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which demonstrate that each enrolled person under the age of 60 meets the functional impairment eligibility requirements established under the definition of “functionally impaired adult” contained in this part. Finally, each adult day care center shall maintain records which document that qualified adult day care participants reside in their own homes (whether alone or with spouses, children or guardians) or in group living arrangements as defined in § 226.2.

(c) Each adult day care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to maintain such records shall be grounds for the denial of reimbursement.

[53 FR 52591, Dec. 28, 1988, as amended by Amdt. 22, 55 FR 1378, Jan. 14, 1990; 61 FR 25554, May 22, 1996; 62 FR 23619, May 1, 1997; 64 FR 72261, Dec. 27, 1999]

§ 226.20 Requirements for meals.

(a) Except as otherwise provided in this section, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain: (i) Fluid milk as a beverage or on cereal, or used in part for each purpose;

(ii) Vegetable(s) or fruit(s) or full-strength vegetable or fruit juice, or any combination of these foods;

(iii) Whole-grain or enriched bread; or cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or whole-grain or enriched or fortified cereal; or cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or any combination of these foods.

(2) Lunch shall contain: (i) Fluid milk as a beverage;

(ii)(A) Lean meat, poultry or fish; alternate protein products; or cheese; or an egg; or cooked dry beans or peas; or peanut butter; or any combination of these foods. These foods must be served in a main dish, or in a main dish and one other menu item, to meet this requirement. Cooked dry beans or dry peas may be used as the meat alternate or as part of the vegetable/fruit compo-

nent but not as both food components in the same meal;

(B) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut or seed meals or flours may be used as an ingredient in a bread/bread alternate, but shall *not* be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals, and in program guidance materials. As noted in paragraph (c)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirements. Therefore, nuts or seeds must be combined with another meat/meat alternate to fulfill the requirement;

(C) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or non-standardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or ½ cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

(iii) Two or more vegetables or fruits, or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement;

(iv) Whole-grain or enriched bread; or cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or any combination of these foods.

(3) Supper shall contain the food components and servings listed for lunch in § 226.20(a)(2), except that, for adult participants in adult day care centers, it does not require a serving of fluid milk.

(4) Supplemental food shall contain two of the following four components:

(i) Fluid milk as a beverage, or on cereal, or used in part for each purpose;

(ii) Meat or meat alternate. Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts are excluded and shall *not* be used as meat alternates due to their low protein content. Nut or seed meals or flours shall *not* be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals;

(iii) Vegetable(s) or fruit(s) or full-strength vegetable or fruit juice, or any combination of these foods. For children, juice may not be served when milk is served as the only other component;

(iv) Whole-grain or enriched bread; or cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgar, or corn grits; or any combination of these foods.

(b) *Infant meal pattern.* When infants from birth through 11 months of age participate in the Program, an infant meal shall be offered. Foods within the infant meal pattern shall be of texture and consistency appropriate for the particular age group being served, and shall be served during a span of time consistent with the infant's eating habits. For infants 4 through 7 months of age, solid foods are optional and should be introduced only if the infant is developmentally ready. Whenever possible the child care facility should consult with the infant's parent in making the decision to introduce solid foods. Solid foods should be introduced one at a time on a gradual basis with the intent of ensuring health and nutritional well-being. For infants 8 through 11 months of age, the total amount of food authorized in the meal patterns set forth below must be provided in order to qualify for reimbursement. Additional foods may be served to infants 4 months of age and older with the intent of improving their overall nutrition. Breast milk, provided by the infant's mother, may be served in place of infant formula from birth through 11

months of age. Either breast milk or iron-fortified infant formula shall be served for the entire first year. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered. In these situations, additional breast milk must be offered if the infant is still hungry. Juice should not be offered to infants until they are ready to drink from a cup, in order to develop behaviors that may prevent baby bottle tooth decay. The infant meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age group:

(1) Birth through 3 months. (i) Breakfast—4 to 6 fluid ounces of breast milk or iron-fortified infant formula;

(ii) Lunch or supper—4 to 6 fluid ounces of iron-fortified infant formula;

(iii) Supplemental food—4 to 6 fluid ounces of iron-fortified infant formula.

(2) 4 through 7 months. (i) Breakfast—4 to 8 fluid ounces of breast milk or iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal (optional);

(ii) Lunch or supper—4 to 8 fluid ounces of iron-fortified infant formula; and 0 to 3 tablespoons of iron-fortified dry infant cereal (optional); and 0 to 3 tablespoons of fruit or vegetable of appropriate consistency or a combination of both (optional);

(iii) Supplemental food—4 to 6 fluid ounces of iron-fortified infant formula.

