

Appendix E7. Nutrition Requirements for Fluid Milk and Milk Substitutions

The Child and Adult Care Food Program (CACFP) regulations (7 CFR 226.20(g)) require households to provide a written statement to support the need for substitutions, on a case-by-case basis, for foods and meals for individual participants. These milk substitution guidelines will enable institutions to claim the reimbursement to which they are entitled by law. Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the CACFP. This collection is required to obtain or retain benefits and the Food and Nutrition Service (FNS) uses the information collected to conduct reviews that determine whether or not institutions are observing the requirements of the Program established by regulations and statute. In addition, the information collection is necessary for administering agencies to monitor Program operations to ensure compliance with legislative and regulatory requirements. Under the Privacy Act of 1974, any personally identifying information obtained will be kept private to the extent of the law. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection is 0584-0055. The time required to complete this information collection is estimated to average approximately 5 minutes (0.0835 hours) per response. This burden consists of the time it takes households to submit a written request to support the need for substitutions on a case-by-case basis for foods and meals for individual participants. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Department of Agriculture, Food and Nutrition Services, Office of Policy Support, 1320 Braddock Place, Alexandria, VA 22314, ATTN: PRA (0584-0055). Do not return a completed form to this address.



Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

DATE: July 14, 2016

MEMO CODE: CACFP 17-2016

SUBJECT: Nutrition Requirements for Fluid Milk and Fluid Milk Substitutions in the Child and Adult Care Food Program, Questions and Answers

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum explains the nutrition requirements for fluid milk and fluid milk substitutes in the Child and Adult Care Food Program (CACFP) and includes questions and answers. This memorandum supersedes CACFP 21-2011-REVISED *Child Nutrition Reauthorization 2010: Nutrition Requirements for Fluid Milk and Fluid Milk Substitutions in the Child and Adult Care Food Program, Questions and Answers*, September 15, 2011.

Background

The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, amended section 17(g) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1766(g), to require that fluid milk served in the CACFP be consistent with the most recent version of the Dietary Guidelines for Americans. The 2015-2020 Dietary Guidelines for Americans (Dietary Guidelines) recommend that persons over two years of age consume low-fat (1%) or fat-free (skim) fluid milk. In addition, the Act provided the flexibility to substitute fluid milk with non-dairy beverages that are nutritionally equivalent to fluid milk for children or adults with special dietary needs. Subsequently, on September 15, 2011 the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) issued the memorandum CACFP 21-2011-REVISED *Child Nutrition Reauthorization 2010: Nutrition Requirements for Fluid Milk and Fluid Milk Substitutions in the Child and Adult Care Food Program, Questions and Answers*. That memorandum required that fluid milk served to children two years old and older and adults be low-fat or fat-free and allowed the substitution of non-dairy beverages that are nutritionally equivalent to fluid milk for children or adults with special dietary needs.

The Act further amended section 17 of the NSLA to require the USDA to update the CACFP meal pattern requirements to make them consistent with (a) the most recent version of the Dietary Guidelines for Americans, (b) the most recent relevant nutrition science, and (c) appropriate authoritative scientific agency and organization

recommendations. On April 25, 2016 USDA published the final rule “Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act” (81 FR 24348). This final rule added the fluid milk requirements and allowance of non-dairy beverages outlined in memorandum CACFP 21-2011-REVISED to the CACFP regulations under 7 CFR 226.20(a)(1) and 226.20(g)(3), respectively. The final rule also established additional nutrition requirements and flexibilities for fluid milk served in the CACFP.

This memorandum explains all the nutrition requirements for fluid milk and non-dairy milk substitutes in the CACFP and provides guidance on implementation. Milk is a critical component of the CACFP meal patterns because it provides nutrients that are vital for health and maintenance of the body. These nutrients include calcium, potassium, vitamin D, and protein. Consuming dairy products, such as milk, is especially important to bone health during childhood and adolescence when bone mass is built.

