Subject: Information on Income Eligibility in the Child Nutrition Programs

To: STATE AGENCY DIRECTORS (Special Nutrition Programs)
-Colorado ED, Colorado DH, Iowa, Kansas,
-Missouri ED, Missouri DH, Montana OPI,
-Montana DHES, Nebraska ED, North Dakota,
-South Dakota, Utah, Wyoming ED, Wyoming DHSS

Section 111 of the recently enacted Public Law (P.L.) 101-147 requires Food and Nutrition Service (FNS) to provide State Agencies with information on types of income to count in determining eligibility for free/reduced price meals, particularly with respect to how net self-employment income is determined for family day care providers. The Act also requires FNS to provide information concerning consideration of applications from households in which the head of the household is less than 21 years of age.

The required information is attached. Please note, however, that the paragraph on "Consideration of Applications from Persons Under 21" is based on current regulatory requirements and policy, since regulations implementing P.L. 101-147 changes regarding income documentation and social security numbers on applications are currently being developed, and are scheduled for publication by July of this year for school year 1990-91.

We also call your attention to the recent policy memorandum (SP-122, CACFP-182, SFSP-76) which provided guidelines for monitoring eligibility determination during the current school year.

Please contact us if you have further questions.

Ann C. Hector
ANN C. HECTOR
Regional Director
Special Nutrition Programs

Attachment
INFORMATION ON INCOME ELIGIBILITY IN THE CHILD NUTRITION PROGRAMS

Section 111 of Public Law (P.L.) 101-147, enacted on November 10, 1989, added a new Section 23 to the National School Lunch Act, which requires that information about specific income eligibility concerns under each of the Child Nutrition Programs (CNP) - - the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), and the Special Milk Program (SMP) - - be provided to each appropriate State agency. Since the concerns specified in the law are not new program issues and because of the deadline established for disseminating this information, it is being initially forwarded in this format. Revised guidance will be provided as necessary when future regulatory or policy changes occur.

Types of Income Counted in CNP Eligibility Determinations

With regard to the types of income counted in determining eligibility of participants to receive free or reduced price meals under the NSLP, SBP, CACFP, and SFSP, or free milk under the SMP, the term "Income" means the total monetary compensation of a household before any deductions such as income taxes, social security taxes, insurance premiums, charitable contributions and savings bonds. It includes: (1) monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm and/or farm self-employment; (3) social security payments; (4) dividends or interest on savings or bonds or income from estates or trusts; (5) net rental income; (6) public assistance or welfare payments; (7) unemployment compensation; (8) government civilian employee or military retirement, or pensions or veterans payments; (9) private pensions or annuities; (10) alimony or child support payments; (11) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income. "Other cash income" includes cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a meal served under the CNPs.

"Income", for purposes of making free or reduced price meal eligibility determinations, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, Section 12(e) of the National School Lunch Act and Section 11(b) of the Child Nutrition Act of 1966 prohibit the value of free or reduced price meals or free milk served to children under any of the CNPs from being considered as income to their households for purposes of determining eligibility for other benefit programs.

Determination of Income for Family Day Care Providers

Generally speaking, family day care providers participating in the CACFP under a sponsoring organization are considered to be self-employed. As indicated above, eligibility for the children of all self-employed individuals under each of the CNPs is based on net self-employment income. Therefore, when providers wish to apply for free or reduced price CNP meals for their children, or obtain reimbursement for CACFP meals served to their own children, the income they must report is net income, whether from the CACFP or other sources. Thus, their total business expenses are deducted from gross income (income from all sources) in order to determine the net figure upon which their children's CNP eligibility is based. With regard to that portion of their gross income represented by CACFP reimbursement payments, only the portion which exceeds their food service operating expenses (the costs of obtaining food, utilities and supplies used under the program) is to be counted in their reportable income.
Subsection 17(f) (3) (A) of the National School Lunch Act and subsection 226.18(f) of CACFP regulations stipulate that family day care providers may not be required to maintain documentation of their food service operating costs as a condition of receipt of CACFP reimbursement. While this provision is intended to reduce the recordkeeping burden on the providers in consideration of their unique business setting, it does not apply to establishing income for free or reduced price eligibility determinations. Accordingly, family day care providers should be advised to keep such records if they wish to apply for free or reduced price meals for their own children, since the provider’s entire CACFP reimbursement must be counted as income for CNP eligibility purposes if no cost records are maintained. We understand that similar requirements exist for the Food Stamp Program, may exist for other assistance programs, and are used by the Internal Revenue Service when computing taxable income. A large number of providers, consequently, would already find it necessary and appropriate to maintain food service operating cost records.

Consideration of Applications from Persons Under 21

Applications for free or reduced price meals signed by heads of household who are less than 21 years old are considered in exactly the same way as all other applications, except with regard to the social security account number requirement. CNP regulations and policy currently require that applications contain the social security numbers of all adult members of the household of the child for whom application is made. Consequently, since the term "adult" is defined for program purposes as an individual 21 years of age or older, no social security account number is required in the case of a student under 21 who lives alone (emancipated student), or when an individual under 21 signs the application as the parent, guardian or oldest member of a child's household. In such cases, the school or institution official should verify the signer's status and document the social security number omission.

Unavailability of Social Security Numbers

In addition to the above described provisions, the explanatory statement accompanying the Senate passage of P.L. 101-147 suggests the periodic notification of State agencies and local program officials participating in the CNPs of the policy regarding social security numbers on free and reduced price meal applications. In particular, such agencies and individual officials should be reminded that if an applicant states on the application form that he or she does not have a social security number that statement shall suffice in lieu of providing such number.

Since P.L. 101-147 requires this specified program information to be furnished to each State agency for the ultimate guidance and benefit of local officials, it should be directly forwarded to all schools, institutions, and other entities participating in each of the CNPs, or be appropriately adapted for issuance in newsletter or other guidance format, as soon as possible.