(3) 8 through 11 months. (i) Breakfast—6 to 8 fluid ounces of breast milk or iron-fortified infant formula; 2 to 4 tablespoons of iron-fortified dry infant cereal; and 1 to 4 tablespoons of fruit or vegetable of appropriate consistency or a combination of both;

(ii) Lunch or supper—6 to 8 fluid ounces of breast milk or iron-fortified infant formula; 2 to 4 tablespoons of iron-fortified dry infant cereal and/or 1 to 4 tablespoons of meat, fish, poultry, egg yolk, or cooked dry beans or peas, or ½ to 2 ounces (weight) of cheese or 1 to 4 ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency; and 1 to 4 tablespoons of fruit or vegetable

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of appropriate consistency or a combination of both;

(iii) Supplemental food—2 to 4 fluid ounces of iron-fortified infant formula, breast milk, or full strength fruit juice and 0 to ½ slice of crusty bread (optional) or 0 to 2 cracker type products (optional) made from whole-grain or

enriched meal or flour and which are suitable for an infant for use as a finger food.

(4) The minimum amount of food components to be served as breakfast, lunch, supper or supplement as set forth in paragraphs (b), (1), (2), and (3) of this section are as follows:

CHILD CARE INFANT MEAL PATTERN

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4-6 fl.oz. formula ¹ or breast milk ^{2,3} .	4-8 fl.oz. formula ¹ or breast milk ^{2,3} ; 0-3 Tbsp. Infant cereal ^{1,4}	6-8 fl.oz. formula ¹ or breast milk ^{2,3} ; and 2-4 Tbsp. Infant cereal ¹ ; and 1-4 Tbsp. Fruit and/or vegetable
Lunch or supper	4-6 fl.oz. formula ¹ or breast milk ^{2,3} .	4-8 fl.oz. formula ¹ or breast milk ^{2,3} ; 0-3 Tbsp. Infant cereal ^{1,4} ; 0-3 Tbsp. Fruit and/or vegetable ⁴ .	6-8 fl.oz. formula ¹ or breast milk ^{2,3} ; and 2-4 Tbsp. Infant cereal ¹ ; and/or 1-4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans, or peas; or ½-2 oz. Cheese; or 1-4 ounces. Cottage cheese, cheese food, or cheese spread; and 1-4 Tbsp. Fruit and/or vegetable
Supplement (snack)	4-6 fl.oz. formula ¹ or breast milk ^{2,3} .	4-6 fl.oz. formula ¹ or breast milk ^{2,3} .	2-4 fl.oz. formula ¹ , breast milk ^{2,3} , or fruit juice ⁵ ; 0-½ bread ^{4,6} or 0-2 crackers ^{4,6}

¹ Infant formula and dry infant cereal shall be iron-fortified.
² It is recommended that breast milk be served in place of formula from birth through 11 months.
³ For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
⁴ A serving of this component shall be optional.
⁵ Fruit juice shall be full-strength.
⁶ Bread and bread alternates shall be made from whole-grain or enriched meal or flour.

(c) *Meal patterns for children age one through 12 and adult participants.* When individuals over age one participate in the Program, the total amount of food authorized in the meal patterns set forth below shall be provided in order to qualify for reimbursement.

(1) *Breakfast.* The minimum amount of food components to be served as breakfast as set forth in paragraph (a)(1) of this section are as follows:

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹	Adult participants
Milk, fluid	1/2 cup ²	3/4 cup	1 cup	1 cup. ²
Vegetables and Fruits or	1/4 cup	1/2 cup	1/2 cup	1/2 cup.
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	1/4 cup	1/2 cup	1/2 cup	1/2 cup.
Bread and Bread Alternates³				
Bread or	1/2 slice	1/2 slice	1 slice	2 slices (servings).
Combread, biscuits, rolls, muffins, etc. ⁴ or	1/2 serving	1/2 serving	1 serving	2 servings.
Cold dry cereal ⁵ or	1/4 cup or 1/8 ounce	1/3 cup or 1/2 ounce	3/4 cup or 1 ounce	1 1/2 cup or 2 ounces.
Cooked cereal or	1/4 cup	1/4 cup	1/2 cup	1 cup.
Cooked pasta or noodle products or	1/4 cup	1/4 cup	1/2 cup	1 cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/ bread alternate.	1/4 cup	1/4 cup	1/2 cup	1 cup.

