

# Child Care Assessment Project Final Report



**CACFP**

*Building for  
the Future*

**CHILD and ADULT CARE  
FOOD PROGRAM**

**Child Nutrition Division  
Special Nutrition Programs**

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July 2009

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## I. Executive Summary

This report summarizes the results of the Child Care Assessment Project (CCAP), which was undertaken by the Food and Nutrition Service (FNS) during the period 2004-2007. The CCAP process was designed primarily to assess whether the two Child and Adult Care Food Program (CACFP) interim management improvement rules issued by FNS in 2002 and 2004 have been properly implemented, and whether the rules effectively addressed the serious program management and integrity problems that were uncovered in the late 1990s. In the three and one-half years during which CCAP assessments were conducted, the program records of 58 family day care home (FDCH) sponsors and over 3,200 of their providers were carefully examined and analyzed. [Please note: a glossary of program terms such as “sponsors” and “providers” appears at the end of this report].

Overall, the CCAP project showed that the type of problems uncovered in the Operation Kiddie Care<sup>1</sup> audits were not common in 2004-2007. Only about five percent of the FDCH sponsors assessed (3 of 58) had financial or other management problems which led their State agencies (SAs) to declare them seriously deficient. Two of these three sponsors had problems which created serious concerns of possible fraud or abuse, and the sponsors’ program participation was terminated.

In addition, almost every sponsor assessed was found to be in compliance with requirements to provide annual training to their own staff and to providers; to establish a serious deficiency and appeals process for providers; and to have a written “outside employment” policy, as required by the Agricultural Risk Protection Act of 2000 (ARPA) and the two interim management improvement rules. In these and other important respects, almost all sponsors assessed by CCAP were aware of the many new program requirements in the two rules, and had made a genuine attempt to come into compliance with those requirements.

Furthermore, the assessments showed that some of the specific problems which plagued the FDCH component of CACFP during the 1990s have been successfully addressed. For example, in the sponsor assessments conducted, FNS found only two instances of serious sponsor-level financial improprieties. Almost 81 percent of the sponsors assessed had no unallowable labor or facility costs whatsoever during the test month. Even among those sponsors with some unallowable costs in these two categories, almost 98 percent of their administrative costs were allowable. For all of these reasons, FNS believes that the most serious examples of misuse of administrative funds by FDCH sponsors have been successfully addressed by the statutory and regulatory reforms implemented since 2000.

At the same time, many of the sponsors assessed were not operating in full compliance with regulatory requirements, especially with regard to their oversight of providers. In other words, although, the vast majority of sponsors have in place policies and procedures which should lead to proper implementation of the program reforms

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<sup>1</sup> Operation Kiddie Care refers to a series of CACFP audits that were performed in the late 1990s by the United States Department of Agriculture’s Office of Inspector General. They are discussed in more detail in Part II(a) of this report.

promulgated in the two interim rules, the actual implementation of these new requirements is not nearly as uniform across all sponsors.

The most consistent problem identified in the assessments was missing meal count and menu records. Although this problem was not a focus of Operation Kiddie Care, nearly every sponsor discussed in that report was found to have a large number of providers with recordkeeping problems. In all but ten of the 58 sponsors assessed during CCAP, at least 20 percent of providers visited had missing records on the day of their CCAP assessment. Overall, one third of homes in which CCAP visits were completed were missing meal count, menu, or both types of records for one or more operating days. This finding indicates that SAs, sponsors, and providers still do not fully appreciate that the regulatory requirement for daily documentation of menus and meal counts is critical to the integrity of the CACFP. FNS regulations require that FDCH meal count and menu records be completed by the end of each operating day because there is a greater likelihood that records completed from memory will not accurately reflect the actual number of children participating or the foods actually served for program meals. The fact that a provider does not have up-to-date meal count and menu records does not mean that she/he did not serve the number of children claimed or did not provide a reimbursable meal. However, it is an indicator of risk for improper reporting.

In addition, while no definitive conclusions about misreporting can be made, the number of provider visits that could not be completed and the pattern of provider meal counts were also potential indicators of risk. The CACFP regulations (§ 226.18(b)(14)) require only that a FDCH provider be at home during scheduled times of meal service, or that she/he notify the sponsoring organization in advance that she/he will not be home. Therefore, a provider is under no obligation to notify the sponsor that she/he will not be at home at a time other than the defined period of CACFP meal service. Nevertheless, FNS is concerned about the higher-than-expected number of provider visits which could not be completed, as well as the consistent disparity between the number of meals claimed on the day of the home visit and the number of meals claimed during the remainder of the month. As with missing meal count or menu records, the fact that a given provider was not at home or did not have children in care at the time of an unannounced visit does not, by itself, indicate that the provider is not serving reimbursable meals or submitting accurate claims. However, even for visits conducted within 30 minutes of a meal service, 13.6 percent of providers were not at home, or did not have children in care, at times when the sponsor would be most likely to find them at home with children in care. Even accounting for the built-in unpredictability of attendance in FDCHs, this finding raises doubt about the integrity of the claims being submitted by at least a portion of these providers, and makes it far more difficult for sponsors to implement the requirement that they conduct at least two unannounced visits of each provider each year. In fact, the number of providers absent from their homes at the time of CCAP visits, even close to the time of a scheduled meal service, may at least partially explain why over 14 percent of provider files showed at least one interval of more than 6 months between monitoring visits, and why 14 percent of provider files did not document the conduct of two unannounced visits. Sponsors cannot complete the

required number of unannounced reviews at the required intervals if providers are not home when the unannounced review occurs.

Finally, although sponsors' policies for implementing the serious deficiency process are technically correct in most instances, that process is not being uniformly applied as a tool for correcting operational weaknesses, and for removing consistently non-compliant providers from the program. Twenty-two (22) of the 52 sponsors assessed had rarely or never issued determinations of serious deficiency.<sup>2</sup> A failure to declare providers seriously deficient when sponsor monitors have repeatedly found program violations, and a failure to follow through with termination of program participation for those providers who do not take timely corrective action, undermines the intent of the serious deficiency process for providers, as set forth in ARPA and the first interim rule. Among the 52 sponsors assessed by CCAP, 19 (or 37 percent of the sponsors assessed) accounted for 88 percent of all serious deficiency determinations issued. While one would not expect all sponsors to issue the same number or rate of serious deficiency declarations, and although there certainly is no requirement that a sponsor declare a certain percentage of homes seriously deficient each year, the provider recordkeeping issues detailed above make it likely that more sponsors should have employed the seriously deficient process more frequently than they did. It appears, in fact, that many sponsors may be reluctant to declare homes seriously deficient unless it can be conclusively demonstrated that a provider has engaged in fraudulent or illegal practices. However, the seriously deficient process for providers is intended to address all recurrent and serious management problems, including serious recordkeeping problems, and is not intended to be used only when fraud is suspected.

The FDCH component of the CACFP requires sponsors to ensure compliance in program operations for which they have little opportunity to provide direct oversight. The typical provider has at least three meal services per day, and operates about 200-250 days per year. On average, a sponsor conducting three visits per year would observe no more than ½ of 1 percent of the meals served by the provider. A sponsor has to rely on the information from its home visits, along with other indicators such as the completeness of records submitted, evidence of block claiming, and providers' attendance at training, to determine whether the provider is operating the program in compliance with program regulations. Coupled with the other weaknesses already noted—poor recordkeeping, the small but significant number of absent providers, and the differences between meal counts on CCAP visit days and the rest of the month—the failure to properly implement the serious deficiency process for providers puts CACFP at greater risk of improper meal counts and claims in FDCHs.

FNS is developing an action plan to address those CCAP findings which suggest a need for additional measures to improve Program administration in the FDCH component of CACFP at the local, State, and Federal levels. This action plan will take into account the very real challenges of providing Federally-supported nutrition assistance in

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<sup>2</sup> Although provider file data and provider home visit data from 58 sponsorships was collected and analyzed, sponsor-level data was assessed for only 52 sponsors' serious deficiency process.

approximately 140,000 private residences across the country. Therefore, any changes to Program procedures and requirements recommended in the action plan will consider this unique aspect of administering the CACFP.

Managers at the Federal, State, and local levels must be challenged to be better stewards of the public funds that support the CACFP's important public purposes. The following goals—each based on CCAP findings which point to the need for improvement in the way that public funds are being utilized in CACFP—will be discussed in FNS's action plan:

1. Ensuring that, in conformance with ARPA and the two interim rules, all FDCH sponsors have in place effective procedures for determining when provider errors warrant a declaration of serious deficiency, or when a provider's actions should lead to a suspension of program participation.
2. Improving Federal and State processes for ensuring that FDCH sponsors are:
  - a. monitoring providers in a manner that complies with minimum regulatory requirements;
  - b. monitoring providers in a way that effectively detects and corrects critical program accountability issues regarding meal counts and menus; and
  - c. correctly implementing the serious deficiency process for providers, as set forth in the two interim rules.
3. Improving Federal, State, and local implementation of the program "performance standards" mandated for sponsors by ARPA and the first interim rule.
4. Improving FDCH sponsors' implementation, and State agencies' oversight, of the process for determining tier I eligibility based on the provider's household income.
5. Improving FDCH sponsors' methods for ensuring (and documenting) that all providers are receiving training in accordance with the requirements set forth in the second interim rule.
6. Obtaining funding for additional analysis and evaluation of effective ways to measure, detect, and correct accountability errors at all levels of program administration.

## **II. Background of the Child Care Assessment Project (CCAP)**

The CCAP was a four-year effort by FNS to evaluate the effectiveness of legislative and regulatory changes aimed at improving program integrity in the FDCH component of the CACFP. These changes were made in response to a range of problems identified by FNS and by the U.S. Department of Agriculture (USDA) Office of Inspector General (OIG) in a series of audits of identified problem sponsors in CACFP, known as Operation Kiddie Care.

### **a. Overview of Operation Kiddie Care**

In response to program integrity issues identified by SAs, FNS, and State and Federal audits in the early 1990's, the USDA OIG undertook an initiative "to determine the extent of fraud in the child care program and eliminate it."<sup>3</sup> Between 1996 and 1998, OIG performed over 40 audits and/or investigations covering 49 CACFP sponsors in 23 states. Collectively, the audits were referred to as Operation Kiddie Care. Auditors and investigators conducted simultaneous, unannounced visits to selected audit sites "so that a realistic picture of a site's operation can be determined."<sup>4</sup> The sponsors audited in Operation Kiddie Care were purposively selected as potential problem sponsors, based on a profile developed by OIG and on referrals from FNS, SAs, or other sources, such as whistleblower complaints.

OIG identified 37 of these 49 sponsors as seriously deficient in their operation of the CACFP. The serious deficiencies included failure to maintain adequate records; submission of false information to the SA; a history of administrative or financial mismanagement; and failure to monitor and train providers. Sixteen of these 37 sponsors were eventually terminated from the program.<sup>5</sup> The most serious problems identified in the audits involved financial improprieties, including sponsor staff or members of boards of directors who diverted program funds for personal use or who entered into "less-than-arms length" transactions for their personal benefit.

