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March 6, 2023

MEMORANDUM

TO: Summer Food Service Program Sponsors

FROM: Aimee F. Beam, MS, RD 
Education Associate, Nutrition Programs

RE: **2023 Operational Memo #4**
SFSP 01-2023, SP 05-2023, Implementation Guidance: Summer 2023 Non-Congregate Meal Service in Rural Areas

On February 28, 2023, the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) released the following memorandum: SFSP 01-2023, SP 05-2023, Implementation Guidance: Summer 2023 Non-Congregate Meal Service in Rural Areas.

This memorandum provides guidance that serves as the instructions for State agencies and Program operators on how to implement Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) rural non-congregate meal service during summer 2023. FNS will issue additional guidance on oversight and monitoring specifically pertaining to non-congregate operations in a follow up memorandum. All standard requirements are still applicable unless otherwise specified. State agencies and Program operators should be advised that the following guidance for implementing non-congregate meal service in summer 2023 may not be the same as the regulatory requirements that will be codified for summer 2024 and beyond.

The memorandum is attached for your review.

Please contact us if you have any questions at 302-857-3356.

Attachment: SFSP 01-2023, SP 05-2003, Implementation Guidance: Summer 2023 Non-Congregate Meal Service in Rural Areas

cc: Nutrition Team



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DATE: February 28, 2023

MEMO CODE: SFSP 01-2023, SP 05-2023

SUBJECT: Implementation Guidance: Summer 2023 Non-Congregate Meal Service in Rural Areas

TO: Regional Directors
Child Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Summer 2023 Non-congregate Meal Service in Rural Areas
Document ID:	
Z-RIN:	
Date of Issuance:	February 28, 2023
Replaces:	N/A
Summary:	The Consolidated Appropriations Act, 2023 (P.L. 117-328), established a permanent non-congregate meal service option for rural areas with no congregate meal service available. (1) This memorandum provides guidance on the administration and operation of non-congregate meal service in rural areas during summer 2023 for the Summer Food Service Program and National School Lunch Program Seamless Summer Option. (2) This memorandum applies to State agencies administering, and local organizations operating, the Summer Food Service Program and National School Lunch Program Seamless Summer Option. (3) This document relates to requirements under section 13 of the Richard B. Russell National School Lunch Act (NSLA) [42 U.S.C. 1761], and the Summer Food Service Program regulations under 7 CFR 225.

On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (the Act) (P.L. 117-328). The Act included significant policy changes for Child Nutrition programming, including the authorization of a permanent, non-congregate meal service through the Summer Food Service Program (SFSP) and National School Lunch Program (NSLP) Seamless Summer Option (SSO) for rural areas with no congregate meal service and the Summer

Electronic Benefits Transfer for Children Program (Section 502 of the Act). The non-congregate model for rural areas is available in Summer 2023 and Summer Electronic Benefits Transfer for Children Program will be available in summer 2024. The Act requires FNS to promulgate regulations to carry out these two changes. Regulations for these policy changes will be promulgated in advance of summer 2024.

This memorandum provides guidance that serves as the instructions for State agencies and Program operators on how to implement SFSP and SSO rural non-congregate meal service during summer 2023. FNS will issue additional guidance on oversight and monitoring specifically pertaining to non-congregate operations in a follow up memorandum. All standard requirements are still applicable unless otherwise specified. State agencies and Program operators should be advised that the following guidance for implementing non-congregate meal service in summer 2023 may not be the same as the regulatory requirements that will be codified for summer 2024 and beyond.

FNS appreciates the exceptional efforts of State agencies and local Program operators working to meet the nutritional needs of participants during the summer months. SFSP and SSO rely on innovative and collaborative efforts to provide summer meals to children in need. We look forward to working with our program partners and other stakeholders on the administration and operation of the non-congregate meal service for rural communities during summer 2023.

State agencies are reminded to distribute this memorandum to Program operators immediately. Program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office.

