

Texas WIC
Health and Human Services Commission

Policy and Procedures Manual

Revised February 20, 2025

Policy and Procedures Manual

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AC - Accounting

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Effective April 1, 2019

Policy No. AC:01.0

Local Agency Financial Management Systems

Purpose

To ensure a proper audit trail is maintained, expenditures are reasonable and necessary, and reimbursements are not duplicated.

Authority

7 CFR Part 246.13; Part 3016 Subpart C 3016.20; Uniform Grant Guidance 2 CFR 200

Policy

Each local agency (LA) shall maintain a financial management system that provides accurate, current and complete disclosure of the financial status of the WIC Program. Costs shall be reasonable and necessary for the operation of the WIC Program and expenditure records shall identify the source and use of funds expended for program activities. Expenditures not recorded in these accounts shall not be allowable charges to the WIC Program.

Definitions

Reasonable costs – A cost is reasonable if under the circumstances a prudent person would incur the cost. Consideration should be given to the following:

- Whether the cost provides the program a benefit commensurate with the cost incurred.
- Whether the cost is of a type generally recognized as ordinary and necessary.
- Sound business practice.
- Market prices for comparable goods and services.
- The cost was incurred in accordance with the terms and conditions of the contract with HHSC.

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Necessary Costs – Costs incurred to carry out essential program functions and cannot be avoided without adversely impacting program operations.

Procedures

- I. Each LA shall maintain a separate, self-balancing set of accounts for the WIC Program.
- II. Costs shall be reasonable and necessary for the operation of the WIC Program.
- III. Monthly claim for reimbursement shall be prepared from this set of accounts by means of a State of Texas Purchase Voucher, Form 4116.

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Policy No. AC:02.0

Reimbursement of Allowable WIC Expenses

Purpose

To ensure that all reimbursement of expenditures are attributed to the proper fiscal year.

Authority

7 CFR Part 246.16, 246.17 and Part 3016.41; State WIC Local Agency Contract

Policy

On a monthly basis, each local agency (LA) shall be reimbursed for actual allowable WIC expenses. Outstanding obligations shall be submitted within 30 days following the last day of the federal fiscal year so that funds applicable to the proper period may be encumbered.

Procedures

- I. Each LA shall request reimbursement for actual allowable expenditures on a monthly basis. LA may bill either on cash basis or accrual basis provided the method is consistently used throughout the contract period. Contractors that use cash basis accounting must make adjustments to the final billing and financial reporting submitted to the SA so that expenses/costs are presented on an accrual basis.
 - a. Cash basis expenditures must be paid by the LA before reimbursement can be requested.
 - b. Accrual basis expenditures must be paid prior to requesting reimbursement when possible but no later than the 10th day after receipt of payment from the SA.

- II. For the last month of the federal fiscal year (September), the LA shall request its regular monthly reimbursement via a State of Texas Purchase Voucher, Form 4116. In addition, the LA shall maintain a list of

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all outstanding obligations 30 days following the last day of the federal fiscal year. These shall represent items of expense that have been encumbered but not yet billed to the SA as of September 30th.

- III. As the obligations above are liquidated; the LA shall submit supplemental billings requesting reimbursement.
- IV. All obligations shall be liquidated as per state contract timeframes to meet the deadlines for federal fiscal year close-out imposed by USDA.
- V. Requests for reimbursement submitted over the contract timeframes shall not be processed. Exceptions shall be considered on a case-by-case basis for extenuating circumstances such as a catastrophic event, natural disaster, or criminal activity that substantially interferes with normal business operations or causes damage or destruction of the place of business and/or records. A written statement describing the extenuating circumstance and the late request for reimbursement shall be submitted for review and approval to the WIC program.

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Policy No. AC:03.0

Plan to Allocate Direct Costs

Purpose

To provide a formal mechanism for the state agency (SA) to review and acknowledge cost categories, allocation methods, and supportive documentation necessary for costs to be reimbursed under the WIC contract attachment.

Authority

7 CFR Part 3016; Uniform Grants Guidance, 2 CFR 200

Policy

A local agency (LA) shall submit a written annual Plan to Allocate Direct Costs (PADC) to the SA for all direct charges allocated to the WIC Program.

Procedures

- I. The plan shall be submitted to the SA by June 15th each year for the coming contract year. The plan shall be submitted electronically to WICPADC@hpsc.state.tx.us. A sample form can be found at: <https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-financial>.
- II. The plan shall include but is not limited to the following:
 1. specific cost categories that shall be allocated;
 2. the method or base used to allocate each specific cost;
 3. the rate or percentage developed for each specific cost; and
 4. a description of the documentation supporting the allocation.
 5. Follow the reference template: [Sample PADC form](#) located on the website under Financials: <https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-financial>

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Policy No. AC:03.0

- III. The SA shall send an electronic acknowledgement receipt of the plan to allocate direct costs.
- IV. The LA shall submit amendments to the plan as changes occur.
- V. The SA shall disallow requests for reimbursement of costs not included on the PADDC.
- VI. A copy of the accepted PADDC shall be available at the LA for purposes of an audit or fiscal monitoring review.
- VII. Cost Categories shall be grouped in the following manner:
 - A. Personnel - Each payroll classification and the number of full time equivalents (FTEs) to be allocated to WIC shall be listed by title separately. (Refer to policy AC:04.0 and GA:14.0)
 - B. Fringe Benefits - List all fringe benefits paid by the parent agency in behalf of the WIC staff. List actual rates or cost to be charged for each benefit. (Refer to policy AC:04.0)
 - C. Travel - Any in-state and out-of-state travel on behalf of the WIC Program or Local Agency. Travel includes but not limited to: per diem, vehicle rentals and/or mileage reimbursement. If the LA has no official written policy, the current State travel rates and regulations shall be utilized. (Refer to policy AC:05.0)
 - D. Equipment - an article of nonexpendable, tangible personal property having a useful lifetime of more than one year, and an acquisition cost of \$5000 per unit or more. (Refer to policy AC:07.0)
 - E. Supplies - Includes but not limited to expendable medical supplies, office supplies, postage and shipping expenses necessary to administer all phases of the WIC Program. (Refer to policy AC:14.0)

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- F. Contractual- Includes Professional Contracts requiring the contractor be either certified, registered or otherwise authorized under state law to provide the specified service(s). Professional services include but are not limited to services provided by registered dietitians, nutrition consultants, breastfeeding consultants, nurses or doctors on contract basis, engineers, architects and certified public accountants. (Refer to policy AC:16.0)
- G. Other – any other WIC allowable expense not listed above. This category covers a variety of costs and therefore each specific cost to be billed shall be identified on the PADC and shall include the allocation method and the supporting documentation for each specific expense.
1. Outreach - refers only to materials and resources not included in in any other categories. Personnel compensation and travel costs associated with outreach shall be reported and identified under the appropriate categories. (Refer to policy AC:09.0)
 2. Non-Professional Services – includes but not limited to janitorial, security, lawn maintenance, or other services not deemed as Professional Services category. (Refer to policy AC:15.0)
 3. Communication and utilities - are charged for different sites, each site shall be listed separately. Allocation of utilities is based on a building floor plan. (Refer to policy AC:10.0)
 4. Building and facilities space - rental costs shall be allocated for each site shall be identified separately and supported by individual floor plans. (Refer to policy AC:12.0)
 5. Other Costs – any other allowable expense not listed previously in any other category.

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Policy No. AC:04.0

Allowable Costs – Personnel Compensation and Benefits

Purpose

To allow local agencies (LAs) to pay salaries and benefits of necessary and reasonable staff to administer all phases of the WIC Program.

Authority

7 CFR Part 3016; Uniform Grant Guidance 2 CFR 200

Policy

LAs may request reimbursement for the cost of personnel compensation and benefits that are reasonable for the services rendered and may be directly allocated to the WIC Program.

Procedures

- I. Direct personnel costs and benefits charged shall be supported by documentation including time sheets, attendance records, payroll records, proof of payment, remittance advises, and insurance policies.
 - A. The time sheets shall clearly identify by date the number of hours worked for WIC as well as any other programs. The time sheets shall account for 100% of the individual's time.
 - B. The dates and number of hours worked in either WIC Administration, Nutrition Education or Breastfeeding shall be clearly indicated.
 - C. Generally, time shall be worked and documented in one-half hour increments.
 - D. In situations where activity reports/dailies are required, the time sheet shall agree and support the activity on such reports.
 - E. The time sheets shall specifically identify non-productive or leave/sick time.

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- F. The employee and the employee's immediate supervisor verifying time worked shall sign the time sheet.
 - G. If personnel costs are allocated to WIC as well as other programs, payment for leave time shall also be allocated to each program according to the percentage of time worked towards each activity. These percentages shall be computed based on the time worked during the month the leave is taken.
- II. LAs may request reimbursement for the cost of personnel benefits as follows:
- 1. Personnel benefits in the form of the employer's contribution for FICA, life and health insurance, unemployment, workers' compensation, retirement, etc., shall be charged to the WIC Program after contributions are paid.
 - 2. Any local agency self-insured employee benefits plan; such as workers' compensation, health insurance, etc. must be approved by the SA prior to requesting reimbursement.
 - a. Reimbursements are based on an approved rate and must be deposited to a reserve account.
 - b. Actual payments due to losses are unallowable.
 - 3. In general, personnel benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as annual, sick, jury duty, military leave, etc., shall be charged to the WIC Program as the leave is taken.
 - 4. Lump sum payments paid as part of a retirement severance pay are considered indirect costs and not a direct cost of the program.
- III. If an employee works for more than one program and a portion of the salary may be directly allocated to WIC, a timesheet shall be available for review to support the distribution.
- IV. Documentation shall support the allocation among Administration, Nutrition Education, and Breastfeeding activities.

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Policy No. AC:04.0

- V. Both the employee and the immediate supervisor shall sign the time sheet. The time record shall account for 100% of the employee's time.
- VI. Personnel compensation (i.e. executive director, accounting staff, etc.) not easily allocable to an individual program should be billed under indirect costs unless special approval is granted from state agency. (Refer to Policy AC:19.0).

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Policy No. AC:05.0

Allowable Costs – In-State and Out-of-State Travel

Purpose

To allow local agency (LA) employees to be reimbursed for travel expenses incurred while on official WIC business.

Authority

2 CFR § 200.474, Texas Grant Management Standards – Selected Items of Cost, Health and Human Services Commission (HHSC) contract for WIC services, Uniform Terms and Conditions - Grant

Definition

“State of Texas Textravel” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, and is relative to travel reimbursements under the WIC Contract.

The Texas Comptroller of Public Accounts created Textravel to provide information on travel laws and rules and is designed to be an easy reference tool. Links to applicable laws and rules are included. [Textravel \(texas.gov\)](https://www.texas.gov/TextTravel)

Policy

LAs may request reimbursement for the cost of in-state or out-of-state travel incurred in accordance with the terms and conditions of the contract with HHSC, which requires the use of Textravel rates. The State Agency (SA) will also allow LAs to set policy rates or processes that are more restrictive or at a lower rate than those described in Textravel. If the LA policy includes higher rates than Textravel allows, the policy must be approved by the SA prior to implementation. The policy must be submitted to [WIC LA Contractmanagment@hhs.texas.gov](mailto:WIC_LA_Contractmanagment@hhs.texas.gov) to request approval.

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Policy No. AC:05.0

Procedures

- I. The LA may only [request reimbursement for](#) the actual expenses incurred for an employee's meals and lodging, not to exceed the maximum allowable rates. The maximum should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate. The reimbursement limit applies without a carry-over from another day. For current in-state and-out-of-state meals and lodging rates, refer to <https://fmx.cpa.texas.gov/fmx/travel/texttravel/rates/current.php>
- II. The LA may seek reimbursement for mileage incurred to conduct business having a WIC purpose. The reimbursement may not exceed the total of the number of miles traveled for business multiplied by the [maximum mileage reimbursement rate](#) per [Texas Government Code Section 660.042](#). The mileage reimbursement rate is inclusive of all expenses associated with the employee's use of his or her vehicle.
- III. The LA may seek reimbursement for the cost of renting a vehicle to conduct WIC business. The reimbursement includes all applicable taxes and mandatory charges. It also may include a charge for a collision damage waiver or a loss damage waiver if not already included in the contracted rate for the rental. A charge for an additional driver may only be reimbursed if incurred for a business reason. A charge for a liability insurance supplement, personal accident insurance, safe trip insurance or personal effects insurance is not reimbursable. In order to be reimbursed for the rental cost, the LA must retain a complete receipt issued by the rental company.
- IV. The amount HHSC will reimburse for travel between points by commercial airline may not exceed the lowest rate available. First class airfare may be paid or reimbursed only if it is the only available airfare. Business class airfare may be paid or reimbursed only if a lower airfare is not available.

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Policy No. AC:05.0

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- a) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:
 - i. Require circuitous routing;
 - ii. Require travel during unreasonable hours;
 - iii. Excessively prolong travel;
 - iv. Result in additional costs that would offset the transportation savings; or
 - v. Offer accommodations not reasonably adequate for the traveler's medical needs. The local government must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.
 - b) Air travel by other than commercial carrier.
 - i. Costs of travel by local government-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs.
 - ii. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (a) of this section is unallowable.
- V. Travel costs shall be supported by documentation, the signed travel claim submitted by the employee and approved by the employee's immediate supervisor, and proof of payment. The travel claim shall also contain a statement detailing the purpose of the trip as necessary to WIC LA operations and costs are consistent with TexTravel or a more restrictive local agency travel policy.
- VI. Documentation shall also support the allocation among Administration, Nutrition Education, Breastfeeding or other WIC projects.
- VII. The LA may not request reimbursement for Travel Advances until after the travel has occurred.

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Policy No. AC:05.0

- VIII. It is the LA's responsibility to justify the benefit of the trip to WIC and the number of attendees as well as assuring that sufficient earned funds are available.
- IX. Flat-rate travel in the form of travel allowances is not an allowable charge to the WIC Program.

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Policy No. AC:06.0

Allowable Costs – WIC Owned or Agency Vehicle

Purpose

To allow local agencies (LAs) to use a WIC owned or agency owned vehicle for travel on official WIC business.

Authority

7 CFR Part 3016, Uniform Grant Guidance, 2 CFR 200

Policy

LAs may request reimbursement for expenses related to the use of WIC owned or agency owned vehicles. Also the costs of service organizations, which provide automobiles for local agency personnel at a mileage or fixed rate and/or provide vehicle maintenance, inspection and repair services for agency owned cars are allowable.

Procedures

- I. The LA shall document odometer readings at the beginning and ending of a WIC-related trip.
- II. The LA shall document the locations visited and the purpose of the travel. The use of a WIC vehicle to transport participants to or from appointments is not allowed.
- III. Using the source documentation from I and II, the LA may:
 - A. apply a fixed rate to the WIC mileage for determining the amount to bill; or
 - B. compute a monthly rate/amount to bill by dividing the total miles driven during the month into the total expenditures made for maintenance and operations to approximate the average cost

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per mile. This cost per mile may then be applied to WIC mileage for billing purposes.

- IV. The mileage charge shall be supported by documentation such as the agency travel policy, mileage reports, and a cost analysis supporting the fixed rate or the monthly determination of average cost per mile.
- V. Documentation (trip reports/mileage reports) shall support the allocation of charges among Administration, Nutrition Education, Breastfeeding, or other WIC projects.

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Property Management

Purpose

To ensure proper approval requests, property accountability and compliance with state and federal regulations regarding property management.

Authority

2 CFR 200.310 – 200.315; *Texas Grant Management Standards (TxGMS)*, Property Standards; WIC Final Policy Memo 98-3; *FNS Handbook 901*

Policy

The Local Agency must submit approval requests for all renovations and repairs over \$5,000 per project, to purchase equipment, computing devices that have a per unit cost over \$5,000, and to purchase clinic furniture not included in the WIC Catalog regardless of price. Local Agencies must have a property management and disposition system (i.e., inventory system) that meets the standards as required by state and federal regulations and the WIC Local Agency contract. The Local Agency will be held financially responsible for property purchased with WIC funds.

Definitions

Acquisition Cost – the cost of the asset including the cost to ready the asset for its intended use. Includes the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired.

Computing Devices - Machines used to acquire, store, analyze, process, and publish data and other information electronically with a useful life of three years.

Equipment - Tangible and personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000.

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Inventoried Property – Includes computing devices and equipment.

Sanitization - Deliberately, permanently, and irreversibly destroying all data stored on a memory device to make it unrecoverable.

Supply - All tangible property other than those described in the definition of Equipment, including medical supplies, janitorial supplies, office supplies, patient educational supplies, computing devices, etc.; acquisition cost must be less than \$5,000 per unit regardless of the length of its useful life.

Unit Cost – The cost of a single item.

Procedures

I. Approval Requests

- A. The Local Agency must submit an approval request to the State Agency for:
 - 1. All renovations and repairs over \$5,000 per project.
 - 2. To purchase equipment and computing devices that have a per unit cost over \$5,000.
 - 3. Clinic furniture purchases that are not included in the Texas WIC Design Guidelines and Catalog, regardless of the cost. All furniture purchases must align with the Texas WIC Design Guidelines and Catalog and Texas WIC branding.

The State Agency will request USDA approval for the following once received from the Local Agency: (1) purchases over \$25,000 per unit (2) renovation projects (3) repairs that materially increase the property's value or useful life.

- B. The Local Agency must follow the General Procurement Standards found in the current [Texas Grant Management Standards \(TxGMS\)](#). The same standards that apply to "local governments" apply to

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non-governmental organizations for the purposes of this policy/procedure.

- C. Local Agency must submit requests for purchases to the LA Request mailbox, WICLARRequests@hhs.texas.gov.
- D. The State Agency will send a written response indicating approval or disapproval to the Local Agency. The Local Agency must retain documentation for monitoring reviews for at least three (3) years after completion of the purchase.

II. Property Inventory

- A. A physical inventory of the property must be taken, and the results reconciled with the property records annually. By September 30th of each year, the Local Agency must enter documentation supporting that this process was completed into the WIC Asset Management System (WAMS) or other inventory system comparable to WAMS. Inventory documentation must be available to the State Agency upon request.
- B. Local Agency must inventory and maintain all property until disposition is complete (See Procedure V, Disposition of Computing Devices and Equipment). Property that has been disposed of must remain in the inventory system for three (3) years after the date of final disposition. Disposal documentation must be available to the State Agency upon request.
- C. When a new piece of equipment or computing device is received, the Local Agency must record the new item in WAMS or other inventory system comparable to WAMS. If the Local Agency moves or changes the location of the item, the property records must be updated accordingly. This requirement applies to computers but does not apply to peripherals (i.e., computer accessories such as keyboards, printers, monitors, etc.) under \$5,000 per unit cost.

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III. Maintenance of Property

- A. The Local Agency must maintain, repair, and protect property to assure its full availability and usefulness.
 - 1. The Local Agency must have adequate maintenance procedures to keep the property in good condition and have means of repairing or replacing property purchased with WIC grant funds. (See also [2 CFR 200.452](#))
 - 2. The Local Agency must maintain insurance standards per [2 CFR 200.310](#) and the Local Agency contract.
 - 3. The Local Agency must maintain warranty on computer equipment per minimum standards on the pre-approved TXIN Hardware Specifications and Costs Sheet.

IV. Damaged, Lost or Stolen Inventoried Property

- A. The Local Agency must have a policy ensuring adequate safeguards to prevent damage, loss, or theft of inventoried property.
- B. The Local Agency must send a notification to the WIC State Agency at the time of discovery of any damaged, lost, or stolen inventoried property to WICClinics@hhs.texas.gov and, if applicable, attach the WIC IT Security Incident Form, a copy of the police report and/or any documentation for an insurance claim.
- C. If the Local Agency is reimbursed or otherwise compensated for any damaged, lost, or stolen inventoried property covered by this policy (e.g., an insurance claim), the Local Agency must use the proceeds to replace property and/or reimburse the State Agency for the assessed value.

V. Disposition of Inventoried Property and Supplies

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- A. Prior to disposition, the Local Agency must remove all confidential information from WIC computing devices by following the steps outlined on the Certification of Data Sanitization form (13-06-15208). After completing and signing this form, the Local Agency must retain documentation for monitoring reviews for at least three (3) years.
- B. The Local Agency must obtain approval from the State Agency for disposition of property that has a fair market value of \$5,000 or more per unit, was purchased with WIC funds, and is no longer needed for the project or program. The Local Agency must complete the designated Equipment Disposition/Transfer Form and send it to [WIC LA ContractManagement@hhs.texas.gov](mailto:WIC_LA_ContractManagement@hhs.texas.gov).
- C. If a Local Agency stops providing WIC services and there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value, the Local Agency must complete the designated Equipment Disposition/Transfer Form and send it to [WIC LA ContractManagment@hhs.texas.gov](mailto:WIC_LA_ContractManagment@hhs.texas.gov).

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Policy No. AC:09.0

Allowable Costs - Outreach and Outreach Incentive Items

Purpose

To allow local agencies (LA) to promote the WIC Program with the use of specific materials, resources, and incentive items.

Authority

7 CFR Part 3016; USDA Memo 95-WIC-39, Uniform Grant Guidance, 2 CFR 200

Policy

LAs may request reimbursement for the cost of outreach and for the cost of program incentive items as defined in this policy.

Definitions

Outreach is defined as activities undertaken by the LA to encourage and increase participation in the WIC Program and to convey the availability of WIC and WIC services to the community. This includes but is not limited to public service announcements, distribution of WIC informational written material, registration fees for health fairs as well as the cost of booth or construction of display materials, and other materials advertising WIC, etc.

Outreach incentive items are primarily intended for use by potential participants to encourage and increase participation in the WIC Program and shall not be distributed to current participants or LA staff (exception in part XII).

Procedures

- I. Expenditures for outreach and outreach incentive costs must be reasonable and necessary to encourage and increase participation in the WIC Program in accordance with Policy AC:01.0.

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- II. Outreach and outreach incentive costs shall be billed in accordance with Policy AC:28.0.
- III. Outreach cost shall be supported by appropriate documentation and state agency (SA) approval as needed in accordance with Policies: AC:08.0, AC:11.0, AC:14.0, AC:15.0, or any other applicable accounting policy.
- IV. Outreach and outreach incentive expenditures shall be billed as Administration costs.
- V. Outreach items must be a reasonable and necessary cost (see definitions above).
- VI. Outreach items should normally be seen in public.
- VII. Outreach items should have value as outreach devices that equal or outweigh other uses.
- VIII. Outreach items should constitute (or show promise of) an innovative way of encouraging WIC participation.
- IX. Outreach incentive items shall contain a WIC specific outreach message that targets the potentially eligible population and which have a reasonable opportunity for public display. Outreach incentive items shall include WIC contact information such as the SA/LA name, address, or phone number.
- X. Careful consideration should be given to the public perception of program funds spent on incentive items and cost of these items should preclude charges of extravagance.
- XI. The following are the approved allowable outreach incentive items for the Texas WIC Program:
 - A. Pencils, pens
 - B. Magnets

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- C. Balloons
 - D. Stickers, buttons
 - E. Crayons, coloring books
 - F. Infant t-shirts/bibs
 - G. Infant cups/spoons
 - H. Toothbrushes
 - I. Hand-sized bean bags
 - J. Balls
 - K. Water bottles, stadium cups, plastic cups
 - L. Books
- XII. T-shirts or other incentive items displaying the information listed in parts IX above, for WIC staff conducting outreach in the community or a public arena is allowable expense. However, Items whose exposure will likely be limited to the office surroundings of the staff members will generally not be allowed costs.
- XIII. Outreach incentive items should include a nondiscrimination statement (CR:02.0), unless the size and configuration of the item make it impractical (e.g. cups, buttons, magnets, pens, etc.).
- XIV. The following are not approved incentive items for conducting outreach for the Texas WIC Program;
- A. Celebratory items, or items designed primarily as staff morale boosters, generally for the personal use of the staff, with minimal public display.
 - B. Items of nominal value which have no outreach message.
 - C. Any program incentive item intended for persons who are not potential participants or their parents/guardians, or for persons with no connection to the WIC Program, such as staff and cooperating agency representatives.
 - D. Items not of nominal value, such as:
 - 1. Diaper bags
 - 2. Infant slings
 - 3. Ponchos

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- XV. Outreach incentive items should not be purchased when limited funds means other more pressing needs go unmet.
- XVI. Contact the State Agency Outreach coordinator for approval of any incentive item not listed in part XI above.

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Effective April 1, 2019

Policy No. AC:10.0

Allowable Costs – Communications & Utilities

Purpose

To allow local agencies (LAs) to charge actual costs or a pro-rated share of communications and utilities costs necessary to administer all phases of the WIC Program.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

LAs may request reimbursement for the cost of communications and utilities.

Procedures

- I. Communication shall include:
 - A. Charges shall be supported by documentation such as statements from communication companies, long distance logs, and proof of payment.
 - B. All communication expenses shall be allocated to administrative costs unless the agency has a dedicated phone line for special activities such as peer counseling and lactation services.
- II. Utility charges shall be supported by documentation such as:
 - A. Statements from utility companies, floor plans, extension surveys, and proof of payment.
 - B. Documentation including floor plans, shall support the allocation of utilities among Administration, Nutrition Education, and Breastfeeding.
- III. Allocation among Administration, Nutrition Education, and Breastfeeding shall be based on floor plans.

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Effective April 1, 2019

Policy No. AC:11.0

Allowable Costs – Reproduction and Printing

Purpose

To allow local agencies (LAs) the purchase and use of reproduction equipment and supplies necessary to administer and support all phases of the WIC Program, and to allow LAs to be reimbursed for printing performed by a commercial vendor or by another department within their agency.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

- I. LAs may request reimbursement for the cost of reproduction equipment and materials.
- II. LAs may request reimbursement for the cost of printing from a commercial vendor or by another department within their agency.

Procedures

- I. Reproduction charges shall be supported by documentation such as a current cost per copy study, copy logs, vendor statements or invoices and proof of payment. If cost studies are utilized, they shall be updated at least once a year.
- II. For printing services provided by another department within the host agency – documentation shall include copies of work orders or requests, statements or invoices from print shop, and accounting records detailing the transfer of funds. The agency print shop shall maintain financial records to support their charges to individual programs.
- III. If charging for a copier lease, maintenance agreement (or portion thereof), or commercial vendor, refer to **Policy AC:15.0**.

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- IV. Documentation shall support the allocation of charges among Administration, Nutrition Education, and Breastfeeding.
- V. These costs shall be billed in accordance with **Policies: AC:28.0, AC:08.0, AC:37.0.**

Guidelines

- I. A cost study based on the actual costs over a specified timeframe may be used to determine a cost-per-copy charge, or;
- II. The following formula may be used for allocating costs on a monthly basis:

(WIC copies/total copies) multiplied by documented costs.

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Effective January 1, 2011

Policy No. AC:12.0

Allowable Costs – Rental Space

Purpose

To allow local agencies (LAs) to be reimbursed for rental space utilized for WIC clinics or in support of WIC activities

Authority

7 CFR Part 3016; OMB Circular A-87

Policy

LAs may request reimbursement for the cost of rental space if the state agency (SA) has granted prior written approval.

Procedures

- I. For new and relocated rental space, refer to [Policy GA:21.0](#).
- II. The following information shall be submitted in writing to the SA for approval before the expense is incurred:
 - A. Three 3 bids for comparable space;
 - B. monthly cost of the space; (shall be low bid unless adequate justification of best value is provided supporting other than low bid.)
 - C. total square footage of space;
 - D. length of lease;
 - E. agency or individual to whom rent is paid;
 - F. any known repairs needed prior to rental of the space;
 - G. facility address;
 - H. justification of need for rental space;
 - I. statement that space complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. In extenuating circumstances, LA shall submit a plan

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Effective January 1, 2011

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- for serving individuals with disabilities if the space is not compliant; and
- J. an assurance that the procurement process is in compliance with Uniform Grants Management Standards (UGMS) and WIC policies.
- III. The SA shall approve or disapprove the request in writing. If low bid is not acceptable, request shall be evaluated on the merits of the justification in support of other than low bid.
- IV. The SA shall be notified if the space utilized or rental charge changes in any way. Material increases in rental costs require the solicitation of new bids.
- V. The solicitation of bids for rental space shall be made via local newspaper advertisements or, by posting a written notice for rental space in a public place such as a courthouse. Phone bids are not acceptable. The solicitation shall be posted for a minimum of three (3) working days.
- VI. Space rental costs shall be supported by documentation such as lease agreements, floor plans, cancelled checks, allocation method, and SA letter of approval.
- VII. Documentation shall also support the allocation among Administration, Nutrition Education, and Breastfeeding.

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Policy No. AC:13.0

Allowable Costs – Facility Depreciation

Purpose

To allow the local agencies (LAs) to recover costs for facility depreciation for the use of facilities occupied by the WIC Program.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

LAs may request reimbursement for facility depreciation if the state agency (SA) has granted prior written approval.

Procedures

- I. The following information shall be submitted in writing to the SA for approval before the expense is incurred:
 - A. name of the owner of the facility;
 - B. statement as to whether the building was purchased in full or in part with Federal funds;
 - C. original acquisition cost plus cost of any improvements;
 - D. date of purchase and useful life of building;
 - E. total square footage of facility and square footage utilized by the WIC Program; and
 - F. depreciation schedule for depreciation recovery, depreciation method to be applied.

- II. The acquisition cost plus any improvements shall exclude the portion of the costs donated or funded directly or indirectly by the Federal government, regardless of where the title of the property resides.

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Policy No. AC:13.0

- III. The WIC Program may not be charged the cost of depreciation for periods of non-occupancy.
- IV. No depreciation shall be allowed on a facility that is fully depreciated.
- V. Claimed expense shall be supported by depreciation schedules, state approval letter, floor plans, and property records. Documentation shall also support the allocation among Administration, Nutrition Education, and Breastfeeding.

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Effective April 1, 2019

Policy No. AC:15.0

Allowable Costs – Non-Professional Contract Services

Purpose

To ensure that non-professional contract services receive approval from the State Agency.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

Local agencies (LAs) shall request reimbursement for the cost of non-professional contract services when the expense is in excess of \$5000.

Definition

Non-Professional Contract Services are defined as services rendered by individuals or organizations not a part of the grantee agency (LA). These include, but are not limited to, such services as janitorial, exterminating, security, lab work, laundry, maintenance agreements, outside printing, translators, equipment repair, leasing of equipment, plumbing, carpentry, glass repair, etc.

Procedures

- I. The LA shall obtain three written competitive bids for services in excess of \$5,000. Total contract amount shall be considered when determining dollar limits. (Note: Three bids shall be obtained if there is any possibility that the cost of the contract may exceed \$5,000.)
- II. Non-professional contract services in excess of \$5,000 require state agency (SA) approval. The written request to the state agency (SA) shall include:
 - A. type of service;

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- B. statement that documentation of three bids is available and selection made based on best value;
 - C. total amount of low bid received;
 - D. contract period starting and ending dates;
 - E. allocation method and percentage to be charged if the costs are prorated to WIC;
 - F. brief explanation of services and justification of need; and
 - G. an assurance that the procurement process is in compliance with Uniform Grants Management Standards (UGMS) and WIC policies.
- III. Approval is required for each contract that exceeds a total cost of \$5,000. Material increases in contract rates require new bids at the renewal of the contract period.
- IV. The SA shall approve or disapprove the request in writing.
- V. Documentation shall support the allocation among Administration, Nutrition Education, and Breastfeeding.
- VI. Finance or interest charges associated with equipment leases are not allowable costs.
- VII. Non-professional contract services \$5000 or less shall be supported by documentation such as vendor invoices, proof of payment, and contracts (if applicable).

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Effective April 1, 2019

Policy No. AC:16.0

Allowable Costs – Professional Contract Services

Purpose

To ensure professional contract services are approved by the State Agency.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

Local agencies (LAs) shall request reimbursement for the cost of professional contract services.

Definition

Professional Contract Services are services rendered by individuals or organizations not a part of the grantee agency (LA) who are licensed, certified, registered or otherwise authorized under state law to provide the specified service. Professional services include but are not limited to services provided by registered dietitians, nutrition consultants, breastfeeding consultants, nurses or doctors on contract basis, engineers, architects and certified public accountants.

Procedures

- I. The LA shall release a Request for Proposal (RFP) or advertise for services regardless of cost.
- II. The LA shall evaluate the RFP or advertisement responses to determine:
 - A. demonstrated competence and qualifications for the type of services to be performed; and

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- B. if the fees to be charged are fair, reasonable, and consistent with and not higher than the usual and customary fees for the services to be performed.
- III. Low bid shall be secured. Any proposed exception to this procedure shall be documented and submitted to the state agency (SA) for approval prior to the LA procuring professional contract services.
- IV. Professional contract services require SA approval regardless of cost. The written request shall include:
 - A. type of service required;
 - B. documentation of solicitation notice (i.e., RFP, newspaper advertisement);
 - C. total amount of low bid contract, cost per hour or other reimbursement method;
 - D. contract period or service dates; and
 - E. brief explanation of services and justification of need.
- V. The SA shall approve or disapprove the request in writing.
- VI. Documentation such as vendor invoices, proof of payment, RFP's, or copies of newspaper advertisement and SA written approval shall support professional contract services.
- VII. Documentation shall support the allocation among Administration, Nutrition Education, and Breastfeeding.

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Policy No. AC:17.0

Allowable Costs – Breastfeeding Peer Counselors

Purpose

To promote and support breastfeeding activities by employing WIC participants or former WIC participants who have successfully breastfed their babies.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

Local agencies (LAs) may request reimbursement for the cost of compensating breastfeeding peer counselors, peer counselor supplies, equipment and activities.

Procedures

- I. Breastfeeding peer counselors may be reimbursed for:
 - A. performing the duties described in **Policy BF:03.0**;
 - B. attending breastfeeding training; and
 - C. attending breastfeeding peer counselor meetings

- II. Breastfeeding peer counselors may be:
 - A. LA employees; or
 - B. contracted services

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Policy No. AC:18.0

Allowable Costs – Facility Renovation

Purpose

To allow local agencies (LAs) to make facility renovations necessary to accommodate all phases of the WIC Program.

Authority

7 CFR Part 3016; FNS Instruction 813-1, Uniform Grant Guidance, 2 CFR 200

Policy

LAs may request reimbursement for the cost of facility renovation, if prior written approval has been obtained from the State Agency (SA).

Definition

Renovation - an expenditure that materially increases the value or useful life of the asset. Ordinary repairs to maintain assets in operating condition (i.e. repainting, replacement or general upkeep of a facility) are not considered renovations.

Procedures

- I. The following information shall be submitted in writing to the SA for approval:
 - A. a detailed description of type of work to be done;
 - B. bids from at least three vendors if available;
 - C. justification of best value if the low bid is not acceptable;
 - D. justification of need for renovations;
 - E. an allocation method of how costs shall be allocated among programs (if applicable) and amount to be allocated to each program/activity;

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- F. a statement from landlord or parent agency that WIC may remain in the space for ten years;
 - G. a completed Exhibit B to FNS Instruction 813-1 (A copy may be obtained at <https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/wic/financial/fns-instruction813.pdf> or from the SA); and
 - H. an assurance that the procurement process is in compliance with Uniform Grants Management Standards (UGMS) and WIC policies.
- II. The SA shall review and submit the request to the United States Department of Agriculture (USDA) Southwest Regional Office (SWRO) for final action.
- III. The SA shall forward USDA's decision to the LA in writing.
- IV. Documentation shall support the allocation among Administration, Nutrition Education, and Breastfeeding.
- V. If the renovation is a contract service, refer to **Policy AC:15.0**. If the repair involves purchase of materials only, refer to **Policy AC:14.0**.
- VI. Renovation costs shall be supported by documentation such as approval letter from SA, copies of bids, statement or invoice from vendor, and proof of payment.
- VII. These costs shall be billed in accordance with **Policy AC:28.0**.

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Effective January 1, 2011

Policy No. AC:19.0

Allowable Costs – Indirect Costs

Purpose

To allow local agencies (LAs) to recover overhead costs on an indirect allocation basis in accordance with the LA's Cost Allocation Plan.

Authority

7 CFR Part 3016; OMB Circular A-87; UGMS Attachment E; DSHS Performance Contract General Provisions (Core/Subrecipient) at <http://www.dshs.state.tx.us/grants/gen-prov.shtm>.

Policy

LAs shall submit a cost allocation plan according to the DSHS General Provisions to the State Agency (SA) for acceptance. The SA may set a cap on indirect costs.

Procedures

- I. Refer to the DSHS Contract and Oversight Section, Contractor's Financial Procedures Manual, Chapter 7, Cost Allocation found at: <http://www.dshs.state.tx.us/contracts/cfpm.shtm> .

- II. Submit the Cost Allocation Plan, appendix A of the DSHS Contract and Oversight Section, Financial Procedures Manual to:
 - By email: coscap@dshs.state.tx.us or
 - By mail: Department of State Health Services
Contract Oversight and Support Services
Mail Code 1326
1100 West 49th Street
Austin, TX 78756

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- III. Once the plan has been accepted, indirect costs may be billed on the monthly reimbursement voucher. List the total amount of indirect costs allocated to WIC on the indirect costs line (line I) of the FSR 269a.

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Policy No. AC:20.0

Allowable Costs – Food Purchases

Purpose

To allow local agencies (LAs) to enhance the nutrition education component of their WIC programs.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

LAs may request reimbursement for the cost of food used for nutrition education demonstrations.

Procedures

- I. A description of food demonstrations and/or sampling plans shall be included in the lesson plans section of the LA Nutrition Education and Breastfeeding Plan.
- II. Purchases of food shall be supported by documentation such as vendor receipts.
- III. These costs shall be billed in accordance with **Policy AC:28.0**.
- IV. Food purchases by LAs shall be used only for demonstration and/or sampling purposes and shall not be used for distribution beyond training purposes to WIC participants or LA staff.

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Effective April 1, 2019

Policy No. AC:21.0

Allowable Costs – Insurance Expense

Purpose

To allow the local agencies (LAs) the opportunity to acquire insurance coverage for equipment and facilities.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

Local agencies may request reimbursement for the cost of insurance if the state agency (SA) has granted prior written approval.

Procedures

- I. A written request shall be submitted to the SA for approval before the expense is incurred. The following information is required:
 - A. type of insurance coverage requested;
 - B. at a minimum three competitive bids;
 - C. monthly or annual cost to the WIC Program;
 - D. method used to allocate the cost to WIC;
 - E. a justification of need; and
 - F. an assurance that the procurement process is in compliance with Uniform Grants Management Standards (UGMS) and WIC policies.
- II. The SA shall approve or disapprove the insurance expense in writing.
- III. The LA shall notify the SA if the insurance coverage or rates change.
- IV. If approved, these costs shall be billed in accordance with Policy AC:28.0.

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Effective April 1, 2019

Policy No. AC:21.0

- V. All agency self-insurance programs require SA approval.
 - A. Reimbursements are based on an approved rate and must be deposited to a reserve account.
 - B. Actual payments due to losses are unallowable.
- VI. Insurance costs shall be supported by documentation including a copy of the insurance policy, competitive bids, an approval letter from the SA, statement or invoice from the vendor, and canceled checks.
- VII. Documentation shall support the allocation among administration, nutrition education, and breastfeeding.
- VIII. The type, extent, and cost of coverage shall be in accordance with general local government policy and sound business practices

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Effective April 1, 2019

Policy No. AC:22.0

Allowable Costs – Laboratory Coats and Employee Uniforms

Purpose

To allow local agencies (LAs) to be reimbursed for employee uniforms and laboratory coats/smocks provided to staff that perform hematological testing so as to reduce employee exposure to blood borne pathogens.

Authority

7 CFR Part 3016; OSHA Regs; 29 CFR Part 1910.1030, Uniform Grant Guidance, 2 CFR 200

Policy

With prior state agency (SA) approval, LAs may request reimbursement for the cost of employee uniforms and laboratory coats/smocks provided to staff that perform hematological testing of WIC applicants/ participants. LAs may request reimbursement for laundering/cleaning costs for such items

Procedures

- I. Laboratory coats shall only be provided to staff who do hematological testing.
- II. The purchase of uniforms (includes T-shirts when used as a uniform) is discouraged, but shall be considered on a case-by-case basis if the parent agency has a dress code policy that requires employees to wear uniforms.
- III. These garments and the costs for laundering/cleaning shall be provided at no cost to employees.
- IV. Prior approval by State Agency is required.

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Effective April 1, 2019

Policy No. AC:22.0

- V. Only employees who may be called upon to perform hematological testing may be provided with laboratory coats/smocks. Laboratory coats shall be wrist length in style.
- VI. Regardless of the total cost involved, a written request shall be submitted to the SA containing the following:
 - A. the number of employees and number of uniforms or laboratory coats/smocks requested;
 - B. documentation of, at a minimum, three bids;
 - C. total dollar amount of low bid and the cost per uniform or laboratory coat/smock;
 - D. copy of agency wide dress code policy requiring uniforms (not required for laboratory coats/smocks); and
 - E. statement that low bid is acceptable.
- VII. The SA shall approve or disapprove the uniform request in writing.
- VIII. The laboratory coats/smocks and employee uniforms are the property of the WIC Program. The laboratory coats/smocks shall not be taken home by the employees in order to prevent the accidental spread of contamination.
- IX. Costs associated with laboratory coats/smocks and employee uniforms shall be listed as separate items in the LA's Plan to Allocate Direct Costs (PADDC) and billed only as administration costs and in accordance with **Policy AC:28.0**.
- X. Charges for laboratory coats/smocks and employee uniforms, and cleaning of these garments shall be supported by documentation vendor invoices/receipts, and proof of payment.

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Effective April 1, 2019

Policy No. AC:22.0

Guidelines

- I. The underlying intent of OSHA regulations on occupational exposure to blood borne pathogens is the concept of “universal precautions” that requires that all blood be treated as if known to be infectious for HIV, hepatitis B virus (HBV), and other blood borne pathogens. OSHA regulations require personal protective equipment be provided to employees at no cost according to the type of testing being done. According to OSHA, for the typical WIC clinic in which a finger stick is performed, appropriate protective clothing would include gloves and possibly a laboratory coat.

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Effective April 1, 2019

Policy No. AC:23.0

Unallowable Costs

Purpose

To ensure compliance with expenditure allowances.

Authority

Uniform Grant Guidance, 2 CFR 200

Policy

Local agencies (LAs) shall not request reimbursement for the following unallowable costs:

- I. alcoholic beverages;
- II. bad debts;
- III. contingencies;
- IV. contributions and donations;
- V. entertainment, including food and beverages;
- VI. fines and penalties;
- VII. fund raising and investment management costs;
- VIII. governor or legislative expenses;
- IX. idle facilities;
- X. interest and other financial costs;
- XI. lobbying;

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Effective April 1, 2019

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- XII. costs of membership in organizations whose primary purpose is lobbying;
- XIII. prosecution and defense of criminal and civil proceedings and claims;
or
- XIV. under recovery of costs under federal agreements.

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Effective November 1, 2022

Policy No. AC:24.0

Annual Reimbursement Maximum

Purpose

To provide the state agency (SA) with budgetary controls over local agency (LA) expenditures.

Authority

State Agency Contract

Policy

The LA's annual reimbursement maximum, shall be limited to the lesser of:

- I. actual participation multiplied by the LA's approved Funding Formula Rate (FFR) as relayed on the current fiscal year funding notification(s) plus any earned or awarded incentives, where participation is defined as either:
 - a. Actual participation (not to exceed assigned caseload),
 - b. Guaranteed participation (determined by the State in times of situational uncertainty),
 - c. Combination actual and guaranteed participation

OR

- II. Actual nutrition education costs times 5.26 (19%).

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Effective April 1, 2019

Policy No. AC:25.0

Monthly Reimbursement Maximum – Start Up Costs

Purpose

To allow new local agencies (LAs) sufficient funds to operate and purchase equipment as actual participation levels are building.

Authority

7 CFR Part 3016; Contract with State Agency, Uniform Grant Guidance, 2 CFR 200

Policy

During the first six months of operation of a new WIC LA, the LA's monthly reimbursement maximum shall be computed by multiplying their assigned caseload by the assigned per participant administrative funding rate as defined in the current WIC contract.

Procedures

- I. Surplus funds (**Policy AC:27.0**) earned during the start-up period may be carried forward for use only within the six-month start-up period.
- II. All earned but unspent surplus funds shall be forfeited at the beginning of the seventh month.
- III. Beginning with the seventh month of operation, the LA's monthly reimbursement maximum shall be computed in accordance with **Policy AC:24.0**.
- IV. The requirement to spend 19% on Nutrition Education shall be waived during the six-month start-up period.

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Effective April 1, 2019

Policy No. AC:26.0

Advance Cash Payments

Purpose

To allow a local agency (LA) adequate funds to support WIC operations while awaiting reimbursements for actual WIC expenditures.

Authority

7 CFR Part 3016, Uniform Grant Guidance, 2 CFR 200

Policy

To ensure a LA has continued operating funds, cash advances may be authorized on a case-by-case basis.

Procedures

- I. Each fiscal year LAs may submit a written request to the state agency (SA) for a one-time cash advance.
- II. After review of the written request/justification, the SA shall approve and submit for processing, or deny via written correspondence.
- III. SA approval for cash advance is only valid for the current fiscal year. A new request shall be required for each fiscal year.
- IV. The advance shall be requested at the beginning of the contract period or at a single time later in the contract period, if circumstances so warrant and the request is approved.
- V. Advance funds shall be liquidated during the contract period so that after the final monthly billing, the LA shall not have advance funds on hand. Advance funds shall be liquidated no later than July, August and September of the current fiscal year, unless other arrangements have been established between the LA and SA.

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Effective April 1, 2019

Policy No. AC:26.0

- VI. If at the end of the contract period any unspent advance funds remain, these funds shall be returned to the SA. Processing of new fiscal year administrative claims shall be suspended until recovery of the previous year's excess advance funds is completed.
- VII. Advance funds shall be drawn only to meet immediate cash needs for disbursement.
- VIII. Cash advances made to WIC LAs shall be based upon projected contract earnings via their respective contract. Estimated projection with reasonably expected growth added, shall be utilized to calculate a projected monthly earnings amount. Such calculation shall be the basis (upper limit) for awarding a two-month cash advance.
- IX. With the exception of the initial request for advance funds, all other billings for reimbursement shall be requested only for actual allowable cash expenditures incurred as a result of WIC activities.
- X. Advance funds requested from the WIC Program are for WIC purposes only and are restricted from use in offsetting other program costs.
- XI. Any interest earned, over \$500 on cash advances shall be treated as program income and shall be handled according to requirements set forth in **Policy AC:30.0**.

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Effective April 1, 2019

Policy No. AC:27.0

Surplus Funds

Purpose

To provide the local agency (LA) flexibility to achieve maximum utilization of earned administrative funds.

Authority

Current Contract with the State Agency

Policy

Surplus funds are the amount by which maximum earnings exceed actual costs. Such funds shall be accumulated and carried forward on an individual LA basis. The time period during which such funds may be recovered shall be determined by the state agency (SA) based on funding restrictions imposed by the United States Department of Agriculture (USDA) and shall not exceed the term of the contract for each fiscal year.

Procedures

- I. LAs may reclaim actual expenses not previously recovered. The LA shall bill in accordance with **Policy AC:28.0**.
- II. The SA will automatically reimburse amounts previously disallowed for exceeding earnings whenever sufficient funds are earned by the LA.

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Effective August 1, 2022

Policy No. AC:28.0

Financial Reporting

Purpose

To provide the state agency (SA) with a method to reimburse the local Agencies (LAs) for allowable expenditures under the WIC Program.

Authority

Uniform Grant Guidance, 2 CFR 200; State WIC Local Agency Contract

Policy

On a monthly basis, LAs must request reimbursement for allowable expenses by means of a WIC Invoice for Encumbered Payment form. LAs must also submit a WIC Financial Status Report (FSR) form on a quarterly basis. The WIC FSR form and instructions to the FSR can be downloaded at <https://www.hhs.texas.gov/sites/default/files/documents/wic-fsr-form-with-instructions.xlsx>.

Procedures

- I. The LA must follow the instructions attached to the state supplied form.
- II. The LA must complete a separate WIC Invoice for Encumbered Payment form for each project when requesting reimbursement each month. The completed WIC Invoice(s) for Encumbered Payment forms must be submitted electronically to WICInvoices@hhs.texas.gov by the last business day of the month following the reporting month.
- III. The WIC FSR Form must be submitted electronically quarterly with the corresponding WIC Invoice(s) for Encumbered Payment. The months of the federal quarters are as follows:

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Policy No. AC:28.0

Quarter	Months Included	Due Date	Form(s)
1 st	October, November, December	last business day of January	WIC FSR Form and WIC Invoice(s) for Encumbered Payment
2 nd	January, February, March	last business day of April	WIC FSR Form and WIC Invoice(s) for Encumbered Payment
3 rd	April, May, June	last business day of July	WIC FSR Form and WIC Invoice(s) for Encumbered Payment
4 th	July, August, September	last business day of October	WIC FSR Form and WIC Invoice(s) for Encumbered Payment
4 th	Final amended upon liquidation of all encumbrances	Per contract timeframe	WIC FSR Form and WIC Invoice(s) for Encumbered Payment

IV. Reimbursement must be requested for actual expenditures incurred as a result of WIC allowable activities and allocable indirect costs less any applicable credits.

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Effective April 1, 2019

Policy No. AC:29.0

WISE Cost Report, WIC-227A

Purpose

To provide the state agency (SA) with the necessary breakdown of all local agency (LA) costs into the four categories mandated by federal nutrition services and administrative costs (NSA) reporting requirements.

Authority

7 CFR Part 3016

Policy

LAs shall report their expenditures for the month of March of each contract year in the four functional categories mandated by the United States Department of Agriculture (USDA).

Procedures

- I. The LA shall follow the instructions attached to or on the reverse side of the SA supplied WISE cost report, WIC-227A form. This form and a detailed explanation of the activities and types of costs that fit into each of the four categories- nutrition education, breastfeeding, general administration, and client services is located at:
<https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-financial>.
- II. The LA shall submit the annual WISE cost report to the SA by April 30th of each year.

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Effective April 1, 2019

Policy No. AC:30.0

Program Income

Purpose

To ensure proper disposition and accountability for program income (PI) related to local agencies (LAs) financed in whole or in part with Federal grant funds.

Authority

7 CFR Part 3016; Uniform Grant Guidance, 2 CFR 200

Policy

PI shall be handled in accordance with the Uniform Federal Assistance Regulations, Part 3016, Subpart A.

Definition

Program income - all revenues directly generated by a WIC contract attachment supported activity or earned only as a result of the WIC project during the term of the contract attachment.

Procedures

- I. LAs shall use PI to further the program objectives in accordance with state/federal regulations.
- II. PI shall be spent only towards WIC activities/expenditures.
- III. LAs shall identify and report this income utilizing the forms and timeframes specified in **Policy AC:28.0**.
- IV. LAs shall utilize one of the following methods for applying PI:
 - A. Additive method – add PI to the funds already committed to the project by both parties.

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Policy No. AC:30.0

- B. Deductive method – deduct the PI from the total allowable costs to determine the net allowable costs.
- V. LAs shall expend PI during the contract attachment term in which it is earned and may not carry forward to the succeeding term.
- VI. PI not expended in the term in which it is earned shall be refunded to the state agency.

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Effective April 1, 2019

Policy No. AC:31.0

Participant Fees

Purpose

To ensure that WIC services and benefits are provided at no cost to the participants.

Authority

7 CFR Part 3016

Policy

The local agency (LA) shall ensure that participants are not charged a fee for certification, the Texas WIC Card, food issuance, or any nutrition education as criteria for participation in the WIC Program.

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Effective April 1, 2019

Policy No. AC:32.0

Closeout Reports

Purpose

To allow the state agency (SA) sufficient time to process and prepare a grant closeout report for the United States Department of Agriculture (USDA).

Authority

7 CFR Part 3016; State WIC Local Agency Contract

Policy

Local agencies (LAs) shall submit all financial reports requesting reimbursement for a given fiscal year's expenditures after the close of the federal fiscal year per the state contract timeframes.

Procedures

Requests for reimbursement submitted over the contract timeframes shall not be processed. Exceptions shall be considered on a case-by-case basis for extenuating circumstances such as a catastrophic event, natural disaster, or criminal activity that substantially interferes with normal business operations or causes damage or destruction of the place of business and/or records. A written statement describing the extenuating circumstance and the late request for reimbursement shall be submitted for review and approval to the WIC program.

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Effective October 1, 2021

Policy No. AC:33.0

Nutrition Education Expenditures

Purpose

To ensure that the expenses reimbursed for nutrition education (NE) are in accordance with Federal Guidelines and may be supported by documentation of participant attendance/non-attendance at NE classes and/or individual counseling sessions.

Authority

7 CFR 246.14; Uniform Grant Guidance 2 CFR 200

Policy

Local agency (LA) NE expenditures shall be in accordance with the procedure outlined in this policy and supported by documentation.

Procedures

- I. Nutrition education expenditures must be reasonable and necessary for the provision of nutrition education in accordance with Policy AC: 01.0.
- II. NE expenditures shall equal or exceed 19% of the amount expended by the LA for cost of Nutrition Services and Administration (NSA).
- III. Allowable NE expenditures include but are not limited to the following:
 - A. salaries and other costs of NE activities including:
 1. Preparation,
 2. Evaluation,
 3. Supervision,
 4. Training, and
 5. Monitoring of group nutrition education or individual counseling or conducting other nutrition education activities.

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- B. salaries and other costs incurred in the development of the NE portion of the NE/BF Plan;
- C. costs associated with training and orientation of NE staff including, but not limited to:
 - 1. Prorated travel to local training sites,
 - 2. Professional meetings,
 - 3. Training sessions,
 - 4. Monthly meetings; and
 - 5. In-service training if applicable to NE.
- D. costs of translation of NE materials
- E. cost of printing or reproducing NE materials;
- F. coordinating local NE materials (inventory, ordering, distribution to clinics, etc.);
- G. purchasing and/or developing NE materials such as posters, pamphlet, handouts, books, newsletters, audiovisuals etc;
- H. purchase of food, cooking utensils, and teaching aids used to conduct food demonstrations;
- I. cost of staff teaching aids;
- J. costs of NE teaching aids when used in conjunction with nutrition education. These items shall be distributed to specific audiences for which the items were designed, including but not limited to:
 - 1. magnets with nutrition messages;
 - 2. calendars with nutrition messages;
 - 3. infant cups/spoons;
 - 4. oral health aids;
 - 5. recipe books;
 - 6. reading books with nutrition information or messages.
- K. prorated expenses for space rental, utilities, janitorial supplies/services, communications, facilities repairs/renovation, and storage facilities; and
- L. indirect and allocated costs associated/identified with NE activities.
- M. costs associated with NE sessions that promote or reinforce physical activity and that contain a joint nutrition message.

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Policy No. AC:33.0

- N. contracting with a certified health or fitness professional to consult on the development or modification of materials and resources, provide brief exercise demonstrations to participants, provide staff training on the health benefits of physical activity on how to promote physical activity and how to facilitate behavior change in participants;
 - O. inexpensive program incentive items that promote physical activity of participants such as water bottles, hand-sized bean bags and balls.
- IV. Costs, which are not allowable, include items of nominal value that have no NE message.

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Effective June 1, 2022

Policy No. AC:34.0

Breastfeeding Expenditures

Purpose

To ensure compliance with federal regulations and to account for monies spent on breastfeeding (BF) promotion and support.

Authority

7 CFR 246.14; Uniform Grant Guidance 2 CFR 200; USDA WIC Breastfeeding Policy and Guidance

Policy

The local agency (LA) must account for funds spent to promote and support breastfeeding. All breastfeeding expenditures must be allowable WIC expenses as defined in this policy. Breastfeeding promotion and educational reinforcement items must contain a breastfeeding message. Items that are considered breastfeeding aids and accessories do not require a breastfeeding message. All items must be of a cost that is reasonable and necessary for the promotion and support of breastfeeding and the cost must be an allowable expense under 7 CFR 246.14.

Definitions

Breastfeeding accessories - items that facilitate breastfeeding without directly aiding the removal of milk from the breast.

Breastfeeding aids - items that directly aid the removal of milk from the breast and/or provide breastmilk to the infant.

Necessary costs – Costs incurred to carry out essential program functions and cannot be avoided without adversely impacting program operations.

Reasonable costs – A cost is reasonable if under the circumstances a prudent person would incur the cost. Consideration should be given to the following:

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- Whether the cost provides the program a benefit commensurate with the cost incurred.
- Whether the cost is of a type generally recognized as ordinary and necessary.
- Sound business practice.
- Market prices for comparable goods and services.
- The cost was incurred in accordance with the terms and conditions of the contract with Health Human Service Commission.

Procedures

- I. The state agency (SA) will allocate annually to each LA an amount of funds to be spent for breastfeeding promotion and support. The allocation will be determined by the LA's proportional share of the statewide combined total of pregnant and breastfeeding participants served during the fourth quarter of the previous fiscal year as reported to the SA. This allocation defines the BF funding quota requirement for each LA.
- II. The LA must expend the BF funding quota set by the SA annually. Any additional BF expenditures will be credited to the nutrition education requirement.
- III. To be considered an allowable cost for breastfeeding promotion and support, the cost must be clearly attributable to breastfeeding promotion. Generalized nutrition education, which happens to mention breastfeeding, but does not specifically promote breastfeeding, must not be allowable.
- IV. The following are allowable breastfeeding expenditures:
 - A. Salaries and benefits of:
 1. WIC staff who deliver educational and direct client services related to breastfeeding;
 2. WIC staff who deliver or attend training on breastfeeding promotion and support;

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3. WIC staff who participate in State and local planning committees dedicated to breastfeeding promotion;
 4. WIC staff who organize volunteers and community groups to support breastfeeding WIC participants; and
 5. Peer counselors when performing duties as described in [Policy BF:03.0](#) and peer counselor funding has been depleted or SA is unable to reallocate funding. (Also refer to [Policy AC:17.0](#).)
- B. Costs associated with developing or maintaining International Board Certified Lactation Consultants (IBCLC) at the discretion of the LA.
1. Allowable expenditures include:
 - a. Salary and benefits for time spent working towards exam preparation. LAs should determine what activities may be done during standard working hours.
 - b. Fee of health science courses required to take the International Board of Lactation Consultant Examiners (IBLCE) exam, which includes college course prerequisites.
 - c. Attending educational opportunities to accrue required continuing education
 - d. Exam prep courses
 - e. Reference/study materials
 - f. Related travel
 - g. IBLCE exam fee and recertification fee
 2. Local agencies may choose to create a contract or agreement that requires staff who are being reimbursed to become IBCLCs to pay back the local agency in time (e.g. 12 months of WIC LA employment) or cost if they leave LA employment before their time-requirement has been fulfilled.
- C. Costs to join breastfeeding, maternal health coalitions and professional breastfeeding organizations that offer an educational component such as free webinars, conferences, journals, and newsletters. Travel expenses related to attendance.

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- D. Honorariums and travel expenses of non-WIC professionals to deliver training on breastfeeding promotion and support.
- E. Costs to develop and/or procure evidence-based educational materials, teaching aids, instructional curricula, etc., related to breastfeeding promotion and support. Materials must be approved by the LA IBCLC or the SA.
- F. Prorated costs of clinic space devoted to education, support and training activities for staff and the participants related to breastfeeding.
- G. Prorated costs of clinic space set aside to provide a private breastfeeding space including furniture and décor.
- H. Expenses related to evaluation of breastfeeding initiatives, including salary, fringe and costs of materials. May include contractual agreements entered into for this purpose.
- I. Costs of breastfeeding related service agreements with outside organizations or individuals to facilitate training and direct service delivery to WIC participants with prior SA approval as outlined in **Policy AC:16.0**.
- J. Breastfeeding aids that directly support a WIC client's ability to breastfeed successfully including, but not limited to nipple shields, breast shells, and supplemental nursing systems.
- K. Breastfeeding accessories that, while not directly aiding in the removal of breastmilk, may facilitate breastfeeding including, but not limited to nursing bras, nursing pads, human milk storage bags, nursing camisoles, and cover-ups. These items should not be used for outreach and should be provided when a need has been identified.

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- L. The cost to purchase a baby weight scale intended for pre-and post-feed weights for use exclusively by an IBCLC when providing lactation consultation to WIC participants.

- M. Breastfeeding promotion or educational reinforcement items that include a breastfeeding promotion or education message such as:
 - 1. Pencils, pens
 - 2. Magnets
 - 3. Balloons
 - 4. Stickers, buttons
 - 5. Crayons, coloring books
 - 6. Infant t-shirts and bibs
 - 7. Water bottles, stadium cups, plastic cups
 - 8. Children’s books with a breastfeeding message.
 - 9. T-shirts displaying a breastfeeding message for WIC staff to wear in the clinic or at community-based education events such as health fairs
 - 10. Canvas art or picture frames for framing BF posters for WIC clinics or outreach to health care facilities.

- V. The following are not allowable breastfeeding expenditures:
 - A. Expenses for generalized nutrition education activities, materials or training that mention breastfeeding, but whose primary focus is not clearly attributed to breastfeeding promotion or support.

 - B. Breastfeeding certifications other than IBCLC, such as Certified Lactation Counselor (CLC).

 - C. Breastfeeding aids and accessories for distribution to participants that do not directly support the initiation and continuation of breastfeeding and are not within the scope of the WIC Program including, but not limited to, topical creams/ointments (e.g. lanolin), hydrogel, Vitamin E, other medicinals, baby bottles, collection cups, nursing foot stools, infant scales for use by the mother at home, nursing pillows, and nursing blouses.

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- D. Costs of establishing, supporting, or maintaining a milk bank or milk depot such as refrigerators to store donor breastmilk.
 - E. Costs of promotional campaigns or items (print, radio, television) aimed at a general audience concerning breastfeeding unless materials may also be used with WIC participants or trainees in an educational context.
 - F. Outreach items which have no breastfeeding message.
 - G. Items regardless of any breastfeeding promotion message such as diaper bags, infant slings or ponchos.
 - H. Special equipment for WIC clinics such as crematocrits, breast massagers, etc.
 - I. The purchase or lease of breast pumps. Breast pumps are a food expenditure and must be ordered through the SA.
 - J. The purchase of an automated external defibrillator (AED) or cardiopulmonary resuscitation (CPR) classes that do not support attaining or maintaining the IBCLC certification.
- VI. Contact the state agency Breastfeeding Coordinator for approval of any breastfeeding promotion or educational reinforcement items not listed in section IV.

AUT - Automation

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Effective October 1, 2005

Policy No. AUT:04.0

Data Communications Capabilities, VSAT and Modem

Purpose

To ensure that WIC data (issuance, inventory, appointments, transfers, and certification, etc.) can be passed between state agency (SA), local agency (LA) and clinic. To ensure SA access to LA's and clinics for remote maintenance and support.

Authority

State Policy

Policy

All LAs and clinics shall have access to a Very Small Aperture Terminal (VSAT), which is a very small satellite transmitting and receiving station.

In addition, all sites must have a dedicated telephone line (compatible with the Bell 212A standard) hooked to a modem. This telephone line shall end in a standard RJ11C modular jack. The jack shall be located within 5 feet of workstation 01 (station with the modem attached). The modem will be used for disaster recovery and automation support in case the VSAT is not operational.

Procedures

- I. All network and stand alone PCs shall have a VSAT installed.
- II. All network and stand alone PC's must have a dedicated modem line and modem, hooked to workstation 01, for disaster recovery in the event that the VSAT is not operational.
- III. All notebook computers (portables) must connect daily, Monday through Friday (include Saturday if WIC services are provided), to

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Effective October 1, 2005

Policy No. AUT:04.0

a VSAT and transfer data to the state office. Portable computers can go to any of its Local Agency sites for data transfer.

- IV. VSAT installation for new sites or sites moving from one location to another require a minimum of 30 days notice.
- V. VSAT equipment on the roof is the responsibility of Spacenet (contractor). Agencies should not move equipment for any reason. Contact the State Agency if your clinic is moving, or for any reason, such as roof repairs, that will require that the VSAT be moved.

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Effective June 1, 2002

Policy No. AUT:06.0

Surge Protector Equipment

Purpose

To protect computer equipment and data files from electrical surge damage.

Authority

State Policy

Policy

Each computer used at a local agency shall be connected to the local power utility through a surge protector or uninterruptible power supply (UPS).

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Effective June 1, 2002

Policy No. AUT:07.0

Requests for New or Additional Computers and/or Peripherals

Purpose

To ensure program integrity and maximum efficiency by mandating all clinics and local agencies (LAs) to be automated.

Authority

State Policy

Policy

All clinics shall be automated to be able to utilize the Texas WIC Information Network (WIN) automated system. A minimum threshold of 50 participants (per system, not site) shall be required in order to receive computer equipment for that system.

Procedures

- I. All requests for new or additional computers and/or peripherals (printers, bar code scanners, UPS, modems) shall be made in writing to the state agency (SA) and received by the SA at least 30 days prior to the date the equipment will be needed. Requests shall be evaluated by the appropriate SA help desk staff. Requests shall be processed in the order they are received.
- II. Agencies requesting stand alone PCs and notebook computers shall have a minimum of 50 participants. (For example, LAs may combine more than one site to reach the minimum required number of 50 participants and operate these sites using one computer.)
- III. Two station networks shall be provided for all clinics that reach 1200 participants. LAs shall request that a network be allocated to a clinic when it reaches this threshold. Requests shall be made in writing to the

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Effective June 1, 2002

Policy No. AUT:07.0

SA and shall be evaluated and processed by the appropriate SA help desk staff.

IV. There will be times when equipment will not be available.

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Effective April 1, 2024

Policy No. AUT:08.0

Acceptable Use Agreement

Purpose

WIC information and information resources are valuable assets that must be protected from unauthorized disclosure, modification, use, or destruction. The purpose of the revised Health and Human Services (HHS) Acceptable Use Agreement (AUA) is to assure that staff understand and adhere to all requirements concerning the use of WIC information resources.

Authority

State Policy

Policy

Local Agencies (LA) must ensure that information and resources maintain their integrity, confidentiality, and that their availability is not compromised. All LA staff must sign the Acceptable Use Agreement (as defined below) documenting their acceptance of computer usage requirements.

Definitions

Information resources - the procedures, equipment, and software that are employed, designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information by LA staff to and from the State Office.

Acceptable Use Agreement (AUA) – a required form for staff to sign agreeing to adhere to state agency policies and procedures for the use of state resources.

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Effective April 1, 2024

Policy No. AUT:08.0

Procedures

- I. All LA staff assigned a WIC User ID must read the [Information Security Acceptable Use Policy \(HHS AUA Policy\)](#) in its entirety and sign the [Information Security Acceptable Use Agreement \(HHS AUA Signature Form\)](#). The policy and form are also downloadable from the [Texas WIC Women, Infants and Children Catalog](#).
- II. To complete the AUA, staff must:
 - A. Enter all required fields (Signature, Name Printed, Work Email, Work Phone);
 - B. Under the "I am" option, select "A contractor";
 - C. Enter Parent Agency name in the blue text box underneath the "Other" line.
 - D. Enter the "Date Agreement Signed" at the bottom of the form.
- III. The LA must retain signed AUA signature forms for each employee and have them available for audit/review. Refer to [GA:03.0 Records Retention](#).
- IV. When leaving the workstation, staff should secure confidential information.
- V. All staff must complete a Texas Department of Information Resources (DIR) Certified Cybersecurity Training within 30 days of hire and annually thereafter.

BF - Breastfeeding

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective December 1, 2021

Policy No. BF:01.0

Breastfeeding Promotion and Support Standards

Purpose

To establish breastfeeding (BF) as the normal and optimal way to feed infants. To encourage WIC participants to breastfeed their infants. To provide support to breastfeeding participants so that each may reach their personal breastfeeding goal.

Authority

7 CFR Part 246.11

Policy

The WIC staff and the clinic environment must promote and support breastfeeding, and encourage participants to exclusively breastfeed for six months, unless medically contraindicated, and continue to breastfeed with the addition of complementary foods for at least the first year of life and thereafter as long as mutually desired.

Definitions

Breastfeeding – the practice of feeding a mother’s breastmilk to her infant(s) on the average of at least once a day.

TBE – HHSC Trained Breastfeeding Educator – a person who has successfully completed both *Lactation Principles* and *Advanced Lactation Management* courses in the last five years.

Procedures

- I. The local agency (LA) must provide a supportive clinic environment.
 - A. All staff must promote breastfeeding as the normative way to feed all infants and use positive language when discussing breastfeeding.

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective December 1, 2021

Policy No. BF:01.0

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- B. Breastfeeding must be visibly represented as the normal way to feed all infants through use of wall art and/or other visuals in the clinic.
 - 1. Clinics must store infant formula, bottles or pacifiers where applicants and participants cannot see them except while being used as a teaching aid.
 - 2. All materials distributed or visible to participants must:
 - i. Be free of formula product names and/or logos. This also includes office supplies such as cups, pens and notepads.
 - ii. Be free of language that undermines a mother's confidence in her ability to breastfeed.
 - iii. Show breastfeeding in a positive light.
 - iv. Be at an appropriate reading level for WIC participants.
 - v. Be culturally appropriate.
 - vi. Be accurate and up to date.
 - vii. Be state agency developed or reviewed and approved by an LA or state agency (SA) International Board Certified Lactation Consultant (IBCLC) or Registered Dietitian (RD).
 - C. The clinic should be set up to help mothers feel comfortable breastfeeding their infants anywhere in the clinic. Private areas should be available to mothers who prefer privacy while breastfeeding.
- II. The LA must provide breastfeeding education to all pregnant participants.
- A. Staff must provide client-centered breastfeeding education to all pregnant participants and encourage breastfeeding unless contraindicated for medical reasons.

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Effective December 1, 2021

Policy No. BF:01.0

1. Staff must assess a pregnant participant's knowledge, attitude and concerns related to breastfeeding and identify the factors that may affect her success with breastfeeding.
 - i. If the opportunity to provide breastfeeding education does not present itself during the VENA counseling session (e.g. if the participant chooses to talk about something other than infant feeding), breastfeeding education must occur in addition to VENA counseling.
 - ii. Prenatal breastfeeding education can be provided by the peer counselor (PC), certifying authority (CA) or WIC certification specialist (WCS). If a PC is available, all pregnant women must be given the opportunity to meet with the PC, even if breastfeeding education occurred as a part of VENA.
2. Staff must offer all pregnant participants the following at their first prenatal visit:
 - i. Prenatal Breastfeeding Education Bag –
 - a. If preassembled bags are not available, staff must offer at minimum: Your Guide to Breastfeeding (stock no. 13-220/A), Man's Guide to Breastfeeding Support (stock no. 13-53/A) and From One Generation to Another: A Grandmother's Guide to Breastfeeding (stock no. 13-06-11288/A).
 - ii. WIC Food Packages for Moms and Infants brochure (stock no. 13-06-13124-T and 13-06-13124A-T)
 - a. Include counseling focused on the importance of exclusive breastfeeding for establishing milk supply. Participants who express the desire to combine breastfeeding with formula feeding must be told that WIC can accommodate their need.

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- iii. Client breastfeeding resource list described in Procedure III.B.2.
 - B. Breastfeeding education and recommendations must be in alignment with current medical recommendations.
- III. The LA must provide breastfeeding support.
- A. Every breastfeeding WIC participant must be offered breastfeeding support.
 - 1. PCs should be utilized first, when possible, for BF counseling that falls within their scope of practice. (See **Policy BF:03.0**)
 - 2. IBCLCs, TBEs, CAs and WCSs must be utilized when PCs are not available and for situations that fall outside the scope of practice of other staff.
 - B. Every WIC clinic must maintain and have available the following breastfeeding referral documents.
 - 1. Staff Breastfeeding Referral Protocol – a flowchart that provides staff the appropriate referral process to use when they have a breastfeeding situation or question that is beyond their own scope of practice or level of expertise.
 - i. All staff must have access to the protocol to refer to when needed.
 - ii. This protocol must be reviewed and updated annually and only include no cost services.
 - 2. Client Breastfeeding Resource List – a resource handout that provides a list of Texas WIC local and statewide breastfeeding support services as well as additional no-cost community breastfeeding resources, if available. This handout must:

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- i. include only no cost evidence-based resources.
 - ii. be kept up to date and include the WIC non-discrimination statement.
 - iii. be offered to every pregnant and breastfeeding participant at each certification appointment and as needed.
- C. Hands-off/hands-on breastfeeding assistance:
 - 1. Hands-off approach - WIC staff must first try to assist a breastfeeding mother/baby dyad in a hands-off type approach by using verbal coaching and models or other appropriate tools.
 - 2. Hands-on approach - When there is a need to assist a mother through touch, WIC staff must always wash their hands or use hand sanitizer and wear gloves prior to assisting.
 - i. WIC staff must ask permission and obtain verbal or written consent prior to touching.
 - ii. If the mother does not consent to be touched, WIC staff must use a hands-off approach.
- D. When a mother who is breastfeeding asks for formula or an increase in formula, staff must provide counseling and support.
 - 1. During counseling, staff should:
 - i. Identify mother's personal breastfeeding goal(s) and discuss any concerns and barriers. Maintain a collaborative, client-centered approach.
 - ii. Support breastfeeding to the maximum extent possible with minimal supplementation of infant formula.

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- iii. Document the interaction in the management information system (MIS).
 - 2. Staff must make food package decisions after counseling has occurred and in alignment with **Policy FD:10.0**.
 - IV. Nipple shields must only be issued by an IBCLC or under the guidance of an IBCLC.
 - A. Staff must train a mother on how to properly use a nipple shield.
 - B. When the LA IBCLC is not available, staff must call one of the lactation support centers (LSC) to issue the nipple shield under the guidance of the LSC IBCLC.
 - C. When the LA IBCLC is not available to counsel a mother who is using a nipple shield that was not issued by WIC, staff who have completed the TBE training can assess latch and milk transfer with the nipple shield and assist the mother to breastfeed without the nipple shield, assessing latch and milk transfer.
 - D. The SA must approve any LA developed policy or protocol on nipple shields.
 - V. All local WIC staff must receive BF training according to **Policy BF:04.0**.
 - VI. All funds used to promote and support breastfeeding standards must be an allowable expense according to **Policy AC:34.0**.

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Effective April 1, 2018

Policy No. BF:02.0

Local Agency Breastfeeding Coordinator

Purpose

To ensure that a qualified, designated staff administers (plans, implements and evaluates) breastfeeding (BF) education and support activities. To assure that breastfeeding education and support is planned, scheduled and provided to address the needs of breastfeeding participants.

Authority

7 CFR Part 246.11

Policy

Each local agency (LA) shall appoint a BF Coordinator who ensures that breastfeeding lessons, materials, and other information presented to WIC participants contain accurate, current, culturally appropriate, and evidenced-based information.