### **b. Child and Adult Care Food Program (CACFP) Interim Integrity Rules**

In response to the findings of Operation Kiddie Care, Congress included specific legislative changes in ARPA designed to improve CACFP management and program integrity. These provisions established stricter eligibility and operational requirements for CACFP sponsors of FDCH and sponsors of child care centers. Prior to this, FNS had implemented a management and regulatory action plan to address the deficiencies identified in the audits and in other program oversight activities. The major outcomes of

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<sup>3</sup> Audit Report No 27601-7-SF, August 1999, "Child and Adult Care Food Program: National Program Abuses", p. i.

<sup>4</sup> *Ibid.*, p.2.

<sup>5</sup> *Ibid.*, p. ii

the FNS action plan were the issuance of guidance and regulations designed to improve program management and integrity in CACFP:

- The Management Improvement Guidance (MIG) for sponsoring organizations and independent centers (2000);
- A complete revision of FNS Instruction 796-2 (revision 3), which sets forth the financial management requirements for CACFP (2001);
- The “first interim rule” (June 27, 2002), which implemented the statutory changes enacted in ARPA; and
- The “second interim rule” (September 1, 2004), which implemented additional safeguards for program integrity that had not been addressed by ARPA.

After each of these was issued, FNS conducted training for State agencies and then (with the exception FNS Instruction 796-2) provided SAs with specially-developed materials for their use in training CACFP institutions.

Among the most important provisions of ARPA and the first interim rule (June 27, 2002) were:

- The requirement that institutions meet performance standards for financial viability, administrative capability, and internal controls accountability in order to participate in the CACFP.
- Implementation of the law’s requirements concerning:
  - sponsors’ outside employment policies;
  - tax exempt status for private nonprofit institutions;
  - unannounced reviews;
  - the employment of adequate sponsor staff to effectively monitor providers;
  - the application approval process;
  - the responsibilities of sponsors’ boards of directors;
  - limitations on providers’ ability to change sponsors; and
  - “parental notice”, which required sponsors to provide program information to the parents of children in their sponsored facilities.
- Establishment of new rules governing the serious deficiency, termination, and appeal process, including:
  - more detailed procedures for serious deficiency declarations and corrective actions;
  - a requirement that disqualified institutions and individuals be placed on the National Disqualified List for up to seven years (or longer if a debt to the program is owed);

- new procedures for suspensions and appeals; and
- a requirement that State agencies and sponsoring organizations approving an application verify that institutions, institution principals, and providers are not on the National Disqualified List.

Among the most important provisions of the second interim rule (September 1, 2004) were:

- Establishment of new requirements to enhance the accuracy of claims submitted by institutions and meal counts submitted by facilities, including the requirements for:
  - household contacts;
  - monthly claim edit checks;
  - five-day reconciliation of facility meal counts against records of attendance and/or enrollment; and
  - the annual updating of child enrollment forms, including an indication of the child’s anticipated hours of care.
- Establishment of new requirements for SA reviews of institutions and sponsor reviews of facilities.
- Establishment of new training requirements, to ensure that appropriate sponsor and facility staff receive training on key aspects of the program, both prior to beginning program operations and annually thereafter.<sup>6</sup>

FNS has also been evaluating SAs’ implementation of the new law, regulations, and guidance in more comprehensive Management Evaluations. In Fiscal Year (FY) 2000, FNS evaluated each SA’s effectiveness in managing the CACFP, and has continued to review SAs on a rotating schedule. The CCAP initiative complemented this enhanced Management Evaluation process. The CCAP process provided FNS with the opportunity:

- to directly observe and evaluate sponsoring organizations’ implementation of many of the provisions in the two interim rules, both at the sponsor and at the FDCH level;
- to determine if the regulatory changes made by FNS had been fully implemented; and, if so,
- to determine whether these changes had actually corrected the deficiencies noted during Operation Kiddie Care.

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<sup>6</sup> Readers of this report should note that several of the requirements implemented in the second interim rule (e.g., required edit checks, detection of “block claims”, and the use of five-day reconciliations and household contacts) were not included in the CCAP assessments, because these provisions’ final wording was not determined until after the CCAP data collections had begun.

Since almost all of the problems identified in the Operation Kiddie Care report were in FDCH sponsoring organizations and homes, the CCAP focused exclusively on the FDCH component of the CACFP.

### **III. CCAP Selection Process**

#### **a. Sponsor Selection**

CCAP was aimed at assessing program operations for a broadly representative sample of FDCH sponsors and homes, rather than for sponsors already identified as having problems. “Problem sponsors” were not excluded from the sample pool unless there was an ongoing investigation or legal action, but they were not targeted for assessment as they would be by OIG. A modified random selection procedure, with probability of selection proportional to size, was used to determine which sponsors would be assessed. The more homes a sponsor operated, the greater its chance of being selected for a CCAP assessment. Some States had higher number of sponsors assessed than others by CCAP, because they have more large sponsors and because of the random selection. Thus, while the sample was not a statistically valid random sample, it was designed to be a fair representation of FDCH sponsors with 200 or more homes.

FNS determined that it would not be cost effective for CCAP assessments to be conducted in smaller sponsorships. For that reason, FNS only included in the CCAP selection pool those sponsors with 200 or more homes, and asked SAs to provide the names and number of homes administered for all sponsors of 200 or more homes. There were 215 sponsors in the initial selection pool. Sponsors in 42 of the 52 SAs<sup>7</sup> that administer the CACFP were included in that pool. Although the initial selection pool represented fewer than one-quarter of all FDCH sponsors, the sponsors in the pool administered the CACFP in over 70 percent of all participating FDCH homes.

For the first year of the project, each FNS Regional Office (FNSRO) was assigned to conduct one CCAP of a mid-size sponsor (400-800 homes) in its own region. This was done to provide a basis of comparison among FNSROs and to identify any necessary “fine-tuning” of CCAP procedures. For FY 2005, three sponsors with 200 or more homes were selected in each region (21 total). For FY 2006 and 2007, 30 more sponsors were selected on a national, rather than a regional basis, because sponsors of FDCHs are not distributed evenly across all FNS regions.

At the completion of the project, 58 CCAP assessments had been conducted in 31 of the 42 State agencies which had had sponsors in the initial selection pool. In total, these sponsors administered CACFP in 43,611 FDCH at the time of their assessments. A list of the States in which CCAPs were conducted, including the number of sponsors assessed, the number of homes in which each sponsor administered the CACFP, and the number of homes in which CCAP visits were attempted, is shown in Table 1.

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<sup>7</sup> The FNS Mid-Atlantic Regional Office serves as the State agency for the CACFP in Virginia. It is counted as a State agency here, as are the District of Columbia and Puerto Rico.

<b>Table 1: Distribution of SAs, Sponsors, and Homes Selected for CCAP</b>			
<b>State</b>	<b>Number of Sponsors Assessed under CCAP</b>	<b>Total Homes, all Sponsors*</b>	<b>Number of CCAP Home Visits Attempted</b>
Arizona	1	390	32
California	11	6,551	719
Colorado	1	205	31
Connecticut	1	360	36
Florida	2	682	99
Georgia	1	1,192	65
Illinois	2	2,328	171
Kansas	2	1,085	148
Kentucky	2	355	44
Louisiana	2	1,308	72
Maine	1	753	98
Maryland	2	2,153	273
Massachusetts	2	3,030	183
Michigan	1	2,670	184
Minnesota	3	6,564	444
Missouri	2	880	67
Nebraska	1	235	32
New Mexico	1	619	47
New York	2	803	59
North Carolina	1	697	71
North Dakota	1	675	50
Ohio	2	2,166	128
Oklahoma	2	794	60
Oregon	1	754	44
Pennsylvania	1	395	52
Texas	2	595	40
Utah	1	488	61
Virginia	1	432	91
Washington	2	1,061	135
West Virginia	1	635	82
Wisconsin	3	2,756	221
<b>Total</b>	<b>58</b>	<b>43,611</b>	<b>3,839</b>

\* Total number of homes administered by sponsors as of beginning date of CCAP

## b. Home Selection

SAs were notified that a sponsor had been selected for a CCAP about two months in advance of the scheduled visit. SAs were asked not to notify the sponsor that it had been selected until one to two weeks before the start of the CCAP. FNSROs asked the SA to provide the names and addresses of all providers on the SA's list of active providers for the selected sponsor. Once the sponsor was told of its selection for an upcoming assessment, the sponsor was asked to identify providers who would not be participating during the week of the assessment, and to provide meal count consolidations for the most recent month available. This information helped the CCAP home visit team be more efficient, by increasing the likelihood that providers selected for assessment would be operating during the assessment week, and to determine in advance which meals they were claiming.

The lead FNSRO analyzed the geographic distribution of the sponsor's homes and developed a home visit plan. In most cases, it was not possible to choose a truly random sample of a sponsor's homes. Instead, the FNSRO used geo-mapping software to identify clusters of homes, which could then be targeted for visits by a CCAP team over a period of one or more days. The minimum number of completed home visits for each sponsor was the greater of:

- The number of facilities that a SA would be required to review when conducting a sponsor review [see § 226.6(m)(6)(ii)]; or
- Twenty homes.

As previously mentioned, after sponsors were notified that they had been selected for a CCAP, they were asked for the names and addresses of all currently active providers, and for copies of the providers' most recent claim. Then, on the first day of the visit, the CCAP team asked for the names of any providers who had stopped participating since the sponsor had been notified of the CCAP, or who had notified the sponsor that they would not be participating on one or more days during the week of the CCAP assessment. Providers are required by regulation at § 226.18(b)(14) to notify a sponsor "in advance" if they will not be at home during a scheduled meal service time. Thus, the information received from the sponsor on the first day of the CCAP would have eliminated some, but not all, of the providers who would not be at home when the CCAP teams visited homes during scheduled meal services throughout the week.

CCAP teams attempted to conduct their home visits during a scheduled meal service whenever possible. However, since conducting visits only during scheduled meal services would have led to substantial "down time" for the home visit teams, most visits took place in between scheduled meal service times. In addition, because the home visits averaged 20-25 minutes in length, and because approved meal service times are often one to two hours in length, some children may have eaten meals (especially breakfasts and suppers) and left the home before or after the CCAP team was in the home.

In most cases, CCAP teams did not provide lists of the providers selected for home visits to the sponsors in advance of the visits. However, providers participating under the same

sponsor often know each other, and it is likely that some providers who were visited later in the week knew that a visit might be forthcoming.

#### **IV. Scope of the CCAP Assessments**

Prior to conducting the first assessment, staff from FNSROs and the FNS Headquarters' Child Nutrition Division developed procedures and data collection instruments for the conduct of CCAP assessments. The group developed three sets of instruments to be used in assessing sponsor level operations, the provider files kept by sponsors, and provider level operations (referred to as "home visits"). CCAPs were not designed to be comprehensive reviews of all aspects of FDCH sponsor and provider operations. Rather, they focused primarily on sponsors' implementation of the integrity regulations.<sup>8</sup> Therefore, a number of regulatory requirements were not included in the assessments.