Sincerely,

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Date: 2023.02.28 17:07:33
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J. Kevin Maskornick
Director
Community Meals Policy Division

State Agency Approval of Non-congregate Meal Service

1. Where can a sponsor provide non-congregate meals?

Sponsors can provide non-congregate summer meals in rural areas that do not have congregate meal service. If the rural area meets the definition of an 'area in which poor economic conditions exist' (per Program regulations at 7 CFR 225.2), then meals for all children may be claimed for reimbursement. If the rural area does not meet the definition of an 'area in which poor economic conditions exist,' only the meals served to children who are eligible for free or reduced price meals under the National School Lunch Program (NSLP) or the School Breakfast Program (SBP) may be claimed.

2. Can SFAs operating SSO provide a non-congregate meal service?

Yes. SFAs operating the NSLP Seamless Summer Option (SSO) may provide non-congregate meal service as described in this guidance. Non-congregate meals served under the SSO are reimbursed at the "free" rates prescribed by the Department of Agriculture (USDA) for school meals and snacks served through NSLP and SBP. If suppers are provided, they would be reimbursed at the NSLP free rate for lunches.

3. How can State agencies and sponsors determine which areas are rural?

The definition of 'rural' in the Summer Food Service Program (SFSP) has not changed. SFSP regulations (7 CFR 225.2) define rural as: *(a) any area in a county which is not a part of a Metropolitan Statistical Area or; (b) any "pocket" within a Metropolitan Statistical Area¹ which, at the option of the State agency and with FNS concurrence, is determined to be geographically isolated from urban areas.*

States should continue designating rural areas as they have in prior summers. These designations now apply to both congregate and non-congregate meal service operations. FNS developed the Rural Designation Map to assist State agencies and sponsors in designating sites as rural. Instructions for using the map are available on the map link at <http://www.fns.usda.gov/rural-designation>.

¹ A Metropolitan Statistical Area is defined by the Office of Management and Budget (OMB) as a location where there is at least one urbanized area of 50,000 or more population, plus adjacent territory, which has a high degree of social and economic integration with the core as measured by commuting ties, based upon census data. Currently delineated metropolitan and micropolitan statistical areas are based on application of 2010 standards. OMB announced the adoption of 2020 Standards for Delineating Core Based Statistical Areas in the Federal Register on July 16, 2021. OMB plans to publish delineations of areas based on the 2020 standards and 2020 Census data in 2023 for use in summer 2024.

For more information on Metropolitan Statistical Areas, see OMB Bulletin No. 20-01, Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas, March 6, 2020, at <https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf>.

4. If an area is not rural on the FNS Rural Designation Map, does that mean it is not eligible for non-congregate meal service?

The area may still be eligible if it is a rural pocket within a larger area designated as urban on the map. When a site is located in a rural pocket, the State agency must consult with the appropriate FNS Regional Office (FNSRO) and seek concurrence to designate the site as rural. The State agency must inform the FNSRO that the site is located in a rural pocket but is not required to submit additional data for review.

For more information on rural designations in the SFSP, please refer to policy memorandum SFSP 04-2015, *Rural Designations in the Summer Food Service Program*, April 21, 2015, at <https://www.fns.usda.gov/sfsp/rural-designations-summer-food-service-program>.

5. Can non-congregate meals be provided in non-rural areas if Program access is limited because of lack of transportation, safety concerns, lack of a location to serve meals, or other similar reasons?

No. Non-congregate meal service is only allowed in rural areas where no congregate meal service is available. State agencies and sponsors should work together to determine how best to leverage community resources to provide a congregate meal service that meets the needs of children in non-rural areas.

6. How should State agencies identify whether an area has “no congregate meal service” for the purpose of determining if non-congregate meal service is allowable?

State agencies have the discretion to determine whether an area has no congregate meal service. The State agency:

- Must ensure that the area the site proposes to serve is not or will not be served by a congregate meal service consistent with the requirement at 7 CFR 225.6(h)(1)(ii).
- Must implement safeguards to prevent overlap between meal services to reasonably ensure children are not receiving more than the maximum allowance of SFSP meals per day at 7 CFR 225.16(b)(3).
- Must follow the priority system required by Program regulations at 7 CFR 225.6(b)(5) when approving applicants proposing to serve children in the same area.

