



**United States  
Department of  
Agriculture**

Food and  
Nutrition  
Service

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**DATE:** **January 31, 2011**

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

**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

The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, provides categorical eligibility for free meals to foster children. The purpose of this memorandum is to provide guidance on the implementation of this provision in the Child Nutrition Programs.

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.

### **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).

Regional Directors  
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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.

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