The sponsor level instrument focused primarily on sponsor implementation of specific provisions of the integrity regulations, gathering data on:

- serious deficiency, suspension, and appeal policies and procedures;
- training for providers and sponsor staff;
- the level of CACFP oversight provided by the sponsor's Board of Directors (for private non-profit organizations);
- parental notifications;
- outside employment policies;
- monitor staffing ratios; and
- sponsors' initial reviews of new providers within their first four weeks of operation.

The sponsor instrument also included the assessment of certain aspects of the sponsor's financial operation that would provide insight as to whether the sponsor met the new "performance standard" requirements for financial viability, administrative capability, and internal controls accountability. In order to assess compliance with these performance standards, the instruments required CCAP sponsor teams to:

- analyze the sponsor's claims documentation and the allowability of its administrative expense claims for labor and facility costs;
- identify any other questionable administrative payments;
- identify any unapproved administrative costs; and
- identify check clearing irregularities, or other financial issues in the sponsor's records, that might indicate a lack of financial viability or internal controls, and determine whether the sponsor's payments to providers were timely and accurate.

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<sup>8</sup> It is important that readers keep in mind the distinction between regular program reviews and the CCAP assessments. In a normal review, a finding would generate required corrective action; in these assessments, findings were relayed immediately to the appropriate administrative level (SAs for sponsor findings, sponsors for provider findings), which was then expected to investigate further and take appropriate action.

The provider file instrument was used to assess the information in the sponsor's files for a sub-sample of the providers selected for home visits<sup>9</sup>. This instrument recorded whether the documentation on file in a sponsor's office met regulatory requirements.

The provider level ("home visit") instrument was used to record:

- whether the provider was at home and providing care at the time of the visit;
- whether a meal was observed and, if so, if it met meal pattern requirements;
- the results of an assessment of meal count and menu records;
- any serious health or safety problems;
- the provider's recollection of the training and monitoring she/he had received in the past 12 months; and
- the names of the children present at the time of the visit.

Home visits generally lasted 20-25 minutes.

## **V. Sponsor Level Findings**

In general, the CCAP assessment did not reveal the occurrence of the types of fraudulent activity (e.g., claiming reimbursement for non-existent homes, diversion of program funds, or significant unallowable administrative costs) which were among the most serious findings in the Operation Kidde Care audits. Instead, CCAP showed that almost all of the sponsors assessed were properly expending administrative funds. In addition, almost all sponsors could document that they had policies and procedures in place to implement almost all of the provisions of the two interim rules that were assessed by CCAP. Thus, it appears that the worst misuse of administrative funds by FDCH sponsors has been diminished by the statutory and regulatory reforms implemented since 2000, and that sponsors have made a serious effort to comply with the new regulations.

Nevertheless, in the course of conducting sponsor assessments, CCAP teams observed some significant instances of program non-compliance which resulted in several serious deficiency determinations, and ultimately resulted in the termination of two sponsors' program participation. In addition to these instances of serious non-compliance, the assessment also uncovered other significant examples of sponsors' failure to properly implement some aspects of their monitoring and oversight requirements. Several findings captured by the data collection instruments indicate that—although sponsors have adequate policies and procedures in place—the two interim rules have not been fully implemented by all sponsors, and that some important CACFP management issues remain unresolved. Although these problems are not as serious as those uncovered in the Operation Kiddie Care audits, they nonetheless represent important issues which must be addressed to ensure that program funds are properly expended. These issues are discussed in greater detail in Sections V(a) and V(b) of this report.

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<sup>9</sup> The file sub-sample included 25 percent of the minimum number of home visits normally performed by a SA during a sponsor review, or 20 files, whichever was less.

The Sponsor Data Form was designed to capture basic information about sponsors' implementation of the new provisions in the two interim rules. The results of that portion of the data collection are presented in section (V)(a). In addition, the assessment uncovered several specific problems related to sponsor oversight that the Sponsor Data Form was not originally designed to capture. These aspects of sponsor oversight must also be properly implemented if the interim rules are to have their intended effect. For that reason, they merit inclusion, and are addressed in section V(b).

a. Compliance with Sponsor-Level Requirements in the Two Interim Rules

The vast majority of the 53 sponsors for whom data was assessed<sup>10</sup> were in documented compliance with most of the regulatory requirements included in the sponsor-level assessment instrument. The sponsor-level instrument included one or more measurements of each sponsor's compliance with 23 different regulatory requirements, including 16 requirements that were newly-established or were modified in the two interim rules. Table 2 summarizes the percentage of sponsors in compliance with each of these regulatory provisions, and the discussion following the table provides additional detail on some of the key areas of compliance assessed.

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<sup>10</sup> Although provider file data and provider home visit data from 58 sponsorships was collected and analyzed, sponsor-level data was assessed for only 53 of the 58 sponsors.

TABLE 2: Documentation of Sponsor Compliance with Integrity Rule and Financial Management Requirements		
Regulatory requirement	Percentage	N
1. Board of Directors Oversight of CACFP (§§ 226.6(b)(1)(xvii)(C)(1) and 226.6(b)(2)(vii)(C)(1))		
One or more of the past three board meetings dealt with CACFP oversight	88.0%	50
Board of Directors has members who are sponsor officials or family members	36.0%	50
2. Administrative and Monitoring Staff Training (§ 226.15(e)(14))		
Sponsor has provided training for all monitoring/administrative staff within last 12 months	100.0%	52
Training agenda is documented	98.1%	52
Of those with documented training, those including CACFP duties and responsibilities	94.1%	51
3. Provider Training (§§ 226.16(D)(2) and (3))		
Sponsor trains providers before they begin program operations	100.0%	52
Sponsor trains providers annually	100.0%	50
Of those training annually, those with training on CACFP duties and responsibilities	94.0%	50
4. Serious Deficiency (SD) Process for Providers (§ 226.16(l))		
Sponsor has a written SD policy	100.0%	53
Of those with written SD policy, those in compliance with program requirements	86.8%	53
5. Suspension Policy for New Providers (§ 226.16(l)(4))		
Sponsor has a written suspension policy	83.0%	53
Of those with written suspension policy, those in compliance with program requirements	93.2%	44
6. Appeals Process for Providers (§ 226.6(l))		
Sponsor has a written appeals procedure	100.0%	53
Of those with written appeals procedure, those in compliance with program requirements	92.5%	53
7. Outside Employment Policy (§§ 226.6(b)(1)(xvi) and 226.6(b)(2)(vi))		
Sponsor has a written outside employment policy	100.0%	53
Of those with written outside employment policies, those in compliance with program requirements	98.1%	53
8. Monitoring Staff (§ 226.16(b)(1))		
Sponsors with a number of monitors greater than, or equal to, the minimum required by SA	91.8%	49
9. Parental Notification (§ 226.16(b)(5))		
Sponsor provides notice to parents	96.2%	52
Of those with parental notification, those in compliance with program requirements	80.0%	50
10. Review of New Homes (§ 226.16(d)(4)(iii)(C))		
New homes reviewed within first 4 weeks of operations during the review month <sup>1,2</sup>	86.0%	692
Of sponsors with new homes during the review month, those who reviewed 100% of new homes	41.3%	46
11. Reimbursement and Provider Payments (§ 226.16(g))		
Sponsor disburses all provider payments within 5 days of receipt of reimbursement	85.1%	47
12. Administrative costs - Allowable (§§ 226.6(b)(1)(xviii)(A) and 226.6(b)(2)(vii)(A))		
Sponsor has no unallowable costs	80.8%	52
For those with unallowable costs, unallowable costs as a percentage of total administrative costs <sup>3</sup>	2.2%	8

<sup>1</sup> This data excludes one sponsor because this sponsor took over many homes that did not need to be reviewed as new homes.

<sup>2</sup> The N for this data element reflects the number of providers

<sup>3</sup> Unallowable costs include labor costs, fringe benefits, and rent/depreciation costs

### *Board of Director Oversight and Composition*

The CACFP regulations do not attempt to quantify the amount of oversight required from an organization’s board of directors. Instead, the regulations which set forth the “performance standards” at §§ 226.6(b)(1)(xvii)(C)(1) and 226.6(b)(2)(vii)(C)(1) require a participating institution’s board of directors to provide “adequate oversight of the Program”. The CACFP MIG provides more detail, stating that the institution’s board should “regularly review the organization’s policies, programs, and budgets” to ensure that the sponsor “meets the performance standard with respect to policy, fiscal management, and operational oversight.”<sup>11</sup> If the CACFP is a relatively small portion of a multi-purpose sponsor’s operations, it would not necessarily be expected that CACFP would be discussed at every meeting.

For the purposes of CCAP, “adequate board oversight” was defined as documentation that, in at least one of the last three meetings of the institution’s board, oversight of CACFP was documented. This standard of documentation (CACFP oversight in one of the past three board meetings) was met in 88 percent (44 of 50) of the sponsors assessed. Eighty (80) percent of the sponsors (40 of 50) actually met the standard in two of their organization’s previous three board meetings.

The CCAP assessment also collected data on the composition of sponsors’ boards of directors. Specifically, CCAP assessors determined whether any member(s) of the sponsor’s board was a sponsor official or a family member of a sponsor official. Although the current regulations do not directly address this, it is a critical aspect of a board’s ability to provide “adequate oversight of the Program”, as described in the MIG. The MIG guidance and training emphasized that boards which include the CACFP director, other sponsor officials, and/or members of their families cannot perform the type of independent oversight required for the sponsor’s successful operation of the CACFP. One of the critical hallmarks of board independence—the board’s ability to hire and fire the organization’s executive director—is limited when sponsor officials or their families serve on the board. Unfortunately, in this important aspect of internal controls, 36 percent of sponsors (18 of 50) were found to have sponsor officials or family members serving on their boards of directors. In fact, in almost 20 percent of the sponsors assessed (9 of 46), the board’s chairperson was a sponsor official or family member.

### *Training for Sponsor Staff and Providers*

The CCAP assessments determined that 100 percent of sponsors (52 of 52) assessed met the “CCAP standard” of having trained their monitoring and administrative staff in the past 12 months. This is extremely encouraging, insofar as assessing training of both “administrative” and “monitoring” staff for the 12 months prior to the CCAP is a slightly more rigorous standard than that set forth in the regulations.

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<sup>11</sup>USDA Food and Nutrition Service Management Improvement Guidance, Child Care Center Sponsors and Independent Centers, Part I-5, Section 1.1.

To assess whether sponsors had implemented the second interim rule’s training requirements for providers, CCAP team members checked to see whether each sponsor could document that it had trained its participating providers, both before the providers began to participate and on an annual basis thereafter. “Adequate documentation” of proper implementation included the sponsor having on file: training protocols and agendas; lists of attendees at group training and other documentation methods for individual training; and documentation that the required CACFP subjects had been addressed in the training. As shown in table 2, all of the sponsors assessed met this standard for training providers prior to program participation and annually thereafter.

For a small number of the sponsors assessed (3 of 50), the training agenda for providers, sponsor staff, or both, failed to document training in CACFP requirements. For example, provider training sometimes focused solely on general child development issues or on providing educational activities for young children. Many sponsoring organizations consider their broader mission to be improving the quality of child care, one aspect of which is administration of the CACFP, so it is not surprising that they would include non-CACFP topics when training providers. However, it is not appropriate to count more general child development training as fulfilling the regulatory requirement for annual CACFP training, as set forth in the second interim rule at § 226.16(d)(3).