When determining if an area is served by a congregate site, the State agency should consider information including, but not limited to:

- Any physical conditions or other barriers;
- Limited capacity of a congregate site that prevents it from serving the community at large;
- Sites serving the same children on different days, different weeks, or for different meals on the same day; and
- Sites appealing to specific age groups or to children with unique dietary requirements.

7. May a non-congregate site operate in close proximity to a congregate site that is closed enrolled or a camp?

Under some circumstances, yes. Non-congregate meal service can potentially be provided by sites that are in close proximity to congregate service sites, such as camps or closed enrolled sites. However, State agencies must ensure that the congregate and non-congregate sites will not serve the same population of children for the same meal service on the same day.

8. Can existing rural sites switch from congregate to non-congregate meal service?

Yes. However, the non-congregate option is not intended to replace congregate meal service. USDA understands the benefits of congregate meal service and often the accompanying activities and encourages sponsors to continue to provide these opportunities when feasible. When planning for non-congregate meal service, State agencies and sponsors should work to identify and prioritize those rural areas that the congregate SFSP cannot reliably reach.

9. May a sponsor choose to solely operate non-congregate meal service?

Yes, with State agency approval.

10. May a State agency prohibit a sponsor from operating a non-congregate meal service?

State agencies may not deny a sponsor application based solely on the sponsor's intent to provide a non-congregate meal service. However, State agencies determine whether individual sponsors are capable of providing non-congregate meal service in rural areas, in line with SFSP requirements. State agencies have the responsibility to deny sponsors that they determine:

- Are not financially and administratively capable of operating a non-congregate meal service.
- Proposed one or more service areas already sufficiently served through a congregate meal service; or
- Proposed one or more service areas that do not meet the requirements for non-congregate meal service.

If the State agency denies a sponsor's non-congregate meal service, it must notify the sponsor of its right to appeal under Program regulations at 7 CFR 225.13. FNS encourages State agencies to consult with their FNS Regional Office if they need support in evaluating whether a sponsor must be denied.

11. May a State agency deny a site that meets the eligibility criteria for operating a non-congregate meal service?

State agencies may not deny a site based solely on the sponsor's intent to provide a non-congregate meal service. Similar to Q&A #10, State agencies may deny an otherwise eligible site based on concerns related to health, safety, and/or integrity.

12. If sponsors offer non-congregate meal service in rural areas, are they still required to follow existing SFSP program requirements?

Yes. All SFSP program requirements in regulations (7 CFR 225) and other related regulations and instructions apply to both congregate and non-congregate meal service, unless otherwise specified in this memorandum.

Sponsor, Site, and Participant Eligibility

13. Who is eligible to participate as a sponsor operating a non-congregate meal service?

Any service institution that meets the definition of sponsor in Program regulations (7 CFR 225.2), with the exception of public and private nonprofit day camps and residential summer camps, is eligible to apply to operate non-congregate meal service through their SFSP State agency. This includes:

- Public and private nonprofit school food authorities;
- Units of local, municipal, county or State government;
- Tribal Governments; and
- Private, nonprofit organizations.

14. What sources of data can the State agency use to establish area eligibility?

State agencies can use any of the data sources outlined in policy memorandum SFSP 03-2017: *Area Eligibility in Child Nutrition Programs* to verify that sites are located in an eligible area. Data sources include school, census, or other approved sources of data that indicate that 50 percent of the children in the site's area are eligible for free or reduced price school meals.

15. What sources of data are used to determine eligibility for receiving non-congregate meals in non-area eligible areas?

Individual eligibility for free or reduced price school meals may be determined by using individual eligibility determinations through school data or by the application process described in Program regulations (7 CFR 225.15(f)). Only meals served to children eligible for free or reduced price school meals may be claimed for reimbursement for non-congregate meals.

16. Are camps eligible to offer a non-congregate meal service?

Camps cannot offer non-congregate meal service if congregate meal service is available. As defined in 7 CFR 225.2, camps must provide a regularly scheduled food service as part of an organized program for enrolled children; such programming is generally understood to be congregate in nature.