¹ Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.

² For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

³ Bread, pasta or noodle products, and cereal grains, shall be whole grain or enriched; combread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour; cereal shall be whole grain or enriched or fortified.

⁴ Serving sizes and equivalents to be published in guidance materials by FNS.

⁵ Either volume (cup) or weight (ounces) whichever is less.

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(2) *Lunch*. The minimum amount of food components to be served as lunch as set forth in paragraph (a)(2) of this section are as follows:

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹	Adult participants
Milk, fluid	½ cup ²	¾ cup	1 cup	1 cup ² .
Vegetables and Fruits ³				
Vegetables(s) and/or fruit(s)	¼ cup total	½ cup total	¾ cup total	1 cup total.
Bread and Bread Alternates ⁴				
Bread or	½ slice	½ slice	1 slice	2 slices (servings).
Cornbread, biscuits, rolls, muffins, etc. ⁵ or	½ serving	½ serving	1 serving	2 servings.
Cooked pasta or noodle products or	¼ cup	¼ cup	½ cup	1 cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/ bread alternate.	¼ cup	¼ cup	½ cup	1 cup.
Meat and Meat Alternates				
Lean meat or poultry or fish ⁶ or	1 ounce	1½ ounces	2 ounces	2 ounces.
Alternate protein products ⁷ or	1 ounce	1½ ounces	2 ounces	2 ounces.
Cheese or	1 ounce	1½ ounces	2 ounces	2 ounces.
Egg (large) or	½	¾	1	1.
Cooked dry beans or peas or	¼ cup	⅓ cup	½ cup	½ cup.
Peanut butter or soynut butter or other nut or seed butters or	2 tablespoons	3 tablespoons	4 tablespoons	4 tablespoons.
Peanuts or soynuts or tree nuts or seeds ⁸ or	½ ounce ⁹ =50%	¾ ounce ⁹ =50%	1 ounce ⁹ =50%	1 ounce ⁹ =50%.
Yogurt, plain or flavored, unsweetened or sweetened or an equivalent quantity of any combination of the above meat/meat alternates.	4 ounces or ½ cup	6 ounces or ¾ cup	8 ounces or 1 cup	8 ounces or 1 cup.

¹ Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.

² For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

³ Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

⁴ Bread, pasta or noodle products, and cereal grains, shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.

⁵ Serving sizes and equivalents to be published in guidance materials by FNS.

⁶ Edible portion as served.

⁷ Must meet the requirements in appendix A of this part.

⁸ Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

⁹ No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 ounce of nuts or seeds is equal to 1 ounce of cooked lean meat, poultry, or fish.

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(3) *Supper*. The minimum amount of food components to be served as supper as set forth in paragraph (a)(3) of this section are as follows:

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹	Adult participants
Milk, fluid	1/2 cup ²	3/4 cup ²	1 cup	None.
Vegetables and Fruits ³				
Vegetables(s) and/or fruit(s)	1/4 cup total	1/2 cup total	3/4 cup total	1 cup total.
Bread and Bread Alternates ⁴				
Bread or	1/2 slice	1/2 slice	1 slice	2 slices (servings). ⁵
Cornbread, biscuits, rolls, muffins, etc. ⁵ or	1/2 serving	1/2 serving	1 serving	2 servings.
Cooked cereal grains or an equivalent quantity of any combination of bread/ bread alternate.	1/4 cup	1/4 cup	1/2 cup	1 cup.
Meat and Meat Alternates				
Lean meat or poultry or fish ⁶ or	1 ounce	1 1/2 ounces	2 ounces	2 ounces.
Alternate protein products ⁷ or	1 ounce	1 1/2 ounces	2 ounces	2 ounces.
Cheese or	1 ounce	1 1/2 ounces	2 ounces	2 ounces.
Egg (large) or	1/2	3/4	1	1.
Cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup	1/2 cup.
Peanut butter or soy nut butter or other nut or seed butters or	2 tablespoons	3 tablespoons	4 tablespoons	4 tablespoons.
Peanuts or soy nuts or tree nuts or seeds ⁸ or	1/2 ounce ⁹ =50%	3/4 ounce ⁹ =50%	1 ounce ⁹ =50%	1 ounce ⁹ =50%.
Yogurt, plain or flavored, unsweetened or sweetened or an equivalent quantity of any combination of the above meat/meat alternates.	4 ounces or 1/2 cup	6 ounces or 3/4 cup	8 ounces or 1 cup	8 ounces or 1 cup.