#### *Procedural Documentation of Sponsor’s Serious Deficiency Process for Providers*

All of the sponsors assessed (53 of 53) had a written serious deficiency policy in place. Of these sponsors, 86.8 percent (46 of 53) had correct policies in place concerning seriously deficient providers, corrective action, and termination procedures, as required by the first interim regulation. Other aspects of the serious deficiency process that were assessed by CCAP—having to do with the percentage of sponsors having correct policies on “suspension” and the provider appeal process (see Table 2)—showed slightly higher levels of compliance (93.2 and 92.5 percent, respectively). However, the number of sponsors without any written suspension policy (9 of 53, or 17 percent) was surprisingly high.

At the time of their CCAP assessments, these sponsors administered the CACFP in 39,466 homes. Between the effective date of the first interim rule (July 29, 2002) and the date that their CCAPs were conducted, these sponsors issued 1,289 serious deficiency declarations to providers. Over 90 percent of sponsors assessed (47 of 52) had declared one or more of their providers seriously deficient between July 29, 2002, and the time of their CCAP assessments. However, there was great variation among sponsors in the number of serious deficiency declarations issued, and that variation was not related to the number of homes administered by the sponsor or the length of time that elapsed between the first interim rule and the date of the CCAP. This issue is addressed in greater detail in Section V(b).

Of the 1,289 providers declared seriously deficient, 62 percent successfully completed corrective action, 36 percent were terminated from the program, and 2 percent had their proposed program terminations overturned on appeal. Fewer than one in five providers

proposed for program termination filed an appeal; of these, 65 proposed program terminations were upheld and 28 were overturned.

### *Reviews of New Providers during their First Four Weeks of Operation*

As shown in Table 2, 86 percent of new homes (595 of 692) were reviewed by their sponsor during their first four weeks of operation, as required by § 226.16(d)(4)(iii)(C). However, only 19 of 46 sponsors (41.3 percent) with new homes in the test month had completed all reviews of new providers within their first four weeks of operation.

Although the four-week review requirement predates the two interim management improvement rules, compliance was measured due to its importance in ensuring that sponsors provide oversight of, and assistance to, those new providers most likely to make program errors. A sponsor's failure to perform these required "early reviews" increases the likelihood of providers making meal counting and menu errors and, thus, may affect both the quality of the meal service and the accountability of Program funds.

### *Timely Payment to Providers*

Another item assessed by CCAP which predates the two interim rules was the requirement at § 226.16(g) that a sponsor make all payments (whether advances or regular reimbursement payments) to providers within five working days of the time that the sponsor receives payment from the SA. This requirement ensures that sponsors reimburse providers promptly for eligible meals served.

In the month examined, CCAP assessors found a variety of payment practices. Several sponsors reimbursed providers for meals served before receiving reimbursement from the SA. However, seven of the 47 sponsors assessed on this item (roughly 15 percent) did not meet the regulatory requirement to disburse all provider payments within five working days of receipt. In such instances, FNS Instruction 796-2, revision 3 ("Financial Management – Child and Adult Care Food Program"), requires that any interest earned by the sponsors be counted as income to the program when calculating the sponsor's own claim for administrative reimbursement. This requirement means that sponsors should not be able to derive a financial benefit from delaying payment to providers. Nevertheless, a sponsor's compliance with the 5-day payment requirement is critical to providers, some of whom depend on timely receipt of CACFP reimbursement to cover the cost of food purchased for children in care. Given that ARPA placed new limits on providers' ability to change sponsors, it is incumbent upon SAs and sponsors to ensure that providers receive timely reimbursement for meals served.

### *Unallowable, Unapproved, and Questioned Administrative Costs*

In the FDCH component of the CACFP, sponsors receive a separate reimbursement for the cost of managing the program. This is known as the sponsor's administrative reimbursement (as opposed to the "meal reimbursement" paid to providers and discussed in the preceding paragraph). The sponsor's administrative reimbursement is based on the

“lesser of” several different calculations, but the primary factor determining most FDCH sponsors’ reimbursement is the number of homes administered.<sup>12</sup>

After the sponsor calculates its monthly administrative reimbursement and submits its claim, the SA compares the administrative costs on the monthly claim to the sponsor’s approved budget, to ascertain that year-to-date costs are appropriate. If the SA later determines on a review that some items on the sponsor’s administrative claim were “unallowable” (that is, the cost was not necessary for program administration, was not reasonable in amount, was not in the sponsor’s approved budget, was a cost that should have been allocated differently among programs, or was a cost that cannot be paid for with Federal funds), an overclaim will be established.

In OIG’s Operation Kiddie Care audit, the most serious and frequently-cited finding involved sponsors’ misuse of administrative reimbursements to pay for personal expenditures and/or other “unallowable costs.” As previously mentioned, these findings led to the termination of CACFP participation of 16 of the 49 sponsors audited by Operation Kiddie Care, and the audit made a series of recommendations for program changes designed to eliminate or minimize such problems. In addition, Congress responded by including in ARPA specific provisions designed to improve CACFP management and integrity. FNS then implemented the changes made by ARPA and the OIG recommendations in the two interim rules published in 2002 and 2004.

To determine whether misuse of administrative funds was still occurring, and the approximate scope of such misuse, CCAP teams completed a detailed assessment of each sponsor’s use of administrative reimbursement for one month (referred to as the “test month”). This assessment was done in three ways:

- First, by comparing the sponsor’s claim for labor and facility expenses in the test month with source documentation on file.

FNS chose to assess these two areas because labor constitutes over three-quarters of the average sponsor’s administrative expense, and because OIG had identified “less-than-arms-length” facility leases as being problematic for some of the sponsors included in the Operation Kiddie Care audits.

- Second, by comparing the sponsor’s claim for administrative reimbursement to its approved administrative budget in the test month, to ensure that all costs requiring prior SA approval had, in fact, been approved.

Based on its experience, FNS knew that the failure to obtain prior approval for certain cost items often led to questioned or unallowable costs.

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<sup>12</sup> The formula for calculating FDCH sponsors’ administrative reimbursement is set forth in full at § 226.12(a).

- Third, by examining the sponsor’s bank statements and check register to identify any questionable payments that may not have been apparent from the other two comparisons.

This examination helped FNS to determine whether provider payments were accurate and timely and to identify claimed administrative costs that lacked proper source documentation, or were of questionable allowability.

Based on the comparison of the sponsor’s claim to source documentation for labor and facility costs, 81 percent (42 of 52) of the sponsors assessed had no unallowable costs in the test month. Of those sponsors with unallowable labor or facility costs, only 2.2 percent of the administrative costs they claimed were unallowable, and only one had unallowable costs in excess of \$1,000 for the selected month.<sup>13</sup> The reasons for these unallowable costs included: inadequate documentation of labor costs; improper charging of staff time to CACFP; charging labor or facility costs from a prior fiscal year to the current fiscal year; and disproportionate allocation of occupancy costs to the program.

Second, CCAP assessors examined sponsors’ budgets to compare each sponsor’s administrative claim to the administrative budget approved by the SA, to ensure that all items in the claim that were subject to approval had actually received approval. Of the 50 sponsors for which data was assessed, 39 (78 percent) had no unapproved cost items in their administrative claim during the test month. Of those sponsors with unapproved costs in their claims, none of the unapproved budget items exceeded \$1,000 in value in the test month. Because most of these costs would have been allowed had the proper approval procedures been followed, only one of the sponsors’ costs was included in the discussion and calculation of unallowable costs in the previous paragraph. Nevertheless, the assessment demonstrated that, too often, sponsors still fail to obtain permission for expenditures that, in accordance with the CACFP financial management instruction, require prior SA approval.<sup>14</sup>

Third, CCAP teams also looked at bank statements and check registers for the test month to identify questionable cost items. Of the 43 sponsors for which data could be assessed, 9 (roughly 21 percent) were identified as having questionable costs.<sup>15</sup> This means that certain expenses had not been properly documented, even if they appeared to be allowable costs, or that the assessor believed that the product or service being claimed might not be allowable. Three of these 9 sponsors also had unallowable labor or facility costs during the selected month. The value of most of the questioned costs was larger than the amounts of unallowable costs: it ranged from \$70 to \$22,000, and for six sponsors, the questioned costs were greater than \$1,000. Two questionable cost items

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<sup>13</sup> CCAP assessors entered dollar figures for eight of the ten sponsors with unallowable costs, and the 2.2 percent figure is based on the unallowable labor and facility costs of those eight sponsors.

<sup>14</sup> CCAP assessors entered dollar figures for seven of the eleven sponsors with unapproved costs, and the “less than \$1,000” figure is based on those seven sponsors.

<sup>15</sup> The total number of sponsors for whom questionable costs could be determined is lower, because for some sponsors, the data collected by the assessors was difficult to interpret].

raised serious concerns about fraud or misappropriation of funds: an undocumented \$22,000 transfer to a non-program account, identified as a repayment of a loan from a member of the Board of Directors, for which there was no loan documentation; and an improper repayment of a debt to the CACFP with program funds. In both cases, the sponsors were declared seriously deficient due to these and other financial viability issues, and their program participation was eventually terminated.

In total, of the 53 sponsors for which one or more types of cost data was assessed, three had serious program deficiencies which led to further SA action after the CCAP. Two of these sponsors' serious deficiencies were initially discovered during the CCAP assessment, and the CACFP participation of both was ultimately terminated on the basis of financial management issues. The third sponsor had been released from seriously deficient status prior to its CCAP, but ongoing financial management problems were identified during the CCAP. The sponsor was again declared seriously deficient and is currently in the process of taking corrective action.

### *Implementation of CACFP "Performance Standards"*

CCAP assessors also collected data relating to sponsors' financial viability, administrative capability, and accountability/internal controls. These are the three components of the performance standards (commonly referred to as "VCA", for viability, capability, and accountability) which all CACFP institutions, including FDCH sponsors, are required to meet at §§ 226.6(b)(1)(xviii) and 226.6(b)(2)(vii). Perhaps the most straightforward data item collected relating to VCA was whether or not a sponsor had had an audit. The audit requirements are intended to provide an independent assessment of the reliability and validity of the sponsor's financial statements, and to express an opinion on the organization's system of internal controls. Of the 48 sponsors for which data was assessed, 47 had met the audit requirements at § 226.8.

However, in assessing the data collected relating to other aspects of sponsors' VCA, assessors uncovered the following problems in sponsor-level fiscal and accountability practices, any of which might be indicative of the sponsor's failure to meet the Program performance standards established in the first interim rule:

- Unallowable loans or leases (3 sponsors), including two "less-than-arms-length transactions" between the institution and sponsor executives or Board members and lack of loan documentation;
- Possible administrative claiming errors due to mis-counting of participating homes in the test month (3 sponsors);
- Allowing the Executive Director to sign his own paycheck (1 sponsor);
- Blank provider checks signed in advance of issuance and never used and missing checks (2 sponsors);
- Checkbook system with no financial management controls or records (1 sponsor);
- Non-CACFP costs paid from account containing only program funds (1 sponsor); and
- Recordkeeping insufficient to track program expenditures (2 sponsors).