Definition

Department of State Health Services (DSHS) Trained BF Educator - a person who has successfully completed both *Principles of Lactation Management* and *Lactation Counseling and Problem Solving* courses in the last five years.

Procedures

- I. Each LA shall appoint a BF Coordinator to oversee breastfeeding promotion and support activities.
- II. The LA BF coordinator shall be qualified and trained to promote and support breastfeeding. The LA BF Coordinator shall:

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Effective April 1, 2018

Policy No. BF:02.0

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- A. Be an International Board Certified Lactation Consultant (IBCLC) or a DSHS Trained BF Educator or shall successfully complete the certification or training within one year of employment.
 - B. Be trained according to **Policy BF:4.0**. Documentation of the BF coordinator's initial and on-going training shall be maintained at the LA for review.
 - C. Complete the Peer Counselor Train the Trainer Course within one year of employment.
 - D. Attend the annual WIC Program's Nutrition and Breastfeeding conference every year. Other conferences or trainings may be attended in lieu of this conference with the approval of the SA BF coordinator.
- III. LAs shall have a designated BF coordinator at all times. If the designated BF coordinator will be out for extended leave (i.e. maternity leave, workman's comp), an interim BF coordinator shall be appointed.
- A. If this person is in the interim position for 3 months or less, they do not need to satisfy the certification or training requirements in this policy.
 - B. If this person is in the interim position for more than 3 months, certification or training requirements shall be met within a year of assuming the position of BF coordinator.
- IV. The BF Coordinator shall oversee/coordinate all aspects of breastfeeding training, education and documentation at the Local Agency. They may work in conjunction with the Training Coordinator, Nutrition Education coordinator and clinic supervisory staff. The BF Coordinator is responsible for overseeing:
- A. The BF portion of the annual NE/BF Plan (see **Policy NE:02.0**);
 - B. BF activities including but not limited to:

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Effective April 1, 2018

Policy No. BF:02.0

1. Ensuring the clinic environment promotes and supports BF according to **Policy BF:01.0**;
 2. Providing the opportunity for all pregnant and BF WIC participants to receive individual counseling and nutrition education classes that promote and support BF;
 3. Ensuring all individual counseling and nutrition education classes that address infant feeding promote BF as the preferred way to feed an infant;
 4. Ensuring BF promotion/support activities are evaluated and necessary changes are implemented to ensure that BF rates increase at the LA;
- C. Managing the LA BF Peer Counselor (PC) Program and mentoring the PCs if there is not a LA PC coordinator;
- D. Networking with and outreach to other health professionals, community organizations and stakeholders to inform them of WIC breastfeeding resources and promote and support BF in the community.
- E. Keeping the Staff Referral Protocol and Client Referral Handout up to date (See **Policy BF:01.0**, Procedure III, B, 2.)
- F. Monitoring local agency breastfeeding rates. (See **Policy BF:07.0**)
- G. Evaluating BF Education and Support. Quality management activities related to BF shall be conducted annually (at minimum) by the LA and:
1. Shall include evaluating breastfeeding educational activities for accuracy and positive presentation of breastfeeding
 2. Shall include observation of group and individual breastfeeding education and support sessions to ensure accurate and appropriate delivery of information in a client-centered way.
 3. Results should be used to determine and plan staff training.

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4. Participant feedback related to BF, to include but not limited to the WIC Infant Feeding Practices Survey, should be used to plan future breastfeeding education and support activities.

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Effective July 1, 2023

Policy No. BF:03.0

Breastfeeding Peer Counselor

Purpose

To ensure that Breastfeeding Peer Counselors (BF PCs) are qualified, trained and perform appropriate duties.

Authority

United States Department of Agriculture (USDA) Loving Support grant;
USDA Breastfeeding Policy and Guidance; State Policy

Policy

Local agencies (LAs) must employ BF PCs as paraprofessionals to support WIC's efforts to help women initiate and continue breastfeeding. BF PCs address barriers to breastfeeding in normal breastfeeding situations, through education, support and role modeling.

BF PCs must be trained and work under the supervision of the LA Breastfeeding Coordinator. They must be trained in accordance with state agency-designated initial BF PC training prior to working with participants and must complete other training requirements according to **WIC Policy TR:03.0**.

LAs must select BF PC candidates who:

- have breastfed or expressed breastmilk for at least one baby.
- are from the target population and can be trained to be paraprofessionals
- have the ability to work outside of regular clinic hours and outside of the WIC clinic.
- are not licensed or credentialed health professionals such as; International Board Certified Lactation Consultants (IBCLCs), Registered Dietitians (RDs), nurses.

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Effective July 1, 2023

Policy No. BF:03.0

Definitions

Paraprofessionals – Those without extended professional training in health, nutrition or the clinical management of breastfeeding who are selected from the group to be served and are trained and given ongoing supervision to provide a basic service or function. Paraprofessionals provide specific tasks within a defined scope of practice. They assist professionals, but are not licensed or credentialed as healthcare, nutrition, or lactation consultant professionals.

Target population - A group that shares similar characteristics and is identified as the intended audience for the WIC Program.

Scope of Practice – The BF PCs scope of practice is limited to supporting normal breastfeeding. This means providing basic information and support, including encouraging and supporting mothers to breastfeed; teaching basic breastfeeding to WIC mothers; supporting mothers when difficulties occur; and yielding to the IBCLC when problems beyond their training arise.

Procedures

- I. Include the following criteria in the BF PC job description:
 - A. Is from the target population and can be trained to be a paraprofessional.
 - B. Has breastfed or expressed breastmilk for at least one baby.
 - C. Has the ability to work outside of regular clinic hours and outside of the WIC clinic.
- II. Conduct monthly meetings or trainings for BF PCs on breastfeeding or BF PC job related topics. Monthly meetings can be conducted in person, by conference call or virtually.
 - A. Keep documentation of BF PC meetings or trainings on file at the LA for review and include date, topic and attendance.

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Effective July 1, 2023

Policy No. BF:03.0

III. BF PCs must perform the following duties at minimum:

- A. Provide pregnant and breastfeeding participants evidence-based breastfeeding education and support and assist in developing individualized breastfeeding goals and strategies, when appropriate.
- B. Make appropriate referral, based on LA's referral protocol, when:
 - i. A participant has an issue or question that is out of BF PC scope of practice.
 - ii. Breastfeeding problems are not resolved within 24 hours of the Peer Counselor's intervention; or
 - iii. Problems exist in an area other than breastfeeding.
- C. Document all encounters with participants.
- D. Additional allowable BF PC duties include:
 - i. Complete prenatal and postpartum follow-up calls to participants.
 - ii. Complete breast pump follow-up calls and document.
 - iii. Complete multi-user retrievals according to **WIC Policy BF:06.0**.
 - iv. Teach or assist in teaching classes on the basics of breastfeeding and the management of normal breastfeeding experiences.
 - v. Teach how to assemble, use, and clean breast pumps.
 - vi. Teach how to express and store human milk.
 - vii. Maintain inventory of breast pumps.
 - viii. Clean breast pumps as needed.
 - ix. Assist in development of LA breastfeeding materials and messaging.
 - x. Counsel new mothers and promote WIC in the hospital or other healthcare settings.
 - xi. Conduct community outreach to promote the BF PC program.
 - xii. Additional clinic support as needed and as qualified to do.

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Effective December 1, 2016

Policy No. BF:04.0

Breastfeeding Training

Purpose

To ensure that breastfeeding (BF) is promoted and supported on a local agency (LA) level.

Authority

7 CFR Part 246.11

Policy

All WIC staff who provide direct clinic services to WIC participants shall receive initial and ongoing training on BF promotion and support.

Definition

Department of State Health Services (DSH) Trained BF Educator - a person who has successfully completed both *Principles of Lactation Management* (POLM) and *Lactation Counseling and Problem Solving* (LCPS) courses in the last five years. LCPS must be completed within 3 years of completing POLM.

Procedures

- I. All WIC staff who provide direct clinic services to WIC participants shall receive training on LA protocol regarding whom to contact to answer participant's questions on BF if beyond the staff person's expertise. This training shall utilize the Staff Referral Protocol document referenced in policy BF:01.0 and occur within one month of employment.
- II. All WIC staff who provide direct clinic services to WIC participants shall complete the Breastfeeding Promotion and Support Module within 6 months of employment with the exception of International

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Effective December 1, 2016

Policy No. BF:04.0

Board Certified Lactation Consultants (See policy TR: 3.0.0). The module can be accessed in the WIC catalog.

- III. All WIC staff who provide direct clinic services shall receive ongoing annual updates in BF, at least once every fiscal year. Examples include, local agency in-services, state agency BF trainings, and/or BF conferences.
- IV. The BF Coordinator and all WIC CAs shall receive training on breast pump issuance, inventory control, retrieval, basic troubleshooting, assembly, use, and cleaning within 6 months of employment and prior to issuing breast pumps to WIC participants. Any other WIC staff designated by the WIC Director or BF Coordinator to issue breast pumps shall receive the same training. WIC staff shall receive the training listed in Procedures I, II, and V prior to issuing breast pumps to WIC participants.
- V. Breast pump training shall be satisfied by successful completion of state agency-developed Texas WIC Breast Pump training. For more information on this training, contact the Texas WIC Breast Pump Coordinator.
- VI. The BF coordinator shall be an International Board Certified Lactation Consultant (IBCLC) or a DSHS Trained BF Educator (see definition).
 - A. If the BF coordinator does not meet the above training requirements prior to assuming the position, the individual has one calendar year from assuming the position to become trained.
 - B. The required training in procedure I, A must be repeated, or the certification renewed in the case of IBCLCs, every five years.
 - C. The BF Coordinator must also complete the state-developed Peer Counselor Train the Trainer Course within one year of employment.

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Effective December 1, 2016

Policy No. BF:04.0

VII. All CAs and WCSs (with the exception of IBCLCs) shall complete one of the following DSHS BF trainings within 12 months of employment and repeat this training no less than every five years:

- A. Principles of Lactation Management (POLM)
- B. Breastfeeding Management

To find the current BF training schedule and registration instructions go to <https://www.talwd.org/breastfeeding-courses>.

VIII. Any staff issuing or counseling moms on nipple shields must first complete training on issuance of nipple shields. For more information on the training, contact the Texas WIC Breastfeeding Training Coordinator.

- A. International Board Certified Lactation Consultants (IBCLCs) and the LA Designated Breastfeeding Expert (DBE), defined by GA:14.0, are the most appropriate staff and should be utilized first, and when available, to counsel and issue nipple shields to mothers who need them.
- B. Non-IBCLC and DBE staff can issue a nipple shield and provide follow up only if both actions are performed under the direction of an IBCLC. IBCLCs direction can be provided by utilizing tele consult services provided by the Houston and Dallas lactation support centers. Phone direction can be used as a last resort.
- C. When an IBCLC or the LA DBE is not available to counsel a mom who is using a nipple shield that was not issued by WIC, a PC or TBE can assist by assessing latch and milk transfer with the nipple shield then assisting the mom to breastfeed without the nipple shield, assessing latch and milk transfer.
 - 1. If the baby will latch without the nipple shield and successfully transfers milk, the mother should be followed up within 24 hours by a PC, TBE, IBCLC, Breastfeeding Coordinator or DBE.
 - 2. If the baby will not latch without the nipple shield but milk is successfully being transferred, the mom should be offered a

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consultation appointment with an IBCLC or a DBE if she would like assistance breastfeeding without the shield.

3. If the mom calls back to report trouble with latch or that she has gone back to using the nipple shield, she should be offered a consultation appointment with an IBCLC or a DBE.

- IX. PCs shall be trained in accordance with SA designated PC training materials prior to working with WIC participants and receive monthly in-services according to Policy BF:03.0.

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Effective June 1, 2022

Policy No. BF:05.0

Breast Pump Issuance

Purpose

To enable WIC breastfeeding mothers to initiate, maintain and increase the duration of breastfeeding.

Authority

7 CFR Part 246.14; USDA FNS Policy Memorandum, 99-WIC-73

Policy

Staff may issue manual, single-user, and multi-user breast pumps to WIC participants who are breastfeeding or providing breastmilk to an infant under one year of age when needed to manage breastfeeding and maintain milk supply. Staff must issue a breast pump at the time the need is identified and when the participant has not received an adequate pump from another source.

All staff who issue a breast pump must first complete breast pump training as outlined in **Policy BF:4.0**. Any WIC staff member may complete training to issue breast pumps. Clerical staff may only issue pumps in consultation with a Peer Counselor (PC), International Board Certified Lactation Consultant (IBCLC), Certifying Authority (CA), WIC Certification Specialist (WCS) or WIC director.

Local agencies must not implement breast pump policies that are more restrictive than the state agency (SA) policies.

Definitions

Manual breast pump – A non-electric breast pump that is not designed for multiple users and should only be used by one (1) person. Manual breast pumps allow women to express milk from one breast at a time.

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Policy No. BF:05.0

Single-user (SU) electric breast pump - An electric breast pump that is not designed for multiple users and should only be used by one (1) person. SU electric breast pumps typically allow women to express milk from both breasts at the same time.

Milk Collection Kit - A personal use milk collection kit provided with a loaned multi-user electric pump and should never be used by more than one (1) person.

Multi-user (MU) electric breast pump – A breast pump that is designed for mothers who need to establish their milk supply with a breast pump alone or with minimal breastfeeding by the infant. This pump may be used by more than one (1) person due to its closed-system design.

Procedures

I. Issuance

- A. When WIC staff identify that a participant needs a breast pump:
 - 1. Confirm that mother or infant is actively enrolled in WIC.
 - 2. Determine that the participant has not received an appropriate pump from another source.
 - a. A WIC participant who requests a breast pump must not be denied a pump if she does not have another source (e.g. health plan).
 - b. If the participant received a pump from another source, assess adequacy of that pump to meet the mother’s needs. If pump does not meet the participant’s needs, issue a WIC pump.
 - 3. Assess each participant’s individual needs to determine the appropriate type of pump.
 - 4. Educate the participant or proxy on the appropriate assembly, cleaning and use of the breast pump using the same model of pump that is being issued. If a video link is provided in lieu of in-person training, staff must follow-up with the participant by phone or video chat.

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Effective June 1, 2022

Policy No. BF:05.0

- B. WIC staff must not determine eligibility for or issue a breast pump to themselves, close friends, or relatives. The WIC staff member who is scheduled or has a family member scheduled for an appointment must make arrangements for another WIC employee to issue the breast pump. Refer to [Policy GA:20.0](#).

II. Reasons for Issuance

- A. The reason for pump issuance is not restricted by SA policy or by quantity of formula the breastfed infant receives. Document reason for issuance in the management information system (MIS).
 - 1. A manual breast pump can be issued for any reason. Some examples include but are not limited to:
 - a. Short-term breastfeeding concerns such as engorgement, flat or inverted nipples, oversupply, sleepy baby, or plugged duct.
 - b. Infrequent separation of mother and baby.
 - c. Mothers who would rather feed their expressed milk in a bottle while in public.
 - d. For any other reason as determined by the CA, WCS, PC, IBCLC, or WIC Director.
 - 2. A SU electric breast pump can be issued for any reason. Some examples include but are not limited to:
 - a. Routine or frequent separation of mother and baby, such as part-time or full-time return to work or school, brief infant or mother hospitalization, sharing custody of infant, or for any other reason that involves a mom or infant separation.
 - b. Mothers who need help maintaining their milk supply after establishing their supply with a MU electric breast pump.
 - c. Mothers who are having difficulty maintaining adequate milk supply due to infant or mother illness or need for maternal medications that are contraindicated with lactation.
 - d. Mothers who need an electric breast pump to establish their milk supply but who are participants at another local

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- or state agency or will be transferring to another local or state agency.
- e. For any other reason as determined by the CA, WCS, PC, IBCLC, or WIC Director
- 3. A MU electric breast pump can be issued for any reason. Some examples include but are not limited to:
 - a. Infants with compromised health such as prematurity, low birth weight, Down Syndrome, cardiac problems, cystic fibrosis, phenylketonuria (PKU), neurological impairment, or other reason.
 - b. Infants with physical or neurological impairment such as cleft lip or palate, tongue tie, uncoordinated suck/swallow pattern, weak suck, inability to suck, or inability to effectively latch-on to the breast.
 - c. Mother/infant separation due to hospitalization.
 - d. Mothers at risk for delayed lactogenesis II, such as mothers who had cesarean section delivery or conditions such as diabetes, obesity, hyperthyroidism, insufficient mammary glandular tissue, postpartum hemorrhage, ovarian cyst, polycystic ovarian syndrome, and history of breast surgery.
 - e. Relactation.
 - f. For any other reason as determined by the CA, WCS, PC, IBCLC, or WIC director.

III. Issuance

- A. Ensure participants read and sign the breast pump release agreement or loan contract in the MIS upon issuance of a breast pump. If a hard copy is signed, upload the copy into the MIS. If a participant cannot read, the release agreement or loan contract must be read to the participant. Provide the participant an electronic or hard copy of the release agreement or loan contract.
- B. WIC staff may issue a breast pump to a proxy, 16 years of age or older, if certain conditions identified in **Policy BF:07.0** are present.

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Effective June 1, 2022

Policy No. BF:05.0

- C. Issuing MU breast pumps
 - 1. Issue MU electric breast pumps for a maximum of two months at a time. Staff may grant loan extensions in person or by phone for up to two months at a time. Food benefits may be single-, double-, or triple-issued to WIC participants receiving MU pumps as determined by the CA, WCS, PC, IBCLC, or WIC Director.
 - 2. Approve loan extensions, upon request, to mothers of infants born prematurely (prior to 38 weeks gestation) until the infant reaches their original due date.
 - 3. Follow-up with mother at least once during the pump issuance, preferably within 24 hours. Document follow-up in the notes section of the participant page in MIS.
 - 4. Determine the mother's need for a milk collection kit. If the mother did not receive a collection kit in the hospital or received one that is not designed to work with the WIC breast pump, issue a collection kit.

 - D. Special circumstances
 - 1. WIC staff must not issue a SU pump to a participant who currently has a MU pump on loan from WIC. Staff may issue a SU pump to a participant after they return the MU pump if there is need.
 - 2. If a participant was previously issued a WIC SU pump and has a change in circumstance that warrants need for a MU electric breast pump, the LA IBCLC, Breastfeeding Coordinator, LA director or SA may authorize loan of the MU electric breast pump. Document reason for loan in the MIS.
- IV. Replacement of pumps
- A. WIC staff must not issue a replacement MU electric pump until a participant returns the broken or defective MU electric breast pump to the clinic. WIC staff must first troubleshoot the defective electric breast pump to determine why the pump is not working correctly before issuing a replacement.

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Effective June 1, 2022

Policy No. BF:05.0

- B. When a participant reports that their WIC-issued SU or manual pump is not working, first troubleshoot to attempt to determine why the pump is not working properly. If it is determined that the pump is defective, replace the breast pump and document replacement.
 - 1. For defective or broken SU pumps:
 - a. WIC staff must not issue a replacement SU electric pump until a participant returns the broken or defective SU electric breast pump to the clinic
 - b. Determine if the defective pump is under warranty and contact the manufacturer.
 - c. If not under warranty, follow local agency protocol for disposal.

- C. When a participant reports that her WIC-issued breast pump was stolen or lost in a fire, request a police or fire report prior to issuing another MU or SU electric pump.
 - 1. If a police or fire report is not available, evaluate the mother's needs. If appropriate, issue a single-user electric pump. Contact the SA for additional guidance, if needed.
 - 2. If a pump is lost or damaged in another type of disaster, for guidance refer to the State of Texas WIC Disaster Plan.

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Effective November 1, 2024

Policy No. BF:06.0

**Breast Pump Inventory Management and Multi-user (MU)
Breast Pump Retrieval**

Purpose

To ensure the local agency (LA) maintains a breast pump inventory for WIC participants to initiate, maintain and increase the duration of breastfeeding in special circumstances.

Authority

7 CFR Part 246.14; USDA FNS Memorandum 99-WIC-73

Policy

Local agencies must maintain a secure and continuous inventory of breast pumps and collection kits.

Local agencies must not implement breast pump policies that are more restrictive than the state agency (SA) policies.

Definitions

Manual breast pump – A non-electric breast pump that is designed to be used by one (1) person only. Manual breast pumps allow women to express milk from one breast at a time.

Lost or stolen breast pump inventory – A missing breast pump or collection kit that is not accounted for in the breast pump inventory documentation or a loan contract.

Milk Collection Kit - A personal use milk collection kit provided with a loaned MU pump and is designed to be used by one (1) person only.

MU breast pump – An electric breast pump that is designed for mothers who need to establish their milk supply with a breast pump alone or with minimal

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breastfeeding by the infant. This pump may be used by more than one (1) person due to its closed-system design.

Single-user (SU) electric breast pump - An electric breast pump that is designed to be used by one (1) person only. SU electric breast pumps typically allow women to express milk from both breasts at the same time.

Procedures

I. Inventory

- A. Store physical inventory of breast pumps, flanges and other accessories in a clean, locked space. As a best practice, avoid storing breast pumps directly on the ground.
- B. All full-time clinics, at minimum, must maintain a physical inventory of manual breast pumps, SU electric breast pumps, MU breast pumps and collection kits. If inventory is not stored at part-time or satellite clinics, then ensure participants have access to receive the appropriate pump and appropriate flange without the need for additional travel beyond their home clinic.
- C. Document inventory of manual breast pumps, SU electric breast pumps, MU breast pumps and collection kits that are received, transferred and/or issued in the management information system (MIS).
- D. Reconcile inventory in the MIS to physical breast pump and collection kit inventory at least once a month.

II. Lost or Stolen Breast Pump Inventory

- A. Notify the SA by email immediately upon discovery of lost or stolen breast pumps or collection kits.
- B. If it is determined that the breast pumps were stolen, notify the local police and obtain a copy of the police report. Email a copy of the report to the SA along with a description explaining the circumstances surrounding the theft and include a description of the procedures instituted to ensure that the loss or theft may not readily occur again.

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- C. If the breast pumps were lost, submit an email to SA explaining the circumstances surrounding the loss and include a description of the procedures instituted to ensure that the loss or theft may not readily occur again.
- D. The SA will conduct a review to determine if the cause was negligence. If negligence is determined, the LA will reimburse an amount calculated by the SA.

III. Return and Retrieval of MU Breast Pumps

- A. When a pump is returned to the clinic:
 - 1. Return the pump into the MIS inventory system.
 - 2. Check the pump case for all parts, plug the pump in to ensure it is in good working order. If the breast pump is damaged contact your LA's Breastfeeding Coordinator for guidance.
 - 3. Clean the pump motor casing with Cavicide or a similar cleaner. Do not use bleach or products containing phenol.
 - 4. Mark the pump as cleaned and ready for issuance in the MIS inventory system.
- B. Retrieval of overdue MU Breast Pumps
 - 1. Attempt to retrieve overdue MU pumps once per week over a four-week timeframe after the original or extended due date. An irretrievable MU must be recorded as failed collection within 6 weeks of the last assigned due date.
 - a. Document each attempt as a return recovery attempt on the participant page in MIS.
 - b. At least one of the four documented attempts must be in writing. The written attempt should be sent via certified mail and in the participant's preferred language. Maintain returned letter(s) by scanning and uploading into the participant's page in MIS or document in the MIS a non-response if the letter is not returned.
 - c. If the pump is not returned after four attempts, set the return status to failed collection. No further retrieval

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- attempts are required. A failed collection status meets the documentation and reporting requirements to the SA.
- i. Food benefits must not be denied to any active participant based on MU breast pump retrieval status.
 - ii. A breastfeeding mother with a failed collection status must not be denied a breast pump for future infants if eligible for a breast pump per Policy BF:05.0.
2. If the participant reports the MU was lost or stolen, document in MIS. No further attempts should be made to retrieve the pump.
- a. Do not lend the participant another MU pump unless a police report is provided. Police and fire reports must be scanned and uploaded into the participant page in MIS.
 - b. If a police or fire report cannot be obtained, staff must evaluate the mother's needs and if appropriate, issue a SU electric pump. Contact the SA for additional guidance, if needed.
 - c. If a participant with a loaned MU breast pump transfers to another LA, the LA that issued the pump is responsible for the retrieval process. If the participant returns the pump to their new LA, then the gaining agency must complete the return process of the pump.

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Effective June 1, 2021

Policy No. BF:07.0

Issuance of Breast Pumps to a Proxy

Purpose

To enable WIC participants to appoint a proxy to pick up a breast pump in special circumstances.

Authority

7 CFR Part 246.12; USDA FNS Memorandum 99-WIC-73

Policy

To support breastfeeding women, the Local Agency (LA) shall allow a proxy to pick up breast pumps for WIC participants in special circumstances.

Definitions

Proxy – any person 16 years of age or older designated by a WIC participant to obtain a breast pump.

Procedures

- I. A WIC participant can appoint a proxy, age 16 or older, to pick up a breast pump if all of the following conditions are present:
 - A. The WIC participant:
 1. Is currently enrolled in WIC
 2. Has delivered her infant(s)
 3. Is determined eligible for a pump
 - B. The WIC participant's situation must warrant immediate need for a pump (For example, infant is in the NICU and mother states she cannot pick up the pump from WIC).
- II. The WIC participant must designate a proxy in writing.

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- A. The written statement must name the proxy and be signed and dated by the WIC participant.
 - B. The written statement must be scanned and attached to the participant record in the MIS.
 - C. Individuals unable to write may make their mark in lieu of a signature on the written statement.
 - 1. LA staff may assist participants who cannot write with preparation of the written statement; however, another staff member must witness the preparation of the written statement. This option is more helpful to the family if completed at the clinic in advance of a future appointment when it is known that the participant or parent/guardian/caretaker will need a proxy.
 - 2. A third party other than LA staff may also assist the participant or parent/guardian/caretaker in preparation of the written statement. Examples of a third party include but are not limited to, family members and friends.
- III. The proxy must provide identification for himself/herself as well as the participant (refer to **Policy CS:05.0** for acceptable documents for identity). The participant's active enrollment must be verified.
- IV. The following steps must be taken to ensure completion of the *Multi-User Electric Breast Pump Loan Contract* or *Single-User Breast Pump Release Agreement* and to ensure adequate breast pump training.
- A. WIC staff must talk to the mom via the phone and determine that she meets the required conditions listed in Procedure I. A and B.
 - B. The proxy must sign the loan contract or release agreement. Staff must provide a printed or electronic copy to the mother. WIC staff must train the proxy before issuing the pump unless the mother can answer 'yes' to all three of the following questions and does not need additional breast pump training:

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1. Have you already used a milk collection kit for the (vendor name) electric breast pump in the hospital?
 2. Do you know how to take it apart, clean it, and put it back together?
 3. Have you received information about how to store and handle your pumped milk?
- C. If the mother cannot answer 'yes' to the above questions, then WIC staff must train the proxy before issuing the pump.
- D. If the mother cannot be reached, but the proxy has the appropriate documentation, then the WIC staff must have the proxy read each statement on the Multi-User Electric Breast Pump Loan Contract or Single-User Breast Pump Release Agreement. The proxy must acknowledge contract obligations by signing and dating on behalf of the participant.

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Effective November 1, 2007

Policy No. BF:08.0

Tracking Born-to-WIC Breastfeeding Rates

Purpose

To ensure that born-to-WIC (BTW) breastfeeding (BF) rates are tracked on a local agency (LA) level.

Authority

7 CFR §246.11

Policy

All local agencies are required to track BTW BF rates on a monthly basis to assess the positive impact the clinic has made on the decision to breastfeed by identifying an increase in breastfeeding rates among mothers encouraged through the WIC program.

Definitions

BTW BF Rate – a measure that represents the percent of certified infants whose mothers were participants in the program during pregnancy and initiated breastfeeding any time, including mothers who provided expressed breast milk to the infant on one or more occasions.

Monthly Participation BTW BF Report – a report of monthly performance available on the WIN System performance measure report, which LA's run on a monthly basis. This BF report is useful for revealing increases in BF rates after new BF initiatives have been put in place.

Total Enrollment BTW BF Report – a report on BTW BF infants based on the number of clients enrolled, rather than on monthly participation useful for showing trends in BF rates, including racial/ethnic breakdown, and includes BF rates for all LAs.

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Effective November 1, 2007

Policy No. BF:08.0

Procedures

- I. WIC Directors and Breastfeeding Coordinators shall review BTW BF rates by reviewing monthly participation and total enrollment BTW rates
- II. Monthly participation BTW rates are available on the WIN System performance measure report. These reports shall be kept on file for audit or review.
- III. Total enrollment BTW BF rates shall be tracked by the WIC Director or Breastfeeding Coordinator by updating an electronic or hand-written chart of rates on a quarterly basis, at minimum.
 - A. Use the BTW BF Rate reports posted at <https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-breastfeeding> to track total enrollment rates. Reports are posted to the web page on a monthly basis with approximately a one-month lag time. (i.e., June will typically be posted by the end of July.) Pull the numbers for your agency off of this report and put them in your own Agency tracking chart to compare quarter-to-quarter progress.
 - B. The tracking chart shall be kept on file for audit or review.
- IV. All WIC staff shall record the "date ended BF" field on the Infant Participant Form (WIC-36) as follows:
 - A. If the infant was never breastfed, enter the infant's date of birth.
 - B. If the infant was breastfed only on the first day, enter one day after the date of birth.
 - C. If the infant was breastfed for two or more days, enter the last day the infant was breastfed.

Guideline

All WIC agencies should strive to meet or exceed the Healthy People 2020 goal of at least 82% of women initiating breastfeeding.

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Effective November 1, 2016

Policy No. BF:09.0

Worksite Lactation Support for Employees

Purpose

To implement breastfeeding best practice policies to support WIC employees.

Authority

State Agency

Policy

WIC agencies shall be DSHS Mother-Friendly Worksite designated and maintain current designation at all times through the re-designation process.

Procedures

- I. The local agency (LA) shall become designated as a DSHS Mother-Friendly Worksite (MFW) by utilizing the online application process found at www.texasmotherfriendly.org.
- II. The LA shall maintain MFW-designation by following DSHS MFW re-designation procedures found at www.texasmotherfriendly.org.
- III. New LAs will have one year to become designated from the date of their initial WIC contract.

Guidelines

Information and requirements to become a Mother Friendly worksite may be found at: www.texasmotherfriendly.org

CR - Civil Rights

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Effective June 1, 2021

Policy No. CR:01.0

Rights and Responsibilities of Applicants/Participants

Purpose

To ensure that the participant or parent/guardian/caretaker clearly understands the rights and responsibilities of a WIC participant and that an ineligible applicant or parent/guardian/caretaker of an ineligible applicant clearly understands the rights of a WIC applicant. To legally document notice of eligibility, release of client information and compliance with the National Voter Registration Act (NVA) of 1993.

Authority

7 CFR Part 246.7

Policy

At each certification the local agency (LA) staff must have the participant or parent/guardian/caretaker read, or have read to her/him, the Rights and Responsibilities of participants in the WIC Program, provide program information and the opportunity to register to vote.

Procedures

I. Rights and Responsibilities

At each certification, LA staff must have the participant or parent/guardian/caretaker of a participant read or have read to her/him, the Rights and Responsibilities Section in the MIS. Non-English-speaking applicants/participants or parents/guardians/caretakers must be provided the statements verbally or in writing in a language that is understood. Interpreters must be made available as needed.

- A. Opportunity To Register to Vote – Refer to [GA:19.0 Compliance with the National Voter Registration Act of 1993](#).

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- B. Shared WIC Participant Information – the Health and Human Services has authorized the release of participant information to the following programs:
 - 1. Texas Center for Birth Defects Research and Prevention
 - 2. DSHS Health Service Regions
 - 3. Texas Department of Agriculture
 - C. Rights – This section includes information about nutrition education, referrals, transfers, equal opportunity, fair hearing, privacy notification and the right to be treated with courtesy.
 - D. Responsibilities – this section includes information about using WIC food benefits, keeping benefits safe, accountability, treating WIC and store staff with respect and the preferred method of contact.
 - E. Required Signature Statement – Participants or parents/guardians/caretakers must electronically sign the form certifying that all the information provided is correct and they have been advised of their Rights and Responsibilities.
 - 1. The participant or parent guardian/caretaker must sign electronically attesting that she/he has been informed and agrees to this information.
 - 2. Initials shall not be used unless initials constitute the individual’s official signature.
- II. At the applicant’s or parent/guardian/caretaker’s initial certification, the LA staff must provide the *Your Guide to Texas WIC* booklet, (stock #13-3). The booklet may also be provided at subsequent visits as needed. Only one booklet is required as long as the family is on WIC, even when there is a break in service.

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- III. At each certification, LA staff must provide the participant or parent/guardian/caretaker the *Texas WIC Program: Your Rights and Responsibilities* card (stock # 13-06-14207/13-06-14207a). This card is separate from the Rights and Responsibilities in the MIS and includes important information for former military service members.

- IV. The parent/guardian must attend the initial certification appointment and sign the Rights and Responsibilities or electronically sign during a remote certification process.
 - A. Under extreme and unusual circumstances, parent/guardian may designate an authorized adult to complete the certification (e.g., parent/guardian is in the hospital, working parent not able to attend appointment).
 - 1. The authorized adult must provide a signed note from the parent/guardian stating they are attending the WIC appointment in place of the parent/guardian. The authorized adult must provide all documents and information required for income screening and nutrition assessment.
 - 2. Staff must scan and upload the note to the Family Page in the MIS. Documents obtained via electronic transmission are automatically saved in the MIS.

 - B. For more information, refer to [FD:03.0 \(T\) - Designated Recipients of Benefits](#) and [CR:07.0 \(T\) - Provision of Services to Families with Special Health Care Needs](#).

- V. If a change in custody has occurred during a certification period, the new guardian must complete and sign a new Rights and Responsibilities in the MIS.
 - A. Income must be reassessed unless there are 90 days or less before the expiration of the certification period.

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- B. For foster children, refer to [CS:11.0 \(T\) - Certification of Foster Children](#).
- C. WIC staff must provide *Your Guide to Texas WIC* booklet and/or the *Texas WIC Program: Your Rights and Responsibilities* card if new guardian has never received either one.

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Effective December 13, 2024

Policy No. CR:03.0

Fair Hearing Procedure for Applicants/Participants

Purpose

To ensure that any individual may appeal a state agency (SA) or local agency (LA) action which results in the individual's denial of participation, suspension, a claim against the individual for repayment of the cash value of improperly issued benefits, or termination from the program for any reason; and to ensure any individual has the opportunity to request and be afforded a fair hearing.

Authority

7 CFR Part 246.9; 26 TAC Section 366.15

Policy

The LA shall refer to the SA any individual who wishes to appeal a SA or LA action which results in the individual's denial of participation, suspension, disqualification, a claim against the individual for repayment of the cash value of improperly issued benefits, or termination in the program.

Procedures

- I. The LA shall make every effort to assist an individual when that individual wishes to request a Fair Hearing. Within 60 days following the date of denial of participation, suspension, a claim against an individual for improperly issued benefits, or termination from the program, an individual may make an oral or written request for a "Fair Hearing." The request shall be addressed to:

Director, WIC Program
Department of Health and Human Services
P.O. Box 149347 Mail code 1933
Austin, Texas 78714-9347
Toll-free 1-800-942-3678 or
email: wicgeneral@hhsc.state.tx.us

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- II. Participants who are to be terminated during a certification period and who appeal within 15 days after notification of termination, shall continue to receive program benefits until a hearing decision is reached or the certification period ends, whichever occurs first. An appeal after the 15-day time limit shall not result in continued benefits.
 - III. Applicants who are denied benefits at the initial or subsequent certification may appeal the denial but shall not receive benefits pending the hearing decision.
 - IV. If the decision is in favor of the appellant and benefits were denied or discontinued, benefits shall begin immediately.
 - V. If the decision concerns disqualification from the program, and is in favor of the agency, as soon as administratively feasible, the LA shall terminate any continued benefits.
 - VI. If the decision regarding repayment of benefits by the appellant is in favor of the agency, the SA or LA shall resume its efforts to collect the claim.
 - VII. The procedures the SA shall follow are:
 - A. The hearing shall be scheduled within three weeks from the date the request is received. The State shall provide appellant with a minimum of ten days advance written notice of the time and place of the hearing and shall enclose an explanation of the hearing procedure with the notice.
 - B. The convenience of the applicant/participant shall be of prime consideration in the selection of the time and place of the hearing.
 - C. An impartial hearing official, who did not participate in making the decision under appeal, shall be designated.
 - D. The person appealing may be represented by an attorney or other person and shall have the opportunity to examine, prior to or

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- during the hearing, the documents and records presented in support of the decision under appeal.
- E. During the hearing, the person shall have the opportunity to question or refute any testimony or other evidence and to confront and cross-examine any witnesses.
 - F. The decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing.
 - G. The person appealing, and any designated representative shall be notified in writing of the hearing official's decision within 45 days from date of the request for the hearing.

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Effective June 1, 2002

Policy No. CR:06.0

Provision of Services to Individuals with Disabilities

Purpose

To ensure that persons/applicants/participants with disabilities are not excluded from participating in the WIC Program and to optimize the provision of program information and nutrition education to individuals with disabilities.

Authority

7 CFR Part 15; Section 504 of the Rehabilitation Act of 1973; Americans With Disabilities Act of 1990 (ADA)

Policy

Each local agency (LA) shall make provisions to screen applicants with disabilities and provide all WIC services to all participants with disabilities. Program or nutrition education (NE) information is to be provided to persons with disabilities in the format they request in as timely a manner as possible, to include providing qualified interpreters for persons who are hearing impaired.

Definitions

Person with disabilities: any person who has a physical or mental impairment that substantially limits one or more life activities, has a record of such an impairment, or is regarded as having such an impairment.

Procedures

- I. Each LA shall conduct a self evaluation of program accessibility for each clinic utilizing the state agency's (SA) 504 Checklist. This checklist shall be maintained on file for three years. Once evaluated, there is no requirement for a reevaluation. New clinic sites, including

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those that relocated within the same building, shall have to be evaluated as they are opened. Each LA employing 15 or more WIC employees shall have at all times an employee designated as the 504 coordinator.

- II. If any clinic sites are not accessible to persons/applicants/participants with disabilities, a written local policy shall be developed that describes how services shall be provided to the disabled. These alternative service provisions may include but are not limited to: service at other clinic sites, in other accessible locations within the same clinic or by home visits. In choosing among available methods, the LA shall give priority to those methods that offer programs and activities to qualified disabled persons in the most integrated setting appropriate to obtain the full benefits of the programs.

- III. Some examples of physical or mental impairment are such conditions as: orthopedic, visual, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; drug addition and alcoholism. As such, the local policy shall be flexible enough to cover all types of disabilities and to allow reasonable accommodations. Examples of reasonable accommodations include: provision of interpreters for the deaf, readers or braille for individuals who are visually impaired, and other special learning equipment. These are all allowable costs and any questions shall be directed to the SA.

- IV. The intent of the Americans with Disabilities Act and Section 504 is for people with disabilities to receive information in the form they prefer. The LA shall provide nutrition education or other program information in the format preferred by the person making the request.
 - A. Examples of formats preferred by persons with disabilities include large print, audio tapes, captioned videos, Braille text, etc. This information shall be provided quickly, particularly because of the crucial need within a short timeframe for

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providing nutrition education to the pregnant person. There are some exceptions:

1. Same Information in Alternate Form: For example, a person who is hearing impaired may request that a nutrition education lesson on videotape be electronically captioned. If the same information content is available in another form, such as in a pamphlet, it may fulfill the request if the disabled person freely agrees to accept it.
 2. Undue Hardship: If it may be demonstrated that providing information in a particular format would impose an undue hardship, it need not be provided in that form. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation. Therefore, the Texas Department of Health (TDH), as a governmental entity of the State of Texas, is obliged in almost all circumstances to honor requests for accessible materials. Inconvenience or moderate difficulty or expense is not sufficient reason for failing to provide nutrition education or other information in the form desired by the disabled person requesting it.
- B. Contact the SA's Nutrition Education and Clinic Services Unit for approval to deny a request based on undue hardship.
- V. If alternative materials are requested by a disabled applicant or participant:
- A. It is preferable that such requests be fulfilled at the LA level. If this cannot be accomplished at the local level, or would unduly delay fulfillment of the request, the LA shall contact the SA for assistance.
 - B. The LA shall contact the SA for assistance within one business day of a request for a specialized accommodation of the requirements for a participant with disabilities. If the LA identifies the same need or request from several participants,

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the SA shall be notified that more than one client has such a need in order to facilitate production of specialized materials.

- VI. All LA staff shall be familiar with the use of "Relay Texas," a statewide telecommunications relay center operated out of Austin for the hearing-impaired. See Guidelines for more information.

- VII. Qualified interpreters for persons with hearing impairments shall be provided by the LA when requested by a person who is hearing impaired. Do not require the client to provide his/her own interpreter; however, a client may voluntarily choose to bring a friend or family member to interpret if the client prefers to do so.
 - A. TDH has an interagency contract with the Texas Commission for the Deaf for interpreter services for hearing impaired individuals. SA will pay for interpreter services for hearing impaired individuals who are receiving TDH services.
 - B. LAs shall need to call the local Council for the Deaf approximately 72 hours prior to the time when needed for preapproval of the service and to arrange the meeting time and location. The Council shall take care of the billing. LA staff shall be asked to sign a reporting sheet which shall verify the time used, the location, and the name of the program requesting the service.
 - C. Level III, IV, and V interpreters have the training to understand complex terminology and can reverse interpret properly, which is of major importance in interpreting for clinical/medical situations.
 - D. All interpreters shall comply with the regulations on confidentiality.

- VIII. An individual with disabilities has the right to choose to participate by use of the regular WIC methods for delivery of nutrition education and program information even when special materials are available.

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Guidelines

- I. While both the SA and LA shall anticipate that such requests will arise, they shall respond to requests only as they arise. There is no need to produce nutrition education materials or other information in all possible formats in advance simply because the possibility exists that there may be requests in the future.

- II. Requests shall be handled in the simplest and most economical manner acceptable to the person making the request. For example, photocopying an existing brochure at a magnified scale to produce a large print document is a reasonable response. Recording the contents of a written lesson onto an audio cassette is also proper, if acceptable. Hiring an interpreter to sign the soundtrack of a video lesson to a hearing-impaired person is another example.

- III. Use of Relay Texas: This relay service uses a third-party operator who transmits messages back and forth between an individual who uses a TDD (a telecommunications device for the deaf) and another person who uses a regular telephone. A TDD uses typewriter-like equipment to produce and transmit typed text that may be received on another TDD machine.
 - A. To access Relay Texas call: 1-800-735-2989 (TDD)
1-800-735-2988 (voice)
 - B. There are no fees for using the relay service within your local calling area. Long distance calls made within Texas shall be billed at approximately a 50% reduction to allow for the additional time required to place a call through the relay process.
 - C. Calls are private, no record is kept of the contents of the conversation, and no information is shared with other people with the exception of any call involving suspected child abuse, elderly abuse, or disabled abuse which the Relay operator shall, by State law, report to the Department of Protective and Regulatory Services.

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Effective December 1, 2011

Policy: CR: 07.0

**Provision of Services to Families with Special
Health Care Needs**

Purpose

To eliminate barriers to WIC services for families with special health care needs (FSHCN) and ensure nutrition education bears a practical relationship to the nutritional needs of the participant.

Authority

7 CRF Part 246.8, 246.117

Policy

Each local agency (LA) shall make accommodations and provide services for FSHCN.

Definitions

Individuals with special health care needs have conditions referred to as medically complex, medically fragile or severely disabled.

Medically Complex-Individuals with a serious, ongoing illness or a chronic condition that has lasted or is anticipated to last at least twelve or more months and requires daily, ongoing medical treatments and monitoring by appropriately trained personnel (which may include parents or other family members) and requires access to a complex array of services.

Medically Fragile-Individuals who have a serious, ongoing illness or a chronic condition that has lasted or is anticipated to last at least twelve or more months or has required at least one month of hospitalization, and requires daily, ongoing medical treatments and monitoring by appropriately trained personnel (which may include parents or other family members). Their care requires the routine use of a medical device or assistive technology to compensate for the loss of usefulness of a body function needed to participate in activities of daily living. These individuals live with an ongoing threat to their continued well being.

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Effective December 1, 2011

Policy: CR: 07.0

Severe disabilities with special health care needs- A person with severe disabilities requires or has the potential to require the individual and/or their family/caregivers (in relationship to the individual's care) to access a complex array of services from public/private service providers in order to achieve optimal care for the individual. The access/coordination of these services may exceed the immediate capabilities of the family/caregivers. The services are anticipated to be lifelong or of extended duration and require individualized planning and coordination.

Families with special health care needs (FSHCN) have a family member who is a(n):

- A. Infant or child ranging in age from birth to age 21, who has:
 1. A health condition that has a biologic, psychological, and/or cognitive basis which has lasted or is virtually certain to last for at least a year; or
 2. A condition(s) which results in limitation of function, activities, or social roles in comparison with healthy age peers in the general areas of physical, cognitive, emotional, and social growth and development; or
 3. A need for medical care and related services, psychological services, or educational services over and above the usual for the child's age.
- B. Pregnant, breastfeeding or postpartum WIC participant with an acute or chronic medical condition that affects her ability to participate in WIC activities; or
- C. Primary caregiver with a special health care need: this person is not a WIC participant, but is a parent or guardian of someone enrolled in WIC. Due to their medical condition this person is unable to participate in WIC program activities; or
- D. Another family member with special health care needs. This person may be an older sibling, grandparent, etc. whose medical condition prevents the family from participating in WIC activities. For example, a family member with Alzheimer's disease who needs constant supervision and should not be left unattended while a mother takes her child to the WIC clinic.

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Effective December 1, 2011

Policy: CR: 07.0

Procedures

- I. When FSHCN are identified, the family shall be considered as a unit and accommodations made accordingly. To determine the length of the physical presence waiver and documentation of physical presence, refer to Policy CS: 04.0 (see Procedure IV).

- II. When a parent/guardian/caregiver or participant is unable to be physically present, another adult may be authorized to provide the required certification documents and be the food benefit recipient. For an initial certification the authorized adult may choose a PIN for the WIC Lone Star card or for a sub-certification, the authorized adult shall come with an existing card and PIN. The authorized adult must provide the following:
 - A. A signed note from the parent/guardian/caregiver or participant informing the WIC program of the circumstances affecting their inability to be physically present in the clinic and the name of the person authorized to be the food benefit recipient (spouses do not need to bring a note);
 - B. Identification for himself/herself;
 - C. A completed WIC Income Questionnaire (WIC 35-3) and documents required for income screening signed by the parent/guardian/caregiver or participant.

- III. FSHCN shall be offered special accommodations to include:
 - A. Obtaining medical information from participant's health care provider (HCP):

Medical information including hematocrit or hemoglobin, height, weight, medical history, and/or dietary prescription can be provided by the HCP either verbally or in writing (e.g., fax, email) for certification purposes. (Refer to Policy CS: 17.0).
 - B. When Medical Information is not available at the time of certification:
 1. Waive the medical information and issue one month of benefits. The local agency shall obtain medical information from the HCP prior to next benefit issuance and file the information in the participant's record.

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Policy: CR: 07.0

2. When medical information is waived, the code "999 lbs/0 ounces" for weight and "99 0/8 inches" for length/height and 99.0 for hemoglobin or 99 for hematocrit shall be entered in the Texas WIN system to indicate that measurements cannot be obtained by the HCP.
- C. When Medical Information is not available and cannot be obtained due to the participant's medical condition (e.g. contractures, medically complex or fragile and/or severe disability), written verification shall be obtained from the HCP indicating that the participant is under their ongoing medical care. Medical information is waived for the certification period. Refer to III. B.2 when medical information is waived.
- D. Offering coordination with social service agencies to provide transportation to, and shopping assistance at WIC vendors.
- E. Offering participants who receive nutrition counseling from an outside source the opportunity to schedule benefit pick up when benefits may be issued most expeditiously and when it is most convenient for them.
- F. Providing relevant nutrition education (NE) by the most appropriate method(s), as determined by the CA:
 1. Give the participant/guardian/caregiver the option of attending an NE class, completing an online lesson or a self-paced lesson. If the participant/guardian/caretaker refuses NE, enter NE code (SN-000-00) to exclude these participants from the performance measures count (refer to Policy NE: 01.0).
 2. Provide individual counseling by a staff registered dietitian (RD) knowledgeable in the area of special needs. Counseling may be provided in the office, by telephone, home visits or hospital visits. LAs are encouraged to be flexible in scheduling services to meet the family needs (i.e., scheduling appointments during off peak hours when feasible).
 3. Substitute nutrition education for counseling provided by a qualified outside source (i.e., Registered Dietitian (RD), Licensed Dietitian (LD), or gastroenterologist to serve as a

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nutrition education contact (refer to Policy NE: 02.0).
Document this contact with NE code SN-000-50.

4. Refer the participant for individual counseling to a qualified outside source.

G. Referral shall be made to appropriate health and social service programs for which the participant may be eligible, (e.g., Medicaid, ECI, SSI, etc.)

IV. Document in the participant's record:

- A. Medical information taken verbally from the child's medical provider;
- B. The special health care needs of the family verbally provided by the participant. A statement from the physician is not required;
- C. Special accommodations/referrals that have been made and/or offered; and
- D. Name and credentials of the qualified outside source that is providing nutrition counseling, if applicable. This information may be taken verbally from the participant.

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Effective September 1, 2019

Policy No. CR:08.0

Civil Rights Training

Purpose

To ensure that local agency (LA) staff who come in contact with WIC applicants/participants are knowledgeable in the area of civil rights and that content of civil right training is in accordance with federal regulations.

Authority

USDA FNS Instruction 113-1 and its Appendix D Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and WIC Farmers' Market Nutrition Program (FMNP).

Policy

LA employees shall receive civil rights training in appropriate time frames on specific content points.

Procedures

- I. All new agency employees who come in contact with WIC applicants/participants, including those employees paid by WIC (temporary, part-time, full-time, and volunteers) and those employees not paid by WIC who work more than two hours per week for WIC, shall receive civil rights training within 30 days after employment start date, and then on an annual basis.
- II. Staff such as agency administrators, janitors, etc. who do not come in contact with WIC applicants/participants are not required to receive civil rights training. All other existing staff shall receive civil rights training on an annual basis.

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Effective September 1, 2019

Policy No. CR:08.0

- III. Civil rights training shall contain at a minimum the following WIC specific information:
- A. public notification and outreach procedures: See **Policies: CR:01.0, CR:02.0, CR:10.0;**
 - B. racial/ethnic data collection and reporting: See **Policy CR:09.0;**
 - C. complaint handling procedures: See **Policies: CR:03.0, CR:05.0;**
 - D. compliance review requirements: See **Policy CR:04.0;**
 - E. provisions for applicants/participants with special needs on accommodations: See **Policies: CR:06.0, CR:07.0;**
 - F. resolution of noncompliance;
 - G. requirements for language assistance: See **Policy CR:10.0;**
 - H. conflict resolution; and
 - I. customer service.

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Effective September 1, 2019

Policy No. CR:09.0

Collection of Race and Ethnicity Data

Purpose

To ensure that race and ethnicity data is collected to be used by Food and Nutrition Service (FNS) to determine how effectively the Program is reaching minority groups and identify areas where additional outreach is needed. The state agency (SA) shall make use of such data for its internal civil rights monitoring.

Authority

USDA FNS Instructions 113-1 and its Appendix D; 7 CFR Part 246.8

Policy

The local agency (LA) staff shall, at the time of initial certification, collect the race and ethnicity category for each participant on the Program.

Procedures

- I. LAs shall ensure that actual participation data by category of women, infants and children and by race and ethnicity category is collected and entered into the participant page of the Management Information System.
- II. Ethnicity shall be collected first. Participants shall be recorded/reported in only one ethnic category, "Hispanic or Latino" and "Not Hispanic or Latino". See guidelines for definition of each category.
- III. Participants may be reported in one or more racial categories, including:
1) American Indian or Alaska Native, 2) Asian, 3) Black or African American, 4) Native Hawaiian or Other Pacific Islander and 5) White.
See guidelines for definition of each category.

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Effective September 1, 2019

Policy No. CR:09.0

- IV. Self-identification by the participant at the time of initial certification is the preferred method of obtaining data. Participants shall be asked to self-identify their ethnicity and racial group only after it has been explained, and they understand, that the collection of this information is strictly for statistical reporting requirements and has no effect on the determination of their eligibility to participate in the program.
- V. If a participant chooses not to self-identify her/his ethnicity and/or racial group, the LA shall inform the applicant that a visual identification by an LA staff member must be used to determine the participant's racial and ethnicity categories. Selection of one race is acceptable when local agency staff performs visual identification.
- VI. Analysis of this data will be used by the United States Department of Agriculture (USDA) and the SA to monitor compliance with Federal civil rights laws, determine how effectively the Program is reaching minority groups, and identify areas where additional outreach is needed.

Guidelines

When assisting individuals with self-identifying their ethnic and racial categories, or performing a visual identification, the following information is used:

- I. ***Ethnicity: Hispanic or Latino.*** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic or Latino."

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Policy No. CR:09.0

II. **Race:**

American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachments.

Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American. A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White. A person having origins in any of the original peoples of Europe, Middle East, or North Africa.

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Effective September 1, 2023

Policy No. CR:10.0

**Providing Oral and Written Program Information to
Non-English or Limited English Speaking Persons**

Purpose

To ensure that non-English speaking or limited-English speaking persons or parents/caretakers understand WIC Program services and are not discriminated against because they do not speak and/or read English.

Authority

7 CFR Part 246.7, 246.8

Policy

Where a significant proportion of the population of the area served by a local agency (LA) is composed of non-English or limited-English speaking persons who speak the same language, LA must ensure that required WIC services are provided to such persons in the appropriate language orally and/or in writing.

Procedures

- I. At the time the appointment is made and there is an indication that interpreter services may be needed, LA staff must ask if interpreter services will be needed and arrange for an interpreter.
- II. The LA must ensure that there are bilingual staff members or interpreters available to serve non-English speaking and/or limited-English speaking persons.
 - A. Under no circumstances shall the LA staff ask or require another applicant or participant to interpret for a client.
 - B. Under no circumstances shall the LA staff allow a child, defined for purposes of this policy as a person under age 16, to interpret for a client.

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Effective September 1, 2023

Policy No. CR:10.0

- C. Clients may choose to bring a friend or family member, age 16 or older, to interpret for them; however, under no circumstances shall a client be required to do so.
- III. The LA must ensure that all applicable rights and responsibilities are read to non-English/non-Spanish speaking and limited-English/limited-Spanish speaking WIC participants or parents/caretakers of applicants/participants in the appropriate language.
- IV. LA-developed program materials must be written in Spanish when LAs serve a significant proportion of the population that is Spanish speaking.

Guidelines

- I. In some cases, the LA may serve a number of persons possessing little or no ability to speak either English or Spanish. Upon request by the LA, the SA must attempt either to assist the LA in developing program materials suitable to such a population or refer the LA to other sources of assistance such as Language Line Services, local translator and interpreter associations, local churches and refugee resettlement organizations.
- II. Language Line Services may be accessed through the toll-free number 1-800-367-9559, enter client ID: 504020, access code: includes three digits for the LA and two digits for the clinic site, e.g., 00102.
- III. If staff experience problems accessing an interpreting session, contact: InSight Technical Support **844.373.1951**.

To share a concern, commendation, comment, or question: Submit a Voice of the Customer (VOC) to Language Line, at www.languageline.com and mouse over Client Resources, click on Voice of the Customer.

CS - Certification

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Effective August 1, 2003

Policy No. CS:01.0

Eligibility Criteria For Program Participation

Purpose

To ensure Program benefits for those applicants in need.

Authority

7 CFR Part 246.7; 25 TAC Section 31.22

Policy

To be eligible for participation in WIC, applicants shall meet specific criteria defined by federal regulations, state agency (SA) policy and rules.

Procedures

- I. Individuals shall meet the following categorical criteria to be eligible for participation in WIC:
 - A. Women shall be either pregnant, or within six months postpartum if not breastfeeding, or within one year postpartum if breastfeeding. Proof of abortion, miscarriage, neonatal death or pregnancy is not a requirement for certification.
 - B. Children shall be younger than 5 years of age. Written proof is not required.
- II. Applicants shall meet the requirements for residence as defined in **Policy CS:06.0**.
- III. Applicants shall not exceed the income standards defined in **Policies: CS:07.0, CS:08.0, CS:09.0**.
- IV. Applicants shall have one or more nutritional risk conditions as defined in **Policy CS:18.0**.

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Effective August 1, 2003

Policy No. CS:01.0

- V. Applicants shall be physically present at each WIC certification or qualify for an exception as defined in **Policies: CS:4.0, CR:07.0**.
- VI. If the applicant meets all the above-referenced criteria for eligibility, she/he may be certified and enrolled in the Program, regardless of citizenship status, as long as there is a caseload opening. Citizenship is not required for program eligibility.
- VII. Local agencies (LAs) shall not limit WIC participation nor deny WIC participants because a WIC applicant or participant does not wish to partake of available health services. For example, LA cannot require a child to be screened in the LA's well child clinic in order to get WIC benefits.

Texas WIC Health and Human Services Commission

Effective August 1, 2009

Policy No. CS:02.0

Timeframes for Processing Applicants

Purpose

To provide program benefits expediently to individuals in nutritional need.

Authority

7 CFR Part 246.7 (f) (2) (ii)

Policy

The local agency (LA) shall process applicants within specific time frames.

Definitions

Processing means screening, determining (in)eligibility, notifying applicants of their (in)eligibility or placement on a waiting list, and/or issuing food instruments to eligible applicants.

Migrant farm worker means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes, for the purpose of such employment, a temporary abode.

Procedures

- I. At initial certification, applicants shall be processed within the following time frames:
 - A. Pregnant women, infants under six months, and members of migrant household who state they shall be leaving the LA's service area within 30 days, shall be processed within 10 calendar days of the date they first request program benefits. (Under certain circumstances, the state agency (SA) shall

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Effective August 1, 2009

Policy No. CS:02.0

- consider extending the 10-day processing time frame to a maximum of 15 calendar days. LAs shall submit, for SA approval, a written request with sufficient justification for an extension.)
- B. All other applicants shall be processed within 20 calendar days of the date they first request program benefits.
- II. The processing time frame begins when the individual visits the LA during clinic/office hours to make an oral or written request for program benefits. This date shall be the "Date of First Visit" in person on the Quick Intake Screen of the Texas WIC Information Network (WIN) system.
- A. If client visits the clinic in person to request an appointment, check "Y" on the Quick Intake Screen.
 - B. If client phones for an appointment, check "N" on the Quick Intake Screen.
- III. Accurate records of the "Date of First Visit" in person shall be kept.
- A. If the LA is unable to make appointments in the computer at the time requested, Form WIC-37, Quick Intake/In-State Transfer Form, shall be completed. The LA shall enter into the computer the date the appointment was made.
 - B. A LA may elect to develop its own written local policy on the procedure that shall be used to document the "Date of First Visit." The policy shall be specific and be kept for audit/review.
 - C. When an appointment is offered within the appropriate timeframe but the applicant cannot make the appointment, the local agency shall document the offer in the record.
- IV. The WIN system will automatically document the date services were scheduled for subsequent certifications; however, the LA shall note exceptions to the required processing timeframes on the participant's shopping list.

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Effective August 1, 2009

Policy No. CS:02.0

Appointments for subsequent certification shall be on or before the certification expiration date of the current certification period.

- A. When an appointment is made after the certification expiration date of the current certification period, the LA shall document the reason why this occurred on the Shopping List retained in the clinic.
 - B. Acceptable reasons for making an appointment for subsequent certification past the certification expiration date of the current certification period include, but are not limited to, requests by clients.
- V. Unless the participant has already received benefits for the month, the LA shall issue benefits to participants at the same time they are notified of their eligibility. If eligibility is determined while the participant is at the LA, the participant shall be notified and issued benefits at that time.

Guidelines

- I. Refer to the Texas WIN Reference Manual for instructions on using the Quick Intake Screen.
- II. Although policy addresses requirements for visits in person, the expectation is that appointments will be made within established timeframes for telephone requests as well.

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Effective November 1, 2022

Policy No. CS:03.0

Management of Information Appointment System

Purpose

To ensure the MIS appointment system is used to document each individual and family appointment so that clients receive the full benefit of the WIC program. This includes making the next appointment after benefit issuance if one is not already scheduled.

To ensure potentially eligible pregnant clients who miss a certification appointment are offered an opportunity to reschedule.

Authority

7 CFR Part 246.7 (b) (5)

Policy

The LA must utilize the MIS to record applicant appointment information.

Procedures

- I. LAs must schedule individuals'/families' next appointment in the MIS after each benefit issuance, unless already scheduled.
- II. LA staff must contact each pregnant woman who misses her first certification appointment for the current pregnancy - if the preferred method of contact is phone or mail - to reschedule the appointment for participation in the WIC Program. If the preferred method is SMS or email, the MIS will automatically send a missed appointment notification.

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Effective December 13, 2024

Policy No. CS:04.0

Physical Presence

Purpose

The physical presence of an individual at certification is standard to WIC Program efficacy. The physical presence requirement not only improves program efficacy, program accountability and integrity, it also facilitates the referral process to other needed health and social services.

Authority

7 CFR Part 246.7 (o); 26 TAC Section 366.3

Policy

Individuals seeking participation in the WIC Program must be physically present at the initial WIC certification and subsequent certifications, except in certain limited circumstances.

Definitions

Applicant: A pregnant, breastfeeding or postpartum woman; infant; or child who is applying to receive WIC Program benefits and includes individuals who are subsequently applying after the expiration of a certification period.

Individuals with Disabilities: Individuals who have a physical and/or mental condition that causes substantial and ongoing functional limitations in one or more of the following areas: mobility, self-care, communication/social interaction, learning, self-direction, vision, hearing, capacity for independent living, or capacity for economic self-sufficiency.

- A person with severe disabilities requires or has the potential to require the individual and/or his family/caregivers (in relationship to the individual's care) to access a complex array of services from public/private service providers in order to achieve optimal care for the individual and the access/coordination of these services may exceed

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Policy No. CS:04.0

the immediate capabilities of the family/caregivers. The services are anticipated to be lifelong or of extended duration and require individualized planning and coordination. Refer to Policy [CR:07.0 \(T\) Provision of Services to Families with Special Health Care Needs](#).

Procedures

- I. All applicants/clients must be physically present at initial and subsequent certifications. LA staff must document the physical presence of an applicant/client in the Proofs of Identity section of the Management Information System (MIS).
- II. When an infant under eight weeks of age is not physically present and the anthropometric documentation is available, the LA may defer physical presence requirement if the following criteria is met (refer to Policy CS:17.0):
 - A. For an infant less than 2 weeks old, birth weight and length may be used for certification purposes
 - B. For infants from 2-8 weeks, weight and length must be accepted if it is within the most recent 30 days from certification.
 - C. Infants older than 8 weeks, without a physical presence waiver (described below), must be physically present for certification.
- III. A Physical Presence Waiver may be issued to provide reasonable accommodations for applicants/clients with disabilities or medical conditions at initial and subsequent certifications
 - A. A verbal declaration by the applicant/client of waiver status is acceptable and must be documented in the MIS.
 - B. An applicant or parent/caretaker of an applicant who is a qualified individual with disabilities and is unable to be physically present at the WIC clinic because of his/her disabilities may be certified and subsequently certified without being physically present. Conditions which meet this standard are:
 1. A medical condition that necessitates the use of medical equipment that is not easily transportable;

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Effective December 13, 2024

Policy No. CS:04.0

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- 2. A medical condition that requires confinement to bed rest; or
 - 3. A serious illness that is contagious or may be exacerbated by coming into the clinic. For example, the participant may have an infectious disease such as chickenpox or a medical condition that would prevent the participant from being physically present.
- C. Staff must document one of the above three reasons in the MIS.
 - D. A reassessment of the applicant's Physical Presence Waiver is required at each certification.
 - E. The anthropometrics and blood iron levels must be obtained from the health care provider if available (refer to Policy CS:17.0)
 - F. Individuals or Families with Special Health Care Needs (FSHCN) refer to [CR:07.0\(T\) Provision of Services to Families with Special Health Care Needs](#).
- IV. Temporary USDA physical presence waiver (expires September 30, 2026) allows local agencies (LAs) to defer the anthropometric and bloodwork measurements for up to 60 days.
- A. When the applicant/client is not able to be physically present for reasons outside of Procedure III. B., the LA may defer anthropometrics and blood iron levels and proceed with three months benefits issuance.
 - B. LAs must make every effort to ensure current anthropometrics and blood iron levels (according to Policy CS: 17.0) are collected within the 60-day timeframe by:
 - 1. Obtaining in advance of the appointment, or
 - 2. Obtain in-clinic at scheduled appointment, or
 - 3. Schedule an appointment within 60 days, or
 - 4. Inquire if applicant/client has an appointment with their healthcare provider or a well-child check.
 - C. Staff must document "USDA Waiver (ARPA)" in the MIS.
 - D. A reassessment of the applicant's Physical Presence Waiver is required at each certification.

Texas WIC Health and Human Services Commission

Effective December 13, 2024

Policy No. CS:05.0

Identification of a WIC Applicant/Participant and Parent or Guardian

Purpose

To ensure program benefits are provided to the correct individual.

Authority

7 CFR Part 246.7; 26 TAC Section 366.3

Policy

The local agency (LA) staff must check the identification of each applicant/participant and parent/guardian applying on behalf of an infant and/or child at each certification and when issuing benefits other than at certification.

Definitions

Provisional Certification – a 30-day certification and up to 30-days benefit issuance for an applicant/participant who meets all eligibility criteria at certification but fails to bring one of the acceptable proofs of identification, residency or income.

Disaster Expedited Certification – a certification process where anthropometrics and blood work are optional but must be obtained within 90 days from certification during a disaster situation.

Procedures

- I. At each certification, LA staff must request and check the identification of each applicant and parent/guardian.
 - A. Proof of identification must be verified and documented in the Participant Page of the MIS.

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Effective December 13, 2024

Policy No. CS:05.0

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- B. A copy or electronic image of the original document is acceptable. Documents obtained via electronic transmission are automatically saved in the MIS and may be used for subsequent certification when the participant/parent/guardian verbally confirms the information is still current.

 - C. The following must be accepted as documentation of identity regardless of the expiration date or age of the document.
 - 1. Baptismal certificate
 - 2. Birth certificate
 - 3. Driver's license
 - 4. Employee check stub with name printed on it
 - 5. Employee Identification Card with picture
 - 6. Foster placement letter
 - 7. Health care identification
 - 8. Hospital records
 - 9. Housing/rental agreement
 - 10. Immunization Card
 - 11. Immigration records
 - 12. Loan papers
 - 13. Local Agency clinic card
 - 14. Marriage license
 - 15. Military Identification card
 - 16. Medicaid letters/forms
 - 17. Official/Government Identification card with picture
 - 18. Passport
 - 19. Property tax receipt
 - 20. School Identification card with picture
 - 21. Self-Declaration Form
 - 22. Self-Declaration Disaster Form
 - 23. SNAP letters/forms
 - 24. Social Security Administration forms/letters
 - 25. Social Security card
 - 26. TANF letters/forms
 - 27. Texas WIC Card or Other States' WIC Identification Card

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Effective December 13, 2024

Policy No. CS:05.0

28. Voters registration card
 29. Your Texas Benefits Card (YTBC)
 30. Approved Local Agency Other – If an LA wants to use other forms of identity not listed above, the LA must develop a policy and submit it to the state agency (SA) for approval prior to implementation. The policy must be available for audit/review.
- II. Provisional Certification must be offered to an applicant who does not provide proof of identification at the time of the certification appointment but meets all other eligibility criteria and applicable documentation requirements.
- A. If the applicant/parent/guardian meets all other eligibility requirements:
 1. The MIS will allow up to 30-day benefit issuance.
 2. If the applicant/parent/guardian returns with the correct proof within 30 days and is found eligible, the MIS will establish the full certification period.
 3. If the applicant does not return within the 30 days with the correct proof, the applicant is ineligible, and the certification is automatically terminated by the MIS.
 - B. Under no circumstances shall a second or subsequent Provisional Certification be applied if the applicant fails to provide the required documentation within the 30 days.
- III. Applicants or parents/guardians who are victims of theft, loss, or homelessness must complete the WIC Self-Declaration Form for Identification, Residency, Zero-Income (Cash on Hand) and Proof of Income (Homeless) (stock # E13-06-13567). Staff must scan and upload form to the Participant Page in the MIS.
- IV. Current participants and applicants who qualify for Disaster Expedited Certification because they are victims of disaster must complete the electronic WIC Self-Declaration Form for Disaster Victims in the MIS (refer to the *State of Texas WIC Program Disaster Plan*).

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Effective December 13, 2024

Policy No. CS:05.0

- V. If the participant or parent/guardian does not bring the Texas WIC Card, he/she must be rescheduled within the month to return with his/her card. Benefits cannot be issued without the Texas WIC Card. If the participant has permanently lost the Texas WIC Card, refer to [CS:26.0 Issuance and Disposition of Replacement Texas WIC Cards](#).

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Effective December 13, 2024

Policy No. CS:06.0

Residency as a Certification Requirement

Purpose

To ensure that those applying for WIC benefits reside within Texas.

Authority

7 CFR Part 246.2, 246.7; 26 TAC Section 366.3

Policy

At certification, the applicant must provide proof of residency within Texas.

Definitions

Residency - location or address where applicant routinely lives or spends the night.

Institution - any residential accommodation which provides meal service, except private residences and homeless facilities. Refer to [CS:35.0 Certification of Homeless and Those Living in Shelters and Institutions](#).

Family - a group of related or non-related individuals who are living together as one economic unit, except that residents of a homeless facility or an institution must not all be considered as members of a single family.

Provisional Certification - a 30-day certification and up to 30-days benefit issuance for an applicant/participant who meets all eligibility criteria at certification but fails to bring one of the acceptable proofs of identification, residency or income.

Disaster Expedited Certification - a certification process where anthropometrics and blood work are optional but must be obtained within 90 days from certification during a disaster situation.

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Procedures

- I. At each certification, the WIC applicant/parent/guardian must provide proof of residency to verify the family resides within Texas.
 - A. Proof of residency must be verified and documented in the Family Page of the MIS.
 - B. Only one document is required for all applicants within the applicant family.
 - C. A copy or electronic image of the original document is acceptable. Documents obtained via electronic transmission are automatically saved in the MIS and may be used for initial and subsequent certification when the applicant/participant/parent/guardian verbally confirms it is the current residence (including the applicant/participant/parent/guardian's name and street address/rural route number, city, state and zip code). New proof of residency is required if the participant's address has changed.

- II. Provisional Certification (30 days) must be offered to an applicant who does not provide proof of residency at the time of the certification appointment but meets all other eligibility criteria and applicable documentation requirements.
 - A. If the applicant/parent/guardian meets all other eligibility requirements:
 1. The MIS will allow up to 30-day benefit issuance.
 2. If the applicant/parent/guardian returns with the correct proof within 30 days and is found eligible, the MIS will establish the full certification period.
 3. If the applicant does not return within the 30 days with the correct proof, the applicant is ineligible and automatically terminated by the MIS.

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- B. Under no circumstances shall a second subsequent Provisional Certification be applied if the applicant fails to provide the required documentation within the 30 days.
- III. Written proof (including the applicant/participant's name and current street address/rural route number, city, state and zip code) is the preferred method of documentation.
- Documents addressed to the applicant's spouse are acceptable.
 - Minors applying for themselves who reside with their parents may present documents addressed to the parent.
 - A document with a P.O. Box as an address cannot be accepted as proof of residency.
 - All documents including those from Adjunctive Programs must show the applicant's physical address.
 - The applicant may present a copy of the original document or on an electronic device.
- A. The following documents must be accepted as proof of current residency:
1. Utility bill/credit card bill
 2. Texas driver license/Identification Card (including the applicant/participant's name and current street address/rural route number, city, state and zip code)
 3. Rent receipt/rental agreement/letter from landlord or apartment manager
 4. Business letter/bill
 - a. Any business letter (not from WIC) or any part of a business letter such as an envelope or enclosure with address (utilities, credit card)
 - b. Foster placement letter
 - c. Other bills

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5. Medicaid, SNAP and TANF – the applicant’s address as documented on the Texas Medicaid and Healthcare Partnership (TMHP) or HHS Outreach Report for Medicaid, SNAP and TANF must be accepted when the applicant verbally confirms it is the current residence (including the applicant/participant’s name and street address/rural route number, city, state and zip code).
 6. If applicant lives with someone else and does not have proof of residency, staff may accept proof of residency note/letter from the person with whom the applicant lives, with the following conditions:
 - a. It is signed by person verifying residence
 - b. Applicant has an eligible proof of residency document (1-5, above) from the person with whom the applicant lives
 - c. Letter must be scanned and uploaded to the Family Page in the MIS
 7. Voter registration card
 8. Property tax receipt
 9. Homeless shelter documentation. Refer to [CS:35.0 Certification of Homeless and Those Living in Shelters and Institutions](#).
- B. If no written proof exists and the family’s residence does not have a designated address, the applicant must complete Section B of the Self-Declaration form (stock # E13-06-13567) or provide a description of location, e.g., “intersection of 4th and 5th street.” Staff must scan and upload Self-Declaration form to the Family Page of the MIS or enter the location in the notes section of the MIS.
- IV. Applicants or parents/guardians who are victims of theft, loss, or homelessness must complete the WIC Self-Declaration Form for Identification, Residency, Zero-Income (Cash on Hand) and Proof of Income (Homeless) (stock #E13-06-13567). Staff must scan and upload form to the Family Page in the MIS.

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- V. Current participants and applicants who qualify for Disaster Expedited Certification because they are victims of disaster must complete the electronic WIC Self-Declaration Form for Disaster Victims in the MIS (refer to the *State of Texas WIC Program Disaster Plan*).

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Income Screening as a Certification Requirement

Purpose

To provide documentation that an applicant's income eligibility was determined accurately.

Authority

7 CFR Sections 246.2, 246.7, 246.9, 246.18; 26 TAC Section 366.3

Policy

When determining program eligibility, the local agency (LA) must determine and document the applicant's total household gross income and household size at each certification. If the applicant is currently a recipient of Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Families (TANF), or Medicaid, refer to [CS:08.0 Adjunctive Income Eligibility](#).

LAs are required to verify all information that is questionable or when verification is specifically required by this policy. In addition, an LA may require verification of any information to ensure income eligibility is determined accurately.

Definitions

Household - all persons, related or unrelated, living together in the same dwelling, with the exception of the following special situations: foster child, individuals who qualify as a separate economic unit, and residents of a homeless facility or other residential institution.

Income - defined as gross cash income for all members of a household before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc.