I. FLUID MILK

One Year Old Children

Beginning October 1, 2017, one year old children must be served unflavored whole milk (7 CFR 226.20(a)(1)(i)). This is consistent with recommendations from the National Academy of Medicine. There may be some cases when a one year old child’s physician recommends low-fat milk if the child’s growth and weight gain is appropriate, or for other medical reasons. If it is medically and nutritionally appropriate for a one year old child to consume low-fat milk, or any type of milk other than whole milk, a meal accommodation may be made by following the substitution requirements outlined in 7 CFR 226.20(g). Additionally, breastmilk is considered an allowable fluid milk substitute for children of any age if a mother chooses to breastfeed her child past 1 year of age.

Children Two Years Old and Older and Adults

As stated in the Background section above, milk served to children two years old and older and adults must be low-fat or fat-free. Whole milk and reduced-fat (2%) milk may not be served to participants two years of age and older and adults. This has been in effect since September 15, 2011.

FNS recognizes that switching immediately from whole milk to low-fat or fat-free milk when a child turns two years old may be challenging. Therefore, FNS is granting a one-month transition period. This means that meals served to children 24 months to 25 months old that contain whole milk or reduced-fat milk (2%) may be claimed for reimbursement.

Reimbursable milks for children two years old and older and adults include low-fat or fat-free milk, low-fat or fat-free lactose reduced milk, low-fat or fat-free lactose free milk, low-fat or fat-free buttermilk, or low-fat or fat-free acidified milk (7 CFR 226.20(a)(1)). Milk must be pasteurized fluid milk that meets State and local standards.

Flavored Milk

Flavored milk contains all the major nutrients found in unflavored milk. Flavored milk (commercially prepared and plain milk that is flavored with syrup or straws) also contains added sugars and the Dietary Guidelines recommends that all Americans reduce their consumption of added sugars. To better align with the Dietary Guidelines' recommendation and help children develop healthy eating practices early, FNS established new requirements for flavored milk:

- *Children 1 through 5 years old:* Meals served to children 1 through 5 years old that contain flavored fluid milk and flavored non-dairy beverages cannot be claimed for reimbursement.
- *Children 6 years old and older and adults:* If flavored milk is served to children 6 years old and older or adults it must be fat-free. This is consistent with the National School Lunch and School Breakfast Programs.

CACFP centers and day care homes must comply with these flavored milk requirements no later than October 1, 2017.

II. FLUID MILK SUBSTITUTES

Non-Dairy Beverages

For children or adults who cannot consume fluid milk due to non-disability medical or other special dietary needs, non-dairy beverages may be served in place of fluid milk. This has been in effect since September 15, 2011 and allows the CACFP to better serve the dietary needs of its participants. Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk. The nutrient standards for non-dairy beverages are outlined in the CACFP regulations at 7 CFR 226.20(g)(3). As stated above, non-dairy beverages served to children 1 through 5 years old must be unflavored due to the higher sugar content of flavored varieties.

CACFP State agencies have the discretion to identify appropriate substitutions that meet these requirements. FNS encourages CACFP State agencies to coordinate with the State agency operating the National School Lunch Program to ensure that the identified locally available substitutions are consistent among the Child Nutrition Programs.

Parents, guardians, adult participants, or a person on-behalf of the adult participant, must provide a written request for the non-dairy milk substitution that is nutritionally equivalent to milk. A medical statement is not required. For example, if a parent has a child who follows a vegan diet, the parent must submit a written request to the child's center or day care home asking that soy milk be served in place of cow's milk. The written request must identify the medical or other special dietary need that restricts the diet of the child or adult. Non-dairy beverage substitutions are served at the option and the expense of the center or day care home.

A medical statement is required for non-dairy substitutions due to a disability that do not meet the nutritional standards of cow's milk as described above. Requiring non-dairy beverages to be nutritionally equivalent to cow's milk ensures children receive vital nutrients needed for growth and development. A medical statement for non-dairy beverages that are not nutritionally equivalent to cow's milk provides the assurance that the beverage substitute is meeting the nutritional needs of the child or adult participant. The requirements related to milk or food substitutions for a participant who has a disability and who submits a medical statement signed by a licensed physician or a licensed health care professional who is authorized by State law to write medical prescriptions remain unchanged.

Yogurt (Adults Only)

Beginning October 1, 2017, yogurt (6 ounces by weight or $\frac{3}{4}$ cup by volume) may meet the fluid milk requirement once per day for adults, only (7 CFR 226.20(a)(1)(iv)). State agencies have the discretion to begin allowing this flexibility prior to October 1, 2017. Please see memorandum SP 42-2016, CACFP 14-2016 *Early Implementation of the Child and Adult Care Food Program Meal Patterns* (http://www.fns.usda.gov/sites/default/files/cacfp/SP42_CACFP14_2016os_0.pdf) for more information.