Five of the 13 instances cited came from the two sponsors whose CACFP participation was later terminated.

These findings relating to sponsors' compliance with the VCA standards are potentially serious. At a minimum, several of the findings should result in overclaims, while others are indicative of inadequate internal controls and/or financial practices that could lead to overclaims.

#### b. Other Sponsor-Level Problems Identified

As previously mentioned, in the course of conducting sponsor-level assessments, CCAP teams observed two significant areas of program non-compliance which had not been included in the initial sponsor level instrument. Although we had not originally planned to evaluate these areas in the CCAP process, they were significant enough to include in this report. The first problem concerned sponsors' actual implementation of the serious deficiency process for providers; the second concerned some sponsors' failure to monitor breakfasts, suppers, post-supper snacks, and meals served on weekends or holidays, even when those meal types constituted a significant portion of the total meal reimbursement being claimed by the sponsor's providers.

The changes made to the serious deficiency process were a key element of the first interim rule. The rule required sponsors to declare providers seriously deficient when providers committed serious program errors that could affect the quality of meals served to children or the integrity of a provider's claim for reimbursement. If a provider fails to correct serious deficiencies, the sponsor is required (at § 226.16(l)(3)(iii)) to propose that the provider be terminated and disqualified from future program participation. As noted in section V(a) of this report, all of the sponsors assessed in CCAP (53 of 53) have written serious deficiency policies and procedures, and 87 percent (46 of 53) had policies and procedures in place which comply with program requirements. Most sponsors have accomplished this by adopting as their formal policy the guidance on the serious deficiency process issued by FNS and the SAs.

However, in addition to those sponsors whose written policies or procedures were not completely compliant, CCAP assessments found enough instances of inadequate implementation of the serious deficiency process to cause concern. These findings included:

- Two sponsors that failed to follow through on serious deficiency determinations, allowing providers to "self-terminate", or placing the providers in an "inactive" status for several months. One of these sponsors also permitted two providers whose licenses were suspended for health or safety violations to withdraw from the program, without declaring them seriously deficient and placing them on the National Disqualified List;
- One sponsor with proper serious deficiency procedures in its handbook, had improper procedures described in its agreement with providers;

- One sponsor recorded 17 providers seriously deficient, but in fact had issued five serious deficiency determinations and 12 cost disallowances; and
- One sponsor failed to implement a serious deficiency process for providers for more than two years after the first interim rule took effect.

One of the most disturbing aspects of these findings was the failure to follow through on the serious deficiency process, and to allow some providers to “self-terminate.” A provider who self-terminates or returns to the program after being “inactive”—instead of being declared seriously deficient and being terminated for cause if corrective action is not taken—will not be placed on the National Disqualified List, and is therefore eligible to participate in CACFP with another sponsor. Thus, sponsors which allow providers to “self-terminate”, or to return to the program after a brief period of non-participation, are undermining the intent of the serious deficiency process for FDCHs.

Finally, although it does not directly violate the regulations, as many as 22 of the 52 sponsors assessed failed to employ the serious deficiency process except in very rare instances. Although these 22 sponsors were somewhat concentrated by region and state, they nevertheless were located in 15 different states and in all seven FNS regions. These sponsors’ reluctance to employ the seriously deficient process casts doubt on their commitment to terminating the program participation of providers who fail to correct serious deficiencies.

As previously mentioned, at the time of their CCAP, five sponsors had declared no providers seriously deficient. An additional seventeen sponsors had employed the serious deficiency process in 3/10 of one percent or fewer of their providers, per provider year,<sup>16</sup> less than one-half of the average rate of CCAP sponsors’ use of the serious deficiency process (see Table 3). At the other end of the spectrum, seven of the 52 sponsors assessed had issued at least three times the National rate of serious deficiency notices (from 2.4 to 6.7 percent of their providers, per provider year). Table 3 shows the range of serious deficiency determinations by sponsors assessed in CCAP, expressed as a percentage of providers declared seriously deficient per provider year after the effective date of the second interim rule.

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<sup>16</sup> Differences among sponsors in the number of homes administered and the date on which the CCAP was conducted were equalized by converting the sponsor’s providers to “provider years”. For example, if a sponsor administered the CACFP in 300 FDCH, and its CCAP was conducted 36 months (3 years) after implementation of the first interim rule, it was considered to have administered the CACFP for 900 “provider years” at the time of the CCAP.

<b>Table 3: Distribution of providers declared seriously deficient by CCAP sponsors</b>		
Percentage of serious deficiency determinations per provider year	Number of sponsors	Number (and percentage) of all serious deficiency determinations
0	5	0 (0.0%)
0.1%-0.3%	17	72 (5.6%)
0.4%-0.7%	11	86 (6.7%)
0.8-1.9%	12	536 (41.5%)
2% and over	7	595 (46.2%)
Mean: 0.67% per provider year	Total: 52 sponsors	Total: 1,289 providers (100%)

Across all of the 52 sponsors assessed by CCAP, 19 (or 37 percent of the sponsors assessed) accounted for 88 percent of all serious deficiency determinations issued. The other 33 sponsors (representing 63 percent of all sponsors assessed) had issued only 12 percent of all serious deficiency determinations.

The difference in the frequency of use of the serious deficiency process by sponsors was not due to a CCAP’s proximity to issuance of the first interim rule. In other words, it is not the case that those sponsors that had issued the fewest serious deficiency determinations were the sponsors whose CCAPs were conducted soonest after the effective date of the first interim rule. For the five sponsors that had declared no homes seriously deficient at the time of their CCAP assessment, an average of 2.75 years had elapsed since publication of the first interim rule; for the seven sponsors using the process most frequently, an average of 2.67 years had elapsed. Nor was the size of the sponsor an apparent factor in explaining the frequency of the sponsor’s use of the seriously deficient process. For example, one sponsor of 1,068 homes had not issued any serious deficiency determinations in the first 29 months after implementation of the first interim rule, while another sponsor of 1,192 homes had issued 170 determinations in the first 26 months after implementation.

While one would not expect all sponsors to issue the same number or rate of serious deficiency declarations, and although there certainly is no requirement that a sponsor declare a certain percentage of homes seriously deficient each year, it seems likely that a number of the sponsors assessed should have employed the seriously deficient process more frequently than they did. This is especially true when one considers the broad prevalence of the types of provider recordkeeping problems discussed in section VII of this report.

The second problem uncovered by CCAP which fell outside the assessments’ original scope was many sponsors’ failure to adequately monitor breakfasts, suppers, post-supper snacks, and weekend/holiday meals. Over the past decade, the percentage of suppers served in FDCHs has increased, from 16 percent to 18.6 percent of all meals (excluding snacks) served. Taken together, breakfasts and suppers now account for almost 55

percent of CACFP meals (excluding snacks) served. Thus, they constitute a large percentage of CACFP meal expenditures in FDCH's.

However, during the first assessments conducted to test the data collection instruments, CCAP team members noted that very few sponsor reviews occurred at the provider's scheduled times of breakfast or supper meal service. As the data collection progressed, it quickly became clear that this was more than an occasional weakness in sponsors' oversight of providers. To address this problem, FNS issued guidance in 2006 to clarify the proper interpretation and application of the monitoring requirements at § 226.16(d). The guidance stated that sponsors "must provide oversight of all types of meal services being claimed", and that the percentage of all reviews conducted by the sponsor should be roughly proportional to the percentage of each type of meal being claimed by its facilities.

## **VI. Provider File Findings**

On each assessment, the CCAP team in the sponsor's office selected a random sample of at least 20 provider files to assess sponsor compliance with the approval, eligibility documentation, and monitoring requirements. A total of 1456 were selected in the 58 sponsors assessed.

Table 3 summarizes the degree to which sponsors had the following documentation on file, as required by the regulations:

- For all providers: an application, a current sponsor-provider agreement, the provider's date of birth, a copy of the provider's current license or other proof of eligibility, and compliance with training and monitoring requirements;
- For providers who claim reimbursement for their own children: an income eligibility statement showing free or reduced price eligibility; and
- For providers classified as Tier 1 based on their own household income: income documentation.

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<b>Table 4: Results of Provider file Assessments</b>			
Requirement	Percentage of Files Documenting Compliance	Number of Sponsors*	Number of Providers*
Application on File	99%	57	1396
Agreement signed not later than review month	95%	57	1441
Current license/approval on file	93%	57	1422
Date of Birth on File	95%	57	1427
Of those providers with own children enrolled in Review Month, those with proof of free/reduced price eligibility on file	68%	56	415
Proof of income for Providers Qualifying for Tier 1 Based on Own Income	80%	47	218
Documentation of training before beginning program operations**	90%	55	728
Documentation of training within 12 months	80%	56	1193
Of those with 3 monitoring visits, those with 3 visits within 1 year***	94%	57	1300
Of those with 3 monitoring visits, those with visits no more than 6 months apart***	86%	57	1300
At least 2 unannounced visits***	86%	57	1263
Of those with 3 visits within 1 year, visits no more than 6 months apart and at least 2 unannounced visits***	75%	57	1263

\* Some questions did not have a response on some of the data collection instruments. The percentage of files documenting compliance is calculated based on the number of forms which had a response to the applicable question. The number of responses for each question is shown in the table.

\*\*If a provider has been in the program more than 3 years, a sponsor is not required to retain the documentation of initial training in the provider's file

\*\*\* For providers who had at least 3 monitoring visits documented

Compliance was at least 90 percent for six of the 12 requirements assessed in the provider files and presented in Table 3, and at least 80 percent or better for four of the other six requirements assessed. The most significant of these findings are as follows:

#### *Documentation of current licensing/approval*

The provider files in sponsors' offices showed that 93 percent of the providers assessed had a current license or approval on file. Although this initially seemed low (licensing or approval is a pre-requisite for a provider's participation in CACFP), it was determined that most of the providers for which this was found were located in a handful of states. In some states, licensing is considered permanent until revoked, and it may not appear that a provider's license is "current" for that reason. In addition, some state licensing agencies run behind in processing renewal application. In these states, it is understood that the provider's license is valid until the licensing agency has taken action on its renewal application.

*Documentation of household eligibility for providers who claim reimbursement for their own children, and Tier 1 reimbursement based on their own household income*

Family day care providers participating in CACFP are eligible to receive either Tier I (higher) or Tier II (lower) rates of reimbursement for meals served. In most cases, a provider receives the same reimbursement (either Tier I or Tier II) for meals served to all age-eligible enrolled children in care. A provider's eligibility for Tier I reimbursement can be based on the area in which the provider lives ("area eligibility") or the provider's household income. If qualifying on the basis of household income, the regulations require that the provider document, and the sponsor verify, the sources and amount of the provider's household income.

Providers can only be reimbursed for meals served to their own children if the provider is income-eligible for free or reduced price meals. Thus, if a provider is Tier 1 eligible based on school enrollment or census data, the provider can establish her child's eligibility by submitting an application showing that her household meets the income eligibility standards for free or reduced price meals. If the provider is not eligible for Tier 1 reimbursement on the basis of school or census data, all of the meals served to children in her care (including her own child) may qualify for Tier 1 reimbursement if her household meets the income eligibility standards for free or reduced price meals. However, in the latter case, the household's income eligibility must be verified by the sponsor (in other words, income documentation—such as wage stubs for household members with outside employment or tax forms for a household with self-employment income—must be provided).