Income includes the following:

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- (A) Monetary compensation for services, including wages, salary, commissions, or fees;
- (B) Net income from farm and non-farm self-employment;
- (C) Social Security benefits;
- (D) Dividends or interest on savings or bonds, income from estates or trusts, or net rental income;
- (E) Public assistance or welfare payments;
- (F) Unemployment compensation;
- (G) Government civilian employee or military retirement or pensions or veterans' payments;
- (H) Private pensions or annuities;
- (I) Alimony or child support payments;
- (J) Regular contributions from persons not living in the household;
- (K) Net royalties; and
- (L) Other cash income – Other cash income includes, but is not limited to, cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family. Additional information regarding income and exclusions from income are in [CS:09.0 Definition of Income](#).

In-kind benefit – benefits received by the household, which are provided in the form of goods and/or services. Example: woman resides with another family and provides childcare in exchange for food and shelter. This in-kind value is excluded from the income determination.

Instream migrants – migrant farm workers who follow a route or agricultural work from state to state and who are currently not at their home base.

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Verification of income – a process whereby the information presented by an applicant as documentation of income is validated through an external source of information other than the applicant.

Current income – The most recent available proof of income received by the household within the last month (28-31 consecutive days). The most recent pay stub must not be dated more than 30 days prior to the documentation submission date or the first certification appointment. Proof of income based on these requirements may only be used for up to 30 days after the submission date or first certification appointment.

Prospective income - all household income that will be available in the next 30 days.

Provisional Certification – a 30-day certification and up to 30-days benefit issuance for an applicant/participant who meets all eligibility criteria at certification but fails to provide one of the acceptable proofs of identification, residency, or income.

Disaster Expedited Certification – a certification process where anthropometrics and blood work are optional but must be obtained within 90 days from certification during a disaster situation.

Procedures

- I. At each certification, WIC applicants or parent/guardians applying on behalf of a child must declare the number of persons that comprise the applicant's household size and provide acceptable documentation of the amount of ALL gross income received by each member of the household, unless the applicant is adjunctively income eligible, in which case income eligibility is determined under the provisions of [CS:08.0 Adjunctive Income Eligibility](#).
 - A. Staff must obtain verbal confirmation from the applicant that the documented income and household size is correct.

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- B. If gross household income has been documented for one participant in the family within the last month (28 to 31 days), it may be used for other family members being certified within that same period. Staff must obtain verbal confirmation from the applicant that the documented income and household size has not changed and is still a complete and accurate reflection of the household's current financial situation. The information for the previous month (28 to 31-day) period does not apply to those determined adjunctively eligible if the date of the application falls within the adjunctive program's eligibility period (see [CS:08.0 Adjunctive Income Eligibility](#)).
 - C. A copy or electronic image of the income document(s) must be scanned and uploaded to the Family Page. Documents obtained via electronic transmission are automatically saved in the MIS.
- II. Applicants must provide acceptable documentation of the amount(s) of all gross income sources received by each member of the household. Documentation must be dated within the previous month (28 to 31 consecutive days) from document submission date or date of certification appointment. The most recent pay stub must not be dated more than 30 days prior to the documentation submission date or the first certification appointment. Proof of income based on these requirements may only be used for up to 30 days after the submission date or first certification appointment.

Acceptable documents for the most common proofs of income include the following with highest level of documentation listed in order (i.e., paycheck stubs, WIC forms, bank statements, etc.):

- A. Paycheck stubs – with the current amount of gross earnings. Only one document within the previous month (28-31 days) is required when the applicant confirms the document reflects regular, consistent earnings. When the applicant states that income varies, request documentation that shows all income for the previous

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month (28-31 days consecutively). If there are multiple income sources, follow the procedures above for each income source.

1. The paycheck stub(s) must indicate the pay period(s) or pay date and employee's name. Examples:
 - a. For weekly pay there are typically four paycheck stubs.
 - b. For bi-weekly/every 2 weeks there are typically two paycheck stubs.
 - c. For twice monthly there are typically two paycheck stubs.
 - d. For monthly there is typically one paycheck stub.
 2. Do not accept a paycheck stub that has a different name than the applicant's or household member's name. Only when the documentation does not show the applicant's or household member's name, may the applicant be allowed to complete a WIC-32, Applicant's Statement of Farm/Self-Employment Form (See Procedure II.E in this policy).
 3. The employer may be contacted, with the applicant's or parent/guardian's permission, to clarify information on the paycheck stubs. Information from the employer shall be used to determine income and documented in the Notes on the Family Page of the MIS.
- B. Signed statement from employer- (business letterhead is not required). The statement must reflect current gross income, the pay period(s), and/or the pay date within the previous month (28 to 31 days). Employer name, phone number, signature, signatory title (if available), and date are all required on the statement.
- C. WIC-19a – Assistance Documentation Form
1. Section I must be completed when:
 - a. money or financial support is received from a source outside the household such as parents, relatives, or friends. If money is received occasionally, refer to Procedure II.J of this policy.

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- b. there is more than one provider of assistance; each provider must complete a separate WIC-19a.
 - c. the applicant receives financial support in addition to their wages from someone who does not reside with them.
 - 2. Section II must be completed by a third party when no one in the household has a source of income and the household does not receive outside assistance.
 - a. Examples of a third party include but are not limited to: staff of a church or school, social service agency, legal-aid, lawyer, public health nurse, doctor, and elected public officials.
 - b. The third-party cannot be an employee of the WIC Program, an individual related to the applicant/parent/guardian, or a member of the applicant's household. The staff must confirm this information verbally with the applicant.
- D. WIC-19b – Employment Verification Form is acceptable if the applicant and/or members of the applicant's household do not have acceptable documentation of wages.
 - 1. LA staff should only clarify information that is provided on the form by the employer and not add information that is missing.
 - 2. An applicant who has physically started a new job but has not received his/her first paycheck must have a WIC-19b completed or have a written statement from their employer.
 - 3. If the employer refuses to complete the WIC-19b, the WIC Self-Declaration form must be used; refer to Procedure II.K in this policy.
- E. WIC-32 – If an applicant (or member of the household) who is self-employed does not have the most recent IRS tax return, the applicant's net income will be included on the Statement of Farm/Self-Employment Form. This form may also be used:

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1. When an applicant or member of the household is paid in cash and the employer will not provide documentation.
 2. When the applicant or member of the household cannot provide a paycheck stub(s) in his/her name.
 3. For farmers and self-employed individuals, use net income – the income after the deduction of business expenses.
- F. Bank or credit union statement – Applicant can provide checking, money market, or savings statement if they declare they are living off savings, money market, or checking account.
1. The financial account statement must be reflective of current gross income within the previous month (28 to 31 days).
Example: An applicant is living off their savings which include lump sum amounts representing “new money available to the household” that have been deposited in the savings account. The amount withdrawn monthly to pay for their expenses plus a month’s worth of interest must be considered as their monthly household income. The total dollar amount in savings is not to be considered.
 2. A bank statement can be used as documentation as long as the date on the statement is from the previous month (28 to 31 days) and accurately represents current income available to the household within the previous month (28 to 31 days).

Total amount of savings: \$30,000
Amount withdrawn to cover monthly expenses for one month: \$1,150
One month of interest: \$25
Total monthly income: $\$1,150 + \$25 = \$1,175$
- G. Tax records (Any IRS 1040) – Most recent filed IRS tax form. If the applicant or household member has not filed for the most recent tax year, then the most recently filed tax form is required.

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1. Staff must use the adjusted gross income figure indicated on the completed Federal tax return for individuals that are not self-employed. If applicant indicates that they are self-employed the adjusted net income figure indicated on the completed Federal tax return should be used.
 2. Staff must ask applicant/parent/guardian to verbally confirm the tax record reflects current income and retain a copy of the section of the documents used to determine income.
- H. Foster child placement letter – All foster children must be screened for income eligibility, see [CS:11.0\(T\) Certification of Foster Children](#).
1. If the amount paid to the family for the care of the foster child is not indicated on the placement letter and providing documentation of the amount would represent an unreasonable barrier to accessing WIC services for the foster child, a verbal declaration of the amount paid to the family for the care of the foster child must be obtained.
 2. If a foster child receives income, whether from a job or outside financial resource, it must be included in the income determination. Income screening must be done at every certification for foster children, even if they have not changed foster homes.
- I. Child Support and/or Alimony – Documentation must be obtained in the following order (i.e., staff must obtain the highest level of documentation, if it exists, with #1 constituting the highest level and so forth):
1. Court order, divorce decree or information from Office of Attorney General (800-252-8014)
 2. Receipts or copies of checks
 3. Signed and dated statement from the person providing support.

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4. Signed and dated statement from person receiving support.
- J. Other cash income – Other cash income includes, but is not limited to, cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family within the previous month (28 to 31 days). Documentation of cash income must be uploaded to the MIS.
- K. WIC Self-Declaration – An applicant or a parent/guardian applying on behalf of a child, who is a victim of theft, loss, or disaster and/or does not have a source of income must complete a WIC Self-Declaration form. This form must be used as the lowest level of documentation for prospective income. This form must be uploaded to the Family Page of the MIS.
 1. Homelessness – see [CS:35.0 Certification of Homeless and Those Living in Shelters and Institutions](#).
 2. Zero income – applicant should be prompted to describe in detail their living circumstances and how they obtain basic living necessities such as food, shelter, medical care and clothing. Examples include but are not limited to unpaid leave status including maternity leave, person on strike.
 3. Cash on hand – self-declaration of income within the previous month (28 to 31 days).
- L. Additional – The following are acceptable as proof of income and are listed in the MIS. Examples include, but are not limited to:
 1. Workers Compensation letters, or Unemployment Insurance Benefits
 2. Severance, pension payments, or retirement benefits
 3. 401K or other investments

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4. Social security and Supplemental Security Income (SSI)
5. Student financial aid

III. Situations when income varies:

A. In rare instances, annual income may be a better reflection of the applicant's true income for an applicant or family member who:

1. is on maternity leave.
2. is paid on a 9 or 10-month basis and are on temporary (summer) leave.
3. is a college student who works only during the summer months and/or school breaks.
4. receives overtime pay- one time or consistent.

B. When documenting annual income for applicants or family members, staff must obtain the highest level of documentation, if it exists, in the following order (i.e., with "1" constituting the highest level and so forth):

1. Income documentation (see Procedure I in this policy)
2. Bank statements if living off savings (see Procedure II.F in this policy)
3. Tax return IRS 1040 (see Procedure II.G in this policy)
4. Self-Declaration form, if applicable (see Procedure II.K in this policy)

IV. Income eligibility of instream migrants – Certain instream migrant families with an expired Verification of Certification (VOC) must be considered income eligible if income eligibility was determined within the previous 12 months. The date the migrant family's income was last determined must be documented on the Family Page of the MIS.

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- V. Current participants and applicants who qualify for expedited certification and/or who are victims of a disaster must complete the electronic WIC Self-Declaration Form for Disaster Victims in the MIS.
- VI. To assess the income eligibility of an unemployed person (whether the person quit, was fired, or experienced a lay-off) all amounts of financial support received from all sources, including any of the sources listed in this policy, must be determined and appropriate documentation obtained. If the income assessment is being done prospectively (e.g., the sole support of the family was laid off and was authorized to receive unemployment benefits for the next six months) “current” refers to income that will be available to the family in the next 30 days. If the person is living off their savings, refer to Procedure II.F of this policy.
- VII. Income eligibility for pregnant women: Refer to [CS:10.0 Economic Unit for Income](#).
- VIII. LA staff has no responsibility to monitor the continued income eligibility of the participant during the current WIC certification period.
- IX. Participants are not required to report income changes within certification periods nor are LAs required to inquire about such changes. However, during a certification period, if the LA receives information from any party regarding a change in income eligibility, a reassessment of program eligibility must be conducted during the certification period unless the information concerns possible program fraud or abuse. When fraud or abuse is suspected at any time during the certification period, refer to [GA:12.0\(T\) Participant Violations](#) for instructions on reporting to the state agency. Reassessments are not required when there are 90 days or less before the expiration of the certification period. If the individual is determined ineligible, the LA must disqualify the individual and any other family members participating in WIC at the time of the reassessment unless they are adjunctively eligible, refer to [CS:08.0 Adjunctive Income Eligibility](#).
- A. Some examples of situations which trigger a mandatory reassessment by the LA include:

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1. Family member certified, and income or adjunctive income eligibility has changed;
 2. An increase in income reported by a participant;
 3. A change in custody and/or household size;
 4. A complaint alleging ineligibility.
- B. WIC staff should contact the individual to bring documentation of their continued income or adjunctive program eligibility to their next appointment.
1. If the individual fails to provide the proof of income or if proof of participation in an adjunctive program cannot be verified, then the individual and other household members participating in WIC at the time of the reassessment must be determined ineligible, disqualified, and terminated from the Program.
 2. Refer to [CS:23.0 Notification of Ineligibility, Disqualification, Termination, or Expiration of Eligibility](#).
- C. If the individual is income eligible through adjunctive eligibility, refer to [CS:08.0 Adjunctive Income Eligibility](#).
- D. Refer to [GA:12.0\(T\) Participant Violations](#) for instructions on handling citizen complaints about a participant's eligibility.
- E. Refer to [CR:03.0 Fair Hearing Procedure for Applicants/Participants](#) for guidance on a participant's right to appeal any decision which results in the denial, disqualification, or termination of their participation in the Program.
- F. LA staff must provide written notification of termination to participant(s) found ineligible. Refer to [CS:23.0 Notification of Ineligibility, Disqualification, Termination, or Expiration of Eligibility](#) for instructions.

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- X. Special Circumstances for Income Eligibility for Military Families:
- A. The following five military pays are always excluded from income:
 - 1. Any basic allowance for quarters or housing (BAQ or BAH) received by military services personnel residing on/off military installations.
 - 2. OCONUS Cost of Living Allowance (COLA) received by military personnel on duty outside the contiguous states of the United States.
 - 3. Family Subsistence Supplemental Allowance (FSSA) payments to members of the Armed Services provided by the Department of Defense under the provisions of Public Law 109-163, the National Defense Authorization Act for Fiscal Year 2006.
 - 4. Family Separation Housing (FSH)
 - 5. Overseas Housing Allowance (OHA)
 - B. Household Size and Income During Deployment: When children are in temporary care of friends or relatives due to military parents being deployed or on temporary assignment and financial support is being provided by the military parents:
 - 1. Military personnel absent (e.g., deployed overseas) must be counted as members of the children’s household.
 - 2. When the Leave and Earnings Statements are available, military parents and children are a separate economic unit (SEU) within the household of the temporary caretaker. Income is assessed for the SEU. A recent (within the past 120 days) Leave and Earnings Statement (LES) must be obtained as documentation of the soldier’s contribution to the household’s gross income. If the funds are direct deposited into a bank account in lieu of having a LES, request a bank statement from the applicant. The applicant must document the amount of gross income. The statement must be signed by the

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applicant/parent/guardian and include a statement explaining why he/she cannot provide documentation of income.

3. When LESs are unavailable, the source of financial support for the children determines the documentation necessary.
 - a. If financial support is being provided by the military parents, the children will be considered a SEU with income in the amount provided for their care. Written documentation from the caretaker should designate the amount received from the military parents, either in a letter or written note or in LESs when available.
 - b. If the caretaker holds a credit card for necessary expenses or has access to direct deposited funds, have the caretaker declare the amount being used to care for the child(ren). The child(ren) will be considered a SEU with income in the amount declared.
- C. Combat Pay (Hostile Fire Pay/Imminent Danger Pay [HFP/IDP] and Hardship Duty Pay [HDP]) – is excluded from income only if it meets the following three requirements:
 1. Must be received in addition to service member’s basic pay;
 2. Must be received as a result of the service member’s deployment to or service in an area that is designated a combat zone; and
 3. Must not have been received by the service member prior to deployment to or service in the designated combat zone.
- D. Additional temporary compensation – The Local Agency needs to explore the circumstances under which military service personnel is receiving each additional allowance in order to decide if they should include or exclude the payment. The requirements above need to be met.

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1. Front Line Pay – enter the total amount received in the last 12 months in the MIS. The MIS will average this pay automatically.
 2. New money that is received once per year, including but not limited to Clothing Allowance and Enlistment Bonus must be entered in the MIS.
- XI. Provisional Certification (30 days) must be offered to an applicant who does not provide proof of income by the time of the certification appointment but meets all other eligibility criteria and applicable documentation requirements.
- A. If the applicant/parent/guardian meets all other eligibility requirements:
 1. The MIS will allow up to 30-day benefit issuance.
 2. If the applicant/parent/guardian provides or uploads the income proof within 30 days and is found eligible, the MIS will establish the certification period.
 3. If the applicant/parent/guardian does not provide or upload the income proof within the 30 days the applicant is ineligible, and automatically terminated by the MIS.
 - B. Under no circumstances shall a second or subsequent Provisional Certification be applied if the applicant fails to provide the required documentation within the 30 days (i.e., two “back-to-back” provisional certifications that would equate to 60 days of continuous provisional certification). If a participant receives a provisional certification and that certification is followed by a full certification or a minimum of 6 months passing since the last provisional certification was issued, the participant will be eligible for a second provisional certification.

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Adjunctive Income Eligibility

Purpose

To allow automatic income eligibility for the WIC Program for those applicants who are determined to be adjunctively income eligible.

Authority

7 CFR Part 246.7; 26 TAC Section 366.3

Policy

An applicant for WIC is adjunctively income eligible when the applicant is:

1. Certified as fully eligible to receive Supplemental Nutrition Assistance Program (SNAP);
2. Certified as fully eligible for Temporary Assistance to Needy Families (TANF);
3. Certified as fully eligible or presumptively eligible for Medicaid, including the Medicaid Healthy Texas Women Program;
4. A member of a household in which any eligible participant is certified as fully eligible to receive assistance under TANF; or
5. A member of a household in which any pregnant woman or infant is certified as fully eligible to receive Medicaid.

References to the Medicaid Program in this policy are inclusive of the Medicaid Healthy Texas Women (HTW) Program unless specified otherwise.

Definitions

Adjunctive income eligibility – income eligibility for individuals and certain household members who participate in the SNAP, TANF, or Medicaid program.

Automated Voice Response System (AVR) – is operated by the Texas Health and Human Services Commission (HHSC) and is available 24 hours a day through a toll-free number. If applicants know their TANF or SNAP case

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number but have brought an unacceptable HHSC form or no form at all, WIC LA staff may call 2-1-1 or 1-877-541-7905, select either TANF or SNAP and enter the applicant's case number to verify active status.

For clinic sites without a touch-tone phone, the AVR has voice recognition and the case number can be spoken and understood. This line is busiest between 11:00 AM and 3:00 PM, and particularly during the first week of each month when benefits are mailed. WIC LA staff may choose to call their local HHSC office if they are unable to reach the AVR system.

In order to determine eligibility, use the applicant's case number, not the balance/dollar amount of SNAP benefits since merely having a balance does not reflect the applicant's current status.

A Lone Star Card may be issued to a TANF or SNAP recipient for electronic benefits transfer (EBT). The Lone Star Card is not acceptable proof of participation in TANF or SNAP as there is no indication on the debit card if the card is still valid or active. In order to determine eligibility using the debit card, use the AVR system described above.

Household – all persons, related or unrelated, living together in the same dwelling, with the exception of the following special situations: foster child, individuals who qualify as a separate economic unit, and residents of a homeless facility or other residential institution. Participation in one of the three adjunctive programs for an infant/child placed by the DFPS must not be used by another member of the foster family's household for adjunctive income eligibility.

A SNAP recipient – one individual or a group of individuals who are determined eligible for benefits. Most SNAP forms are issued in the name of the head of household. Other unnamed family members may also be recipients. When an applicant/parent guardian is applying for an unnamed family member, the LA must verbally inquire if the unnamed family members are eligible to receive SNAP benefits. In such cases, the LA must accept documentation, which identifies that the head of the household and other unnamed family members are certified to receive benefits.

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Presumptive eligibility – is granted to some Medicaid Program applicants, excluding the HTW Program, to confer a temporary eligibility status before they have completed the application process and have been determined fully eligible. Limited Medicaid benefits to pregnant women may be presumptively granted based on their categorical eligibility. Such recipients are removed from these programs if they are later determined to be ineligible once the application process has been completed. Although ultimately some clients may be determined ineligible, program data shows such persons characteristically prove to be fully eligible and this is not a frequent cause of persons ceasing to receive benefits under this program. Even when persons cease to be certified under this program, the possibility remains that they may still meet WIC income guidelines; therefore, WIC regulations allow for a client who is presumptively eligible for Medicaid to be considered income eligible for WIC benefits. After WIC certification, the client is not required to prove they were subsequently certified as fully eligible for Medicaid. There is no presumptive eligibility for SNAP, TANF, or the HTW Program.

Provider Help Desk for Your Texas Benefits Card (YTBC) – is operated by the Texas Health and Human Services Commission (HHSC) and can be reached at 1-855-827-3747. WIC staff may call the Provider Help Desk to verify current Medicaid eligibility when an applicant presents Your Texas Benefits Card as there is no indication on the card that the recipient is currently participating in the Medicaid Program. Staff should choose Option 3 – Non-Provider to enter the Medicaid number listed on the front of the Your Texas Benefits Card (YTBC) and the applicant’s date of birth. The system will indicate “eligible for services” or “not eligible for services”. Staff may also call the Provider Help Desk for YTBC to verify current Medicaid eligibility for applicants who know their Medicaid client identification number or whose number is on file but have brought an unacceptable HHSC form or no form at all.

YTBC – is issued to each person who participates in the Medicaid program. YTBC is not acceptable proof of current participation in Medicaid because the card does not reflect eligibility periods. Therefore, staff must verify participation in the Medicaid program as described in Procedure I.B. of this policy.

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Texas Medicaid and Healthcare Partnership (TMHP) – is a secure portal to verify enrollment in Medicaid.

Health and Human Services (HHS) Outreach Report – a list of potential eligible clients who are:

- Adjunctively eligible (Medicaid, TANF, SNAP)
- Categorically eligible
- Unduplicated, not a current WIC participant

Provisional Certification – a 30-day certification and up to 30-days benefit issuance for an applicant/participant who meets all eligibility criteria at certification but fails to bring one of the acceptable proofs of identification, residency or income.

Disaster Expedited Certification – a certification process where anthropometrics and blood work are optional but must be obtained within 90 days from certification. This is allowed during a disaster situation.

Procedures

- I. When determining income eligibility staff must inquire if the applicant is fully eligible to receive SNAP or TANF benefits, or fully/presumptively eligible to receive regular Medicaid benefits or fully eligible to receive Medicaid HTW benefits.

If the applicant is not eligible for benefits from one of these three adjunctive programs, the LA must inquire if the applicant is a member of a household that is fully eligible to receive TANF or a member of a household in which a pregnant woman or an infant is fully or presumptively eligible to receive Medicaid.

- A. Adjunctive eligibility must be determined at each certification.
- B. Current status must be determined by:
 1. Visual review of acceptable documentation provided by participant

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2. Inquiry by phone or on-line computer system by the local agency for the SNAP, Medicaid Program, or TANF Program may be used when an applicant cannot provide documentation of their current eligibility status for SNAP, Medicaid, or TANF benefits or presents YTBC. LA staff must obtain verbal permission from the applicant to conduct the phone or online inquiry.
 - a. SNAP and TANF can be verified through the HHSC Automated Voice Response System (AVR) at 2-1-1 or 1-877-541-7905. Staff should select Option 1 for English or 2 for Spanish, and then select Option 2 - Benefit Information. Select Option 1 for all Medicaid, SNAP and TANF information. Once prompted enter in client's information and select Option 1 again to hear benefit status (stay on the line to talk to a representative).
 - b. Medicaid eligibility can be verified through the Provider Help Desk for YTBC at 1-855-827-3747 or TMHP.
 - i. Forms viewed or obtained electronically can be accepted if they clearly indicate the applicant is eligible for one of the adjunctive programs.
 - ii. HHS Outreach Report – serves as proof of adjunctive eligibility for a three-month period, beginning with the month listed on the report (this is the month participant is 'certified' as adjunctively eligible).
3. Documentation from only one of the three adjunctive programs is required per applicant. Check the box under 'Is Proof available?' to indicate the eligible program(s). Program Enrollment Number (client ID or case number – HHS Outreach or enter 55555555 if unknown) must be entered for the program used for eligibility. A copy of the electronic document is not required for the participant's file.
4. Participation in the HTW Program is documented as Medicaid.

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5. Applicants eligible to receive SNAP benefits must provide one of the following:
 - a. proof showing the applicant himself/herself is eligible to receive such benefits. Minors applying for themselves who reside with their parents and provide proof the parent is eligible to receive SNAP benefits (LA staff must verbally inquire if the applicant is eligible to receive SNAP) must be considered adjunctively income eligible as they are considered in the economic unit.
 - b. proof showing the parent/guardian applying on behalf of an infant or child receives such benefits for himself/herself or any household member.
 - i. A newborn infant who becomes part of a SNAP household must be deemed adjunctively income eligible for WIC.
 - ii. Other household members must be considered adjunctively income eligible if the parent/guardian states the family/household members are certified to receive SNAP benefits. If the other household members are not certified to receive SNAP benefits, the LA staff must determine if the household members are eligible under another adjunctive program or follow procedures of [CS:07.0 Income Screening as a Certification Requirement](#).
 - c. proof showing the applicant resides with the parent/guardian named as the SNAP head of household if the WIC applicant himself/herself is not specifically named on the form.
 - i. For applicants or parent/guardians applying on behalf of a child, compare the proof of residency provided by the applicant or parent/guardian to the address on the SNAP form for the head of household. The two addresses must match; or

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- ii. if the applicant or parent/guardian applying on behalf of a child does not have proof that their address matches the address of the SNAP head of household, the adult must provide a signed written statement confirming the living arrangements. Staff must scan and upload the signed written statement to the Family Page.
- 6. Applicants eligible to receive TANF or eligible/presumptively eligible to receive Medicaid benefits as applicable must provide proof. HTW eligibility can only be used for adjunctive income eligibility by postpartum and breastfeeding women. Proof of Medicaid for participant must be accepted regardless of who is listed as the parent/guardian and regardless of Department of Family and Protective Services (DFPS) Placement.
- 7. Applicants applying for WIC based on a household member's eligibility for TANF or Medicaid, excluding the HTW Program, must provide one of the following:
 - a. proof showing a pregnant woman or infant household member as a Medicaid recipient or the household member's eligibility for TANF; and

Note: A pregnant woman can provide any current acceptable Medicaid document to qualify another member in the household. The Medicaid would not have to specify that it is Pregnant Medicaid. A pregnant woman's Medicaid eligibility ends on the last day of the second month following the month the pregnancy terminates; therefore, her infant could be determined eligible based on the mother's Medicaid until two months of age. The infant's presumptive eligibility may be used to adjunctively certify other household members. A fully eligible infant can also adjunctively qualify other household members. The infant and other household members must be certified for a full

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certification period.

Example: Infant is born May 5th. Mother's Medicaid ends on July 31st. Infant is adjunctively income eligible if application to WIC is on or before July 31st. Household members can be enrolled using the infant's presumptive Medicaid eligibility if the application to WIC is on or before July 31st. Document the name of the adjunctively eligible participant in the MIS.

- b. proof showing the applicant resides with the TANF or Medicaid recipient:
 - i. applicant's or parent/guardian's proof of address (utility bill, etc.) must match the address of the TANF or Medicaid recipient shown on the form; or
 - ii. if the adult applying for herself or a child does not have proof that their address matches the address of the TANF or Medicaid recipient, the adult must provide a signed written statement confirming residency. Staff must scan and upload the signed written statement to the Family Page.

II. Persons determined income eligible for WIC under this policy must meet the eligibility criteria for program participation outlined in [CS:01.0 \(T\) Eligibility Criteria for Program Participation](#).

III. Provisional Certification (30 days) must be offered to an applicant who does not provide all required proofs at the time of the certification appointment but meets all other eligibility criteria and applicable documentation requirements.

A. If the applicant/parent/guardian meets all other eligibility requirements:

- 1. The MIS will allow up to 30-day benefit issuance.

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2. If the applicant/parent/guardian returns with the correct proof within 30 days and is found eligible, the MIS will establish the certification period.
 3. If the applicant does not return within the 30 days with the correct proof, the applicant is ineligible and automatically terminated by the MIS.
 - B. Under no circumstances shall a second subsequent Provisional Certification be applied if the applicant fails to provide the required documentation within the 30 days.
- IV. Staff must document in the MIS the household size and verbally declared monthly income on the participants determined adjunctively eligible. Applicants are not required to provide proof of income, such as: paycheck stubs, tax records, or bank statements, etc. The applicant is still adjunctively income eligible even if their income exceeds the WIC income guidelines.
- V. Staff must document participation in all adjunctive programs in the MIS for each applicant. Analysis of this data will be used by the United States Department of Agriculture (USDA). (Note: A copy of the adjunctive program document is not required.)
- VI. The LA has no responsibility to verify the continued eligibility of the participant in their respective adjunctive program(s) during the current WIC certification period.
- VII. If the participant applies for subsequent certification at the end of the current WIC certification period and is not adjunctively income eligible the applicant must be screened in accordance with [CS:07.0 Income Screening as a Certification Requirement](#) for income eligibility.
- VIII. Participants are not required to report income changes within certification periods nor are LAs required to inquire about such changes. However, during a certification period, if the LA receives information

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from any party regarding a change in income eligibility, a reassessment of program eligibility must be conducted during the certification period unless the information concerns possible program fraud or abuse. When fraud or abuse is suspected at any time during the certification period, refer to [GA:12.0 \(T\) Participant Violations](#) for instructions on reporting to the state agency. Reassessments are not required when there are 90 days or less before the expiration of the certification period. If the individual is determined ineligible, the LA must disqualify the individual and any other family members participating in WIC at the time of the reassessment.

- A. Some examples of situations which trigger a mandatory reassessment when using adjunctive eligibility through Medicaid, TANF or SNAP include:
 - 1. household member certified, and adjunctive eligibility has changed; or
 - 2. a change in custody, excluding DFPS placements, and/or
 - 3. a change in household size.

- B. The participant must provide proof of their continued eligibility in the Medicaid, TANF, or SNAP program or proof of income to their next appointment:
 - 1. The individual must be issued one month of benefits and be required to provide written documentation to the next appointment.
 - 2. If the client fails to provide proof of continued participation in the adjunctive program or proof of income, the individual and any other household members participating in WIC at the time of the reassessment must be disqualified from the Program.
 - 3. Any reassessment must determine:

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- a. If the individual is certified as eligible to participate in either Medicaid, TANF, or SNAP programs; or
 - b. If the individual is a member of a household which contains a person certified as eligible to receive TANF or a member of a household in which a pregnant woman or an infant is certified as eligible to receive Medicaid; or
 - c. If the individual is income eligible under the procedures of [CS:07.0 Income Screening as a Certification Requirement](#).
- C. Medicaid does not need to be reassessed if Medicaid benefits remain in participant's name.

Guidelines

The HTW Program provides a limited Medicaid-paid family planning benefit to women ages 18-44 with income at or below 185 percent of the federal poverty level. Only citizens and some immigrants are eligible. Benefits include an annual family planning exam and choice of contraception for 12 months. A pregnant woman is not eligible for HTW; since Medicaid confers adjunctive eligibility to other family members only if the HTW recipient is a pregnant woman or infant, receipt of HTW cannot confer adjunctive income eligibility to family members applying for WIC. For more information go to: <https://www.healthytexaswomen.org/>.

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Definition of Income

Purpose

To provide a statewide definition of income that is identical for all local agencies (LAs).

Authority

7 CFR Part 246.7; 26 TAC Section 366.3

Policy

Income is defined as gross income before deductions.

Procedures

- I. Income includes the following:
 - A. Monetary compensation for services, including wages, salary, commissions, or fees;
 - B. Net income from farm and non-farm self-employment;
 - C. Social Security benefits;
 - D. Dividends or interest on savings or bonds, income from estates or trusts, or net rental income;
 - E. Public assistance or welfare payments;
 - F. Unemployment compensation;
 - G. Government civilian employee or military retirement or pensions, or veterans' payments;
 - H. Private pensions or annuities;
 - I. Alimony or child support payments;
 - J. Regular contributions from persons not living in the household;
 - K. Net royalties;
 - L. Lump Sum payments which are considered as "new money" received in the last 30 days would include gifts, inheritances, lottery winnings, worker's compensation for lost income, and severance pay;

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- M. Student financial assistance, such as grants and scholarships, except those grants and scholarships excluded as income as listed in Section II. (C) (12) of this policy;
 - N. Capital gains and interest earned on the sale amount; If there was a loss on the sale, the amount of interest earned on the sale amount is counted as income. This applies only to capital gains and losses within the past twelve months. Any sale prior to last twelve months, refer to guideline on savings account interest (Item I. (D) above);
 - O. Other cash income. Other cash income includes, but is not limited to, cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family.
- II. Exclusions from income include, but are not limited to, the following:
- A. Military allowances:
 - 1. Any basic allowance for quarters received by military services personnel residing on/off military installations; and
 - 2. Cost of living allowance received by military services personnel residing outside the United States.
 - 3. Family Subsistence Supplemental Allowance (FSSA) payments to members of the Armed Services provided by the Department of Defense under the provisions of Public Law 109-163, the National Defense Authorization Act for Fiscal Year 2006.
 - 4. Other types of Entitlement pay, including, but not limited to Combat Pay and Hostile Fire Pay, must be excluded from income if it meets the following three requirements:
 - a. Received in addition to the service member's basic pay;
 - b. Received as a result of the service member's deployment to or service in an area that is designated a combat zone; and
 - c. Not received by the service member prior to his/her deployment to or service in the designated combat zone.

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- B. Value of in-kind housing and other in-kind benefits; (Examples: employer paid or union paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages)
- C. Payments or benefits provided under certain Federal programs or acts. The payments or benefits which must be excluded by legislative prohibition include, but are not limited to the following:
 - 1. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
 - 2. Any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents, and others) of the Domestic Volunteer Service Act of 1973, to the extent excluded by that Act;
 - 3. Payment to volunteers under section 8(b)(1)(B) of the Small Business Act (SCORE and ACE);
 - 4. Income derived from certain sub-marginal land of the U.S. which is held in trust for certain Indian tribes;
 - 5. Payments received under the Job Training Partnership Act;
 - 6. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;
 - 7. Payments received under the Alaska Native Claims Settlement Act;
 - 8. The value of assistance to children or their families under the National School Lunch Act, as amended; the Child Nutrition Act of 1966; and the Food Stamp Act of 1977;
 - 9. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation;
 - 10. Payments to the Passamaquoddy Tribe and Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980;
 - 11. Payments under the Low-Income Home Energy Assistance Act, as amended;
 - 12. Certain types of student financial assistance expressly excluded by WIC regulations - Student financial assistance received from any program funded in whole or part under Title

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- IV of the Higher Education Act of 1965, including: the Pell Grant, Supplemental Educational Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship programs; Excluded from income is any assistance received from these programs which is used for tuition and fees and including the costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study and an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending a higher education institution on at least a half-time basis, as determined by the institution. Grant or loan funds for room and board and for dependent care expenses must be counted as income in the WIC eligibility determination.
13. Mandatory salary deduction for college under the Veterans Education Assistance;
 14. Payments under the Disaster Relief Act of 1974, as amended;
 15. Payments received under the Carl D. Perkins Vocational Education Act, as amended;
 16. Payments pursuant to the Agent Orange Compensation Exclusion Act;
 17. Payments received for Wartime Relocation of Civilians under the Civil Liberties Act of 1988;
 18. Value of any child care payments made under section 402(g)(1)(E) of the Social Security Act, as amended by the Family Support Act (see Guidelines Section);
 19. Value of any "at-risk" block grant child care payments made under section 5081 of Public Law 101-508;
 20. Value of any child care provided or paid for under the Child Care and Development Block Grant Act, as amended;
 21. Mandatory salary reduction amount for military service personnel which is used to fund the Veteran's Educational Assistance Act of 1984 (GI Bill) as amended;
 22. Payments received under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of \$2000;

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23. Payments received under the Cranston-Gonzales National Affordable Housing Act, unless the income of the family equals or exceeds 80 percent of the median income of the area;
 24. Payments received under the Housing and Community Development Act of 1987, unless the income of the family increases at any time to not less than 50 percent of the median income of the area;
 25. Payments received under the Sac and Fox Indian claims agreement;
 26. Payments received under the Judgment Award Authorization Act, as amended;
 27. Payments for the relocation assistance of members of Navajo and Hopi Tribes;
 28. Payments to the Turtle Mountain Band of Chippewas (Arizona);
 29. Payments to the Blackfeet, Grosventre, and Assiniboine tribes (Montana) and the Papago (Arizona);
 30. Payments to the Assiniboine Tribe of the Fort Belknap Indian community and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana);
 31. Payments to the Red Lake Band of Chippewas;
 32. Payments received under the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgement Funds Act; and
 33. Payments to the Chippewas of Mississippi;
 34. Payments received by property owners under the National Flood Insurance Program (Public Law 109-64);
 35. Combat pay received by the household member under Chapter 5 of Title 37 or as otherwise designated by the Secretary.
- D. Lump sum payments classified as "reimbursement" which are defined as monies received from insurance companies for loss or damage of real or personal property, such as a home or auto, and payments that are intended for a third party to pay for a specific expense such as payment of medical bills resulting from accident or injury; operating expenses for those individuals who are self-employed; For farm income, operating expenses include, but are not limited to, cost of feed, fertilizer, seed and other farming

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supplies; cash wages paid to farmhands; depreciation; cash rent; interest on farm mortgages; farm building repairs; and farm taxes (but not State and Federal income taxes). For nonfarm self-employed persons, operating expenses include, but are not limited to, the cost of goods purchased, rent, heat, utilities, depreciation, wages and salaries paid, and business taxes (but not personal income taxes). Applicant must complete Form WIC 32 or provide most recent tax return. This must be scanned and attached to client record.

- E. Loans, such as bank loans, which are temporarily available and must be repaid.

Guidelines

- I. LAs may need to contact the state agency (SA) for further guidance in evaluation of specific income exclusion, particularly for those with exceptions where a median income for the local area must be determined. For example: items C. (22) and C. (23).
- II. Child Care and Development Block Grant Program income exclusion: (Item II. (C) (19) above) These benefits must be referred to as the TANF Child Care Program, the Title IV A Child Care Program, or the Choices Child Care Program. However, names of these programs vary from state to state:
 - A. In Texas, the childcare programs which provide payments that are excluded from income are the Choices Child Care Program, the Transitional Child Care Program and the At-Risk Child Care Program which are administered by the Texas Health and Human Services Commission (HHSC).
 - B. HHSC allows parents participating in these programs to make their own arrangements for childcare. The hired caretakers may be grandparents, aunts, or uncles; however, the payments to these relatives must be counted as income by these relatives if they apply for WIC Program benefits.

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- III. Basic allowance for quarters for military personnel residing on-base or off-base is usually indicated on the military Leave Earnings Statement (LES) as:
 - A. Variable Housing Allowance (VHA)
 - B. Basic Allowance for Housing (BAH)

- IV. Regarding II. B in Procedures Section, Value of in-kind housing and other in-kind benefits: If an employee does not receive as part of his/her wages/salary the dollar amount contributed to health insurance, for example, but the employer includes their employer contribution as part of the employee's gross income, the LA must deduct the employer contribution amount from the applicant/participant's gross income. (Some employers process salary payments this way for a tax advantage to the employer.)

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Policy No. CS:10.0

Economic Unit for Income

Purpose

To establish a consistent method of determining income eligibility.

Authority

7 CFR Part 246.7; USDA FNS Instruction 803-3; 26 TAC Section 366.3

Policy

Income eligibility for WIC services must be based on the total income of the economic unit.

Definitions

Economic Unit means all persons, related and/or unrelated, living together in the same dwelling, with the exception of the following special situations: pregnant woman, infants/children placed through Department of Family Protective Services (DFPS), e.g., foster/kinship, and individuals who qualify as a separate economic unit (SEU).

Procedures

- I. When determining an applicant's income eligibility for WIC services:
 - A. Determine economic unit size by counting all persons living in the dwelling, with the following exceptions:
 1. pregnant women;
 2. individuals who reside in institutions;
 3. infants/children placed through DFPS; and
 4. individuals who qualify as a SEU (see Procedure VI).
 - B. Determine total economic unit income by counting all incomes of all members of the unit.

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- C. Compare the total economic unit income for the economic unit size with the Texas WIC Income Guidelines (see [CS:12.0 Texas WIC Income Guidelines](#)).
 - D. Record unit size and income(s) in Family Page of the MIS.
- II. For a pregnant woman who does not have adjunctive income eligibility and who does not meet the WIC income eligibility guidelines, increase her family size by the number of fetuses. If she is expecting one child, count her as two individuals; if she is expecting twins, count her as three individuals. Any unborn fetus(s) must be counted as part of the household size.
- III. Individuals residing in institutions (e.g., homes for battered women, drug treatment centers, intermediate care facilities for mentally retarded or mentally ill persons, half-way houses, etc.) that meet the conditions specified in [CS:35.0 Certification of Homeless and Those Living in Shelters and Institutions](#) are considered a SEU which consists of the applicant and family members residing in the institution.
- IV. A foster child must be considered a one-person household.
- A. The income of the child must be the payments made by DFPS or another outside source for the care of the child. Note: If a foster child receives income, whether from a job or outside financial resource, it must be counted in the income determination.
 - B. Income reassessment during an active certification for an infant/child who is later adopted is not required if 90 days or less before expiration for certification period.
- V. When determining economic unit size:
- A. Do not include members who have been absent from the economic unit for more than six months, unless the member continues to

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exercise customary family responsibilities, i.e., financially contributes to family.

- B. You may include persons temporarily absent if the following circumstances exist:
 - 1. other members still consider the economic unit to be the principal residence of the absent member; and
 - 2. the absence does not exceed six months (except in the case of school or military service); and
 - 3. the absence is for a purpose such as school, training, employment, hospitalization, institutionalization, military service etc.; and
 - 4. the absent member continues to exercise customary family responsibilities, e.g., a parent continues providing support, physical care, planning, etc.

VI. On an exception basis, a SEU may be identified within a dwelling and the SEU must be marked when entering the income record on the Family Page in the MIS.

- A. if the applicant indicates that he/she should be counted as a separate group/economic unit; and
- B. the applicant verbally confirms that the unit usually purchases or intends to purchase and prepare food separately.

VII. Do not certify the following as a SEU:

- A. minor children who live with their parents
- B. a child under age 18 who lives with adult household members who serve as managing conservators; That is,
 - 1. the household member(s) provides more than half of the child's total support; and
 - 2. the family states that the child is under parent or guardian control.

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- C. spouses: two people who are legally married, and/or two persons who live together and represent themselves as married, are in the same economic unit.

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Effective February 1, 2011

Policy No. CS:11.0

Certification of Foster Children

Purpose

To ensure individuals at nutritional risk receive program benefits.

Authority

USDA FNS Instruction 803.3; 25 TAC §31.22

Policy

Foster children shall be certified eligible for WIC Program benefits according to age, residency, income, nutritional risk requirements and physical presence. Children left in the care of a family member or friend are not considered foster children unless DFPS is involved.

Definitions

Foster child – any child placed through the Texas Department of Family and Protective Services (DFPS). A child returning to his/her parent shall not be considered a foster child.

DFPS placements include:

- A. Foster family home or group home that has been either trained and verified by DFPS; licensed by DFPS' Office of Residential Child-Care Licensing (RCCL), or verified by an RCCL-licensed child-placing agency.
- B. Residential group care facility - that has been licensed by RCCL; or a facility under the authority of another state agency.

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- C. Infant or child placed with a relative, close family friend or others who have a long standing relationship with the infant/child.

Procedures

- I. At the time of initial application, DFPS placement shall be verified. Written or verbal verification is acceptable. When verbal verification is obtained, the DFPS contact name and phone number shall be documented in the foster child's file. Verification is not required at subsequent certifications. The foster child shall be screened according to the criteria defined in Policy **CS:01.0**. Infants and children placed by DFPS with a relative, close family friend or others who have a long standing relationship with the infant/child may be screened utilizing CS:07.0 if the DFPS placement letter is not available.
- II. A foster child shall be considered a one-person household. The income of the foster child shall be the payments made by DFPS or money received from any outside source. Most relatives are not certified as foster parents and do not receive foster care payments. However, money received from any outside source for the care of the child, shall be considered as income. If the relative does not receive any money for the care of the child, the child's income will be zero.
- III. A participant who has entered foster care during the last six months or has moved from one foster care home to another foster care home during the previous six months, qualifies for risk code 903, Foster Care (see Policy **CS:18.0**). A complete nutritional risk assessment shall be done.
- IV. If eligible for WIC services, the foster child shall be issued a WIC Lone Star Card, which is separate from the foster family. Multiple foster children, including siblings, residing in the same foster home shall each be issued a separate WIC Lone Star Card.

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- V. When a participant is removed from a foster home and placed in another foster home, do not request an electronic transfer of the participant's record from the original clinic. The foster child should be served under a new participant record and shall be issued a new WIC Lone Star Card.
- A. If the child's current certification has not expired, staff shall create a new participant record by processing the certification as an in-state transfer and issuing a new PAN.
- B. The Local Agency (LA) staff shall contact their IRM liaison and request an administrative lock on the foster child's previous WIC Lone Star Card effective the first of the following month.

Exception: LA staff may update the family certification record if:

- the foster child will continue to receive services at the same clinic,
- the current foster parent has the WIC Lone Star Card issued for the foster child, and
- the foster child is due benefits or has all the current benefits on the card.

- VI. When a participant is removed from a foster home and is reunited with his/her parent(s):
- A. Parent must present the child at the WIC appointment or provide written documentation from DFPS or former guardian. When verbal verification is obtained, the contact name and phone number shall be documented in the foster child's file.
- B. Staff shall contact their IRM liaison to notify the SA the child has been reunited with his/her parent(s). The SA will place an administrative lock on the foster child's WIC Lone Star Card effective the first of the following month.

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- C. If the child was issued benefits for the current month while in foster care, schedule an appointment for the following month.
 - D. If the child's current certification has not expired, staff shall create a new participant record by processing the certification as an in-state transfer and issuing a new PAN per policy CS:25.0.
 - E. Income must be reassessed unless there is 90 days or less before the expiration of the certification period. The child shall be issued one month of benefits and be required to provide acceptable written documentation of the household income or eligibility in a gateway program at the next appointment.
 - F. If the child's certification has expired, determine if the individual is income eligible under Policy **CS: 07.0** or **CS:08.0**.
- VII. If the foster child is later adopted, the child becomes part of the adoptive family's economic unit. Follow the procedures below:
- A. Do not reassess income if the child has an active certification period. If the child's current certification has not expired, staff shall create a new participant record by processing the certification as an in-state transfer and issue benefits.
 - B. Add the child to the adoptive family's record if the family is currently participating in the WIC program and issue benefits.
 - C. Create a record and issue a WIC Lone Star card per Policy **CS:25.0** for the adoptive family if the family is not participating in the WIC Program.
 - D. If the child was previously issued benefits for the current month, allow the adoptive family to redeem the remaining benefits and inform him/her the card will not work at the store the first of the following month. Schedule an appointment for the following month and issue benefits per procedure VII. B. or C.

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- E. The LA shall contact their IRM liaison to notify the SA the child has been adopted. The SA will place an administrative lock on the foster child's WIC Lone Star Card effective the first of the following month.

- F. A foster child who is later adopted may continue to receive Medicaid until they are 21 years old. At recertification, staff shall accept current Medicaid verification as income even if it continues to list the foster child's name rather than the adoptive name.

- G. If the adopted individual is an infant or pregnant woman, his/her Medicaid eligibility shall be used as income for the other household members per Policy **CS:08.0** Procedure I.

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Effective December 13, 2024

Policy No. CS:12.0

Texas WIC Income Guidelines

Purpose

To provide a uniform statewide level of income eligibility for participants in the WIC Program.

Authority

7 CFR Part 246.7; 26 TAC Section 366.3; 42 USC 1786

Policy

The Texas WIC Program must use the income guidelines updated annually in the *Federal Register* by the United States Department of Agriculture under authority of 42 USC 1786.

Procedures

- I. To participate in WIC, an applicant's/participant's gross income must not exceed 185% of the federal income guidelines as updated annually, unless the applicant/participant is found to be adjunctively income eligible for WIC.
- II. Local agencies must implement the annual guidelines upon notification from the state agency.

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Effective December 13, 2024

Policy No. CS:12.0

WIC INCOME GUIDELINES

Family Size	Weekly	Bi-Weekly	Twice Monthly	Monthly	Annual
1	536	1,072	1,161	2,322	27,861
2	728	1,455	1,576	3,152	37,814
3	919	1,838	1,991	3,981	47,767
4	1,110	2,220	2,405	4,810	57,720
5	1,302	2,603	2,820	5,640	67,673
6	1,493	2,986	3,235	6,469	77,626
7	1,685	3,369	3,650	7,299	87,579
8	1,876	3,752	4,064	8,128	97,532
9	2,068	4,135	4,479	8,958	107,485

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Effective December 13, 2024

Policy No. CS:12.0

Family Size	Weekly	Bi-Weekly	Twice Monthly	Monthly	Annual
10	2,259	4,517	4,894	9,787	117,438
11	2,450	4,900	5,308	10,616	127,391
12	2,642	5,283	5,723	11,446	137,344
13	2,833	5,666	6,138	12,275	147,297
14	3,025	6,049	6,553	13,105	157,250
15	3,216	6,431	6,967	13,934	167,203
16	3,407	6,814	7,382	14,763	177,156
EACH ADDITIONAL FAMILY MEMBER	+192	+383	+415	+830	+9,953

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Effective October 1, 2015

Policy No. CS:15.0

Certifying Authority

Purpose

To define the qualifications accepted in the Texas WIC Program for a Certifying Authority. To ensure that qualified professionals are making decisions about eligibility and benefits.

Authority

7 CFR Part 246.2, 246.7

Policy

It is the intent of the Texas WIC Program that nutrition professionals are available to address Nutritional Risk. Each local agency (LA) shall have at least one certifying authority (CA) responsible for certifying nutritional risk conditions at the time of certification and prescribing supplemental foods. Certifications require a CA signature prior to food benefit issuance. Refer to **Policy CS: 16.0** WIC Certification Specialist for other certifying officials.

Definition

A CA shall be one of the following:

- I. registered dietitian (RD) Registered Dietitian Nutritionist (RDN) (Academy of Nutrition and Dietetics Commission on Dietetic Registration);
- II. licensed dietitian (LD) (Licensed by the Texas State Board of Examiners of Dietitians);
- III. nutritionist with a Bachelor's or Master's degree in any of the following:

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- A. Nutrition Sciences;
 - B. Human Nutrition or Dietetics;
 - C. Community Nutrition;
 - D. Public Health Nutrition;
 - E. Clinical Nutrition;
 - F. Home Economics with Food and Nutrition major with 24-semester hours credit in food & nutrition.
- IV. dietetic technician registered (DTR) (Academy of Nutrition and Dietetics Commission on Dietetic Registration);
- V. registered nurse (RN) with Bachelor of Science in Nursing (BSN) or an associate degree;
- VI. licensed vocational nurse (LVN);
- VII. physician (MD or DO);
- VIII. physician's assistant (PA) (certified by the National Committee on Certification of Physician's Assistants or by the state medical certifying authority);
- IX. home economics or other degreed professionals with 12 or more semester hours credit in food & nutrition and 6 semester hours of science from an accredited university (see guidelines). Transcript shall be submitted to the state agency (SA).

Procedure

- I. All CAs shall successfully complete the SA nutrition modules according to **Policy TR: 03.0** Required Local Agency Training Summary
-

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- II. LAs with only one CA per agency shall develop a written contingency plan for CA coverage during vacations, illness or other extended leave. See **Policy GA: 20.0** Staff Fraud and Abuse and **GA: 14.0** Staffing Standards.
- III. LA staff employed prior to the date of this policy shall be grandfathered in. Documentation shall be kept at agency for monitoring purposes.

Guidelines

Nutrition classes from an accredited university include but are not limited to:

- Basic Nutrition
- Introduction to Nutrition
- Nutrition
- Nutrition in the Life Cycle
- Community Nutrition
- Nutrition and Chronic Disease
- Diabetes Management
- Weight Management and Exercise

Science classes from an accredited university include but are not limited to:

- Biology
- Microbiology
- Chemistry
- Organic Chemistry
- Anatomy
- Physiology

Any questions regarding qualifying classes should be addressed with the Clinic Services Liaison at the SA.

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The LA should submit transcripts to the SA for review and approval prior to hiring a CA that did not receive their degree or specialty licensed in the United States (e.g., Nutritionist, RN, RD, MD and DO).

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Policy No. CS:16.0

WIC Certification Specialist

Purpose

To provide local agencies (LAs) guidance over WIC Certification Specialists (WCS) program application, implementation, guidelines, and training requirements for paraprofessional staff.

Authority

7 CFR Part 246.2, 246.7

Policy

The WCS Program allows LAs to train and promote exceptional paraprofessional staff working within the WIC Program to help serve clients at low nutritional risk in a time effective manner. The WCS Program should not be used to replace or eliminate other qualified professionals (Nutritionist, RDs, LVNs, Nurses) needed to maintain a level of expert care to WIC clients at nutritional risk.

The WCS Program curriculum is available through the SA for LA implementation. To implement a WCS program, LAs must submit a completed program application and receive approval prior to the start of the WCS candidate training.

Upon successful completion of the WCS Program, the candidate in training will become a State Certified WCS. A WCS has the credentials to certify applicants/clients for the WIC program.

The WCS Certificate may be used at any LA within the State of Texas at the discretion of the LA Director. It does not guarantee employment at another LA, and the credentials do not guarantee the holder will be offered a position as a WCS.

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Procedures

WCS Program Implementation

- I. The LA Director must choose a WCS Program Preceptor with adequate hours to train the candidate(s) and provide oversight of the LA's WCS Program.
 - A. The WCS Program Preceptor must be a Registered Dietitian (R.D.) on staff or working as a consultant for a minimum of 25 hours per month, or a full-time degreed Nutritionist.
 - B. The LA Director may choose a WCS Program Proxy to assist the WCS Program Preceptor as needed to fulfill the program requirements.
 1. Selected Proxies must be a Registered Dietitian (R.D.) on staff or working as a consultant for a minimum of 25 hours per month or a full-time degreed Nutritionist.
- II. The LA Director must request and complete a WCS Program application obtained from the SA WCS Program Coordinator (WCSProgram@hhs.texas.gov).
- III. The LA Director must nominate WCS candidates for the WCS Program.
 - A. The existence of a WCS program at the LA does not automatically qualify all staff to take the program.
 - B. WCS candidates must have a minimum of a high school diploma or equivalent.
 - C. WCS candidates must have a minimum 3 months working experience in a WIC clinic before s/he may be considered as a candidate.
 - D. LA Directors may set higher minimum requirements based on their agency's need.
- IV. The LA Director or WCS Program Preceptor must submit the completed WCS program application and nominated WCS candidate(s) to the SA for approval.

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- A. Once the WCS Program application and nominated WCS candidate(s) have been approved, the LA will provide the SA a date when the training of the candidate(s) will begin.
 - B. LAs may not start WCS candidate training without formal approval and submission of a training start date.
 - C. Each WCS candidate must be approved by the SA prior to starting the WCS Program. LAs who begin training WCS candidates without prior SA approval will be subject to WCS Program suspension.
 - D. An approved WCS Program application remains active for 2 years. During this time, the LA Director may nominate additional candidates for WCS training. To receive approval for additional WCS candidates without an application update, the following must be submitted:
 - 1. Attachment A: Staff List of Duties by Clinic Site
 - 2. Attachment C: Nutritional Pre-Requisite Training
 - 3. Attachment D: Candidate Profile
 - E. After 2 years, the LA Director must re-submit an updated WCS Program application and receive approval, prior to nominating additional candidates for WCS training.
- V. During the WCS candidate(s) training, the LA Directors and WCS Preceptors may develop additional criteria that are over and above the state minimum requirements.
- VI. LAs must provide the WCS candidate with dedicated time during their workday to study in an appropriate workspace.
- VII. WCS candidates must complete the training course, including passing the WCS competency-based exams within a 3-month (minimum) to 9-month (maximum) time frame.
- A. Extensions may be granted by the SA with appropriate justification from the LA Director and WCS Preceptor.

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- VIII. The WCS Program Preceptor must complete observations of the WCS candidate(s) performing competencies and submit the dates of completion along with the exam scores to the SA.
 - A. The WCS Preceptor's signature is required to sign off upon the candidate's successful completion of the training.
 - B. The WCS Program Proxy may sign off on the WCS candidate(s) at the discretion of the WCS Preceptor.

- IX. Upon a WCS candidate's successful completion of the WCS Program, the SA will issue a signed certificate of completion. The candidate may then function as a Certified WCS after the LA Director signs the certificate.

- X. After the WCS candidate graduates, the LA will have a 6-month observation plan in place for the WCS.
 - A. The LA may follow the SA approved plan for observing or they may submit a plan to the SA for approval.

WCS Re-Certification

- I. Once a candidate becomes a certified WCS, s/he must complete a minimum 5 hours of continuing education credits (CEC) every fiscal year beginning the fiscal year after initial certification to maintain WCS certification.
 - A. Trainings may include SA trainings, LA trainings or subject appropriate trainings offered by outside entities. Trainings must be related to the following topics:
 - 1. Nutrition (includes breastfeeding & formula)
 - 2. Counseling
 - 3. Leadership Skills (e.g., team building, public speaking)
 - 4. Ethics & Professionalism
 - B. Each training will count towards one hour of WCS Continuing Education Credit (CEC), unless otherwise specified.

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- C. Verification of completion must be documented and submitted to the SA using Attachment F: Continuing Education Credit (CEC) Log.
- D. If the LA does not submit WCS CEC as required by the SA, the WCS credential will be expired until appropriate documentation is received.

WCS Formula Certification

- I. The LA Director/Preceptor has the discretion to request approval from the SA WCS Coordinator for LA WCSs to become formula certified.
- II. After successful completion of the WCS Formula Approval module, the SA will issue a signed certificate of completion with the letter "F" added to the certificate number (e.g., 1234F). This designates the WCS as a Formula Certified WIC Certification Specialists (FC-WCS) ([see policy FD:16.0](#))
- III. A FC-WCS must remain within their scope of practice as outlined in FD:16.0 and the WCS Formula Approval module. ([see policy FD:16.0](#))
 - A. FC-WCSs are not authorized to contact health care professionals regarding clarification of qualifying conditions, supplemental foods or formula quantities unless directed by a CA.
- IV. A FC-WCS must complete a minimum of one formula training per fiscal year to maintain formula certification. The formula training may count towards their continuing education.
 - A. Trainings may include but are not limited to:
 - 1. New/revised formula trainings
 - 2. Formula conference calls
 - 3. State conference formula training sessions
 - 4. Subject appropriate trainings offered by outside entities or the LA, or
 - 5. Any other related state offered formula trainings or activities.
 - B. LA's must submit verification of completion to the SA.

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WCS Program Special Circumstances

- I. LA's that do not have an existing state approved WCS program who want to hire a certified WCS must submit a program application to the SA for approval. Once the program application is approved, the WCS may join their agency and perform WCS job duties as assigned.

- II. LA's who want to hire a WCS with an expired WCS certification must complete the following procedures:
 - A. Submit a WCS Program application if there is no history of a previous state approved program.
 - B. Re-certify the WCS upon hire:
 1. If the credential has been expired less than or equal to 2 years, the WCS may test out of the full program by taking the WCS Program exams and completing the WCS Program observations.
 - a. If s/he is unable to pass the exam(s) after 1 attempt with an 80 or above, they will be required to retake the full WCS Program.
 - b. S/he must achieve a score of "satisfactory" on all observations.
 2. If the credential has been expired more than 2 years, the WCS must retake the full WCS Program to return to active certification status.

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Policy No. CS:17.0

Documentation of a Complete Nutrition Assessment

Purpose

To ensure accurate and thorough determination of eligibility for WIC benefits, and identification of all nutrition risk conditions.

Authority

7 CFR Part 246.7

Policy

Local agency (LA) staff must perform a complete nutrition assessment on every WIC applicant who is categorically eligible and whose income, identification, and residency meet program guidelines.

Procedures

- I. A complete nutrition assessment must be performed by a certifying authority (CA) or a WIC Certification Specialist (WCS). Other trained WIC staff may perform anthropometrics, and blood iron levels.
 - A. Nutrition risk factors must be evaluated by a CA or WCS.
 - B. Every nutrition risk for which a person can qualify must be identified and documented in the Management Information System (MIS).
- II. A complete nutrition assessment includes biometric data, health and maternal history, and immunization screening and referrals.
 - A. Biometric Data– includes the measurement of weight, length/height, and blood iron levels. Biometric data may be performed in the clinic or obtained from a healthcare provider or health/medical portal.

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1. Anthropometric Data – the weight and height/length must be measured and plotted according to the instructions in the *Guidelines for Nutrition Assessment*. **Table 1** (page 5) explains acceptable timeframes based on the date measurements are taken to obtain or accept anthropometric measurements.
 - a. In rare cases when the weight and length are unknown or cannot be obtained from a healthcare provider or by using standard measuring equipment, select “weight or length/height not available” in the MIS.

2. Blood Iron Levels – Assessment of iron status via a blood screen for hemoglobin or hematocrit levels must be performed according to the instructions in the *Guidelines for Nutrition Assessment*. **Table 2** (page 5) explains the appropriate category and age to perform a blood screening.
 - a. Waiving the blood screening requirement is allowed for limited situations and shall be documented in the MIS. The following exceptions are the only circumstances that would preclude a blood screen for low iron:
 - i. Applicants whose religious beliefs do not allow them to have blood drawn. Acceptable documentation includes a written, signed statement by the parent/caretaker or applicant, or written documentation by the WIC staff that is signed by the parent/caretaker or applicant. This must be uploaded to the MIS.
 - ii. Applicants with a “lifelong” medical condition such as hemophilia, fragile bones, or osteogenesis imperfecta. A written, signed statement by the healthcare provider, physician, or someone working under the physician’s orders is required. This must be uploaded to the MIS.

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- iii. Applicants with a treatable skin disease or a serious skin condition, where the blood collection may cause harm to the applicant. A written, signed statement by the healthcare provider, physician, or someone working under a physician's orders is required. This must be uploaded to the MIS.
- B. Health and Maternal History – The health history questionnaire, prior pregnancy data, and counseling session are required to assess the applicant's nutritional and health status at each certification. Nutrition risk conditions must be assessed and assigned according to the instructions in the *Clinic Assessment Manual*.
- 1. For applicants certified as pregnant, a medical/maternal history must be completed during the pregnancy.
 - 2. A medical/maternal history must be collected after the pregnancy ends for applicants certified as postpartum and breastfeeding.
- C. Immunization Screenings and Referrals
- 1. If available, staff must review immunization records during the client's certification and mid-certification appointments (refer to [CS:32.0 \(T\) Mid-Certification Assessment for Children](#))
 - a. Immunization status (current or not current) must be indicated in the MIS.
 - b. If immunizations are not current, referrals to immunization providers in the community must be made.
 - c. Information on timely immunizations must be provided to clients. At a minimum, staff must provide a Centers for Disease Control and Prevention (CDC) immunization schedule or post a CDC immunization schedule for clients to

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view. The updated schedule can be accessed at:
[Vaccines & Immunizations | Vaccines & Immunizations | CDC](#).

2. If immunization records are not available, staff must indicate "Not Available" in the MIS. Clients must be reminded to bring their records to their next scheduled appointment for review.

III. Special Circumstances/Accommodations

- A. When an applicant has special health care needs, special accommodations may be made in obtaining medical/nutrition data to evaluate the applicant's nutritional status. Refer to Policy [CR:07.0 \(T\) Provision of Services to Families with Special Health Care Needs](#) for the definition of special health care needs and procedures to follow in these circumstances. Refer to [Policy CS:04.0 Physical Presence](#) for appropriate waivers, if necessary.
- B. A USDA waiver under the American Rescue Plan Act (ARPA) allows LAs to defer the anthropometric and blood iron levels for all applicants/clients up to 60 days. Refer to [Policy CS:04.0 Physical Presence](#).

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Table 1. Anthropometric Requirements

Category	Age	Acceptance Timeframes	Anthropometric Requirements
Infants	< 2 weeks	Birth date measurements	Length and weight physical presence waived
	> 2 and < 8 weeks	Dated 30 Days or less	Length and weight Physical presence waived
	> 8 weeks	Dated 30 Days or less	Length and weight Physical presence required
Children	12 months - <2 years	Dated 60 Days or less	Length and weight Physical presence required
	2-5 years		Height and weight Physical presence required
Pregnant Breastfeeding Postpartum	N/A	Dated 60 Days or less taken in current certification category	Height and weight Physical presence required

Table 2. Blood Iron Level Requirements

Category/Age	When to Conduct Blood Screening	Acceptance Timeframe
Infants Initial certification <9 months	<ul style="list-style-type: none"> • Between 9 – 12 months • Use corrected/adjusted age if premature • If initial certification between 6 – 8 months, conduct if: <ul style="list-style-type: none"> ○ At nutritional risk ○ If returning between 9 – 12 months presents a barrier 	Dated 30 days or less
Infants Initially certified 9 – 12 months	At certification	Dated 30 days or less

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Category/Age	When to Conduct Blood Screening	Acceptance Timeframe
Children 12 months – 5 years	<ul style="list-style-type: none"> • At least once every 12 months. • Must be conducted 6 months after initial blood screening if: <ul style="list-style-type: none"> ○ mid-certification falls between 12 - 23 months old ○ blood iron level below normal range at previous certification. <p>Refer to: CS:32.0 (T) Mid-Certification Assessment for Children</p>	Dated 60 days or less
Examples: <ul style="list-style-type: none"> • Initial blood screening 6 – 8 months old: conduct at 12 – 14 months old • Initial blood screening 9 – 12 months old: conduct at 15 – 18 months old • No initial blood screening: conduct at child certification 		
Pregnant Postpartum Breastfeeding	At certification	Dated 60 days or less and in current certification category

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Effective October 1, 2024

Policy No. CS:18.0

Criteria For Identifying Nutrition Risk Conditions

Purpose

To provide benefits to meet the special health and nutrition needs of low-income pregnant, breastfeeding and postpartum women, infants, and children. WIC provides supplemental foods and nutrition education to participants at nutrition risk during the critical growth and development periods of pregnancy, infancy, and early childhood.

Authority

7 CFR Part 246.7

Policy

To be eligible for program benefits, all WIC Program applicants must have a nutrition risk condition identified through the documentation of a complete nutrition assessment.

Procedures

- I. When determining eligibility, compare all data from the applicant's health history, dietary, biomedical, and anthropometric assessment to the risk conditions listed in the Texas Clinic Assessment Manual. The Texas Clinic Assessment Manual provides the definition, justification, clarifications, guidelines and references about each of the allowable risk conditions. The criteria listed in this policy reflect allowable risk conditions.
- II. Every nutrition risk condition must be identified on the Participant Page of the MIS. Every risk code on the Participant Page must have supporting documentation, e.g., growth charts, diet/health history information, and/or notes.

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Guidelines

List of Allowable Nutrition Risk Conditions

The allowable nutrition risk conditions are subsequently listed by category. These risk conditions are in accordance with the national risk conditions identified and required by the United States Department of Agriculture (USDA). See the Texas Clinic Assessment Manual for complete definitions, priority levels, justifications, and clarifications of each risk criteria.

Pregnant Women

Anthropometric - Priority I

- 101 Underweight
- 111 Overweight
- 131 Low Maternal Weight Gain
- 133 High Maternal Weight Gain

Biochemical - Priority I

- 201 Low Hematocrit/Low Hemoglobin
- 211 Elevated Blood Lead Levels Within the Past 12 Months

Clinical/Health/Medical - Priority I

Pregnancy-Induced Conditions

- 301 Hyperemesis Gravidarum
- 302 Gestational Diabetes
- 303 History of Gestational Diabetes
- 304 History of Preeclampsia

Delivery of Low-Birth weight/Premature Infant

- 311A History of Preterm Delivery

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- 311B History of Early Term Delivery
- 312 History of Low Birth Weight

Prior Stillbirth Fetal or Neonatal Death

- 321 History of Spontaneous Abortion (two or more terminations of less than 20 weeks gestation or less than 500 grams), Fetal (20 weeks or greater gestation) or Neonatal Loss (28 days or less of life)

General Obstetrical Risks

- 331 Pregnancy at a Young Age
- 332 Short Interpregnancy Interval
- 334 Lack of or Inadequate Prenatal Care
- 335 Multifetal Gestation
- 336 Fetal Growth Restriction (FGR)
- 337 History of Birth of a Large for Gestational Age Infant
- 338 Pregnant Woman Currently Breastfeeding
- 339 History of Birth with Nutrition Related Congenital or Birth Defect

Nutrition-Related Risk Conditions (Chronic disease, Genetic Disorder, Infection)

- 341 Nutrient Deficiency or Disease
- 342 Gastro-Intestinal Disorders
- 343 Diabetes Mellitus
- 344 Thyroid Disorders
- 345A Hypertension
- 345B Prehypertension
- 346 Renal Disease
- 347 Cancer
- 348 Central Nervous System Disorders
- 349 Genetic and Congenital Disorders
- 351 Inborn Errors of Metabolism

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- 352A Infectious Diseases - Acute (within the past 6 months)
 - 352B Infectious Diseases - Chronic
 - 353 Food Allergies
 - 354 Celiac Disease
 - 355 Lactose Intolerance
 - 356 Hypoglycemia
 - 357 Drug Nutrient Interactions
 - 358 Eating Disorders
 - 359 Recent Major Surgery, Trauma, Burns
 - 360 Other Medical Conditions
 - 361 Mental Illnesses
 - 362 Developmental, Sensory or Motor Disabilities Interfering with the Ability to Eat

Substance Use (Drugs, Alcohol, Tobacco)

- 371 Nicotine and Tobacco Use
- 372A Any Alcohol Use in Current Pregnancy
- 372B Any Substance Use in Current Pregnancy

Other Health Risks

- 381 Oral Health Conditions
- 382 Fetal Alcohol Spectrum Disorders

Dietary - Priority IV

- 401 Failure to Meet *Dietary Guidelines for Americans*
- 427 Inappropriate Nutrition Practices for Women

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Effective October 1, 2024

Policy No. CS:18.0

Other Risks - Refer to each risk condition for priority level

Regression/Transfer

502 Transfer of Certification - Priority I

Breastfeeding Mother/Infant Dyad

601A Breastfeeding Mother of Infant at Nutritional Risk - Priority I
depending on infant's priority

601B Breastfeeding Mother of Infant at Nutritional Risk - Priority II
depending on infant's priority

601C Breastfeeding Mother of Infant at Nutritional Risk - Priority IV
depending on infant's priority

602 Breastfeeding Complications or Potential Complications - Priority I

Homelessness/Migrancy

801 Homelessness – Priority IV

802 Migrancy – Priority IV

Other Nutrition Risks

901 Recipient of Abuse – Priority IV

902 Woman with Limited Ability to Make Feeding Decisions and/or
Prepare Food – Priority IV

903 Foster Care – Priority IV

904 Environmental Tobacco Smoke Exposure – Priority I

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Breastfeeding Women

A woman is considered a breastfeeding woman if she nurses the infant at least once a day.

