



Food and Nutrition Service

Braddock Metro Center

1320 Braddock Place Alexandria VA 22314

**DATE:** November 14, 2023

**MEMO CODE:** SEBT 02-2024

**SUBJECT:** Initial Guidance Regarding Food Benefits for Implementation of the Summer EBT Program by Indian Tribal Organizations Administering The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

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

WIC State Agency Indian Tribal Organizations  
WIC State Agency Directors

<b>Issuing Agency/Office:</b>	USDA FNS
<b>Title of Document:</b>	Initial Guidance Regarding Food Benefit Models for Implementation of Summer EBT by Indian Tribal Organizations Administering WIC
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<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 (ITOs) 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].

The Consolidated Appropriations Act, 2023 (P.L. 117-328, “the Act”), authorized a permanent, nationwide Summer Electronic Benefit Transfer (Summer EBT) Program beginning in 2024. The Act requires the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) to promulgate interim final regulations within a year of the Act’s enactment. FNS is aware that covered Indian Tribal Organizations (ITOs) have begun planning for Summer EBT and need certain information before the rule is published. Under the Act, ITOs administering the Special

Supplemental Nutrition Program for Women, Infants, and Children (WIC Program) may elect to administer the Summer EBT Program. This guidance applies to such ITOs and provides information on eligible foods and the food benefit models that can be used in an ITO-administered Summer EBT Program. This memorandum expands upon the Summer EBT guidance in SEBT 02-2023, *Initial Guidance for Implementation of Summer EBT in 2024 by Indian Tribal Organizations Administering WIC*, released on June 13, 2023, and SEBT 03-2023, *Summer EBT Eligibility, Certification, and Verification*, released on July 31, 2023.

### **Summer EBT Supplemental Foods**

ITOs electing to administer Summer EBT will provide Summer EBT benefits to be redeemed on “supplemental foods” purchased from WIC-authorized vendors. Each ITO Summer EBT agency will need to submit to FNS a plan for operations and management of the Program that includes a list of Summer EBT supplemental foods that meet statutory criteria for Summer EBT. Consistent with Section 13A(h)(4) of the Richard B. Russell National School Lunch Act (NSLA), *supplemental foods* means, for the purposes of ITOs administering the Summer EBT Program, foods:

- (1) containing nutrients determined by nutritional research to be lacking in the diets of children; and
- (2) promoting the health of the population served by the program under this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as determined by FNS.

The requirements for supplemental foods outlined in the statute have similar nutritional requirements to supplemental foods that can be purchased with WIC benefits. Therefore, an ITO Summer EBT agency may consider supplemental foods authorized in its WIC Program to also be eligible for redemption with Summer EBT benefits.

The WIC food package provides a variety of nutrient-dense foods that contribute to children’s health. However, ITO Summer EBT agencies may consider offering additional foods including, but not limited to, foods that align with Indigenous eating patterns or that may be suitable and appealing to elementary and high school-age children.

### **Food Benefit Models for ITOs**

As part of USDA’s continued commitment to Tribal sovereignty and self-determination, ITO Summer EBT agencies have flexibility to develop a method of benefit issuance and redemption that is appropriate for their communities, and will submit it for FNS approval via a Plan for Operations and Management (POM). The ITO Summer EBT agency may use a cash-value benefit (CVB) model, a food package model, a combination of the two, or an alternate model.

For example, an ITO Summer EBT agency could implement a CVB model, through which participants are able to purchase any Summer EBT supplemental food up to the value of the benefit. Although WIC Program CVB purchases are limited to fruits and vegetables, an ITO Summer EBT agency that chooses to implement a CVB model is not required to restrict Summer EBT CVB to the purchase of fruits and vegetables. For example, an ITO Summer EBT agency could develop a Summer EBT supplemental foods list which includes WIC-authorized foods that

are more appropriate for school-age children and/or more consistent with Indigenous eating patterns and allow participants to purchase anything on the list until the benefit is exhausted.

As another example, an ITO Summer EBT agency could create a food package with specified types and quantities of items that can be purchased, similar to the WIC Program. An ITO Summer EBT agency that takes this approach could tailor the benefit to specific student age groups.

An ITO Summer EBT agency may also submit for USDA approval an alternate model from the examples above, or one which combines both of the above models. Regardless of how the ITO chooses to structure the benefit, benefits issued by ITO Summer EBT agencies may only be used to purchase supplemental foods from WIC-authorized vendors. In addition, the ITO Summer EBT agency must use the same benefit model for all participants throughout its service area.

For ITOs using a CVB-only benefit delivery model, ITOs must issue a benefit level equal to the amount set forth in statute and applicable program regulations. For Summer 2024, that amount will be \$40 per month. For ITOs using a food package benefit delivery model, a combination CVB and food package benefit delivery model, or an alternate benefit delivery model, the benefit level cannot exceed the amounts provided above at the time of initial submission of the POM.

Finally, ITO Summer EBT agencies must ensure that vendors charge prices for eligible food items which are reasonable for the area(s) served and are at the current price or less than the current price charged to other customers. Vendors may not charge Summer EBT participants more for an item than the price in the retail environment for all other customers.

USDA is open to innovative benefit issuance solutions and is committed to working with ITO Summer EBT agencies to identify food benefit solutions that best fit the unique needs of each community. ITOs with questions should contact the appropriate FNS Regional Office.

Sincerely,

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