Although the regulations governing the qualification for Tier I reimbursement on the basis of household income predate the two interim integrity rules, compliance is essential to ensure proper expenditure of CACFP funds. If a provider does not document, and the sponsor does not verify, household income, the provider may be receiving a higher rate of reimbursement than warranted *for all meals served in the home*. Thus, it is critical that sponsors properly implement this requirement.

The CCAP assessment of provider files showed that, for 20 percent of providers classified Tier 1 based on their household income, the sponsor's file for that provider had missing or inadequate income documentation. Although this figure is based on a relatively small number of cases (218), it is worrisome insofar as all of the meals served to children in these homes are being reimbursed at the higher Tier 1 rate of reimbursement based on inadequate documentation. Roughly 13 percent of all Tier I determinations are based on a provider's verified household income.

CCAP assessors also found that there was no income documentation on file for 34 percent of the households in which the provider's own child(ren) were enrolled for care. This figure includes all of the homes discussed in the preceding paragraph (i.e., those providers qualifying for Tier 1 reimbursement on the basis of household income), plus about 200 other providers who were area-eligible for Tier I reimbursement, but could have received reimbursement for their own children's meals only if there was a free or reduced price application on file. It is fair to note that a small number of these nearly 200

cases may have involved providers' children who were enrolled for care to comply with State licensing rules, without being claimed for reimbursement by the provider.

### *Documentation of training*

Based on the sponsor files examined by CCAP team members, all sponsors had given training to both new and experienced providers in accordance with the requirements of the second interim rule (see Table 2). These files documented that sponsors had systems in place for training both new and experienced providers, and included lists of attendees and training agendas. In 94 percent of the sponsors' files (47 of 50), the training agenda showed that the content requirements set forth in the regulations at §§ 226.16(d)(2) and (3) were met.

However, Table 4 shows that, when CCAP team members examined individual providers' files held in sponsors' offices, 90 percent of those files included documentation that new providers had received training prior to beginning program participation, and only 80 percent documented that the provider had attended or received training within the last 12 months

The discrepancy between the information based on the sponsor's training files and the information based on the individual provider files held by the sponsor raises three possibilities:

- That provider files in the sponsor's office were not accurate or complete;
- That while sponsors almost always make training available to all providers, they do not always have an effective mechanism to ensure that each provider actually receives training on the required schedule; and/or
- That assessors recorded only those providers with file documentation of training within the past 12 calendar months, as opposed to the regulatory requirement of having providers trained "annually", which could result in gaps of more than 12 calendar months between training sessions, but still meet the requirement for "annual" (e.g., once per calendar or fiscal year) training.

It is critical that sponsors can ensure and document compliance with the regulatory requirement to train providers annually, and to include in that training a discussion of various aspects of CACFP operation, as required by §§ 226.16(d)(2) and (3).

### *Documentation of provider reviews*

The CACFP regulations at §§ 226.16(d)(4)(iii) require that sponsors conduct three reviews per provider per year, that no more than six months elapse between reviews, and that two of the three provider reviews be unannounced.<sup>17</sup> CCAP assessors collected data to determine whether each of these regulatory requirements was met, and to determine

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<sup>17</sup> Although sponsors that employ "review averaging" (see § 226.16(d)(4)(iv) of the regulations) are permitted to conduct fewer than three reviews of some providers, none of the sponsors included in CCAP is believed to have used review averaging.

how many provider files documented that all three aspects of the monitoring requirements (three reviews per year, at least two of which were unannounced, with no more than 6 months between reviews) were met.

Of 1,300 provider files examined in 57 sponsorships, 1,227 (94 percent) documented that at least three reviews had been completed within one year, while 1,117 (86 percent) documented that no more than six months had elapsed between reviews. Similarly, 86 percent of files examined (1,092 of 1,263) included documentation that at least two of the last three reviews had been unannounced. However, only 75 percent of the provider files (947 of 1,263) documented that the sponsor had complied with all three requirements.

These figures suggest that there is close to full compliance with the regulatory requirement that providers must be reviewed three times per year, but that there is clearly room for improvement in sponsors' compliance with the other monitoring requirements as they apply to each provider. Of most concern is the finding that roughly one in seven providers (177 of 1,263, or 14 percent) is not receiving two unannounced reviews per year. Of these providers, about one in seven (roughly 2 percent of all provider files examined for providers with three reviews) showed that all of the last three reviews had been announced.

In summary, most sponsors are meeting most of the review requirements set forth at § 226.16(d); however, for as many as one-quarter of all providers, not all monitoring requirements set forth in the regulations are being met.

## **VII. Home Visit Findings**

One of the major objectives of CCAP was to verify that day care homes receiving CACFP reimbursement were, in fact, operating and providing reimbursable meals to children. Because the CCAP home visits were short in duration and were generally not conducted at the time of a meal service, they could not establish the extent of misreporting that may occur as a result of providers claiming meals that were not served. However, CCAP demonstrated that one of the most damaging findings of the Operation Kiddie Care audits—examples of “phantom homes”, where sponsors claimed administrative reimbursement for non-existent FDCHs—is no longer a problem

### **a. Outcomes of Attempted Home Visits**

CCAP teams attempted a total of 3,849 home visits, and located a residence at the address given by the sponsor in all but ten instances (i.e., the provider address given to CCAP team members by the sponsor was located in 3,839 of 3,849 visits, a rate of 99.7 percent). In four of these ten cases, assessors were unable to locate the address given by the sponsor; in six other cases, the CCAP team located the address given by the sponsoring organization, but did not locate a residence at the address. On 15 of the other 3,839 attempted visits, the team located a residence at the address and interviewed a resident, but was told that the provider was not known or no longer resided at the address.

All of the figures on visit outcomes cited below are based on the results of the 3,839 attempted visits for which a residence was located.

As shown in Table 5, of the 3,839 visits attempted, roughly 85 percent (3,250) were completed. In almost 80 percent of the attempted CCAP visits (3,042 of 3,839), and about 94 percent of completed visits (3,042 of 3,250), children were present at the time of the visit. In the other 6.5 percent of attempted visits (208), no children were present, but the provider or assistant was able to provide access to the FDCH records and allow the team to complete the visit. For the remaining visits (589 of 3,839), either:

- the provider was home, but declined to talk to the assessors (119 of 589)
- the facility was operating with an assistant, but no assessment was conducted (107);
- the provider indicated that she/he was no longer providing day care, or a respondent indicated that the provider did not reside at the address (69); or
- there was no response at the residence when the team visited (294).

<b>Table 5: Basic Data on CCAP Visits</b>	
Visits Attempted	3,839
Visits Completed (data collected)	84.7% (3,250 of 3,839)
Percent of Visits Attempted, children present	79.2% (3,042 of 3,839)
Percent of Visits Completed, children present	93.6% (3,042 of 3,250)
Percent of Visits Completed, no children present	6.4% (208 of 3,250)
Visits Attempted, but Not Completed	589
<i>Reasons for incomplete visits:</i>	
Provider home, declined assessment	119
Facility operating, no assessment completed	107
Day care no longer provided at facility (facility is permanently closed)	54
Provider does not live/operate facility at address given	15
Provider/respondent indicated no operating day care	69
No response	294

Readers should note that no definitive conclusions can be drawn from the fact that roughly 15 percent of the visits were not completed. Since fewer than one-half of completed CCAP visits occurred within 30 minutes of a scheduled meal service, it is impossible to draw firm conclusions about the significance of this percentage of incomplete visits. The CACFP regulations (§ 226.18(b)(14)) require only that a FDCH provider be at home during scheduled times of meal service, or that she notify the sponsoring organization in advance that she will not be home. Therefore, a provider is

under no obligation to notify the sponsor that she will not be at home at a time other than the defined period of CACFP meal service. Furthermore, because most sponsors did not accompany CCAP assessors on their home visits, some incomplete visits may have occurred because providers or assistants were reluctant to talk to people they did not know or recognize.

Although, for the reasons stated above, a provider’s absence at the time of a visit cannot be viewed as an indicator of risk, the numbers of incomplete visits were nevertheless higher than FNS had anticipated. We therefore attempted to find another way to study this phenomenon, and to try to determine whether it might constitute a threat to program integrity. To that end, FNS re-analyzed the results to determine if there were a higher percentage of homes with children in care when visits occurred within 30 minutes of a scheduled meal service. The underlying assumption of this analysis was that, the closer it was to the time of the scheduled meal service, the more likely it was that providers would be at home.

There was enough information in the assessment records to determine that at least 45 percent of all home visits attempted (1,723 of 3,839) occurred within 30 minutes of a scheduled meal service (i.e., within 30 minutes before or after a scheduled meal service). As expected, when this re-analysis was complete, the percentage of providers at home with children in care at the time of the attempted visit increased from 79 to 86 percent, and the percentage of homes with children in care for completed visits rose from 85 to 94 percent. Table 6 summarizes the results of home visit conducted within 30 minutes of a scheduled meal service.

<b>Table 6: Data on CCAP Visits Conducted within 30 Minutes of a Meal Service</b>	
Visits Attempted	1,723
Visits Completed (data collected)	1,577 (91.5% of 1,723)
Percent of Visits Attempted, children present	1,488 (86.4% of 1,723)
Percent of Visits Completed, children present	1,488 (94.4% of 1,577)
Percent of Visits Completed, no children present	89 (5.6% of 1,577)
Visits Attempted, but Not Completed	146
<i>Reasons:</i>	
Provider home, declined assessment	27
Facility operating, no assessment completed	19
Provider/respondent indicated no operating day care	16
No response	84

### b. Meal Observation

CCAP teams observed meal services on approximately 31 per cent of all completed home visits. The vast majority of meals observed (92 percent) met meal pattern requirements. Given the circumstances of home-based child care, including issues involving language and literacy in some cases, this is extremely close to full compliance with the program

meal pattern. As expected, when we limited the data to visits conducted by CCAP teams within 30 minutes of a scheduled meal service, the percentage of completed visits in which a meal was observed rose from 31 to 44 percent.

### c. Meal Claims

In order to find a means of assessing the accuracy of provider meal counts, FNS compared the average number of meals observed during a home visit with:

- the average number of meals claimed by the provider for the meal service observed during the CCAP visit; and
- the average number of meals claimed by the provider for the same meal service on other days of the same month.

It is important to emphasize that the phrase, “average number of meals observed”, was only for those CCAP visits where a meal service was observed.

A difference between the number of meals observed during the visit and the number reported by the provider for the meal service that was observed during the visit does not necessarily indicate that the provider misreported the meal count, since CCAP assessors were rarely present for an entire meal service. Similarly, a difference between the number of meals observed on the day of the visit and the number claimed for the same meal on other days does not necessarily indicate misreporting, since attendance can fluctuate from day to day due to illness, parent work schedules, school holidays, weather, or other reasons. [Please note that, for both comparisons, FNS used the number of meals reported by the provider rather than the number of meals allowed by the sponsor, because the latter number may have been affected by sponsor edit checks or disallowances.]