Allowing yogurt to substitute fluid milk once per day for adults offers greater flexibility to the menu planner and will help encourage consumption of a calcium rich food among adult participants. Yogurt may not be substituted for fluid milk for children of any age. This is because milk provides a wealth of nutrients growing children need, such as vitamin A and D, and comparable quantities of these nutrients are not currently found in commercially available yogurts.

III. COMPLIANCE

In order to ensure compliance with the milk requirements outlined in 7 CFR 226.20(a)(1) and this memorandum, centers and day care homes must document the type of milk served on their menu. This includes listing the fat content (e.g. whole, low-fat or 1%, and fat-free or skim) and if the milk is flavored. It is the responsibility of the State agency or sponsor, as applicable, to further ensure that the correct type of milk is being served when conducting reviews.

IV. SUMMARY OF IMPLEMENTATION DATES:

Implementation Date	Requirement
In Effect	<ul style="list-style-type: none">• Milk served to children two years old and older and adults must be low-fat or fat-free; and• Non-dairy beverages that are nutritionally equivalent to cow's milk may be served in place of fluid milk for children or adults with special dietary needs.
Effective October 1, 2017	<ul style="list-style-type: none">• Milk served to one year old children must be unflavored whole milk;• Flavored milk, including flavored non-dairy beverages, cannot be served to children 1 through 5 years old;• Flavored milk served to children 6 years old and older and adults must be fat-free; and• Yogurt may be served in place of fluid milk for adults once per day, unless the State agency chooses to implement this flexibility prior to October 1, 2017.

Please see memorandum SP 42-2016, CACFP 14-2016 *Early Implementation of the Child and Adult Care Food Program Meal Patterns* (http://www.fns.usda.gov/sites/default/files/cacfp/SP42_CACFP14_2016os_0.pdf) for information on implementing the updated meal pattern requirements prior to October 1, 2017. FNS strongly supports implementing the updated meal patterns, including the fluid milk provisions outlined in this memorandum, as soon as possible because it will greatly benefit participating children and adults.

State agencies are reminded to distribute this information to Program operators immediately. Program operators should direct any questions regarding this memorandum to the appropriate State agency. State agency contact information is available at <http://www.fns.usda.gov/cnd/Contacts/StateDirectory.htm>. State agencies should direct questions to the appropriate FNS Regional Office

Original Signed

Angela Kline
Director
Policy and Program Development Division
Child Nutrition Programs

Attachment

Questions and Answers

I. FLAVORED MILK

1. Can a center or day care home add chocolate or strawberry syrup to unflavored milk and serve it to children 1 through 5 years old?

No, adding syrup to unflavored milk adds sugar to the unflavored milk and turns the beverage into flavored milk. Flavored milk is not allowed as part of a reimbursable meal for children 1 through 5 years old starting October 1, 2017. Added sugars are currently consumed in excessive amounts and contribute a substantial portion of calories consumed by Americans without contributing importantly to the overall nutritional adequacy of the diet.

Additionally, zero calorie and sugar-free syrups are not allowed to be added to unflavored milk served to children 1 through 5 years old. Research indicates that flavor and food preferences are shaped early in life and that the more sweet foods children consume, the more they prefer sweet foods. It is important to establish in young children the habit of drinking unflavored milk as taste preferences are developed at a young age.

Similarly, syrup (including zero calorie and sugar-free syrups) may not be added to low-fat (1%) milk for children ages 6 years old and older and adults. This is because when flavored milk is served to children 6 years old and older and adults, it must be fat-free starting October 1, 2017.

2. Can a center or day care home start implementing the flavored milk provisions prior to October 1, 2017?

Yes, centers and day care homes may stop serving flavored milk to children 1 through 5 years old and start serving only fat-free flavored milk to children 6 years old and older and adults at any time. This is because the flavored milk provisions in the updated meal patterns are consistent with the current meal pattern requirements. FNS strongly encourages implementing these flavored milk provisions, and other provisions under the updated meal patterns that are consistent with the current meal patterns (e.g. serving whole grains, limiting juice and sugar, prohibiting grain-based desserts, etc.), as soon as is feasible for the center or home.

