



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

JUL - 3 2013

THE ASSISTANT SECRETARY

GEN-13-18

Subject: Extended Foster Care Payments

Summary: This letter describes the treatment of extended foster care payments that are made directly to the student when determining Title IV federal student aid eligibility.

Dear Colleague:

We have been asked how extended foster care payments made by a state directly to foster youth are treated when determining a student's Title IV student aid eligibility, including whether these payments should be reported on the Free Application for Federal Student Aid (FAFSA).

Extended foster care payments paid under the authority of Title IV – Part E of the Social Security Act are excluded from income for purposes of the calculation of a student's Expected Family Contribution (EFC) and thus not reported on the FAFSA. If the payments are not made under the authority of Title IV – Part E of the Social Security Act (e.g., paid under the authority of a state foster youth support program) the payments must be reported on the FAFSA as untaxed income.

Under the Higher Education Act of 1965, as amended (HEA), resources available to a student are classified as either income that is used in the calculation of the student's EFC or as Estimated Financial Assistance (EFA), but not both. Because extended foster care payments, as noted above, are either excludable income or untaxed income (depending on the authority under which the benefits are provided), such payments are not considered to be EFA.

Background

Social Security Act: Title IV – Part E of the Social Security Act provides for foster care payments made by a state to foster parents, group homes, or other institutions that provide daily care, support, and living space for children in foster care. In 2008, the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351, amended Title IV – E of the Social Security Act to permit states to provide “extended foster care benefits” directly to an otherwise eligible youth provided that the youth has not yet reached age 21 and meets certain other eligibility criteria.

Higher Education Act of 1965, as amended (HEA): Section 480(e) of the HEA includes a list of “excludable income” that, under HEA section 480(a)(1)(A), is not to be included in the calculation of a student's EFC; and, therefore, is not to be reported on a student's FAFSA. Section 480(e)(5) specifies that “payments made and services provided under Part E of Title IV of the Social Security Act” are considered excludable income.

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Section 480(j) of the HEA defines “Other Financial Assistance” that is considered when determining a student’s eligibility for funds under Title IV of the HEA. The regulations also provide such a definition but use slightly different terminology. Specifically, 34 CFR 673.5(c) and 34 CFR 685.102 (b) use the term “estimated financial assistance,” or EFA, when referring to other financial assistance. Both regulatory definitions of EFA include, among other items, “Any educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary educational expenses.” EFA is a factor in determining the amount of assistance a student may receive under the Federal Direct Loan Programs, the campus-based programs (Federal Supplemental Education Grant, Federal Perkins Loan, and Federal Work-Study), and the TEACH Grant Program.

Treatment of Extended Foster Care Payments

EFC and FAFSA: Any extended foster care payments that are provided directly to the student under the same authority (Part E of Title IV of the Social Security Act) that a State uses to make regular foster care payments to foster parents are considered to be “excludable income” under HEA section 480(e)(5). Thus, such payments are not considered as untaxed income in the calculation of the student’s EFC and should not be included as untaxed income on the student’s FAFSA.

Note that it does not matter if all or any part of the extended foster care payments is made from State or other non-federal sources. The determinant factor is whether the payments are made under the authority of Part E of Title IV of the Social Security Act. Therefore, institutions must be certain that the student’s extended foster care payments are made under that authority. It may be useful for financial aid administrators to familiarize themselves with their state’s foster youth program to enable them to help affected students determine how to report their foster care payments.

EFA: Under the HEA, resources available to a student are classified as either income that is used in the calculation of the student’s Expected Family Contribution (EFC) or as Estimated Financial Assistance (EFA), but not both. As discussed above, under the HEA, foster care payments (including payments made directly to the student) are typically considered to be income that is excludable under HEA section 480(e)(5). Such payments cannot also be considered EFA. Therefore, extended foster care payments made directly to the student are not part of the EFA that is used when determining the student’s eligibility for assistance under any of the Title IV student aid programs that require consideration of EFA.

If payments are made under an authority other than Title IV-E of the Social Security Act, then such payments are considered income and must be reported in the “Untaxed Income” section on the student’s FAFSA (question 45i on the 2013-2014 FAFSA).

Please direct any questions on the guidance provided in this letter to Sandra Ninemire, Federal Student Aid, at 202.377.3309, or by e-mail at sandra.ninemire@ed.gov.

Sincerely,

A handwritten signature in cursive script that reads "Brenda Dann-Messier". The signature is written in black ink and is positioned above the printed name and title.

Brenda Dann-Messier
Delegated the Authority to Perform the Functions and
Duties of the Assistant Secretary