Nevertheless, FNS believes that the greater the similarity between these three numbers (the number of meals observed during the CCAP visit, the number of meals reported by the provider for that meal service, and the number of meals claimed for the same meal on other days of the same month), the lower the risk to program integrity posed by provider meal counting. Tables 7 and 8 show the results of these comparisons.

Table 7 shows the result of our first attempt to determine whether there was a substantial divergence in the average number of meals observed during a CCAP visit; the average number of meals reported for the meal service observed during the CCAP visit, and the average number of meals claimed for that same meal service during the other (non-visit) days of the month. Table 7 shows that, for all meal types, considered individually and collectively, there is congruence between the average number of meals observed (“average of team member meal count”) and the average number of meals reported by the provider for the day of the visit. Table 7 also shows that the average number of meals observed by CCAP assessors was quite close to the average number of meals reported by the providers visited for that meal service (ranging from .10 more breakfasts reported than observed, to .27 fewer lunches reported than observed).

<b>Table 7: Meals Reported for the Meal Observed, as Compared with Team Member's Meal Count during all CCAP Visits</b>					
<b>Meal Observed</b>	<b>Average Number of Meals Reported</b>		<b>Average of Team Member Meal Count</b>	<b>Difference Between Reported and Observed</b>	
	<b>Day of Visit</b>	<b>Rest of Month</b>		<b>Day of Visit</b>	<b>Rest of Month</b>
Breakfast	4.39	6.09	4.29	0.10	1.80
AM Snack	4.46	4.21	4.69	-0.23	-0.48
Lunch	4.73	5.76	5.00	-0.27	0.76
PM Snack	4.81	5.30	4.93	-0.12	0.36
Supper	4.08	5.42	4.29	-0.21	1.13
Grand Total	4.59	5.48	4.74	-0.15	0.74

However, as also shown in Table 7, for all meal types, there was a more significant difference between the average number of meals observed on the day of the CCAP visit (“average of team member meal count”) and the average number of meals reported by the provider for the observed meal service on the other (non-visit) days of the month assessed. For all meal services except the AM snack, the average number of meals reported for each meal type during the remainder of the month was greater than the number of meals observed on the day of the CCAP visit. Breakfasts and suppers were the meal services for which there was the greatest difference.

This large difference between the average number of meals observed during a CCAP visit and the average number of meals claimed for these same meal services during the rest of the month is a potential indicator of risk to program integrity. Therefore, FNS decided to conduct additional analyses that might help to better measure the degree of risk.

In our second analysis, we hypothesized that, on average, if providers are reporting accurately, the percentage of providers claiming more meals than were observed would be similar to the percentage claiming fewer meals than observed. Thus, if a provider’s meal count for the meal service closest to the CCAP visit was within one of the number of meals observed during the visit, there was a basic congruence between the numbers. If the number of meals reported was more than one fewer than the number of meals observed, we construed this as a possible indicator of “under-reporting” of meals; if the number of meals reported was more than one higher than the number of meals observed, we construed this as a possible indicator of “over-reporting” of meals. Table 8 shows the result of this analysis.

<b>Table 8: Meals Observed during CCAP Visits, Compared to the Number of Meals Reported by Providers, for the Day of the Visit and the Visit Month</b>		
	Day of Visit	Rest of Month
Number of Meals Observed is within +/- 1	87.2%	39.3%
At least one fewer meal claimed than the number of meals observed	7.4%	19.3%
At least one more meal claimed than the number of meals observed	5.4%	41.4%
Number of Providers	988	698

Table 8 shows that, on the day of the visit, for the meal service observed, the vast majority of providers (87.2 percent) reported about the same number of meals served as the number of children observed; an additional 7.4 percent reported one or more meals less than the number of children observed. Thus, on the day of the visit, only 5.4 percent of providers claimed a number of meals that might indicate “over-reporting” (i.e., these providers claimed one or more meals over the number of meals observed).

However, the results for the rest of the month (right-hand column in Table 8) show a potentially more disturbing pattern. For the remainder of the month, the percentage of providers reporting more than one meal less than the number of meals observed during the CCAP visit (possible “under-reporting”) rose from 7 to 19 percent. However, the percentage of providers reporting more than one meal more than the number of meals observed during the CCAP visit (possible “over-reporting”) increased eightfold, from 5 percent to 41 percent. Both the increase in the percentage of providers claiming one more meal than the number of meals observed, and the difference between the percentage of providers claiming more and fewer meals than the number of meals observed, are suggestive of possible over-reporting.

FNS decided to conduct one additional analysis, and the result of this analysis was also suggestive of “over-reporting” of meals by providers. In about two percent of attempted visits, the provider indicated that she/he was no longer providing day care, or the person responding at the home indicated the provider did not live at the address given. However, about one third of this small group of providers nevertheless claimed meals, either for the day of the visit, another day in the visit month, or both. This is very likely a measure of deliberate misreporting of meals by the provider.

Because the number of children in FDCHs can and does vary from day to day, it is difficult to draw definitive conclusions from these tables alone. Nevertheless, the potential risk of “over-reporting” is great enough to merit the conduct of additional analyses in the future.

#### d. Provider Recordkeeping

Providers are required to record meal counts not later than the end of each operating day, and are required to maintain menu records documenting that their meal services comply with the CACFP meal patterns. CCAP teams examined the meal count records available at each home and compared them to what should have been available, based on the day and time of the CCAP visit and the sponsor's procedure for collecting meal count records from providers.

At the time that the CCAP visits were conducted, it was common practice for some sponsors to retain the only copy of their providers' meal count and other required records. Furthermore, some sponsors required providers to submit meal counts at the end of each week, in order to expedite the sponsor's submission of a claim for reimbursement at the end of the month. If a sponsor required providers to submit meal counts at the end of each week, CCAP assessors were instructed to take this into account when determining whether a provider had required meal count records on hand. For example, if a CCAP provider visit occurred on a Monday, and the sponsor required providers to send in each week's meal counts on Friday, CCAP assessors would not consider any of that provider's meal counts to be "missing", since the records for Monday would not have to be recorded until the end of the day. However, if the same provider was visited on Thursday, he/she would have been expected to have meal counts for Monday, Tuesday, and Wednesday. Using this standard for determining when required records were found, more than one-third of all homes (1,040 of 2,972 homes in which CCAP visits were completed and this data was recorded) had one or more recordkeeping problems.

Twenty-seven (27) percent of homes for which visits were completed did not have the required meal count records available. Sponsors were provided with information on homes which did not have the required records, since meals which are not recorded properly are not eligible for reimbursement. Home visit teams also examined provider menu records. Problems were almost as widespread as with meal count records. In addition, 26 percent of homes for which visits were completed did not have all required menu records available or exhibited other types of problems with menu records (such as an menu showing that a meal did not meet meal pattern requirements.) Almost one-fifth (19 percent) of homes did not have either type of required records (meal count or menu records) available at the time of the assessment, and overall, one third of homes in which CCAP visits were completed were missing meal count, menu, or both types of records for one or more operating days.

As shown in Table 9, the incidence of provider recordkeeping problems was not evenly distributed across all sponsors. In four of the sponsors assessed by CCAP, no providers had any instances of record keeping problems; at the other extreme, six of the sponsors assessed by CCAP had 40 percent or more of their homes missing both meal count and menu records, with the highest reported incidence at 77 percent for one sponsor. Table 9 shows the incidence of meal count and menu record problems among the providers of the 58 sponsors from whom data were collected. It is discouraging that in 83 percent of the

sponsors assessed (48 of 58), at least 20 percent of the providers had either meal count or menu record problems.

**Table 9: Percentage of a Sponsor's Homes with Recordkeeping Problems**

Meal Count	
0%	4
>0% - 20%	13
>20% - 40%	28
>40% - 60%	11
>60% - 80%	1
>80% - 100%	1

Menu	
0%	4
>0% - 20%	16
>20% - 40%	27
>40% - 60%	9
>60% - 80%	2
>80% - 100%	0

Both Meal Count & Menu	
0%	4
>0% - 20%	27
>20% - 40%	21
>40% - 60%	5
>60% - 80%	1
>80% - 100%	0

**e. Provider Training**

Of providers who had completed home visits and who answered the question, over 95 percent reported that they had received some type of training within the past year. CCAP home visit team members asked providers to name subjects on which they were trained, and most indicated they had received training on more than one subject. The percentage of providers who indicated that they had received training on a particular subject area in the past 12 months is shown in Table 10.

<b>Table 10: Providers' Report of Training Received within the Previous 12 Months</b>	
<b>Subject</b>	<b>Percentage of Providers Reporting Training in the Subject</b>
Nutrition Education	62%
Meal Planning	53%
Recordkeeping	34%
Health/Safety/Sanitation	32%
Meal Counts	24%
Claiming Meals	23%
Other topics	22%
Attendance	19%
New CACFP Information	17%
Reimbursement	15%
Had Training, Can't remember topic	8%

f. Monitoring of Providers

CCAP team members asked providers how often they had been monitored in the past 12 months. Of those providers who received complete home visits and who answered the question, 12.4 percent (393 of 3,175) believed that they had had fewer than three monitoring visits in the previous 12 months, and 3.9 percent (124 of 3,157) reported that their monitors always called in advance of visits. For all providers interviewed, the average number of monitoring visits they reported in the previous 12 months was 3.4. These estimates are somewhat higher than the results of the data assessment based on provider files in their sponsors' offices, which showed (see Section VI) that roughly 6 percent of providers had not received three reviews in the past year and that, for 2 percent of providers, all of the past three reviews had been announced.

As previously stated, unless review averaging is used, sponsors must conduct a minimum of three provider reviews per year, with at least two of the reviews being unannounced. The providers' recollections regarding the frequency of their monitoring visits reinforces our concern that too many sponsors are not in full compliance with several of the most important features of the regulatory monitoring requirements. Sponsors will not begin to make progress in reducing the percentage of provider recordkeeping problems until they are conducting the required number of annual provider reviews and the required number of unannounced reviews.

g. Health and Safety Issues

Few providers visited by CCAP assessors were found to have serious health or safety issues. CCAP teams noted health or safety issues in only 1.4 percent of homes for which visits were completed. The most common issues noted were cleaning supplies and medicines left accessible to the children or poor sanitation in food preparation or storage.

Potential health/safety issues were reported to sponsors on a daily basis so that appropriate action could be taken.

## VIII. Next Steps

Although the CCAP assessments showed that some of the most serious problems which plagued the FDCH component of CACFP during the 1990s have been successfully addressed (e.g., misuse of sponsor administrative funds for non-program purposes, and the claiming of administrative reimbursement for non-existent homes), they also highlighted three important management issues that must be effectively addressed in order to ensure that program funds are being properly expended:

- Too many providers fail to keep up-to-date meal counts and menu records;
- Too many sponsors are not fully meeting the regulatory requirements for monitoring providers; and
- Too few sponsors appear to be employing the serious deficiency process for providers as intended.

Although these findings do not, by themselves, prove the existence or extent of improper meal count reporting, they do suggest that some providers are misreporting the number of program meals they served to children, and that some sponsors lack effective means of identifying and correcting these problems.