Please note, State agencies cannot disallow meals that are not compliant with the updated meal patterns until the updated meal patterns are implemented on October 1, 2017. See the memorandum SP 42-2016, CACFP 14-2016 *Early Implementation of the Child and Adult Care Food Program Meal Patterns* (http://www.fns.usda.gov/sites/default/files/cacfp/SP42_CACFP14_2016os_0.pdf) for more information on implementing the updated meal patterns prior to October 1, 2017.

II. NON-DAIRY MILK SUBSTITUTIONS

1. Is a center or day care home required to provide a non-dairy milk substitute if it is not related to a disability?

No. It is at the center's or day care home's discretion to provide a non-dairy milk substitute if it is not related to a disability. However, FNS strongly encourages centers and day care homes to make meal modifications to accommodate participants' non-disability special dietary needs.

2. Must non-dairy beverages served to children 1 through 5 be unflavored?

Yes, fluid milk and non-dairy beverages that are served to children 1 through 5 years of age must be unflavored starting October 1, 2017.

3. Must non-dairy beverages meet the fat content requirements of fluid milk?

No. Non-dairy beverages are not required to be low-fat or fat-free when served to children 2 years old and older and adults. In order for a non-dairy beverage to meet the nutrient requirements for milk substitutes, they must be fortified and some fat is needed to help mask the flavor of the nutrient packet added. Therefore, setting a fat standard for non-dairy beverages would severely restrict the number of available non-dairy beverage options that are nutritionally equivalent to cow's milk. This would consequently limit centers' and day care homes' ability to meet the special dietary needs of children or adults requesting a substitute.

4. Will centers and day care homes receive additional meal reimbursements if they provide a non-dairy milk substitution?

No. Modified meals that are due to a disability or non-disability, including meals with non-dairy milk substitutions, are reimbursed at the same rate as regular meals. Centers and day care homes cannot require a parent or guardian to pay the difference between the fluid milk and the non-dairy milk substitute if the non-dairy milk substitute costs more than the fluid milk.

5. If a parent provides a creditable non-dairy milk beverage, can the center or day care home serve it and still receive reimbursement?

Yes. If a parent provides a non-dairy milk beverage that meets the nutritional standards outlined in 7 CFR 226.20(g)(3), the center or day care home may serve the non-dairy milk substitute and claim reimbursement for the meal.

- 6. If a parent or adult participant can request a non-dairy milk substitute that is equivalent to cow's milk, can the parent or adult participant also request that their child or themselves be served whole or reduced-fat (2%) milk?**

No. Milk served to children two years old and older and adult must be low-fat or fat-free in order to be reimbursable (7 CFR 226.20(a)(1)). Therefore, any request for higher fat milk must be made through a medical statement, related to a disability, and prescribed by a licensed physician or a licensed health care professional in order to be reimbursable.

III. COMPLIANCE

- 1. When submitting menus for review, do centers and day care homes need to document the type of milk that they serve?**

Yes. Starting October 1, 2017, centers and day care homes must document the type of milk served on their menus. The menu must indicate the fat content of the milk and if it is flavored. In addition, it is the responsibility of the State or sponsor, as applicable, to further ensure that the correct type of milk is being served when conducting reviews.

- 2. If one year old and two year old children sit together for the same meal, must they be served different types of milk?**

Yes, starting October 1, 2017 children two years old and older must be served unflavored low-fat or unflavored fat-free milk and children one year of age must be served unflavored whole milk. The fluid milk requirements are based on age to ensure that children are receiving the nutrients they need for growth and development. Centers and day care homes must ensure that children of various ages seated together receive the appropriate type of milk.

- 3. What if the parent agrees to provide the non-dairy substitute, but brings in one that does not meet the USDA's nutritional standards; can the center or day care home serve it and still receive reimbursement?**

Centers and day care homes should inform parents, guardians, and adult participants about the types of creditable non-dairy milk substitutes. If a non-dairy milk substitute is served that does not meet the nutritional standards outlined in 7 CFR 226.20(g)(3), then the meal is not reimbursable.