Anthropometric - Priority I

- 101 Underweight
- 111 Overweight
- 133 High Maternal Weight Gain in Most Recent Pregnancy

Biochemical- Priority I

- 201 Low Hematocrit/Low Hemoglobin
- 211 Elevated Blood Lead Levels Within the Past 12 Months

Clinical/Health/Medical - Priority I

Pregnancy-Induced Conditions

- 303 History of Gestational Diabetes
- 304 History of Preeclampsia

Delivery of Low-Birth weight/Premature Infant

- 311A History of Preterm Delivery
- 311B History of Early Term Delivery

Prior Stillbirth, Fetal or Neonatal Death

- 321 History of Spontaneous Abortion (termination of less than 20 weeks gestation or less than 500 grams), Fetal (20 weeks or greater gestation) or Neonatal Loss (28 days or less of life)

General Obstetrical Risks

- 331 Pregnancy at a Young Age
- 332 Short Interpregnancy Interval

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- 335 Multifetal Gestation
- 337 History of Birth of a Large for Gestational Age Infant
- 339 History of Birth with Nutrition Related Congenital or Birth Defect

Nutrition-Related Risk Conditions (E.g. Chronic Disease, Genetic Disorder, Infection)

- 341 Nutrient Deficiency or Disease
- 342 Gastro-Intestinal Disorders
- 343 Diabetes Mellitus
- 344 Thyroid Disorders
- 345A Hypertension
- 345B Prehypertension
- 346 Renal Disease
- 347 Cancer
- 348 Central Nervous System Disorders
- 349 Genetic and Congenital Disorders
- 351 Inborn Errors of Metabolism
- 352A Infectious Diseases - Acute (within the past 6 months)
- 352B Infectious Diseases - Chronic
- 353 Food Allergies
- 354 Celiac Disease
- 355 Lactose Intolerance
- 356 Hypoglycemia
- 357 Drug Nutrient Interactions
- 358 Eating Disorders
- 359 Recent Major Surgery, Trauma, Burns
- 360 Other Medical Conditions
- 361 Mental Illnesses

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362 Developmental, Sensory or Motor Disabilities Interfering with the Ability to Eat

363 Pre-Diabetes

Substance Use (Drugs, Alcohol, Tobacco)

371 Nicotine and Tobacco Use

372A Any Alcohol Use

372B Any Substance Use

Other Health Risks

381 Oral Health Conditions

382 Fetal Alcohol Spectrum Disorders

Dietary - Priority IV

401 Failure to Meet *Dietary Guidelines for Americans*

427 Inappropriate Nutrition Practices for Women

Other Risks - Refer to each risk condition for priority level

Regression/Transfer

501 Possibility of Regression - Priority IV

502 Transfer of Certification - Priority I

Breastfeeding Mother/Infant Dyad

601A Breastfeeding Mother of Infant at Nutritional Risk - Priority I depending on infant's priority

601B Breastfeeding Mother of Infant at Nutritional Risk - Priority II depending on infant's priority

601C Breastfeeding Mother of Infant at Nutritional Risk - Priority IV depending on infant's priority

602 Breastfeeding Complications or Potential Complications - Priority I

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Homelessness/Migrancy

- 801 Homelessness - Priority IV
- 802 Migrancy - Priority IV

Other Nutrition Risks

- 901 Recipient of Abuse - Priority IV
- 902 Woman with Limited Ability to Make Feeding Decisions and/or Prepare Food - Priority IV
- 903 Foster Care - Priority IV
- 904 Environmental Tobacco Smoke Exposure – Priority I

Postpartum Women

Anthropometric - Refer to each risk condition for priority level

- 101 Underweight - Priority III
- 111 Overweight - Priority VI
- 133 High Maternal Weight Gain in Most Recent Pregnancy - Priority VI

Biochemical - Priority VI

- 201 Low Hematocrit/Low Hemoglobin
- 211 Elevated Blood Lead Levels Within the Past 12 Months

Clinical/Health/Medical - Refer to each risk condition for priority level

Pregnancy-Induced Conditions

- 303 History of Gestational Diabetes – Priority V
- 304 History of Preeclampsia – Priority V

Delivery of Low-Birth weight/Premature Infant

- 311A History of Preterm Delivery – Priority III
- 311B History of Early Term Delivery – Priority III
- 312 History of Low Birth Weight – Priority III

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Prior Stillbirth, Fetal or Neonatal Death

- 321 History of Spontaneous Abortion (termination of less than 20 weeks gestation or less than 500 grams), Fetal (20 weeks or greater gestation) or Neonatal Loss (28 days or less of life) – Priority III

General Obstetrical Risks

- 331 Pregnancy at a Young Age- Priority III
332 Short Interpregnancy Interval – Priority III
335 Multifetal Gestation – Priority III
337 History of Birth of a Large for Gestational Age Infant – Priority V
339 History of Birth with Nutrition Related Congenital Birth Defect – Priority V

Nutrition-Related Risk Conditions (E.g. Chronic Disease, Genetic Disorder, Infection)

- 341 Nutrient Deficiency Diseases – Priority III
342 Gastro-Intestinal Disorders – Priority III
343 Diabetes Mellitus – Priority III
344 Thyroid Disorders – Priority III
345A Hypertension– Priority III
345B Prehypertension – Priority VI
346 Renal Disease – Priority III
347 Cancer – Priority III
348 Central Nervous System Disorders- Priority III
349 Genetic and Congenital Disorders – Priority III
351 Inborn Errors of Metabolism – Priority III
352A Infectious Diseases - Acute (within the past 6 months) – Priority VI
352B Infectious Diseases – Chronic – Priority VI

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- 353 Food Allergies - Priority III
 - 354 Celiac Disease – Priority III
 - 355 Lactose Intolerance – Priority III
 - 356 Hypoglycemia – Priority III
 - 357 Drug Nutrient Interactions – Priority III
 - 358 Eating Disorders – Priority III
 - 359 Recent Major Surgery, Trauma, Burns – Priority III
 - 360 Other Medical Conditions – Priority III
 - 361 Mental Illnesses – Priority VI
 - 362 Developmental, Sensory or Motor Disabilities Interfering with the Ability to Eat – Priority III
 - 363 Pre-Diabetes – Priority IV

Substance Use (Drugs, Alcohol)

- 371 Nicotine and Tobacco Use – Priority VI
- 372A Any Alcohol Use – Priority VI
- 372B Any Substance Use – Priority VI

Other Health Risks

- 381 Oral Health Conditions – Priority III
- 382 Fetal Alcohol Spectrum Disorders – Priority III

Dietary - Priority VI

- 401 Failure to Meet *Dietary Guidelines for Americans*
- 427 Inappropriate Nutrition Practices for Women

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Other Risks - Refer to each risk condition for priority level

Regression/Transfer

501 Possibility of Regression - Priority VII

502 Transfer of Certification - Priority III

Homelessness/Migrancy

801 Homelessness - Priority VI

802 Migrancy - Priority VI

Other Nutrition Risks

901 Recipient of Abuse - Priority VI

902 Woman with Limited Ability to Make Feeding Decisions and/or
Prepare Food - Priority VI

903 Foster Care - Priority VI

904 Environmental Tobacco Smoke Exposure – Priority V

Infants

Anthropometric - Priority I

103A Infant Underweight

103B Infant At Risk of Underweight

115 High Weight-for-Length

121A Short Stature

121B Infant At Risk of Short Stature

134 Failure to Thrive (FTT)

135 Slowed/Faltering Growth Pattern

141A Low Birth Weight

141B Very Low Birth Weight

142A Preterm Delivery

142B Early Term Delivery

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Effective October 1, 2024

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- 151 Small for Gestational Age
- 152 Low Head Circumference
- 153 Large for Gestational Age

Biochemical - Priority I

- 201 Low Hematocrit/Low Hemoglobin
- 211 Elevated Blood Lead Levels Within the Past 12 Months

Clinical/Health/Medical - Priority I

Nutrition-Related Risk Conditions (E.g., Chronic Disease, Genetic Disorder, Infection)

- 341 Nutrient Deficiency or Disease
- 342 Gastro-Intestinal Disorders
- 343 Diabetes Mellitus
- 344 Thyroid Disorders
- 345A Hypertension
- 345B Prehypertension
- 346 Renal Disease
- 347 Cancer
- 348 Central Nervous System Disorders
- 349 Genetic and Congenital Disorders
- 351 Inborn Errors of Metabolism
- 352A Infectious Diseases - Acute (within the past 6 months)
- 352B Infectious Diseases - Chronic
- 353 Food Allergies
- 354 Celiac Disease
- 355 Lactose Intolerance
- 356 Hypoglycemia
- 357 Drug Nutrient Interactions

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- 359 Recent Major Surgery, Trauma, Burns
- 360 Other Medical Conditions
- 362 Developmental, Sensory or Motor Disabilities Interfering with the Ability to Eat

Other Health Risks

- 381 Oral Health Conditions
- 382 Fetal Alcohol Spectrum Disorders
- 383 Neonatal Abstinence Syndrome (NAS)

Dietary - Priority IV

- 411 Inappropriate Nutrition Practices for Infants
- 428 Dietary risk Associated with Complementary Feeding Practices (4 to 12 months)

Other Risks - Refer to each risk condition for priority level

Regression/Transfer

- 502 Transfer of Certification - Priority I

Breastfeeding Mother/Infant Dyad

- 603 Breastfeeding Complications or Potential Complications - Priority I

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Effective October 1, 2024

Policy No. CS:18.0

Infant of a WIC-Eligible Mother or Mother at Risk During Pregnancy

- 701A Infant Up to 6 Months Old of WIC Mother - Priority II
- 701B Infant Up to 6 Months Old of A Woman Who Would Have Been Eligible During Pregnancy – Priority II
- 702A Breastfeeding Infant of Woman at Nutritional Risk - Priority I depending on woman’s priority
- 702B Breastfeeding Infant of Woman at Nutritional Risk - Priority II depending on woman’s priority
- 702C Breastfeeding Infant of Woman at Nutritional Risk - Priority IV depending on woman’s priority

Homelessness/Migrancy

- 801 Homelessness - Priority IV
- 802 Migrancy - Priority IV

Other Nutrition Risks

- 901 Recipient of Abuse – Priority IV
- 902 Infant of Woman or Primary Caregiver with Limited Ability to Make Feeding Decisions and/or Prepare Food - Priority IV
- 903 Foster Care - Priority IV
- 904 Environmental Tobacco Smoke Exposure – Priority I

Children

Anthropometric - Priority III

- 103A Child Underweight
- 103B Child At Risk of Underweight
- 113 Child Obese (2-5 Years of Age)
- 114A Child Overweight (2 – 5 Years of Age)
- 114B Child At Risk of Overweight
- 115 High Weight-for-Length (12 – 23 Months of Age)

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Effective October 1, 2024

Policy No. CS:18.0

- 121A Short Stature
- 121B Child At Risk of Short Stature
- 134 Failure to Thrive (FTT)
- 141A Low Birth Weight
- 141B Very Low Birth Weight
- 142A Preterm Delivery
- 142B Early Term Delivery
- 151 Small for Gestational Age
- 152 Low Head Circumference (12 – 23 Months of Age)

Biochemical - Priority III

- 201 Low Hematocrit/Low Hemoglobin
- 211 Elevated Blood Lead Levels Within the Past 12 Months

Clinical/Health/Medical - Priority III

Nutrition-Related Risk Conditions (E.g., Chronic Disease, Genetic Disorder, Infection)

- 341 Nutrient Deficiency or Disease
- 342 Gastro-Intestinal Disorders
- 343 Diabetes Mellitus
- 344 Thyroid Disorders
- 345A Hypertension
- 345B Prehypertension
- 346 Renal Disease
- 347 Cancer
- 348 Central Nervous System Disorders
- 349 Genetic and Congenital Disorders
- 351 Inborn Errors of Metabolism
- 352A Infectious Diseases – Acute (within the past 6 months)

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- 352B Infectious Diseases - Chronic
- 353 Food Allergies
- 354 Celiac Disease
- 355 Lactose Intolerance
- 356 Hypoglycemia
- 357 Drug Nutrient Interactions
- 359 Recent Major Surgery, Trauma, Burns
- 360 Other Medical Conditions
- 361 Mental Illnesses
- 362 Developmental, Sensory or Motor Disabilities Interfering with the Ability to Eat

Other Health Risks

- 381 Oral Health Conditions
- 382 Fetal Alcohol Spectrum Disorders

Dietary - Priority V

- 401 Failure to Meet *Dietary Guidelines for Americans* (2 – 5 Years of Age)
- 425 Inappropriate Nutrition Practices for Children
- 428 Dietary Risk Associated with Complementary Feeding Practices (12 – 23 Months of Age)

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Other Risks - Refer to each risk condition for priority level

Regression/Transfer

501 Possibility of Regression - Priority VII

502 Transfer of Certification -Priority III

Homelessness/Migrancy

801 Homelessness - Priority V

802 Migrancy - Priority V

Other Nutrition Risks

901 Recipient of Abuse – Priority V.

902 Child of Woman or Primary Caregiver with Limited Ability to Make Feeding Decisions and/or Prepare Food - Priority V

903 Foster Care – Priority V

904 Environmental Tobacco Smoke Exposure – Priority III

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Effective January 1, 2022

Policy No. CS:19.0

Infant Mid-Point Review

Purpose

To ensure that the quality and accessibility of health care services for infants enrolled in WIC between birth and four months of age are not diminished.

Authority

7 CFR Part 246.7

Policy

Local agencies (LAs) must ensure that infants enrolled during their first four months of age will receive health care services (well-child check or Texas Health Steps visit) or are assessed for growth, nutritional and immunization status at WIC between four through eight months of age (six through eight months is preferred). Food benefits must not be denied to parents/guardians or caregivers who refuse to obtain these health care services or screening by WIC.

Procedures

- I. Infants certified before four months of age must be screened between four and eight months of age to determine if the infant has a healthcare provider.
- II. If the infant has a healthcare provider, staff must inquire if the infant has had a well-child check or Texas Health Steps (THS) visit between four and eight months of age.
 - A. If the infant has had a well-child check or THS visit, the date of the checkup must be entered in "Mid-point Completion Date" field on the Participant Page of the MIS.
 - B. If the infant has not had a well-child check or THS visit but has an appointment for the checkup between four and eight months of

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Effective January 1, 2022

Policy No. CS:19.0

age, enter today's date in "Mid-point Completion Date" on the Participant Page in the MIS.

- III. If the infant does not have a healthcare provider or does not have an appointment for a well-child check or THS visit by seven months of age, WIC staff must offer to provide a midpoint screening performed by a Certifying Authority or WIC Certification Specialist.
 - A. Staff must complete the required fields of the Midpoint Review form in the MIS, including anthropometrics.
 - 1. Staff must inquire if parent/guardian/caregiver has any questions/concerns about the infant/family. If there are concerns, the counseling session must be documented on the VENA Section of the MIS. Documentation is not required when the parent/guardian/caregiver does not have any concerns.
 - 2. Staff must inform the parent/guardian/caregiver that the midpoint screening at the WIC clinic does not replace a well-child assessment performed by a physician or healthcare provider.
 - 3. Referrals must be made to other health care services for follow-up of any problems detected by WIC staff during the screening. Refer to [CS:21.0 Referral to Health Services](#).
 - B. If the infant is not present at the WIC appointment, it is acceptable for staff to complete the Midpoint Review without anthropometrics at the request of the parent/guardian/caregiver.
- IV. If a parent/guardian/caregiver refuses a midpoint screening, enter "Mid-point Refusal Date" on the Participant Page of the MIS. It is acceptable if the parent/guardian/caregiver refuses any part of the midpoint screening.
- V. LAs will be considered out of compliance if an infant has reached nine months of age or older and does not have a midpoint documented in the MIS or a documented refusal date.

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Effective: October 1, 2015

Policy No. CS:21.0

Referral to Health Services

Purpose

To ensure participants are provided information about and referred to health services when appropriate.

Authority

7 CFR Part 246.7

Definitions

Health services: means any routine pediatric and obstetric care (such as well-child checkups, prenatal or postpartum examinations, specialty care, dentistry, and family planning).

Medical home: A healthcare professional or healthcare clinic that provides comprehensive medical care. Comprehensive care includes care of patients with illnesses and injuries, well-child exams, immunizations, and referrals for specialty care.

Follow-up: efforts the local agency (LA) makes to contact the participant and determine the outcome (disposition) of the referral.

Policy

LAs shall refer participants to health services when appropriate. A list of local resources shall be made available for distribution to all applicants and/or participants and their parents or caregivers.

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Effective: October 1, 2015

Policy No. CS:21.0

Procedure

- I. LAs shall maintain an up-to-date list of local health services including resources for drug and other harmful substance abuse counseling and treatment.
- II. At each certification, LAs shall determine whether or not an applicant has a medical home. The medical home shall be documented on both the WIC Health History form (WIC-42, WIC-44, and WIC-45) and on the Participant form (WIC-36, WIC-38, WIC-39, WIC-40, WIC-41).
- III. Applicants and/or participants who do not have a medical home shall be:
 - A. given an up-to-date, written list of health services within the community; and
 - B. counseled about the importance of regular health care.
- IV. Applicants and/or participants who are identified as needing drug and other harmful substance abuse services shall be given an up-to-date, written list of drug and harmful substance abuse counseling and treatment services.

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Effective October 1, 2020

Policy No. CS:23.0

Notification of Ineligibility, Disqualification, Termination or Expiration of Eligibility

Purpose

To ensure applicants and participants are informed of the reasons for ineligibility or termination and clearly understand their right to a fair hearing to appeal such a determination. To ensure participants are informed of the expiration date of their certification and the ability to reapply to continue receiving benefits if categorically eligible.

Authority

7 CFR Part 246.7

Policy

A person found ineligible for the program shall be notified in writing of the reason(s) for the ineligibility and of the right to a fair hearing. Local agencies (LAs) shall use the MIS WIC Notification of Ineligibility/ Termination to document an applicant's or participant's ineligibility or termination from the program. A participant found ineligible shall keep their Texas WIC card.

A participant who is approaching the end of WIC Program eligibility due to termination or expiration of his/her certification period shall be notified at least 15 days prior to the end of the certification.

Definitions

Ineligible - an individual who does not qualify for WIC at either initial or subsequent certification because:

- there is no documented condition of nutritional need (infants up to three months of age)
- the person's household income exceeds standards,
- the person does not live within Texas,

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- the child is five years or older,
- the person does not meet categorical requirements, or
- the person has not met the physical presence requirement.

Procedures

I. Notification of Ineligibility for Active Participants

A. When ineligibility is determined during the certification visit:

1. The applicant or parent/guardian/caregiver shall be notified of ineligibility and be instructed to read and sign the WIC Notification of Ineligibility/Termination in the MIS at the clinic.
 - a. The notice will include reason(s) for ineligibility and the participant shall be offered a copy after signing.
 - b. The MIS retains a copy of the signed notice.
2. Any active participant, belonging to the household determined income or residency ineligible, shall be issued one final set of benefits (to ensure he/she is receiving a 15 day notification) before termination.

Example: Child's certification period 11/20/xx through 4/30/XX. On January 10th, mom applies as a pregnant woman but is determined income ineligible. In order to provide the parent 15 days of notification before termination, the child is entitled to benefits through January 25th. Since the child's benefits are valid from January 1st to January 31st, this is considered to be the last issuance for which the child is eligible.

To determine if an active participant is entitled to additional benefits, add 15 days to the date income ineligibility was determined for the applicant. If the active participant does not have benefits on the card through the 15th day, issue a single month's benefits before terminating the participant. If the participant has benefits on the 15th day, do not issue

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additional benefits. If the participant has benefits past the 15th day of the notification period, staff shall void the future months' benefits.

- B. When ineligibility is determined after the certification visit, and the applicant or parent/guardian/caregiver is not physically present:
 - 1. The WIC Notification of Ineligibility/Termination shall be emailed or mailed to the participant.
 - a. Staff shall notate in the client record the date the letter was mailed; i.e., write "mailed" in lieu of the applicant's signature.
 - b. The notice will include reason(s) for termination.
 - c. The MIS retains a copy of the notice.
 - 2. Any active participant, belonging to the household and determined income ineligible, shall be issued one final set of benefits to ensure he or she is receiving a 15-day notice before termination (See example under I. A. 2.).
 - 3. In situations where the participant has future month's benefits on the Texas WIC card, the parent shall be informed the card will be inactivated the month following the last set of benefits (15-day rule). LA staff shall place an administrative lock on the card for the future months.

II. Notification of Termination for Active Participants

- A. Notice of Termination –
 - 1. 15-day written notice shall be provided if a participant is terminated within a certification period for the following reasons:
 - a. program abuse (includes dual participation)
 - b. caseload management/funding shortage
 - c. exceeds income guidelines due to a reassessment.

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2. The documented termination date shall be at least 15 days from termination date in the MIS.
 - B. If participant/parent/guardian/caregiver is physically present at the clinic, the applicant or parent/guardian/caregiver shall be notified of termination and be instructed to read and sign the WIC Notification of Ineligibility/Termination using the MIS at the clinic.
 1. The notice will include reason(s) for termination and the participant shall be offered a copy after signing.
 2. The MIS retains a copy of the notice.
 - C. If the participant is not physically present, the notification shall be sent by mail.
 1. Staff shall notate in the client record the date the letter was mailed; i.e., write "mailed" in lieu of the applicant's signature.
 2. The notice will include reason(s) for termination.
 3. The MIS retains a copy of the notice.
 - D. Participants found to exceed the income standard during an active certification, due to a reassessment of their income eligibility, shall be issued one final full set of food benefits, to ensure he or she is receiving a 15-day notification before termination (See example under I.A.2).
- III. Notification of Certification Expiration - Notification of Certification Expiration shall be given verbally during the last contact in person or in written form.
- IV. Any individual terminated for any reason has a right to a fair hearing (See Policy CR:03.0.). An individual who has been terminated due to dual participation in the Women, Infants and Children Program, shall only be given one fair hearing.

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Effective March 1, 2012

Policy No. CS: 24.0

Certification Periods

Purpose

To identify the length of time program participants are eligible for WIC benefits.

Authority

7 CFR Part 246.7; 25 TAC §31.25

Policy

WIC benefits will be provided to participants in accordance with the timeframes defined by federal regulations for each category.

Definition

Certification expiration date is the last day of the certification period and the last day the participant shall receive benefits.

Procedures

- I. Begin certification periods on the date the applicant is determined eligible for benefits.

- II. A pregnant woman shall be certified to receive benefits for the duration of her pregnancy, and between delivery and up to six weeks postpartum.

EXAMPLE: Expected delivery date: 11/22/yy
Date infant is six weeks old: 01/03/yy
Certification expiration date: 01/03/yy

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Effective March 1, 2012

Policy No. CS: 24.0

The benefits issued between delivery and six weeks postpartum may be issued before OR at the time of the postpartum screening.

- III. A postpartum woman who is not breastfeeding shall be certified only until she is six months postpartum. Certification shall expire on the day her infant is six months old.

EXAMPLE: Delivery date: 11/22/yy
Certification action date: 12/01/yy
Certification expiration date: 05/22/yy

- IV. A breastfeeding woman (exclusively, mostly or some breastfeeding) shall be certified for a 12 month period or until breastfeeding is discontinued. The woman's certification shall expire the day before the infant's first birthday, or the day the woman stops breastfeeding. See Policy BF: 01.0 for definition of breastfeeding woman.

EXAMPLE: Delivery date: 11/22/yy
Certification action date: 01/05/yy
Certification expiration date: 11/21/yy

- A. If a woman discontinues breastfeeding before six months postpartum, for continuation of certification, her category, risk conditions (if applicable) and food package code need to be changed in the Texas WIC Information Network (WIN) system so she may participate as a postpartum woman. If her eligibility was based solely on breastfeeding risk conditions, risk code 501, Regression, may be applicable based on her pregnancy risk conditions. If risk code 501 is not applicable, staff shall assign risk code 401, Failure to Meet Dietary Guidelines for Americans, and the woman shall be issued postpartum benefits.
- B. If a woman discontinues breastfeeding after six months postpartum, she is no longer categorically eligible. Utilizing Void Benefits, staff shall void any remaining benefits for which she is

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Effective March 1, 2012

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not eligible to receive and she shall be terminated in the WIN system.

- V. A child, up to age 5, shall be certified for a 12-month period ending on the last day of the twelfth month.

EXAMPLE: Certification action date
Certification action date: 12/14/yy
Certification expiration date: 12/31/yy

For a child turning five years of age, their eligibility will expire at the end of the month in which the child reaches his/her fifth birthday.

EXAMPLE: Child's fifth birthday
Certification action date: 01/25/yy
Child's fifth birthday: 03/19/yy
Certification expiration date: 03/31/yy

If a child is certified in the month of his/her fifth birthday, the certification must occur before the birth date in order for the child to be eligible for benefits. This includes initial and subsequent certifications.

EXAMPLE: Child certification in fifth birthday month
Child's fifth birthday: 03/19/yy
Certification action date: 03/18/yy
Certification expiration date: 03/31/yy

- VI. An infant, younger than six months at the time of initial enrollment, shall be certified up to his/ her first birthday. Certification shall expire on the day prior to the infant's first birthday.

EXAMPLE: Date of birth: 11/22/yy
Certification action date: 04/10/yy
Certification expiration date: 11/21/yy

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Effective March 1, 2012

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VII. An infant, six months or older at the time of initial enrollment, shall be certified for a six-month period ending on the last day of the sixth month.

EXAMPLE: Date of birth: 11/22/yy
Certification action date: 07/11/yy
Certification expiration date: 12/31/yy

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Effective August 1, 2009

Policy CS: 25.0

Issuance of WIC Lone Star Cards

Purpose

To provide documentation of participation in the WIC Program, provide food benefits and access to the participant's/family's records in the computer system.

Authority

7 CFR Part 246.7

Policy

The local agency (LA) shall issue one WIC Lone Star Card to each new family of WIC participants.

Procedures

- I. Before a WIC Lone Star Card or replacement card is issued (refer to **Policies CS:05.0, CS:26.0**), the applicant shall present appropriate identification as stated in **Policy CS:05.0**.

- II. Once eligibility of a new family is determined, a WIC Lone Star Card is issued and assigned a PAN. The participant shall receive hands-on training in the use of the card and selecting a personal identification number (PIN). As part of the hands-on training, the participant shall select his/her personal identification number (PIN). The clinic staff load the benefits onto the card and a shopping list/benefits receipt will be printed. The participant shall sign the shopping list/benefits receipt. The clinic retains the signed original and the participant takes the signed copy. The participant removes and signs the WIC Lone Star Card.

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Effective August 1, 2009

Policy CS: 25.0

- III. LAs shall account for each WIC Lone Star Card received from the state agency and issued to participants through the inventory component of the Texas WIC Information Network (WIN) system.
- IV. Unissued WIC Lone Star Cards shall be kept in a secured area at the clinic/LA.

Guidelines

Refer to the Texas WIN EBT Quick Guide for Clinics for WIN procedures on issuing WIC Lone Star Cards.

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Effective December 1, 2019

Policy No. CS:26.0

Issuance and Disposition of Replacement Texas WIC Cards

Purpose

To limit interruption of services to the WIC participant due to the loss, theft, damage, or failure of the Texas WIC Card.

Authority

State Policy

Policy

The local agency (LA) clinic sites shall issue replacement Texas WIC Cards when card is reported lost, stolen, or damaged.

Definitions

Disabled (Locked) Card - a Texas WIC Card which has been locked in the MIS due to being lost, stolen, or damaged

Administrative Lock - A type of lock on the WIC card that is effective the first day of the following month

Expedited Benefits - the reissuance of current month's benefits by the LA following a lock of card. This process allows the MIS to override the required three calendar days waiting period

Hot Card List (vendor list of locked cards) - indicates that a Texas WIC Card has been permanently disabled (locked) due to being lost, stolen, or damaged or administratively disabled due to a family transfer to a non-EBT clinic, partial family transfer, or dual participation. Texas WIC Card is blocked for use at vendors while it is on the Hot Card List.

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Procedures

- I. When a participant or parent/guardian reports that his/her Texas WIC Card has been lost or stolen:
 - A. Either the SA or LA can disable (lock) the card.
 1. When the participant calls the SA to report a lost or stolen card:
 - a. The SA will place an immediate lock on the card and, if current benefits are on the card, staff will inform the participant or parent/guardian that it will take three calendar days for a replacement card.
 - b. The SA will instruct the participant to call the LA and schedule an appointment for a replacement card.
 2. When the participant contacts the LA (in person or over the phone) to report lost/stolen/damaged card, the LA shall:
 - a. Place an immediate lock on the card.
 - b. If benefits were issued for the current month, schedule an appointment for a replacement card on or after the third calendar day.
 - c. If current benefits were not issued on the card, participant does not need to wait three calendar days for a replacement card. LA staff shall provide a replacement card immediately with current and/or future months' benefits.
 - B. When the participant comes to appointment (on or after third calendar day) to get replacement card:
 1. The LA staff shall confirm the card has been locked within the MIS.
 2. The participant or parent/guardian shall present appropriate identification as stated in Policy CS:05
 3. LA will issue new card, have participant sign the back of the card, and select and confirm the personal identification number (PIN).
 4. LA will replace in full current and future unredeemed benefits (regardless of the number of days remaining in the month).
 5. Benefits for past months will not be loaded on the card.

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6. If the card was lost, stolen, or damaged at the end of the month, remaining benefits for the month may be lost due to the time element of three calendar days for the replacement process.
- C. If a family member (e.g., a newborn) is certified during the locked period:
1. Issue a replacement card on the day of the certification with benefits for this individual.
 2. Schedule an appointment in 3 calendar days for the participant or parent/guardian to return to load the other family member's replacement benefits on the card.
- II. Damaged Cards
- A. When a participant reports by phone or in person a card is damaged:
1. Staff shall place an immediate lock on the card in the MIS.
 2. Participant shall be instructed to return to the clinic on or after 3 calendar days for the replacement card.
 3. LA shall issue a new card.
 4. Replacement benefits, if available at the time the replacement card is issued, will be automatically loaded on the replacement card when it is issued.
- B. The damaged card does not need to be returned to clinic. When a damaged card is returned to the clinic, staff shall destroy the card per parent agency destruction policies.
- III. Disposition of Unusable Texas WIC cards
- A. When a Texas WIC Card fails during or after benefit issuance and the **participant has not left the clinic**, staff will immediately place a lock on the damaged card and reissue benefits on a new card. Staff shall select "damaged" as the reason in the MIS.
- B. Staff shall destroy the card according to LA/parent agency protocol, after identifying the reason for destruction within the MIS.

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IV. Locked/Unlocked cards

A. A locked card can be unlocked at the clinic. In a situation where it is determined that the card should be unlocked (card reported lost, then found) staff may unlock within the MIS and card can be reused by the same recipient. Staff shall give the participant the option of either:

1. Waiting **4 calendar days** after the card is reported found and unlocked by LA/SA to ensure the card is removed from the Hot Card List (vendor list of locked cards). If the participant attempts to redeem benefits with the found (unlocked) card before the 4 calendar days, the card may be automatically re-locked by the vendor system for an additional 3 days.
2. OR participant can come into the clinic after the **3 calendar days** have passed from the initial lost-stolen report and get a replacement card. The "found" card shall be destroyed by participant or clinic.
3. Clinic/State Agency staff will use the reason "*found card*" in MIS to unlock the card.

B. Administratively locked cards due to one or more family members transferring:

1. The losing clinic will be alerted by the MIS.
2. Losing LA shall be responsible for notifying the family with the Texas WIC Card, by phone and/or mail, that their Texas WIC Card will not work the first day of the following month unless they return to the clinic with the card before that date to have the appropriate benefits removed from the card.
3. Once the benefits have been removed, the card can be reactivated for issuance and redemption.
4. If only the transferring participant exists on the Texas WIC Card, the card shall not be reactivated.

V. Expedited benefits

A. A process that can be used in rare situations to override the three calendar day waiting period

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- B. Reasons for expediting benefits:
1. Current months' benefits remain on the card and there are less than three calendar days remaining in the month
 2. Clinic closures for an extended period of time that creates an undue hardship to WIC families in need of food benefits (satellite clinics with limited hours, holidays, inclement weather)
 3. A participant is removed from a foster home and placed in another foster home
 4. A participant returns from another state without their Texas WIC Card that was locked within the past three calendar days.

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Policy No. CS:27.0

Enrollment of Transferring Participants

Purpose

To ensure transition of services and uninterrupted benefits for transferring participants for the entire duration of the current certification period.

Authority

7 CFR Part 246.7; State Policy

Policy

Participants transferring from another WIC local agency (LA) or from the WIC Overseas Program shall be eligible to receive WIC benefits (or priority placement if a USDA- and State agency-approved waiting list is in place) if they present valid WIC identification cards from Texas or valid proof of current certification from another state or the WIC Overseas Program.

Definitions

Administrative Lock – a WIC Card lock which is in effect the first day of the following month

Procedures

- I. In-state Transfer - Texas
 - A. When a family requests a transfer, staff shall transfer the family record to the gaining clinic and then schedule an appointment.
 - B. if the SA has a waiting list, place the participant(s) first on the list and then enroll the participant(s) according to Policy **CS:31.0**.
 - C. Enroll the participant(s) immediately.
 - D. Document proof of identification (Policy **CS:05.0**).
 - E. Document proof of current address if available. If not, document verbal declaration of current address.
 - F. Issue all benefits for which the participant(s) is eligible.

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- G. If the participant has lost the Texas WIC Card, refer to Policy **CS:26.0**.

- II. Participant (split-family) transfer – Texas
 - A. The gaining clinic transfers the participant –
 - 1. The MIS will automatically place an administrative lock on the losing family’s Texas WIC Card effective the first day of the following month.
 - 2. The losing clinic shall make an effort to notify the family that their Texas WIC Card will not work beginning with the effective date of the administrative lock (on the first day of the following month) unless they return to the clinic with the card for staff to remove appropriate benefits and unlock the card prior the effective lock date.
 - 3. When the card is returned to the losing clinic, remove appropriate benefits and unlock the card.
 - 4. If more than one participant is active on the card, remove future benefits for the transferred participant(s).

 - B. The gaining clinic shall issue benefits.
 - 1. If participant is transferring to a family that does not have a Texas WIC Card, staff shall issue benefits to a new card for the appropriate months.
 - 2. If participant is transferring to a family that has a Texas WIC Card, staff shall issue benefits to the family’s card.
 - 3. Use the expedite benefits function when current benefits have not been redeemed.
 - 4. For foster children, see Policy **CS:11:0**.

- III. As the Transfers from **Out of State and the WIC Overseas Program with Verification of Certification (VOC)**: When a transferring participant presents a VOC from another state or the WIC Overseas Program with the participant’s name and a valid certification date, follow this process:

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- A. Enroll the participant immediately.
Document proof of identification (Policy CS:05.0) and residency (Policy CS:06.0). The VOC is valid until the certification period shown on the VOC expires and shall be accepted as proof of eligibility for program benefits.
- B. If out-of-state/WIC Overseas Program proof of certification reflects a shorter certification period than that authorized in Texas, the LA shall apply the Texas WIC Program's certification period.
- C. Enroll instream migrants and Indians with valid WIC VOC. Instream migrants with an expired VOC shall be enrolled if income was determined in the last 12 months.
- D. Issue a Texas WIC Card to the participant.
 - 1. If the date when food benefits were last issued is unknown, contact the other state to verify issuance. If the participant does not have current benefits and is enrolled before the 16th of the month, full month benefits will automatically be issued. If the participant is enrolled on or after the 16th of the month, a partial package will automatically be issued.
 - 2. If the participant has already redeemed and used his/her benefits for the current month, schedule the participant to return the following month.
 - 3. Document the eligibility of the out-of-state/WIC Overseas Program transferring participant by using the information on the VOC. Scan and attach VOC to the MIS.
 - 4. Destroy WIC Card or food instruments/cash value vouchers from the losing state and issue any unredeemed benefits, current and/or future months.
- E. If the VOC does not reflect a specific nutrition risk condition or the participant was certified based on a nutrition risk condition not in use by Texas WIC, the MIS will assign risk condition 502, Transfer of Certification.
 - 1. A transfer cannot be refused because another state or WIC Overseas Program has nutrition risk criteria that are different from the criteria in Texas.

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2. It is not necessary to obtain additional information on nutrition risk conditions or clinical data. The nutrition risk determination by the originating state is sufficient to qualify the transferring participant for benefits through the end of the current certification period.
3. Staff shall have the participant or parent/guardian/caretaker read, or have read to her/him, the Rights and Responsibilities, and participant shall sign on the signature pad.

- IV. **Transfers going to another State or the WIC Overseas Program with Verification of Certification (VOC):** When a participant informs the WIC clinic they are leaving Texas to participate in another state WIC program follow this process:
- A. Provide the participant a copy of their VOC to take with them to the gaining state.
 - B. Educate the family to shop for WIC benefits before leaving Texas as the Texas WIC card will not work in another state and the card must be given to the new/gaining out of state or Overseas WIC clinic.
 - C. WIC participants issued VOC cards when they transfer overseas shall be instructed that:
 1. There is no guarantee that the WIC Overseas Program will be operational at the overseas site where they will be transferred.
 2. By law only certain individuals are eligible for the WIC Overseas Program.
 3. Issuance of a WIC VOC card does not guarantee continued eligibility and participation in the WIC Overseas Program.
 - D. A transferring participant may receive benefits at the new LA for the duration of the valid certification period documented on his/her VOC.

Guidelines

Information about the WIC Overseas Program may be accessed on the TRICARE website at <http://www.tricare.mil/wic>.

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Effective June 1, 2002

Policy No. CS:28.0

Preventing and Detecting Dual Participation

Purpose

To prevent participants from receiving duplicate food benefits.

Authority

7 CFR Part 246.7

Policy

Each local agency (LA) shall implement preventive procedures and utilize the automated Texas WIC Information Network (WIN) System Dual Participation component to help prevent and detect dual participation.

Procedures

I. Preventing Dual Participation:

- A. At certifications and with each food instrument issuance, follow procedures for documentation of identity as stated in **Policy CS:05.0**.
- B. At certification, obtain the participant's written declaration that they and/or their child do not already participate in WIC. (This statement is included on the Supplemental Information Form, WIC-35-1.)

II. Detecting Dual Participation:

- A. Each LA shall review and investigate the client records identified by the WIN system as suspected dual participants.
- B. An alert record for each new client identified by the automated system as a suspected dual participant shall be electronically forwarded to that client's LA system. The record shall identify

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Effective June 1, 2002

Policy No. CS:28.0

the suspected client and the client ID, LA and clinic of the possible match. It is the responsibility of the notified LA to investigate and respond electronically to the state agency (SA). If other LAs are involved, these LAs also have the responsibility to cooperate with the new LA in their investigation. Until the investigation has been completed, the client's record is locked to prevent further issuance of food instruments.

- C. The new (i.e., most recently visited) LA shall investigate the suspected dual participation prior to the next scheduled food instrument issuance.
- D. It is the new LA's responsibility to determine if the lock shall be removed and to coordinate the decision with other LAs. In the case of an actual dual participation determination, the new LA shall document electronically in the WIN system who shall keep and who shall lose the client.
- E. The system shall record the results of the investigation along with the user ID number of the LA staff person. If a second LA is involved, the SA shall transmit a record lock to that LA (i.e. the second LA shall lose the client). The only way to reverse this lock is to request a transfer.

Guidelines

- I. Dual participant screening consists of nightly evaluation of specific data fields of new client records received at the SA against the same data fields of active client data already existing at the SA.
- II. When matches are found, these client records are provided for review to the SA investigative staff. Investigative staff have 21 days to review these records to identify those which warrant further investigation at the LA level.
- III. Records which have not been reviewed by SA staff within 21 days shall be automatically defaulted to a suspected dual participation status, locked, and transmitted to the new LA for investigation.

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IV. Refer to the Texas WIN Reference Manual for further information.

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Effective June 1, 2002

Policy No. CS:30.0

Caseload Management

Purpose

To ensure the delivery of WIC benefits to persons with the greatest need.
To ensure that all participants/applicants are treated equally.

Authority

State Policy

Policy

Upon notification by the state agency (SA), the local agency (LA) shall submit local caseload management policies for approval by the SA.

Procedures

- I. The LA shall submit any local caseload management plans to the SA for approval before implementation.
- II. Approval letters shall be kept on file for audit review.
- III. Caseload management policies shall be adhered to consistently and fairly with all participants.
- IV. The termination or ineligibility determination of participants/applicants for caseload management shall be documented on the Supplemental Information Form (SIF) and signed by the Certifying Authority (CA).

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Effective June 1, 2002

Policy No. CS:31.0

Waiting List for WIC

Purpose

To ensure the delivery of WIC benefits to persons with the greatest need as soon as caseload slots are available. To ensure that LAs are not serving over their maximum approved caseload.

Authority

7 CFR Part 246.7

Policy

The local agency (LA) shall maintain a waiting list of applicants only when the total number of participants reaches the maximum available caseload.

Procedures

- I. A waiting list shall be started when monthly participation reaches maximum caseload.

- II. LAs have the following options when maintaining a waiting list:
 - A. to place all interested persons on a waiting list before they are screened for eligibility;
 - B. to screen or partially screen all applicants to determine a priority and place only eligible persons on the waiting list as follows:
 1. Exercise this option only when there are enough caseload slots available each month to realistically expect that most of the participants shall be enrolled.
 2. Partially screen to the point where eligibility is determined for the purpose of placement on a waiting list.
 - C. to screen or partially screen (see II B.) and determine the priority of the first 10 to 50 applicants on the waiting list so that

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the highest priorities may be enrolled as soon as caseload permits. The number screened shall depend on the size of project's caseload and its usual attrition rate.

- III. The LA's waiting list shall include, at a minimum, the following information about each applicant. Additional information, i.e., priority, shall be necessary if the LA determines eligibility before placement on a waiting list.
- A. applicant's name;
 - B. address and/or phone number;
 - C. age;
 - D. category of applicant (PNBIC);
 - E. date and notification of placement on the waiting list;
 - F. status as a migrant, Indian, or transfer;
 - G. date and time of appointment for screening, if known and if applicable;
 - H. date notified to schedule an appointment for screening or be enrolled, if applicable;
 - I. response to notification for appointment/enrollment; and
 - J. date of enrollment, if applicable.
- IV. Applicants shall be notified of their placement on the waiting list within 20 calendar days of their request for services.
- V. If the LA has a system for caseload management that eliminates certain low priorities or if there are not enough caseload slots to enroll low priorities, it is unnecessary to place individuals within those priorities by completing a partial, preliminary assessment of applicants. This would enable the placement of only high priority applicants on the waiting list. The nutritional assessment shall be completed at the time of enrollment.
- VI. Waiting lists are not limited to individuals initially applying for WIC. WIC participants wanting to reapply when their eligibility expires shall also be placed on waiting lists, when appropriate.

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- VII. Applicants with referral data shall not be given priority for enrollment or placement on a waiting list over applicants without referral data. The LA shall have procedures to assure that applicants without referral data are afforded equal opportunity in the pool of WIC applicants.
- VIII. If an applicant insists on being placed on a waiting list, he/she shall be placed on it.
- IX. When the LA is maintaining a waiting list, WIC staff shall always explain to applicants, in-state transfers, and out of state transfers with a valid Verification of Certification (VOC) why placement on a waiting list is necessary and what it means in terms of realistic possibilities for enrollment. Referral to other health/social services shall be made when appropriate.
- X. Out of state transfers who are within their certification period and have a valid VOC or in-state transfers within their certification period shall be put on the waiting list ahead of any other applicant.
- XI. Certified applicants/participants shall be recalled from the waiting list in the following order:
 - A. Transfers--both in-state and out-of-state by;
 - 1. priority; and
 - 2. earliest date of certification.
 - B. all other applicants/participants by;
 - 1. priority; and
 - 2. earliest date of certification.
- XII. If an applicant/participant's certification has expired prior to recall from the waiting list, the applicant/participant shall reapply for WIC food instruments.

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Guidelines

Available caseload slots may be estimated for the next month by:

- I. determining the number of participants whose certification expires;
plus
- II. those who will be terminated as categorically ineligible; plus
- III. those who have failed to pick up food instruments for two consecutive
months; plus
- IV. those who have terminated for other reasons, i.e., moving from the
service area.

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Effective March 1, 2014

Policy No. CS:32.0

Mid-Certification Assessment for Children

Purpose

To ensure the quality and accessibility of health care and nutrition services for children are not diminished for participants certified for longer than six months.

Authority

7 CFR Part 246.7

Policy

Local agencies (LAs) shall ensure children certified for a year shall be offered a Mid-Certification Assessment, which includes a nutrition assessment (review of anthropometrics, blood work, and a brief update of the health and dietary assessment), immunization screening, nutrition education and referrals to other health and social services, within the certification period. Food benefits shall not be denied to parents/guardians who refuse to obtain these services for their children.

Procedures

- I. Children certified for a year shall be offered a mid-certification assessment between the 4th and 10th months from the "effective certification/sub-certification/recertification date". When calculating this time period, count the month of certification as the first month. Example: For a certification done on March 10th, the Mid-Certification Assessment shall be offered and completed any time from June 1st through December 31st. Note: In Texas WIN, the "Mid Cert" field is accessible at the beginning of the fourth month and a reminder will appear on the appointment, certification and issuance screens.

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- A. A Mid-Certification Assessment shall be offered and documented on the Mid-Certification Assessment form, back side of the WIC-R-05, or the most current certification forms.
1. The Mid-Certification Assessment is not required for children turning five years old in less than six months from their most recent certification month. Ex: Child is certified any day in June. If his 5th birthday is any day in December or later, the mid-cert shall be done/offered.
 2. For in-state and out-of-state transfers entered in Texas WIN, the "Mid Cert" field is available, so the reminder will not appear/pop up.
 - a. If participant transfer information, such as verification of certification (VOC), does not identify risk codes, i.e. risk code 201, and contacting the participant's previous clinic/state was unsuccessful, staff shall perform the blood test.
- B. Nutrition Assessment shall include:
1. Length/height and weight: plot on the appropriate growth chart.
 2. Hemoglobin/hematocrit:
 - a. required for all children who were certified or received a mid-certification assessment between the ages of 12 to 23 months
 - b. required for children 24 months up to 5 years if the blood test value at the most recent certification was below the normal range hemoglobin: 11.1 g/dL for children 2 to less than 5 years of age; hematocrit: 33% for children 2 to less than 5 years of age).
 3. Risk code 501, Regression, may be excluded from being assigned at subsequent certification when values pertaining to height/length, weight and/or blood work improve at the Mid-Cert assessment. The table below provides guidance for these situations. For example, risk code 201, Low Hemoglobin/Low Hematocrit, was assigned at certification. At the Mid-Cert assessment the blood value is within the normal range. At sub-cert, the blood value is within the

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normal range again, so risk code 501, Regression, is not assigned. When a value is within normal levels at two screenings, risk code 501 will not be assigned.

Certification	Mid-Cert	Sub Cert	Assign 501
Risk code assigned, e.g. 201, low Hgb/Hct	Value improved (does NOT meet definition), e.g. Hct/Hgb normal value	Value good, does NOT meet definition, e.g. Hct/Hgb normal value	No
Risk code assigned, e.g. 201, low Hgb/Hct	Value still meets definition of risk code, e.g. 201, low Hgb/Hct	Value improved and does NOT meet definition, e.g. Hct/Hgb normal value	Yes
Risk code not assigned, e.g. Hct/Hgb normal value	Value meets definition of risk code, e.g. 201, low Hgb/Hct	Value meets definition of risk code, e.g. 201, low Hgb/Hct	No, assign appropriate risk code, e.g. 201, low Hgb/Hct
Risk code not assigned, e.g. Hct/Hgb normal value	Value good, doesn't meet definition of risk code, e.g. Hct/Hgb normal value	Value meets definition of risk code, e.g. 201, low Hgb/Hct	No, assign appropriate risk code, e.g. 201, low Hgb/Hct

4. Health and dietary assessment – include any **major** changes in the child's health status, dietary habits or physical activity since the previous certification.
 - C. Immunization screening – document for children less than 2 years of age.
 - D. Nutrition education (NE) and referrals shall be offered and documented under "Topics Discussed" and "Referrals Discussed", respectively, on the VENA Family Documentation tool. Use NE code VC00099 for the VENA counseling session, if applicable.
 - E. Medical information (including hematocrit/hemoglobin, height, and weight) shall be accepted from a health care provider if the values are within 60 days of the Mid-Certification Assessment.

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- F. When the Mid-Certification Assessment is completed and documented in the participant's chart, staff shall enter one of the following in the "Mid Cert" field in the Texas WIN (TWIN) system.
1. 50 is entered for a completed mid-certification
 2. 75 is entered for a completed mid-certification with blood work
 3. 99 is entered when a mid-certification assessment is refused (see II below) or refused by default. 'Refused by default' is when a participant lapses four or more months for benefit issuances in a row and therefore a mid-certification assessment appointment cannot be made within the specified timeframe (see Procedure I of this policy).

NOTE: Do not enter any other data into TWIN for the mid-certification assessment. Do not enter/update values for height, weight, blood, etc.

- II. A parent/guardian may refuse a Mid-Certification Assessment.
- A. If the parent/guardian refuses the Mid-Certification Assessment, the parent/guardian shall read, sign and date the "Refusal" section of the Mid-Certification form. The form shall be filed in the participant's chart.
 - B. If the parent/guardian refuses to read, sign and date the form, staff shall document the refusal, sign and date in the "Refusal" section of the Mid-Certification form.
 - C. Staff shall enter "99" in the "Mid Cert" field in the Texas WIN system.
- III. LAs will be considered out of compliance if a child has reached the 10th month after certification and a mid-certification assessment has not been performed, documented and/or entered into Texas WIN.
- A. The Certifying Authority/WIC Certification Specialist shall complete the Mid-Certification Assessment form. Other staff

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may only document the height, weight and blood value on the form.

- B. The Certifying Authority/WIC Certification Specialist may perform the Mid-Certification Assessment and issue benefits. Separation of duties is not violated due to the Mid-Certification Assessment is an evaluation and not program eligibility.

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Effective January 1, 2022

Policy No. CS:33.0

High Risk Referrals

Purpose

To ensure that high risk participants are identified and referred appropriately to a health care provider (HCP), Registered Dietitian (RD), or International Board Certified Lactation Consultant (IBCLC).

Authority

7 CFR Part 246.7

Policy

Local Agencies (LAs) must follow the State Agency High Risk policy that identifies the high-risk conditions requiring referral and the required follow-up documentation of the referrals. Each Local Agency (LA) must develop a local agency specific High Risk policy that outlines their LA's procedures for follow-up, any additional high risk criteria beyond those specified in this policy, and their written procedures for responding to Red Flags criteria.

Definitions

Health care provider (HCP): Also referred to as "prescriptive authority"; a medical professional who may legally diagnose medical conditions and write prescriptions. In Texas, prescriptive authorities include but are not limited to medical doctors (MD), doctors of osteopathy (DO), physician's assistants (PA/PA-C), and nurse practitioners (NP).

Registered dietitian (RD): A credentialed nutrition professional authorized to provide management of health and diet concerns.

International Board Certified Lactation Consultant (IBCLC): A credentialed lactation professional authorized to provide clinical management of breastfeeding concerns.

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Follow-up:

- A. Internal – Efforts the LA WIC professional makes to complete the referral.
- B. External - Efforts the LA makes to contact the participant and determine the outcome (disposition) of the referral.

Internal referrals: Referrals made to a professional within WIC (i.e., local agency RD or IBCLC).

External referrals: Referrals made to a professional outside of WIC (e.g., health care provider or emergency room).

Procedures

- I. High risk conditions and corresponding categorical groups requiring referral to internal and external sources.
 - A. The following minimum risk criteria for internal referrals are:
 - 1. RD
 - a. Formula fed infants: FTT (RC 134), Slowed/Faltering Growth Pattern – infants 2 weeks of age or less with excessive weight loss of $\geq 7\%$ birth weight (RC 135), Underweight – infant (RC 103A), Very Low Birth Weight (RC 141B)
 - b. Children: FTT (RC 134), Very Low Birth Weight – children <24 months of age (RC 141B)
 - c. Pregnant women: Low Maternal Weight Gain During Pregnancy – during 2nd or 3rd trimester for singleton pregnancy (RC 131)
 - 2. IBCLC
 - a. Pregnant women: Breastfeeding Complications or Potential Complications (RC 602)
 - b. Breastfeeding women: Breastfeeding Complications or Potential Complications (RC 602)

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- c. Breastfed Infants: FTT (RC 134), Slowed/Faltering Growth Pattern – infants 2 weeks of age or less with excessive weight loss of $\geq 7\%$ birth weight (RC 135), Underweight – infant (RC 103A), Very Low Birth Weight (RC 141B), Breastfeeding Complications or Potential Complications (RC 603)
 - 3. Infants that are both formula and breastfed can be referred to a RD and/or IBCLC.
 - B. The following minimum risk criteria for external referrals are:
 - 1. HCP
 - a. All Infants: Slowed/Faltering Growth Pattern – infants 2 weeks of age or less with excessive weight loss of $\geq 7\%$ birth weight (RC 135)
 - C. The following minimum risk criteria for internal and/or external referrals are below. Professional judgement should be used to determine which of the following health care professionals the referral should be made to.
 - 1. HCP and/or RD
 - a. Pregnant women: Gestational Diabetes (RC 302), Nutrient Deficiency Diseases (RC 341), Gastrointestinal Disorders (RC 342), Diabetes Mellitus (RC 343), Hypertension (RC 345A), Prehypertension (RC 345B), Renal Disease (RC 346), Cancer (RC 347), Central Nervous System Disorders (RC 348), Genetic and Congenital Disorders (RC 349), Inborn Errors of Metabolism (RC 351), Celiac Disease (RC 354), Eating Disorders (RC 358), Developmental, Sensory, or Motor Disabilities Interfering with the Ability to Eat (RC 362)
 - b. Breastfeeding women: Nutrient Deficiency Diseases (RC 341), Gastrointestinal Disorders (RC 342), Diabetes Mellitus (RC 343), Hypertension (RC 345A), Prehypertension (RC 345B), Renal Disease (RC 346), Cancer (RC 347), Central Nervous System Disorders (RC

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- 348), Genetic and Congenital Disorders (RC 349), Inborn Errors of Metabolism (RC 351), Celiac Disease (RC 354), Eating Disorders (RC 358), Developmental, Sensory, or Motor Disabilities Interfering with the Ability to Eat (RC 362)
- c. Postpartum women: Nutrient Deficiency Diseases (RC 341), Gastrointestinal Disorders (RC 342), Diabetes Mellitus (RC 343), Hypertension (RC 345A), Prehypertension (RC 345B), Renal Disease (RC 346), Cancer (RC 347), Central Nervous System Disorders (RC 348), Genetic and Congenital Disorders (RC 349), Inborn Errors of Metabolism (RC 351), Celiac Disease (RC 354), Eating Disorders (RC 358), Developmental, Sensory, or Motor Disabilities Interfering with the Ability to Eat (RC 362)
 - d. All Infants: Nutrient Deficiency Diseases (RC 341), Gastrointestinal Disorders (RC 342), Diabetes Mellitus (RC 343), Hypertension (RC 345A), Prehypertension (RC 345B), Renal Disease (RC 346), Cancer (RC 347), Central Nervous System Disorders (RC 348), Genetic and Congenital Disorders (RC 349), Inborn Errors of Metabolism (RC 351), Celiac Disease (RC 354), Developmental, Sensory, or Motor Disabilities Interfering with the Ability to Eat (RC 362)
 - e. Children: Nutrient Deficiency Diseases (RC 341), Gastrointestinal Disorders (RC 342), Diabetes Mellitus (RC 343), Hypertension (RC 345A), Prehypertension (RC 345B), Renal Disease (RC 346), Cancer (RC 347), Central Nervous System Disorders (RC 348), Genetic and Congenital Disorders (RC 349), Inborn Errors of Metabolism (RC 351), Celiac Disease (RC 354), Developmental, Sensory, or Motor Disabilities Interfering with the Ability to Eat (RC 362)

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- D. In the event that a participant is already under the care of an external RD, IBCLC, or HCP for the high risk condition, a referral may not be warranted. This must be documented in the participant's record.
 - E. Additional high risk criteria beyond those specified in this policy must be clearly defined in each LA's local agency High Risk policy.
- II. Procedures for follow-up
- A. The LA specific developed policy for RD, IBCLC, and HCP referrals must include the following:
 - 1. Method of follow-up to be used with participant (e.g., phone, appointment)
 - 2. Length of time between referral and follow-up that is measurable (e.g., 1 month, 7 days)
 - B. State Agency required documentation of follow-up must be in the following areas of the MIS record:
 - 1. All Internal and External Referrals
 - a. On the Pending High Risk Referral page complete the following fields:
 - i. Follow-up Details
 - ii. Follow-up Completion Details
 - 2. RD
 - a. Internal: Goals and/or Notes Section of VENA Documentation Page
 - b. External: Goals and/or Notes Section of VENA Documentation Page
 - 3. IBCLC
 - a. Internal: Goals and/or Notes Section of VENA Documentation Page
 - b. External: Goals and/or Notes Section of VENA Documentation Page
 - 4. HCP
 - a. External: Goals and/or Notes Section of VENA Documentation Page

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- III. For external referrals, the LA must obtain the participant’s consent before contacting the health care provider to which a participant was referred to determine disposition (outcome) of referral.
- IV. Per policy [GA:14.0 Staffing Standards](#), LAs that do not have an RD or IBCLC must request a waiver and have a written contingency plan for providing referrals and high risk individual counseling while position is vacant.
- V. LAs that do not have an IBCLC on staff, or access to a community IBCLC who provides services free of charge to WIC participants, must access an IBCLC via a WIC Lactation Support Center who can provide phone or virtual consultation.
- VI. Participants who have been identified as having Red Flag criteria must immediately be referred to receive medical care. The place or service that a participant will be referred must be specified in a LA specific high risk policy (e.g., urgent care center, emergency room, 911).
 - A. Red Flags:
 - 1. Infant
 - a. Skin color is blue or gray
 - b. Skin color is yellow. This is a medical emergency if the infant is not under the care of a HCP and/or showing signs of lethargy, fever, and poor feeding.
 - c. Poor hydration as indicated by a combination of the following:
 - i. soft spot(s) on top of head sunken in
 - ii. skin on the back of infant’s hand, forearm or belly lightly pinched between the thumb and forefinger for a few seconds does not return to normal contour within three seconds
 - iii. sunken eyes
 - iv. no tears or few tears when crying
 - v. extremely dry lips, mouth or tongue
 - vi. lethargy

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- vii. Signs of trauma or bruising
- viii. Difficult or shallow breathing, wheezing
- 2. Child
 - a. Signs of trauma or bruising
 - b. Difficult or shallow breathing, wheezing
 - c. Poor hydration as indicated by a combination of the following:
 - i. skin on the back of child's hand, forearm or belly lightly pinched between the thumb and forefinger for a few seconds does not return to normal contour within three seconds
 - ii. sunken eyes
 - iii. no tears or few tears when crying
 - iv. extremely dry lips, mouth or tongue
 - v. scant, dark, or foul-smelling urine
 - vi. lethargy
- 3. Pregnant
 - a. Signs of labor initiation – regular contractions, leaking/gushing fluid from vagina
 - b. Heavy bleeding from vagina at any time of pregnancy
 - c. Injury - accident/fall/blow to the belly
 - d. Observed at clinic under the influence of alcohol or drugs/narcotics with risk of potential harm to self or others
- 4. Breastfeeding, Postpartum
 - a. Hearing voices or seeing things that are not real or having false beliefs (delusions)
 - b. Observed at clinic under the influence of alcohol or drugs/narcotics with risk of potential harm to self or others
 - c. Postpartum Mood Disorder Signs:
 - i. Thoughts of harming self or baby
 - ii. High level of anxiety
 - iii. Flat affect
 - iv. Not making eye contact with baby/not responding to infant cries/ not enjoying baby
 - v. No appetite/ inability to sleep

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Policy No. CS:33.0

5. WIC staff must not diagnose or provide medical advice to participants.

Guidelines

- A. The criteria in this policy are minimum criteria, and LAs are encouraged to include additional criteria relevant to their local population and concerns. Participants who desire a consultation for any reason outside of these criteria must be referred to the appropriate professional.
- B. There are examples of conditions in the High Risk Referral Guidelines section located in the Clinic Assessment Manual to assist LAs in developing their local policy. If desired, LAs can select from these criteria based on the needs of their local agency and clientele. The guidelines are a resource that represents suggestions for high risk referrals. However, local agencies are not required nor limited to use any or all of the criteria on the list.

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Effective July 1, 2021

Policy No. CS:35.0

Certification of Homeless and Those Living in Shelters and Institutions

Purpose

To ensure the eligible homeless applicants have access to WIC services. WIC services must benefit the WIC participant and not the homeless facility, as required by federal regulation.

Policy

The local agency (LA) staff must check the identification, income, and residency of each applicant/participant and parent/guardian applying on behalf of an infant and/or child at each certification and when issuing benefits.

Authority

CFR 246.7

Definitions

Residency: location or address where applicant routinely lives or spends the night.

Homeless individual means a woman, infant, or child who lacks a fixed and regular nighttime residence; or whose primary nighttime residence is:

- a supervised publicly or privately operated shelter (including a welfare hotel, a congregate shelter, or a shelter for victims of domestic violence) designated to provide temporary living accommodation
- an institution that provides a temporary residence for individuals intended to be institutionalized;
- a temporary accommodation in the residence of another individual not exceeding 365 days

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- a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings, including those residing in vehicles, parks, hallways, doorsteps, vacant buildings, etc.

Homeless facility means the following types of facilities which provide meal service:

- a supervised publicly or privately-operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;
- a facility that provides a temporary residence for individuals intended to be institutionalized; or
- a public or private place not designed for, nor normally used as, a regular sleeping accommodation for human beings.

Institution: any residential accommodation which provides meal service, except private residences and homeless facilities.

Procedures

- I. Enrolling homeless persons or those living in shelters or institutions:
 - A. Identification - applicants must provide proof of identification with:
 1. acceptable proof as outlined in [CS:05.0 Identification of a WIC Applicant/Participant and Parent or Guardian](#), or
 2. if no proof of identification exists, by completing a WIC Self-Declaration Form for Identification, Residency, Zero-Income (Cash on Hand) and Proof of Income (Homeless) (stock # E-13-06-13567). Staff must scan and upload to the Participant Page in the MIS.
 - B. Residency – applicants must provide proof residency with:

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1. acceptable proof as outlined in [CS:06.0 Residency as a Certification Requirement](#), or
 2. signed statement from shelter verifying residency (see Section II for shelter documentation requirements), or
 3. if no proof exists, by completing a WIC Self-Declaration Form (stock # E-13-06-13567). Staff must scan and upload to the Family Page in the MIS.
- C. Income – Applicant must provide proof of income with:
1. acceptable proof, as outlined in [CS:07.0 Income Screening as a Certification Requirement](#), or
 2. if no proof exists, by completing the WIC Self-Declaration Form (stock # E-13-06-13567). Staff must scan and upload to the Family Page in the MIS.

II. Shelter/Institution/Homeless Facility Documentation

- A. Evaluation – staff must evaluate whether the shelter meets the following conditions:
1. it does not accrue financial or in-kind benefit from the applicant's participation in WIC, and
 2. WIC foods must not be used in communal feedings, but are available exclusively to the WIC participant for whom they were issued; and
 3. it does not place constraints on the ability of the applicant to partake of the WIC food benefits and all associated WIC services.
- B. The LA must ensure that the shelter/institution/homeless facility meets the requirements above by:
1. having a signed letter of agreement from the facility, or
 2. contacting the facility to verify the information and document in the notes of the Family Page.
 3. Staff must scan and upload signed letter to the Family Page in the MIS.

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4. LA must annually contact each facility where current WIC Participants reside to verify that the required conditions are being met. Refer to [OR:01.0 Local Agency Outreach](#).
- C. The LA must inform participant who resides in the shelter/institution/homeless facility that:
1. WIC foods must be consumed only by the participants and not shared with other residents, and
 2. The facility cannot place restrictions on the participant's access to consumption of WIC foods or their ability to receive other WIC services.
- III. Proxies of participants residing in a shelter/homeless facility/institution may pick up and redeem food benefits in bulk for multiple participants residing in the facility. The LA must ensure that adult participants are allowed to participate in the process of picking up and transacting food instruments to the greatest extent possible, within the homeless facility/institutional framework, so that they are aware of the foods prescribed for them as well as the intended benefits of such foods.

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Effective October 1, 2022

Policy No. CS:36.0

Process for Mailing Food Benefits

Purpose

To provide Local Agencies (LAs) guidance on the process for mailing Texas WIC Cards.

Authority

7 CFR Part 246.4; 246.7(f)(2)(iv); 246.12(r)(4)

Policy

When picking up benefits in person creates a service barrier, LAs may mail Texas WIC Cards under the following circumstances:

- Reasons as outlined in Policy CS:04.0 (T): Physical Presence
- Lack of transportation and inability to reschedule during the issuance month
- National or State declared Emergencies, Disasters, or Public Health Emergencies, such as a pandemic or natural disaster

Procedures

I. Mailing the Texas WIC Card.

- A. Prior to mailing the Texas WIC Card to a client, staff must:
 1. Verify the current mailing address.
 2. Document in the notes of the Family page of the MIS that the address has been confirmed.
- B. When issuing benefits to a new card, a personal identification number (PIN) must be assigned to the card.
 1. The client may choose their own PIN. If the client does not have a preference, staff must use the primary endorser's birth year as the PIN. The client may choose to change their PIN at any time.

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2. Document the PIN in the notes section of the Family page in the MIS and notify the primary endorser of the PIN.
 - C. The card should be mailed with required handouts or a way to access the required material (*Your Guide to Texas WIC, Rights and Responsibilities, Texas WIC Shopping Guide, Guide to Helpful Program and Services* and other handouts discussed as part of nutrition education). The PIN and Texas WIC Card must never be mailed together, e.g., do not write the PIN on the Texas WIC card or on any documents mailed with the card.
 - D. Texas WIC Cards must be mailed within 1 business day of remote certification eligibility determination and issuance of benefits to a Texas WIC Card.
 1. Clients who receive cards after the last day of the month will only have access to benefits for the month the card is received in addition to future months' benefits.
 2. The envelope must specify "do not forward, return to sender".
 - E. Once the circumstance is resolved, mailing should be discontinued, and the client will attend appointments at the clinic.
- II. When Texas WIC Cards are not received by the client via mail:
- A. Staff should contact the carrier to verify delivery.
 - B. If a client notifies the clinic that the Texas WIC Card was not received, staff must verify in the MIS that benefits have not been redeemed.
 1. If benefits have not been redeemed, lock the current card, schedule an appointment to issue a new Texas WIC Card on or after the third calendar day. See *WIC Policy CS:26.0 Issuance and Disposition of Replacement Texas WIC Cards* for detailed instructions.
 2. If benefits have been redeemed, notify the client that the benefits have been partially or fully redeemed and follow the

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procedures in *WIC Policy CS:26.0*. If necessary, Local Agency staff must use the Client Dispute Form (13-06-13134-PDF) to gather information from the client and conduct research.

- C. If a card is not delivered to the client and returned to the clinic, staff must contact the client to confirm the correct address. If the delivery address is incorrect, update the MIS with the correct address and mail the Texas WIC Card to the correct address.

III. Drop box for Texas WIC Cards

- A. LAs may choose to use a secure drop box outside of the clinic where clients can drop their Texas WIC Card for loading of benefits and other important documents such as formula prescriptions for benefit issuance.
- B. LAs must provide instructions to the client on what to place in the drop box related to the Texas WIC Card and/or other documents for benefit issuance.
- C. Staff must load benefits to the Texas WIC Card and mail it within one business day of receiving the card. When possible, the card should be mailed the same day.

FD - Food Delivery

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Effective January 1, 2015

Policy No. FD: 01.0

Documentation of Food Benefits Issuance

Purpose

To provide an audit trail for food benefits issuance and to set a time frame for the use (transaction) of food benefits issuance by participants. To ensure that a record exists of food benefits issued by the local agency (LA).

Authority

7 CFR Part 246.12; Part 246.14

Policy

It is the responsibility of the LA to ensure that food benefits are correctly loaded onto the WIC EBT Card by the Texas WIC Information Network (WIN) system and released only after the participant's or food benefits recipient's signature has been obtained on the shopping list. The original signed copy of the shopping list shall constitute a daily participation log and be kept by the LA for audit/review.

Procedures

- I. Food benefits for all participants in a family shall be aggregated and loaded onto one WIC EBT Card.
- II. The participant or food benefits recipient will sign their name in ink in the "Authorized Signature" block of the shopping list. Staff shall retain the original signed copy of each shopping list. This copy shall constitute the food benefits issuance log.
- III. Staff shall file shopping lists by month of issue and retain for audit/review. (Refer to policy GA: 03.0)

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Effective January 1, 2015

Policy No. FD: 01.0

- IV. The participant or food benefits recipient shall receive a second copy of the shopping list as their receipt and list of available current and/or future benefits.
- V. WIC EBT Cards are to be stored in a secured location at all times.
- VI. Issuance of retroactive benefits is prohibited. Benefits can never be issued for an expired benefit period.

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Effective August 1, 2009

Policy FD: 02.0

Frequency of Issuance of Food Benefits

Purpose

To provide a uniform procedure for issuing WIC benefits to participants, ensuring adequate nutrition education (NE) opportunities, and preserving coordination with other health services such as immunizations and prenatal care.

Authority

7 CFR Part 246.12

Policy

Local agencies (LAs) shall implement a benefits issuance/nutrition education routine for all participants that meets the educational and follow-up needs of the participant not to exceed each participant's total food entitlement within his/her certification period. No more than three months of food benefits can be issued at one time. The WIC Lone Star Card may hold the current months issuance plus the next 3 month's issuance. Food for all participants within the family will be aggregated on the card.

Procedures

- I. As part of the annual LA NE Plan, the LA shall describe the standard frequency of issuance for each category of participants not to exceed the maximum allowed.
- II. LAs shall meet the minimum federal requirements of two NE contacts within a certification period, either with individual counseling or group classes.

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Effective August 1, 2009

Policy FD: 02.0

- III. The Certifying Authority shall determine individual participants who would benefit from frequent NE contacts such as: pregnant women who enter WIC late in pregnancy or individuals with high risk conditions who require individual nutrition counseling and adjust the issuance length accordingly.

- IV. If a family member's certification expires during the current month, but the family member is eligible for subsequent certification, the system will advance issue a single month's benefits to other family members after the month certification expires. If the family member is subsequently certified for the following month, up to three months issuance will resume. If any family member becomes categorically ineligible (woman attaining six month postpartum or one year breastfeeding or child turning five years old), the other family members shall still receive full advance issuance.

- V. Failure to pick up benefits:
 - A. The WIN system shall automatically inactivate participants who fail to pick up benefits for two (2) consecutive months.
 - B. LAs shall reactivate, if caseload permits, participants who return before their certification period expires.
 - C. If the participant fails to return for subsequent certification, then the record will be automatically terminated for Failure to Subcertify.

Guidelines

To change the frequency of issuance of benefits in the Texas WIN system, refer to "Issuing Frequency" in the Texas WIN EBT Quick Guide for Clinics.

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Effective August 1, 2009

Policy No. FD:03.0

Designated Recipients of Benefits

Purpose

To provide guidance for local agencies (LAs) in distributing benefits to participants, including participants who are unable to come to the issuance site due to illness or other reasonable circumstances or for those participants who are unable to write their names.

Authority

7 CFR Part 246.12; 25 TAC §31.23

Policy

LAs may issue benefits to pregnant, breastfeeding, and postpartum participants, as well as parents/guardians/caretakers of participants within the guidelines of this policy. Should a recipient be unable to write or become unable to pick up benefits, a proxy may be designated. All benefit recipients are entitled to full advance issuance unless otherwise determined by the Certifying Authority (CA).

Definition

Caretaker is any person, 18 years of age or older, designated by a woman participant, parent or guardian, to obtain and transact benefits. A caretaker has custodial responsibility for a participant during the majority of a participant's time awake each day.

Proxy is any person 16 years of age or older designated by a woman participant, or by a parent, guardian, or caretaker of an infant or child participant, to obtain and transact benefits.

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Effective August 1, 2009

Policy No. FD:03.0

Procedures

- I. A participant who is pregnant, breastfeeding or postpartum may be designated as a benefit recipient for herself and her children, including any infants. She shall read and sign the Supplemental Information Form (SIF), form WIC-35-1, before receiving benefits.
- II. A parent, regardless of age, of a participant may be designated as the benefit recipient for his/her child, including any infants. The parent shall read and sign an SIF before receiving benefits.
- III. A caretaker of a participant may be designated as a benefit recipient for the participant. The caretaker shall read and sign an SIF before receiving benefits.
- IV. A proxy may be designated in writing by the participant or parent/guardian/caretaker to act as the benefit recipient.
 - A. The written statement shall name the proxy, and be signed and dated by the participant or parent/guardian/caretaker. The written statement shall be filed in the participant's chart and be accessible for audit/review.
 - B. Individuals unable to write may make their mark in lieu of a signature on the written statement.
 1. LA staff may assist clients who cannot write with preparation of the written statement; however, another staff member must witness. This option is more helpful to the family if completed at the clinic in advance of a future appointment when it is known the participant or parent/guardian/caretaker will need a proxy.
 2. A third party other than LA staff may also assist the participant or parent/guardian/caretaker in preparation of the written statement. Examples of a third party include but are not limited to, family members and friends.
 - C. The proxy shall provide identification for himself/herself (refer to **Policy CS: 05.0**) and the WIC Lone Star Card.

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Policy No. FD:03.0

- D. Proxies may receive full advance issuance of benefits. The LA shall instruct the proxy on the procedures for receiving WIC supplemental foods, including at a minimum, the procedures for redemption. Nutrition education shall be offered.
- E. Proxies of participants residing in a homeless facility/institution may pick up and redeem food benefits in bulk for multiple participants residing in the shelter. The LA shall ensure that adult participants are allowed to participate in the process of picking up and transacting food instruments to the greatest extent possible, within the homeless facility/institutional framework, so that they are aware of the foods prescribed for them as well as the intended benefits of such foods.
- V. In certain circumstances, a proxy may be appointed by the state agency to obtain and transact benefits for an infant, child, or other participant under age 18 who is subject to disqualification but who would be at health risk, including nutritional risk, if benefits were terminated.
- VI. Local agency employees may not be designated as proxies.

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Effective September 1, 2013

Policy No. FD: 04.0

Disposition of Unusable WIC EBT Cards

Purpose

To ensure unusable WIC EBT Cards are coded appropriately in the EBT WIN system, reported to the Information and Response Management (IRM) liaison, and returned to the state agency (SA) to maintain an adequate audit record.

Authority

7 CFR Part 246.12

Cross Reference

Policy GA:04.0

Policy

Local Agencies shall ensure unusable WIC EBT cards are documented appropriately as to disposition and returned, as applicable, to the SA.

Procedures

I. WIC EBT Cards, deemed unusable **prior** to issuance shall be appropriately coded by clinic staff in the clinic WIC EBT WIN system. Enter the **most** appropriate code from the following selection.

- F** – Failed Before Issued
- D** – Damaged Before Issued
- M** – Missing Before Issued

II. Cards that fail **while being loaded**, shall be reported to the SA. When a WIC EBT Card fails during benefit issuance due to a

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Effective September 1, 2013

Policy No. FD: 04.0

problem with the card that is not visible and the participant has not left the clinic the following procedure shall apply:

A. The clinic staff shall contact the Automation Help Desk at 1-800-650-1328.

1. If the Automation Help Desk determines the card has failed, the PAN must be disabled as damaged by the IRM liaison. The state agency will override the Hot Card waiting period.

2. Once the Hot Card record arrives at the clinic, a new WIC EBT card shall be issued.

III. Cards deemed unusable **after** issuance shall be reported to the IRM liaison by the LA staff and returned to the SA with the Log for Unusable WIC EBT Cards.

IV. Clinic staff shall complete the Log for Unusable WIC EBT Cards and submit the log and all unusable cards to the SA on a monthly basis.

A. Codes for the log entries are:

F	-	Failed Before Issued
D	-	Damaged Before Issued
B	-	Damaged After Issuance
Z	-	Failed After Issuance
L	-	Lost then Found
T	-	Transferred Out of State
R	-	Returned by Foster Parent

B. Cards that were coded in WIN as **M**(issing) Before Issued are not entered on the Log for Unusable WIC EBT cards as the card cannot be returned to the SA.

C. Return the cards along with the log to:
Department of State Health Services
Nutrition Services Section – IRM Group
P.O. Box 149347 Building 2, Suite 275
Austin, TX 78728 Mail Code 4554

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Effective September 1, 2013

Policy No. FD: 04.0

V. Instructions on filling out the Log for Unusable WIC EBT Cards:

- A. Complete the top section with LA number, site number, and month.
- B. Document the PAN# in the column labeled WIC EBT Card,
- C. Document the date EBT card was determined unusable in a mm/dd/yy format in the column labeled "Date Determined Unusable", .Document the date, in XX/XX/XXXX, staff reported the PAN to the SA in the "Date Reported to SA" column. Use one of the reason codes listed at the bottom of the form to describe the reason the WIC EBT card was disabled.
in the olumn labeled "Reason Code" Document the initials of the staff member that reported the WIC EBT card in the column labeled "Staff Initials", Document any necessary comments in the column labeled "Comments" fill in

Log for Unusable WIC EBT Cards stock no. EF13-06-14016 is downloadable through the online WIC Catalog.

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Effective August 1, 2009

Policy No: FD: 06.0

**Documenting Missing/Stolen
WIC Lone Star Cards Inventory**

Purpose

To ensure proper accountability for WIC Lone Star cards assigned to the Local Agency (LA) and/or clinic prior to issuance.

7 CFR Part 246.12

Policy

The LA and/or clinic shall document actual or suspected loss or theft of WIC Lone Star cards, including losses incurred in transit between the State Agency (SA) and the LA and between the LA and clinic.

