



**United States  
Department of  
Agriculture**

Food and  
Nutrition  
Service

3101 Park  
Center Drive  
Alexandria, VA  
22302-1500

**DATE:** 3/16/2011

**MEMO CODE:** SP 17-2011, CACFP 08-2011, SFSP 05-2011 - Revised

**SUBJECT:** Child Nutrition Reauthorization 2010: Categorical Eligibility of Foster Children

**TO:** Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

This memorandum provides questions and answers to update the Child Nutrition Reauthorization 2010 implementation memorandum SP 17-2011, CACFP 08-2011, SFSP 05-2011, Categorical Eligibility of Foster Children, dated January 31, 2011. The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, provides categorical eligibility for free meals to foster children.

Section 102 of the Act amends Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (NSLA) to provide categorical eligibility for free meals, without further application, to any foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. In addition, the Act amends Section 9(b)(5) of the NSLA to allow certification of a foster child for free meals, without application, if the local educational agency or other child nutrition program institution obtains documentation from an appropriate State or local agency indicating the status of the child as a foster child whose care and placement is the responsibility of the State or that the foster child has been placed with a caretaker household by a court. These provisions are effective October 1, 2010.

We strongly encourage school food authorities and other child nutrition institutions to establish formal mechanisms with State and local foster agencies to receive information directly from these agencies to facilitate certification for free meals for foster children.

It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court based systems.

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### **Changes to Application Process**

This change to allow categorical eligibility for free meals for foster children necessitates changes in the way free and reduced price applications are handled. Previously, a separate application for free and reduced price meals was submitted for a foster child who was considered a household of one.

Now, the foster child is categorically eligible and may be certified without an application. Households with foster and non-foster children may choose to include the foster child as a household member, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children. This will streamline the application process and may help the foster family's non-foster children qualify for free or reduced price meals based on household size and income.

In processing the application, the local educational agency (LEA) or other child nutrition program institution would certify the foster child for free meals, and then make an eligibility determination for the remainder of the household based on the household's income (including personal income earned by the foster child) or other categorical eligibility information reported on the application. As before, foster payments received by the family from the placing agency are not considered income and do not need to be reported. Please note that the presence of a foster child in the household does not convey eligibility for free meals to all children in the household in the same manner as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Food Distribution Program on Indian Reservation (FDPIR) participation does.

LEAs and other child nutrition program institutions should implement this change as soon as possible for any new foster children identified by foster agencies or who submit applications for the remainder of this school year. All household applications and supporting materials must be updated to reflect these changes no later than the beginning of School Year 2011-2012. FNS will provide updated prototype applications and supporting materials for all Child Nutrition Programs in the near future.

Finally, we are working with our partners at the Department of Health and Human Services to notify State child welfare agencies of this provision. We encourage State Child Nutrition Directors to also reach out to their State Health and Human Services colleagues to develop or strengthen communication that will ease the implementation of this provision locally. States can request contact information for State child welfare officials by contacting the appropriate Health and Human Services regional staff through [www.acf.hhs.gov/programs/oro/regions/regional\\_contacts.html](http://www.acf.hhs.gov/programs/oro/regions/regional_contacts.html).

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State agencies should direct any questions concerning this guidance to the appropriate FNS Regional Office. Regional Offices with questions should contact the Child Nutrition Division.

**Original Signed**

Cynthia Long

Director

Child Nutrition Division

Attachment

## **General**

### **Q1. Who is covered by this provision?**

Any foster child formally placed by a State child welfare agency or court with a caretaker household. Foster children formally placed in kinship care by a welfare agency or court are included in this group. It does not apply to informal arrangements that may exist outside of State or court based systems.

### **Q2. Do Tribal child welfare agencies fall in the category of “an agency that administers a state plan under part B or E of title IV of the Social Security Act” under this provision?**

If the Tribal child welfare agency is directly responsible for the administration of a title IV-B program or a title IV-E program (meaning, the Tribal child welfare agency has submitted an approved title IV-B or title IV-E plan), or if the Tribal child welfare agency operates under an agreement with a title IV-E agency for the placement and care of children eligible under section 472(a) of the Social Security Act, the agency would be considered “an agency that administers the State plan under part B or E of the Social Security Act.”

