# Food Distribution
# National Policy Memorandum

**United States Department of Agriculture**

Food and Nutrition Service

3101 Park Center Drive

Alexandria, VA 22302-1500

**DATE:** August 31, 2004

**POLICY NO.:** FD-035: Food Distribution Program on Indian Reservations (FDPIR)

**SUBJECT:** FDPIR – Flexible Benefit Packages/"Cafeteria Plans"

Many employers provide flexible benefit packages that give employees choice and control over employer-provided benefits such as health, vision and dental plans, medical reimbursement accounts, retirement savings, dependent care reimbursement accounts, group life and accident insurance and vacation leave. These flexible benefit packages are also referred to as "Cafeteria Plans," because employees choose among two or more benefits.

Under Section 125 of the Internal Revenue Code, which established "Cafeteria Plans," benefits may be deducted from an employee's earnings on a pre-tax basis. This means that the employee does not pay federal or state taxes on the benefits. The employer also receives tax benefits from providing "Cafeteria Plans."

Flexible benefits may be reflected on the earnings statement of employees, and may include the employee's contribution and/or the employer's contribution.

1) Employee's Contribution: The earning statement may reflect an employee's choice to have money deducted from his/her pre-taxed earnings to pay for the employee's share of insurance premiums, or for direct deposits into a special savings account for future medical and/or dependent care expenses (i.e., dependent care or medical reimbursement accounts). The deducted money is legally obligated and otherwise payable to the employee, and <u>is not</u> considered a vendor payment. The deducted money must be counted as part of the employee's gross earnings (see FNS Handbook 501, section 4542.1, Exception to Vendor Payment Rule – Legally Obligated Payments).

2) Employer's Contribution: Employers may list the employer's contribution for certain expenses, such as health and accident plans, as credits on an employee's earning statement. Since the credit is the employer's contribution to the expense, the credit is not legally obligated and otherwise payable to the employee. It is considered a vendor payment and is not counted as part of the employee's gross earnings (see FNS Handbook 501, section 4542, Vendor Payments).

for Cathie McCullough
Director
Food Distribution Division

Date Originally Issued: 05/20/2002