Procedures

I. Bulk Inventory:

- A. The LA and/or the clinic shall enter the status of WIC Lone Star cards into the EBT WIC Information Network (WIN) system upon receipt of bulk shipments for shipments between the SA and the LA and/or between the LA and clinic. After ten days, the LA and/or clinic will receive a notice at every login stating WIC Lone Star Cards previously shipped from the SA and/or the LA and have not been accepted in the EBT WIN system.

- B. Missing Status:
 - 1. Shipments lost in transit between the SA and LA and/or between the LA and clinic shall be entered as "missing."
 - 2. WIC Lone Star Cards that are stolen or are suspected of having been stolen from the LA and/or clinic shall be entered as "missing."

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Effective August 1, 2009

Policy No: FD: 06.0

3. If WIC Lone Star Cards with status "missing" are later found, the LA and/or clinic may change the status from "missing" to "received."

II. **Individual Card Inventory:**

- A. Document **individual** WIC Lone Star Cards as "missing" when cards are missing or suspected of having been lost or stolen. If it is known for a fact that a card is lost or stolen, do not document it as missing. Appropriately document it as "Lost" or "Stolen."
- B. If an individual WIC Lone Star Card status is "missing" and then later found **within** 120 days of having been status "missing," the clinic may issue the card or if the card is determined to be unusable may change the card status from "missing" to "failed before issue" or "damaged before issue."
- C. If an individual WIC Lone Star Card status is "missing" then later found **after** 120 days, the card will have been automatically been placed on the permanent hot card list and cannot be issued.

- III. Refer to the EBT Quick Guide for Clinics for instructions on utilizing the WIN food instrument inventory module.

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Effective January 1, 2011

Policy No. FD:08.0

Liability of Local Agency for Food Instrument Inventory Shortages

Purpose

To assign liability for the loss of WIC food instruments and Farmers Market Nutrition Program food instruments to the entity that controls the security and disposition thereof.

Authority

7 CFR Part 246.12

Policy

Local agencies (LAs) are to be held accountable for all food benefit instruments received by them. Upon the discovery of inventory shortages, or improperly issued food benefit instruments, the state agency may assess the LA a monetary sum equal to the actual and/or redeemed value of the food benefit instruments.

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Effective August 1, 2009

Policy No. FD: 09.0

Liability of Local Agency for Food Benefit Reconciliation

Purpose

To provide the state agency (SA) with a method for reconciling food benefits paid to vendors to a valid participant issuance record ensuring an adequate audit trail.

Authority

7 CFR Part 246.12

Policy

It is the responsibility of the LA to ensure that all redeemed food benefits are reconciled to a valid issuance record. The LA may be held financially accountable for all redeemed food benefits that are improperly issued. The SA may assess the LA a monetary sum equal to the actual redeemed value of food benefits improperly issued.

Procedure

- I. To ensure the propriety of redeemed food benefits as required by 7CFR Part 246.12, LAs shall investigate all redeemed food benefits that are identified as unreconciled by the SA by tracking the food benefit issuance back to the actual original retained shopping lists.
- II. LAs shall submit a signed response to the SA verifying that unreconciled transactions were compared against the LA's copy of the benefit issuance log/shopping list.

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Effective August 1, 2009

Policy No. FD: 09.0

- III. If all reasonable attempts have been made and the LA cannot locate/identify the disposition of an unreconciled benefit issuance, the LA shall submit a written explanation to the SA.
- IV. LAs with an excessive or repetitive incidence of unreconciled EBT transactions shall be assessed a monetary amount based on the redeemed value of benefits.
- V. As part of the LA's on-site monitoring review, SA staff shall examine a random sampling of the signed responses submitted by an LA as proof that the LA verified unreconciled benefit issuances against the LA's copy of the benefit issuance log/shopping list. If unable to support a signed response, the LA shall be required to submit copies of the benefit issuance log/shopping lists that cover all identified unreconciled benefits paid by the SA for a 12-month period.
- VI. LAs shall have 30 days from receipt of the SA written notification to respond to identified unreconciled benefits paid by the SA. If a LA does not respond, a monetary amount based on redemption value may be assessed.

Guidelines

It is recommended that LAs file their copies of the participant's benefit issuance log/shopping lists by date and time.

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Effective November 1, 2024

Policy No. FD:10.0

Issuing Food Packages for the Mother/Infant Dyad

Purpose

To establish procedures for issuing food packages to the Mother/Infant dyad.

Authority

State Policy

Policy

Mother and infant packages must be prescribed according to the amount the mother is breastfeeding or the amount of formula provided. Packages must be prescribed by a Certifying Authority (CA) or WIC Certification Specialist (WCS).

Procedures

- I. When issuing mother/infant food packages, local agency (LA) staff must explain the differences in food package benefits among each of the eligible food packages. A woman may indicate her preference for and be allowed to change to a food package that best suits her needs. Refer to [FD:12.0 Food Packages](#) for food package descriptions and [FD:12.1 Food Package Substitutions, Tailoring and Exchanges](#) for procedures for exchanging food packages.
- II. Staff must assess breastfeeding status of breastfeeding infant participants at time of each issuance. If the infant is no longer breastfeeding, staff must enter the date breastfeeding ended and update the infant breastfeeding frequency on the infant's participant page prior to issuance.

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III. Breastfeeding

- A. Fully Breastfeeding – For a breastfeeding woman, whose infant(s) does not receive any infant formula from WIC (assumed to be fully breastfeeding their infants)
- B. Partially Breastfeeding- For a partially breastfeeding woman, whose infant(s) receive formula from WIC in amounts that do not exceed the maximum allowance for the partial food packages.
 - 1. This package is available in the birth month but should not be the standard issuance if a woman is mostly breastfeeding. She should be encouraged to take the Fully Breastfeeding package.
 - 2. Infant formula should not be routinely issued during the birth month to breastfed infants.
 - 3. During the birth month, only one can of formula can be issued to breastfed infants.
 - 4. After the birth month, the infant will receive approximately a half package of formula.
- C. Some Breastfeeding – for a woman up to six months postpartum whose infant(s) receives more than the maximum amount of formula allowed for partially breastfed infants.
 - 1. The infant must receive a formula package that is customized to reflect the quantity of formula needed as determined by the Certifying Authority (CA) or the WIC Certification Specialist (WCS) after discussing with the mother. LAs must not automatically issue the maximum amount of formula allowed.
 - 2. Every effort must be made to encourage and support breastfeeding. A breastfeeding woman who chooses the “Some” Breastfeeding food package in the birth month should be provided extra breastfeeding support and encouraged to choose the Fully or Partially Breastfeeding Food Package for advanced issuance months.
 - 3. A breastfed infant who receives less than the maximum amount of formula at initial issuance during the birth month may return to the clinic to receive up to the maximum amount of formula within that month. For example, if 5 cans of powder formula are issued on the card, the breastfeeding woman can

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return within the same month to receive the maximum amount allowed of formula.

4. When a breastfeeding woman requests additional formula, staff must:
 - a. Provide breastfeeding counseling according to [BF:01.0 Breastfeeding Promotion and Support Standards](#) Procedure III. D.
 - b. Inform the woman that if she chooses to continue breastfeeding at least one time a day but prefers to receive a full package of formula for her infant, she will not be eligible to receive any food benefits after six months postpartum but will be eligible to receive breastfeeding support.

IV. Non-breastfeeding Postpartum

- A. The Postpartum food package is for women up to six months postpartum who are not breastfeeding their infants.
- B. The infant must receive the appropriate formula package determined by the Certifying Authority (CA) or the WIC Certification Specialist (WCS).

V. Surrogate Mother or Mother Whose Infant is Adopted

- A. If a surrogate mother or a mother whose infant is adopted by another family is income-eligible and expresses her breastmilk and provides the milk to the surrogate or adoptive family:
 1. She must be certified as a breastfeeding woman and issued Fully Breastfeeding food package.
 2. She will not be linked to the infant in the MIS.
 3. Her infant will not receive a food package unless the adoptive family qualifies and enrolls the infant in WIC. The adoptive mom and infant will be the dyad in the MIS.
- B. If a surrogate mother or a mother whose infant was adopted by another family is income-eligible and expresses her breastmilk and provides it to a milk bank, the mother should be encouraged to continue to provide her breastmilk to the milk bank. She must be

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certified as a postpartum woman if it has been less than 6 months since delivery.

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Effective August 1, 2009

Policy No. FD: 11.0

Transfer of WIC Lone Star Card Inventory

Purpose

To ensure that accurate records for accountability of inventory documents are available for use by the state agency (SA) and/or auditors.

Authority

7 CFR Part 246.12

Policy

Local agency (LA) administrative sites shall transfer only unopened packages of 300 WIC Lone Star cards through the Texas WIC Information Network (WIN) system.

Procedure

- I. WIC Lone Star cards shall be transferred from one LA to another in unopened packages of 300 WIC Lone Star cards only. A bill of lading shall be electronically processed through the Texas WIN system recording the shipment/receipt of inventory between LAs for transfer of WIC Lone Star cards.
- II. An LA shall issue only unopened packages of 300 WIC Lone Star cards to clinics within the same LA. A bill of lading shall be electronically processed through the Texas WIN system recording the shipment/receipt of inventory between LA and clinic for transfer of WIC Lone Star cards.
- III. From the clinic level, only unopened packages of 300 WIC Lone Star cards may be physically and electronically transferred back to the clinic's own LA administrative site.

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- IV. From the clinic level, only unopened packages of 300 WIC Lone Star cards may be physically and electronically transferred to another clinic within the same LA.
- V. In the event an LA closes and WIC Lone Star cards remain in its inventory, all WIC Lone Star cards shall be physically (but not electronically) sent back to the SA for count verification.
- VI. Card usage records are documented by the WIN system as follows:
 - A. Bulk inventory of boxed cards are stasured as "S"hipped, "R"eceived, "M"issing, or "D"estroyed.
 - B. WIN tracks and notifies the user of available cards in the inventory. As applicable, single cards shall be stasured as "F"ailed, "M"issing, or "D"amaged.
 - C. Card inventory records are all sent via the WIN system to the state agency and recorded in the production database.

Guidelines

Refer to [Policy FD: 04.0](#) for the procedures on disposition of all unusable cards.

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Food Packages

Purpose

To establish procedures for the issuance of the allowable foods within the food packages. To assure food benefits are appropriate for each participant's health and nutritional needs.

Authority

7 CFR §246.10; 26 TAC Section 366.21

Policy

Food packages must be prescribed by a Certifying Authority (CA) or WIC Certification Specialist (WCS). Monthly food benefits are valid for one calendar month, the first day of the month through the last day of that same month. Full food package benefits will be issued to participants on or before the 15th day of the month; partial food package benefits will be issued to participants obtaining food benefits on or after the 16th day of the current month. Formula issuance will be prorated every 10 days for the current month based on the number of days remaining in the month. Participants shall only receive those foods allowed in their participant profile, and for their dietary needs and food preparation/storage needs.

Procedures

- I. Food packages must be prescribed by the CA or WCS in consultation with the participant and registered dietitian (R.D.) when necessary. The food package must accommodate the individual's age, dietary needs, medical/nutritional conditions, and living conditions.

- II. All food package changes are the responsibility of a CA or WCS. For WCS, refer to Policy [FD:13.0 Issuance of Contract Infant Formula](#), [FD:16.0 Approval of Non-Contract Formulas](#), [FD: 16.1 Issuance of Formula Food Packages and Transfer Scenarios](#)

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and [FD:19.0 Managing Returned Formula](#) for further instructions regarding food package changes which include formula.

III. Individual participant food package benefits will be aggregated on the Texas WIC card. After all family members' food packages are loaded on the Texas WIC card, staff must offer a copy of the shopping list and inform the client that they can view their food benefits on myWIC. The parent/guardian or proxy shall enter the PIN for the card to acknowledge receipt of benefits. At the first visit, staff must offer a copy of the Texas WIC Shopping Guide and inform the client that they can view the shopping guide on myWIC.

IV. Infant Food Packages

- A. Food packages for the breastfeeding mother and infant dyad are closely tied and must match except when the mother is breastfeeding multiple infants with differing breastfeeding statuses or if the woman is a surrogate mother or birth mother whose infant is adopted (refer to Policy [FD:10.0 Issuing Food Packages for the Mother/Infant Dyad](#)).
- B. Staff must assess breastfeeding status of breastfeeding infant participants at time of each issuance. If the infant is no longer breastfeeding, staff must enter the date breastfeeding ended and update the infant breastfeeding frequency on the infant's participant page prior to issuance.
- C. The parent/guardian can choose between four infant food packages including:
 - 1. Fully breastfeeding – for infants who are breastfed and do not receive infant formula from WIC.
 - 2. Partially breastfeeding – for infants who are breastfed and receive approximately a half package or less of infant formula.
 - 3. Some breastfeeding - for infants who are breastfed at least one time a day and receive greater than a half package of infant formula.

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4. Fully formula fed – for infants who are fully formula fed.

V. Child Food Packages

- A. Children under two years of age receive a food package with whole milk (buttermilk is not an option).
- B. Children two through four years of age receive a food package with fat-free, low-fat milk and/or low-fat buttermilk.

VI. Food Packages

- A. Women with singleton (one infant) pregnancies must receive the Pregnant woman food package.
- B. Women who are pregnant with multiples receive the Pregnant with Multiples food package.
- C. Pregnant women who are partially breastfeeding singleton infants receive the Pregnant Partially Breastfeeding (PBF) package.
- D. Pregnant women who are fully breastfeeding singleton infants must receive the Pregnant Fully Breastfeeding (FBF) package.

VII. Fully Breastfeeding Women Food Packages

The Fully Breastfeeding (FBF) food package may be issued to a breastfeeding mother in any month during which the participant's infant receives no formula up to the infant's first birthday.

- A. When a Fully Breastfeeding food package has been issued and the parent/guardian returns to the clinic to request formula for the infant:
 1. If some benefits have not been redeemed and her food package has enough of the other foods to complete the replacement food package, staff must perform a food package void and replace for the mother's food package and issue a formula package to the infant for current and future months.

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- B. If there are not enough benefits to exchange her food package, the mother is not eligible for a food package void and replace for the current month and the infant is not eligible for a formula package. Refer the mother to the local agency peer counselor, designated breastfeeding expert, lactation consultant or other staff trained in lactation management for support maintaining lactation and/or local resources for formula.” A breastfeeding woman of multiple births from the same pregnancy (e.g., twins, triplets) is eligible to receive the Partially Breastfeeding Multiples food package if one or more infants are not receiving formula from WIC (this food package is equivalent to the Fully Breastfeeding food package but allows for formula issuance should the breastfeeding infant need formula and a food package exchange is not possible for Fully Breastfeeding).
- C. A breastfeeding woman who has multiple infants from the same pregnancy is eligible to receive the Fully Breastfeeding Multiples package (which is equivalent to 1.5 times the Fully Breastfeeding Package) if no infants are receiving formula from WIC.

VIII. Partially Breastfeeding Women Food Packages

- A. When a Partially Breastfeeding food package has been issued with less than the partial maximum amount of formula and the mother returns to request additional formula for the infant within the current benefit period, follow the procedures below. If the request is to increase, staff may increase up to the Partial Max at issuance.
- B. Up to the full formula package:
 - 1. Provide breastfeeding counseling according to Policy [BF:01.0 Breastfeeding Promotion and Support Standards](#) Procedure C.
 - 2. Inform the woman that if she chooses to continue breastfeeding at least one time a day but prefers to receive a full package of formula for her infant, she will not be eligible to receive food benefits after the infant turns six month of age but will be eligible to receive breastfeeding support.

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3. If the woman still desires an increase in formula, staff ensure the woman's current food package can be voided and replaced in the MIS.

IX. Some Breastfeeding Women Food Packages

The Some Breastfeeding profile allows a woman to receive food benefits up to the last day of the month that the infant turns six months.

- A. The participant is no longer eligible to receive a food package when she is six months postpartum but does continue to receive breastfeeding support including peer or lactation consultant counseling, breast pumps and participant-centered nutrition education, up to one year postpartum.
- B. If certified after six months postpartum, the participant should be encouraged to utilize WIC services, although she will not receive food benefits.

X. Postpartum Women Food Packages

Postpartum women who are not breastfeeding and whose infants are receiving a full formula package are issued the Postpartum food package for up to the last day of the month the infant turns six months.

XI. Other Food Package Types and Substitutions

- A. Limited or No Refrigeration food package may be issued to participants when there is a lack of food storage or food preparation facilities.
 1. The food package provides smaller containers of juice and peanut butter and/or canned beans as a substitute for eggs. Dry powder milk is provided. The package excludes cheese except for Fully Breastfeeding, Pregnant with Multiples, Pregnant and Breastfeeding and Partially Breastfeeding Multiples who are issued two 8-ounce packages of cheese, and Fully Breastfeeding Multiples who are issued three 8-ounce packages of cheese.

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2. Dry milk can be provided in lieu of the two 8-ounce packages of cheese due to no refrigeration as an exception in the Limited or No Refrigeration food package for Fully Breastfeeding, Fully Breastfeeding Multiples, Pregnant with Multiples, Pregnant and Breastfeeding and Partially Breastfeeding Multiples.
- B. Lactose-free milk food packages can be issued by request to women and children. Participants may report lactose intolerance diagnosed by a physician, describe symptoms of lactose intolerance (nausea, gas, diarrhea, abdominal bloating or cramps) when dairy products are consumed or prefer lactose-free milk. Medical documentation is not required for lactose-free milk.
 - C. Soy milk food packages can be issued by request for women and children. Reasons for issuing include, but are not limited to: milk allergy, lactose intolerance, galactosemia, vegan diet and cultural practices. Medical documentation is not required for soy milk.
 - D. Kosher milk and cheese is available only for participants who must consume kosher foods due to religious eating patterns. Documentation is not required. Kosher milk and cheese can be issued by substitution in place of milk and cheese in the standard food package. Another option for participants who need to keep kosher is soy milk and tofu as soy milk is pareve (can be eaten with both meat and dairy dishes).
 - E. Low-fat milk (1% or fat-free milk) is available to children under two years of age for overweight, obesity or for other medical conditions such as fatty acid deficiency that is self-reported by parent/guardian/caregiver or as reported by a healthcare provider or registered dietitian (RD). Low-fat milk can be issued by substitution in place of whole milk in the standard food package.
 1. A CA or WCS, after consultation with the parent/guardian/caregiver and/or HCP if necessary can make a determination for the need for low-fat milk based on the

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complete nutrition assessment (e.g., dietary intake, risk code assignment, etc.).

2. A CA can approve low-fat milk for medical reasons in consultation with healthcare provider if necessary. If self-reported by a parent/guardian/caretaker, an RD must approve.

XII. Food Package Substitutions, Tailoring and Exchanges.

- A. Food item substitutions can be made to meet participants' medical needs, cultural eating patterns, or food preferences. Food packages can be tailored or exchanged to meet participants' needs. See [FD 12.1 Food Package Substitutions, Tailoring and Exchanges](#).

XIII. Issuing Packages with Formula

- A. For special dietary needs food packages with formula for woman and children, refer to Policy [FD:16.1 Issuance of Formula Food Packages and Transfer Scenarios](#).
- B. For food packages with formula, the current month formula issuances will be prorated, except for issuances on the first day of the month. The quantity of formula issued by the MIS will be prorated every 10 days for the current month.
- C. Children and women may be issued up to a full quantity of formula. Lower quantities may be issued if specified by the healthcare provider on the Texas WIC Medical Request for Formula/Food or Texas WIC Medical Request for Metabolic Formula/Food form or by parent/guardian request.

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XIV. WIC standard food packages for the 5 categories of participants are defined below:

A. Federal Regulations Food Package I - Infants (age 0 to 1 month):

1. Fully breastfeeding – Breastfeeding support, No foods
2. Partially breastfeeding – Formula
 - a. up to 104 fl. oz. reconstituted powder
3. Formula feeding – Formula
 - a. up to 823 fl. oz. reconstituted concentrate,
 - b. up to 870 fl. oz. reconstituted powder, or
 - c. up to 832 fl. oz. ready to feed

B. Federal Regulations Food Package I - Infants (age 1 through 3 months):

1. Fully breastfeeding – Breastfeeding support, no foods
2. Partially breastfeeding – Formula
 - a. up to 388 fl. oz. reconstituted concentrate,
 - b. up to 435 fl. oz. reconstituted powder, or
 - c. up to 384 fl. oz. ready to feed
3. Formula feeding – Formula
 - a. up to 823 fl. oz. reconstituted concentrate,
 - b. up to 870 fl. oz. reconstituted powder, or
 - c. up to 832 fl. oz. ready to feed

C. Federal Regulations Food Package I - Infants (age 4 through 5 months):

1. Fully breastfeeding – Breastfeeding support, no foods
2. Partially breastfeeding – Formula
 - a. up to 460 fl. oz. reconstituted concentrate,
 - b. up to 522 fl. oz. reconstituted powder, or
 - c. up to 474 fl. oz. ready to feed
3. Formula feeding – Formula
 - a. up to 896 fl. oz. reconstituted concentrate,
 - b. up to 960 fl. oz. reconstituted powder, or

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- c. up to 913 fl. oz. ready to feed

D. Federal Regulations Food Package II - Infants (age 6 through 11 months):

- 1. Fully breastfeeding
 - a. 24 oz. of infant cereal,
 - b. 64 4-oz. containers of infant fruits and/or vegetables
 - c. 31 2.5-oz. containers of infant meats
- 2. Partially breastfeeding
 - a. up to 315 fl. oz. reconstituted concentrate,
 - b. up to 384 fl. oz. reconstituted powder, or
 - c. up to 338 fl. oz. ready to feed, and
 - d. 24 oz. of infant cereal
 - e. 32 4-oz. containers of infant fruits and/or vegetables
- 3. Formula feeding
 - a. up to 630 fl. oz. reconstituted concentrate,
 - b. up to 696 fl. oz. reconstituted powder, or
 - c. up to 643 fl. oz. ready to feed
 - d. 24 oz. of infant cereal
 - e. 32 4-oz. containers of infant fruits and/or vegetables

E. Federal Regulations Food Package III - Infants (age 6 through 11 months) – Special Dietary Needs (requires a prescription)

Amounts as prescribed by the healthcare provider, not to exceed amounts below:

- 1. Partially breastfeeding – Formula
 - a. up to 460 fl. oz. reconstituted concentrate,
 - b. up to 522 fl. oz. reconstituted powder, or
 - c. up to 474 fl. oz. ready to feed
- 2. Formula feeding – Formula
 - a. up to 896 fl. oz. reconstituted concentrate,
 - b. up to 960 fl. oz. reconstituted powder, or
 - c. up to 913 fl. oz. ready to feed

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F. Federal Regulations Food Package III - Women and Children with Special Dietary Needs

Amounts as prescribed by the healthcare provider, not to exceed amounts below):

1. Formula, up to 455 oz. liquid concentrate (or equivalent amount of powder reconstituted to 910 oz. or less)
2. Juice (single strength) – women 2 48-oz or 11.5-12-oz frozen; children 2 64-oz or 2 16-oz frozen
3. Whole Milk (fluid) up to amount allowed by participant category (A maximum of 1 lb. of cheese may be substituted for 3 quarts of milk)
4. Cereal (breakfast cereal OR infant cereal) up to amount allowed by participant category
5. Eggs – up to quantity allowed by participant category
6. Fruits and vegetables (cash value benefit or infant food fruits and vegetables - up to quantity allowed by participant category
7. Whole wheat bread or other whole grains – up to quantity allowed by participant category
8. Beans/peanut butter, up to amount allowed by participant category

G. Federal Regulations Food Package IV - Children (age 1 to 2 years):

1. Juice (single strength) – 128 fl. oz. (2 64-oz. single strength or 2 16-oz. frozen)
2. Whole Milk (fluid) – 16 qt. (A maximum of 1 lb. of cheese may be substituted for 3 quarts of milk)
3. Breakfast cereal - 36 oz.
4. Eggs – 1 dozen
5. Fruits and vegetables - up to quantity allowed by participant category
6. Whole wheat bread or other whole grains – 2 lbs.
7. Beans/peanut butter – 1 lb. dried beans OR 64 oz. of canned beans/peas OR 16 to 18 oz. peanut butter

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H. Federal Regulations Food Package IV - Children (age 2 through 4 years):

1. Juice (single strength) – 128 fl. oz. (2 64-oz. single strength or 2 16-oz. frozen)
2. Low-fat and fat-free milks and/or low-fat buttermilk (fluid) – 16 qt. (A maximum of 1 lb. of cheese may be substituted for three quarts of milk)
3. Breakfast cereal - 36 oz.
4. Eggs – 1 dozen
5. Fruits and vegetables - up to quantity allowed by participant category
6. Whole wheat bread or other whole grains – 2 lbs.
7. Beans/peanut butter – 1 lb. dried beans OR 64 oz. of canned beans/peas OR 16 to 18 oz. peanut butter

I. Federal Regulations Food Package V - Pregnant and Partially Breastfeeding Women:

1. Juice (single strength) – 144 fl. oz. (3 48-oz. single strength or 3 11.5-12 oz. frozen)
2. Low-fat and fat-free milk and/or low-fat buttermilk (fluid) – 22 qt. (A maximum of 1 pound of cheese may be substituted for 3 quarts of milk)
3. Breakfast cereal - 36 oz.
4. Eggs – 1 dozen
5. Fruits and vegetables - up to quantity allowed by participant category
6. Whole wheat bread or other whole grains – 1 lb.
7. Beans/peanut butter – 1 lb. dried beans and 16 to 18 oz. peanut butter OR 1 lb. dried beans and 64 oz. canned beans/peas OR 64 oz. canned beans/peas and 16 to 18 oz. peanut butter OR 2 1-lb dried beans OR 128 oz. canned beans OR 36 oz. peanut butter.

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J. Federal Regulations Food Package VI - Postpartum Women:

Includes Texas WIC participant category Some Breastfeeding Women and Some Breastfeeding Multiple Infants from the same pregnancy.

1. Juice (single strength) – 96 fl. oz. (2 48-oz. single strength or 2 11.5-12 oz. frozen)
2. Low-fat and fat-free milk and/or low-fat buttermilk (fluid) – 16 qt. (A maximum of 1 lb. of cheese may be substituted for 3 quarts of milk)
3. Breakfast cereal - 36 oz.
4. Eggs – 1 dozen
5. Fruits and vegetables - up to quantity allowed by participant category
6. Beans/peanut butter – 1 lb. dried beans OR 64 oz. of canned beans/peas OR 16 to 18 oz. peanut butter

K. Federal Regulations Food Package VII - Fully Breastfeeding Women:

This food package will also be issued to Pregnant with Multiples, Pregnant Fully or Partially Breastfeeding, and Partially Breastfeeding Multiples from the same pregnancy:

1. Juice (single strength) – 144 fl. oz. (3 48-oz. single strength or 3 11.5-12 oz. frozen)
2. Low-fat and fat-free milk and/or low-fat buttermilk – 24 qt. (A maximum of 1 pound of cheese may be substituted for 3 quarts of milk)
3. Cheese – 1 lb.
4. Breakfast cereal - 36 oz.
5. Eggs – 2 dozen
6. Fruits and vegetables - up to quantity allowed by participant category
7. Whole wheat bread or other whole grains – 1 lb.
8. Beans/peanut butter – 1 lb. dried beans and 16 to 18 oz. peanut butter OR 1 lb. dried beans and 64 oz. canned beans/peas OR 64 oz. canned beans/peas and 16 to 18 oz.

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peanut butter OR two 1 lb. dried beans OR 128 oz. canned beans OR 36 oz. peanut butter.

9. Fish (canned) – 30 oz.

L. Fully Breastfeeding Women Breastfeeding Multiple Infants from the same pregnancy – receives 1.5 times food items in food package VII:

1. Juice, single strength – 216 fl. oz. (1 64-oz. single strength or 1 16- oz. frozen and 3 48-oz or 3 11.5-12-oz frozen)
2. Low-fat and fat-free milk (fluid) – 33 qt. (A maximum of 1 lb. of cheese may be substituted for 3 quarts of milk)
3. Cheese – 2.5 lbs.
4. Breakfast cereal - 54 oz.
5. Eggs – 3 dozen
6. Fruits and vegetables - up to quantity allowed by participant category
7. Whole wheat bread or other whole grains – 1.5 lbs.
8. Beans/peanut butter – 2 lb. dried beans and 1 16 to 18 oz. peanut butter, or for nutritional reasons such as underweight, allergies or participant preference, combinations such as: 1 lb. dried beans and 128 oz. canned beans/peas OR 128 oz. canned beans/peas and 1 16 to 18 oz. peanut butter OR 1 lb. dried beans and 1 16 to 18 oz. peanut butter and 64 oz. canned beans/peas.
9. Fish (canned) – 45 oz.

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Policy No. FD:12.1

Food Package Substitutions, Tailoring and Exchanges

Purpose

To allow for food package substitutions, tailoring, and exchanges.

Authority

CFR 246.10

Policy

Food item substitutions can be made to meet participants' medical needs, cultural eating patterns, or food preferences. Food packages can be tailored or exchanged to meet participants' needs. These changes must be made by a Certifying Authority (CA) or WIC Certification Specialist (WCS).

Procedures

- I. Substitutions in Food Packages
 - A. Food item substitutions can be made in the milk, cereal, and fruit and vegetable food groups to better meet the participants' needs and preferences.
 - B. Milk Substitution Group
 1. Substitutions can be made within children and women's food packages, per participant's preference, for different types of milks (e.g., milk and evaporated milk) based on quart equivalents.
 2. No more than 4-quart equivalents can be substituted for a combination of cheese, yogurt or tofu for children and women, except for fully breastfeeding and fully breastfeeding multiple, which is 6 quarts and 7.5 quarts, respectfully.

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3. Milk substitutions can be made within a food package to include different types of milks (e.g., milk and evaporated milk) per participant's preference.
4. Milk substitutions include:
 - a. Milk, lactose-free milk, and soy milk – one quart is one quart equivalent
 - b. Dry milk – 3.2 ounce is one quart equivalent
 - c. Evaporated milk – 16 fluid ounce is one quart equivalent (1:2 ratio)
 - d. Cheese – one pound is three quarts equivalent
 - e. Tofu – one pound is one quart equivalent
 - f. Yogurt – one quart (32 oz.) is one quart equivalent
5. Cheese - Food packages cannot contain more than one pound of cheese with the exception of:
 - a. Fully Breastfeeding, Fully Breastfeeding and Pregnant, Partially Breastfeeding and Pregnant food packages can contain a minimum of 1 lb. and a maximum of 2 lbs. cheese.
 - b. Fully Breastfeeding and Fully Breastfeeding Multiples contain a minimum of 1 lb. and 1.5 lb. cheese per month, respectively, that cannot be substituted.
6. Yogurt
 - a. Food packages cannot contain more than one quart of yogurt.
 - b. One pound of tofu can be substituted for one quart of yogurt.
7. Tofu – Food packages with cheese can have one quart of yogurt or one pound of tofu. Food packages with cheese can never have both yogurt and tofu. Additional amounts of tofu can be issued up to the full fluid milk equivalence for reasons such as milk allergy, lactose intolerance and vegan diets.

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- C. Cereal Substitution Group – Infant cereal can be substituted for breakfast cereal in women and children’s Special Dietary Needs food packages only. To receive this food package, staff must obtain a Texas WIC Medical Request form from the client’s Health Care Provider.
 - D. Fruit and Vegetable Substitution Group – Jarred infant food fruits and/or vegetable can be substituted for fruit and vegetable cash value benefit (CVB) in women and children’s Special Dietary Needs food packages only. To receive this food package, staff must obtain a Texas WIC Medical Request form from the client’s Health Care Provider.
- II. Tailoring Food Packages
- A. Individual nutrition tailoring is allowed based on the CA’s or WCS assessment of a participant’s supplemental nutrition needs.
 - B. The full maximum monthly allowance of all supplemental foods in all food packages should be made available to participants unless medically or nutritionally warranted.
 - C. Tailoring the package to provide less than the full amount is appropriate when, for example:
 - 1. It is medically or nutritionally warranted such as removing an item due to a food allergy.
 - 2. When a participant refuses or cannot use the maximum monthly amount.
- III. Food Package Exchanges
- A. Food packages can be exchanged in the current month by modifying benefits if the remaining benefits meet the following criteria:
 - 1. The quantities of each food are equal to or more than the quantity in the original food package, and
 - 2. The types of foods are the same as in the original food package, or if not the same, the food has not been redeemed.

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- a. Items within the milk substitution group described in I.B.2 are considered the same type of food and can be exchanged as available to that participant category.
 - i. Example 1: A pregnant participant wants to exchange her regular low-fat milk for low-fat lactose-free milk. Staff may exchange the regular low-fat milk for low-fat lactose-free milk, even if the regular low-fat milk was partially redeemed.
 - ii. Example 2: A 3-year-old child received low-fat milk, but then their caregiver obtains a prescription for a nutritional supplement, so the child is eligible to receive whole milk. Staff may exchange the low-fat milk for whole milk even if the low-fat milk was partially redeemed.
 - b. A food package exchange may not be possible if foods from the first package were redeemed that are not on the newly requested food package. For example - a Fully Breastfeeding Package with canned fish already redeemed cannot be exchanged for a Postpartum Package.
- B. Formula Food Package Exchanges
- 1. Formula to Formula
 - a. Any formula food package can be exchanged for another formula food package at any time if the formula quantity on Texas WIC Card and/or returned is equal to or more than the formula quantity in the new food package.
 - b. When exchanging food packages with formula, formula will not be prorated for the current month.
 - c. When a Partially Breastfeeding food package has been issued with less than the partial maximum amount of formula and the mother returns to request additional formula within the current benefit period, follow the procedures below:
 - i. Staff may increase up to the partial maximum without a change in the Mothers food package.

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- ii. To increase to full formula package:
 - a) Provide breastfeeding counseling according to Policy [BF:01.0 Breastfeeding Promotion and Support Standards](#), Procedure III.D.
 - b) Inform the woman that if she chooses to continue breastfeeding at least one time a day but prefers to receive a full package of formula for her infant, she will not be eligible to receive food benefits after the infant turns six month of age, but will be eligible to receive breastfeeding support.
 - c) If the woman still desires an increase in formula, staff must verify that the woman’s current food package can be modified in the MIS.
- 2. Formula to Non-Formula - a formula food package can be exchanged for non-formula food package if the amount of formula originally issued either remains on the Texas WIC Card and/or the unopened formula containers are returned to clinic.
- 3. Non-formula to Formula – When a non-formula food package is exchanged for a formula food package, the quantity of food originally issued must be equal or more than the quantity of food in the new food package.
- 4. Fully Breastfeeding to Formula –
 - a. When a Fully Breastfeeding food package has been issued and the mother returns for formula before her infant turns six months, the food package can be exchanged in the current month if there are remaining benefits that meet this criteria:
 - i. The quantities of each food are equal to or more than the quantity in the original food package, and

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- ii. The types of foods are the same as in the original food package and tuna/salmon benefits have not been redeemed.
- b. Staff may then perform a food package exchange and modify benefits for the mother's food package and issue a formula package to the infant for current and future months. See Policy [FD:10.0 Issuing Food Packages for the Mother/Infant Dyad](#) for more information.
- c. If there are not enough remaining benefits for the current month:
 - i. A food package exchange cannot be performed.
 - ii. Refer the mother to the local agency peer counselor or lactation consultant and/or local resources for formula.

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Effective August 1, 2022

Policy No. FD:13.0

Issuance of Contract Infant Formula

Purpose

To ensure that participants needing milk-based and soy-based infant formula receive contract formula.

Authority

7 CFR 246.2; 7 CFR 246.10

Policy

In instances when breastfeeding is medically contraindicated or when a parent requests formula, contract formula may be issued. Contract brand infant formula must be issued as the first choice unless an exempt/WIC eligible nutritional has been prescribed by a health care professional licensed to write prescriptions under state law for a qualifying condition(s).

Contract brand infant formula may only be issued to participants older than one year of age when prescribed by a health care professional for a qualifying condition(s).

Only Certifying authorities or WIC Certification Specialists (WCS) may assign contract formula.

Definitions

Alternate contract infant formula – any contract brand, non-exempt infant formula, other than the primary contract infant formula that is subject to rebate under cost containment procedures.

Contract brand infant formula - all infant formulas (except exempt infant formulas) produced by the manufacturer awarded the infant formula cost containment contract.

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Formula – the term formula used throughout this policy refers to all contract and non-contract formulas, including milk and soy-based, low-lactose formulas, nutritional beverages, additives such as human milk fortifiers and modular products, nutritional supplements and WIC-eligible nutritionals.

Exempt infant formula – therapeutic formula intended and labeled for use by individuals with specific medical and/or dietary conditions.

Primary contract infant formula – the specific infant formula for which manufacturers submit a bid to a State agency in response to a rebate solicitation and for which a contract is awarded by the State agency as a result of that bid.

WIC - eligible nutritionals – certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted or inadequate. Such WIC eligible nutritionals must serve the purpose of a food, meal or diet (may be nutritionally complete or incomplete) and provide a source of calories and one or more nutrients, be designed for enteral digestions via an oral or tube feeding (e.g. Pediasure) and may not be a conventional food, drug, flavoring or enzyme.

Procedures

- I. Contract milk-based infant formula
 - a. Issue the primary milk-based contract infant formula **unless**:
 - i. The infant is already taking an alternate contract milk-based or soy-based infant formula and the parent/guardian wants to continue that formula or;
 - ii. The infant is already taking another manufacturer's product that is comparable to the alternate contract milk- or soy-based infant formula. Staff may offer the contract product that is most comparable – the infant does not have to trial the primary milk-based formula first.

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- iii. A caregiver requests an alternate milk or soy-based contract infant formula or;
 - iv. The CA determines, using professional judgement, that an alternate contract infant formula may better meet the infant's feeding needs.
 - v. The caregiver presents a medical request from the health care professional for a non-contract formula that can be approved and issued per policy FD:16.0.
- II. Contract soy-based infant formula
- a. Issue the contract soy-based infant formula in cases where:
 - i. The family follows a vegan (vegetarian, no dairy) diet and requires a soy formula or;
 - ii. There is a family preference and/or caregiver request for soy formula or;
 - iii. There is a medical request from a healthcare professional for a soy-based formula.
- III. When a caregiver requests a change in contract formula due to symptoms of reported intolerance, the CA or WCS should:
- a. Assess and counsel prior to making a formula change.
 - i. Explore the feeding, preparation and/or storage practices. Provide appropriate counseling and education. Refer to health care professional as needed.
 - ii. If the caregiver reports symptoms of: Diarrhea, bloody stools, vomiting, fever, weight loss, poor or no weight gain, make a referral to the infant's health care professional. Document the referral in the participant's record.
 - b. Document the reason for the contract formula change and symptoms experienced in Notes section of the participant page.
- IV. Issuance of contract infant formula to a participant older than one year of age:

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- a. Obtain a medical request from the health care professional and complete an assessment and appropriate documentation for approval.
 - b. Assessment includes a diet history, anthropometric measurement and any relevant medical history.
- V. Concentrating (or altering the standard dilution) of contract infant formula:
- a. Issue only up to the maximum amount of formula as outlined in the Maximum Quantity tables. Quantities cannot be increased to offset reduced final volume that results from concentration.
 - b. Provide instruction for mixing formula to concentrations other than the standard dilution *only* with a written or verbal request from the health care professional.
 - i. Mixing instructions for concentrating contract formulas to 22, 24, 27 and 30 kcal/oz can be requested from the state agency.
 - ii. It is not necessary to contact the state office for approval to provide mixing instructions for contract formula.
 - iii. Document verbal requests from healthcare providers in VENA notes. Include name and contact information of healthcare provider, date of request and reason for increased calorie need.
 - iv. Scan and upload written requests to the client record in the MIS.
- VI. Formula only food package issuance
- a. The special needs food package for infants 6 months of age and older may be issued with contract formula.
 - b. Obtain a medical request from the HCP indicating foods are to be omitted due to an inability or delay in consuming solids.
- VII. In the event that a contract formula does not meet federal regulations, a medical request from a prescribing authority will be required.

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Effective June 1, 2024

Policy No. FD:15.0

Issuance of Ready-to-Use Formula

Purpose

To ensure the availability of ready-to-use formula (RTU) to WIC participants with specific needs.

Authority

7 CFR Part 246.10

Policy

Formula will be issued in concentrated liquid or powder form unless the participant's circumstances meet the criteria for ready-to-use formula issuance outlined in this policy as determined by a certification authority (CA).

Procedures

- I. RTU formula will only be issued due to one or more of the following conditions:
 - A. The participant's household has an unsafe, unsanitary or limited water supply, or poor refrigeration;
 - B. The parent/caretaker or participant is unable to correctly dilute or prepare formula;
 - C. The formula is available only in a RTU form.
 1. Formula manufactured only in RTU form should be issued as RTU for the full length of approval.
 2. Local agency staff should refer to the state agency for guidance on the appropriate length of issuance for formula that is temporarily unavailable in powder or concentrate form, such as in the event of a shortage or recall.

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Effective June 1, 2024

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- D. The use of RTU **therapeutic** formula for infants, and any formula for women and children, better accommodates a participant's condition (e.g., compromised immune system). Refer to the specific formula in the Texas WIC Formulary; or
 - E. The use of RTU therapeutic formula for infants, and any formula for women and children, improves a participant's compliance in consuming the prescribed formula. Refer to the specific formula in the Texas WIC Formulary.
- II. The continued issuance of RTU must be evaluated at each formula approval for therapeutic formulas and each time formula benefits are issued for contract formulas.
- III. When issuing RTU formula, a CA must document the reason for issuance in the participant's record.

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Effective November 1, 2024

Policy No. FD:16.0

Approval of Non-Contract Formula

Purpose

To ensure that formulas requiring medical documentation have an appropriate qualifying reason in compliance with WIC regulations. To outline procedures for reviewing and approving medical requests for formula.

Authority

7 CFR 246.10

Policy

Authorized local and state agency (SA) staff may approve the issuance of therapeutic formulas to women, infants, or children for valid medical conditions with a Medical Request from a health care professional (HCP).

Local agency (LA) Certifying Authorities (CAs) are authorized to approve therapeutic formula(s) when the qualifying condition criteria in the Texas WIC Formulary are met.

LA Registered Dietitians (RD) are authorized to make approval decisions based on their professional judgement when qualifying conditions are not consistent with Texas WIC Formulary criteria.

Formula Certified WIC Certification Specialists (FC-WCS) are authorized to approve formulas that are labeled as FC-WCS and meet qualifying condition criteria in the Texas WIC Formulary. FC-WCS are not authorized to contact the HCP regarding clarification of qualifying conditions, supplemental foods, or clarifying formula quantities unless directed by a CA.

SA approval is required for: metabolic formulas, human milk fortifiers, 24 calorie or higher ready-to-use (RTU) formulas, modular products and any other product designated for SA approval in the Texas WIC Formulary. The

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SA formula approval team is available to make approval decisions when the LA RD is unavailable or requests assistance.

Multiple formulas may be approved for one participant based on need if the total allotment of all formulas does not exceed the maximum monthly allowance (MMA).

Definitions

Formula – the term “formula” used throughout this policy refers to all types of formula. These include:

- **Infant formula** – also defined as a “non-exempt formula” – a routine formula labeled for use by full term, generally healthy infants or toddlers. Such formulas include milk-based, soy-based, low-lactose, and added rice starch products. Infant formula may be contract or non-contract.
- **Metabolic formula** - Products prescribed for inborn errors of metabolism.
- **Therapeutic formula** – Formerly defined as “exempt formula”- formula intended and labeled for use by individuals with specific medical and/or dietary conditions, also referred to as exempt formula in federal regulations.
- **WIC-eligible nutritionals** – certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted or inadequate. Such WIC-eligible nutritionals must serve the purpose of a food, meal or diet (may be nutritionally complete or incomplete) and provide a source of calories.

Health Care Professional (HCP) – for the purposes of this policy, a health care professional who is authorized to write medical prescriptions in the State of Texas. This includes medical doctors (M.D.), doctors of osteopathy (D.O.), physician assistants (P.A.), and nurse practitioners (N.P.).

Maximum Monthly Allowance (MMA) – the federal maximum quantity of formula available to a participant monthly, based on age and assigned food package.

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National Provider Identifier (NPI) - a unique 10-digit numeric identifier for a specific health care provider which Medicaid uses for billing purposes.

Qualified Genetic Centers – A list of recognized medical centers staffed by genetic specialists who can diagnose and treat inborn errors of metabolism and metabolic dietitians trained to counsel and treat patients with appropriate metabolic diets, including metabolic formula. The list is maintained by the Texas Department of State Health Services.

[Clinical Care Coordination Consultants | Texas DSHS](#)

Procedures

- I. Review and evaluate prescription (RX) information.
 - A. Medical requests must contain the following information which is included in the Texas Medical Request for Therapeutic Formulas form (available [here](#)):
 1. Name of WIC participant needing the formula.
 2. Name of formula and form, if applicable.
 3. Amount of formula needed per day and authorized supplemental foods and their prescribed amounts.
 - a. If no specific amount is indicated, the maximum amount allowed may be issued.
 - b. For infants that are also receiving breastmilk, follow guidance in FD:10.0 to determine appropriate food package. Consult with the HCP if needed.
 4. Requested length of issuance.
 - a. If section is left blank, contact the HCP.
 - b. If the HCP cannot be reached by phone or fax, issue one month.
 5. Qualifying condition and/or reason(s) formula or food is prescribed.

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- a. Staff may approve premature transitional formulas without documented qualifying condition for infants who were born prematurely or low birth weight.
 - b. If HCP only includes International Classification of Disease (ICD) code(s), call to clarify qualifying condition.6.
6. Signature and credentials of prescribing HCP. May accept electronic or stamped signature.
 7. Date WIC medical request form was written.
 - a. If no date is indicated, but date is listed for anthropometrics, issue based on date of measurements.
 - b. If no date is indicated on signature or anthropometrics and the prescriptive authority cannot be reached, issue for one month.
 8. Contact information for the medical office. May accept medical office stamp.
- B. The Texas Medicaid & Health Partnership (TMHP) requires the HCP's NPI for Medicaid reimbursement on therapeutic formulas redeemed by a participant.
1. If the medical request form does not include the HCP's individual NPI number, staff will use the NPI search function in the management information system (MIS) or national database to identify the NPI number.
 2. Staff may use the NPI Not Found function if they are unable to locate the NPI in the MIS database.
 - a. Staff should record the HCP's first and last name on the Medical Prescription page in the MIS and add the NPI to Notes if it is known but was not found in the MIS database.
- C. Acceptable forms of medical documentation for formula requests:

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1. [Texas Medical Request for Therapeutic Formulas form](#) - Staff may accept all current or previous versions of the Texas WIC medical request form. LA forms are not permitted.
2. Non-WIC forms may be accepted if:
 - a. Document(s) contain all prescription requirements listed above in Section I. a.
 - b. Participant is less than six months old and supplemental foods are not an option during the issuance time frame.
 - c. Discharge papers/hospital documents may be approved for one month if the following information is included:
 - i. Date
 - ii. Hospital name or identifying information
 - iii. Formula name and form, if applicable
 - iv. Patient name
 - v. Reason for issuance is listed or can be inferred (e.g., prematurity or low birth weight)
3. Verbal requests for a new formula
 - a. Obtain required prescription information verbally from the HCP or medical support staff consulting with the HCP.
 - b. Document the date and name of prescribing HCP.
 - c. Verbal requests may only be issued for one month.
 - i. If verbal authorization is used prior to the 11th of the month, approve only for the current month.
 - ii. If verbal authorization is obtained on or after the 11th, approve through the end of the following month.
 - d. Attempt to obtain written request within two weeks.
4. Requests with missing or unclear information:
 - a. Contact the HCP and obtain verbal instructions or clarification for any missing or unclear information.
 - i. A nurse, dietitian, medical assistant, or other medical professional may verbally relay information missing from Medical Request that has been signed by a

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prescribing HCP. HCP clerical office staff may confirm Healthcare Provider Information only, such as signature date or contact information.

- b. Document information provided by the HCP in the management information system (MIS) in the Notes section of General tab of the Medical Prescription Page.

II. Collect Nutrition Assessment information.

- A. Consult the Texas WIC Formulary, [available here](#), for the following assessment requirements:

1. Formula history

- a. Complete a formula history for all formula requests excluding formulas for inborn errors of metabolism.
 - i. Infants – List all formulas given, symptoms experienced, and approximate length of time offered. If infant is receiving breastmilk, document information on feeding frequency and/or amount provided.
 - ii. Children – List any formulas given after 12 months of age, symptoms experienced and length of time offered.

2. Complete assessment

- a. For formula requests related to conditions that affect growth, as specified in the Texas WIC Formulary, assess the following:
 - i. Diet history – list all food and drinks, including breastmilk and infant formula, consumed in a typical 24-hour period.
 - ii. Relevant medical history
 - iii. Most recent anthropometrics available
 - a) Plot on appropriate growth chart using date of measurements. Ensure appropriate gestational age is input in the MIS.
 - b) Measurements should be within last 14 days for infants and 30 days for women and children.

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1. If measurements are unavailable for infant or child within required timeframe, LA RD or SA may assess for exceptions.
 2. Measurements from HCP are acceptable, either verbally from HCP staff or in writing. Document in MIS if measurements are obtained from the HCP.
- b. If a growth problem is identified at WIC, refer to the HCP and follow LA High-Risk Referral policy per CS:33.0.
 - c. Request for high calorie concentration
 - i. Confirm parent/guardian has received and understands mixing instructions.
 - ii. Contact the HCP or SA formula team for assistance, as needed.
 - d. When a prescription is approved for a shorter time period than originally requested by the HCP, staff should re-assess and document relevant nutrition information at subsequent approvals.

III. Document in the MIS.

- A. Document all relevant assessment information in the Notes section on the General tab of the Medical Prescription page in the MIS.
 1. LAs may determine a different location for storing documentation but must maintain consistency across the LA. LAs must provide their staff with written instructions for alternative documentation locations.
 2. Document alternative location in the Notes section of the Medical Prescription Page.
- B. Upload the WIC medical request form no later than close of business on the day of the creation of the medical request.

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IV. Make an approval decision.

- A. Consult the Texas WIC Formulary to determine if formula request can be approved.
- B. Determine the length of approval. Prescription expiration dates will always end on the last day of a calendar month. Use the following guidelines to determine how long a prescription is valid.
 - 1. For initial prescriptions:
 - a. If written in the month before it is presented to WIC, begin length of issuance count with the current month.
 - b. If written in first 10 days of the current month and presented to WIC within the first 10 days of the month, begin length of issuance count with the current month.
 - c. If written any day of the current month and presented to WIC on or after the 11th of the month, begin length of issuance count with the following month. Include issuance of the formula for any remaining days in the current month.
 - 2. For repeat prescriptions (renewals):
 - a. If previous approval does not include the current calendar month, follow the same guidance as with initial prescriptions.
 - b. If previous approval includes the current calendar month and the prescription was written within the previous 30 calendar days, begin length of issuance count with the following month.
 - 3. For prescriptions written more than 30 days prior, calculate length of issuance as though the prescription was presented to WIC on the day it was originally signed by the HCP.
 - 4. Formulas can be approved for less than the length of issuance requested for follow-up and/or reassessment at CA or SA discretion.

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- C. Before denying a formula request, ensure you have gathered all information.
 - 1. FC-WCS should defer final denial decision to the CA.
 - 2. CAs should consult with local or state RD prior to denying formula based on qualifying condition.
 - 3. Contact the HCP for additional information or to discuss alternative options if appropriate.
 - 4. Notify HCP of denial and reason for denial by phone or fax.
 - 5. Document reason for denial and method of HCP notification in Notes section in General tab of the Medical Prescription page in the participant's record.

- V. Approve or Send for Approval in the MIS.
 - A. For formulas that can be approved by the LA:
 - 1. Choose "Request for Approval" for formulas that will be locally approved and follow any LA protocol. If the staff entering the formula request is on the formula approval team and authorized to approve the prescription, they may "Approve" directly without sending via Request for Approval.
 - 2. Choose "Request for State Approval" if needed (i.e. local RD is unavailable or seeking further guidance).

 - B. For formulas that can only be approved by the SA:
 - 1. Before submitting formula request to the SA:
 - a. Ensure Medical Request form is uploaded.
 - b. Document and plot anthropometrics, when required.

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- c. Include all relevant assessment notes and staff contact information (direct phone or email) in the Notes section on the General tab of Medical Prescription page.
 2. Select "Request for Approval." Only one option will be available in the MIS when formula requires SA approval.
 3. If SA staff does not respond within 15-20 minutes, email the State Formula Team: FormulaTeam@hhs.texas.gov
- VI. Extending an expired WIC medical request form.
 - A. CAs may contact the HCP's office for verbal authorization from the HCP or medical support staff consulting with HCP to extend an expired medical request form once, for up to six months, when the following conditions exist:
 1. Previous medical request form is not more than 30 days past the expiration date.
 2. Qualifying diagnosis and requested formula have not changed.
 - B. Document the extension by creating a new medical request in the MIS. Include:
 1. Updated length of issuance.
 2. HCP name providing verbal authorization.
 3. Location of original Rx (or upload a copy to the new request).
 4. Note explaining this is an extension.
 - C. Use professional judgment for re-assessment of nutrition information and anthropometrics when approving extensions for more than one month.

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Effective November 1, 2024

Policy No. FD:16.0

- VII. Changing from therapeutic formula to contract formula by parent/caregiver choice – If a parent/caregiver requests a change to a contract formula during the valid period of the WIC medical request form:
- A. Contact the HCP to confirm the change. Document the name of the HCP or medical support staff and any guidance provided in the Notes section of the participant’s page.
 - B. If unable to reach the HCP by phone, contact SA for guidance.
- VIII. Metabolic formula requests for inborn errors of metabolism.
- A. Require a completed [Texas WIC Medical Request for Metabolic Formula/Food](#) (stock no. EF-16-03-13158) or the equivalent information from a genetic/metabolic specialist at a qualified genetic center.
 - 1. Number of cans and/or containers needed monthly or mixing instructions must be provided by the genetic/metabolic specialist.
 - 2. Old version of the Texas WIC Medical Request for Metabolic Formula/Food form may be accepted if all information is included.
 - 3. If Metabolic Formula request is presented on standard Texas WIC Medical Request Form:
 - a. Confirm the request was written by a genetic/metabolic specialist. Contact the specialist for any missing information and document in the Notes section of the General Tab of the Medical Prescription page.
 - B. All metabolic formula requests must be approved by SA.
 - C. Requests for metabolic formulas do not require nutrition assessment.

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- IX. Approving Non-Contract Formula Requests during disasters:
- A. Follow guidance outlined in current SA Disaster Plan and any relevant memos related to the specific disaster.
 - B. For questions or concerns, contact the State Formula Team:
formulateam@hhs.texas.gov

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Effective January 1, 2025

Policy No. FD:16.1

Issuance of Formula Food Packages and Transfer Scenarios

Purpose

To ensure that Texas WIC participants receive the infant formula, therapeutic formula, WIC-eligible nutritionals and supplemental foods that meet their nutritional needs.

Authority

7 CFR 246.10; State Policy

Policy

When issuing approved exempt formula to women, infants, and children for valid medical conditions, in compliance with policy FD 16.0, authorized WIC staff must:

1. Issue appropriate quantities of formula within maximum monthly allowances (MMA) as indicated by federal regulation. Quantities issued cannot be increased to offset reduced final volume that results from concentration.
2. Issue supplemental foods that are tailored to closely meet the medical need of the participant, as indicated by the Healthcare professional (HCP), in a manner consistent with federal regulation.

Local agency (LA) Certifying Authorities (CAs), Registered Dietitians (RDs), and Formula Certified WIC Certification Specialists (FC-WCS) are authorized to determine therapeutic formula quantities and supplemental foods. The FC-WCS should defer supplemental food decisions to the CA or RD when not indicated on the Medical Request.

Infants six months of age or older, whose medical condition prevents them from consuming supplemental infant foods are eligible to receive formula at the same monthly allowance as provided to infants ages 4 through 5 months.

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Effective January 1, 2025

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Definitions

Formula – the term “formula” used throughout this policy refers to all types of formula. These include:

- Infant Formula – also defined as a “non-exempt formula” – a routine formula labeled for use by full term, generally healthy infants or toddlers. Such formulas include milk-based, soy-based, low-lactose, and added rice starch products. Infant formula may be contract or non-contract.
- Metabolic Formula - Products prescribed for inborn errors of metabolism.
- Therapeutic formula – Formerly defined as “exempt formula”- formula intended and labeled for use by individuals with specific medical and/or dietary conditions, also referred to as exempt formula in federal regulations.
- WIC-Eligible Nutritionals – certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted or inadequate. Such WIC-eligible nutritionals must serve the purpose of a food, meal or diet (may be nutritionally complete or incomplete) and provide a source of calories.

Health Care Professional (HCP) – for the purposes of this policy, a health care professional who is authorized to write medical prescriptions in the State of Texas. This includes medical doctors (M.D.), doctors of osteopathy (D.O.), physician assistants (P.A.), and nurse practitioners (N.P.).

Maximum Monthly Allowance (MMA) – the federal maximum quantity of formula available to a participant monthly, based on age and assigned food package.

Procedures

- I. Determine the quantity of formula to issue
 - A. After approving a medical request for formula, MIS will calculate maximum monthly formula quantity available for issuance based on age and food package.

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1. Infants
 - a. If the infant is not receiving breastmilk and is assigned the fully formula fed food package, issue the maximum amount allowed.
 - b. If the infant receives breastmilk and formula, follow guidance in FD:10.0 to determine formula quantity, up to the MMA for corresponding food package.
2. Children and Women
 - a. If HCP indicates a specific quantity of formula, provide the number of containers requested per day.
 - b. If the number of containers is left blank, coordinate with parent/guardian to determine quantity needed, up to the maximum allowed.
 - c. Manually adjust the quantity needed for the approved length of issuance in the formula line-item section of the participant's food package.
 - d. When issuing less than the MMA, round up to the nearest full packaging unit (e.g., round up to the nearest 6 pack).
3. If client receives therapeutic formula from an assistance program or provider other than WIC:
 - a. Determine quantity needed in coordination with the parent/guardian based on extent that needs are met by the other program.
 - b. Manually adjust the formula quantity in the formula line-item section of the participant's food package.
 - c. Document the name of the assistance program and the quantity of formula received in the Notes section of the medical prescription page of the MIS.
4. If client has prescriptions for multiple formulas:
 - a. The HCP may include all required formulas on one or multiple Medical Request Forms. If not clearly indicated, staff should contact the HCP for clarification on quantities needed of each formula.
 - b. Determine whether the combined requested quantity of formula exceeds the MMA using the formula line-item section of the food package or the *Maximum Quantity tables for Infants, Women and Children*.

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- c. Issue the quantity of each formula requested on the medical request form if MMA is not exceeded.
- d. If the MMA is exceeded:
 - i. Adjust the quantity of each formula to most closely meet the amount requested in coordination with the parent/guardian.
 - ii. Refer client to Medicaid or other local services.

II. Issuance of Food Packages for Infants receiving Therapeutic Formulas

A. RX More Formula Package

- 1. Only issue for infants 6-11 months of age. This food package may be assigned between 4-5 months of age to allow for advance issuance beginning at 6 months of age.
- 2. Ensure the HCP has indicated "formula only" or has marked to omit both infant cereal and infant fruits/vegetables on the Medical Request.
- 3. If clinic staff determine that a client has a medical need for this food package but does not have documentation:
 - a. Contact the HCP to obtain written or verbal approval to issue the RX More Formula Only food package and document in the notes section of the Medical Prescription page.
 - b. If supplemental food authorization cannot be obtained from the HCP, issue the standard 6-11 months' formula food package, and do not issue the supplemental foods.

III. Select Appropriate Supplemental Foods for Children and Women

- A. The HCP can defer supplemental foods selection to the CA and/or RD when utilizing a version of the Texas Medical Request Form with the statement: *The RD/Nutritionist will determine food unless denoted otherwise below.*
 - 1. When accepting a form without the above or a similar statement, contact the HCP for verbal or written authorization if supplemental foods are not prescribed or indicated.

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2. Unless otherwise noted by the HCP, the CA and/or RD can choose the appropriate supplemental foods, amounts and the length of issuance for the participant's diagnosis age, preferences, developmental readiness, and food allergies.
3. Tailor the food package to closely reflect the medical and nutritional needs of the child or woman.
 - a. Formula Only–All foods are to be omitted due to the medical condition. Additional formula cannot be provided in place of supplemental food.
 - b. Formula with Infant Cereal and Baby Food- Children and women whose special dietary needs require the use of pureed foods may receive baby foods and infant cereal in lieu of cash value benefit for fruits and vegetables or standard cereal.
 - c. If a participant is receiving a therapeutic formula from another assistance program and not from WIC, staff should tailor the food package in coordination with the parent/guardian. Consult the HCP to determine the appropriate supplemental foods for the medical condition. This may be obtained verbally and documented in the participant's record. If HCP cannot be reached, contact SA for assistance.

IV. Issuance of Therapeutic Formulas for In State and Out of State Transfers

- A. Attempt to obtain the original medical request medical request from the MIS or from the losing clinic.
 1. If able to access original request, honor the length of approval, as appropriate.
 2. If unable to access original request, attempt to obtain proof of current or previous issuance (such as VOC, shopping list, etc). Issue one month and request a new request for subsequent approvals.
 3. If unable to obtain original request or proof of current or previous issuance, obtain a verbal or written request from the HCP. Follow procedures in FD:16.0 for verbal requests.

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- V. Prescriptions written outside of Texas:
 - A. Staff can accept a medical request written by a prescriptive authority located outside the state of Texas if the request contains all required information outlined in policy FD 16.0
 - 1. If medical request form is incomplete refer to the procedures outlined in policy FD 16.0.
 - B. Complete prescriptions from any foreign countries for therapeutic formulas may be approved for one month only. Thereafter, a current prescription from a local U.S. HCP must be obtained. For incomplete prescriptions, contact the SA. If client has difficulty establishing medical care in Texas, refer to Medicaid if appropriate.

- VI. Foster care
 - A. If there is no current Medical Request available and no documentation from the previous caregiver, issue one month of the requested therapeutic formula or a comparable contract formula until a new HCP can provide an updated prescription. Contact LA RD or SA if assistance is needed.

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Effective October 1, 2022

Policy No. FD:18.0

Drop Shipment of Formula

Purpose

To outline the policy for drop shipment of exempt formulas.

Authority

7 CFR 246.12 Subpart B; Food delivery methods, Uniform food delivery systems

Policy

Drop shipping formula is a means of providing an approved exempt formula to WIC participants when the formula is not typically available or cannot be easily acquired from a local WIC authorized vendor.

All exempt formulas with an approved medical request are eligible for drop shipment.

The drop shipped formula can be delivered to the WIC local agency or directly to the participant/caregiver. Delivery to a participant/caregiver's preferred physical address should be mutually agreed upon decision with the understanding that an adult will need to be available to receive the formula delivery.

Staff should offer participants/caregivers the option for exempt formula to be drop shipped directly to the participant/caregiver's preferred physical address when:

- The family has significant transportation barriers that impede timely redemption, and/or
- The family's residence is in an area that has limited or no access to WIC approved vendors who supply exempt formulas, and/or

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- The participant or primary caregiver has special health care needs (as defined in CR:07.0) whose condition limits their ability to make routine outings, and/or
- There is a nationwide, statewide, regional, or local emergency or disaster that limits the family's ability to access WIC approved vendors who supply exempt formulas.

Definitions

Contract formula – Formula for which manufacturers submit a bid to the WIC State Agency (SA) in response to a rebate solicitation and for which a contract is awarded by the SA as a result of that bid. Refer to the Texas WIC Formulary for an up-to-date list of contract formulas.

Drop shipment – The process of ordering exempt formula from a WIC-approved and authorized drop ship vendor and having that formula shipped to the WIC local agency or directly to the participant/caregiver.

Exempt formula - Therapeutic formula intended and labeled for use by individuals with specific medical and/or dietary conditions. All exempt formulas are non-contract formulas.

Home delivery – Drop shipping formula directly to the participant/caregiver's preferred physical address from an authorized pharmacy or durable medical equipment retailer, as defined in WV 10.0.

Non-contract formula - Formula not covered under the current rebate contract for Texas WIC.

WIC Authorized Vendor - A sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the SA to provide authorized supplemental foods and/or formula to WIC participants under a retail food delivery system.

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WIC-Eligible Nutritionals - Certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted, or inadequate. Such WIC-eligible nutritionals must serve the purpose of a food, meal, or diet (may be nutritionally complete or incomplete) and provide a source of calories and one or more nutrients; be designed for enteral digestion via an oral or tube feeding (e.g., Pediasure); and may not be a conventional food, drug, flavoring, or enzyme.

Procedures

- I. Approve the exempt formula.
- II. Contact a WIC approved drop ship vendor to confirm formula availability.
 - A. Create the drop ship order, in the management information system (MIS), including issuing benefits and writing them onto the EBT card. In shipping instructions, document: Staff contact information.
 - B. Indicate participant's preference for flavor(s).
 - C. If clinic delivery, include relevant information such as hours of operation, suite number or building entrance. Formula cannot be left outside.
 - D. If home delivery, participant/caregiver's preferred physical address. Formula may not be shipped to a P.O. Box.
- III. Release the drop ship order in the MIS.
- IV. Once the order is physically delivered,
 - A. For clinic delivery:

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1. Check that orders are accurate, free from damage, and have acceptable expiration dates.
 2. Receive in the MIS. Confirm and enter the UPC, quantity and expiration date(s).
- B. For home delivery:
1. Confirm with the participant/caregiver that the formula was accurate, free from damage, and had acceptable expiration dates.
 2. Receive in the MIS. Confirm and enter the UPC, quantity and expiration date(s). Document in the Notes section of the Orders page that receipt was verbally confirmed by participant via phone, email, or uploaded delivery slip.
 3. In the event staff is unable to reach the participant/caregiver to confirm delivery, verify delivery information with the vendor. Document in the Notes section of the Orders page that the delivery information was provided by the vendor.
- V. Issue the drop shipped formula to the participant/caregiver in the MIS. This includes completing the electronic signature.
- A. If the formula was drop shipped directly to the participant/caregiver:
1. Perform the "Issue" function only if the formula was delivered within the associated order month.
 2. Indicate home delivery in the electronic signature.
- VI. For Partial, Damaged or Stolen Orders
- A. A partial order will occur if the number of formula containers that is delivered is less than the quantity initially released.

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- B. Staff should call the vendor to determine when the remaining quantity of formula will be delivered.
 - 1. If the remaining formula will arrive within 48 hours, staff should wait until all formula is delivered before issuing the full quantity.
 - 2. If the formula is backordered or will be unavailable for an extended period within the benefit month, staff can receive and issue the reduced amount of formula that has been delivered. This will generate a second partial order for the remaining quantity of cans.
- C. Release the second order if the vendor has confirmed they will be able to fulfill the delivery within the benefit month.
- D. If the vendor is unable to fulfill the delivery for the remaining cans within the benefit month, staff should cancel the partial order and document the reason for cancellation in the Notes section of the order in the MIS.
- E. If cans are damaged upon arrival at the clinic or home, photos should be taken as proof of damage and provided to the state formula team and the vendor.
 - 1. Coordination of replacement cans should occur with the vendor and may be subject to availability or shipping constraints within the benefit month.
 - 2. Contact the state formula team for assistance as needed.
- F. Staff assisting clients who have reported lost or stolen drop ship formula should contact the state formula team for guidance.

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VII. When processing subsequent drop ship orders:

- A. Confirm with the participant/caregiver that the approved formula and quantity is still needed before releasing the order.
- B. Release the order.
 - 1. For clinic delivery, release the order within 7 to 10 days prior to the next benefit month.
 - 2. For home delivery, release the order no earlier than 1 business day prior to the next benefit month.

For questions or troubleshooting, contact the state formula team at FormulaTeam@hhs.texas.gov.

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Effective August 9, 2022

Policy No. FD:19.0

Managing Returned Formula

Purpose

To establish policy and procedures for managing formula returned to the WIC clinic.

Authority

United States Department of Agriculture, Food and Nutrition Service: *Food Package Policy and Guidance* (March 2018); Federal Law - Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. section 1791); State Law - Good Faith Donation Act (Civil Practice and Remedies Code Chapter 76)

Policy

Staff will encourage participants to purchase minimal quantities of formula (1-2 containers) at a time until tolerance is established. When a participant requests a different formula than what was originally redeemed, staff must use the following guidelines:

1. Staff may accept all unopened formula containers that were originally purchased with WIC funds. Staff must store returned containers in a secure, locked location until donating or discarding.
2. Staff may only replace returned formula for the current benefit month. For returned containers that were purchased within the current benefit month, staff must use the management information system (MIS) to process the exchange. Staff must not issue more formula than the maximum allowed by federal regulations, as calculated by reconstituted ounces.
3. For returned containers purchased with previous month's benefits, staff must document the return on a State Agency (SA) or local agency (LA) developed paper inventory and not in the MIS.

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4. Staff must not reissue containers of returned formula to another WIC participant for any reason, except as provided under #7 below.
5. Staff must determine if returned containers are to be donated or disposed.
 - a. Local agencies may donate unopened containers that are not expired and in an acceptable condition to local non-profit organizations.
 - b. Staff must dispose of formula containers that are dented, swollen, damaged, expired or that the LA is unable to find a donation site to accept.
6. LA Staff will coordinate with the SA regarding unreconciled inventory.
7. During events that impact access to formula in the LA's specific region or the entire state, such as in weather disasters or supply chain disruptions, LAs may temporarily and at their discretion reissue unopened cans of returned formula that have not been impacted by a recall to participants who are unable to find formula and are willing to accept the reissued formula. LAs should consult with their local health department and legal counsel regarding local health laws and policies.

Procedures

- I. Exchanging formula for current month benefits:
 - A. Use the MIS to provide credit for unopened returned formula containers purchased during the current benefit month.
 1. The MIS calculates the reconstituted ounce amount of unopened returned formula containers and the reconstituted ounce amount of the unpurchased formula remaining on the EBT card to determine the quantity of formula.

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2. Due to differences in reconstituted ounce amounts, the MIS may not replace an equal quantity of formula benefits as what was originally issued.
 - B. When tailored amounts of formula are needed, use the MIS to increase or decrease the quantity of formula up to the maximum amount allowed.
 - C. During or after the exchange process, inactivate or remove returned formula from the MIS inventory.
 1. If formula remains in the MIS inventory after exchange, the MIS may automatically issue formula out of stock to another participant.
 2. Staff should manually reject the "from stock" issuance by changing the quantity to be issued to zero.
 - D. Maintain a paper inventory of returned formula using the SA or LA developed Returned Formula Log for all returned formula containers. The log should track if the formula was donated or discarded and include at a minimum:
 1. Date
 2. Participant identifier (FID, PAN, name)
 3. Formula name and description – powder (PWD), liquid concentrate (CON), ready-to-use (RTU)
 4. Amount returned
 5. Staff signature
 6. Date donated to non-profit or discarded
- II. Process for previous month benefit:
- A. Accept unopened containers of formula that were redeemed in previous months if a client returns them to the clinic. It is not necessary to require a client to return formula that will not be part of the current month's exchange, however, staff should encourage clients to return all unopened containers of the formula that were originally issued.

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- B. Do not enter returned formula that was purchased in a previous month into the MIS.
- C. Maintain a paper inventory using the SA or LA developed Returned Formula Log for all returned formula containers that tracks if containers are subsequently donated or discarded.

III. Donation

- A. Local agencies, in conjunction with their parent organizations will determine if they choose to donate formula to a non-profit organization. They may also determine if they will donate to one or to multiple organizations.
- B. Prior to donating formula:
 - 1. Inspect the powder cans to ensure they are unopened and the inner seal is intact when the lid is removed.
 - 2. Inspect the liquid containers to ensure the original wrap or cap is in place and unopened.
- C. Check the expiration dates and the condition of each formula container. If the formula has expired or the container is in an unacceptable condition, the formula must be discarded.
- D. Complete the SA or LA developed Returned Formula Log. Be specific about the number of formula containers that are designated to be donated and the number of containers that were discarded.
- E. At the time that the formula containers are being donated to the designated nonprofit agency, complete the SA or LA developed Formula Donation Form. Keep the original signed copy. The non-profit agency may retain a copy of the original signed copy if desired.
- F. File the completed and signed Formula Donation Form in its designated location within the LA clinic.

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- IV. Record Keeping - Retain all records for a minimal of three (3) years as described in **Policy GA:03.0** Records Retention.
- V. Disposal
 - A. Use the following procedures to dispose of returned formula that is dented, swollen, damaged, expired, apparently tampered with or that the LA is unable to find a donation site to accept.
 - 1. A witness must be present to verify that the proper procedure was followed.
 - 2. Powdered formula - open and empty the contents of the formula containers into trash bags out of public view.
 - 3. Liquid formula – open and pour the contents of the formula containers into a sink or toilet out of public view.
 - 4. After the disposal process is completed, staff will complete the Returned Formula Log including the date of disposal and the staff and witness signatures.

GA - General Administration

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Effective July 1, 2021

Policy No. GA:01.0

Confidentiality of Applicant/Participant Information

Purpose

To ensure compliance with Federal Regulations and to protect the right to privacy of WIC applicants/participants.

Authority

7 CFR Part 246.26

Policy

All applicant/participant information must be kept confidential.

Definitions

Applicant/participant information – any information about a participant or applicant, whether obtained from the applicant or participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or participant and/or a family member(s). Applicant or participant information is confidential, regardless of the original source and exclusive of previously applicable confidentiality provided in accordance with other Federal, State or local law. If there is a conflict between state policy and federal regulations, then federal regulations govern.

Guardian – an individual legally appointed and responsible to look after the affairs of a minor.

Managing Conservator - that court-appointed person with whom a child resides, or the state child protection agency, who selects the home or domicile of the child and who has the responsibility for the normal day to day care of the child; the custodian of the child or that person having custody of the child.

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Non-WIC Purpose – a purpose of a request by a third party for information about an applicant or participant that is not related to the direct administration or enforcement of the WIC Program. This includes a request for applicant or participant information by a parent/guardian/managing conservator of an applicant or participant who is engaged in a custody dispute; or, a request for applicant or participant information by a law enforcement agency or attorney for any purpose other than one of the specific purposes set forth elsewhere in this Policy.

Parent – an individual’s mother or father; can include an adoptive parent.

Release Form – a document signed by the applicant/participant authorizing the disclosure of confidential information and specifying the parties to which the information may be disclosed.

WIC Purpose – a purpose directly related to the administration and/or enforcement of the WIC Program.