FNS is developing an action plan to address these and other CCAP findings which suggest a need for additional measures to improve Program administration in the FDCH component of CACFP at the local, State, and Federal levels. This action plan will take into account the very real challenges of providing Federally-supported nutrition assistance in approximately 140,000 private residences across the country. Therefore, any changes to Program procedures or requirements recommended in the action plan will consider this unique aspect of administering the CACFP.

Nevertheless, FNS, State agencies, and FDCH sponsors must work together to find effective ways to improve monitoring of providers, sponsors, and State agencies, in order to ensure that the dual goals of program access and accountability are being fully met. CACFP managers at the Federal, State, and local levels must be challenged to be better stewards of the public funds that support the program's important public purposes.

The following goals—each based on CCAP findings which point to the need for improvement in the way that public funds are being utilized in CACFP—will be discussed in greater detail in FNS's action plan:

1. Ensuring that, in conformance with ARPA and the two interim rules, all FDCH sponsors have in place effective procedures for determining when provider errors warrant a declaration of serious deficiency, or when a provider's actions should lead to a suspension of program participation.

2. Improving Federal and State processes for ensuring that FDCH sponsors are:
  - a. monitoring providers in a manner that complies with minimum regulatory requirements;
  - b. monitoring providers in a way that effectively detects and corrects critical program accountability issues regarding meal counts and menus; and
  - c. correctly implementing the serious deficiency process for providers, as set forth in the two interim rules.
3. Improving Federal, State, and local implementation of the program “performance standards” mandated for sponsors by ARPA and the first interim rule.
4. Improving FDCH sponsors’ implementation, and State agencies’ oversight, of the process for determining tier I eligibility based on the provider’s household income.
5. Improving FDCH sponsors’ methods for ensuring (and documenting) that all providers are receiving training in accordance with the requirements set forth in the second interim rule.
6. Obtaining funding for additional analysis and evaluation of effective ways to measure, detect, and correct accountability errors at all levels of program administration.

## **GLOSSARY OF PROGRAM TERMS USED IN CCAP REPORT**

*Administrative costs:* those costs incurred by a CACFP institution related to planning, organizing, and managing a food service under the Program, and allowed by the applicable Federal and State agency financial management requirements.

*Allowable cost:* any cost (whether administrative or operating) that is eligible for reimbursement under the CACFP. To be allowable, a cost must be necessary for program administration; reasonable in amount; and allowable under Federal and State financial management instructions.

*Appeal:* the fair hearing provided upon request to: (a) any CACFP institution that has been given notice by the State agency of any action or proposed action that will affect their participation or reimbursement; (b) a principal or individual responsible for a CACFP institution's serious deficiency, after the responsible principal or responsible individual has been given a notice of intent to disqualify them from the Program; and (c) a day care home that has been given a notice of proposed termination of their CACFP participation "for cause". (See also "termination for cause")

*Block claim:* a claim for reimbursement submitted by a facility on which the number of meals claimed for one or more meal type (breakfast, lunch, snack, or supper) is identical for 15 consecutive days within a claiming period.

*CACFP:* the Child and Adult Care Food Program authorized by section 17 of the National School Lunch Act, as amended (see also "program").

*CCAP:* an acronym for the Child Care Assessment Project, a multi-year data-gathering project designed to measure whether the two CACFP interim management improvement rules issued by FNS in 2002 and 2004 have been properly implemented, and whether the rules effectively addressed the serious program management and integrity problems that were uncovered in the late 1990s.

*Corrective action:* action taken by a seriously deficient institution or home which demonstrates that it has completely and permanently corrected the regulatory non-compliance cited in a notice of serious deficiency.

*Day care home:* see "family day care home".

*Disqualified:* the status of an institution, a responsible principal or responsible individual, or a family day care home that is has been placed on the National Disqualified List and is ineligible to participate in CACFP.

*Edit check:* any means used by a SA or sponsor to review a claim for reimbursement, prior to payment, to ensure that the reimbursement is accurate.

*Enrolled child:* a child whose parent or guardian has submitted a signed document which indicates that the child is enrolled for child care.

*Facility:* a family day care home or a sponsored center.

*Family day care home (FDCH):* means an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization (see also “home” and “provider”).

*FDCH:* an acronym for family day care home.

*FDCH sponsor:* a type of sponsor (see definition of “sponsor”) that enters into an agreement with a State agency to assume full responsibility for administering the CACFP in one or more family day care homes.

*FNS:* the Food and Nutrition Service of the United States Department of Agriculture.

*FNSRO:* the appropriate Regional Office of the Food and Nutrition Service.

*Home:* see “family day care home”.

*Household contact:* a contact made by a sponsoring organization or a State agency to an adult member of a household with an enrolled child. The contact is made in order to verify the child’s attendance and enrollment and the specific meal service(s) which the child routinely receives while in care.

*Independent center:* any eligible center that has signed an agreement with a State agency to assume final administrative and financial responsibility for operating the CACFP. By definition, an “independent center” operates the program in only one eligible center.

*Institution:* any independent center, or any sponsoring organization, that enters into an agreement with the State agency to assume final administrative and financial responsibility for operating the CACFP in one or more facilities.

*Internal controls:* the policies, procedures, and organizational structure of an institution designed to reasonably assure that: (a) the program achieves its intended result; (b) program resources are used in a manner that protects against fraud, abuse, and mismanagement, and that is consistent with the law and regulations; and (c) timely and reliable program information is obtained, maintained, reported, and used for decision-making.

*Less-than-arms-length transaction:* a transaction under which one party to the transaction is able to control or substantially influence the action of the other(s). Such a transaction may occur, for example, when a sponsoring organization leases space owned by a sponsor employee or a member of the sponsor’s board of directors.

*Management Improvement Guidance (or “MIG”)*: guidance issued by FNS in 2000 which provides State agencies, sponsors, and independent centers with detailed guidance on how to properly administer the CACFP.

*MIG*: an acronym for “Management Improvement Guidance”.

*Monitor staffing standards (or monitor staffing ratio)*: the numerical standards established by FNS at § 226.16(b)(1) for the minimum number of monitors that a sponsor must employ.

*National disqualified list*: the list, maintained by FNS, of institutions, responsible principals and responsible individuals, and day care homes disqualified from participation in the Program.

*OIG*: the Office of the Inspector General of the United States Department of Agriculture.

*Operating costs*: costs incurred by an institution in serving meals to participants under the Program, and allowed by the State agency financial management instruction. (Note: although the provider serves the meals and is reimbursed by the sponsor, it is the FDCH institution that receives, and then passes through to the provider, the Federal meal reimbursement).

*Outside employment policy*: a policy that all sponsors must establish which prohibits sponsor employees from having other employment which interferes with the employee’s performance of program-related duties and responsibilities (see §§ 226.6(b)(1)(xvi) and 226.6(b)(2)(vi)).

*Parental notice*: the notice that a sponsoring organization must provide (either directly or via the provider) to the parents of enrolled children, and which explains to the parent that their child’s facility participates in CACFP (see §§ 226.16(b)(5) and 226.18(b)(16)).

*Performance standards*: the requirement that any organization participating in CACFP must demonstrate that it is financially viable, administratively capable, and has internal controls in place to ensure fiscal accountability and compliance with program requirements (see also “VCA” and “internal controls”).

*Principal*: any individual who holds a management position within, or is an officer of, an institution or a sponsored center, including all members of the institution’s board of directors or the sponsored center’s board of directors.

*Program*: the Child and Adult Care Food Program authorized by section 17 of the National School Lunch Act, as amended (see also “CACFP”).

*Provider*: the person who cares for children and has signed an agreement with a sponsoring organization to operate the CACFP. See also “family day care home” or “day

care home”. Note that, although the person providing care (the provider) and the location in which the care is provided (the day care home) are different, the terms are used interchangeably in this report and in the CACFP regulations.

*Provider years:* a mathematical term developed for this report which serves as a means of comparing sponsors with different numbers of providers and different CCAP dates. A sponsor’s number of “provider years” is calculated by multiplying (a) the number of the sponsor’s providers on the date of their CCAP, times (b) the number of years elapsed between the effective date of the first interim rule (July 29, 2002) and the date of the sponsor’s CCAP.

*Reimbursement:* Federal financial assistance paid or payable to institutions for Program costs.

*Responsible principal or responsible individual* means: (a) a principal, whether compensated or uncompensated, who the State agency or FNS determines to be responsible for an institution’s serious deficiency; (b) any other individual employed by, or under contract with, an institution or sponsored center, who the State agency or FNS determines to be responsible for an institution’s serious deficiency; or (c) an uncompensated individual who the State agency or FNS determines to be responsible for an institution’s serious deficiency.

*Review averaging:* a system of monitoring facilities permitted by § 226.16(d)(4)(iv) which allows a sponsor to make more reviews in new facilities and facilities which have been non-compliant with program requirements

SA: an acronym for “State agency” (see “State agency” below).

*Serious deficiency:* an area of non-compliance with CACFP regulations (see “seriously deficient”).

*Seriously deficient:* the status of an institution or a day care home that has been determined to be non-compliant with the CACFP regulations in one or more aspects of its operation, and has been provided notice of its serious deficiency.

*Seriously deficient process:* the process that begins when the SA issues a serious deficiency notice to an institution, or a sponsor issues a serious deficiency notice to a FDCH. The process ends either when the institution or home completes corrective action that completely and permanently resolves the serious deficiency, or when a proposed termination of an institution or home has been upheld or overturned on appeal (see “seriously deficient”, “corrective action”, and “appeal”).

*Sponsoring organization (“or sponsor”):* for purposes of this report, a public or nonprofit private organization that is entirely responsible for the administration of the CACFP in one or more day care homes. [Note that such organizations may also administer the CACFP in eligible centers.]

*State agency (SA):* the State educational agency or any other State agency that has been designated by the State government, has entered into an agreement with FNS, to administer the CACFP within the State (or, in States in which FNS administers the CACFP, FNSRO).

*Suspension, or suspended:* the status of an institution or day care home that is temporarily ineligible to participate in, and receive payments under, the CACFP.

*Termination for cause:* the termination of a day care home's Program agreement by the sponsoring organization due to the day care home's violation of the agreement. A proposed termination for cause is appealable, whereas a termination of an agreement for convenience (by either the sponsoring organization or the day care home, due to considerations unrelated to either party's performance of Program responsibilities under the agreement) is not.

*Tier I day care home:* (a) a day care home that is operated by a provider whose household meets the income standards for free or reduced price meals, as determined by the sponsoring organization based on a completed free and reduced price application, and whose income is verified by the sponsoring organization of the home in accordance with § 226.23(h)(6); (b) a day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price meals; or (c) a day care home that is located in a geographic area, as defined by FNS based on census data, in which at least 50 percent of the children residing in the area are members of households which meet the income standards for free or reduced price meals.

*Tier II day care home:* a day care home that does not meet the eligibility criteria for a Tier I day care home.

*Unannounced review:* an on-site review for which no prior notification is given to the facility or institution.

*VCA:* an acronym for viability, capability, and accountability (see also "performance standards").