¹ Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.

² For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

³ Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

⁴ Bread, pasta or noodle products, and cereal grains, shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.

⁵ Serving sizes and equivalents to be published in guidance materials by FNS.

⁶ Edible portion as served.

⁷ Must meet the requirements in appendix A of this part.

⁸ Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

⁹ No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 ounce of nuts or seeds is equal to 1 ounce of cooked lean meat, poultry, or fish.

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(4) *Supplemental food.* The minimum amount of food components to be served as supplemental foods as set forth in paragraph (a)(4) of this section are as follows. Select two of the following four components. (For children, juice may not be served when milk is served as the only other component.)

Food Components ¹	Age 1 and 2	Age 3 through 5	Age 6 through 12 ²	Adult participants
Milk, fluid	1/2 cup	1/2 cup	1 cup	1 cup.
Vegetables and Fruits				
Vegetables(s) and/or fruit(s) or	1/2 cup	1/2 cup	3/4 cup	1/2 cup.
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	1/2 cup	1/2 cup	3/4 cup	1/2 cup.
Bread and Bread Alternates³				
Bread or	1/2 slice	1/2 slice	1 slice	1 slice (serving).
Combread, biscuits, rolls, muffins, etc ⁴ or	1/2 serving	1/2 serving	1 serving	1 serving.
Cold dry cereal or	1/4 cup or 1/3 ounce	1/3 cup or 1/2 ounce	3/4 cup or 1 ounce	3/4 cup or 1 ounce.
Cooked cereal ⁵ or	1/4 cup	1/4 cup	1/2 cup	1/2 cup.
Cooked pasta or noodle products or	1/4 cup	1/4 cup	1/2 cup	1/2 cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/ bread alternate.	1/4 cup	1/4 cup	1/2 cup	1/2 cup.
Meat and Meat Alternates				
Lean meat or poultry or fish ⁶ or	1/2 ounce	1/2 ounce	1 ounce	1 ounce
Alternate protein products ⁷ or	1/2 ounce	1/2 ounce	1 ounce	1 ounce
Cheese or	1/2 ounce	1/2 ounce	1 ounce	1 ounce
Egg (large) or	1/2	1/2	1/2	1/2.
Cooked dry beans or peas or	1/6 cup	1/6 cup	1/4 cup	1/4 cup.
Peanut butter or soynut butter or other nut or seed butters or	1 tablespoon	1 tablespoon	2 tablespoons	2 tablespoons.
Peanuts or soynuts or tree nuts or seeds ⁸ or	1/2 ounce	1/2 ounce	1 ounce	1 ounce.
Yogurt, plain or flavored, unsweetened or sweetened or an equivalent quantity of any combination of the above meat/meat alternates.	2 ounces or 1/4 cup	2 ounces or 1/4 cup	4 ounces or 1/2 cup	4 ounces or 1/2 cup.

¹ For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

² Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.

³ Bread, pasta or noodle products, and cereal grains, shall be whole grain or enriched; combread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour; cereal shall be whole grain or enriched or fortified.

⁴ Serving sizes and equivalents to be published in guidance materials by FNS.

⁵ Either volume (cup) or weight (ounces) whichever is less.

⁶ Edible portion as served.

⁷ Must meet the requirements in Appendix A of this Part.

⁸ Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

(d) *Additional food.* To improve the nutrition of participating children over 1 year of age additional foods may be served with each meal as follows:

(1) *Breakfast.* Include as often as practical one-half egg; or a 1-ounce serving (edible portion as served) of meat, poultry or fish; or 1-ounce of cheese; or 2 tablespoons of peanut butter; or 4 oz. of yogurt; or an equivalent quantity of any combination of these foods. Additional foods may be served as desired.

(2) *Lunch, supper or supplemental food.* Additional foods may be served as desired.

(e) *Temporary unavailability of milk.* If emergency conditions prevent an institution normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches, or suppers without milk during the emergency period.

(f) *Continuing unavailability of milk.* The inability of an institution to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the components of the meal set forth in paragraphs (a)(1), (2) and (3) of this section.

(g) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands the following variations from the meal requirements are authorized: A serving of a starchy vegetable, such as yams, plantains, or sweet potatoes may be substituted for the bread requirements.