Procedures

- I. Each local agency (LA) is responsible for restricting the use and disclosure of information obtained from program applicants or participants.
 - A. Routine access to WIC applicant/participant information must be limited to WIC staff, managers, and administrators who are responsible for the ongoing conduct of program operations. This provision excludes operational personnel not certifying and serving WIC applicants/participants and administrators who do not directly supervise WIC staff.
 - B. At all other times, applicant/participant information must be kept confidential.
 1. WIC staff may discuss applicant/participant information with other WIC staff as appropriate. Discussion must take place in private areas where the information cannot be overheard by

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other participants, staff from other programs, or the general public.

2. WIC staff must ensure that a professional attitude is maintained at all times about applicant/participant information. This includes respecting the applicant/participant's privacy and maintaining respect for the dignity of the applicant/participant at all times.

II. An applicant/participant or the parent/guardian/managing conservator of an infant or child applicant/participant has the right to access all information they have provided the WIC Program, such as income statements and participant-signed documents. The LA must provide a copy of the applicant/participant record to the applicant/participant or the parent/guardian/managing conservator of an applicant/participant free of charge.

A. Any other information or record in the file that was not provided by the applicant/participant or the parent/guardian/managing conservator of an infant or child applicant/participant need not be provided. This includes, but is not limited to:

1. Documentation of income provided by third parties.
2. Staff assessments of participant's behavior or condition, unless required by Federal, State, or local law or policy; or unless the information supports a State, or LA decision being appealed in relation to a participant fair hearing.

B. The LA may determine what may be released, if anything, beyond the information provided by the applicant/participant.

III. Disclosing information for WIC purposes to persons or entities other than the applicant/participant or the parent/guardian/managing conservator of an infant or child applicant/participant is restricted to certain entities/person as follows:

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- A. Those persons directly connected with the administration and/or enforcement of the Program, including other WIC state or local agencies as may be necessary to provide uninterrupted continuation of services when transferring participant records; WIC officials at the federal level, internal or independent auditors contracted by the LA, investigators from the Texas Office of Inspector General, and the Comptroller General of the United States.
 - 1. A release form signed by the WIC applicant/participant or parent/guardian/managing conservator is not necessary to provide applicant/participant information in these situations.
 - 2. Do not assume that requests from the above entities are always for a WIC purpose. For example, if an auditor is auditing a program other than WIC, then WIC information must not be provided.

- B. A third-party such as a physician, healthcare provider, service provider, attorney, or entity contracting with the SA or LA to provide WIC services (for example, the LA contractor that provides text messaging services).
 - 1. A signed release form from the applicant/participant or the parent/guardian/managing conservator is required in these situations.
 - 2. The SA or LA must inform applicants and participants that signing a release form(s) is not a condition of eligibility, and refusing to sign the release form(s) will not affect the applicant's or participant's eligibility or participation in the Program.
 - 3. Release forms authorizing disclosure to private physicians or other healthcare providers may be included as part of the application/certification process.

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4. All other request for applicant/participants to sign release forms must occur after the application/certification process is complete.
- IV. Disclosure of information for a non-WIC purpose is restricted to that which is necessary:
- A. To comply with the State laws on child abuse/neglect reporting in accordance with Chapter 261 of the Texas Family Code.
 - B. To respond to the request of a Department of Family and Protective Services (DFPS) caseworker who provides written proof that the State is the Managing Conservator of the participant.
 1. The caseworker is entitled to the information provided by the applicant/participant on behalf of the child.
 2. Other information not provided by the applicant/participant on behalf of the child need not be disclosed.

Example 1:

A DFPS caseworker calls the clinic and asks staff for information regarding a child participant and that information was provided by the applicant/participant on behalf of the child. Once the clinic has received documentation stating the State is the Managing Conservator of the child, staff must release the information as described in Procedure IV.B.

Example 2:

A DFPS caseworker calls the clinic and asks staff for information regarding a child participant but the State is not the Managing Conservator of the child. Staff must not release the information.

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- C. To comply with a criminal investigation where identification of a WIC client by WIC staff is needed. The person may not be identified as being or not being a WIC applicant or participant; his/her identity may be divulged if the WIC staffer has seen documentation of the person's identity.

Example:

A WIC staff person's purse is stolen from the clinic. A video tape of a person using the WIC staff person's credit card is obtained by the police and shown to the WIC staff person. The staffer can state "I saw this person in the clinic on this day and time and she showed me an ID that said her name was Mary Smith." Do not reveal whether or not the person is/was a WIC applicant or participant.

- D. To respond to a request from a third party, such as a service organization or a law enforcement agency, if the third party provides sufficient prior written consent to such release that it has obtained from the applicant/participant or the parent/guardian/managing conservator of the applicant/participant (for example, a law enforcement investigation).
- V. **Subpoenas:** If a LA receives a subpoena for confidential participant information, the following procedures must be followed.
- A. Upon receipt of a subpoena, the LA must immediately notify the SA by contacting the Information and Response Management (IRM) staff at 877-341-4491 (option 6 followed by option 4). The SA must acknowledge receipt of the subpoena within one business day. The SA's legal contact information will be given to the LA at that time.
 - B. The LA must send a copy of the subpoena to the SA legal contact via secure email or fax.
 - C. If required through parent agency policy, the LA may provide a courtesy copy of the subpoena to the parent agency legal contact.

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Effective July 1, 2021

Policy No. GA:01.0

The LA must inform the parent agency that the SA is acting on the subpoena.

- D. The SA must determine whether the information requested is in fact confidential and prohibited from release as stated in the subpoena.
- E. If the SA determines the information is confidential and therefore prohibited from disclosure as stated in the subpoena, the SA will attempt to quash the subpoena unless the SA determines that disclosing the confidential information is in the best interests of the WIC Program. Such a determination should be made infrequently.

VI. **Search Warrants:** In responding to search warrants, the LA must comply with the following procedures:

- A. Upon receipt of a search warrant, immediately notify the SA by contacting the IRM staff at 877-341-4491 (option 6 followed by option 4).
- B. Immediately notify legal counsel for the parent agency and comply with their protocol concerning search warrants, if any.
- C. Comply with the search warrant; and
- D. Inform the individuals serving the search warrant that the information being requested is confidential and only provide the information being requested in the search warrant and no other information.
- E. Limit public access to the information being disclosed.

Texas WIC Health and Human Services Commission

Effective July 1, 2021

Policy No. GA:01.0

Quick Guide to Release of Client Information to Persons Other Than the Applicant/Participant or Parent/Guardian/Managing Conservator

IF the request for client information is for:	Then	And	Release information?
A WIC Purpose			
Agency staff and auditors auditing the WIC Program (see Procedure III.A)	Notice to client not required	Consent of client not required	Yes
Third party such as a physician, healthcare provider, service provider, attorney, or contractor (see Procedure III.B)	Notice to client required	Consent of client required	Yes – with client consent No – if client does not consent
A non-WIC Purpose			
Reporting child abuse/neglect as required by Chapter 261 of the Texas Family Code (see Procedure IV.A)	Notice to client not required	Consent of client not required	Yes
To respond to a request from a DFPS/Child Protective Services <i>with written proof</i> that the State is the Managing Conservator of the infant/child. (see Procedure IV.B)	Notice to client not required	Consent of client not required	Yes
To respond to a request from DFPS/Child Protective Services when the State is not the Managing Conservator and the infant/child is in the legal custody of the parent/guardian. (See Procedure IV.B)	Notice to client required	Consent of client required	Yes – with client consent No – if client does not consent (<i>Requestor may issue a subpoena to the LA to request records without client consent</i>)
To respond to law enforcement for reasons other than child abuse/neglect reporting.	Notice to client required	Consent of client required	Yes – with client consent No – if client does not consent

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Effective July 1, 2021

Policy No. GA:01.0

IF the request for client information is for:	Then	And	Release information?
A non-WIC purpose			
To comply with a criminal investigation where identification of a WIC client is needed. (See Procedure IV.C)			No – WIC client status may not be provided. Yes - only the person's identity (i.e., name) may be provided, if known.
Other third parties including service organizations (See Procedure IV.D)	Consent of client required	Notice to client required	Yes – with client consent No – if client does not consent
A subpoena for client information (See Procedure V)			No – Contact IRM staff immediately
A search warrant for client information (See Procedure VI)			Yes - Follow Procedure VI.A-E before releasing

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Effective June 1, 2002

Policy No. GA:02.0

Claims Against Local Agencies

Purpose

To ensure program funds are used only for those purposes defined by the federal laws and regulations.

Authority

7 CFR Part 246.13, 246.23; XO:0111 (TDH Administrative Policy)

Policy

If the state agency (SA) determines through a review of the local agency's (LA's) reports, program or financial analysis, monitoring, audit, or otherwise, that any program funds provided to a LA for supplemental foods or administrative purposes were, through LA negligence or fraud, misused or otherwise diverted from program purposes, a claim shall be assessed by the SA against the LA.

Procedures

- I. The SA shall assess a formal claim against the LA for program funds misused or diverted from program purposes.
- II. The LA shall be notified in writing of the financial claim and the reasons for the claim. Repayment and/or rebuttal shall be due within 30 days receipt of the notification letter.
- III. The LA shall have full opportunity to submit evidence, explanation or information concerning alleged instances of misuse or diversion of program funds.

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Effective June 1, 2002

Policy No. GA:02.0

- IV. Failure of the LA to justify and/or reimburse the SA for the financial claim shall result in the SA reducing the LA's administrative voucher(s) sufficient to recover the monies due the SA.

- V. The LA is not liable for program funds provided for supplemental foods obtained by a participant or parent/caretaker of a participant who intentionally makes a false or misleading statement or intentionally misrepresents, conceals or withholds facts to obtain program benefits, unless the LA has knowledge of the participant, parent, caretaker abuse and the LA fails to report the abuse to the SA. See **Policy GA:12.0**.

Texas WIC Health and Human Services Commission

Effective July 1, 2009

Policy No. GA:03.0

Records Retention

Purpose

To ensure that full and complete records are available to answer all questions related to the propriety of program operations.

Authority

7 CFR Part 246.25

Policy

Prior written approval from the state agency (SA) shall be obtained before any financial or program records are destroyed.

Procedures

- I. Once the SA issues an annual notification indicating which records may be destroyed, the local agency (LA) may destroy records accordingly. Types of records that may be destroyed include but are not limited to the following:
 - A. certification;
 - B. report of operations;
 - C. food instrument inventory;
 - D. vendor information;
 - E. nutrition education;
 - F. food instrument log (carbon copy of voucher with signature) ;
 - G. participation log; and
 - H. sample formula log.

- II. The LA shall submit to the SA a request for approval to destroy program records that are not included in the annual notification. This request shall include a description of the records to be destroyed and shall indicate the period to which such records pertain.

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Effective July 1, 2009

Policy No. GA:03.0

- III. The request shall be reviewed based upon the following criteria:
- A. Financial records and documents shall be retained for a minimum of three years following the date of submission of the final expenditure report for the period to which the reports pertain, with the following qualification:
 - 1. The records shall be retained beyond the three-year period if audit findings have not been resolved.
 - 2. Records for nonexpendable property shall be retained for three years after its final disposition.
 - B. All other records and documents shall be retained for three years following the date of submission of the final expenditure report for the period to which the reports pertain, unless audit findings remain unresolved.
- IV. The LA shall receive written notification of the SA's decision.
- V. The LA shall have a written plan on how records shall be disposed. The plan shall be kept on file for audit/review.

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Effective June 1, 2002

Policy No. GA:04.0

Contracts with Local Agencies

Purpose

To comply with State and Federal requirements and to provide documentation of the responsibilities assumed by each of the contracting parties.

Authority

7 CFR Part 246.6

Policy

Each local agency (LA) shall have an executed contract with the Texas Department of Health (TDH) that is renewed each year the LA is in good standing with TDH and the WIC Program.

Procedures

- I. An existing LA in good standing or a new LA that has been selected to participate in the WIC Program shall receive a contract that has been prepared by TDH and signed by both parties, i.e., TDH and an authorized official of the LA.
- II. Contracts shall contain terms and conditions related to the provision of WIC services. Requirements for doing business with TDH shall be included in each contract in the form of the General Provisions document. Contracts shall incorporate WIC Program rules and policies by reference.
- III. LAs shall have an executed contract in place (i.e., signed by both parties) prior to receiving a cash advance or payment on billings submitted.

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Effective June 1, 2002

Policy No. GA:04.0

- IV. LAs shall work with their host agencies to ensure that contracts are signed in an expeditious manner.

- V. TDH is not obligated to renew a contract with an existing LA.

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Effective June 1, 2002

Policy No. GA:05.0

Local Agencies Agreement for the Provision of Health Services

Purpose

To establish a referral mechanism for the provision of health services to WIC participants in need of such services.

Authority

7 CFR Part 246.6

Policy

All local agencies (LA) that do not themselves have available health services shall enter into a written agreement with another health agency that does provide such services.

Procedures

- I. A written agreement shall be initiated by the LA for the provision of health services, if the LA does not provide those services directly.
- II. The agreement shall include a mutually agreed upon statement that a referral linkage exists between both parties for the provision of WIC and needed health services for WIC participants.
- III. The agreement may be renewable yearly, or may be for the life of the WIC Program, but the time frame shall be indicated in the agreement.

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Effective November 1, 2023

Policy No. GA:06.0

Coordination of Program Operations

Purpose

To simplify procedures and reduce the duplication of efforts between WIC and other health care providers in the community. To reduce the number of times WIC applicants/participants are subjected to the same assessment procedures.

Authority

State Policy

Policy

To the extent possible, local agencies (LAs) are encouraged to use the health and medical data from other health care providers to determine the eligibility of WIC applicants to streamline the WIC appointment. LAs will ensure that WIC participants are given information obtained in the WIC eligibility process to share with their health care providers.

Procedures

- I. Each LA must develop and implement a plan to encourage the exchange of health and medical data with other health care providers via the applicant/participant. A written copy of the plan must be available at the LA. At a minimum, the plan must describe steps the LA will take to encourage:
 - A. applicants and participants to share health/medical data from their health care providers; and
 - B. external health care providers to provide WIC participants with health data needed to determine WIC eligibility. (See [CS:17.0 Documentation of a Complete Nutrition Assessment](#) for length of time referral data is valid.)

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Effective November 1, 2023

Policy No. GA:06.0

Guidelines

Programs with whom local agencies may coordinate include but are not limited to the following:

- I. Family Planning;
- II. Immunizations;
- III. Maternal and Child Health;
- IV. Texas Health Steps;
- V. breastfeeding support and education groups;
- VI. Supplemental Nutrition Assistance Program (SNAP);
- VII. Medicaid;
- VIII. alcohol and drug abuse counseling;
- IX. Child Protective Services (CPS);
- X. Early Childhood Intervention (ECI);
- XI. Children with Special Health Care Needs (CSHCN);
- XII. Children’s Health Insurance Program (CHIP).

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Effective June 1, 2002

Policy No. GA:07.0

Referral to Food Assistance

Purpose

To ensure that otherwise eligible applicants are notified about other sources of food assistance in the local area.

Authority

7 CFR Part 246.7(b); State Policy

Policy

Each local agency (LA) shall provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the Program, but who cannot be served because the program is operating at capacity in the local area.

Procedures

- I. If a LA is currently in caseload management or has a waiting list, all potentially eligible WIC applicants or those who have been terminated for caseload management shall be notified of sources of food assistance in the local area.
- II. The LA shall develop a written list of potential sources to include at least name, address, and phone number.

Guidelines

Examples of sources include, but are not limited to food banks, food pantries, soup kitchens, Food Stamp Program, Temporary Emergency Food Assistance Program, community centers, and churches.

Texas WIC Health and Human Services Commission

Effective November 1, 2023

Policy No. GA:08.0

Provision of Information About Other Federal and State Programs to WIC Applicants and Participants

Purpose

To ensure that WIC applicants/participants receive written information about the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Families (TANF), Medicaid, Texas Health Steps (THSteps), Children’s Health Insurance Program (CHIP), Children’s Health Insurance Program Perinatal (CHIP Perinatal), Healthy Texas Women (HTW), and Child Support Enforcement Programs.

Authority

7 CFR Part 246.7 (b); State Policy

Policy

Local agencies (LA) must provide written information concerning these programs to all adult applicants at initial or subsequent certification for the WIC Program, either for themselves or on behalf of others.

Procedures

- I. Upon initial certification to the WIC Program, all adults applying for the program for themselves or on behalf of others must be provided written information about SNAP, TANF, THSteps, Medicaid, CHIP, the CHIP Perinatal Program, the Healthy Texas Women Program (HTW), and the Child Support Enforcement Program. Applicants must individually receive written information at initial application.
 - A. If such individuals are not currently participating in Medicaid but appear to have family income below the applicable maximum income limits for the program, the LA must refer these individuals to Medicaid, including the referral of infants and children to the THSteps Program.

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Effective November 1, 2023

Policy No. GA:08.0

- B. Information on Medicaid must include the following:
 - 1. A description of the services Medicaid provides;
 - 2. Maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 which are used by the Medicaid Program for income screening; and
 - 3. An explanation that Medicaid counts a pregnant woman as if she were a family of two.

- C. Information on the HTW Program must include the following:
 - 1. A description of the services HTW provides;
 - 2. An explanation that WIC clients are adjunctively income-eligible for the HTW program. Participation in WIC may be documented by a copy of a Verification of Certification (VOC) or an electronic benefits transfer (EBT) shopping list.

- II. At subsequent certifications, LAs may post written information in a public area to satisfy the written requirement or continue to individually provide written information to each person.

- III. LAs have the option to use *A Guide to Helpful Programs and Services* flyer (Stock number 13-156) in the Texas WIC Catalog or produce their own written information about these programs in a different format. LAs must provide local addresses and phone numbers for local program providers.

- IV. Documentation that written information was provided to adult participants/applicants or to adults applying on behalf of others is required and maintained in the MIS.

- V. Description of Federal and State Programs:

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Child Support Enforcement – provides assistance in these areas: locating an absent parent; establishing paternity; establishing and enforcing child support orders; establishing and enforcing medical support orders; reviewing and adjusting child support payments. For more information, go to:

[2-1-1 Texas | Texas Health And Human Services Commission \(211texas.org\)](https://211texas.org)

CHIP – provides eligible children with coverage for a full range of health services including regular checkups, immunizations, prescription drugs, lab tests, X-rays, hospital visits and more. The program is designed for families who earn too much money to qualify for Medicaid, yet cannot afford to buy private insurance for their children. For more information, go to:

<https://yourtexasbenefits.com/>

CHIP Perinatal - provides basic prenatal care for unborn children of women who do not qualify for Medicaid because of income or immigration status. Undocumented persons can qualify. Household income must not exceed 200% of the federal poverty level. Coverage starts before the child is born and continues after birth for a total of 12 continuous months. Once born, the child will receive benefits that are similar to traditional CHIP benefits for the duration of the 12-month coverage period. For more information, go to:

<https://yourtexasbenefits.com/>

Healthy Texas Women – provides women’s health and family planning services to women ages 15-44 with income at or below 200 percent of the federal poverty level who are not pregnant. Only citizens and legal immigrants who are residents of Texas are eligible. Benefits include a variety of women’s health and core family planning services, contraception including LARC and sterilization, and screening for sexually transmitted infections, postpartum depression, cholesterol, diabetes, and high blood pressure. For more information, go to:

<https://www.healthytexaswomen.org/>

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Medicaid – provides medical services to low-income persons, including hospital services, doctor’s services, and prescriptions. For more information, go to:

<https://yourtexasbenefits.com/>

SNAP – assists low-income households to purchase food. For more information, go to:

<https://yourtexasbenefits.com/>

TANF – provides financial and medical assistance to needy dependent children and the parents or relatives with whom they are living. For more information, go to:

<https://yourtexasbenefits.com/>

THSteps – provides comprehensive and preventive health services through the Medicaid Program for persons younger than 21 years old. For more information, go to:

[Texas Health Steps | Texas Health and Human Services](#)

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Effective June 1, 2002

Policy No. GA:09.0

Local Agency Coordination with Hospitals

Purpose

To facilitate the enrollment of newborn infants, or pregnant women at nutrition risk at the earliest possible date.

Authority

7 CFR Part 246.6(f)

Policy

Any local agency (LA) which either operates a WIC program or clinic site within a hospital or has a cooperative agreement with one of more hospitals shall advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of five who receives well-child services, of the availability of Program benefits. In addition, to the extent possible, the LA shall provide an opportunity for individuals who may be eligible for WIC to be certified within the hospital for participation in the program.

Procedures

- I. All hospital patients/clients who are categorically eligible for the WIC program shall be provided information about the program. At a minimum, this information shall include eligibility criteria, the name, address and phone number of the LA, and/or the state agency 1-800 number.

- II. Whenever feasible, the LA shall provide an opportunity for certification at the hospital. This may be done by agreement with the hospital to provide adequate space for WIC services.

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Effective June 1, 2002

Policy No. GA:11.0

Verbal and Physical Abuse by Participants

Purpose

To provide a measure of corrective action and a means of deterrence to participants from behavior that interferes with or distracts from the delivery of WIC services to others.

Authority

7 CFR Part 246.9, 246.12; 25 T.A.C. §31.30

Policy

Participants or parents, guardians, client-designated proxies, state agency-appointed proxies or caretakers of participants who threaten to harm, or who have physically harmed local agency (LA), vendor or state agency (SA) staff shall be sanctioned.

Definitions

Verbal abuse is the verbal threat of physical harm.

Procedures

- I. If a participant or parent, guardian, client-designated proxy, SA-appointed proxy or caretaker of participant begins to verbally abuse a WIC employee, the following procedures shall be followed:
 - A. The employee shall remain calm, attempt to calm the participant, and try to remain in control of the situation.
 - B. The employee shall attempt to contact his/her supervisor to handle the problem. If not possible, another WIC employee shall be summoned to serve as both witness and as a possible mediator.

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- C. The incident shall not be allowed to disrupt the entire clinic operations. The participant shall be politely, but firmly, asked either to leave the immediate premises and to discuss the problem elsewhere (private office, or outside, but away from the food issuance or clinic setting), or to leave and return another time when privacy can be obtained.

- II. Participants or parents, guardians, client-designated proxies, SA-appointed proxies or caretakers of participants shall not be sanctioned for rude or vulgar language.

- III. If a person actually physically harms a WIC employee, or damages WIC property, it is imperative that a security guard or police be called immediately. The injured WIC employee shall be removed immediately from the area and, to the extent possible, WIC property shall be protected.

- IV. The following procedures shall be used in handling incidents of participant abuse:
 - A. Every incident of verbal abuse, or physical abuse shall be documented. Written statements shall be prepared and included in the participant's file by all WIC staff involved.
 - B. The LA WIC Director or designee shall make every effort to counsel with a WIC participant who uses rude or vulgar language in order to correct the problem before it escalates.
 - C. When a participant, parent, guardian, client-designated proxy, SA-appointed proxy or caretaker of participant threatens to harm or physically harms a LA, vendor or SA staff person, the SA shall be contacted and may choose to disqualify the individual for a specific time period. Any civil or criminal action shall be taken at the discretion of the WIC employee, LA or SA.
 - D. In the event that an incident occurs, the LA WIC Director shall send a written report immediately to the SA WIC Director that includes the following:

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1. participant's name, address, etc.;
 2. description of the incident;
 3. statements from personnel involved;
 4. rationale of actions taken by LA director; and
 5. copy of policy report, if available.
- V. Any participant suspended under this policy shall have every right to appeal. Those individuals who appeal a suspension within 15 days of the advanced written notice of suspension shall continue to receive program benefits until such time the hearing official reaches a decision or the certification expires, whichever comes first.

Texas WIC Health and Human Services Commission

Effective June 1, 2014

Policy No. GA:12.0

Participant Violations

Purpose

To provide an equitable control for identifying, reporting and investigating alleged WIC Program violations by participants and parents, guardians, client-designated proxies, state agency-appointed proxies or caretakers of participants.

Authority

7 CFR §246.7, §246.9, §246.12

Texas Government Code §531.102(d), §531.102(g), § 531.102(h)

Policy

Local agency (LA) staff shall report alleged WIC Program violations by participants and parents, guardians, client-designated proxies, state agency-appointed proxies or caretakers of participants to the Office of Inspector General (OIG) for follow up and action.

Participants and parents, guardians, client-designated proxies, state agency-appointed proxies, or caretakers of participants identified and documented as having committed program violations will be sanctioned.

I Definitions

Participant Violation - any intentional act of a participant, parent, guardian or caretaker of an infant or child participant that violates Federal or State statutes, regulations, rules, policies or procedures governing the WIC Program. Violations include the following:

- A. making a false or misleading statement;

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- B. misrepresenting, concealing, or withholding facts to obtain WIC benefits including:
 - 1. failure to report correct income during the certification process;
 - 2. failure to report members of the household and/or their income during the certification process; and/or
 - 3. not residing at the residence claimed during the certification process.
- C. simultaneous or dual participation (receipt of food instruments) in more than one WIC clinic during the same calendar month (see Policy CS:28.0) or in the Commodity Supplemental Food Program during the same period of time as WIC;
- D. selling or exchanging, offering to sell or exchange, or allowing any other person to sell, exchange, or offer to sell or exchange, any food instrument or benefit issued to the participant or any WIC food that is the same type as a WIC food item included in the participant's WIC food package prescribed by the WIC Program, for cash, credit, non-food item(s), or unauthorized food(s), including food(s) in excess of that authorized; an offer shall include any offer that is made verbally, in print, or online through a website such as Craigslist, Facebook, Twitter, eBay, or other website.
- E. alteration of a food instrument; or
- F. threatening to harm or physically harming LA, vendor or SA staff.

II. Procedures

- A. Once a participant violation is suspected or a complaint is received, the LA and the IRM shall follow the following steps:
 - 1. Document, to the fullest extent possible, the suspected/alleged participant violation and submit a report of it to the OIG either

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online at <https://oig.hhsc.state.tx.us/wafrep/> or by calling 1-800-436-6184. The OIG has an online form for fraud and abuse referrals.

2. When submitting a report of a suspected/alleged participant violation to the OIG, attach copies of certification records or other pertinent records, and printed screens of postings on Craigslist, Facebook, Twitter, eBay, or other website that contain or relate to an offer to sell or exchange any food instrument or benefit issued to the participant or any WIC food that is the same type as a WIC food item included in the participant's WIC food package prescribed by the WIC Program, including food(s) in excess of that authorized.
- B. The LA shall comply with requests from the Health and Human Services Commission Office of Inspector General's investigation protocol as follows:
1. The OIG staff will contact the WIC clinic, identify themselves, and follow these steps:
 - a. Obtain the name of the manager, supervisor, or nutritionist and fax number of the clinic;
 - b. Fax the request for documents to the manager, supervisor, or nutritionist;
 - c. Call the clinic contact to verify the fax arrived; and
 - d. Email the LA WIC Director the same day, notifying her/him of the records requested and the name of the manager, supervisor, or nutritionist to whom the request was faxed.
 2. The LA shall provide any requested documents to OIG within ten (10) business days of the date of the request. The day following the date of request is day one. The OIG will notify the WIC Director when the requested documents are not received within ten (10) working days of the date of the request.

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3. Requests from the OIG will include all certifying documents for the time period being requested, such as the application (WIC-35); Supplemental Information Form (SIF); copies of check stubs; any other documents furnished by the applicant during the certification process; any documents furnished by the clinic during the certification process; and the names, business addresses, and phone numbers of the employees who completed the certification.
4. When additional documents are required after the initial request, the OIG will contact the clinic person initially identified as the contact person.
5. In order to ensure a timely response to investigative staff, LAs are required to update the state agency regarding any changes to clinic locations, phone numbers, fax numbers, WIC director e-mail address, clinic managers, supervisors, nutritionists, and hours of operation.
6. Interviews with clients at the LA:
 - a. When an interview with a client will be conducted at the LA, OIG will contact the clinic manager, supervisor, or nutritionist five business days prior to the interview to ensure interview space at the clinic is available during working hours. The OIG will notify the manager, supervisor, or nutritionist and the LA WIC Director of the date, time, and place of the scheduled interview(s).
 - b. Upon arrival at the clinic, the OIG investigator(s) will notify the manager, supervisor, or nutritionist of their presence to receive instruction on space availability to conduct the interview(s).

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7. Each LA shall establish internal procedures for their agency on how to assist the OIG investigators in accordance with this policy when the agency is contacted during an investigation.
- C. Upon a final determination by the OIG that a participant violation has occurred, participants and parents, guardians, client-designated proxies, SA-appointed proxies, or caretakers of participants identified and documented as having committed a participant violation shall be sanctioned as follows:
1. For a participant violation in which a claim of \$100 or more is assessed, the participant shall be disqualified for one year.
 2. When the SA or the OIG assesses a second or subsequent claim of any amount, the participant shall be disqualified for one year.
 3. For an offense in which a participant has illegally received benefits at more than one WIC office and the SA or the OIG assesses a claim for such dual participation, the participant shall be disqualified for one year.
 4. For a participant violation in which a participant has sold or exchanged, offered to sell or exchange, or allowed any other person to sell, exchange, or offer to sell or exchange, any food instrument or benefit issued to the participant or any WIC food that is the same type as a WIC food item included in the participant's WIC food package prescribed by the WIC Program, including food(s) in excess of that authorized, the participant shall be disqualified for a period of six months for a first offense and 12 months for a second or subsequent offense.
 5. Upon a final determination by the OIG that a participant violation does not warrant a one-year mandatory disqualification, the following sanctions will apply.

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- a. If a participant or a parent, guardian, client-designated proxy, state agency-appointed proxy, or caretaker of a participant sells or exchanges, offers to sell or exchange, or allows any other person to sell, exchange, or offer to sell or exchange, any food instrument or benefit issued to the participant or any WIC food that is the same type as a WIC food item included in the participant's WIC food package prescribed by the WIC Program, including food(s) in excess of that authorized, for any of the following items, the participant shall be disqualified for a period of six months for a first offense and 12 months for a second or subsequent offense:
 - i. cash, credit or non-food items;
 - ii. firearms, explosives, ammunition, controlled substances, alcohol, or tobacco products;
 - iii. non-food items not listed in 25 TAC §31.30(f)(2); or
 - iv. unauthorized food, including foods in excess of that authorized.
 - b. If a participant or a parent, guardian, client-designated proxy, state agency-appointed proxy, or caretaker of a participant threatens to harm local agency, vendor, or state agency staff, the participant shall be disqualified for a period of six months for the first offense and 12 months for a second or subsequent offense.
 - c. If a participant or a parent, guardian, client-designated proxy, state agency-appointed proxy, or caretaker of a participant physically harms local agency, vendor, or state agency staff, the participant shall be disqualified for a period of six months for the first offense and 12 months for a second or subsequent offense.
6. Exceptions to disqualification:
- a. The SA or the OIG may decide not to impose a disqualification if, for a participant violation that results in a claim assessed against the participant, parent, guardian,

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- client designated proxy, SA-appointed proxy, or caretaker of a participant, full restitution is made within 30 days of receipt of a letter demanding repayment or a repayment schedule is agreed on.
- b. The SA may permit a disqualified participant to reapply for the program before the end of a disqualification period if, in the case of a participant violation for which a claim was assessed against the participant or parent, guardian, client-designated proxy, SA-appointed proxy, or caretaker of a participant, full restitution is made or a repayment schedule is agreed upon.
 - c. The SA may issue a waiver to appoint a person as a special proxy to transact food instruments and receive nutrition education for an infant, child, or participant under age 18 when the infant, child, or participant under age 18 will incur a serious health risk from the suspension of benefits.
7. The SA shall attempt to recover, in cash, the value of the benefits received by a participant or the parent, guardian, client-designated proxy, state agency-appointed proxy or caretaker of a participant as a result of a participant violation, other than a violation that consists solely of an offer to sell or exchange a food instrument or benefit issued to the participant or a WIC food that is the same type as a WIC food item included in the participant's WIC food package prescribed by the WIC Program, including food(s) in excess of that authorized.
- a. The SA or the OIG shall determine the amount of the benefits improperly received by a participant through an independent review of local agency records and such other procedures as the SA considers necessary under the specific circumstances.

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- b. In cases involving criminal prosecutions for violations of law, repayment of the cash value of benefits improperly received shall become a part of any restitution agreement with the prosecutor. In such cases, the participant shall not have the right to a fair hearing by the department.
 - c. In cases involving an administrative claim but no criminal prosecution, the OIG shall notify the participant or parent, caretaker, or guardian of a participant in writing that a financial claim has been established and shall request repayment of an amount equal to the value of the benefits improperly received. The written notification shall include the reasons for the claim, the value of the benefits improperly received, repayment methods, and the participant's right to a fair hearing.
 - d. Collection of a financial claim assessed against a participant by offset of future benefits is not authorized.
- D. The SA will notify the LA WIC Director about participant sanctions and provide any further instructions according to the particular incident and circumstances. As applicable, the SA may direct the LA to initiate sanctions.
- E. The SA shall provide a hearing procedure through which any individual may appeal an action which results in a claim against the individual for repayment of the cash value of improperly issued benefits or results in the denial of participation in, or disqualification from, the Program. Refer to Policy CR:03.0, Fair Hearing Procedure for Applicants/Participants.
- F. In all cases where it is found that a participant, parent, guardian, client-designated proxy, SA-appointed proxy, or caretaker of a participant unlawfully received benefits due to a WIC participant violation, including, but not limited to, dual participation, the SA and the OIG has the option to refer the matter for criminal prosecution.

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- G. If during an investigation, information is developed that indicates fraud and abuse in excess of \$1,000 or other major criminal activity, including large scale vendor trafficking in food instruments, firearms or narcotics, or involvement by organized crime elements, the State agency should immediately advise its FNS regional office, which will refer the case to the appropriate USDA Office of the Inspector General (OIG) regional office. In such cases, the State agency should hold further investigative action in abeyance, pending USDA OIG action. In such instances, the FNS regional office will notify the State agency of whether USDA OIG intends to assume the investigation. If USDA OIG does not assume the investigation, the State agency should refer the case to State and/or local law enforcement authorities for investigation and/or prosecution under applicable State or local laws.

- H. Failure to follow these procedures and/or to keep applicable documents per the records retention requirements may cause the LA to assume the liability for the amount of improperly issued program benefits.

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Effective January 1, 2011

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Access to Appointments

Purpose

To reduce barriers to participation in the WIC Program by providing services during non-traditional hours.

Authority

7 CFR Part 246.7(b)(4); Texas Health and Safety Code Chapter 32, Section 32.021 (as amended by 75th Legislature).

Policy

Each local agency (LA) shall provide services to applicants/participants during the extended clinic operating hours as required by the Texas Health and Safety Code, Chapter 32, Section 32.021.

Definitions

- I. Traditional Clinic Hours: Hours of clinic operation between 8:00 a.m. and 5:00 p.m., Monday - Friday.
- II. Extended Clinic Hours: Hours of clinic operation before 8:00 am. or after 5:00 p.m., Monday - Friday, or on Saturday or Sunday.

Procedures

- I. Each LA shall offer extended clinic hours as described below:
 - A. Each LA shall offer extended hours that reflect the best method to serve participants in the community.
 - 1. Extended operating hours shall be offered on weekday evenings and Saturdays and may be offered on Sundays, to provide increased access to WIC services.

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2. Each individual clinic within a LA is not required to offer extended operating hours. However, a reasonable effort shall be made to ensure that extended hours are distributed among clinics to ensure coverage of the entire service area.
 3. The methodology for determining the level of compliance with this requirement is shown in the APO spreadsheet posted on the WIC Director page.
- B. The lunch hour shall not be considered an extended clinic hour; however, operation during the lunch hour is encouraged.
 - C. Working individuals or students shall be given priority consideration for appointments during extended hours of operation. Other WIC participants or applicants shall be allowed to fill appointments that are not taken by working individuals or students.
 - D. During extended hours of operation, clinics shall offer the same services provided during traditional clinic hours including certification, nutrition education and counseling, and food instrument issuance. Certain blocks of time, including extended hours, may be set aside exclusively for one or more of these activities as long as all of the services are offered during extended hours at times that meet the needs of working participants and students. In no case shall traveling, answering of telephone lines, or other administrative activity, by itself, be counted as extended clinic hours.
 - E. Hours of operation shall be posted at each WIC clinic site.
 - F. LAs shall report changes in the operating hours of individual clinics to the SA as the changes occur.
 - G. LAs may use the option of scheduling extended hours in a way that reflects the best way to serve participants in their own community. LAs shall provide the justification of the extended hours scheduled and assurances that participation levels shall remain constant or grow. If participation levels decrease, the state agency (SA) may implement the 20% total extended hour requirement.

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- II. Each LA shall provide the SA an Annual Plan of Operations that includes the information requested and electronically submit to annualplansforops@dshs.state.tx.us on the APO spreadsheet posted on the WIC Director page.
- A. The Annual Plan of Operations shall require the following information on LA clinic operations:
 - 1. The LA shall submit a complete list of clinic sites, including site number, hours, physical address, and telephone numbers for appointments and technical assistance at each site. The Clinic Information Form may be used to document the above information.
 - 2. All traditional and extended clinic hours shall be summed to provide an agency's total number of hours used to determine compliance with this policy, except as noted. The total number of clinic hours shall be divided by the total number of extended hours to determine the percentage of extended hours offered.
 - B. The Annual Plan of Operation shall be received at the SA not later than March 1st for implementation on October 1st of that year.
 - C. The Annual Plan of Operations shall be updated when the total number of extended hours provided by a LA changes by more than 5% or at the request of the SA.
 - D. Approval of the Annual Plan of Operations is required prior to subsequent contracting with an agency.
- III. Each LA shall provide extended hours according to the needs of the community. In extraordinary circumstances where a WIC LA cannot provide extended hours, the LA may request a temporary waiver. Waivers shall be approved only for the period of time necessary to resolve the extraordinary circumstances that preclude compliance with this policy. In no case shall the total period of time covered by a waiver(s) exceed two years.

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Effective June 1, 2021

Policy No. GA:14.0

Staffing Standards

Purpose

To ensure the delivery of quality services meet the needs of WIC participants.

Authority

State Policy

Policy

Each local agency (LA) must ensure that qualified professionals are available to provide WIC services.

Procedures

- I. Each LA must name a WIC Director as the person responsible for the overall day-to-day operation of the local WIC Agency. The WIC Director must comply with the training requirement outlined in [TR:02.0 Orientation/Training of Local Agency Directors](#).
- II. Each LA must employ or contract with a registered or licensed dietitian (RD, LD, or RD/LD). Dietitians must be employed according to the following staffing standards:
 - A. Local agencies with less than 3,000 participants are required to have an RD, LD, or RD/LD consultant(s) providing a minimum of 12 hours consultation per month.
 - B. Local agencies with 3,000-6,000 participants are required to have an RD, LD, or RD/LD consultant(s) providing a minimum of 24 hours consultation per month
 - C. Local agencies with 6,000-10,000 participants are required to have an RD, LD, or RD/LD consultant(s) providing a minimum of 48 hours consultation per month.

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- D. Local agencies with more than 10,000 participants are required to have, at a minimum, one Full Time Equivalent (FTE) RD, LD, or RD/LD.
- III. Each local agency must employ one FTE nutritionist. A nutritionist must have a Bachelor's or Master's degree in a nutrition related field, examples include: Nutrition Sciences, Human Nutrition or Dietetics, Community Nutrition, Public Health Nutrition, Clinical Nutrition, Home Economics with Food and Nutrition major with 24-semester hours credit in food & nutrition.
- A. Local agencies with more than 10,000 participants are required to have one FTE nutritionist per 10,000 participants.
 - B. The full-time dietitian may also serve as a full-time nutritionist.
- IV. Each LA must have an International Board-Certified Lactation Consultant (IBCLC).
- A. The IBCLC will serve as the local agency's Designated Breastfeeding Expert (DBE).
 - B. IBCLCs must be employed according to the following staffing standards:
 - 1. Local agencies with less than 3,000 participants are required to have a IBCLC(s) providing a minimum of 12 hours consultation per month.
 - 2. Local agencies with 3,000-6,000 participants are required to have a IBCLC(s) providing a minimum of 24 hours consultation per month.
 - 3. Local agencies with more than 6,000-10,000 participants are required to have a IBCLC(s) providing a minimum of 48 hours consultation per month.
 - 4. Local agencies with more than 10,000 participants are required to have, at a minimum, one FTE IBCLC(s).
 - C. The FTE IBCLC may also serve as FTE RD as long as they have the qualifications for both and can meet the staffing standards.

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- V. Each LA must employ at least one Breastfeeding Peer Counselor (PC). The PC must comply with requirements outlined in **Policy BF:03.0**.

- VI. LAs that are unable to meet the staffing standards (i.e. Registered Dietitian, Nutritionist, Peer Counselor, IBCLC, etc.) must request a waiver in the interim that includes justification regarding the inability to meet the staffing standards and a plan for satisfying the requirement.
 - A. The waiver request must be submitted in writing to the LA's State Agency Partner for approval no later than 30 days following the vacancy.
 - B. The LA must maintain the written approval on file for the purpose of an audit monitoring review.
 - C. Staffing Standard waivers may be approved for up to 1 year. LAs must request a renewal if needed beyond the initial approval period.
 - D. LAs requesting a waiver for RD or IBCLC must have a plan for providing high-risk referrals and counseling within the waiver request. Please refer to **Policy CS: 33.0**.
 - E. The IBCLC waiver request must include a plan that explains how IBCLC services will be provided at no charge to the WIC participant (e.g. through tele- consultations with WIC Lactation Support Centers or coordination with local hospital IBCLC).
 - 1. The IBCLC listed on the approved state waiver will serve as the DBE for the agency.
 - 2. The minimum number of hours for consultations listed in Section IV.B.1.- 4. will not apply to agencies with a IBCLC waiver.

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Effective June 1, 2021

Policy No. GA:14.0

Guidelines

The following resources can assist LAs with meeting staffing standards.

- A. Contact a local or regional hospital dietitian/lactation consultant.
- B. Advertise in local or regional newspapers/newsletters.
- C. Advertise at area universities or community colleges.
- D. Advertise online on a job search engine.
- E. Post a job at:

Texas WIC Program <https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-jobs>

National WIC Association (NWA) <https://www.nwica.org/job-postings>

Texas Academy of Nutrition and Dietetics <https://www.eatrighttexas.org>

United States Lactation Consultant Association (USLCA)
<https://uslca.org/category/job-board>

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Effective June 1, 2002

Policy No. GA:16.0

**Compliance with the Clinical Laboratory
Improvement Amendments of 1988**

Purpose

To ensure that all local agencies (LAs) are in compliance with the Clinical Laboratory Improvement Amendments (CLIA) of 1988.

Authority

42 CFR Part 353; Public Law 100-578

Policy

Each LA shall obtain appropriate CLIA certification. The CLIA Certificate or copy shall be kept on file and available for quality assurance monitoring review.

Procedures

- I. The Patient Quality Care Unit of the Health Care Quality Section of the Department of State Health Services (DSHS) shall be contacted to obtain an application and specific requirements for CLIA certification. All costs pertaining to registration and certification for CLIA are WIC allowable expenditures.
- II. A Certificate of Waiver may be obtained by LAs performing hemoglobin by copper sulfate, HemoCue Hemoglobin System, and/or spun microhematocrit tests. A certificate is valid for a maximum of two years and requires a registration and certificate fee. Laboratories with a Certificate of Waiver are not subject to routine inspections.
- III. WIC LAs not co-located with their parent agency shall apply for their own certification when the parent agency has a high complexity certification.

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- IV. WIC LAs co-located with their parent agency may obtain their own certification, with their Laboratory Director's approval, or choose to continue under the parent agency's certificate.
- V. WIC LAs that perform only waived hematocrit/hemoglobin testing may obtain their own Certificate of Waiver, with their Laboratory Director's approval, or choose to continue under the parent agency's certificate when the parent agency has a moderate complexity certification.
- VI. WIC LAs falling under their parent agency's CLIA certification are subject to any sanctions imposed on the parent agency as a result of routine inspections. If a parent agency's CLIA certification is suspended, limited or revoked and the LA operates under their parent agency's CLIA certification, the LA shall also lose its testing ability.

Guidelines

Guidelines for an application and specific requirements for CLIA certification can be found at <https://hhs.texas.gov/doing-business-hhs/provider-portals/health-care-facilities-regulation/laboratories-clinical-laboratory-improvement-amendments>.

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Effective June 1, 2002

Policy No. GA:17.0

No Smoking Policy in Local Agency Facilities

Purpose

To avoid the hazardous effects of smoking and second-hand smoke and to promote health and well-being by prohibiting smoking in any site providing WIC services.

Authority

Public Law 103-111

Policy

Smoking shall not be allowed in any local agency (LA) clinic area or administrative office area where program functions are performed.

Procedures

- I. All WIC clinics and administrative offices shall post "No Smoking" signs as appropriate.
- II. All clinics which are operated as satellite operations, where WIC services may only be operated once per week or monthly, shall post "No Smoking" signs on the days when the WIC Program is operating at these sites, if there is no existing ban on smoking in place already. This includes, but is not limited to, such sites as churches, schools, or community health centers.
- III. WIC staff shall not smoke outdoors at the public entrances to buildings where the clients enter for services.
- IV. WIC employees, while in the performance of their official duties, shall not smoke.

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Effective July 1, 2011

Policy No. GA:18.0

Research or Auxiliary Services Involving WIC Participants

Purpose

To protect the confidentiality of WIC participants and to ensure that all WIC research and auxiliary services conducted at the local agency (LA) are appropriate and reasonable.

Authority

State Policy

Policy

State agency (SA) approval shall be obtained prior to any research or auxiliary service being conducted at a LA that would involve the use of WIC participants as subjects, the use of WIC participants' records, or any data collection from WIC participants.

Definition

Auxiliary Services – Any outreach or health/educational services provided to WIC participants by nutritional health or social programs, LA's parent organization etc. during the WIC visit.

Research – Any study, investigation, experiment, or survey aimed at the discovery of information or facts, the testing of a hypothesis or theory by external researchers, academic institutions, etc.

Procedure

- I. Any research conducted by LA WIC staff, the LA's parent organization, external researchers, academic institutions, graduate students, etc. intending to use WIC participants as subjects in research projects, shall obtain prior approval from the SA WIC Program. The Request For Research or Auxiliary Services From Texas Special Supplemental

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Effective July 1, 2011

Policy No. GA:18.0

Nutrition Program for Women, Infants and Children (WIC) Clinics – Application Packet may be obtained at the WIC State Office – Clinic Services Branch.

- II. Any auxiliary service that involves WIC participants or WIC clinic space shall obtain prior approval from the SA WIC Program. The Request For Research or Auxiliary Services From Texas Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Clinics – Application Packet may be obtained at the WIC State Office – Clinic Services Branch.
- III. If necessary, LAs shall also have the approval of their parent agency prior to any research or auxiliary services being conducted with WIC participants.
- IV. LAs have the right to refuse any research or auxiliary service request if the LA believes it would not be in the best interest of the participants or would be a burden to the LA staff.
- V. If the SA approves the research or auxiliary services, the entity conducting the research may need to submit an application to the DSHS Institutional Review Board (IRB) if deemed necessary by the SA. The DSHS IRB shall approve the research or service before it begins.

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Effective April 1, 2020

Policy No. GA:19.0

Compliance with the National Voter Registration Act of 1993

Purpose

To ensure all local agencies (LAs) comply with the National Voter Registration Act (NVRA) of 1993.

Authority

Public Law 103-31(as found in 52 U.S.C. Ch. 205); Texas Election Code Chapter 20.001 – Chapter 20.037

Policy

Each LA must provide adult applicants/participants or adult parents/caregivers applying on behalf of a child with the opportunity to register to vote at the time of initial application, recertification, and/or when an applicant/participant reports a name change or change of address. Additionally, each LA must document those who decline to register to vote.

Procedures

- I. When an adult applicant/participant (i.e., pregnant, breastfeeding, or postpartum woman) or adult parent/caregiver applying on behalf of a child applies for initial certification, recertification, and/or reports a change of address, staff must ask if the applicant/participant would like to apply to register to vote.
 - A. Individuals must be at least 17 years and 10 months of age to register to vote. LA staff may determine a person's age by reviewing any available documents provided by the applicant. If an individual's age cannot be determined, the agency should still offer the individual the opportunity to register to vote.

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- B. LA staff must not make any other determination about an applicant/participant's eligibility to register to vote other than their age.
 - C. Staff must not influence an applicant's/participant's political preference or party registration. This includes displaying any political preference or party affiliation in the clinic, or making any statement or taking any action to discourage the individual from registering to vote.
 - D. LA staff must inform the applicant/participant that the decision whether or not to register to vote will not affect their application for WIC benefits.
 - E. If an LA provides certification or recertification services during a home visit or in any other non-clinic setting, the applicant/participant must also be given an opportunity to register to vote following these procedures.
- II. If the individual indicates they would like to register to vote, give them a blank Texas voter registration application to complete and review the Rights and Responsibilities Form on the Opportunity to Register to Vote section of the WIC Management System (MIS) with them. Document their voter registration in the MIS.
- A. Applicants must be offered assistance in reading and/or completing the Texas voter registration application, including assistance in their preferred language. It is up to the applicant to decline or accept assistance.
 - B. Once the applicant/participant completes the Texas voter registration application, review it for completeness in the presence of the applicant/participant.

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1. If the Texas voter registration application is incomplete and/or doesn't have the required signature, return the application to the applicant/participant for completion.
 2. A street address is required.
 - a) Rural routes or post office boxes are not acceptable as a "Residence Address." Instead, applicants/participants must use a description such as "northwest corner of Elm and Maple" or "Bill Smith's Ranch" if their residence only has a rural route or post office box address.
 - b) A homeless or displaced person must use either a shelter address or describe where they sleep at night; for example, "under the south end of the 1st Street Bridge".
 3. Applicants/participants who are not able to write may make a "mark" for their signature. WIC staff should then print the applicant/participant's name and sign their own name as witness. A witnessing signature by WIC staff serves only as a declaration that the staff person witnessed the applicant/participant make a signature mark and does not constitute a declaration that any or all of the information provided by the applicant is correct and true.
- III. If the applicant/participant indicates they do not wish to register to vote, LA staff must request that the applicant/participant sign the declination statement on the Opportunity to Register to Vote section in the MIS.
- A. Staff must provide assistance to the applicant/participant in understanding the declination process, including assistance in their preferred language, if requested.
 - B. If the applicant/participant chooses not to sign the declination statement on the Opportunity to Register to Vote in the MIS, the LA staff must initial the appropriate space designated "For Agency Use".

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- C. Information relating to a declination to register to vote must not be used for any purpose other than voter registration and internal WIC audit/review.
 - D. Completed declination statements (Rights and Responsibilities Form, Opportunity to Register to Vote) must be retained within the MIS for 3 years.
- IV. If the applicant/participant chooses not to complete the Texas voter registration application during their visit but chooses to take it home to complete and self-mail, staff must initial the appropriate space designated "For Agency Use" in the Opportunity to Register to Vote section on the Rights and Responsibilities form in the MIS to indicate that an application was kept by the applicant/participant. If the applicant/participant prefers to return the completed Texas voter registration application to the LA, staff must mail it to the appropriate County Voter Registration Official (see Procedure V).
- V. LA staff must assure that completed Texas voter registration applications are delivered to the County Voter Registration Official of the county in which the clinic is located no later than five days after the application was submitted to LA staff.
- A. A current list of the County Voter Registration Officials can be found at <https://www.sos.state.tx.us/elections/voter/votregduties.shtml>.
 - B. Completed applications must be delivered to the County Voter Registration Official by hand-delivery, mail, fax or any other secure method of transmission.
 - 1. Multiple applications may be batched together and mailed in a single envelope.
 - 2. Mailing costs associated with submission of the voter registration applications to County Voter Registration Officials are allowable costs.

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- VI. Each LA must appoint a person to act as an NVRA liaison with the County Voter Registration Official(s) in the county where the clinic(s) is/are located. In Local Agencies with large service areas of multiple counties, the LA Director may appoint additional liaisons at their discretion.
- A. It is recommended that the NVRA liaison initiate contact with the County Voter Registration Official(s) to encourage communication and assure effective processing of the voter registration material.
 - B. It is recommended that the NVRA liaison be responsible for:
 - 1. Ensuring an adequate supply of printed Texas voter registration applications are available at all sites (see Procedure VI.C),
 - 2. Periodically observing LA staff to ensure the requirements of NVRA are understood and met,
 - 3. Training new employees on implementation of these procedures,
 - 4. Resolving questions and problems that arise.
 - C. The NVRA liaison must order blank Texas voter registration applications (Stock numbers 13-06-11538 for English and 13-06-11538A for Spanish) from the Texas WIC Catalog at <https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/women-infants-children-catalog/>
- VII. In all cases where an applicant/participant has a complaint, the applicant/participant must be provided with the Secretary of State's Election Division's toll-free number, 1-800-252-8683, and the phone number of their County Voter Registration Official.
- VIII. When an applicant/participant has a question about voter registration that the WIC staff cannot answer, the applicant/participant must be provided with the Secretary of State's Election Division's toll-free number, 1-800-251-8683 as well as the phone number for their County Voter Registration Official found at <https://www.sos.state.tx.us/elections/voter/votregduties.shtml>.

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Effective April 1, 2024

Policy No. GA:20.0

Employee Conflict of Interest/Fraud and Abuse

Purpose

To preserve the integrity of the WIC Program by requiring standardized employee procedures for conflict of interest including prevention of fraud and abuse and ensuring a separation of duties.

Authority

7 CFR Parts 246.4(a)(27) and 246.12

Policy

Local Agencies (LA) must ensure that fraud and abuse by an employee is prevented and detected.

WIC employees are prohibited from:

1. Certifying oneself
2. Certifying relatives and/or close friends
3. Determining eligibility and medical or nutritional risk of the same applicant for all certification requirements
4. Selling or exchanging WIC food benefits
5. Falsifying certification records to obtain/provide WIC benefits
6. Intentionally sharing computer login or password information
7. Threatening to harm or physically harm participants, State Agency (SA) employees, or vendors.

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Effective April 1, 2024

Policy No. GA:20.0

Definitions

Employee Fraud and Abuse – the intentional conduct of an employee which violates program regulations, policies, or procedures, including, but not limited to, misappropriating, or altering Texas WIC cards, entering false or misleading information in applicant/participant records, or creating records for fictitious participants.

Employee - a person whose salary is paid in whole or any part by WIC funds.

Relative - a person who is within the second degree of affinity and consanguinity include spouse, parents, children, grandchildren and grandparents, brothers, sisters, aunts, uncles, nieces, nephews, first cousins, stepparents, stepchildren, stepbrothers, and stepsisters by blood or marriage.

Close friend - cannot be defined in a way that fits every situation; therefore, LAs have authority to determine if a WIC applicant or participant is a close friend of a LA WIC employee.

Separation of Duties – ensuring a single employee does not determine income eligibility and medical or nutritional risk of the same applicant for all certification requirements. It is acceptable for the same employee to conduct part of the certification, e.g., determine nutrition risk and issue benefits, if a different employee determines income eligibility. Checking identification and residency of an applicant is not included as part of separation of duties.

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Policy No. GA:20.0

Procedures

I. Conflict of Interest Statement

- A. Local Agencies must develop a document(s) that contains the conflict-of-interest statements below. Employees must sign and date the conflict-of-interest statement prior to employment or on date of hire and each fiscal year (October 1st through September 30th) thereafter.

"I certify that neither I nor any individual related to me within the second degree of affinity (marriage), or within the second degree of consanguinity (kinship) has any financial interest as the owner, officer, director, or partner in any food vendor who is authorized to accept Texas WIC Cards within the local agency's jurisdiction.

I certify that I will not participate in any component of the certification process and issue food benefits, at certification, to myself, a relative or close friend."

- B. If an employee is not able to sign the annual conflict of interest statement, the LA must notify the SA and document the employee's conflict of interest. The LA is responsible for advising their employee and ensuring that there is no fraud, conflict of interest or abuse by that employee.
- C. All documentation related to conflict-of-interest must be retained on file and available for audit/review according to policy GA:03.0 Records Retention

II. Identified Conflicts of Interest

- A. If a vendor conflict of interest is identified, the LA must follow one of these procedures:
1. The person may not be hired by WIC.

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Policy No. GA:20.0

2. If already employed, the LA must notify the SA of the potential conflict of interest between the LA employee and the authorized WIC vendor by emailing wicvendorinfo@hhs.texas.gov.
- B. When a WIC employee is also a participant or parent/guardian/caretaker of a participant and has a scheduled WIC appointment or has a relative or close friend scheduled for a certification appointment, the employee must notify the WIC director or clinic supervisor so that arrangements can be made for another WIC employee to certify and issue benefits.
1. The clinic supervisor must ensure other staff members conduct the certification and issue benefits.
 2. WIC employees may conduct non-certification appointments and issue benefits to relatives and close friends (but never to themselves) if no changes have been made to the food benefits during the appointment. For breast pump issuance, refer to Policy [BF:05.0 Breast Pump Issuance](#).

III. When Separation of Duties is Not Possible

LAs may utilize the temporary USDA-approved Separation of Duties waiver authorized under the American Rescue Plan Act of 2021 (waiver expires September 30, 2026). The following procedures apply when separation of duties is not possible because only one employee is available to conduct certifications (in person or remote).

- A. For small clinics, outlying or satellite clinics, or short staffing situations where lack of separation of duties is a regular and expected practice:
1. The WIC director or designee may allow one employee to determine income eligibility and medical or nutritional risk for the same applicant for all certification requirements.

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2. The LA must adhere to the following procedures and documentation kept on file for audit/review according to policy [GA:03.0 Records Retention](#).
 - a. The LA director or designee must conduct a quarterly random review of 1 record or 5 percent (whichever is greater) of all LA records completed without using separation of duties.
 - b. Documentation must include, but is not limited to:
 - i. Name of the LA, clinic, and site number,
 - ii. Name of the employee who completed the certification,
 - iii. Name of the participant(s) and Family Identification Number (FID) certified, and
 - iv. Name of the person who completed the record review.
 - c. Any irregularities discovered during this quarterly review must be addressed immediately with the employee involved. If fraud and abuse is then suspected by that employee, the LA must follow the steps in Procedure IV for reporting the alleged offense.

IV. Reporting Employee Fraud and Abuse

The LA must follow the parent agency's internal procedures for employee fraud and abuse in addition to the procedures below:

- A. LA director or designee must report alleged WIC-related employee fraud and abuse to the Office of Inspector General (OIG) for follow up and action following these steps:
 1. Document, to the fullest extent possible, the suspected/alleged fraud or abuse and submit to OIG either online at <https://oig.hhsc.state.tx.us/wafrep/> or by calling 1-800-436-6184. OIG has an online form for fraud and abuse referrals.
 2. When submitting suspected/alleged abuse to OIG, attach copies of pertinent documentation and records.

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- B. Failure to follow these procedures may cause the LA to assume liability for improperly issued program benefits.

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Effective February 1, 2022

Policy No. GA:21.0

Open, Relocate, or Close a Site

Purpose

To establish the requirements for opening, relocating, or closing a Local Agency (LA) site utilized for WIC clinics or in support of WIC activities.

Authority

State Policy

Policy

Local Agencies must obtain prior written approval 90 days before opening, relocating, or closing a site utilized for WIC clinics or in support of WIC activities by completing a Site Justification form found on the Directors web page at <https://www.hhs.texas.gov/providers/wic-providers/wic-directors>

Definitions

Site Justification – required forms for LA to complete when requesting State Agency (SA) approval to open, relocate, or close a LA site.

Procedures

- I. Opening or relocating a site
 - A. The LA must submit a completed New Site Justification form or Relocating Site Justification form to the SA for approval ninety (90) days prior to the proposed start date of the new site. The form must include but is not limited to:
 1. Justification of need for new or relocation of existing site;
 2. Proposed site including: address, square feet and costs associated with the lease of the space;

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3. Whether the new site will provide services to a specialized group (e.g. migrants, colonias, military);
 4. Whether the site will be co-located with other health services;
 5. The number of WIC vendors in the proposed area if the site is in a rural area;
 6. Timeframes, both for opening of site and reaching full participation;
 7. Name and location of closest WIC clinic (miles) near the proposed site including other LA WIC clinics. If area is currently served by another LA(s), attach email from area director(s) agreeing with the opening of the site;
 8. Estimated costs associated with site (e.g. equipment, remodeling and personnel costs); and
 9. Other pertinent information.
- B. The SA will approve or disapprove the request in writing; factors considered in the approval process include but are not limited to:
1. Whether or not another LA serves the same area;
 2. LA's financial status; and
 3. The LA's processing timeframes as required by CS:02.0.
- C. Once the LA receives approval to open a new site or relocate an existing site, the LA must ensure that:
1. The new location's internet service, IT support, and equipment are in place for serving participants by the opening date.
 2. Site address/hours of operation along with effective start date is submitted to wicclinics@hhs.texas.gov to update the zip code locator. Once the site is relocated, the new location information and the disaster contact must be updated under the Business Unit in the MIS.

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Effective February 1, 2022

Policy No. GA:21.0

II. Closing a site

- A. The LA must submit a completed Closing WIC Site Justification form to the SA for approval ninety (90) days prior to the proposed close date of the site. The form must include but is not limited to:
 - 1. Justification of need for closing the site
 - 2. Closest WIC clinics (miles);
 - 3. Plan for serving site's current participants;
 - 4. Plan for notification of current participants; and
 - 5. Other pertinent information.

- B. The SA will approve or disapprove the request in writing; factors considered in the approval process include but are not limited to:
 - 1. The number of participants affected;
 - 2. Distance to the nearest WIC clinics (miles); and
 - 3. Financial impact on local agency.

- C. If computers or devices are being disposed of, transferred or being sent to surplus due to the site closure, follow procedures in AUT:09.0 and AC:07.0.

III. LA must submit the completed Site Justification form by email to ClinicSiteRequests@hhs.texas.gov.

IV. The LA must retain written SA approval to be available for audit/review.

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Effective April 1, 2020

Policy No. GA:22.0

Full Use of Federal Funds

Purpose

To ensure full use of federal funds as required by U.S. Department of Agriculture.

Authority

Section 12(b) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(b), as amended by Section 361 of the Healthy, Hunger-Free Kids Act of 2010 (Public Law 111-296)

Policy

Each Local Agency (Agency) will support full use of Federal funds provided by the Health and Human Services Commission for administration of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The Agency will exclude such funds from budget restrictions or limitations including, at a minimum, hiring freezes, work furloughs, and travel restrictions affecting the WIC Program.

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Effective February 1, 2023

Policy No. GA:23.0

Required Outreach to Fathers

Purpose

To increase a father's participation in the prenatal period of his child's life by providing information to fathers on what to expect when having a baby, the importance of a father's role during pregnancy and how to be involved in the care of his baby.

Authority

Texas Health and Safety Code, 32.0211

Policy

Local agencies (LAs) must make the booklet, *Dad's Guide to Fatherhood*, available to WIC participants.

Guidelines

Dad's Guide to Fatherhood must be ordered from the Texas WIC catalog <https://texaswiccatalog.specialbee.com/>

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Effective: July 1, 2022

Policy No. GA:24.0

Child Sexual Abuse Reporting

Purpose

To report suspected cases of child sexual abuse to the Department of Family and Protective Services (DFPS) and ensure compliance with state law.

Authority

Article II of the General Appropriations Act and Texas Family Code

Policy

Local Agencies must comply with the provisions of state law related to reporting suspected child sexual abuse of minors, including those minors who are pregnant or postpartum (postpartum includes breastfeeding women).

Definitions

Professional – For WIC reporting purposes, all staff, including volunteers, who interact with clients are considered professionals and must report within 48 hours. The 48 hours reporting requirements begins during a certification when “yes” is selected for any of the affirmative defense questions.

Procedures

- I. Local Agency (LA) staff who interact with clients must report minors who are pregnant or postpartum (postpartum includes breastfeeding women). LA staff are considered professionals and must report within 48 hours (see definition).
- II. Staff must enter all required information (e.g., Name, DOB, Participant Category, Gender) when creating a record in the MIS. The MIS will automatically send an underage report to DFPS for minors **under 14**

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Effective: July 1, 2022

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years of age. Reports will be sent in real time once the record with the DOB and category is created and saved in the system. Family Demographics questions one and two will be auto populated with the information entered when saving a record.

- III. The MIS will prompt staff with an alert message to complete affirmative defense questions for minors **14 to under 17 years of age.** The system will require staff to complete the affirmative defense form before the certification can be completed.
- A. If 'Yes' to either question 1 or 2 is selected, then a report will automatically be sent to DFPS when the record is saved. Staff **MUST** then ask the corresponding follow-up question(s) 1a and/or 2a.
 - B. Questions 3 and 4 are optional to ask but must be answered if known. If 'Yes' to either question 3 or 4 is selected, a report will automatically be emailed to DFPS when the record is saved.
 - C. Question 5 provides additional details to investigators about the incident being reported and must be answered if known. The details entered will be displayed in the Family Demographics section of the report.

The system will require staff to complete the affirmative defense questions before the certification can be completed. Affirmative defense questions and the Child Sexual Abuse Reporting Flowchart (for minors 14 to under 17 years of age are outlined in Guidelines section below.

- IV. All staff interacting with clients are considered professional staff and must receive child abuse training. New staff must receive this training prior to performing job duties and/or having client interactions. Training must be documented and available for review during Quality Assurance monitoring visits. Link to the training chart:
[Combined TR chart \(texas.gov\)](#)

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Guidelines

Additional types of abuse are listed at:

<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm>

Reports of other forms of abuse can be made at the *Texas Abuse Hotline Website*: <https://www.txabusehotline.org/Login/Default.aspx>

The affirmative defense form questions are as follows:

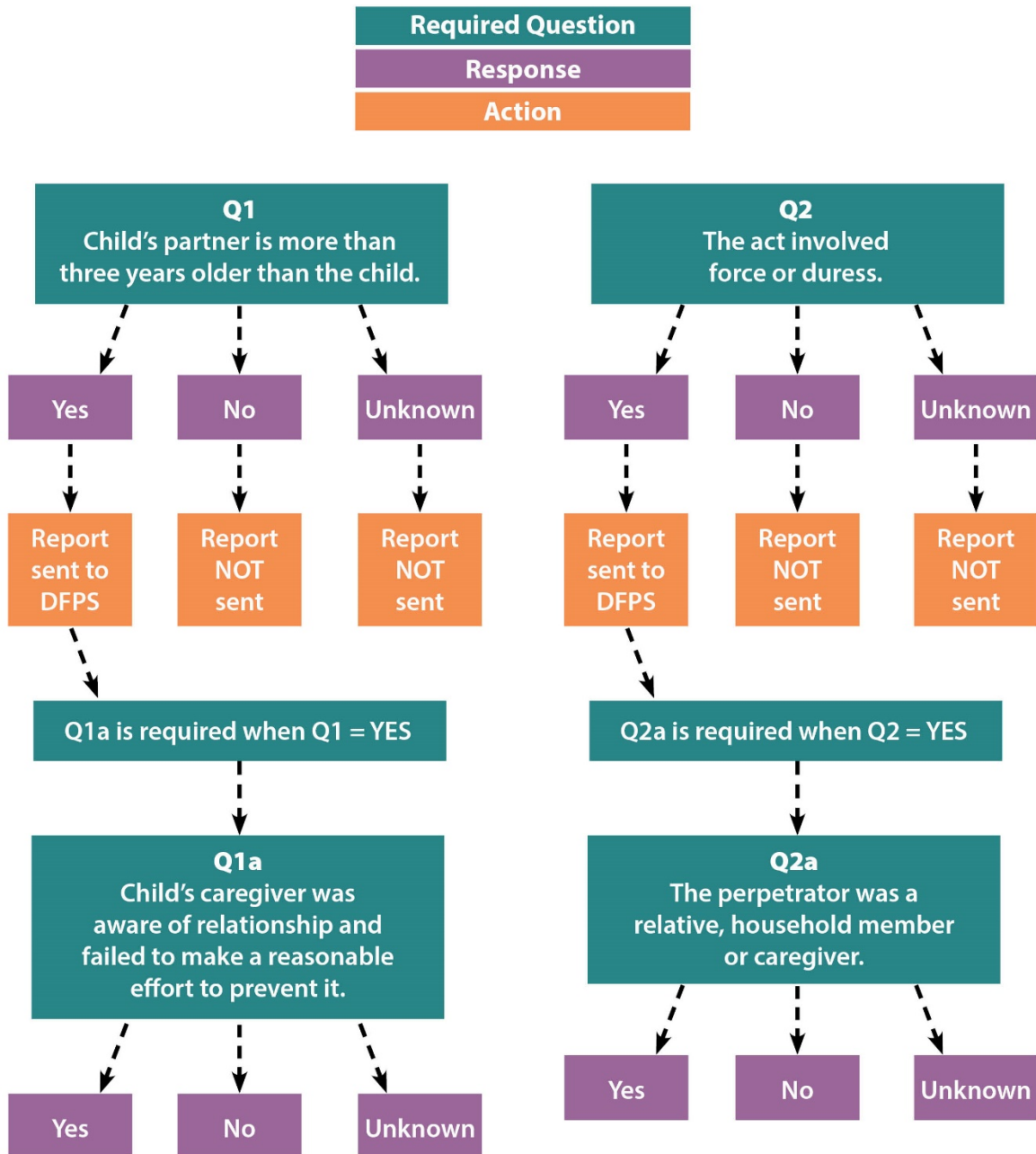
1. Child's partner is more than three years older than the child. (required)
 - 1a. Child's caregiver was aware of relationship and failed to make a reasonable effort to prevent it.
2. The act involved force or duress. (required)
 - 2a. The perpetrator was a relative, household member or caregiver.
3. Child's partner is a registered sex offender OR convicted or adjudicated for a sexual offense. (optional)
4. Child's caregiver allowed the child to engage in a sexual relationship for personal compensation. (optional)
5. Please provide any additional details regarding the incident being reported. This includes, but not limited to:
 1. the name, age, and relationship of alleged abuser (if applicable).
 2. the address or some other way to locate alleged abuser (if applicable).

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Child Sexual Abuse Reporting in TXIN

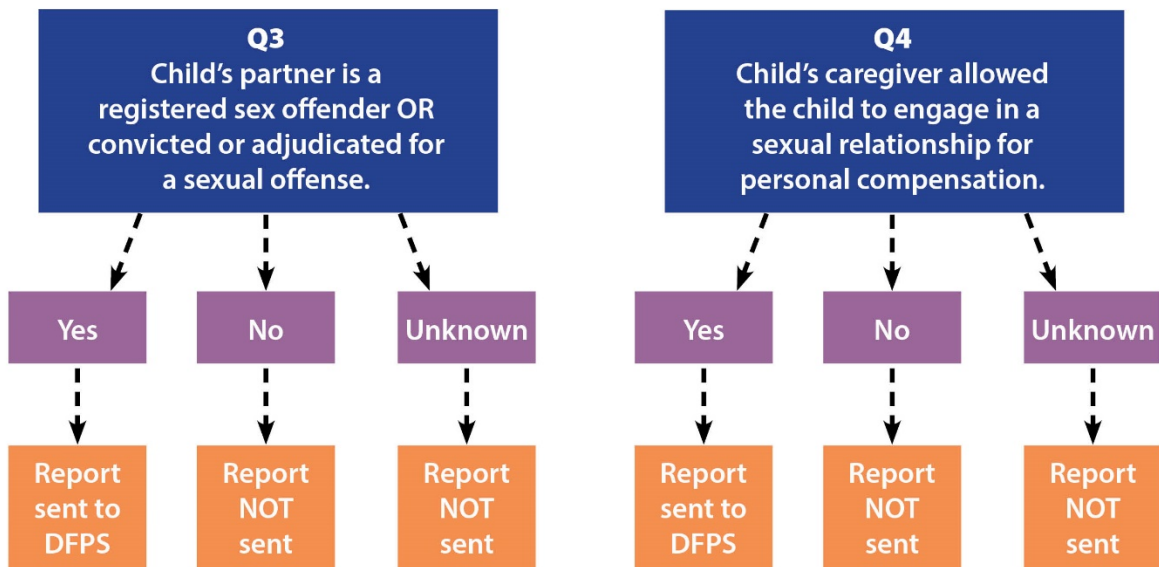


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Optional Question
Response
Action



Q5

Please provide any additional details regarding the incident being reported. This includes, but is not limited to:

- (1) the name, age, and relationship of alleged abuser (if applicable)
- (2) the address or some other way to locate alleged abuser (if applicable)

Family Demographics

1. Child's address or some other way to locate (name of school, or directions to home if rural or P.O. box)
2. Name, address and phone number of parent or caregiver (or directions to home if rural or P.O. box)



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Effective May 1, 2021

Policy No. GA:25.0

The Essentials of Texas WIC Hospitality

Purpose

To create a warm, friendly, welcoming, and respectful environment that promotes positive health outcomes for WIC clients.

Authority

7 CFR 246

Nutrition Services Standards, USDA, August 2013

State Policy

Policy

1. All WIC staff must utilize The Essentials of Texas WIC Hospitality when interacting with WIC clients and co-workers.
2. Local agencies must maintain a WIC clinic environment that is clean, safe, and supportive of breastfeeding, with client-centered services that promote positive health outcomes for WIC clients.
3. All interior and exterior clinic improvements must align with the Texas WIC Design Guidelines and Catalog.
4. Local agency and state agency leadership will set the tone for Texas WIC Hospitality through modeling, guidance, and support.

Definitions

Client-Centered WIC Environment - the atmosphere and services provided within a clinic setting that are respectful, accommodating, and promote the health and wellbeing of WIC clients.

The Essentials of Texas WIC Hospitality - a set of behaviors that WIC Staff perform every day to create a friendly and welcoming environment for WIC clients and co-workers.

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Effective May 1, 2021

Policy No. GA:25.0

Procedures

- I. All WIC staff must utilize The Essentials of Texas WIC Hospitality and apply the following practices when interacting with WIC clients and co-workers:
 - a. Greet and address clients by name in a warm and friendly manner.
 - b. Assist clients with belongings as needed.
 - c. Value all clients and coworkers with dignity and respect.
 - d. Engage by actively listening to the client to provide helpful and credible information and resources tailored to their needs.
 - e. Close conversations with a client in a warm, friendly, and thankful manner.
 - f. See clients at their scheduled appointment time, or keep clients informed of any delays.
 - g. Be present in front of clients by not using personal cell phones.
 - h. Show respect to clients by not gossiping or engaging in side conversations.
 - i. Create clinic spaces that are neat, clean, and family-friendly. (Refrain from posting unnecessary paper and flyers which create a cluttered clinic environment.)
 - j. Be proactive at resolving issues in the client's best interest.