### **Q3. Do Tribal court placements fall under this provision?**

Yes, if the Tribal court has jurisdiction over the foster child placement.

### **Q4. Is this provision retroactive and if so what action must be taken for foster children in the 2010-2011 School Year who currently do not receive free meals?**

We do not require this provision be implemented retroactively and therefore no action is required for children currently enrolled. However, if a child is known to be a foster child as defined in the memorandum we encourage the LEA to make them categorically eligible immediately.

### **Q5. How will foster children be certified for free meals?**

School food authorities and other child nutrition institutions should establish formal mechanisms with State and local foster agencies to receive information directly from these agencies to facilitate certification for free meals for foster children.

### **Q6. Can school food authorities and other child nutrition institutions obtain documentation from a private foster care agency?**

Yes, if the private foster care agency operates under approval and authority of the State child welfare agency and is responsible for placing the foster child in a caretaker household.

### **Q7. Does this provision apply to the Special Milk Program?**

Yes.

## **Application process**

### **Q8. When will an application need to be filled out for a foster child?**

If a State or local foster agency does not initially provide documentation for a categorically eligible foster child, an application identifying the child as a foster child must be filled out. Additionally, a household may now include foster children on their application.

### **Q9. Is documentation from a State or local foster agency required for a foster child who is identified on an application?**

Not unless the household application is selected for verification.

### **Q10. If a foster child is listed on a family's application as a household member and that household happens to be selected for verification, does the school need anything extra for verification?**

It depends on the situation. If a household is chosen for verification and the foster child included on the application was identified by a State or local foster agency, then no additional verification is needed for the foster child. If not, then documentation verifying the foster child's status would be required.

### **Q11. What documentation must be provided if a foster child is listed on a household application that is selected to be verified?**

Documentation from a State or local foster care agency or the court where the foster child received placement is acceptable for verification. Direct contact from the foster care agency or court (for example, a list of foster children is sent to the LEA) is also acceptable documentation for verification.

### **Q12. Are foster children still considered a household of one?**

No. Foster children are categorically eligible so are no longer considered a household of one. In addition, foster children can now be included as part of the household on applications that include their non-foster children.

### **Q13. Who decides whether to include a foster child on a household application?**

The household decides whether to include the foster child on their household application with non-foster children.

### **Q14. If a household chooses to include a foster child on their household application, are they required to report any personal income received by that foster child?**

Yes. Households must report any personal income received by the foster child on their household application. As before, foster payments received by the family from the placing agency are not considered income and do not need to be reported.

**Q15. Can school food authorities determine the eligibility for the non-foster child(ren) both by including the foster child as a household member, and not including the foster child as a household member and give the better benefit level to the non-foster child(ren)?**

Yes.

**Q16. Now that foster children can be considered part of the household, can their eligibility be extended to other non-foster children in the household?**

No. The presence of a foster child in the household does not make all children in the household eligible for free meals in the same manner as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Food Distribution Program on Indian Reservation (FDPIR) participation does.

**Q17. If the foster child leaves the household and returns to his/her own home located within the same SFA, is the foster child still eligible for free meals, even though the student is no longer considered a foster child?**

Yes, a foster child's eligibility is in effect from the date of eligibility for the current school year and for up to 30 operating days in the subsequent school year.

**Q18. If the foster child leaves the household and returns to his/her own home outside of the SFA, is the child still eligible for free meals even though the student is no longer considered a foster child?**

Yes, as long as the SFA agrees to accept the original eligibility determination. In this scenario, the former foster child's eligibility/application is handled like any other transfer student's.

**Q19. Is the non-foster household that qualified for free meals based on including the foster child as a household member, still eligible for free meals once the foster child leaves their home?**

Yes, the non-foster household would continue to be eligible for the current school year and up to 30 operating days in the subsequent school year.

**Q20. If a child is in a home for just a few days in an emergency placement, can the foster family count the child and apply for benefits?**

Yes, a household may apply for eligibility at any time.