SERIOUS DEFICIENCY IN CACFP

The community expressed concerns about subjectivity, consequences, and desire for clarity when it comes to SD.

DOES THE PROPOSED RULE GET US WHERE WE NEED TO GO?

Over 100 CACFP stakeholders from across several regions came together to discuss the serious deficiency process in its current form (March 2024) and a bit about what is in the proposed rule, Serious Deficiency in the CACFP and SFSP. The discussion revolved around three topic areas:

1. Clarity/consistency within the Serious Deficiency process
2. Five criteria in the proposed rule
3. Severity of Consequences

Stakeholders expressed: a desire to use their own judgment when deciding if SD should be triggered and without the fear of getting in trouble; the need for a separation of financial vs. programmatic errors; that the consequences are too severe for programmatic errors; and that the timing for corrective action and appeals do not consider contextual factors, such as English as a second language, computer literacy, etc. The proposed rule is on the right track but doesn’t quite get us there.

AM I GOING TO GET IN TROUBLE?

Throughout the forum, stakeholders acknowledged that they would like to give technical assistance and training for as long as they wished. They felt that it was up to them to determine when to take the serious deficiency path, however, they are nervous about getting in trouble from the State Agency for giving too much TA before triggering the SD process.

CONSEQUENCES ARE TOO SEVERE

There was clear consensus among the participants that 7 years on the National Disqualified List (NDL) is simply too long to keep providers and children who need the meals off the CACFP. There was agreement that the consequences for meal pattern issues or human errors on paperwork should not be placed on the serious deficiency path but should have regular technical assistance and a different pathway for removal from the program.

GRACE PERIODS

Stakeholders agreed about the complexity of the CACFP and that there should be grace periods in order to learn the program before serious deficiency is a threat.

IN THEIR OWN WORDS

“There can be so much variance in each of the five points [criteria]. I am the one who decides they go into SD, these are defined steps but there is grey in those steps. I want to apply my own judgement, but I want to know that it is going to be ok and I’m not going to get in trouble.”

~ Sponsor of Family Child Care Homes

“There’s always going to be a grey area. Do the best you can to apply the rules...I want to know the intent behind the rule so I can apply the rule in that grey area. We’re always going to be tasked with having to apply these rules in situations we’re unsure of.”

~ State Agency

“7 years is a very long time and a very severe punishment. What constitutes fraud and corrective action? If someone is found SD, they should maybe not even be taken off the program or [instead] put on probation? The way it is set up now, it’s a very long time and if they go to another program -- they can’t close their day care and then work for a school district. It shouldn’t follow them everywhere they go.

~ Sponsor of Family Child Care Homes

“Maybe there should be two columns: a list that I can give continuous education and a list that will make SD more clear.”

~ Sponsor of Family Child Care Homes

“Maybe there needs to be the SD process for monetary issues. Money misused that’s one thing. A process for a corrective action plan when it doesn’t involve money, a process to part ways with the provider if she is never going to fix the issue, but not SD.”

~ Sponsor of Family Child Care Homes