- II. WIC Staff must demonstrate the following behaviors in each area of focus:
 - a. Professionalism
 - i. Interact with WIC clients and co-workers in a courteous and respectful manner.
 - b. WIC Policy Compliance
 - i. Adhere to WIC policies and procedures.
 - ii. Seek clarification of WIC policies when needed.
 - c. Communication
 - i. Listen actively, attentively, and seek to understand the perspective of others.
 - ii. Voice opinions and suggestions in a respectful manner.
 - d. Teamwork

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- i. Work cooperatively with others to achieve WIC's mission, goals, and objectives.
 - ii. Assist others as needed to efficiently serve WIC clients.
- III. Local Agencies must establish a clinic environment that supports a client-centered experience.
- a. Display outdoor and indoor signage to enhance the client's ability to locate WIC clinics.
 - b. Utilize WIC branding that is current, clean, and relevant. Ensure that use of artwork/posters are in line with WIC branding.
 - c. Ensure that restrooms are clean, sanitary, accessible to individuals with disabilities, and include a diaper changing area. Work with property management as needed to ensure the WIC environment is in appropriate operational condition.
 - d. Label biohazard containers for medical waste clearly and keep all hazardous items out of the reach of children.
 - e. Arrange desks and chairs to remove physical barriers and allow for knee-to-knee conversation. Use appropriate social distancing as needed.
 - f. Design clinic flow to reduce wait time, enhance efficiency of WIC services, and support positive interactions between clients and WIC staff.
 - g. Maintain equipment in good working order; calibrate as described in the *Clinic Assessment Manual, Nutrition Assessment, Weighing and Measuring and Hemoglobin and Hematocrit sections* or use manufacturer's instructions.
 - h. Protect privacy and confidentiality in all areas where client information is obtained.
 - i. Offer age-appropriate activities for children throughout the WIC clinic to help facilitate communication between WIC staff and parents/caregivers.
 - j. Avoid negatively worded signage such as no cell phones, no food or drink, etc.
 - k. Answer phone calls and emails promptly.

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Effective May 1, 2021

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- ii. Acceptable — customer service tickets are read and addressed (change status to “in progress” or “closed,” with notations in the follow up section of the ticket) in 72 hours (3 business days)
 - iii. For complaints involving discrimination — 24-hour response is required.
- VI. The State Agency must support The Essentials of Texas WIC Hospitality:
- a. Set the tone for the Essentials of Texas WIC Hospitality through modeling, guidance, and support to all staff.
 - b. Provide positive support to local agencies with implementation of client-centered services that are in line with The Essentials of Texas WIC Hospitality.
 - c. Monitor the clinic environment and other WIC services to ensure The Essentials of Texas WIC Hospitality are implemented at all local agencies.
 - d. Offer clients the opportunity to provide anonymous feedback on the clinic environment and other WIC services. Provide this feedback to the local agencies.
 - e. Respond to local agency and client concerns based on prescribed time frames listed in section V. (e).

Policy References

- Policy No. CR:06.0 Provision of Services to Individuals with Disabilities
- Policy No. GA:01.0 Confidentiality of Applicant/Participant Information
- Policy No. BF:01.0 Breastfeeding Promotion and Support Standards
- Policy No. CR:05.0 Civil Rights Complaints
- Infant Feeding Counseling Tips/Providing Empathy and Support When A Breastfeeding Mother Requests Formula- Stock no. 13-06-115222.

NE - Nutrition Education

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Effective April 1, 2020

Policy No. NE:01.0

Standards for Nutrition Education Contacts

Purpose

To ensure nutrition education (NE) is made available to all participants and addresses the nutritional needs of the participants.

Authority

7 CFR Part 246.11

Policy

WIC participants shall be offered NE according to standards and staff qualifications.

Definitions

Nutrition education means individual or group sessions and the provision of materials designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

Procedures

- I. All women participants and parent/guardians/caregivers of infants and children shall be offered an NE contact every three months.
- II. All NE contacts shall:
 - A. Be provided by qualified staff (**Policy NE:02.0, TR:03.0**).
 - B. Address participants' questions and concerns.
 - C. Be delivered using current client-centered learning principles.

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- D. Meet participant's language preference and be culturally sensitive.
 - E. Include professional assessment by WIC staff to determine issues to be addressed and stress the positive, long-term benefits of nutrition education.
 - F. Be offered at no cost to participants.
 - G. Contain evidence-based messaging consistent with professional organizations such as the American Academy of Pediatrics, the Centers for Disease Control and Prevention, the American Academy of Nutrition and Dietetics, the World Health Organization and/or information from reputable continuing education providers.
 - H. Be documented correctly in the MIS.
 - I. Include the offer of a variety of delivery options, including group classes and web lessons at www.TexasWIC.org. Individual counseling must be provided at each certification and as needed.
 - J. Include evaluation to ensure appropriateness and effectiveness. (Policy QA:01.0, NE:02.0).
- III. Substance abuse information must be provided to all pregnant, breastfeeding, postpartum women and to parents or caregivers of infants and children at initial certification and on an as-needed basis at subsequent visits.
- IV. Breastfeeding information and support must be provided to all pregnant, and breastfeeding participants. (Policies BF:01.0, 02.0, 03.0, and 04.0)
- V. Types of nutrition education contacts include:
- A. Individual counseling must be provided at initial certification, subsequent certification, mid-certification assessment at the request of the participant, and:

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1. Must include the completion of Value Enhanced Nutrition Assessment (VENA) within the MIS.
 2. May be conducted in place of group class at benefit issuance. In this instance, it is optional to complete documentation in the MIS.
 3. Staff shall:
 - a. complete nutrition assessment, review previous VENA documentation;
 - b. attempt to establish rapport;
 - c. attempt to identify and explore parents' concerns using active listening skills and open ended questions;
 - d. summarize the conversation, if appropriate;
 - e. attempt to assist participant in setting a goal, if appropriate;
 - f. provide relevant referrals as needed.
- B. Group classes shall:
1. Be offered at benefit issuance throughout certification periods to all participants.
 2. Be in the form of discussion-based groups, breastfeeding support group meetings, lessons with activities and/or videos, or other client-centered methods such as garden-based classes, grocery tours, etc.
 3. Be presented by qualified staff, who have been trained on the subject matter prior to teaching the class (Policies: **NE:02.0**; **TR:03.0** and LA NE Coordinator/WIC Director's discretion).
 4. Be scheduled as indicated in the current NE plan.
 5. Be a SA or LA developed lesson plan (**Policy NE:04.0**).
 6. Always have a staff member present in the classroom.

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7. Be offered according to participant's category, risk conditions, interests, time considerations, preferred language and cultural needs; participants may choose a preferred class.
 8. Allocate time for participants to ask questions related to the class topic. If the educator is unable to answer the question, then the information shall be obtained and made available to the participant.
- C. Self-paced lessons may serve as a NE contact if:
1. It is SA or LA developed (**Policy NE:04.0**);
 2. The participant completes the questions and a designated staff member reviews the answers with the participant prior to benefit issuance; and
 3. It is not substituted for individual counseling at certification and mid-certification assessment.
 4. Posters or bulletin boards are considered self-paced lessons.
- D. Health fairs may serve as NE contacts if they:
1. Include an activity and evaluation, and
 2. Contain content approved by an LA or SA RD
- E. TexasWIC.org lessons shall be accepted as an NE contact by Local Agencies.
- F. Take home lessons:
1. Shall consist of an activity and evaluation; and

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Effective April 1, 2020

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2. Can be provided by the SA or be a video, a book or a lesson developed by the LA and approved by SA or LA registered dietitian.
- G. Breastfeeding support group meetings shall be led by an IBCLC, a trained Peer Counselor or any Certifying Authority who has completed their required BF training (**Policy BF:04.0; TR:03.0**).
1. Breastfeeding support group meetings shall be led by an IBCLC, a trained Peer Counselor or any Certifying Authority who has completed their required BF training (**Policy BF:04.0; TR:03.0**).
- a. one main topic that will be addressed at each meeting;
- b. one objective for the named topic(s); and
- c. one evaluation question for each named topic.
- H. Alternate forms of nutrition education
1. Participants may receive WIC NE contacts from outside agencies or certain professional persons at the discretion of the LA NE coordinator and based on standards specified in Procedure II, with the approval of the SA NE Branch. Examples include but are not limited to: La Leche League, diabetes support groups, and nutrition counseling by a registered dietitian.
2. For families of children with special health care needs, see **Policy CR:07.0**.
- VI. Nutrition education may be declined by participants.
- A. Food benefits shall be issued to all participants, even those who decline nutrition education.
- B. Participants unable to stay for a NE contact or who decline a NE contact shall be issued food benefits as soon as possible. When a

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participant declines, refuses NE or is unable to receive NE due to an emergency, this shall be documented in the MIS.

1. If the participant has an appointment, "Refused NE" shall be selected.
2. If the participant does not have an appointment, "No" shall be selected in the "Receive NE" field.

VII. Each LA is responsible for ensuring that the equipment and materials necessary to conduct NE classes or counseling is available at all clinic sites in accordance with the approved NE/BF Plan (**Policies AC:33.0, AC:34.0, NE:02.0**).

VIII. Local Agency NE expenditures shall be in accordance with Policies **AC:33.0** and **AC:34.0**.

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Effective: March 1, 2014

Policy No. NE: 02.0

**Local Agency Nutrition Education Coordinator Responsibilities and
Nutrition Education/Breastfeeding Plan**

Purpose

To ensure that a qualified, designated staff administers (plans, implements and evaluates) nutrition education. To assure that nutrition education is planned, scheduled and provided to address the nutritional needs of the program participants.

Authority

7 CFR Part 246.11; State Agency

Policy

All staff providing Nutrition Education (NE) shall have appropriate qualifications and complete required training. Each local agency (LA) shall follow an approved Nutrition Education/Breastfeeding Promotion (NE/BF) Plan. The LA Nutrition Education coordinator shall ensure that lessons and materials presented to WIC participants contain accurate, current, culturally appropriate, and professionally recognized nutrition information.

Procedure

Each LA shall designate a NE Coordinator to oversee NE activities. All staff providing NE shall have appropriate qualifications and complete required training (Refer to TR:03.0).

- I. The designated LA NE coordinator shall be a registered dietitian (RD) licensed dietitian (LD), or a certifying authority (CA), preferably a degreed nutritionist with 24 semester hours of food and nutrition (CS: 15.0, CS:16.0).

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Effective: March 1, 2014

Policy No. NE: 02.0

- II. The NE coordinator shall complete all the required trainings (TR:03.0) within specified timeframes. Documentation of the completion shall be kept on file at the LA for review.

- III. The NE coordinator shall attend the Texas WIC Program's Nutrition/Breastfeeding Conference every year. Other conferences or trainings may be accepted in lieu of this conference, with the approval of the state agency (SA).

- IV. The NE coordinator is responsible for planning, implementing and evaluating NE at the LA.
 - A. Planning Nutrition Education
 - 1. The NE/BF Plan shall be submitted to the SA by the designated date. The plan shall be in effect October 1 through September 30.
 - 2. The SA shall have the option to withhold reimbursement if the NE/BF Plan and/or required revisions are not submitted by September 30, or the date agreed upon between the SA and local agency.
 - 3. A new LA shall submit a NE/BF Plan no later than the end of the third month of operation.
 - 4. When the NE/BF plan is approved, the LA shall receive final notification from the SA. The LA shall maintain the approval letter on file with the NE/BF Plan.
 - 5. Changes to the class schedule shall be submitted electronically to SA NE liaison prior to teaching the class.
 - 6. The NE coordinator shall work with the BF coordinator to submit the NE/BF Plan. See policy BF 02.0 for information specific to the breastfeeding portion of the NE/BF Plan.
 - B. Implementing Nutrition Education
 - 1. Nutrition education materials used at the LA shall:
 - a. be accurate, current, and relevant in content.
 - b. be based on sound, established and scientific evidence.
 - c. meet the cultural and language needs of the participants.

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Effective: March 1, 2014

Policy No. NE: 02.0

- d. Be provided by SA or approved by SA or LA registered dietitian.
 - 2. All clinic sites must have current NE resources such as pamphlets, videos, lesson outlines, and other materials required for effective delivery of nutrition education.
 - 3. The LA shall maintain a current inventory of NE and BF lessons and materials provided by the state agency. Deleted and out-of-date materials shall not be used for participant education.
- C. Evaluating Nutrition Education
- 1. Quality management activities related to NE shall be conducted annually (at minimum) by the LA and:
 - a. Shall include observation of group and individual nutrition education sessions to ensure accurate and appropriate delivery of information in a client-centered way.
 - b. Results should be used to determine and plan staff training.
 - 2. Participant feedback related to NE should be used to plan future education activities.

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Effective: March 1, 2014

Policy No. NE: 04.0

Nutrition Education Lessons and Materials

Purpose

To ensure that lessons and materials presented to WIC participants contain accurate, current, professionally recognized nutrition information.

Authority

State Policy

Policy

The local agency (LA) may use state agency (SA) developed lessons and materials and/or LA developed lessons to provide nutrition education (NE) to participants. All materials shall contain accurate information that is appropriate for the category and risk condition(s) of the participant.

Procedures

- I. Local Agencies shall maintain a current inventory of NE and breastfeeding (BF) lessons and materials as listed in their current class schedule. Deleted and out-of-date materials shall not be used for participant education.
- II. Every lesson used by the LAs shall have a code assigned by the SA. Local Agencies shall contact their SA liaison to request code for LA-developed lessons.
- III. Local Agencies can develop and use their own lessons and materials for nutrition education.
 - A. Local Agency-developed lessons and materials that are created by Registered Dietitians (RDs) or Licensed Dietitians (LD) are not required to be submitted to the SA for approval. However, LA-developed lessons shall be submitted to the SA to obtain a NE code.

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Effective: March 1, 2014

Policy No. NE: 04.0

- B. LA-developed lessons and materials created by non-RDs or LDs must be submitted to the SA for review, approval, and coding prior to using in the clinic. Lessons that are submitted to the SA for review must:
 - 1. be written in the *CCNE Lesson Template, Self-Paced and Bulletin Board Worksheet* or *Nutrition/Health/Breastfeeding Template*; and
 - 2. include corresponding checklists and any LA developed materials/handouts.
- C. LA-developed materials must include the USDA nondiscrimination statement (refer to policy CR:02.0).
- D. Local Agencies are responsible for maintaining LA-developed lessons and materials to ensure information provided to participants remains current and accurate.
- E. If the LA substantially changes a SA lesson, the lesson shall be viewed as a new lesson developed by the LA and the lesson shall be submitted to the SA for review, comment and coding as directed in this policy. Adapting discussion questions to better meet participants' needs during a client-centered lesson is not considered a substantial change, assuming the staff facilitating the lesson is appropriately trained (TR:03.0). Substantial modifications include:
 - 1. changes in the lesson's objectives;
 - 2. new methods of presentation (for example, replacing the video with a discussion or game); and
 - 3. replacing original materials (pamphlets, audiovisuals, or posters) with materials which are not state approved/developed or which cover a different topic than the lesson.
- F. Other NE materials (handouts, fliers, newsletters, etc.) developed by LAs RDs or LDs do not need to be submitted to the SA for approval. Nutrition materials developed by LAs without RDs or LDs shall be submitted to the SA for approval before using for WIC NE. Follow policy CR:02.0 to determine if the USDA nondiscrimination statement should be included in LA developed NE materials.
- G. Materials obtained from non-WIC agencies/organizations for educational use in WIC clinics must be reviewed by the LA's NE Coordinator to ensure:
 - 1. content, literacy level, and language of the materials are appropriate;

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2. applicable copyright laws are followed; and
3. material is obtained from a recognized professional organization such as:
 - a. American Academy of Pediatrics;
 - b. American Dental Association;
 - c. American Heart Association; or
 - d. March of Dimes

For all other inquiries on non-WIC materials, LAs shall contact their SA nutrition education liaison.

OR - Outreach

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective July 1, 2017

Policy No. OR:01.0

Local Agency Outreach

Purpose

To ensure that potentially eligible persons in each local agency's (LA's) service area are aware of the WIC Program and know where to seek services.

Authority

7 CFR Part 246.4 (a)(7), 246.4 (a)(20)

Policy

Each LA shall develop and implement a plan for outreach, which emphasizes the enrollment of women in their first trimester and migrants.

Definitions

Outreach means informing potentially eligible persons about the benefits and availability of the WIC Program.

Grassroots organizations are any organizations at the local level which interact with potential or actual participants, particularly minorities and women, such as a community action program, civic organization, migrant group, church, neighborhood council, local chapter of the National Association for the Advancement of Colored People (NAACP), or other similar group.

Procedures

- I. Each LA shall develop and implement an outreach plan.
 - A. The outreach plan shall be updated on an annual basis.
 - B. A copy of the plan shall be maintained at the LA.

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Effective July 1, 2017

Policy No. OR:01.0

- C. Documentation of all outreach activities including dates shall be maintained at the LA.

- II. At a minimum, the outreach plan shall include:
 - A. Distribution of information twice a year about WIC, to organizations, including grassroots organizations, and agencies that serve or work with potentially eligible persons.
 - B. An annual contact to each homeless facility where current WIC participants reside to verify that required conditions are still being met (See **CS:06.0**). This is only applicable if LA or Clinic has a homeless facility in the area served.
 - C. Although not mandatory, it is suggested that the outreach plan also include announcements, articles and/or appearances about WIC in local radio, television, and/or newspapers on an annual basis.

- III. Outreach conducted by the state agency (SA) shall not be considered a part of the LA's outreach activities.

- IV. At a minimum, all outreach information shall include:
 - A. location of the local WIC Program and a phone number for more information; and
 - B. a current statement of nondiscrimination (see **Policy CR:02.0**).

- V. Printed outreach materials and oral presentations shall also include:
 - A. a description of WIC benefits; and
 - B. criteria for participation, i.e., income, residence, categorical, and nutritional risk.

- VI. When LAs are operating at maximum caseload, outreach shall be targeted to persons who are at high risk. LAs operating at maximum caseload are not exempt from outreach.

- VII. Outreach shall be provided in an appropriate language in areas where a substantial number of persons are non-English speaking.

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Effective July 1, 2017

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Guidelines

Organizations and agencies that deal with potentially eligible persons include, but are not limited to:

- I. health and medical organizations;
- II. hospitals, community health centers, physicians, and pharmacies;
- III. Texas Department of Human Services for SNAP (Supplemental Nutrition Assistance Program), Medicaid, and TANF (Temporary Assistance for Needy Families);
- IV. private and public social service agencies;
- V. farm worker organizations;
- VI. military bases;
- VII. Native American tribal organizations;
- VIII. public and private childcare centers including Headstart;
- IX. public housing authorities;
- X. churches and other religious organizations;
- XI. schools;
- XII. grassroots organizations;
- XIII. homeless facilities; and
- XIV. unemployment offices.

QA - Quality Assurance

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>
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Effective September 1, 2021

Policy No. QA:01.0

Quality Assurance Monitoring of Local Agencies

Purpose

To ensure that local agencies (LAs) comply with federal, state and local regulations, policies, and procedures.

Authority

7 CFR Part 246.11, 246.19; Quality Assurance Policies

Policy

Each Local Agency's clinical operations, fiscal management and food delivery systems must be monitored for compliance with federal, state, and local regulations, policies, and procedures at least once every two years.

Procedures

- I. Upon notification by the state agency (SA) of a quality assurance monitoring visit, the LA and Parent Agency must submit requested documentation within the provided timeframe as required in the contract.
- II. LA WIC Director may invite the Parent Agency's executive director and other appropriate personnel to attend any meetings scheduled with the SA Monitoring team.
- III. If applicable, the LA must submit an approved Corrective Action Plan within 14 business days upon receipt of the Quality Assurance Monitoring Report. SA staff may request additional information or explanation from the LA.
- IV. The SA shall notify the LA regarding their review status within 10 business days of the monitoring review completion.

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Effective September 1, 2021

Policy No. QA:02.0

Local Agency Self-Audit

Purpose

To ensure the delivery of quality services meets the needs of participants and is in compliance with federal, state and local regulations, policies and procedures.

Authority

7 CFR Part 246.19; OSHA 29 CFR Part 1910.38 and 1910.157

Policy

The Local Agency (LA) must create a Quality Management Plan and conduct self-audits that encompass an evaluation of its clinical operations, fiscal management, and food delivery systems to ensure that WIC services are provided in accordance with federal, state and local regulations, policies and procedures.

Definitions

Error – An identified criterion that is out of compliance with federal, state and local regulations, policies and procedures.

Quality Management Plan – A documented comprehensive internal process that ensures quality services, staff/participant safety, compliance with federal, state and local regulations, policies and procedures.

Corrective Action Plan (CAP) – a step by step plan of action that is developed by the Local Agency to achieve targeted outcomes for identified errors.

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Effective September 1, 2021

Policy No. QA:02.0

Procedures

- I. The Quality Management Plan must be developed and implemented in coordination with the parent agency for the internal review and evaluation of services provided.
 - A. Deviation from the quality management plan is acceptable if justified and documented.
 - B. The Quality Management Plan must be saved electronically.

- II. The quality management plan, at a minimum, must include:
 - A. A multi-disciplinary quality management committee to meet twice per fiscal year. One must be after the completion of a self-audit, and after the State Agency Monitoring Review. The self-audit and self-audit CAP must be shared with the Parent Agency Chief Executive Officer (CEO) or their designee.
 - B. A designated position responsible to implement the quality management plan.
 - C. A Disaster and Safety plan must be developed and include at a minimum:
 - 1. Procedures for reporting a fire and other emergencies.
 - 2. Procedures for emergency evacuation, including type of evacuation, exit route assignments, and accounting for all employees after evacuation.
 - 3. Emergency Evacuation drill frequency. The LA must keep records of dates and times of completion.
 - 4. Development of evacuation floorplans which must include:
 - a. Location of exit routes, assembly points, and equipment Posting in prominent areas
 - b. Accurate information and correct orientation for the posted location.
 - 5. First Aid Kit locations to be known and readily available.
 - 6. Annual inspections of fire extinguishers.
 - 7. Mounting fire extinguishers so that they are readily accessible to employees without subjecting employees to possible injury.
 - 8. Requirements per local Fire Marshal guidelines.

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9. If the LA follows their Parent Agency safety plan, it must include the above criteria, at a minimum.
 - D. Job descriptions must be created and maintained by the LA for all positions that provide direct client services.
 - E. Qualtrics Customer Satisfaction Surveys must be closed within a reasonable timeframe as directed by State Agency per Policy [GA: 25.0](#).
 1. Actions must be documented at the time of closure and address the customer's specific concerns.
 - F. Self-Audits must be completed as outlined below:
 1. Financial management self-audit must be conducted biennially on the year the Local Agency is not monitored by State Agency using SA worksheet FA-1 and the Quality Management Fiscal Monitoring Tool.
 2. Food delivery self-audits must be conducted once each fiscal year at all sites using State Agency (SA) worksheets FDA-1 and FDA-2.
 3. Administrative self-audit must be conducted biennially on the year the Local Agency is not monitored by State Agency using the Quality Management Administrative Monitoring Tool.
 4. Clinical self-audit must be conducted biennially on the year the Local Agency is not monitored by the State Agency using the SA Quality Management Administrative and Clinical Monitoring Tools.
 - a. The Local Agency must select 20% of clinic sites, and if possible, they should not include the same sites the SA conducted the monitoring review on the previous fiscal year. The sites must be selected on a rotation schedule.
 - b. At the minimum, the Local Agency must conduct five observations and ten record reviews for the selected sites.
 - c. LA staff that operate out of more than one site must be observed, at a minimum, at one of their sites.
 5. Facility audits must be conducted at all clinic sites each fiscal year.
 6. The LA may conduct additional self-audits to ensure compliance, if needed.
 7. If LAs use different forms/monitoring tools for the clinical and fiscal self-audits, then the forms/monitoring tools must include

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all review criteria listed on the current fiscal year Quality Management Monitoring Tools.

- G. A Corrective Action Plan must be developed and approved within 14 business days of a self-audit.
 - 1. The Director must identify a position responsible for approving CAPs.
 - 2. The CAP must be specific to the identified errors out of compliance.
 - 3. All identified tasks must be completed within 90 days of approved CAP.

III. The quality management plan, self-audits, CAP and outcomes from the CAP must be clearly documented and kept on file electronically at the LA according to the retention period per Policy [GA: 03.0](#) following the date of each self-audit.

IV. All documentation must be made available to an outside auditor and the quality management monitoring team within the requested time period.

Self-Audit Monitoring Tool/Worksheet	Minimum Frequency of Self-Audit	Minimum Number of Sites Reviewed Fiscal Year
QMB Fiscal		
Local Agency Self-Audit Fiscal Review	Biennially	LA
FA-1	Biennially	LA
Inventory FDA-1 and FDA-2	1 set per Fiscal Year	All Sites in LA
QMB Administrative		
Local Agency Self-Audit Administrative Review	Biennially	LA
Record Reviews	Biennially	20% of sites on a rotating schedule
QMB Clinical		
Local Agency Self-Audit Clinical Review	Biennially	20% of sites on a rotating schedule
Facility Reviews	1 per Fiscal Year	All Sites in LA

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Effective September 1, 2021

Policy No. QA:03.0

Accelerated Monitoring Review

Purpose

To assist a Local Agency (LA) to gain compliance with federal, state and local regulations, policies and procedures.

Authority

7 CFR §246.19

Policy

A Local Agency shall be placed on Accelerated Monitoring Review (AMR) status if the LA has significant findings during a routine monitoring review or does not complete activities in the approved Corrective Action Plan (CAP) by the State Agency (SA) 90-day follow-up.

Definitions

Significant Findings – includes but is not limited to identified trends on previous reports, number of findings, or severity of finding(s).

Probationary Status – trial period during which the State Agency determines whether the contractor is meeting contractual requirements.

Procedures

- I. The SA determines if AMR is the appropriate level of monitoring for the LA.
- II. The SA notifies the LA of its placement on AMR at the time of the routine monitoring final report or 14 business days after the 90-day follow-up of the approved CAP.
 - A. The SA will work with the LA to create a plan for compliance.

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1. An AMR review shall be conducted 3 months after a LA is placed on AMR.
 2. Criteria that the SA found out of compliance during the routine monitoring review shall be assessed during the AMR review. The SA shall assess other criteria as necessary.
- III. The SA will send the LA a Notification Letter for the completed AMR within 14 business days.
- A. The LA is placed on their original routine review cycle if they are in compliance with reviewed criteria.
 - B. If the SA determines the LA is still out of compliance:
 1. The SA will notify the LA that they will be placed on a 3-month Probationary Status.
 2. The SA will work with the LA to mitigate areas of noncompliance.
 3. If the SA determines that the LA has not come into satisfactory compliance, the LA shall be notified within 30 business days of the SA's decision of next steps. Steps may include, but are not limited to:
 - a) Additional SA monitoring
 - b) Contract termination

TR - Training

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Effective June 1, 2002

Policy No. TR:01.0

In-Service Orientation to New Local Agencies

Purpose

To effectively provide the local agencies (LAs) with the most current information on the operation of WIC at the local level as required by federal and state regulations and/or guidelines.

Authority

State Policy

Policy

Prior to the start-up of any new LA, the LA staff shall attend an orientation by state agency (SA) personnel. The orientation shall cover topics on clinic operations, financial management, nutrition education, food delivery requirements, and automation.

Definitions

New LA is defined as an agency with a new contract and/or a new LA number.

Procedures

- I. No less than one week prior to the start-up date of any LA, LA staff shall attend a WIC orientation conducted by a core group of SA staff representing the certification process, clinical services, nutrition education, financial management, food delivery, and automation.
- II. New LA staff that shall attend an orientation include the following:
 - A. a new LA with staff that has never provided WIC services; and

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Effective June 1, 2002

Policy No. TR:01.0

- B. a new LA with staff with some WIC experience that requests an orientation.

- III. A new LA that has staff with some WIC experience but doesn't request an orientation shall be offered one and encouraged to attend the New Staff Certification Training, as deemed appropriate.

- IV. The orientation shall be scheduled jointly by the SA and the LA.

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Effective June 1, 2002

Policy No. TR:02.0

Orientation/Training of Local Agency Directors

Purpose

To provide a comprehensive working knowledge of WIC rules, regulations, and guidelines to local agency (LA) Directors.

Authority

State Policy

Policy

All new LA directors shall attend a comprehensive WIC orientation and training provided by the state agency (SA).

Procedures

New LA directors shall attend the SA WIC Directors Orientation within six months of employment.

Guidelines

New WIC directors may choose to visit a LA recommended by the SA to assist in their training.

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Effective June 1, 2022

Policy No. TR:03.0

Required Local Agency Training

Purpose

To ensure timely systematic training occurs for all WIC staff that addresses WIC program updates, performance issues, continuing education and knowledge-based topics related to nutrition, public health and WIC.

Authority

State Policy

Policy

The LA shall designate a training coordinator and all LAs shall provide and document specific trainings for appropriate staff within required timeframes.

Procedures

- I. The LA must submit the training coordinator's name and contact information to the state agency (SA) annually on the NEBF Plan. No further notification is necessary unless the coordinator changes.
- II. The training coordinator shall ensure that:
 - A. appropriate and timely staff training is conducted for LA staff.
 - B. all new staff involved in program operations have abilities and skills required to competently perform their assigned duties.
 - C. performance issues identified during Quality Assurance (QA) observations and/or record reviews are addressed.

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Effective June 1, 2022

Policy No. TR:03.0

- III. Required trainings must be completed within specific timeframes, as listed in the [Training Requirement charts](#).
- A. WIC staff must complete all required trainings in the following sections listed in the Training Requirement chart and train on the procedures prior to performing duties independently:
 - 1. Core Skills
 - 2. Clinic Services
 - 3. Nutrition Knowledge, Education and Counseling
 - 4. Infant Feeding
 - B. Required trainings must be taken by all local agency staff, who have direct contact with clients. This includes parent agency staff and volunteers who have direct client contact and are assisting the local agency. Refer to the Training Requirement Charts for the role they are performing. The LA director may choose to require trainings for other staff that do not have direct client contact.
 - C. For monitoring purposes, an agency will be considered out of compliance if an annual training is completed more than 15 months after the previous date.
 - D. CA, WCS, clerical staff, Peer Counselors, and Peer Dads must receive training monthly.
 - E. Upon completion of the Basic Nutrition module the remaining modules may be completed in any order within the required timeframes as listed in the Training Requirement chart.
 - F. Self-paced training and hands-on skills training may be completed simultaneously or at the discretion of the LA Director, but not in place of required training.
 - G. LAs may use trainings developed by their parent agency or other entities for the ongoing Hospitality, Human Trafficking and Intimate Partner Violence trainings to fulfill requirements. New employees

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Effective June 1, 2022

Policy No. TR:03.0

should take the state agency version of these courses in the first year of employment.

- IV. Staff training and education must be documented and maintained for review during Quality Assurance monitoring visits.
- A. The documentation format including but not limited to spreadsheets or scanned sign-in documents may be determined by the LA director. The LA should be prepared to submit documentation electronically for monitoring review. Training documentation must include:
 - 1. name of employee
 - 2. position
 - 3. training topic
 - 4. date training was completed
 - B. WIC employees who switch agencies can transfer training records for any required trainings to the new agency and must include the requirements listed in IV.a.

WV - WIC Vendor Operations

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective August 16, 2024

Policy No. WV:01.0

WIC Vendor Agreement/Policy Violations

Purpose

To describe State Agency (SA) procedures for monitoring compliance of vendors with the WIC Vendor Agreement and WIC program policies. To inform WIC vendors of violations and the sanctions that will be imposed by the SA for noncompliance.

Authority

7 CFR Section 246.12

Policy

Vendors who fail to comply, either intentionally or unintentionally, with the Vendor Agreement and/or policies of the WIC Program will be sanctioned, which may include a Civil Money Penalty (CMP) or an Administrative Fine (AF). If a vendor's sanction results in a disqualification, the SA will terminate the Vendor Agreement. The SA and/or representatives of the SA will document the circumstances of a vendor's noncompliance. Sanctions will be imposed consistently among vendors. The vendor will have to reapply to be authorized after the disqualification period is over. In all cases, the vendor's new application will be subject to the SA's vendor selection criteria and any vendor limiting criteria in effect at the time of authorization.

Procedures

- I. The SA and/or SA representatives routinely monitor the operations of authorized WIC vendors during the term of the WIC Vendor Agreement. The SA has the authority to determine the method of monitoring techniques for each vendor.
 - A. Monitoring techniques include but are not limited to:
 1. Routine on-site store reviews by the SA and/or SA representative.

2. Routine virtual store reviews by the SA and/or SA representative.
 3. Covert in-store compliance buys by the SA and/or SA representative.
 4. Invoice and WIC EBT claim audits by the SA and/or SA representative.
 5. Periodic reviews of vendor redemption reports.
 6. On-site inspections by a city, county, district or health authority.
- B. Criteria used by the SA and/or SA representative to initiate an invoice audit and/or compliance buy include but are not limited to:
1. Price differences identified as a result of an on-site store review or compliance buy.
 2. Apparent discrepancy in vendor's in-store stock compared to the volume of WIC redemptions.
 3. Indicators that the vendor is "high risk".
- C. "High risk" vendors
High risk vendors are those that the SA has determined pose the highest risk of non-compliance with the regulations, WIC Vendor Agreement, and/or policies.
- D. The SA and/or SA Representative may assess any authorized vendor outlet at any time during the Vendor Agreement period using the selection criteria in effect at the time of the reassessment (See WV:10.0). In addition to assessing selection criteria (to include competitive pricing selection criteria), the assessment may also include compliance with selling declared traditionally LEBs.
- II. Monitoring by routine on-site store reviews may be conducted by the SA and/or SA representative.
- A. During the on-site store review, the SA and/or SA representative will identify him/herself to store personnel and proceed to complete the on-site review. The on-site store review may include, but is not limited to, the following procedures:
1. Collect shelf prices and verify that prices are prominently displayed for authorized WIC products.
 2. Examine the adequacy of stock.
 3. Examine expiration dates on WIC food items.

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Effective August 16, 2024

Policy No. WV:01.0

4. Examine WIC signage at the store.
 5. Examine for compliance with the requirements for declared traditionally Least Expensive Brands (LEB).
 6. Examine adherence to restriction on vendor incentive items in accordance with WIC Policy WV:09.0.
 7. Test for other requirements as stated in policy and the WIC Vendor Agreement.
- B. The SA and/or SA representative will compare the prices obtained during the review to at least one recently submitted claim. All identified overcharges from the prices obtained during the review will be recovered and a written warning on more serious sanctions, if appropriate, will be transmitted to the vendor.
- C. The vendor will be notified of the results within 60 days of the date of the on-site review.
- III. Monitoring by virtual routine store reviews may be conducted by the SA and/or SA representative.
- A. During the virtual store review, the SA and/or SA representative will identify him/herself to store personnel and proceed to complete the virtual review. The virtual store review may include, but is not limited to, the following procedures:
1. Collect shelf prices and verify that prices are prominently displayed for authorized WIC products.
 2. Examine the adequacy of stock.
 3. Examine expiration dates on WIC food items.
 4. Examine WIC signage at the store.
 5. Examine for compliance with the requirements for declared traditionally Least Expensive Brands (LEB).
 6. Examine adherence to restriction on vendor incentive items in accordance with WIC Policy WV:09.0.
 7. Test for other requirements as stated in policy and the WIC Vendor Agreement.

- B. The SA and/or SA representative will compare the prices obtained during the review to at least one recently submitted claim. All identified overcharges from the prices obtained during the review will be recovered and a written warning on more serious sanctions, if appropriate, will be transmitted to the vendor.
 - C. The vendor will be notified of the results within 60 days of the date of the virtual review.
- IV. Monitoring by On-Site Inspections by a city, county, district, or health authority
- A. The vendor may receive an on-site inspection by a public health authority for compliance with the Health and Safety Code. Violations may result in disqualification from the WIC Program in addition to any other penalties as a result of noncompliance with the Health and Safety Code.
- V. Monitoring by Inventory Audit
- A. The SA and/or SA Representative may request up to 12 months of purchase invoices or retail cash tickets from a vendor for analysis to determine that all claims submitted by the vendor are supported by invoices.
 - 1. The vendor will be given 60 days from receipt of a written request to submit purchase invoices to the SA and/or SA representative, as time is of the essence.
 - 2. The 60-day period to submit purchase invoices is considered an opportunity to justify or correct a vendor overcharge or other error, as permitted by 7 CFR Section 246.12(k)(3).
 - 3. The vendor's failure to supply purchase invoices to the SA within the 60-day period will result in disqualification from participation in the WIC Program. The disqualification date for failure to submit purchase invoices within the 60-day period will be included in the written notification.
 - 4. Additional purchase invoices/records will not be accepted by the SA and/or the SA representative after the expiration of the 60-day period unless directed to do so by the WIC Program Director.
 - B. Required components of an acceptable purchase invoice:

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Effective August 16, 2024

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1. The purchase invoice will reflect the name and address of the wholesaler, food manufacturer, or retail food store, a customer number and/or the name and address of the vendor (or any other identifier that specifically identifies the vendor to whom the items were sold), date of the purchase, list of the items purchased (that adequately describes the purchased items, such as a stock number or UPC), size, quantity, unit price, and dollar extension for the quantity purchased.
 2. Retail cash tickets will include the name and address of the store or a code number by which the store location can be identified, the date of purchase, description of the exact items purchased, the unit price of the items purchased and the total amount purchased.
 - a. Cash tickets, which do not completely describe the actual item, must have a computer code, which can be verified by contacting the store at which the merchandise was purchased.
 - b. Cash tickets which do not specifically identify the product purchased may be verified by the SA and/or SA representative through communication with the vendor's corporate office.
 3. Affidavits, Statements of Fact, and oral statements will not be accepted from a vendor under audit as evidence of inventory. Only purchase invoices or retail cash tickets as described in items B.1 and B.2 of this Section will be accepted from a vendor under audit as evidence of inventory.
- C. Inventory Audit Sanctions
1. Vendors must provide adequate documentation to support purchasing the inventory necessary to verify WIC claims for any specified period. If documentation is lacking, the SA will recover all monies unsubstantiated by vendor records for the period in question, and the vendor will be disqualified for three years.

2. A vendor's documentation will be deemed inadequate or incomplete if the discrepancy between substantiated inventory and submitted claims is material. Materiality is determined using a percentage of said claims where variance could be attributed to relevant and substantial discrepancies in delivery documentation. It is the expectation of the SA that vendors closely manage their delivery and sign off process to ensure inventory can substantiate WIC sales. Materiality is considered by each WIC food item and not the aggregate of all items.
3. The vendor will receive a written warning when there is an immaterial difference between documented inventory and WIC claims.
 - a. The written warning will notify the vendor of a subsequent invoice audit, within three years of the dated written notification, and identify any additional unsubstantiated WIC sales paid to the vendor.
 - b. Subsequently identified unsubstantiated WIC sales will constitute a pattern of claiming reimbursement for the sale of a food item that exceeds the vendor's documented inventory, and the vendor will be disqualified for three years.
4. If the discrepancy between a vendor's substantiated inventory and submitted claims is deemed material, then a pattern is established for claiming reimbursement for the sale of a food item that exceeds the vendor's documented inventory. On this basis, the vendor will be disqualified for three years. Prior to disqualification, the vendor will be notified in writing and given 20 days from receipt of the written notification to submit additional purchase invoices for the period in question. The 20-day period to submit additional purchase invoices is considered an opportunity to justify or correct a vendor overcharge or other error, as permitted by 7 CFR Section 246.12(k)(3). Notification will include the effective date of the three-year disqualification should the additional purchase invoices fail to substantiate the inventory.
 - a. If the SA determines that disqualification of the vendor would result in inadequate participant access, the SA will impose a Civil Money Penalty (CMP) in lieu of disqualification.
 - b. Under 7 CFR 246.18(a)(1)(iii)(C), the SA's participant access determination is not subject to administrative review.

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5. In accordance with Federal Regulations 7 CFR Section 246.12(h)(3)(xvi) and the WIC Vendor Agreement, it is the vendor's responsibility to maintain for a minimum of four federal fiscal years all inventory records used for Federal and State tax reporting purposes and other records the SA may require.
6. The vendor claim determination by the SA and/or SA representative regarding the amount of the unsubstantiated WIC sales is not subject to administrative review.

VI. Monitoring by Compliance Buys

- A. Definition of a compliance buy: A covert in-store investigation by one or more SA and/or SA Representatives posing as WIC participants or the parent/guardian/proxy of WIC participants using WIC EBT food instruments or cash-value benefits (CVB) to test the vendor's compliance with the Vendor Agreement, program policies, and/or rules. The SA and/or SA Representative does not reveal to store personnel that he/she is a SA and/or SA representative during the visit.
 1. If no sanctionable violations are detected on the first monitoring activity, a second compliance monitoring activity is conducted. There is no minimum time interval requirement between the first non-violative compliance monitoring activity and the second compliance monitoring activity. If no sanctionable violations are detected on the second compliance monitoring activity, the vendor is notified in writing and the investigation is closed.
 2. If one or more sanctionable violations are detected during a compliance buy, a notice of an in-store violation will be sent to the vendor in writing within 15 business days, with the exception of notice of violations pertaining to trafficking in WIC EBT food instruments or CVBs, selling/buying firearms, ammunition, explosives, controlled substances, alcohol, alcoholic beverages or tobacco products.

3. After receiving a written warning of noncompliance and when a violation requires a pattern, follow-up will be conducted until two monitoring activities are found with no sanctionable violations. Both the initial and follow-up compliance monitoring activities will be considered in determining whether sanctions are applicable. The initial and follow-up compliance monitoring activities and subsequent follow-up period constitute a single investigation.
 4. If a pattern or a sanctionable offense has not been established, the investigation will be closed.
- B. Definition of an incident of noncompliance: A compliance buy and/or on-site review in which evidence of a sanctionable violation of the Vendor Agreement, program policies, and/or rules was found. Sanctionable violations identified during compliance monitoring activities, will be aggregated to constitute a pattern.
- C. A compliance buy may test for, but not be limited to, areas of potential noncompliance as follows:
1. A SA and/or SA representative may attempt to transact WIC EBT food instruments or CVBs for unauthorized package/product sizes, unauthorized food items, unauthorized brands of food items, non-food items, excess quantity of foods, credit (including rain checks which are not allowable), and/or cash.
 2. A SA and/or SA representative may also test for overcharging, being charged for foods not received, and/or compliance with the vendor's declared traditionally LEB of products and the related requirement that prices for WIC approved foods be prominently displayed either on the food item, on the shelf where the food item is displayed, or otherwise displayed where WIC participants can easily see them.
 3. A SA and/or SA representative may test the WIC EBT point-of-sale (POS) system's ability to accurately sell authorized fruits and vegetables in a WIC EBT transaction.
 4. The SA and/or SA Representative may attempt a split tender transaction of fruits and/or vegetables.
 5. A SA and/or SA representative may also test for other violations of policies and the Vendor Agreement.

VII. Violations and Sanction Schedules

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- A. For a vendor convicted of trafficking in WIC EBT food instruments, CVBs, or convicted of selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for WIC EBT food instruments or CVBs, a Federal violation:
 - 1. No warnings will be issued.
 - 2. A vendor is not entitled to receive any compensation for revenues lost as a result of disqualification.
 - 3. The vendor will be permanently disqualified.
 - 4. The SA may impose a civil money penalty (CMP) in lieu of disqualification for this violation when it determines, in its sole discretion, and documents that:
 - a. Disqualification of the vendor would result in inadequate participant access; or
 - b. The vendor had, at the time of the violation, an effective policy and program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.
 - 5. In that case, for violations resulting in a disqualification, the CMP will be calculated as follows:
 - a. Determine the vendor's average monthly redemptions for the most current six-month period available and multiply by 0.10 (10%) and multiply the resulting amount by the number of months the vendor would have been disqualified.
 - b. The maximum CMP for all other violations including trafficking conviction is \$18,760 per violation. The maximum CMP for all violations identified in a single investigation is \$75,042.

 - B. The SA will disqualify a vendor for six years for:
 - 1. One incidence of buying or selling WIC EBT food instruments, or CVBs, for cash (trafficking), a Federal violation; or

2. One incidence of selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)), in exchange for WIC EBT food instruments or CVBs, a Federal violation.
 3. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy.
 4. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy and will be doubled up to the Federal maximums as set forth in VI.A.5.
 5. If the vendor receives a third sanction for any federal violation, the disqualification period will be doubled with no possibility of a CMP.
- C. For enabling trafficking, which means a vendor and/or vendor representative aiding in the sale or exchange or offering to sell or exchange any WIC EBT food instrument for CVBs, supplemental foods or infant formula issued to the participant. Offering to sell or exchange includes any offer that is made verbally, in print, or online through a website or social media outlet. A vendor representative includes its owners, officers, managers, agents and employees:
1. One incident of enabling trafficking will result in a single written warning to the vendor.
 2. A second incident of enabling trafficking within two years of the first enabling violation will result in a one-year disqualification. The SA will not accept a CMP in lieu of disqualification unless:
 - a. It determines disqualification would result in inadequate participant access; or
 - b. The SA determines that: (A) the vendor had an effective policy and program in effect to prevent trafficking; and (B) the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.
 - c. If applicable, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.

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- D. For redemption of WIC EBT food instruments or CVBs for alcohol or alcoholic beverages or tobacco products, a Federal violation:
 - 1. The unauthorized item(s) will not be paid.
 - 2. A warning will not be issued.
 - 3. One incident will result in the disqualification of the vendor for three years.
 - 4. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy.
 - 5. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period.
 - 6. If the SA determines continued inadequate participant access, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 - 7. If the vendor receives a third or subsequent sanction for any federal violation, the SA will double the disqualification period with no possibility of a CMP.

- E. For redemption of WIC EBT food instruments or CVBs that indicate charging the SA more than the customary selling price charged other customers, a Federal violation. If there is a difference between the posted shelf price for an item and the price scanned by the store's integrated cash register system, then the scanned price will be deemed the "customary selling price." If a store operates a WIC EBT stand-beside POS system, the store's integrated legacy cash register system scanned price will be deemed the "customary selling price." If a store does not have an integrated cash register system, the posted shelf price for an item is the "customary selling price."
 - 1. The overcharges will be recouped.
 - 2. The vendor will receive a written warning for the first incident of noncompliance.
 - 3. The second incident of noncompliance constitutes a pattern.
 - 4. A pattern of violations will result in disqualification for three years.

5. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy.
 6. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 7. If the vendor receives a third or subsequent sanction for any federal violation, the disqualification period will be doubled with no possibility of a CMP.
- F. For transactions which indicate charging for foods not received by the WIC participant, a Federal violation:
1. The charge for a food item not received will be recouped.
 2. The vendor will receive a written warning for the first incident of noncompliance prior to the SA's and/or SA's representative's identification of any additional incidents.
 3. Three or more incidents of noncompliance will constitute a pattern, except as described in F.4 below.
 4. When one or more of the incidents involves charging for foods scanned at the register then not credited back to account when returned, four or more incidents will constitute a pattern.
 5. A pattern of violations will result in disqualification for three years.
 6. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
 7. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. If the SA determines continued inadequate participant access, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
 8. If the vendor receives a third or subsequent sanction for any federal violation, the disqualification period will be doubled with no possibility of a CMP.
- G. For acceptance of the WIC EBT food instruments or CVB at an unauthorized vendor outlet or by an unauthorized person and submitting the transaction to the SA for payment through an alternate authorized vendor outlet, a Federal violation:

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1. The transaction will be recouped.
 2. One incident will result in a single written warning to the vendor.
 3. Two or more incidents of noncompliance will constitute a pattern.
 4. A pattern of violations will result in disqualification for three years.
 5. The unauthorized vendor outlet will not be eligible to apply for WIC authorization for:
 - a. three years from the date of the unauthorized vendor outlet's receipt of SA notification; or
 - b. if the unauthorized vendor outlet is currently disqualified from the Program for a period in excess of three years, the longer period will apply.
 6. The SA will not accept a CMP from the authorized vendor outlet in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
 7. If the authorized vendor outlet receives a second sanction for any federal violation, the SA will double the disqualification period. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 8. If the vendor receives a third or subsequent sanction for any federal violation, the disqualification period will be doubled with no possibility of a CMP.
- H. For redemption of WIC EBT food instruments or CVBs for credit, issuance of rain checks, and/or providing non-food items other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, and/or controlled substances as defined in 21 U.S.C. 802, a Federal violation:
1. The unauthorized item(s) will not be paid.
 2. The vendor will receive a written warning for the first incident of noncompliance.
 3. Two or more incidents of noncompliance will constitute a pattern.

4. A pattern of violations will result in disqualification for three years.
 5. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
 6. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 7. If the vendor receives a third or subsequent sanction for any federal violation, the disqualification will be doubled with no possibility of a CMP.
- I. For violating WIC Policy WV:09.0, restriction on vendor incentive items, in any way, a Federal violation:
 1. One incident will result in a written warning.
 2. A second incident will result in disqualification of the vendor for one year.
 3. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
 4. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. If the SA determines continued inadequate participant access, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 5. If the vendor receives a third or subsequent sanction for any federal violation, the disqualification period will be doubled with no possibility of a CMP.
 - J. For acceptance of WIC EBT food instruments or CVBs at an authorized vendor outlet or by an unauthorized person and submitting the transactions to the SA for payment through an alternate authorized vendor outlet, a Federal violation:
 1. The transaction will be recouped.
 2. One incident will result in a written warning to both vendors.
 3. If either vendor participates in a second incident, the vendor outlet(s) will be disqualified for three years.

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4. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A up to the Federal maximum allowed.
 5. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 6. If the vendor receives a third or subsequent sanction for any federal violation, the disqualification period will be doubled with no possibility of a CMP.
- K. For redemption of WIC EBT food instruments or CVBs for infant formula not authorized on the WIC EBT card, a Federal violation:
1. The item(s) paid amount(s) will be recouped.
 2. The vendor will receive a written warning for the first incident of noncompliance.
 3. Two incidents of noncompliance will constitute a pattern.
 4. A pattern of violations will result in disqualification for one year.
 5. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
- L. For redemption of WIC EBT food instruments or CVBs for unauthorized food items or package sizes of food other than formula and/or charging for quantities of foods provided in excess of those authorized on the WIC EBT card, a Federal violation:
1. The unauthorized item(s) will not be paid.
 2. The vendor will receive a written warning for the first incident of noncompliance.
 3. Two incidents of noncompliance will constitute a pattern.
 4. A pattern of violations will result in disqualification for one year.

5. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
 6. If the vendor receives a second sanction for any federal violation, the SA will double the disqualification period. The SA will not accept a CMP in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed and doubled.
 7. If the vendor receives a third or subsequent mandatory sanction for any federal violation, the disqualification will be doubled with no possibility of a CMP.
- M. For store personnel entering the WIC participant's PIN and/or accepting the WIC EBT purchase transaction in lieu of the WIC participant:
1. The vendor will receive a written warning for the first and second incidents of noncompliance.
 2. Three or more incidents of noncompliance will constitute a pattern.
 3. A pattern of violations will result in disqualification for one year.
 4. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
- N. For using WIC allowable food scan codes from WIC food items, UPC codebooks, and/or UPC barcode/PLU reference sheets to provide an authorized WIC food item with a different UPC/PLU:
1. The price difference between the amount charged to the SA and the WIC authorized item provided will be recouped.
 2. The vendor will receive a written warning for the first and second incidents of noncompliance.
 3. Three or more incidents of noncompliance will constitute a pattern.
 4. A pattern of violations will result in disqualification for one year.
 5. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
- O. For failing to prominently display the shelf prices of all WIC authorized foods within the store's commercial area and/or in the drive-thru service area:

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1. The vendor will receive a written warning for the first and second incidents of noncompliance.
 2. Three or more incidents of noncompliance will constitute a pattern.
 3. A pattern of violations will result in an AF. The AF will be calculated as follows:
 - a. The amount of 1% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$1,000.
- P. For redemption of WIC EBT food instruments or CVBs for brands that are not the vendor's declared least expensive brand when the declared products are in stock:
1. The price difference between the non-declared item sold and the declared item in stock will be recouped.
 2. The vendor will receive a written warning for the first and second incidents of noncompliance.
 3. Three or more incidents of noncompliance will constitute a pattern.
 4. A pattern of violations will result in an AF. The AF will be calculated as follows:
 - a. The amount of 1% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$1,000.
- Q. For refusing to sell an authorized item in an authorized size when the price falls within the "not to exceed price".
1. The vendor will receive a written warning for the first and second incidents of noncompliance.
 2. Three or more incidents of noncompliance will constitute a pattern.
 3. A pattern of violations will result in an AF. The AF will be calculated as follows:
 - a. The amount of 1% of the paid amount (net purchase discounts) during the process month, excluding CVBs,

exempt infant formulas, and WIC-eligible nutritionals not to exceed \$1,000.

- R. For failing to offer WIC customers the same courtesies and discounts offered to other customers such as manufacturers' coupons, buy one get one free, buy one get one at a reduced price, free ounces added by manufacturer, store loyalty programs, volume discounts, incentive items:
1. The vendor will receive a written warning for the first and second incidents of noncompliance.
 2. Three or more incidents of noncompliance will constitute a pattern.
 3. A pattern of violations will result in disqualification for one month.
 4. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.

Manufacturers' Coupons – The price of WIC approved food items bought with a coupon must be reduced by the same amount for the WIC participant as it would for any other customer. The savings from the coupon would reduce the amount being charged to the WIC Program. If a coupon offers free additional non-WIC items with the purchase of a specific WIC food, the participant may take advantage of this promotion at no additional cost to the Program. The coupon amount will be applied to the transaction total.

Buy One Get One Free – In these promotions, the vendor sells one WIC approved food item and provides a second identical item or a different WIC approved item at no extra cost. If the participant has one or more units of the advertised item on the WIC EBT card, only the value of the purchased item will be deducted from the card and the participant will receive the second item free. Therefore, if the second item is a WIC approved item, the value and item will not be deducted from the card. The participant will then be able to purchase any remaining units of the item from their benefit balance. If the second or free item is not a WIC approved item, there is no impact on the WIC Program and the participant is allowed to participate and benefit from these types of promotions.

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Buy One Get One at a Reduced Price – In these instances, a retail vendor will sell one WIC approved food item at full price and sell a second identical item or a different WIC approved item at a reduced price. If the participant has one unit of the item on the WIC EBT card, the WIC participant will pay for that item by having the unit or benefit deducted from the card and must use cash or some other means of payment to purchase the second item. If the participant has two of the items in the WIC EBT benefit balance, the balance of both items will be deducted from the balance at the time of purchase. WIC will be charged the full price for the first item and the reduced price for the second item. If the WIC participant wishes to preserve his/her WIC benefits and purchase the reduced priced items with cash or some other tender, the vendor must allow the customer that option.

Free Ounces Added to Item by Manufacturer – Manufacturers may add extra ounces to their products at no extra cost to the customer. Participants may use their WIC EBT food instrument to purchase WIC approved food items that have bonus ounces added to the package. Any additional ounces included in the package will not be deducted from the remaining WIC EBT benefit balance.

Store/Loyalty Shopping Cards – WIC participants should be provided the opportunity to use store/loyalty-shopping cards if they so choose. The portion of the loyalty card discount applicable to the WIC-redeemed items should reduce the cost of the transaction to the WIC Program.

Volume Discounts – When a discount percentage is applied to the total dollar amount of the WIC and non-WIC items purchased, the pro-rata shares of the discount applicable to the WIC purchases should reduce the cost of the transaction to the WIC Program.

- S. For seeking restitution from participants for invalidated transactions:
1. The vendor will receive a written warning for the first and second incidents of noncompliance.
 2. Three or more incidents of noncompliance will constitute a pattern.
 3. A pattern of violations will result in disqualification for one month.
 4. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
- T. For improperly labeling WIC foods as follows:
All declared least expensive brand (LEB) food items must be labeled with a pink WIC label.
1. The following are categories of labeling violations:
 - a. Failing to label three or more declared LEB items with SA-provided pink labels or store stickers/signage authorized by the SA.
 - b. Labeling a product with a pink WIC label when it has not been declared as an LEB.
 - c. Labeling only one or some WIC approved foods with a pink WIC label while failing to place a pink WIC label on other WIC approved foods within the same category, such as labeling one brand of cereal, but not other WIC approved brands of cereal.
 - d. Labeling a food as WIC approved with any WIC label when it is not WIC authorized.
 2. The following sanctions apply to labeling violations:
 - a. For labeling violations (a-d), a pattern of noncompliance is established upon the occurrence of three or more instances of the same category of labeling violations.
 - b. The vendor will receive a written warning for the first and second incidents of noncompliance. The warning letter will specify a consecutive six-month assessment period during which subsequent assessments will be conducted.
 - c. If the vendor outlet fails to comply with labeling requirements in a subsequent assessment (third violation) within the six-month period specified in the second noncompliance letter, it will result in an AF. The AF will be assessed in the amount of 1% of the paid amount (net purchase discounts) during the process

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- month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$1,000.
- d. If the vendor outlet fails to comply with the labeling requirements in a subsequent assessment (fourth violation) within the six-month period specified in the third noncompliance letter, it will result in an AF. The AF will be assessed in the amount of 2% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$2,000.
 - e. If the vendor outlet fails to comply with the labeling requirements in a subsequent assessment (fifth violation) within the six-month period specified in the fourth noncompliance letter, it will result in an AF. The AF will be assessed in the amount of 3% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$3,000.
 - f. If the vendor outlet fails to comply with any labeling requirements in a subsequent assessment, the vendor outlet will be subjected to the requirements stated in item e of this section. A new six-month period will be given for each additional violation.
- U. For failing to allow the participant to pay the remaining balance for fruits and vegetables when the purchase is more than the value of the WIC benefit (Note: The vendor outlet's POS system was certified WIC EBT capable upon authorization):
- 1. The vendor will receive a written warning for the first incident of noncompliance.
 - 2. The second incident of noncompliance will constitute a pattern.
 - 3. A pattern of violations will result in disqualification for one year.
 - 4. The SA will accept a CMP in lieu of a disqualification. The CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.

- VIII. The SA and/or SA Representative may review or assess a vendor's compliance with the requirements of the WIC Vendor Agreement at any time during the Vendor Agreement's effective period.
- A. Breach of WIC Vendor Agreement will be governed by State of Texas law and specific terms and conditions of the Vendor Agreement.
 - B. The SA may impose specific penalties as described in Section VII.C below for violation of any of the following vendor responsibilities required in the WIC Vendor Agreement applicable to the WIC EBT System:
 - 1. Failing to maintain a SA certified in-store WIC EBT system that ensures system availability during all hours the store is open.
 - 2. Failing of a store's WIC EBT system to maintain the system's accuracy, integrity, or performance required and under which requirements the WIC in-store system was certified regardless of whether the failure is caused by system malfunction or staff intervention.
 - 3. Failing to ensure the WIC EBT redemption process allows a reasonable degree of security for protecting PIN numbers used by WIC recipients.
 - 4. Failing to release food benefits to the WIC participant any time the WIC EBT card is decremented.
 - 5. Failing to seek recertification when the vendor's system is altered or revised.
 - C. For failing to meet any of the WIC EBT requirements listed in Section VII.B above:
 - 1. The SA will issue a written warning for the first violation.
 - 2. A second violation within a 12-month period for the same activity will result in a one-month disqualification. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A. of this policy and will not exceed \$1,000.
 - 3. A third violation within a 12-month period in the same activity will result in a one-month disqualification. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A of this policy and will not exceed \$2,000.
 - 4. Subsequent violations in the same activity, or a total of five cumulative violations regardless of activity, within a 12-month

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period will result in an additional one-month disqualification. The SA will accept a CMP in lieu of disqualification. The CMP will be calculated in accordance with Section XI.A of this policy and will not exceed \$3,000.

IX. Remaining Competitively Priced

- A. Upon authorization, the vendor outlet must not increase its food pricing to a level that exceeds the pricing by food category/subcategory for its approved cost competitiveness classification (TWIC or PWIC) and peer group (refer to WV: 10.0 Section VII for cost containment and competitive pricing). A vendor's failure to remain cost competitive (7 CFR 246.12(h)(3)(viii)) is cause for sanctions including termination of the Vendor Agreement.
- B. SA may perform reviews of a vendor outlet's compliance with competitive pricing at any time during the term of the Vendor Agreement. The SA will provide written notification of noncompliance to any WIC vendor.
 - 1. Total payments by the SA to a TWIC vendor outlet for a process month's claims for all food category/subcategories, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals, that collectively exceed 110% of the authorized amount by peer group during the same process month constitutes non-competitive pricing. Purchase level discounts are included in the calculation.
 - 2. Total cost containment recoupment for a process month that exceeds 8% of the total dollar amount paid to a PWIC vendor outlet for all category/subcategories, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals, for the same process month constitutes non-competitive pricing. Purchase level discounts are included in the calculation.
- C. For failing to remain competitively priced:

1. The vendor will receive a written warning for the first incident of noncompliance. The warning letter will specify a consecutive six-month assessment period during which subsequent assessments will be conducted.
 2. If the vendor outlet fails to comply with competitive pricing in a subsequent assessment (second violation) within the six-month period specified in the first warning letter it will constitute a pattern. The SA will provide a second letter of noncompliance with a new assessment period of six months. An AF will be assessed in the amount of 1% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals.
 3. If the vendor outlet fails to comply with competitive pricing in a subsequent assessment (third violation) within the six-month period specified in the second noncompliance letter, the SA will provide a third letter of noncompliance with a new assessment period of six months. An AF will be assessed in the amount of 2% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals.
 4. If the vendor outlet fails to comply with the competitive pricing requirement on a subsequent assessment (fourth violation) within the six-month period specified in the third noncompliance letter, the vendor outlet is disqualified for six months. The SA will not accept a civil money penalty (CMP) in lieu of disqualification.
 5. Six (6) continuous process months of compliance with the competitive pricing requirement constitutes overall compliance and restarts the sanction cycle.
- D. For not redeeming at least 85% of its declared traditionally least expensive brands (LEB) in the respective food categories as defined by WIC Policy WV: 02.0, the vendor will be sanctioned according to the following:
1. The vendor will receive a written warning for the first and second incidents of noncompliance. Each warning letter will specify a consecutive six-month assessment period during which subsequent assessments will be conducted.
 2. If the vendor outlet fails to comply with LEB requirements on a subsequent assessment (third violation) within the six-month period specified in the second noncompliance letter, it

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- will constitute a pattern. An administrative fine will be assessed in the amount of 1% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$1,000.
3. If the vendor outlet fails to comply with LEB requirements on a subsequent assessment (fourth violation) within the six-month period specified in the third noncompliance letter, an administrative fine will be assessed in the amount of 2% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible not to exceed \$2,000.
 4. If the vendor outlet fails to comply with LEB requirements on a subsequent assessment (fifth violation) within the six-month period as stated in the fourth noncompliance letter an administrative fine will be assessed in the amount of 3% of the paid amount (net purchase discounts) during the process month, excluding CVBs, exempt infant formulas, and WIC-eligible nutritionals not to exceed \$3,000.
 5. If the vendor outlet fails to comply with LEB requirements in subsequent assessments, the vendor outlet will be subjected to the requirements stated in item 4 of this section. A new six-month period will be given for each additional violation.
 6. A vendor who is actively working with the Program's WIC EBT Operations branch on changes to its POS system to automatically enforce LEB requirements may be exempt from sanctions. To qualify for this exemption to LEB enforcement sanctions, the vendor must contact the SA in advance of the start of system modifications and submit a timeline for justification. It is at the SA's discretion to modify or terminate the timeline once approved (See WIC Policy WV:02.0).

X. Vendor Agreement Termination

- A. A vendor's termination of the Vendor Agreement after having received notification by the SA and/or SA representative of a violation will not deprive the SA of jurisdiction to impose sanctions for Program violations as set forth in this policy (WV:01.0). If the outlet/vendor fails to request a hearing according to WIC Policy WV:13.0, the SA will impose the sanction proposed in the notice to the vendor.
 - B. Disqualification for violations identified during one Vendor Agreement period may be imposed in any subsequent Vendor Agreement period, if the vendor has been notified in writing at least 20 days prior to the disqualification period.
 - C. The Vendor Agreement will be terminated if the authorized vendor elected to carry infant formula and purchased the infant formula from a wholesale distributor that is not approved by the SA in the Approved Distributors List in accordance with policy WV:10.0. Approved distributors must be licensed in Texas in accordance with the Texas Health and Safety Code Chapter 431 and Texas Administrative Code Chapter 229, and registered with the U.S. Food and Drug Administration, and hold a permit in accordance with the Texas Health and Safety Code Chapter 437.
- XI. The vendor will be provided a written notice of administrative action containing the results of any on-site store review, virtual store review, invoice audit, and/or compliance buy and any resultant WIC Program violations, sanctions, and claims.
- XII. Civil Money Penalty (CMP)
The outlet/vendor may choose either to accept the disqualification or to pay the CMP. Following a hearing, the hearing examiner on behalf of the SA, may uphold a disqualification or allow a CMP ranging from the minimum of the pre-hearing amount as calculated, but may also include all the administrative costs of the SA associated with preparing and conducting the hearing. If the vendor does not request a hearing, the request to pay a CMP must be made within 15 days of receipt of the SA's written notification of disqualification. The CMP payment must be submitted to the SA prior to the disqualification effective date.
- A. For violations resulting in a disqualification, the CMP will be calculated as follows:

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1. Determine the vendor's average monthly redemptions for the most current six-month period available and multiply by 0.10 (10%) and multiply the resulting amount by the number of months the vendor would have been disqualified.
 2. The amount of the resulting CMP will not exceed \$18,760 per violation and not more than \$75,042 for all violations occurring as part of a single investigation.
- B. One or more violations of a single type during the first routine monitoring activity or initial compliance buy will be considered one violation for the purpose of establishing a pattern of violations.
- C. The validity or appropriateness of the State agency's participant access criteria and the State agency's determination regarding inadequate participant access is not subject to administrative review.
- D. If the SA determines disqualification would result in inadequate participant access, the CMP may be imposed.
- E. During the course of a single investigation, if the SA determines a vendor has committed multiple violations, the SA will, in the event of a determination of inadequate participant access, impose a CMP per violation. The total amount of the CMPs for each violation as a result of a single buy will not exceed \$18,760 and per single investigation will not exceed \$75,042.
- F. No CMP will be accepted in lieu of a third and subsequent sanction(s) for Federal violations.
- G. The SA may agree to accept CMPs paid in installments as appropriate. If the vendor does not pay, pays only partially, or fails to pay a CMP assessed in lieu of disqualification in a timely manner, the SA will disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed.

XIII. Administrative Fines (AF)

The outlet/vendor may choose to either pay the Administrative Fine or request a fair hearing. Following a hearing, the hearing examiner on behalf of the SA, may uphold an Administrative Fine ranging from the minimum of the pre-hearing amount as calculated, but may also include all the administrative costs of the SA associated with preparing and conducting the hearing. If the vendor does not request a hearing, the request to pay an Administrative Fine must be made within 15 days of receipt of the SA's written notification.

- A. For violations resulting in an Administrative Fine, the AF will be calculated as stated in the specific violation section of this policy. The amount of the resulting AF will not exceed amounts detailed in 7 CFR 3.91(b)(3).
- B. One or more violations of a single type during the first routine monitoring activity or initial compliance buy will be considered one violation for the purpose of establishing a pattern of violations.
- C. Failure to comply may subject the vendor to additional vendor monitoring, vendor training, and/or termination of their vendor agreement.
- D. The SA may agree to accept Administrative Fines paid in installments as appropriate. If the vendor does not pay, pays only partially, or fails to pay an Administrative Fine in a timely manner, the SA will disqualify the vendor for one year.

XIV. For violations requiring more than one incident to establish a pattern of noncompliance, the number of incidents identified in an initial compliance buy activity will be aggregated by type. All the incidences of a violation occurring during the first monitoring activity must constitute only one incidence of that violation for the purpose of establishing a pattern of incidences. The SA must disqualify the vendor for the period corresponding to the most serious mandatory violation. However, the SA must include all violations in the notice of administrative action. If a mandatory sanction is not upheld on appeal, then the SA may impose a SA-established sanction.

XV. Disqualification from the Supplemental Nutrition Assistance Program (SNAP) (formerly known as the Food Stamp Program) will result in an automatic disqualification of the same duration from the WIC Program. The disqualification will be for the same length of time as the SNAP

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disqualification, may begin at a later date than the SNAP disqualification, and is not subject to administrative or judicial review under the WIC Program.

- XVI. The SA will disqualify a vendor who has been assessed a CMP in SNAP based on hardship, as provided by the SNAP regulations, 7 CFR §278.6.
- A. The length of the disqualification will correspond to the period for which the vendor would otherwise have been disqualified in SNAP.
 - B. If the SA determines that inadequate participant access would result, no WIC disqualification will be imposed.
- XVII. A vendor's disqualification from the WIC Program may result in disqualification of the vendor's SNAP authorization, which is not subject to administrative or judicial review under the SNAP regulations, 7 CFR §278.6(e)(8).
- XVIII. The SA may disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another state agency's WIC program for a mandatory Federal vendor sanction. The disqualification period will be equal to the other state agency's WIC program disqualification period. The SA will accept a CMP in lieu of disqualification, if inadequate participant access is determined. In that case, the CMP will be calculated in accordance with Section XI.A of this policy up to the Federal maximum allowed.
- XIX. A vendor being disqualified will be given at least 20 days prior notice before the proposed disqualification becomes effective, unless specifically excepted in this Section:
- A. The SA will provide administrative reviews for any adverse action affecting authorization as defined in WIC Policy WV:13.0, with the following exceptions:
 - 1. The validity or appropriateness of the SA's vendor limiting or selection criteria for minimum variety and quantity of

- supplemental foods, business integrity, and current SNAP disqualification or civil money penalty for hardship;
2. The validity or appropriateness of the SA's participant access criteria and the SA's participant access determination concerning whether disqualification of a vendor would result in inadequate participant access.
 3. The validity or appropriateness of the SA's selection criteria for competitive price, including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above 50-percent vendors or comparable to above-50-percent vendors;
 4. Denial of authorization if the SA's vendor authorization is subject to the procurement procedures applicable to the SA.
 5. Expiration of the vendor agreement;
Disputes regarding WIC EBT food instrument and CVB payments or claims assessed against a vendor (other than the opportunity to justify or correct a vendor overcharge or other errors, as permitted by 7 CFR §246.12(k)(3));
 6. SA disqualification of a vendor based on a disqualification from the SNAP;
 7. The validity or appropriateness of the SA's prohibition of incentive items and the SA's denial of an above-50-percent vendor's request to provide an incentive item to customers;
 8. The SA's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;
 9. The SA's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;
 10. The SA's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list provided by the SA to a vendor; and
 11. The validity or appropriateness of the provisions contained in the SA's WIC Vendor Agreement. Neither the SA nor a vendor is obligated to enter into or renew a vendor agreement. The WIC Vendor Agreement does not constitute a license or a property interest. Available recourse for any vendor wishing to dispute the terms of the vendor agreement is termination or nonrenewal of the WIC Vendor Agreement.

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- B. Disqualifications which take effect upon receipt by the vendor of the notice of disqualification from the SA and which do not require 20 days prior notice include the following:
 - 1. Conviction for trafficking in food instruments or CVBs;
 - 2. Conviction for selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments; and
 - 3. Appealed disqualifications in which the Hearing Officer rules in favor of the SA.

- C. Vendors who wish to appeal will provide the SA with a written request for a hearing within 20 days of receipt of the adverse action disqualification notice. The request will, at a minimum, describe the action that is being appealed (See WV:13.0 for the Administrative Review policy).

- XX. The SA will notify USDA of permanently disqualified vendors and of all vendors that have received federally mandated sanctions, when appeal rights have been exhausted. On a quarterly basis, Texas WIC Program staff will also report the permanent WIC disqualification information in the System for Award Management (SAM) for PWIC vendors that only accept WIC benefits.

- XXI. The WIC Vendor Agreement does not constitute a license or a property interest.

- XXII. A vendor who commits fraud or abuse of the WIC Program is liable to prosecution under applicable federal, state or local laws. Those who have willfully misapplied, stolen or fraudulently obtained program funds will be subject to a fine of not more than \$25,000 or imprisonment for not more than five years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one year or both. These criminal penalties are in addition to those administrative sanctions already stated.

XXIII. WIC vendors are not permitted to use either the acronym "WIC" or the WIC logo, including facsimiles thereof, in total or in part, either in the official name in which the vendor is registered or in a different name under which it does business. WIC vendors are also not permitted to use the WIC acronym or the WIC logo on advertising or promotional materials. Advertising may be used to inform the public that a vendor is WIC-authorized, but the WIC acronym must not be used in a manner which states or implies that the vendor itself is affiliated with or sponsored by the SA, USDA, or the WIC Program.

For violations pertaining to the use of the acronym "WIC" or the WIC logo, the SA and/or SA representative will issue a written warning. For a subsequent violation after having received a written warning, the SA and/or SA representative will disqualify the vendor for three months. The SA will accept a CMP in lieu of disqualification.

Vendors' use of the WIC acronym and logo is authorized only under the following conditions:

- A. SA-issued posters, signs, labels or other items.
- B. Vendors may have a sign, pamphlet, poster or brochure indicating that WIC EBT food instruments or CVBs are accepted (For example: "WIC CARD ACCEPTED HERE" or "WIC Accepted Here") in English and/or Spanish, as long as the letters are printed in the same size of all capital letters or capital and lower-case letters and in the same print style.
- C. In all instances when wording pertaining to the acceptance of the WIC EBT food instrument or CVB is adjacent to the store name and visible from the exterior of the building, the font size must be smaller than the store's name.
- D. Vendors are required to use state-provided pink "WIC Approved Item" labels on shelves of declared traditionally least expensive brands.
- E. Under certain conditions, the SA may approve store-supplied LEB "WIC Approved Item" labels and/or signage. Stores must send a written request and justification to the SA if the stores want to supply their own LEB labels and/or signage. The approval is not

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perpetual. If approval is granted, it will expire when the Vendor Agreement expires or terminates.

1. Must submit an actual sample to the SA in the same pink color used for SA produced labels and must receive approval in writing prior to the use of any vendor-supplied shelf label. All changes and alterations to store-supplied labels must be submitted to the SA for approvals. All costs associated with developing, printing, storing, supplying and using vendor-supplied labels must be paid by the vendor.
2. Vendor's must submit a picture to the SA for "WIC Approved Item" signage and must receive approval in writing prior to the use of the signage. All costs associated with developing, printing, storing, supplying and using vendor-designed signage must be paid by the vendor.

XXIV. Third or Subsequent Mandatory Sanction (Ref. 246.12(I)(1)(vi))

When a vendor, who previously has been assessed two or more sanctions for violation of a federal regulation listed in 7 CFR Part 246.12(I)(1)(ii) through 246.12(I)(1)(iv), receives another sanction for any of these violations, the SA must double the third sanction and all subsequent sanctions. The SA may not impose CMP in lieu of disqualification for third or subsequent sanctions for these violations.