17. Can a site provide a combination of non-congregate and congregate meal services?

Yes. Non-congregate meal service may be provided when congregate meal service is not available.

For example:

- A site that only offers breakfast through a congregate meal service may be approved to provide a lunch through non-congregate meal service.
- A congregate site that serves lunch and breakfast three days a week may be approved to provide non-congregate meals for days with no congregate service, including weekends. A congregate site that operates in the month of July, may be approved to provide non-congregate meals for the ten-day period following their last congregate meal service day (provided that the ten days are included in the site's approved service period).

Service Models

18. What models of non-congregate meal service are allowed?

Home delivery and meal pick-up options may be used for summer 2023; in many cases, non-congregate meal service may look very similar to non-congregate service implemented during the COVID-19 public health emergency, which can serve as a reference point. State agencies opting to use these models must ensure that sponsors are able to maintain accountability and program integrity.

Home Delivery:

This non-congregate meal service model is designed to deliver meals directly to homes. Delivery could be completed by mail or delivery service, or could be hand-delivered by the sponsor's staff, volunteers, or others.

Meal Pickup:

This non-congregate meal service model is designed to provide packaged meals that are taken home for children to eat later. Examples of meal pickup include "grab and go," curbside service, or take-home backpacks. Meal pickup is available to all children when the pick-up site is in an area-eligible area, or to children who are eligible for free or reduced price school meals when the pick-up site is in an area that is not area-eligible. Meals must be packaged and portioned to allow children to carry the food from the SFSP site to their home.

Food safety is important for all meal service models. Sponsors should ensure food selections and packaging promote food safety; sponsors should also include instructions on at-home storage and preparation. As with congregate SFSP meal service, sponsors must ensure non-congregate meal packages meet State and local health and safety requirements.

19. What are the requirements for initiating home meal delivery for a household?

Sponsors eligible to home deliver meals are SFAs or non-SFAs with a Memorandum of Understanding (MOU) with an SFA to use the SFA's student data as the basis for establishing their eligible population. Sponsors that are approved to provide a non-congregate meal service using the home delivery model must be able to identify and invite households of eligible children to participate in the meal delivery service and obtain written consent from the eligible child's parent or guardian that the household wants to receive delivered meals. Written consent could include hard copy, email, or other electronic means of communication. In addition, sponsors must confirm the household's current contact information and the number of eligible children in the household to ensure the correct number of meals are delivered to the correct location. Finally, sponsors must protect the confidentiality of participants and their households throughout the process in accordance with confidentiality and disclosure provisions in the National School Lunch Act and SFSP regulations (7 CFR 225.15(f)-(l)). Part 5 of the *Eligibility Manual for School Meals*, provides specific guidance on applying the statutory and regulatory requirements, and is available online at: <https://www.fns.usda.gov/cn/eligibility-manual-school-meals>. State agencies and sponsors may also refer to the policy memorandum, SP16 CACFP06 SFSP10-2016: *Disclosure Requirements for the Child Nutrition Programs* for more information. Sponsors that are not SFAs must have MOUs on the proper handling and storage of student data with applicable SFAs that ensure consistency with the above stated confidentiality requirements. SFAs are not required to agree to enter into MOUs with requesting non-SFA sponsors.

20. Do sponsors need signed consent forms from parents/guardians before non-congregate meals are provided to children?

Yes, consent forms are required for the home delivery model. The sponsor may provide its own consent form, or the State agency may provide a consent form for sponsors and sites to use. For other non-congregate models, i.e., grab and go, the standard SFSP public notification requirements are all that is needed.

21. Do home-delivered meals need to be shelf-stable?

Not necessarily. The type of meal offered will depend on the resources and capacity of the site. With State agency discretion, sponsors that are able to prepare ready-to-eat meals and have the capacity to deliver meals daily in a way that meets State or local food safety requirements may do so if participating households are also able to accept and safely store the meals. Sponsors should consider whether households have access to refrigeration, stoves, microwaves, etc., when providing food that requires cold storage or further preparation, such as reheating. The meals must also meet the SFSP or SSO meal pattern requirements.

