



Interim Final Rule on Non-Congregate Summer Meals: Top Takeaways for Operators

In December 2022, the [Consolidated Appropriations Act of 2023](#) authorized a permanent option for non-congregate summer meals in rural areas without congregate service. The law permitted USDA to issue temporary guidance based on past work to support implementation in 2023. Then, as required by law, on December 29, 2023, USDA issued its [Interim Final Rule](#) (IFR): Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs. The IFR is currently in effect to guide non-congregate operations.

This resource summarizes the top takeaways for program operators. Implementing non-congregate service is an exciting opportunity to expand the reach of summer meals and provide more children with much-needed nutrition during the summer months.

- **Definition of “rural”:** the “core” definition in the IFR is more expansive than the previous definition used to determine eligibility for the rural reimbursement rate or eligibility to operate non-congregate in 2023.
 - Many of the national datasets previously used by states to help identify “rural pockets” have been incorporated into the “core” definition.
 - All states must follow the “core” definition of rural.
 - See the updated [USDA Rural Designation map](#) and [No Kid Hungry’s Summer Eligibility Map](#) for a visualization of the definition.
 - States may still consider approving additional “rural pockets” beyond these areas as needed but will need approval from the relevant USDA FNS regional office.
- **“No congregate service”:** the IFR does not offer many parameters beyond the 2023 guidance, leaving discretion to states to determine where children do not have access to congregate service, allowing non-congregate service. However, what is noted:
 - Non-congregate service may complement limited congregate service: a non-congregate breakfast may be provided to take home following a congregate lunch if the site does not provide a congregate breakfast, or non-congregate meals may be provided for the weekend if a site only provides congregate meals on weekdays.
 - Non-congregate service is permitted at a congregate site if it can be demonstrated to the satisfaction of the state agency that it serves a different group of children than the congregate service.

- o Non-congregate and congregate service may ***not*** occur at the same time at the same site, even if different meals are being provided.
- **Meal service options:** States may ***not*** issue blanket statewide restrictions or bans on service options allowable under federal guidance. All states must follow the federal guidance as the default for sponsors in good standing but may limit or prohibit certain options on a case-by-case basis depending on sponsor/site capacity.
 - o **Multi-day meal distribution:** sites may distribute *unitized* meals for up to 10 calendar days at one time (e.g. 10 breakfasts and 10 lunches every 10 days or every two weeks).
 - o **Bulk meal distribution:** for meals composed of *bulk* items (i.e. loaves of bread, packs of deli meat, bags of salad greens), sites may distribute meals for up to five calendar days at one time (e.g. five breakfasts and five lunches every five days or every week), but states have discretion to approve distribution of meals for up to 10 days at a time, such as in remote areas where weekly delivery is not possible.
 - o **Parent/guardian pick-up:** meals may be distributed to a parent/guardian without the child present as long as the sponsor/site has a system to document, *to a reasonable extent*, that the adult has an eligible child and no duplicate meals are provided.
 - The guardian does ***not*** need to be a legal guardian.
- **Home delivery:** Home delivery was not included in the IFR as an option that states must allow with only case-by-case exceptions, but it is mentioned as a possible distribution method.
 - o Written consent from households is required prior to initiating home meal delivery.
 - o Non-profit sponsors may provide home delivery and do ***not*** need to do so through a Memorandum of Understanding (MOU) with the local school food authority. However, if the non-profit sponsor wishes to obtain school data to identify children, then an MOU must be in place.
- **Conditional sites:** At a conditional site, non-congregate service can occur in rural areas that do not meet the area eligibility threshold, but only meals served to eligible children can be claimed for reimbursement.
 - o To be eligible for reimbursement, children must individually meet the income eligibility guidelines as determined through application or school data.
 - o Meals may be served to children who do not meet the eligibility guidelines or do not have documentation on file by the end of the claim month, but the cost must be paid from non-program funds, or sites may charge for meals.
- **Pre-approval and site visits:**
 - o Sites that operated congregate service previously but are beginning non-congregate service must be considered new sites that require a pre-approval visit and a site visit within the first two weeks of operation.
 - o Sites that provided non-congregate service previously are ***not*** considered new sites.
- **Second meals:** Non-congregate sites may ***not*** claim reimbursement for second meals.
 - o This contrasts with the existing rule for congregate sites, which may claim reimbursement for serving a second meal to an eligible child up to 2 percent of eligible first meals, by type, per claiming period.