(h) *Individual substitutions.* Substitutions may be made in food listed in paragraphs (b) and (c) of this section if individual participants are unable, because of medical or other special dietary needs, to consume such foods. Substitutions because of medical needs shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(i) *Special variations.* FNS may approve variations in the food components of the meals on an experimental

or a continuing basis in any institution where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(j) *Meal planning.* Institutions shall plan for and order meals on the basis of current participation trends, with the objective of providing only one meal per participant at each meal service. Records of participation and of ordering or preparing meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals that are ordered may be served to participants and may be claimed for reimbursement, unless the State agency determines that the institution has failed to plan and prepare or order meals with the objective of providing only one meal per participant at each meal service.

(k) *Sanitation.* Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure that adequate facilities are available to store food or hold meals.

(l) *Donated commodities.* Institutions shall efficiently use in the Program any foods donated by the Department and accepted by the institution.

(m) *Plentiful foods.* Institutions shall, insofar as practical, purchase and efficiently use in the Program foods designated as plentiful by the Department.

(n) *Additional provision.* The State agency may allow institutions which serve meals prepared in schools participating in the National School Lunch and School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those Programs (7 CFR part 210 and 7 CFR part 220, respectively) for the meal pattern requirements contained in this section.

(o) *Family-style meal service.* Meals may be served in a family-style setting.

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(p) *Offer versus serve.* (1) Each adult day care center shall *offer* its adult participants all of the required food servings as set forth in paragraph (c)(1), (c)(2) and (c)(3) of this section. However, at the discretion of the adult day care center, adult participants may be permitted to *decline*:

(i) *One of the four* food items (one serving of milk, one serving of vegetable and/or fruit, and two servings of bread or bread alternate) required at breakfast;

(ii) *Two of the six* food items (one serving of milk, two servings of vegetable and/or fruit, two servings of bread or bread alternate, and one serving of meat or meat alternate) required at lunch;

(iii) *Two of the five* food items (two servings of vegetables and/or fruit, two servings of bread or bread alternate, and one serving of meat or meat alternate) required at supper.

(2) The price of a reimbursable meal shall not be affected if an adult participant declines a food item.

[47 FR 36527, Aug. 20, 1982; 48 FR 40197, Sept. 16, 1983, as amended at 50 FR 8581, Mar. 4, 1985; 51 FR 16811, May 7, 1986; 51 FR 23515, June 30, 1986; 53 FR 25308, July 6, 1988; 53 FR 48632, Dec. 2, 1988; 53 FR 52592, Dec. 28, 1988; 54 FR 27153, June 28, 1989; 58 FR 37850, July 14, 1993; 62 FR 10191, Mar. 6, 1997; 64 FR 61775, Nov. 15, 1999; 64 FR 72261, Dec. 27, 1999; 65 FR 12439, Mar. 9, 2000; 66 FR 65597, Dec. 20, 2001]

§ 226.21 Food service management companies.

(a) Any institution may contract with a food service management company. An institution which contracts with a food service management company shall remain responsible for ensuring that the food service operation conforms to its agreement with the State agency. All procurements of meals from food service management companies shall adhere to the procurement standards set forth in § 226.22. Public institutions shall follow applicable State or local laws governing bid procedures. In the absence of any applicable State or local laws, and in addition to the procurement provisions set forth in § 226.22, the State agency may mandate that each institution with Program meal contracts of an aggregate value in excess of \$10,000 formally advertise such contracts and comply

with the following procedures intended to prevent fraud, waste, and Program abuse:

(1) All proposed contracts shall be publicly announced at least once 14 calendar days prior to the opening of bids. The announcement shall include the time and place of the bid opening;

(2) The institution shall notify the State agency at least 14 calendar days prior to the opening of the bids of the time and place of the bid opening;

(3) The invitation to bid shall not provide for loans or any other monetary benefit or terms or conditions to be made to institutions by food service management companies;

(4) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(5) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless special requirements are necessary to meet the needs of the participants to be served;

(6) The bid shall be publicly opened;

(7) All bids totaling \$50,000 or more shall be submitted to the State agency for approval before acceptance. All bids shall be submitted to the State agency for approval before accepting a bid which exceeds the lowest bid. State agencies shall respond to any request for approval within 10 working days of receipt;

(8) The institutions shall inform the State agency of the reason for selecting the food service management company chosen. State agencies may require institutions to submit copies of all bids submitted under this section.

(b) The institution and the food service management company shall enter into a standard contract as required by § 226.6(i). However, public institutions may, with the approval of the State agency, use their customary form of contract if it incorporates the provisions of § 226.6(i).

(c) A copy of the contract between each institution and food service management company shall be submitted to the State agency prior to the beginning of Program operations under the subject contract.

(d) Each proposed additional provision to the standard form of contract