be used to seek to enroll children in Medicaid or SCHIP;

(iv) Require that the Medicaid or SCHIP agency describe how they will use the information obtained;

(v) Describe how the information will be protected from unauthorized uses and disclosures;

(vi) Describe the penalties for unauthorized disclosure; and

(vii) Be signed by both the Medicaid or SCHIP program or agency and the State agency or child care institution, as appropriate.

(n) *Penalties for unauthorized disclosure or misuse of children's free and reduced price meal eligibility information.* In accordance with section 9(b)(6)(C) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(C)), any individual who publishes, divulges, discloses or makes known in any manner, or to any extent not authorized by statute or this section, any information obtained under this section will be fined not more than \$1,000 or imprisoned for up to 1 year, or both.

[47 FR 36527, Aug. 20, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 226.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

7 CFR Ch. II (1–1–18 Edition)

Subpart F—Food Service Equipment Provisions

§ 226.24 Property management requirements.

Institutions and administering agencies shall follow the policies and procedures governing title, use, and disposition of equipment obtained by purchase, whose cost was acquired in whole or part with food service equipment assistance funds in accordance with 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415, as applicable.

[48 FR 41142, Sept. 14, 1983, as amended at 71 FR 39519, July 13, 2006; 81 FR 66492, Sept. 28, 2016]

Subpart G—Other Provisions

§ 226.25 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415, as applicable.

(b) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional requirements for participation in the Program which are not inconsistent with the provisions of this part; however, any additional requirements shall be approved by FNSRO and may not deny the Program to an eligible institution.

(c) *Value of assistance.* The value of assistance to participants under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to laws relating to taxation, welfare, and public assistance programs.

(d) *Maintenance of effort.* Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

(e) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this part, whether received directly or indirectly

Food and Nutrition Service, USDA

§ 226.26

from the Department or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(f) *Claims adjustment authority.* The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of title 28, U.S. Code, to conduct litigation on behalf of the United States.

(g) *Data collection related to organizations.* (1) Each State agency must collect data related to institutions that have an agreement with the State agency to participate in the program for each of Federal fiscal years 2006 through 2009, including those institutions that participated only for part of the fiscal year. Such data shall include:

- (i) The name of each institution;
- (ii) The city in which each participating institution was headquartered and the name of the state;
- (iii) The amount of funds provided to the participating organization, i.e., the sum of the amount of federal funds reimbursed for operating and, where applicable, administrative costs; and
- (iv) The type of participating organization, e.g., government agency, educational institution, for-profit organization, non-profit organization/secular, non-profit organization/faith-based, and "other."

(2) On or before August 31, 2007, and each subsequent year through 2010, State agencies must report to FNS data as specified in paragraph (g)(1) of this section for the prior Federal fiscal

year. State agencies must submit this data in a format designated by FNS.

(h) *Program evaluations.* States, State agencies, institutions, facilities and contractors must cooperate in studies and evaluations conducted by or on behalf of the Department, related to programs authorized under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966.

(i) *Drinking water.* A child care institution or facility must offer and make potable drinking water available to children throughout the day.

[47 FR 36527, Aug. 20, 1982, as amended at 53 FR 52597, Dec. 28, 1988; 54 FR 13049, Mar. 30, 1989; 69 FR 53547, Sept. 1, 2004; 71 FR 39519, July 13, 2006; 72 FR 24183, May 2, 2007; 76 FR 37982, June 29, 2011; 81 FR 24383, Apr. 25, 2016; 81 FR 66492, Sept. 28, 2016]

§ 226.26 Program information.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 10 Causeway Street, Room 501, Boston, MA 02222-1065.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 300 Corporate Boulevard, Robbinsville, NJ 08691-1598.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 61 Forsyth Street, SW., Room 8T36, Atlanta, GA 30303.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 77 Jackson Boulevard, 20th Floor, Chicago, IL 60604-3507.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional