



# Setting the record straight on food stamp loopholes & school lunches

JUNE 20, 2018

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## REDUCED-PRICED LUNCHES ARE CAPPED AT 40¢



### What are free and reduced-price lunches and who qualifies?

The National School Lunch Program (NSLP) provides free and reduced-price lunches for school-age children across America. There are two primary eligibility pathways for children to qualify for the program: income eligibility and categorical eligibility.<sup>1-2</sup>

Kids who enroll in the program through the income pathway can receive free or reduced-price lunches if their household incomes are below 185 percent of the federal poverty level—nearly \$46,500 per year for a family of four.<sup>3</sup> Those with household incomes below 130 percent of the federal poverty level qualify for free lunches, while kids from homes with incomes between 130 percent and 185 percent of the poverty level qualify for reduced-price lunches.<sup>4</sup> Under federal law, schools are prohibited from charging more than 40 cents for a reduced-price lunch.<sup>5</sup>

Kids who enroll in the program via categorical eligibility qualify if their household is enrolled in federal welfare programs, such as food stamps.<sup>6</sup> They receive free meals regardless of whether their household income level actually meets the program's guidelines.<sup>7</sup>

## What is broad-based categorical eligibility?

Broad-based categorical eligibility (BBCE) is a loophole that allows states to expand eligibility for food stamps by raising the income limit, raising asset limits, or even waiving the asset limit entirely.<sup>8</sup> Under federal law, food stamp enrollees must have income below 130 percent of the federal poverty level, roughly \$32,630 for a family of four.<sup>9-10</sup> However, Clinton-era regulations provided states with a workaround.<sup>11</sup> By using TANF cash welfare dollars to print informational brochures or pamphlets, everyone authorized to receive those brochures or pamphlets are deemed “categorically eligible” for the food stamps program, making them exempt from the gross income limit and the asset limit in food stamps.<sup>12</sup> As a result, states can use this loophole to expand food stamps eligibility to individuals earning up to 200 percent of the poverty line and even expand eligibility to individuals with millions of dollars in assets.<sup>13</sup>





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## Ending the BBCE loophole will preserve resources for the truly needy

Eliminating the BBCE loophole is one of the most important things policymakers can do to protect limited resources for the truly needy and protect the food stamp program's integrity. Unfortunately, too many states are still on the wrong path.

Today, 28 states and the District of Columbia have used this loophole to raise the income limit beyond the thresholds established in federal law.<sup>14</sup> Even more states have used the loophole to raise the asset limit or eliminate the asset test altogether.<sup>15</sup> Not only are these states expanding the program beyond congressional intent and the scope of federal statute—they are threatening resources for the truly needy.

A recent report prepared for the U.S. Department of Agriculture found that most income-eligible households with financial resources that exceed the federal resource limit have more than \$20,000 in countable assets.<sup>16</sup> One in five had more than \$100,000 in assets, including tens of thousands of households with more than \$1 million in assets.<sup>17</sup> Every dollar spent on individuals with significant financial resources or whose income is above the federal eligibility threshold is a dollar that cannot be preserved for those who actually meet eligibility requirements.

Worse yet, anyone receiving food stamps as a result of the BBCE loophole is also deemed categorically eligible for free lunch, free breakfast, and other nutrition programs, meaning this abuse is not confined to just food stamps, but is spread across several other nutrition programs as well.

## Eliminating BBCE would have little impact on the number of kids who qualify for the school lunch program

Eliminating BBCE should be a top priority for policymakers and would go a long way towards restoring program integrity. Doing so would have virtually no impact on the number of kids who qualify for the school lunch program, given the large overlap between school lunch and food stamp eligibility.

### 1. Nationally, more than 99.9 percent of school-aged kids on food stamps would still qualify for the school lunch program

Overall, more than 14 million of the 14.1 million school-aged kids on food stamps—more than 99.9 percent—would continue to qualify for the school lunch program.<sup>18</sup> These children would either continue to receive free lunches because their families' household income is below 130 percent of the federal poverty level, or they would receive reduced-price lunches because their families' income is between 130 and 185 percent of the federal poverty line.

### 2. Roughly 96.6 percent of school-aged kids on food stamps would still qualify for free lunches

Nearly 13.6 million school-aged kids on food stamps—roughly 96.6 percent—would not be affected at all by eliminating the BBCE loophole.<sup>19</sup> These children live in families with household incomes below 130 percent of the federal poverty level. Even if the BBCE loophole were eliminated, these children would continue to qualify for free lunches based on their household incomes.

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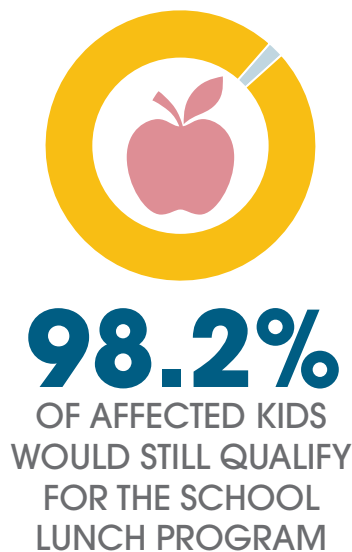
### 3. In 36 states, no child would lose access to the school lunch program

Although most states use the BBCE loophole in some way, the gross income limit for food stamps is at or below 185 percent of the federal policy level in 36 states—the same eligibility threshold as the school lunch program.<sup>20</sup> If the BBCE loophole were eliminated, some of these children might be moved from “free” lunches to reduced-price lunches, but they would continue to qualify for and receive assistance from the school lunch program. Even in states with higher food stamp income limits that exceed the school lunch program threshold, the footprint would be virtually invisible.

### 4. Of the kids affected by eliminating BBCE, 98.2 percent would still qualify for the school lunch program

Today, 14 states and the District of Columbia have set the gross income limit for food stamps at 200 percent of the federal poverty line, higher than the income threshold for school lunch program eligibility.<sup>21</sup> However, while income eligibility extends above 185 percent, virtually all of the kids on food stamps in these states come from households with income below that level.<sup>22</sup> As a result, the vast majority of these kids would still qualify for reduced-price lunches.

Of the 484,000 school-aged kids in those states with household incomes above 130 percent of the poverty line, more than 475,000—nearly 98.2 percent—come from households with income below the eligibility threshold for the school lunch program.<sup>23</sup> While these kids would no longer qualify for “free” lunches if the BBCE loophole were eliminated, they would continue to qualify for reduced-price lunches, where costs are capped at 40 cents per meal.



## 5. Kids who would no longer qualify never truly qualified in the first place

Altogether, fewer than 9,000 school-aged children on food stamps are from families with household income above the threshold for the school lunch program but below the threshold for food stamps.<sup>24</sup> But these children would no longer qualify for one important reason: they never qualified in the first place.

By definition, these children are not from families in poverty. Indeed, those affected by the change have incomes that are either 85 percent higher or 100 percent higher than the poverty line—roughly \$46,500 to \$50,000 per year for a family of four.<sup>25</sup> For context, that is close to the median household income for the entire country and is actually higher than the median household income in some states.<sup>26</sup>

While the BBCE loophole effectively expanded the school lunch program beyond the 185 percent set forth in federal law, strictly speaking, these households never truly met the income limits needed to qualify for the program. Eliminating the BBCE loophole would correct this issue and bring both the school lunch and food stamp programs back into alignment with their statutory foundations, preserving resources for the truly needy.

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### Bottom line: Scrapping the BBCE loophole should be a top priority for policymakers

Eliminating the BBCE loophole and protecting resources for the most vulnerable should be a top priority for policymakers at both the state and federal levels. While far too many states are still utilizing this loophole, momentum is thankfully starting to shift.

Arkansas, Kansas, and Mississippi have all recently enacted legislation to prohibit the use of this loophole by state bureaucrats. Others—including Michigan and Maine—have begun to reduce the impact of the loophole and restore asset limits.

