

Policy Statement on the Education Maintenance Allowance (EMA) concerning students in Foster Care

Foster Care is a **temporary care** of a child or a young person living out of home, when they cannot live with their families.

Whilst the child or the young person is in foster care, custody and guardianship is granted to the Department of Human Services. This may fall under any of the following types of protection orders:

- **Guardianship to Secretary Order** - grants custody and guardianship of the child to the Department of Human Services (the Secretary being the chief executive officer of the Department) to the exclusion of all others
- **Long-term Guardianship to Secretary Order** - grants custody and guardianship of the child who is of or over the age of 12 years to the Department of Human Services. This order may remain in force until the child turns 18
- **Interim Protection Order** - the Department of Human Services would usually have responsibility for the supervision of the child for the period not exceeding three months prior to the Court making a protection order
- **Custody to Secretary Order** - gives sole custody of the child to the Department of Human Services but does not affect the guardianship of the child

Foster care is for a planned period of time, with the expectation that it is not permanent and that the child will be returning home. In cases where this does not happen, permanent care may be arranged through the Department of Human Services.

Residential Care

Under Section 98 of the *Education and Training Regulations 2007*

1. **A non-Government institution may apply to the Minister for an education maintenance allowance** if–
 - (a) the student is under 16 years of age; and
 - (b) the student attends a Government school or a non-Government school; and
 - (c) the non-Government institution maintains, or has custody of, the student.

Students who are living in institutions or in residential units operated by community service organisations are eligible for the Education Maintenance Allowance if :

- the student was in the institution's care on the eligibility date (first instalment first day of 1st Term / second instalment-first day of 3rd Term).
- the student was in the institution's care for a period not less than six weeks
- a claim has not been made on behalf of the student by another applicant (i.e. parent). If the parent has already put in a claim, the institution would need to negotiate directly with the parent for the reimbursement of costs that would have otherwise been met by the Education Maintenance Allowance.

Application Process for Residential Care

For each student, an application must be made by:

- completing the EMA application form (obtained from the school)
- providing a letter (on letterhead from the Department of Human Services/ institution/coordinating agency for families) which outlines the dates that the care commenced and its duration
- submitting the application to the school

The school must verify that the student has been in the institution's care for at least six weeks, then enter the application into the EMA Web System and select the **foster parent** option.

NOTE: The school will then enter the application into the EMA Web System and forward the supporting documentation to the Department of Education and Early Childhood Development's **Corporate Services Division** (Head Office) for approval. Applications may need to be entered as *'late applications'* to ensure that the students have been in care for at least six weeks.

If the student has not been in the institution's care for the prescribed six week period, a **late application** may be required. The school will then enter the application into the system as a late application and forward the supporting documentation to the Department of Education and Early Childhood Development for approval.

If an institution is claiming for a number of students, it may be preferable to send a completed application form along with the official supporting letter (on letter head) which outline the details of the students being claimed for, the duration of care and the school/s that the students attend.

Documentation may be sent to:

EMA Unit
Corporate Services Division
Department of Education and Early Childhood Development
PO Box 4367
Melbourne VIC 3001

or by **fax to 03 9637 2850 or 03 9637 2224**

Applications must be received by the end of April.

Foster Care

To be eligible for receipt of the Education Maintenance Allowance, the *Education and Training Reform Regulations 2007* state that the applicant on **Eligibility Day** must:

- be a parent **or** legal guardian of the student; **and**
- be an eligible beneficiary within the meaning of the *State Concessions Act 2004*, that is, a holder of Veterans Affairs Gold Card **or** be an eligible Health care card (HCC) or Pensioner Concession Card (PCC) holder **or**
- be a foster parent

Foster parents or volunteer caregivers who provide home-based care to students, arranged through the **Department of Human Services or a Foster Care Community Service Organisation**, are eligible for the Education Maintenance Allowance.

Under legislation, the student must on eligibility date be in custody and in the care of the foster parent. Types of care include:

- Short or medium-term care can be from up to three to six months or longer, after which time the child may be able to re-united with their families
- Long-term care, which is arranged when it becomes apparent that the child will not be able to return home for some time until a permanent care placement is found

Foster parents may only claim under the foster parent category for children under foster care and not their own children. If the foster parent is claiming the Education Maintenance Allowance for their own children then they would have to meet the eligibility criteria as parents/legal guardians.

Application Process for Foster Care

For each student, an application must be made by:

For each student, an application must be made by:

- completing the EMA application form (obtained from the school)
- providing a letter (on letterhead from the Department of Human Services/ institution/coordinating agency for families) which states:
 - the **foster care or temporary care arrangement** by the applicant
 - the date that the care commenced and its duration
- submitting the application to the school by the due date

Permanent Care Order

Permanent Care is not foster care.

A Permanent Care Order by the court grants exclusive guardianship and custody of a child or a young person to a suitable person other than the child's parent. The Permanent Care Order transfers guardianship and custody of the child from the Department of Human Services to the new family.

The applicant for the Education Maintenance Allowance is no longer considered a foster parent but a guardian as defined by the *Education and Training Reform Act 2006*.

A guardian must meet the eligibility criteria for EMA, that is, on eligibility date, be an eligible beneficiary within the meaning of the *State Concessions Act 2004* (a holder of Veterans Affairs Gold Card **or** be an eligible Health care card (HCC) or Pensioner Concession Card (PCC) holder).

Processing of EMA applications for applicants who have been granted a Permanent Care Order is as per EMA applications for parents/legal guardians.

Supporting Documentation for Foster Parent Category

1. Court Orders

- Guardianship to Secretary Order
- Long-term Guardianship to Secretary Order
- Interim Protection Order
- Custody to Secretary Order

2. A letter (on letterhead from Department of Human Services/institution/ community service organisation) which state:

- the **foster care or temporary care arrangement** which may fall under short or medium term foster care or long term foster care
- the date that the care commenced and its duration.

NOTE: a **Permanent Care Order** does classify the application under the foster parent category but must be based on eligibility criteria of a parent/legal guardian.