22. For sponsors serving non-congregate meals via home meal delivery, should each stop (e.g., home) be considered a site?

No. The SFSP site requirements, including site approval by the State agency, do not apply for individual homes, school bus route stops, or mobile meal route stops. The State agency and sponsor should consider the 'site' the non-congregate meal service operation overall.

23. Does the child need to be present for home meal delivery?

No. The child does not need to be present at the time of delivery, as long as the sponsor has obtained the household's written consent to deliver meals and has verified the current address. If the meals are shelf-stable, no one need be present, as long as the address has been verified. Sponsors should consider state and local food safety requirements and best practices when designing their meal service.

24. Is additional funding available for meal delivery?

No. There is no additional federal reimbursement for home delivery or mobile meal delivery. However, expenses related to meal delivery, such as postage or delivery service fees, would be considered an allowable cost under the SFSP or SSO. Delivery costs could also be paid with non-program funds such as State or local funds, or private donations. Standard reimbursement rates for SFSP (<https://www.fns.usda.gov/sfsp/fr-010623>) and SSO (<https://www.fns.usda.gov/cn/fr-072622>) remain in effect.

Meal Service

25. Are sponsors required to follow established meal patterns when serving non-congregate meals?

Yes. Like congregate meals, non-congregate meals must comply with the current meal pattern requirements for SFSP and SSO.

26. Can sponsors provide food items in bulk, either through pick up or home delivery?

Yes, at the State's discretion. State agencies must determine whether a sponsor's proposed bulk distribution meets the safety, service, and integrity standards of the Program. States should follow the guidance at <https://www.fns.usda.gov/tn/offering-multiple-meals-part-summer-non-congregate-meal-service>, when considering allowing bulk distribution.

27. What are the requirements for serving non-congregate meals related to meal modifications for participants with disabilities or other medical or special dietary needs?

States and sponsors are still required to provide meal modifications for participants with disabilities when serving non-congregate meals. When planning a non-congregate meal service, State agencies and program operators should consider how individuals who require meal modifications will be identified and served appropriately. Individual substitutions may also be made at a sponsor's discretion for a child with a non-disability medical or other special dietary need. Households should have a way of notifying the sponsor of the need for individual substitutions due to medical or other special dietary needs.

28. Can offer versus serve (OVS) be used in non-congregate settings?

Yes, with State agency approval, only SFAs may use OVS. When using OVS in a non-congregate setting, SFAs should consider the unique service situations of each site, as well as each site's ability to follow appropriate safety measures. All required meal components or food items must be offered, and all participants must have the opportunity to select a reimbursable meal. FNS encourages SFAs that wish to use OVS to think creatively about how to implement this flexibility while ensuring that all meal service requirements are met.

29. What are the requirements related to site caps for non-congregate meal service in rural areas?

The site cap requirement remains for both congregate and non-congregate meal service. A site cap is established for all sites during the application and approval process. When evaluating a proposed food service site, the State agencies must ensure that sites have adequate facilities and capacity to prepare and/or distribute meals for the number of children they are approved to serve. For non-congregate meal sites, site caps must be set to ensure that only one meal per child per meal service is prepared and distributed. Site caps may be adjusted and approved by the State agency as necessary.

For more information regarding site caps in the SFSP, please see policy memorandum SFSP 16-2015: Site Caps in the Summer Food Service Program: Revised.

30. How many meals per child may be provided through non-congregate meal service?

The maximum number of meals that may be offered at a non-congregate site and a congregate site is the same. Up to two meals, or one meal and one snack, per child, per day may be offered, in any combination except lunch and supper. The State agency may, at its discretion, approve sponsors for bulk distribution of meals for the allowable number of reimbursable meals that would be provided over a 10-day calendar day period.

31. Are second meals reimbursable for non-congregate meal service?

No. Sponsors may only claim one meal, per child, per meal service for non-congregate meal service.

32. Do the meal service time requirements in SFSP apply to non-congregate meal service?

Some meal service time requirements continue to apply, per Program regulations at 7 CFR 225.16(c). Meal service times still need to be established for each site, included in the sponsor's application, and approved by the State agency. These requirements may be met through State agency approved pick-up schedules or delivery plans with designated times for distribution. The State agency must approve any changes in meal service times. Sponsors offering a non-congregate meal service are not required to serve breakfast in the morning or allow one hour between the end of one meal service and the start of the next.