Perhaps the most encouraging sign in years comes from Washington D.C. The Trump administration proposed eliminating the loophole altogether in its fiscal year 2019 budget.<sup>27</sup> The Administration has also announced that it is working on changes to the regulations that created the loophole.<sup>28</sup> Likewise, the Agriculture and Nutrition Act of 2018 would eliminate the use of the BBCE loophole entirely.<sup>29</sup>

While pro-dependency interest groups are anxious to spin the elimination of this loophole as a cataclysmic assault on the poor that would take food out of the mouths of kids, the data show nothing could be further from the truth. More than 99.9 percent of school-aged kids on food stamps would continue to qualify for the school lunch program after the BBCE loophole is eliminated. Indeed, eliminating this loophole is a critical step towards restoring the food stamp and school lunch programs to focus on the most deserving.

Ultimately, ending the BBCE loophole should be recognized for what it fundamentally is—the realignment of food stamp eligibility with federal law, not a reduction in eligibility. For these reasons, policymakers should make eliminating this loophole a top priority.



## Appendix. 99.9 percent of school-age kids on food stamps would still qualify for the school lunch program

STATE	FOOD STAMP INCOME LIMIT (PERCENT OF FPL)	KIDS WHO STILL QUALIFY FOR FREE LUNCHES	KIDS WHO STILL QUALIFY FOR FREE OR REDUCED- PRICED LUNCHES
Alabama	130%	100%	100%
Alaska	130%	100%	100%
Arizona	185%	94.2%	100%
Arkansas	130%	100%	100%
California	200%	97.7%	100%
Colorado	130%	100%	100%
Connecticut	185%	90.9%	100%
Delaware	200%	93.7%	99.9%
District of Columbia	200%	97%	100%
Florida	200%	92.8%	100%
Georgia	130%	100%	100%
Hawaii	200%	92.2%	100%
Idaho	130%	100%	100%
Illinois	165%	99.4%	100%
Indiana	130%	100%	100%
Iowa	160%	94.8%	100%
Kansas	130%	100%	100%
Kentucky	130%	100%	100%
Louisiana	130%	100%	100%
Maine	185%	89.8%	100%
Maryland	200%	90.4%	99.8%
Massachusetts	200%	88.4%	99.2%
Michigan	200%	95.5%	100%
Minnesota	165%	92.8%	100%
Mississippi	130%	100%	100%
Missouri	130%	100%	100%
Montana	200%	99.3%	100%
Nebraska	130%	100%	100%
Nevada	200%	96.3%	99.9%
New Hampshire	185%	87.5%	100%
New Jersey	185%	93.8%	100%

## Appendix. 99.9 percent of school-age kids on food stamps would still qualify for the school lunch program (Continued)

STATE	FOOD STAMP INCOME LIMIT (PERCENT OF FPL)	KIDS WHO STILL QUALIFY FOR FREE LUNCHES	KIDS WHO STILL QUALIFY FOR FREE OR REDUCED- PRICED LUNCHES
New Mexico	165%	96.1%	100%
New York	200%	97.4%	99.3%
North Carolina	200%	95%	99.8%
North Dakota	200%	93.8%	100%
Ohio	130%	100%	100%
Oklahoma	130%	100%	100%
Oregon	185%	89%	100%
Pennsylvania	160%	93.5%	100%
Rhode Island	185%	93.1%	100%
South Carolina	130%	100%	100%
South Dakota	130%	100%	100%
Tennessee	130%	100%	100%
Texas	165%	95%	100%
Utah	130%	100%	100%
Vermont	185%	83.5%	100%
Virginia	130%	100%	100%
Washington	200%	92.2%	100%
West Virginia	130%	100%	100%
Wisconsin	200%	93.8%	100%
Wyoming	130%	100%	100%
<b>TOTAL</b>		<b>96.6%</b>	<b>99.9%</b>

Source: Authors' calculations based on data from the USDA quality control database.

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