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DATE: June 7, 2001

TO: All Local Health Departments
Attn.: Health Officer/Director of Environmental Health/Chief Sanitarian

FROM: Food Service Sanitation Section
Food and Dairy Division

SUBJECT: **Answer to a Question on the Food Code – Hair Restraints**

In keeping with MALEHA's request that answers to questions on the Food Service Sanitation Program be addressed to all Environmental Health Directors, this memorandum provides an answer to a recent question concerning the Food Code and Food Law of 2000.

Question: Are wait staff, cashiers, and other non-food employees required to wear hair restraints?

Answer: Job activities, rather than job titles, determine who is required to wear a hair restraint. Therefore, this question is really two questions:

- ✓ Is the person a "food employee?" *and*, if yes,
- ✓ Do the activities fall under the limited exemption?

Is the person a food employee?

"Food Employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces." Food Code § 1-201.10(30). Thus, cashiers (with no other assignments) are not "food employees" and, therefore, do not fall under the requirements for food employees. Wait staff generally meet the definition of a food employee (since they handle dishes and utensils), therefore, they must meet the requirements specified in the Food Code unless their activities fall under the specified exemption.

Do the activities fall under the limited exemption?

There is a limited exemption from the hair restraint requirement for wait staff "if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles." Food Code § 2-402.11(B).

"Minimal risk" is based upon a professional judgement of the situation. One approach would be to ask yourself, "If this wait staff was a kitchen employee working with food in this manner, would a hair restraint be required"? If the answer would obviously be yes for a kitchen employee, then the answer would be yes for a wait staff.

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For example, a wait staff enters the kitchen, reaches over exposed containers of ingredients, and assembles a salad. Since, a hair restraint would be required for a kitchen employee in this situation, then one is required for wait staff doing the same function. On the other hand, a wait staff assembling a salad from a salad bar with a sneeze shield (and using utensils) would present minimal risk from lack of a hair restraint. It is the activity, not the title, that determines who must wear a hair restraint.

In your assessment of the risk of activities, remember that hair can be both a direct and indirect vehicle of contamination. A restraint keeps dislodged hair from ending up in food. However, food employees may contaminate their hands when they touch hair, and the hair restraint may deter employees from touching their hair.

Finally, bear in mind that the requirement for hair restraints is *not* a critical item. This requirement needs to be kept in perspective of the overall goal of the inspection.

If you have any questions on the meaning of particular sections of the Food Code, please contact the Food Service Sanitation Specialist who covers your area.

NDF:khg

cc: MDA Food Program Managers
Retail Food Advisory Board