33. Can meals be distributed to parents/guardians at non-congregate pickup locations?

Yes. Sponsors that have been approved to operate non-congregate meal service in rural areas may distribute meals to parents or guardians to take home to their children. Sponsors opting to distribute meals to parents or guardians must maintain accountability and program integrity. This includes processes to ensure that meals are only distributed to parents or guardians of eligible children, and that duplicate meals are not distributed to any child.

Reporting

34. What are the meal reporting requirements for non-congregate meals in the SFSP?

State agencies must report the total number of congregate and non-congregate meals in the applicable fields on form FNS-418 and/or FNS-10 and all non-congregate meals should be claimed at reimbursement rates for Rural or Self-prep sites. Standard meal counting and reporting procedures apply to both congregate and non-congregate meal service.

For Summer 2023, sponsors operating both congregate and non-congregate sites should maintain separate meal counts for non-congregate meals served by meal service. State agencies should report the number of non-congregate meals by meal service in the "Remarks" section of the FNS-10 and/or FNS-418. State agencies may use the following format when reporting in the "Remarks" sections. These data only need to be submitted on the 90-day reports.

Non-congregate breakfasts claimed:

Non-congregate lunches/suppers claimed:

Non-congregate snacks claimed:

35. What are the sponsors, sites, and average daily attendance reporting requirements for the July 90-day report for the FNS-418?

The number of sponsors and sites operating congregate and non-congregate meal service should be reported together on the applicable section of the FNS-418. State agencies should report in the "Remarks" section for the July 90-day report, the number of sponsors and sites offering non-congregate meals.

For summer 2023, State agencies should report average daily attendance only for meals served through congregate service in the applicable field on the FNS-418.

Management and Administration Plans (MAPs)

36. When should the State agency submit the MAP?

For 2023, State agencies must submit a complete MAP by April 1. If the State determines that additional amendments are required beyond May 31, 2023, the State should contact their RO and determine an appropriate course of action. MAPs may be revised through September 1, 2023, as outlined in 7 CFR 225.5(b)(3).

37. What information regarding non-congregate SFSP meal service is required in the MAP?

The 2023 MAP should include:

- Participation projections;
- Sponsor information;
- Plans for targeting and outreach;
- How State Administrative Funds (SAF) will be used to support non-congregate meal service for summer 2023; and
- Strategies for providing technical assistance and ensuring integrity requirements are met.

38. How will State agencies estimate the appropriate amount of SAF to support the non-congregate SFSP meal service for summer 2023?

FNS recognizes that determining an appropriate amount of funding to support the non-congregate meal option will be challenging. To support program growth expected in FY 2023 because of the new non-congregate option, FNS is providing an additional 20% to each State agency above the amount calculated in the SAF formula in Program regulations at 7 CFR 225.5(a). State agencies may use the updated SAF formula amounts as a guideline; however, State agencies should request SAF funding adequate to cover the State-level administrative costs of operating SFSP in FY 2023, in line with the size of the program projected on the MAP.

General/Miscellaneous:

39. Are sponsors required to announce the availability of non-congregate meals?

Yes. Annual announcements are required in one of two ways: Sponsors of congregate and non-congregate sites must announce the availability of free meals in the local media or State agencies may issue a media release for all sponsors operating SFSP in the State, as outlined in Program regulations (7 CFR 225.15(e)). Sponsors should include in the announcement the days of delivery/pick-up when providing non-congregate meal service in rural areas.

40. Do sponsors need to display the “And Justice for All” (AJFA) posters at pick up sites and for home delivery transportation?

The AJFA poster must be prominently displayed (such as in a window) on all vehicles making door-to-door drop deliveries at homes, and in all pick up facilities and locations providing non-congregate meal service in rural areas. State agencies and sponsors must ensure that outreach strategies and meal service does not discriminate based on race, color, national origin, age, disability, or sex.