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**DATE:** June 13, 2023

**MEMO CODE:** SEBT 02-2023

**SUBJECT:** Initial Guidance for Implementation of Summer EBT in 2024 by Indian Tribal Organizations Administering WIC

**TO:** Regional Directors  
Supplemental Nutrition & Safety Programs  
All Regions

Indian Tribal Organizations  
WIC State Agencies

<b>Issuing Agency/Office:</b>	USDA FNS
<b>Title of Document:</b>	Initial Guidance for Implementation of Summer EBT in 2024 by Indian Tribal Organizations Administering WIC
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<b>Date of Issuance:</b>	June 13, 2023
<b>Replaces:</b>	N/A
<b>Summary:</b>	The Consolidated Appropriations Act, 2023 (P.L 117-328) authorized a permanent, nationwide Summer Electronic Benefit Transfer (Summer EBT) Program beginning in 2024. This memorandum: (1) provides information to assist Indian Tribal Organizations (ITO) in preparing to implement Summer EBT; (2) applies to ITOs that elect to administer the Summer EBT Program; and (3) relates to requirements under section 13A of the Richard B. Russell National School Lunch Act (NSLA) [42 U.S.C. 1762].

Since 2010, the Food and Nutrition Service (FNS) and Indian Tribal Organizations (ITOs) have worked together to identify new and innovative ways to ensure kids do not go hungry when school is not in session, including through the summer demonstration projects. Thanks to the dedication and perseverance of our Tribal partners who administered summer demonstration projects, we have demonstrated the effectiveness of providing electronic benefit transfer (EBT) benefits to children in the summer and also learned valuable lessons about successful program implementation. These efforts paved the way for permanent authorization of the Summer

Electronic Benefit Transfer (Summer EBT) Program and FNS looks forward to our continued partnership as we develop and launch permanent Summer EBT.

The Consolidated Appropriations Act, 2023 (P.L. 117-328) (the Act) authorized a permanent, nationwide Summer EBT Program beginning in 2024. The Act requires FNS to issue interim regulations within a year of the Act's enactment. Interim regulations are effective upon publication and FNS will accept comments on the interim rule to inform subsequent rulemakings. Although FNS generally prefers to publish a proposed rule and receive public comments before issuing new policy, the use of an interim rule is necessary in this case in order to establish program requirements in advance of summer 2024. FNS is soliciting input from Tribes and stakeholders, including through Tribal consultations, to inform the rulemaking. ITOs may also provide feedback through their regional offices at any time. We are aware that ITOs are already beginning to plan for Summer EBT and will require certain information before the rule is published. FNS is issuing this memorandum to provide information to assist ITOs in preparing to implement Summer EBT in 2024. A separate memorandum has been distributed in relation to Summer EBT for States.

### **Program Administration**

ITOs that administer the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), desiring to participate in Summer EBT must notify FNS through the regional office by January 1, 2024, of their intent to administer the Program. Administration of the Summer EBT Program will require interested ITOs to evaluate their resources and capabilities, and consider administrative and cost efficiency, the customer experience, and program integrity when determining how to structure their program's administration. FNS will enter into an agreement with each ITO that requests to administer Summer EBT. An ITO administering the Summer EBT Program will be known as a "Summer EBT agency". Summer EBT agencies will be responsible for overall program administration and program integrity, including preventing duplicate issuance of Summer EBT benefits.

While Summer EBT agencies also operate the WIC program, the two programs and funding remain distinct. For example, WIC funding cannot be used by Summer EBT agencies for administration costs or benefits. The Summer EBT agency will need to develop an intra-agency written agreement or other legally binding agreements with any partnering agencies or organizations to codify the roles and responsibilities of each, as well as describe the administrative structure and lines of authority. This will include any agreements necessary with State or local agencies to obtain data on children eligible for free or reduced price meals. By February 15, 2024, and annually thereafter, the Summer EBT agency must submit for approval a Management and Administration plan for Summer EBT. The plan should outline the roles and responsibilities of each partnering agency as included in the written agreement mentioned above.

### **Summer EBT State Administrative Funds**

Beginning in Federal Fiscal Year 2024, after receiving a notice of intent to administer, and subject to FY24 appropriations, the Act authorizes FNS to provide each Summer EBT agency an administrative cost grant against which they can draw funds equal to 50 percent of the administrative expenses incurred by the ITO in operating its Summer EBT program, including the administrative expenses of local educational agencies and other partner agencies related to the operation of the program.

Summer EBT agencies will be required to submit an annual Summer EBT plan of operation prior to approval for funding and, upon approval, will draw funds from their respective awards consistent with standard grant rules. FNS recognizes that Summer EBT agencies may need funds to begin planning and early implementation activities before final operational plans are ready for the upcoming 2024 year. FNS is prepared to work with ITOs on interim agreements and operational plans in order to provide early administrative funding in advance of the establishment of a permanent agreement.

### **Benefit Funds**

Summer EBT agencies are expected to plan, prepare, and invest in program infrastructure that will deliver Summer EBT benefits in a manner that fully separates them from other program benefits. FNS will provide Summer EBT benefit funds to each Summer EBT agency as a grant. The process and timeframe for receiving benefit funds and administrative funds will be provided in future guidance. At the point of redemption, Summer EBT agencies will draw funds from the Summer EBT benefit grant through the associated Automated Standard Application for Payments (ASAP) account. This account will be accessed and managed by the Summer EBT agency.

### **Use of Benefits**

Benefits issued by ITOs participating as Summer EBT agencies may only be used by participants to purchase supplemental foods from WIC Authorized vendors. Summer EBT benefits issued by ITOs are subject to WIC integrity requirements regarding the disqualification of vendors and criminal forfeiture of food instruments found in subsections (n), (o), and (p) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). Summer EBT agencies must be able to issue and track the Summer EBT benefit separate and apart from any other WIC benefit while providing the same level of oversight and integrity as for WIC benefits.

FNS will host a webinar to present the information in this memorandum and respond to questions. Following the webinar, ITOs with questions should contact the appropriate FNS Regional Office.

Sincerely,

**Original Signed**

Melissa Rothstein  
Associate Administrator  
Child Nutrition Programs

**Original Signed**

Diane Kriviski  
Associate Administrator  
Supplemental Nutrition and Safety Programs