XXV. Expiration of a Vendor Agreement Without Renewal

If the vendor allows its Vendor Agreement to expire because of the vendor's history of noncompliance with the provisions of the Vendor Agreement or the WIC Program procedures, policies, rules, and/or regulations, the SA will not authorize the vendor until the vendor resolves previous violations and/or sanctions, if applicable, and meets all selection and limiting criteria.

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WIC Farmers' Market Agreement/Policy Violations

Purpose

To describe state agency (SA) procedures for monitoring compliance of farmers and farmers' market associations with the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Farmers' Market (FM) Agreement and policies, and to inform farmers and markets of sanctions that will be imposed by the SA for noncompliance.

Authority

7 CFR Part 246 and WIC Farmers' Market Agreement

Policy

Farmers and farmers' markets identified and documented as having failed to comply with the WIC Farmers' Market Agreement, policies, procedures and/or regulations of the WIC Program shall be sanctioned.

Procedures

- I. The state agency (SA) and/or SA representative will monitor the operations of authorized farmers and farmers' markets (also known as FM Associations) transacting WIC Electronic Benefits Transfer (EBT) cash value benefits for fresh fruits and vegetables.
 - A. Monitoring techniques employed shall include but are not limited to:
 1. routine on-site reviews by representatives of the SA;
 2. covert compliance buys by representatives of the SA; or
 3. on-site inspections by a city, county, district or state health authority.
 - B. Criteria to be used by the SA and/or SA representative to initiate an on-site monitoring visit shall include but are not limited to:

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1. price differences identified or observations made as a result of a prior on-site review;
 2. complaints from a WIC agency, participants, or farmers;
 3. prior violations;
 4. high volume of WIC cash value redemptions;
 5. period of time elapsed since last review;
 6. the first year of WIC operation.
- II. A positive pass can occur as a result of an on-site evaluation and/or compliance buy. A positive pass is defined as a sanctionable activity(ies) and/or transaction(s) identified as a result of an on-site evaluation and/or compliance buy that violate the WIC Farmers' Market Agreement, Federal or State statutes, regulations, policies, and/or procedures governing the WIC Program. Sanctionable violations include, but are not limited to:
- A. One or more WIC transactions for unauthorized/ ineligible food items, non-food items, overcharges, and/or cash during a compliance buy visit; or
 - B. Submitting one or more WIC EBT transactions for payment through a different farmers' market location than where the WIC EBT transaction(s) was originally transacted during a compliance buy visit; or
 - C. Transacting one or more WIC transactions at an unauthorized location during a compliance buy visit; or
 - D. Transacting one or more WIC transactions outside the valid benefit period during a compliance buy visit; or
 - E. Entering the WIC EBT recipient's PIN and/or accepting the WIC EBT purchase transaction in lieu of the WIC EBT recipient.
- III. FM Associations will be notified in writing of the results of the on-site review and/or compliance buy and, if appropriate, sanctions. FM

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Associations are responsible for notifying individual farmers within their association of the results of the on-site review and/or compliance buy, any sanctions levied as a result of noted violations, and the effective dates of any sanction.

- IV. After a warning is issued to a farmer or FM Association relating to sanctionable violations noted during an on-site review and/or compliance buy, follow-up visits may occur during the same Agreement period or subsequent Agreement periods but will not occur sooner than 30 days after the FM Association receives written notification of the violation.
- V. All notifications of violation will be mailed via certified and regular mail service. The date of the certified mail receipt will confirm the FM Association's receipt of the notification. If the certified letter is returned by the post office as unclaimed mail and the letter sent via regular mail service is not returned, then four days from the date of the letter will be considered the date of receipt. The FM Association is responsible for providing notification of violations, warnings, and/or sanctions to any of its member farmers who are identified in the State's notification.
- VI. An investigation must be completed within 24 months of the first positive pass. An investigation consists of any initial on-site review and/or compliance buy in which sanctionable violations were noted, and all follow-up on-site reviews and/or compliance buys conducted within 24 months of the first positive pass. Sanctions will be determined based on violations noted during all positive passes regardless of the compliance activity conducted, i.e. on-site review or compliance buy. An investigation may be closed any time during the 24 month period if two passes are conducted with no sanctionable violations being noted.
- VII. Monitoring by routine on-site reviews may be conducted by the SA or a SA representative. During the on-site review, the SA or SA

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representative shall identify him/herself to farmers and assess the farmers according to the following procedures of the on-site review:

- A. Check to see if the farmer identification poster is displayed and contains all required identifying information.
- B. Verify that prices are posted for eligible items;
- C. Review quality and quantity of produce.
- D. Question Farmers to determine their knowledge of WIC Policies and procedures and provide technical assistance if the farmers' responses indicate they do not understand the WIC policies and procedures.
- E. Other violations of policies and the Agreement may be tested by the SA representative.

VIII. Monitoring by Compliance Buys

- A. Definition of a FM compliance buy: A covert, on-site investigation in which a representative from the SA poses as a WIC recipient and transacts one or more WIC transactions to test for compliance with the WIC Farmers' Market Agreement, policies, and/or procedures. The compliance buy may occur on more than one day and consist of one or more transactions.
- B. A SA representative may attempt to transact WIC food benefits for eligible or ineligible food items, non-food items, credit (including rain checks which are not allowable), and/or cash back.
- C. WIC food benefits transacted improperly and/or for unauthorized/ineligible food items, non-food items, overcharges, or cash will not be paid.

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- D. If the Association representative enters the WIC EBT recipient's PIN and/or accepts the WIC EBT purchase transaction in lieu of the WIC EBT recipient, the transaction will not be paid.

- IX. Monitoring by On-Site Inspections by a Health Authority – The farmers' market may receive an on-site inspection by a public health authority for compliance with the Health and Safety Code. Violations may result in a disqualification from the WIC Program in addition to any other penalties as a result of non-compliance with the Health and Safety Code.

- X. Violations and sanctions. Definition of a violation: violation means any intentional or unintentional action of a farmer or the farmer's agent, or employees (with or without the knowledge of the farmer) that violates the WIC Farmers' Market Agreement, Federal or State statutes, regulations, policies, and/or procedures governing the Program. The following sanctions apply:
 - A. For selling unauthorized/ineligible food (i.e. honey, picante sauce, processed food items, etc.) in exchange for one or more WIC transactions, the SA or SA representative will:
 - 1. Issue a written warning to the farmer. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 2. For a second occurrence of selling unauthorized/ineligible food, the SA or SA representative will disqualify the farmer for one year and issue a written warning to the FM Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 3. An association receiving at least two written notifications within the same investigation where two or more farmers within the FM Association have been disqualified for selling unauthorized food will be disqualified by the SA for one year.

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- B. For accepting one or more WIC transactions for food purchased from outside the continental United States or from a retail grocer, wholesaler, and/or terminal, the SA or SA representative will:
 - 1. Issue a written warning to the farmer and the FM Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 2. For a second violation, the SA or SA representative will disqualify the farmer for one month and issue a second written warning to the FM Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 3. An association receiving three written warnings within the same investigation where one or more farmers within the FM Association sell food purchased outside the continental United States and/or from a retail grocer, wholesaler, and/or terminal, will result in the SA disqualifying the FM Association for one year.

 - C. For selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for one or more WIC transactions, the SA or SA representative will:
 - 1. Upon notification to the FM Association, immediately disqualify the farmer from participating in the WIC Program for six years and issue a written warning to the FM Association.
 - 2. An association receiving two written notifications within the same investigation where two or more farmers within the FM Association sell firearms, ammunition, explosives, or controlled substances, will result in the SA disqualifying the FM Association for six years.

 - D. For conducting one or more WIC transactions at an unauthorized location and submitting the transaction(s) for payment through an authorized location, the SA or SA representative will, upon notification to the FM Association, immediately disqualify the farmer from participating in the WIC Program for three years. The

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notification to the farmer will be provided through the FM Association of which the farmer is a member.

- E. For overcharging on one or more WIC transactions during a compliance buy, the SA or SA representative will:
 - 1. Issue a written warning to the farmer. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 2. For a second violation, the SA or SA representative will disqualify the farmer from participating in the WIC Program for three years. The notification to the farmer will be provided through the FM Association of which the farmer is a member.

- F. For providing cash in exchange for one or more WIC transactions, the SA or SA representative will:
 - 1. Upon notification to the FM Association, immediately disqualify the farmer from participating in the WIC Program for six years and issue a written warning to the FM Association.
 - 2. An association receiving two written notifications within the same investigation where two or more farmers within the FM Association provide cash for WIC transactions will result in the SA disqualifying the FM Association for six years.

- G. For selling non-food items in exchange for one or more WIC transactions, the SA or SA representative will:
 - 1. Upon notification to the FM Association, immediately disqualify the farmer from participating in the WIC Program for three years and issue a written warning to the FM Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 2. An association receiving three written warnings within the same investigation where three or more farmers with the FM Association issue non-food items will result in the SA disqualifying the FM Association for three years.

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- H. For failing to display prices of eligible food items, the farmer will:
 - 1. Receive a written warning. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 2. If the same farmer fails to display prices a second time during the same investigation, the SA or SA representative will disqualify the farmer for one month and issue a written warning to the Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 3. An association receiving three written warnings where three or more farmers within the FM Association fail to display prices of eligible food items will result in the SA disqualifying the FM Association for one month.

 - I. For entering the WIC EBT recipient's PIN and/or accepting the WIC EBT purchase transaction in lieu of the WIC EBT recipient, the WIC EBT transaction will not be paid and the SA or SA representative will:
 - 1. Issue a written warning to the FM Association.
 - 2. An association receiving three written warnings within the same investigation where the FM Association representative(s) enters the WIC recipient's PIN and/or accept the WIC EBT purchase transaction in lieu of the WIC EBT recipient will result in the SA disqualifying the FM Association for one month.

 - J. For failing to display the WIC EBT ID Poster with all required identifying information, the farmer will:
 - 1. Receive a written warning. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - 2. For a second occurrence of a farmer's failure to display the WIC ID Poster with all required identifying information, the SA or SA representative will disqualify the farmer for one month

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and issue a written warning to the FM Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.

- XI. A farmer will be disqualified from accepting WIC transactions at all authorized market locations for a violation resulting in disqualification at any given market. At the discretion of the SA, one market location may be disqualified without affecting the participation of other authorized market locations within the Association.

- XII. Farmers' Markets/farmers are not permitted to use either the acronym "WIC" or the WIC logo, including close facsimiles thereof, in total or in part, either in the official name in which the Farmers Market/farmer is registered or in a different name under which it does business. Farmers' Markets/Farmer's use of the WIC Acronym and logo is authorized only on state-issued posters or signs. Farmers' Markets/farmers are not permitted to use the WIC acronym or the WIC logo on signs, pamphlets, posters or brochures. For violations pertaining to the use of the acronym "WIC" or the WIC logo, the SA or SA representative shall:
 - A. Issue a written warning to the farmer/FM Association as provided in Section III.
 - B. For a second occurrence of the same violation, the SA or SA representative will disqualify the farmer for one month and issue a warning to the FM Association. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - C. An association receiving three written warnings within the same investigation where three or more farmers with the FM Association and/or the association use the WIC acronym or logo, will result in the SA disqualifying the FM Association for one month.

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Effective August 1, 2023

Policy No. WV:01.1

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- XIII. Once noncompliance is identified, disqualification can be imposed at the State's discretion in any agreement period following notification to the farmer and/or market.
 - XIV. Disqualification from the Supplemental Nutrition Assistance Program (SNAP) (formerly known as the Food Stamps Program) shall result in an automatic disqualification of the same duration from the WIC Program. However, the effective date of the disqualification from the WIC Program is at the discretion of the SA.
 - XV. Disqualification from the WIC Program may result in disqualification as a retailer in SNAP. Such disqualification may not be subject to administrative or judicial review under SNAP.
 - XVI. A farmer or FM Association being disqualified will be given at least twenty days prior notice before the disqualification becomes effective. The date of notice shall be the date determined using the methodology described in Section V. The notification to the farmer will be provided through the FM Association of which the farmer is a member.
 - XVII. A FM Association that has been disqualified may reapply to participate in the program at the end of the disqualification period.
 - XVIII. Any actions instituted against a farmer or FM Association as described in this policy will be considered before re-contracting with the FM Association and may be used as criteria in determining whether the farmer or FM Association is eligible to re-contract.
 - XIX. The State, as well as officers, agents, and employees of the State, are not responsible for losses incurred by the farmer/market as a result of denial of application to participate, disqualification, and/or expiration of the WIC Farmers' Market Agreement.

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Effective October 1, 2022

Policy No. WV:02.0

Least Expensive Brand Declaration

Purpose

To improve vendor compliance with selling declared least expensive brand (LEB) food items, to promote cost-efficiency, and to reduce vendor/participant confusion when identifying LEB foods.

Authority

7 C.F.R Section 246.12

Policy

At the time of initial authorization, all vendors must declare their LEB for each type and size of the following WIC authorized foods for each vendor outlet:

- Milk
- Fluid and Frozen Juice
- Cheese
- Whole Wheat Bread

At least 85% of a vendor outlet's monthly WIC redemptions within each LEB food category must be the vendor outlet's declared LEB. Vendor outlets that do not redeem at least 85% of their declared LEB in each food category are subject to sanctions and termination of their Vendor Agreement. Vendors must label their declared LEBs with the State-agency (SA)-issued "WIC Approved Item" pink label or vendor-produced "WIC Approved Item" pink label approved by the SA.

Procedures

I. Declaring LEBs

- A. At the time of initial authorization, and any time thereafter, each vendor must declare their LEB foods by completing the LEB Declaration Form.

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- B. Only one LEB Declaration Form is necessary if the LEBs are the same for all vendor outlets within one account. If the LEB(s) varies between vendor outlets, then the vendor applicant must submit an LEB Declaration Form for each individual vendor outlet within an account.

II. Labeling LEBs

- A. Vendors are required to label declared LEB food items with SA-issued "WIC Approved Item" pink labels. The SA will supply "WIC Approved Item" pink labels to vendors upon request or vendors may download the label template from the Texas WIC website to print.
- B. Vendors may choose to produce their own "WIC Approved Item" pink labels/signage. Vendors must submit a written request with justification to the SA. The vendor must receive approval in writing prior to using the labels/signage. All costs associated with using vendor-produced labels/signage must be paid by the vendor. Upon reauthorization or at any time, the SA may require vendors who have produced their own "WIC Approved Item" pink labels/signage to submit them for approval.

Vendors must electronically submit the following for SA approval of vendor-produced LEB labels/signage:

- Clear color image
 - Size of fonts and dimensions
 - WIC-approved shade of pink
- C. The vendor is responsible to ensure the "WIC Approved Item" pink shelf labels are clearly placed designating the appropriate LEB food items.
- D. Vendors may choose to label a non-LEB WIC food item with the "WIC Approved Item" pink label. However, all the WIC allowable food items within that food category must be labeled. For example,

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if one cereal has a "WIC Approved Item" pink label, then all WIC allowable cereals – private label and national brands - must have a "WIC Approved Item" pink label. Another example is if the vendor chooses to label contracted brands of infant formula, then all contracted brands of infant formula must be labeled with the "WIC Approved Item" pink label.

III. Changing Declared LEBs

- A. It is the vendor's responsibility to notify the SA of changes to its LEBs by submitting changes immediately. Failure to submit changes to LEBs could result in violations and sanctions.
- B. If a vendor needs to change a LEB food item for a vendor outlet(s), the vendor must submit changes to the SA. The newly declared LEB must be in the Authorized Product List (APL).

IV. LEB Compliance

- A. If a vendor outlet is out of stock of the declared LEB, the vendor outlet must sell the next least expensive brand of that food item available at that time. The next least expensive brand sold must be in the APL.
- B. A vendor outlet's failure to have its declared LEB be at least 85% of its WIC redemptions in each of the applicable WIC LEB food categories during a process month may result in violations and sanctions. The SA will include the redemptions of non-LEB brand(s) sold at equal to or less than the unit price of the declared LEB in the final computation as part of meeting the 85% compliance requirement. At the SA's discretion, a vendor's wholesale supply issues, interim changes to a vendor outlet's LEB declarations within a review month, and/or low volume of WIC sales may result in sanctions being waived on a case-by-case basis.

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- C. A vendor outlet's failure to label LEB food items appropriately may result in violations and sanctions.
- D. The SA may perform a review of a vendor outlet's compliance with selling its declared LEBs at any time during the term of the Vendor Agreement.
- E. For a description of violations and sanction schedules, see WV: 1.0 Section VI (T) (*LEB Labeling*) and Section VIII (D) (*LEB Cost Containment*).
- F. A vendor who is actively working with the SA's EBT Operations Branch on changes to its WIC EBT point-of-sale system may be exempt from sanctions. To qualify for this exemption, the vendor must contact the SA in advance of the start of system modifications and submit a timeline for justification. It is at the SA's discretion to modify or terminate the timeline once approved.

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Effective November 1, 2020

Policy No. WV:03.0

Participant Access Determination

Purpose

To ensure denying authorization of a vendor outlet or disqualifying a vendor outlet does not result in inadequate participant access to WIC supplemental foods.

Authority

7 CFR Part 246.12

Policy

The State Agency (SA) determines the inadequacy of participant access to WIC supplemental foods prior to the following:

1. Denying authorization of a vendor outlet, or
2. Disqualifying a vendor outlet.

Procedures

- I. Participant access is inadequate when:
 - A. There are no authorized vendor outlets within a 10-mile radius of the vendor in question; and
 - B. The SA found a geographic barrier for participants to access another authorized vendor outlet. Geographic barriers might include, but are not limited to, bridges or interstate highways not open to foot traffic, or steep terrain not accessible by roadways.

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Policy No. WV:03.0

II. Participant Access Determination

A. For Vendor Outlet Authorization and Reauthorization

If a vendor outlet applicant does not meet vendor selection criteria in accordance with Federal regulations and Texas WIC policy WV: 10.0 (see the chart below), but inadequate participant access is determined, then the SA will proceed with the vendor outlet authorization process.

Chart Description: The SA must waive two of the six mandatory Federal vendor selection criteria AND SA-imposed selection criteria to ensure adequate participant access to WIC supplemental foods.

Selection Criteria	Waived
Minimum variety and quantity of supplemental foods (MSR)	No*
Competitive pricing (NTE)	No
Current SNAP disqualification/CMP hardship	Yes
Business integrity	Yes
Incentive items	No
EBT capability	No*
All State Agency-imposed selection criteria	Yes
*Exceptions:	
SA will follow WIC EBT Federal regulations and guidance related to equipping vendors needed for participant access. See Texas WIC Policy WV: 12.0	
The following SA-imposed MSR criteria for the following foods must be waived per Federal regulations:	
FRESH & FROZEN FISH, POULTRY AND MEATS	CANNED FRUIT, CANNED VEGETABLES
Infant Formula: Vendors may elect to not sell formula. However, if the vendor does sell formula, then they must meet Federal MSR requirements for infant formula.	

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B. For Authorized Vendor Outlet Disqualification

1. The SA will proceed with the disqualification process if access to WIC supplemental foods is determined.
2. However, if participant access to WIC supplemental foods is inadequate, then the SA will do the following:

For *mandatory Federal violations*

- a. For the first or second violation of a *mandatory Federal violation* by a vendor outlet, the SA will impose a CMP in lieu of disqualification as specified in Federal regulations and Texas WIC policy WV: 1.0.
- b. If the vendor outlet has committed its third or subsequent mandatory Federal violation, the SA will disqualify the vendor outlet per Federal regulations and Texas WIC policy WV: 1.0.

For *state violations*

- c. The SA will impose a CMP in lieu of disqualification as specified in Federal regulations and Texas WIC policy WV: 1.0. The amount of the CMP is determined using the calculations set forth in Texas WIC policy WV: 1.0 Section XI.A or as specified by the type of violation.

III. In accordance with 7 CFR Part 246.12 (f) (2) (xviii), the validity or appropriateness of the SA's participant access criteria and the SA's determination regarding participant access is not subject to administrative review.

IV. The SA will document the vendor outlet's participant access determination prior to denying vendor authorization, disqualifying a vendor outlet, or imposing a CMP.

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Policy No. WV:05.0

WIC Electronic Benefit Transfer (EBT) Dispute Resolution

Purpose

To provide a resolution process for authorized vendors to dispute unpaid or reduced claims and to demonstrate an unusual circumstance which caused their WIC EBT claim to be submitted late or malformed.

Authority

7 CFR 246.12; WIC EBT Operating Rules September 2014 as amended

Policy

- I. The State Agency (SA) will reduce payments for late or malformed claims. An authorized vendor may dispute unpaid or reduced claims due to the following reasons:
 - A. Late submission of WIC EBT claims
A **late claim** is a claim submitted after the 15th day of the month containing one or more transactions with a date from a previous month.
 - B. Submission of malformed claims
A **malformed claim** is a claim that includes transactions that were incorrect or incomplete prior to or during insertion into the claim file.
- II. The SA is the sole arbiter of late or malformed claim disputes. The SA's assessments and resolution decisions are final and not subject to further appeal. Each dispute will be evaluated based on its merit. There is no guarantee the dispute(s) will be resolved in favor of the vendor.
- III. The SA reviews disputes at the vendor outlet level. Vendor account level/corporate representatives may dispute the reduction or nonpayment of a claim on behalf of any one of the account's

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subordinate vendor outlets. Claim disputes from multiple vendor outlets may be submitted as one dispute.

Procedures

IV. Dispute Submission Guidelines:

- A. Vendors must submit all WIC EBT claims electronically.
- B. Disputes must be submitted to the SA within 60 days from the transaction date. For fiscal year closeout, no dispute requests will be accepted after November 29th for any transaction that occurred on or before September 30th of the same calendar year.
- C. Eligible Claim Disputes:
 - 1. Late claims, as defined by this policy
 - 2. Malformed claims, as defined by this policy
- D. Ineligible Claim Disputes:
 - 1. Claims containing transaction(s) older than 60 days from the date the dispute is submitted.
 - 2. Reduced transactions due to maximum allowable reimbursement and/or not-to-exceed pricing limitations.
 - 3. Unpaid transactions due to:
 - a. Electronic signature errors and/or
 - b. Unauthorized food sales.
- E. Email Content for Dispute Requests
 - 1. For disputes related to late claims, submit the following information on company letterhead via email to WICEBTVendorRedemptions@hhsc.state.tx.us:
 - a. A written explanation why the WIC EBT transaction(s) was late;
 - b. The name of each claim file;
 - c. The amount of each claim;
 - d. The total amount of the dispute; and
 - e. Actions taken to ensure the issue does not occur again.

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2. For disputes related to malformed claims, submit the following information on company letterhead via email to WICEBTVendorRedemptions@hhsc.state.tx.us:
 - a. A written explanation of the event causing the malformed submission of the WIC EBT claim or individual transaction(s);
 - b. Evidence the transaction(s) involved is valid;
 - c. Evidence from the transaction log or electronic receipt proving the card was present at the lane and WIC-eligible items were bought. This evidence must include the following:
 - i. PAN
 - ii. Transaction Date
 - iii. Transaction Time
 - iv. Terminal ID Number
 - v. Systems Trace Audit Number
 - vi. UPCs purchased
 - vii. Quantities of each UPC purchased
 - viii. Category/Sub-category information for purchased items; and
 - ix. Actions taken to ensure the issue does not occur again.

V. State Agency Review of Vendor Disputes

- A. The SA will review each dispute submitted according to policy and procedure. The SA will send the vendor written notification of the outcome within 30 calendar days of receipt of the vendor's complete dispute request. This timeframe is only an administrative guideline for the SA and does not provide a basis for overturning the dispute if a decision is not made within the specified time. The SA will only consider any subsequent information if submitted within the 30-day period. The 30-day period may be extended at the discretion of the Director of Vendor Management and Operations.

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- B. Disputes involving reimbursement of \$500 or more require approval from the United States Department of Agriculture (USDA). Disputes referred to USDA for approval will increase the resolution timeframe.
 - C. The vendor will receive written notification of the outcome. If the SA denies the dispute, the written notification will explain the reason for the denial.
- VI. If Federal or State regulatory changes impact retail WIC EBT Point-of-Sale system software statewide, the SA may allow vendors to submit additional types of disputes. The SA will provide written notification to WIC vendors in a timely manner defining the allowance of additional types of disputes and the applicable timeframes.
- VII. The SA will provide written notification to WIC vendors of changes to Federal or State statutes, regulations, policies, or procedures governing the WIC Program before the changes are implemented, providing as much advance notice as possible.

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Effective November 1, 2020

Policy No. WV:08.0

WIC Vendor Training

Purpose

To define state policies and federal regulations regarding authorized WIC vendor/vendor outlet training requirements to improve compliance and positively impact WIC's mission.

Authority

7 CFR Part 246.12

Policy

Training policy and procedures include WIC vendor/vendor outlet requirements of the U.S. Department of Agriculture's Food and Nutrition Service (USDA-FNS) and State Agency (SA). WIC vendor applicants must complete interactive training prior to SA initial authorization and/or reauthorization, a vendor selection criterion. At least one representative from each vendor outlet, with a current Vendor Agreement, must complete at least one WIC SA-approved Annual Online On Demand training each fiscal year. A fiscal year begins October 1st and ends September 30th. Authorized WIC vendors/vendor outlets are responsible for training all employed and contracted staff about WIC Program requirements annually. The SA and/or SA representative may assess any authorized WIC vendor outlet at any time during the Vendor Agreement period using the selection criteria in effect at the time of the assessment.

Procedures

- I. Types of Trainings
 - A. SA-Approved Interactive Training offers live interaction with SA staff. One of the two formats listed below must be completed by a vendor outlet representative prior to vendor SA authorization and/or reauthorization.

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Policy No. WV:08.0

1. Live Webinar (*most common for SA vendor reauthorization*)
 - a. The SA hosts live webinars twice a month.
 - b. Registration is required and accessible through the Texas [WIC Online Training Catalog](#).
 2. In-person training (*most common for SA initial authorization*)
 - a. The Texas WIC SA schedules in-person trainings throughout the state on an as needed basis.
- B. SA-Approved Annual Online On Demand Training
1. The SA offers various training topics that are always available online.
 2. Registration is required and accessible through the Texas [WIC Online Training Catalog](#).
 3. A vendor outlet representative must complete an annual online/on demand training within each fiscal year.

II. Training Requirements

- A. The scenarios below explain required trainings.
1. For WIC vendors/vendor outlets seeking initial authorization or reauthorization.
 - a. An interactive training
 - b. An annual online/on demand training
 2. For all other WIC vendors/vendor outlets not seeking initial authorization or reauthorization.
 - a. A representative from each vendor outlet location must complete an annual online on demand training within each fiscal year.

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Vendor Training Compliance Timeline			
Vendor Authorization Process	Year 1	Year 2	Year 3
Complete training requirement by September 30 of each year.			
Vendor Selection Criteria: A representative from each vendor outlet must complete interactive training prior to SA authorization and reauthorization.	A representative from each vendor outlet must complete at least one annual online on demand training.	A representative from each vendor outlet must complete at least one annual online on demand training.	A representative from each vendor outlet must complete at least one annual online on demand training. For Reauthorization: A representative from each vendor outlet must also complete interactive training.

B. Staff Training Requirement

1. Authorized WIC vendors/vendor outlets are responsible for training all employed and contracted staff on WIC policies and procedures annually.
2. A SA-trained WIC vendor outlet representative may train staff using SA-approved training materials and/or have the staff complete annual online on demand trainings.

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III. Vendor Training Violations/Sanction Schedule

For a vendor outlet failing to have a representative complete annual required online on demand training:

- A. The vendor will receive a written notification of noncompliance 20 calendar days prior to the end of the federal fiscal year (September 30). If the vendor outlet is still noncompliant by September 30, the vendor outlet's Vendor Agreement will be terminated effective on October 1 of the same year.
- B. The SA will not accept a civil money penalty (CMP) in lieu of disqualification unless it determines inadequate participant access. In that case, the CMP will be calculated in accordance with WV: 1.0, Section XI.B.

IV. Supplemental Vendor Resources

The following supplemental vendor resources do not apply toward a vendor outlet's interactive or annual online on demand vendor training requirements:

- A. Texas WIC Vendor Quarterly Webinars
- B. Texas WIC Guidebooks/Manuals
- C. Vendor News Flashes
- D. Technical assistance provided by Texas WIC staff after authorization.
- E. Instructional video job aids, not found within the WIC Vendor Online Training Catalog.

WIC Vendor Online Training Catalog: <https://tinyurl.com/y5w32yo6>

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Effective March 1, 2021

Policy No. WV:09.0

**Vendor In-Store Promotions:
Incentive Items, Discounts, and Coupons**

Purpose

To describe State Agency (SA) requirements regarding the use of in-store promotions including but not limited to incentive items, discounts, and coupons provided by WIC authorized vendors to WIC participants. To define allowable and prohibited in-store promotions.

Authority

7 CFR 246.12

WIC Policy Memo #2014-3-Vendor Management – February 7, 2014

Policy

I. Types of WIC Vendors

- A. A traditionally WIC Vendor (TWIC) (Full-Line Grocer) outlet sells to both WIC participants and non-WIC customers. A TWIC vendor derives less than 50% of its annual food sales revenue from WIC.
- B. A predominantly WIC Vendor (PWIC) outlet sells mainly to WIC participants. A PWIC vendor derives more than 50% of its annual food sales revenue from WIC.

II. Equitable Treatment/Same Courtesies

Federal regulations and State policy prohibit offering incentive items only to WIC participants. In addition, all authorized WIC vendors must offer in-store promotions such as incentive items, discounts, coupons or other promotions that are offered to non-WIC customers to WIC participants as well.

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Policy No. WV:09.0

III. Types of Allowable In-Store Promotions/Incentive Items for PWIC Vendors

The PWIC vendor must request SA approval of the following allowable in-store promotions/incentive items:

- A. Incentive item(s) obtained at no cost.
- B. Incentive item(s) such as food and/or merchandise obtained at a cost up to a total of \$1.99 per WIC participant, per visit.

IV. Types of Allowable In-Store Promotions for PWIC and TWIC Vendors that do not require SA approval: (See Policy WV: 1.0 Section VI.R. for more information.)

- A. Manufacturers' Coupons
- B. Buy One Get One Free
- C. Buy One Get One at a Reduced Price
- D. Free Ounces Added to Item by Manufacturer
- E. Store/Loyalty Shopping Cards
- F. Volume/Transaction Discounts

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V. Types of Prohibited In-Store Promotions/Incentive Items

Applicable Vendor Type	Promotion Type
PWIC	Services which result in a conflict of interest or the appearance of such conflict for the PWIC vendor, such as assistance with applying for WIC benefits.
	Anything made available in a public area as a complimentary gift which may be consumed or taken without charge.
	Allowable incentive item(s), food, merchandise, and/or services provided more than once per WIC participant, and/or its total cost is more than the \$1.99 cost limit.
	Food or merchandise sold to customers below cost, or services purchased by customers below fair market value.
	Any kind of incentive item which incurs a liability for the WIC Program or violates any Federal, State or local law or regulation.
TWIC and PWIC	Lottery tickets provided to customers at no charge or below market value.
	Cash gifts in any payment tender type or amount for any reason.
	Transportation of customers to and from the vendor's premises, or delivery of supplemental foods to customer residences.

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Effective March 1, 2021

Policy No. WV:09.0

Procedure

I. SA Approval Procedures for In-Store Promotions/Incentive Items for PWIC Vendors

A. PWIC vendors may provide allowable in-store promotions and incentive item(s) listed in Section III of this policy. The vendor must first obtain SA written approval for incentive items they intend to provide to WIC participants prior to offering the items. Vendors must electronically submit the following for SA approval of incentive items:

1. A list of incentive items.
2. The cost of each item. A copy of the invoice must be included or attached to the email.

II. Requirements and Restrictions for Incentive Items

Once a PWIC has submitted acceptable incentive items and received SA written approval, the vendor may offer the items and will be held to the following requirements:

- A. The WIC acronym and/or logo cannot be used on incentive items. It must be clear the incentive item is given on behalf of the vendor, not Texas WIC.
- B. Vendors found to have violated the provisions of this policy will be sanctioned in accordance with WIC Policy WV: 01.0.
- C. The SA is prohibited from authorizing or making payments to PWIC vendors that provide prohibited incentive items.

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Effective January 17, 2025

Policy No. WV:10.0

WIC Vendor Authorization

Purpose

This policy provides information on the types of vendors authorized by the United States Department of Agriculture Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) program and the requirements for becoming an authorized vendor; competitive pricing; and vendor agreement details.

Authority

7 CFR Sections 246.2 and 246.12

I. Definitions

The following definitions are provided to assist in explaining various acronyms and/or details of certain processes. These definitions do not constitute a comprehensive listing of all terms nor do they replace definitions in the regulations at 7 CFR Part 246. In the event of conflict between the definitions listed in this policy and in 7 CFR Part 246, the latter shall prevail with the exception of definitions only listed in this policy.

Approved Product List (APL) – A comprehensive listing of WIC approved food items which list Universal Product Code (UPC) and/or Price Look-Up (PLU) information. Information is separated by food category/subcategory.

Arms-Length Transaction – A transaction in which the buyers and sellers of a product act independently and have no relationship to each other. The concept of an arms-length transaction is to ensure that both parties in the deal are acting in their own self-interest and are not subject to any pressure or duress from the other party.

Authorized Distributor of Record (ADOR) – Distributors with whom a manufacturer has established an ongoing relationship to distribute the manufacturer’s products.

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Category/subcategory – A category is a group of similar food items (e.g. whole milk, regular milk, infant cereal, infant foods); and a subcategory is the further division of the category based on certain characteristics. For example, whole milk is divided into different subcategories based on size (e.g. gallon, half gallon, and quart).

Competitive Pricing Classification – A method to determine peer group designation for WIC authorized vendors based upon the amount of WIC sales and geographical locations.

Continuous Basis – On any given day of operation, a retail grocery store offers for sale, and normally displays in a public area, a variety of food items.

Contract Brand Infant Formula – All infant formulas (except exempt infant formulas) produced by the manufacturer awarded the infant formula cost containment contract. If under a single solicitation the manufacturer subcontracts for soy-based infant formula, then all soy-based infant formulas covered by the subcontract are also considered contract brand infant formulas. If a State agency elects to solicit separate bids for milk-based and soy-based infant formulas, all infant formulas issued under each contract are considered the contract brand infant formula. For example, all of the milk-based infant formulas issued by a State agency that are produced by the manufacturer that was awarded the milk-based contract are considered contract brand infant formulas. Similarly, all of the soy-based infant formulas issued by a State agency that are produced by the manufacturer that was awarded the soy-based contract are also considered to be contract brand infant formulas. Contract brand infant formulas also include all infant formulas (except exempt infant formulas) introduced after the contract is awarded.

Drop Shipment – The shipping of exempt infant formula and/or WIC-eligible nutritionals from a supplier directly to the WIC LA.

Durable Medical Equipment (DME) Retailer - A business entity, wholesaler, or supplier that sells exempt infant formula and/or WIC-eligible nutritionals but does not hold a pharmacy license.

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Electronic Benefit Transfer (EBT) – Offline system that utilizes a smart card with an embedded microchip that permits electronic access to WIC participants’ food benefits. A point-of-sale system equipped with a smart card reader checks the WIC benefits to be purchased against the benefits on the chip, authorizes the transaction, and uploads the day’s transactions to a host.

EBT Capable – The WIC vendor demonstrates that their cash register system or payment device can accurately and securely obtain WIC food balances associated with an EBT card, maintain the necessary files such as the authorized product list, hot card file and claim file and successfully complete WIC EBT purchases.

Exempt Infant Formula – Any infant formula which is represented and labeled for use by an infant (1) who has an inborn error of metabolism or a low birth weight, or (2) who otherwise has an unusual medical or dietary problem, in accordance with 21 U.S.C. 350a(h).

Full-Line Grocer – A retailer that stocks and offers for sale, on a continuous basis, a variety of food products. Vendor types are defined in Section III of this policy.

Least Expensive Brand (LEB) – Vendors must declare and sell their least expensive brand (LEB) for each type and size of WIC authorized milk, fluid and frozen juice, cheese, and whole wheat bread. At least 85% of an outlet’s WIC monthly redemptions within these food types (category/subcategories) must be the vendor’s declared traditionally least expensive brands (LEB).

Level III WIC EBT Certification – A series of steps completed by a vendor applicant or WIC authorized vendor ascertaining EBT system capability.

Local Agency (LA) – An agency established at the local level that represents various clinics within a specified jurisdiction and is responsible for issuing benefits to WIC participants.

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Maximum Allowable Reimbursement (MAR) – A price limit derived monthly by the WIC Program’s end-of-process month analysis of claims paid. MAR limit varies by competitive pricing classification. The MAR for Traditional WICs (TWIC) is 125% of the average prices paid to TWICs in each price region and sales volume band for the various WIC authorized food types by category/subcategory. The MAR for Predominantly WICs (PWIC) is 100% of the statewide average prices paid to TWICs for the various WIC-authorized food types by category/subcategory.

Military Commissary – A store that sells food and supplies to personnel or workers in a military post. As authorized WIC vendors, a military commissary has to adhere to the same selection criteria and minimum stocking requirements as a Full-Line Grocer; however, commissaries are not subjected to monitoring activities as outlined in the Memorandum of Understanding with the Department of Defense.

Minimum Stocking Requirement – A vendor must stock minimum food types and quantities, as described by the United States Department of Agriculture (USDA) 7 CFR 246.12.

Minimum Stocking Requirement for Full-Line Grocer – Vendor must maintain a minimum stock of food in the following categories: as defined in Section III of this policy: (1) fresh vegetables, (2) fresh fruits, (3) frozen vegetables, (4) frozen fruits, (5) canned fruits, (6) canned vegetables, (7) fresh and frozen fish, poultry, and meats, (8) bread, (9) canned fish, (10) dairy, (11) whole grains, (12) eggs, (13) beans, (14) peanut butter, (15) juice, (16) infant food items, and (17) infant formula (elective).

Minimum Stocking Requirement for Pharmacy and Durable Medical Equipment Retailers- A pharmacy or durable medical equipment retailer is exempt from minimum stocking requirements.

Minimum Stocking Requirement for PWIC Grocer – Vendor must maintain a minimum stock of food in the following categories as defined in Section III of this policy: (1) fresh fruits and vegetables, (2) eggs,

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(3) beans, (4) peanut butter, (5) juice, (6) canned fish, (7) dairy, (8) whole grains, (9) infant food items, and (10) infant formula (elective).

Not to Exceed (NTE) Amount – The maximum price that the State Agency will pay for a food type (e.g. milk, juice, cereal, eggs, etc.). The NTE amount is set at a reasonable limit, set high enough so that the food type can be purchased anywhere in the state. The NTE amount is shown in the APL sent electronically to WIC authorized vendor through their EBT system. The NTE amount is enforced as a pre-payment edit and is NOT the end-of-process month MAR limitation defined elsewhere. NTE adjustments reduce the reimbursement total to the vendor prior to payment by the State Agency (SA), without regard to TWIC or PWIC status, and do not affect the MAR pricing calculations. The NTE will be evaluated quarterly.

On-Site Evaluation – An evaluation that is conducted on-site at the vendor outlet location to determine ongoing compliance. See Section VI for more information.

Pharmacy – A facility at which a prescription drug or medication order is received, processed, or dispensed under Texas Health and Safety Code. A vendor type as defined in Section III of this policy.

Preauthorization Process for New Vendors – An evaluation, during initial authorization, to verify that the physical location and signage of a vendor applicant are consistent with the information stated on the vendor application. The evaluation method will be determined solely by the SA and may be conducted as a virtual and/or on-site evaluation. The SA or LA representative must conduct this visit prior to authorizing the vendor. In addition, the SA must review vendor documentation for food items, or the actual food items meeting federal and state minimum stocking requirements during the preauthorization process.

For existing vendor accounts adding an outlet during the preauthorization process:

- the vendor will certify that the new outlet currently meets federal and state minimum stocking requirements
- the vendor will provide documentation for food items for

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federal minimum stocking requirements plus contract brand infant formula, if vendor elects to carry formula; the SA may require additional food invoices for all state Minimum Stocking Requirement foods.

- at the State's discretion, the SA will review the actual food items meeting federal and state minimum stocking requirements plus contract brand infant formula, if the vendor elects to carry formula

Predominantly-WIC (PWIC) Grocer – A vendor type and competitive pricing classification given to an outlet that has or is expected to have WIC food sales above 50% of the outlet's total sales of foods that are eligible for purchase using benefits issued by the Supplemental Nutrition Assistance Program (SNAP). A PWIC is also known as an Above-50-percent vendor as described in 7 CFR Part 246.

Price Region – A geographic area comprised of designated zip codes or one or more counties. Such areas may or may not be contiguous.

Primary Contract Brand Infant Formula - The specific infant formula for which manufacturers submit a bid to the State Agency (SA) in response to a rebate solicitation and for which a contract is awarded by the State Agency as a result of that bid.

Sales Volume Band – A competitive pricing grouping determined by the SA and based on monthly WIC sales volume. Sales volume bands consist of (1) Band 1: \$0.00 - \$1,999.99, (2) Band 2: \$2,000.00 - \$5,999.99, (3) Band 3: \$6,000.00 - \$19,999.99, and (4) Band 4: \$20,000.00 or greater.

SNAP – The Supplemental Nutrition Assistance Program, formerly the Food Stamp Program.

Special Supplemental Nutrition Program for Women, Infants, & Children (WIC) – Federal assistance program of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) for supplemental foods, healthcare referrals, and nutrition education for low- income pregnant women, breastfeeding and non-

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breastfeeding postpartum women, and infants, and children up to age 5 who are found to be at nutritional risk.

Split Tender – The cash register allows the participant, authorized representative, or proxy to pay the difference when a fruit and vegetable purchase exceeds the value of the cash-value benefit.

State Agency (SA) - Texas Health and Human Services Commission in its role as administrator of the WIC Program.

Statewide Average Price Paid – The average price paid to TWICs for a WIC approved food type by category/subcategory. This function is used in competitive pricing.

Traditional WIC (TWIC) – A competitive pricing classification given to an outlet that has or is expected to have, WIC food sales that constitute up to 50% of the outlet’s total sales of foods that are eligible for purchase using benefits issued by the SNAP. Types of TWICs may include but are not limited to full-line grocers, military commissaries, and mass merchandisers.

United States General Services Administration (USGSA) – Provides centralized procurement for the federal government, offering products, services, and facilities that federal agencies need to serve the public. USGSA oversees and manages the System for Award Management.

Vendor Agreement – The formal and legally binding agreement between the Texas Health and Human Services Commission and a WIC authorized vendor.

Vendor Interactive Training – A training session for vendors that allows interaction with SA staff for addressing questions.

Vendor Outlet – A retail grocery store which operates and transacts WIC food benefits at a fixed location, has an electric utility hook-up, is a store structure situated on a cement or pier-and-beam foundation that is not used simultaneously as a residence, has a minimum business area of 1,000 square feet, has clearly identifying signage that closely

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matches the retail store name (abbreviated version acceptable) listed on the WIC Vendor Application, and is accessible directly from the street or parking lot.

Vendor Type – A distinct group that a WIC authorized vendor is identified under based on physical attributes and food stock of the vendor outlet.

Virtual Evaluation – An evaluation that is conducted virtually with the WIC vendor applicant to determine ongoing compliance. See Section VII for more information.

WIC EBT Benefits – WIC food package benefits issued to a WIC participant onto a WIC smart card, which is used at a WIC authorized vendor outlet for redemption.

WIC EBT Transaction – One or more items purchased at one time using an EBT card.

WIC-Eligible Nutritionals - Certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted, or inadequate. Such WIC-eligible nutritionals must serve the purpose of a food, meal or diet (may be nutritionally complete or incomplete) and provide a source of calories and one or more nutrients; be designed for enteral digestion via an oral or tube feeding (e.g., Pediasure); and may not be a conventional food, drug, flavoring, or enzyme. WIC-eligible nutritionals include many, but not all, products that meet the definition of medical food in Section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360ee(b)(3)).

WIC Authorized Vendor - A sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the SA to provide authorized supplemental foods to WIC participants under a retail food delivery system.

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II. Vendor Selection

All vendor applicants seeking initial authorization to the WIC Program must meet all selection criteria contained in this policy.

A. Selection Criteria

1. The SA will approve a vendor applicant for authorization as a WIC authorized vendor or authorized vendor outlet if the following items are met:
 - a. The SA receives an accurate and completed WIC vendor application from the vendor applicant.
 - b. The SA receives a completed and properly signed "Gross Food Sales Certification Form" indicating the vendor applicant's estimated gross food sales, defined as foods that can be purchased with SNAP benefits, and the percent estimated to be derived from WIC food sales.
 - c. Vendor applicant has no apparent conflict of interest with the vendor outlet designated LA or with the SA.
 - d. Vendor applicant, who has previously been an authorized vendor, has a history of compliance with WIC Program rules, policies, and procedures.
 - e. The vendor applicant must meet competitive pricing selection criteria (CPSC). According to Section IV, this selection criterion may be waived per Federal regulation if the SA determines the vendor is needed to ensure adequacy of participant access to supplemental foods. (See Policy WV:3.0.)
 - i. For Full-line Grocer: First-time Applicant/New Vendor Account

The SA will compare submitted shelf prices against sales volume band 1 price averages within the applicant's price region of the most recent month. The vendor applicant's shelf prices collectively must not exceed the CPSC of 110%. After the vendor applicant is authorized, the vendor is placed in that price region and sales volume band 1 during the first process month

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they incur sales. The SA's peer group assignment process will apply after the first process month of sales.

- ii. For Full-line Grocer: Existing Vendor Account – New Vendor Outlet

Using the most recent month of sales, the monthly sales average of the other associated stores is used to calculate the sales volume band within the vendor applicant's respective geographic price region. The vendor applicant's shelf prices collectively must not exceed the CPSC of 110%. After the vendor applicant is authorized, the vendor is placed in that price region and calculated sales volume band during the first process month they incur sales. The SA's peer group assignment process resumes after the first process month of sales.

- iii. Mass Merchandiser:

Mass merchandiser vendor applicants are assigned to the mass merchandiser price region. Using the most recent month of sales, the monthly sales average of the other associated stores is used to determine the sales volume band the applicant is assigned to determine pricing competitiveness. The vendor applicant's shelf prices collectively must not exceed the CPSC of 110%. After the mass merchandiser vendor applicant is authorized, the vendor is assigned the same peer group from the application process during the first process month they incur sales. The SA's peer group assignment process resumes after the first process month of sales.

- iv. For Military Commissaries:

Using the most recent month of sales, military commissary vendor applicants are measured against military

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commissaries in determining compliance with the CPSC. The vendor applicant's shelf prices collectively must not exceed the CPSC of 110%. Once authorized, the military commissary is compared to all other commissaries.

v. For PWIC:

Using the most recent month of sales, PWIC vendor applicants are measured against the TWIC cost containment statewide averages in determining compliance with the CPSC. The vendor applicant's shelf prices collectively must not exceed the CPSC of 8% recoupment. Once authorized, PWICs are compared to the monthly TWIC statewide averages. See WV: 10.0 Section VII. B. d.

- f. Vendor applicant certifies its outlet exists at the stated address on the vendor application, the facility has a minimum business area of 1,000 square feet, and signage closely matches the applicant vendor name listed on the vendor application. The SA or LA representative will verify the physical location by making a preauthorization on-site visit to evaluate the location. In the event the preauthorization is performed as a virtual evaluation, the SA representative will verify and complete the preauthorization form. In addition, the SA must review vendor documentation for food items, or the actual food items meeting federal and state minimum stocking requirements during the preauthorization process.

For existing vendor accounts adding an outlet during the preauthorization process:

- the vendor will certify that the new outlet currently meets federal and state minimum stocking requirements.
- the vendor will provide documentation for food items for federal minimum stocking requirements plus contract brand infant formula, if vendor elects to carry formula; the SA

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- may require additional food invoices for all state Minimum Stocking Requirement foods.
- at the State’s discretion, the SA will review the actual food items meeting federal and state minimum stocking requirements plus contract brand infant formula, if the vendor elects to carry formula.
- g. Vendor applicant certifies that an arms-length transaction has occurred if the vendor applicant purchases or acquires a vendor outlet that was in the process of being disqualified or was disqualified from the WIC Program at the time of purchase/acquisition.
- h. Vendor applicant self-declares vendor type on application (see section III): Full-Line Grocer, Predominantly WIC Grocer, Military Commissary, Pharmacy/Durable Medical Equipment Retailer.
- i. Vendor applicant submits a valid retail food operations permit, food manufacturer’s permit, or pharmacy license from the applicable city, county, district, or state authority.
- j. Vendor applicant submits a valid Texas Sales and Use Tax Permit from the Texas Comptroller of Public Accounts.
- k. Vendor applicant submits declared prices, also known as shelf prices, of WIC approved foods. Declared prices refer to prices a vendor will submit for claims on WIC authorized foods which will not exceed actual shelf prices. The vendor applicant certifies that the submitted declared pricing must not exceed the NTE contained in the APL.
- l. Vendor applicant agrees to maintain Minimum Stocking Requirements on an ongoing basis, as detailed in Section III of this policy.
- m. Vendor applicant agrees to have business integrity and certifies that during the last 6 years, current owners, officers, or managers have not been convicted of nor had a civil judgment for any activity indicating a lack of business integrity. According to Section IV, this selection criterion may be waived per Federal regulation if the SA determines the

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vendor is needed to ensure adequacy of participant access to supplemental foods. (See Policy WV:3.0.)

- n. Vendor applicant certifies that it does not appear on a USGSA or State of Texas suspension or debarment list.
- o. Vendor applicant certifies that it is not currently disqualified from SNAP and has not been assessed a SNAP Civil Money Penalty for hardship for which a disqualification period that would otherwise have been imposed has not expired. According to Section IV, this selection criterion may be waived per Federal regulation if the SA determines the vendor is needed to ensure adequacy of participant access to supplemental foods. (See Policy WV:3.0.)
- p. Vendor applicant must be determined EBT Capable, which includes split tender functionality, by the SA.
- q. The vendor applicant submits, and the SA receives, an accurate and completed LEB form.
- r. Vendor applicant has participated in vendor interactive training.
- s. Applicable to PWIC Vendors Only: The vendor applicant does not provide and/or offer incentive items solely to WIC program participants in accordance with WV: 9.0.

B. Data Collection of SNAP Authorization

- 1. At the time of application, the SA must collect vendor applicant's SNAP authorization number if the vendor applicant is authorized in that program per 7 CFR 246.12(g)(9).
- 2. The vendor must provide the SNAP authorization number if at any time during the Agreement period the vendor becomes SNAP-authorized.

III. Vendor Type

An applicant vendor will self-declare a vendor type on the WIC vendor application. The SA will verify and validate the self-declared vendor type during the vendor selection and on-site evaluation.

A. Full-Line Grocer

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1. A Full-Line Grocer must have posted hours of operation reflecting a minimum of 6 days per week between 9:00 am and 6:00 pm daily.
2. A Full-Line Grocer stocks and offers for sale a variety of food products on a continuous basis in all of the following food groups: Fresh Vegetables, Fresh Fruits, Frozen Vegetables, Frozen Fruits, Canned Fruits, Canned Vegetables, Fresh and Frozen Fish, Poultry, Meats, Bread, Canned Fish, Dairy, Whole Grains, Eggs, Beans, Peanut Butter, Juice, and Infant Food Items.
 - a. *Fresh Vegetables*: 2 pounds each of at least 5 different varieties of dark green and orange/red vegetables. Examples: broccoli, collard greens, mustard greens, kale, romaine lettuce, spinach, turnip greens, acorn squash, butternut squash, carrots, hubbard squash, red peppers, and/or sweet potatoes.
 - b. *Fresh Fruits*: 2 pounds each of at least 5 different fresh fruits. Examples: apples, bananas, oranges, pears, peaches, plums, grapes, tomatoes, and/or grapefruit.
 - c. *Frozen Vegetables*: 24 packages of vegetables, minimum of 4 different varieties of frozen vegetables. Examples: mixed vegetables, corn, corn on the cob, peas, broccoli, carrots, cauliflower, green beans, squash, and/or spinach.
 - d. *Frozen Fruits*: 24 packages of fruit, with a minimum of at least 3 different varieties of frozen fruits. Examples: strawberries (sliced or whole), peaches, blueberries, mixed fruit, blackberries, raspberries, pineapple, fruit medley, and/or mixed berries.
 - e. *Canned Fruits*: 24 cans of fruit, with a minimum of 3 different varieties. Examples: peaches, pears, pineapple, mixed fruit and fruit cocktail.
 - f. *Canned Vegetables*: 24 cans of vegetables, with a minimum of 3 different varieties. Examples: peas, green beans, corn (cream or niblet), beets, carrot, spinach or beans.
 - g. *Fresh and Frozen Fish, Poultry, and Meats*:
 - i. 3 pounds of at least 2 types of fresh and/or frozen fish from the following: Salmon, Trout, Herring, Mackerel, Tilapia, Tuna, Cod, Red Fish, Halibut, or Flounder.
 - ii. 5 pounds of fresh and/or frozen poultry consisting of at least 3 types of cuts. Examples of cuts include whole, halves, leg quarters, wings, etc. of chicken and/or turkey.

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- iii. 5 pounds of fresh and/or frozen beef and/or pork with at least 3 types of cuts (i.e. chops, steaks, hamburger, roasts, bacon, sausage, etc.). NOTE: Luncheon and deli style meats and sausages do not apply.
- iv. A vendor may substitute additional quantities of fresh and/or frozen fish from the types cited in g(i) above in place of stocking fresh and/or frozen beef and pork up to the entire 5 pounds of required meats.
- h. *Bread*: 10 loaves of 20-24 ounce bread in at least 2 varieties and/or brands.
- i. *Canned Fish*: 12 cans of salmon, tuna, sardines, and/or mackerel.
- j. *Dairy*:
 - i. 3 pounds of domestic cheese.
 - ii. 13.5 gallons of milk, some of which must be available in half-gallon and 1-quart containers and include any combination of the following types of milk: whole milk, 1%, ½%, skim, fat-free milk, lactose-free milk, or buttermilk.
- k. *Whole Grains*:
 - i. 108 ounces of breakfast cereal, including 36 ounces each of a whole grain cereal and at least 2 of the following types of cereal: oat, corn, wheat, rice, and multi-grain.
 - ii. 4 pounds of at least 2 types of whole grain foods. One type must be 16-ounce 100% whole wheat bread. Whole grain foods include whole grain bread, brown rice, oatmeal, corn tortillas, and wheat tortillas.
- l. *Eggs*: 3, 1-dozen Grade A or AA large, medium, or small size eggs.
- m. *Beans*: 3, 1-pound bags of dry beans.
- n. *Peanut Butter*: 3, 16—18-ounce jars of peanut butter.
- o. *Juice*: 12 containers of authorized juice of at least 2 flavors. Each flavor shall be available in both a 48-ounce and 64-ounce fluid container.
- p. *Infant Food Items*
 - i. 64, 4-ounce containers of single ingredient infant fruits and vegetables.

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- ii. 24, 2.5-ounce containers of single ingredient infant meat.
 - iii. 2, 8-ounce boxes of infant cereal (contract brand if applicable).
- q. *Infant Formula (elective)*:
 - i. Vendors that accept WIC Infant Formula transactions must stock the following quantities of food products, at a minimum, on a continuous basis.
 - a) 7 cans of milk concentrate infant formula (contract brand).
 - b) 7 cans of soy concentrate infant formula (contract brand).
 - c) 9 cans of milk-based powder formula (contract brand).
 - d) 9 cans of soy powder formula (contract brand).
 - ii. Specifics on Formula - If a WIC authorized vendor elects to provide infant formula, vendor shall purchase all its infant formula directly from:
 - a) Food wholesalers currently licensed in Texas in accordance with the Health and Safety Code, Chapter 431, the Texas Food, Drug, and Cosmetic Act, and 25 Texas Administrative Code, Chapter 229, who are Authorized Distributors of Record (ADOR)
 - b) Food manufacturers registered with the U.S. Food and Drug Administration, or
 - c) Retail food stores holding permits in accordance with the Health and Safety Code, Chapter 437 that purchase infant formula directly from ADOR. Vendors can consult the Approved Distributor List online or may contact the SA for a list of approved distributors.
- B. Military Commissary- Same requirements and minimum stocking requirements as a Full-Line Grocer.
- C. Predominantly WIC (PWIC) Grocer:
 - 1. PWIC Grocers consist of retailers who have or are expected to have WIC food sales above 50% of the outlet's total sales of foods that are eligible for purchase. PWIC classification is verified through the SA's cost containment methodology.

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2. PWIC Retailers stock and offer for sale on a continuous basis all of the following food groups and associated quantities: Fresh Fruits and Vegetables, Eggs, Beans, Peanut Butter, Juice, Canned Fish, Dairy, Whole Grains, and Infant Food Items.
3. PWIC Retailers must stock the following quantities of food products at a minimum on a continuous basis.
 - a. *Fruits and Vegetables*
 - i. 10 pounds of at least 2 types of fresh vegetables (e.g., broccoli, squash, etc.).
 - ii. 10 pounds of at least 2 types of fresh fruits (e.g., apples, oranges, etc.).
 - b. *Eggs*: 3, 1-dozen Grade A or AA large, medium, or small size eggs.
 - c. *Beans*: 3, 1-pound bags of dry beans.
 - d. *Peanut Butter*: 3, 16—18-ounce jars of peanut butter.
 - e. *Juice*: 12 containers of authorized juice of at least 2 flavors. Each flavor shall be available in both a 48-ounce and 64-ounce fluid container.
 - f. *Canned Fish*: 12 cans of salmon, tuna, sardines, and/or mackerel.
 - g. *Dairy*:
 - i. 3 pounds of domestic cheese.
 - ii. 13.5 gallons of milk, some of which must be available in half-gallon and 1-quart containers and include any combination of the following types of milk: whole milk, 1%, ½%, skim, fat-free milk, lactose-free milk, or buttermilk.
 - h. *Whole Grains*:
 - i. 108 ounces of breakfast cereal, including 36 ounces each of a whole grain cereal and at least 2 of the following types of cereal: oat, corn, wheat, rice, and multi-grain.
 - ii. 4 pounds of at least 2 types of whole grain foods. One type must be 16-ounce 100% whole wheat bread. Whole grain foods include whole grain bread, brown rice, oatmeal, corn tortillas, and wheat tortillas.
 - i. *Infant Food Items*—
 - i. 64, 4-ounce containers of single ingredient infant fruits and vegetables.

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- ii. 24, 2.5-ounce containers of single ingredient meat.
- iii. 2, 8-ounce boxes of infant cereal (contract brand if applicable).
- iv. Infant Formula (elective): If selling infant formula, vendors must stock the following quantities of food products, at a minimum, on a continuous basis.
 - a) 7 cans of milk concentrate infant formula (contract brand).
 - b) 9 cans of milk-based powder formula (contract brand).
 - c) 9 cans of soy powder formula (contract brand).
- v. A WIC authorized vendor that elects to provide infant formula must purchase all its infant formula directly from:
 - a) Food wholesalers currently licensed in Texas in accordance with the Health and Safety Code, Chapter 431, the Texas Food, Drug, and Cosmetic Act, and 25 Texas Administrative Code, Chapter 229, who are Authorized Distributors of Record (ADOR)
 - b) Food manufacturers registered with the U.S. Food and Drug Administration, or
 - c) Retail food stores holding permits in accordance with the Health and Safety Code, Chapter 437 that purchase infant formula directly from ADOR. Vendors can access a list of approved distributors on the SA website.

D. Pharmacy, and Durable Medical Equipment Retailer

1. A Pharmacy is a retail location at which a prescription drug or medication order is received, processed, or dispensed under Texas Health and Safety Code, Chapter 483 or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. §801 et seq.).
2. A Durable Medical Equipment (DME) retailer is a business entity, wholesaler, or supplier that sells exempt infant formula and/or WIC-eligible nutritionals. DME retailer does not hold a pharmacy license.
3. Pharmacies and DME retailers may only provide exempt infant formula and/or WIC-eligible nutritionals and will not be authorized to redeem WIC EBT Benefits for other WIC authorized foods, including all contract brand infant formulas.

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These types of vendors are exempt from minimum stocking requirements and square footage requirements.

4. Upon request, a Pharmacy or DME retailer will make available to SA inspectors invoices or receipts documenting the purchase of its exempt infant formulas and/or WIC-eligible nutritionals.
5. Specifics on WIC-Eligible Nutritionals
 - a. If the vendor outlet offers WIC-eligible nutritionals on its shelves, prices must be posted along with proper labeling.
 - b. WIC-eligible nutritionals are defined in Section I of this policy and provides additional details on types, requirements, and items not allowed.

IV. Authorization Decision

Once the application is complete and selection criteria have been verified by the SA, the vendor applicant will receive WIC vendor authorization via a WIC Vendor Agreement as detailed in Section V. If the vendor applicant is not authorized, they receive a written notice of denial as detailed in Section VIII. In addition, the vendor applicant will receive notice of appeal rights as outlined in Texas WIC policy WV: 13.0.

A vendor applicant initially deemed ineligible for authorization may be authorized on a case-by-case basis, if the vendor is needed to address inadequate participant access to WIC authorized supplemental foods as outlined in Texas WIC Policy WV: 3.0.

V. Vendor Agreement

- A. If a vendor applicant meets all selection criteria, the SA will authorize the vendor and provide a WIC Vendor Agreement for a period of up to three years, which will include all authorized outlets. If a vendor does not meet all selection criteria, the vendor will not be authorized unless the SA determines that the vendor is needed to ensure adequacy of participant access to supplemental foods.

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- B. A vendor applicant or WIC authorized vendor must not conduct WIC EBT transactions at the outlet for which application is submitted or WIC Vendor Agreement amended until the vendor or vendor applicant receives an executed WIC Vendor Agreement which encompasses that outlet.

- C. A Pharmacy or DME retailer that submits a claim for a WIC-eligible food item other than an exempt infant formula and/or WIC-eligible nutritionals will be disqualified as a WIC authorized vendor and may not apply for authorization until six months after the date of the SA's disqualification notification. Pharmacies and DME retailers with a current Vendor Agreement, who seek reauthorization, shall reapply, be evaluated for issuance of a subsequent Vendor Agreement under WIC Program procedures, policies, rules, and regulations, and be reauthorized unless notified in writing by the SA at least 15 days before expiration of the Vendor Agreement.

- D. A change of ownership of an authorized vendor outlet or account terminates the authorization of that vendor outlet under the Vendor Agreement. A change of ownership occurs when all, or most of the property or assets of a vendor are acquired by a purchaser in an arms-length transaction, as determined by the SA.
 - 1. If a store/location under previous ownership is not disqualified or is not in the process of being disqualified at the time of acquisition, and the acquiring party is in compliance with the rules, regulations, and vendor qualification criteria of the WIC Program, the acquiring party may, upon request, be considered for authorization as a WIC vendor. In order to request consideration for authorization, the acquiring party must submit a vendor application for the acquired or purchased store/location.
 - a. The applicant vendor must submit a written notification stating that a change of ownership has been affected and duly executed by the seller and purchaser or their duly authorized officers or other agents.
 - b. The notification will include, at a minimum, the following information and any other information the SA deems necessary: name and business address of the seller; name

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- and business address of the purchaser; WIC vendor account number and outlet number, if applicable; name and street address of the vendor outlet location(s); effective date of ownership change; and State of Texas Comptroller tax ID number of the new owner.
2. WIC authorized vendors will provide the SA with written notification prior to the sale, including the date the outlet being sold will cease to accept WIC EBT food benefits.
- E. Applications will be accepted and processed on an ongoing basis at least once every three years from all vendor applicants and all vendor types. The State agency will consider applications to ensure adequate participant access to supplemental foods. Within the three-year timeframe, the State agency may limit the period during which applications for vendor authorization will be accepted and processed; this is also known as a state-imposed moratorium.
- F. The Vendor Agreement does not constitute a license, since a vendor does not require the SA's approval to engage in the retail grocery business in Texas and the vendor would not effectively be deprived of this right in the absence of WIC Program authorization.
- G. The Vendor Agreement does not convey any property interest, since federal law does not give rise to a legitimate claim of entitlement for vendors.
- H. The terms of authorization are established in the Vendor Agreement. The Vendor must comply with all applicable Federal and State statutes, regulations, policies, and procedures governing the WIC Program. The contractual relationship ends with the expiration or termination of the Vendor Agreement. Termination of the Vendor Agreement including a WIC authorized vendor's unilateral termination after receipt of notification of a violation, does not deprive the SA of jurisdiction to impose price adjustments, claims, or sanctions for vendor errors or WIC Program violations. Such notification will include appeal rights consistent with 7 CFR 246.18 as outlined in Texas WIC policy WV: 13.0. Pursuant to 7 CFR 246.12(h)(3)(xxvi) and as outlined in Texas

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WIC policy WV: 1.0, disqualification from the WIC Program may result in disqualification as a retailer in SNAP. Such disqualification may not be subject to administrative or judicial review under SNAP.

- I. The SA may amend a WIC vendor Policy or State of Texas Administrative Code rule during the term of the agreement with written notification to WIC vendors in a timely manner.
- J. The SA, as well as officers, agents, and employees of the State Agency, are not responsible for losses incurred by a vendor as a result of the disqualification, termination, and/or expiration of the Vendor Agreement.
- K. Upon the WIC Vendor Agreement end date, the vendor must apply for reauthorization of the agreement to continue as a WIC vendor. In accordance with WV: 11.0 and the WIC Vendor Agreement, an on-site evaluation may be conducted at any time, including during the course of the Agreement period. Vendors must maintain compliance with selection criteria throughout the Agreement period and must meet the criteria effective at the time of application for reauthorization. At any time, the SA may request documentation to verify compliance with current selection criteria.
- L. Authorized Vendor must comply with vendor selection criteria throughout the Vendor Agreement period, including any changes to the criteria. The SA may reassess the vendor at any time during the Vendor Agreement period and will terminate the Vendor Agreement if the vendor fails to meet current vendor selection criteria.

VI. On-Site Evaluation

- A. An on-site evaluation is an aspect of the preauthorization process conducted to verify aspects of the application, the Vendor Agreement, and compliance with state and federal regulations. An on-site evaluation will be conducted at the vendor outlet site at least two weeks after the vendor outlet opening day. The on-site evaluation will observe prices, competitive pricing of WIC authorized food items, and proper labeling. The on-site evaluation

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will also confirm minimum stocking requirements. The SA will coordinate with the LA and the WIC authorized vendor to schedule the on-site evaluation. The vendor is required to comply with all criteria as described in this policy on day of opening vendor outlet.

- B. The on-site evaluation will be conducted by either the SA or LA representative. The SA or LA representative will:
 - 1. Collect WIC authorized food shelf prices. Prices will be verified against actual WIC EBT claim data for competitive pricing purposes.
 - 2. Verify and validate minimum stocking requirements by vendor type as defined in Section III of this policy.
 - 3. Verify and validate that the vendor outlet is clean, as determined by the SA or LA representative, with fresh foods (no expired items). Expired food dates on WIC authorized food products are prohibited.
 - 4. Verify and validate that the vendor outlet has posted prices for all WIC authorized food products along with proper labeling.
- C. The vendor will have the opportunity to review the information of the on-site evaluation. The SA or LA representative will provide a copy of the completed on-site evaluation form to the vendor outlet representative at the time of the on-site evaluation.
- D. If a representative from the SA or LA visits an applicant vendor outlet or WIC authorized vendor outlet to conduct the required on-site evaluation at a time previously agreed upon, and the vendor outlet cannot be evaluated and/or is not ready for the evaluation at the agreed upon time, the vendor outlet shall be deemed to have failed the evaluation.
- E. A vendor will receive up to two on-site evaluations. If the vendor fails both evaluations, the vendor will be terminated from the WIC Program. The vendor will receive notice of appeal rights as outlined in Texas WIC policy WV: 13.0.

VII. Virtual Evaluation

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- A. A virtual evaluation is an aspect of the preauthorization process conducted to verify aspects of the application, the Vendor Agreement, and compliance with state and federal regulations. A virtual evaluation will be conducted at least two weeks after the vendor outlet opening day. The virtual evaluation will observe prices, competitive pricing of WIC authorized food items, and proper labeling. The virtual evaluation will also confirm minimum stocking requirements. The SA will coordinate with the WIC vendor applicant to schedule the virtual evaluation. The vendor is required to comply with all criteria as described in this policy on day of opening vendor outlet.

- B. The virtual evaluation will be conducted by the SA with the WIC vendor applicant. The SA representative will:
 - 1. Collect WIC authorized food shelf prices. Prices will be verified against actual WIC EBT claim data for competitive pricing purposes.
 - 2. Verify and validate minimum stocking requirements by vendor type as defined in Section III of this policy.
 - 3. Verify and validate that the vendor outlet is clean, as determined by the SA representative, with fresh foods (no expired items). Expired food dates on WIC authorized food products are prohibited.
 - 4. Verify and validate that the vendor outlet has posted prices for all WIC authorized food products along with proper labeling.

- C. The vendor will have the opportunity to review the information form and outcome of the virtual evaluation. The SA representative will provide a copy of the completed virtual evaluation form to the vendor outlet representative at the time of the virtual evaluation.

- D. If a virtual evaluation is approved by the SA representative and scheduled with the WIC applicant vendor, and the vendor outlet cannot be evaluated and/or is not ready for the evaluation at the agreed upon time, the vendor outlet shall be deemed to have failed the evaluation.

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- E. A vendor will receive up to two evaluations. If the vendor fails both evaluations, the vendor will be terminated from the WIC Program. The vendor will receive notice of appeal rights as outlined in Texas WIC policy WV: 13.0.

VIII. Vendor Competitive Pricing and Maximum Allowable Reimbursement

A. Competitive Pricing Classification

- 1. The purpose of applying competitive price criteria is to manage food prices. Texas WIC determines competitive pricing classification and peer group designation for WIC authorized vendors based upon the following:

Traditional WIC grocer (TWIC):

- a. Sales Process Month
- b. Geographic Price Region
- c. Sales Volume Band

Predominantly WIC grocer (PWIC):

- a. Sales Process Month
- b. TWIC Statewide Averages

- 2. WIC authorized vendors will be initially classified based on their vendor type, as verified by the SA during the on-site evaluation. A PWIC shall have above 50% in WIC sales. A TWIC shall have up to 50% in WIC sales. A Full-Line Grocer shall be classified as a TWIC unless the Full-Line Grocer indicates that (1) its store opening is dependent on WIC authorization, or (2) the Full-Line Grocer indicates it receives, or expects to derive, more than 50% of its annual food sales revenue from WIC sales. Pharmacies and DMEs will be classified as PWIC. These classifications will remain in effect until the vendor submits to the SA documentation substantiating SNAP-eligible food sales. [NOTE: Documentation consists of sales and use tax and/or fuel reports submitted to the State Comptroller.]
- 3. WIC authorized vendors shall be reclassified after 4 months of WIC sales. An analysis of WIC sales will determine proper classification,

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which consists of examining a vendor outlet's SNAP sales to determine if they exceed WIC sales. If a vendor outlet's SNAP sales or sales of other foods eligible for sale under SNAP exceed WIC sales, then the vendor outlet will be classified as a TWIC. If WIC sales exceed SNAP sales, plus sales of other foods eligible for sale under SNAP, then the store will be classified as PWIC. WIC authorized vendors shall have the opportunity to provide documentation substantiating that WIC sales comprise 50% or less of gross SNAP-eligible food sales. [NOTE: Documentation consists of sales and use tax and/or fuel reports submitted to the State Comptroller. Documentation must show that WIC sales for the 4-month period were less than or equal to 50% of total gross food sales counting only foods eligible for sale under the SNAP in order to qualify as a TWIC.]

4. Pharmacies and DME retailers are subject to the Not to Exceed amounts but may be exempt from competitive price criteria and maximum allowable reimbursement levels, as allowed under the provisions of 7 CFR 246.12(g)(4)(iv) for redemption of exempt infant formula and/or WIC-eligible nutritionals.

B. Cost Containment Methods

1. Food prices by category/subcategory will be compared for competitive pricing purposes according to the criteria below.
 - a. TWICs pricing shall be compared utilizing price regions and sales volume bands. WIC sales volume bands are:
 - Band 1 = \$0.00 - \$1,999.99
 - Band 2 = \$2,000.00 - \$5,999.99
 - Band 3 = \$6,000.00 - \$19,999.99
 - Band 4 = \$20,000 or greater
 - b. Total payments by the SA to a TWIC vendor outlet for a process month's claims for all category/subcategories, excluding cash value benefits, exempt infant formulas, and WIC-eligible nutritionals, that collectively exceed 110% of the authorized amount (peer group price average multiplied by vendor outlet quantity sold) during the same process month constitutes non-competitive pricing.

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- c. PWIC pricing shall be compared utilizing the statewide average pricing of TWICs. The SA will confirm cost neutrality between TWICs and PWICs by ensuring that prices paid to PWICs do not exceed the statewide average price paid to TWICs (regardless of their price region or WIC sales volume band).
 - d. The SA will confirm that each PWIC vendor has not subsequently raised pricing to levels that would render the vendor ineligible for authorization. The SA will confirm through the end-of-process month analysis that the PWIC vendor's recoupments do not exceed 8% of the total dollar amount paid, for all WIC items, excluding cash value, exempt infant formulas, and WIC-eligible nutritionals, to that PWIC in the process month. If recoupments exceed 8%, vendors will be held to the sanction schedule in policy WV: 1.0 Section VIII. C.
 - e. The State agency may change a vendor's peer group whenever the State agency determines that placement in an alternate peer group is warranted. The SA will notify each vendor of its peer group assignment upon initial authorization and monthly thereafter.
2. Not to Exceed (NTE) Pricing
- a. An NTE amount is put in place across the board for all WIC approved foods by food category/subcategory and is applicable to all vendors.
 - b. NTE amounts are enforced as prepayment edits on each unit of food product (e.g. by ounce, pound, can, etc.) purchased within a calendar month for claims processing.
3. Maximum Allowable Reimbursement (MAR)
- a. TWICs will be held to a MAR of 125% of the average price paid (after edits and recoupments) by peer group. When calculating average prices for each TWIC peer group, the SA excludes prices paid to other vendors outside the respective TWIC peer group.
 - b. PWICs will be held to a MAR equal to the statewide average price paid by food category/subcategory to TWICs. Prices paid to a national discount retailer and/or Military Commissaries will be included in the calculation.

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- c. At the end of each process month, an analysis shall determine the average payment totals in order to implement the MAR reimbursement calculation process. WIC approved food category/subcategory items, except cash value, exempt infant formula, and WIC-eligible nutritionals shall be analyzed. The MAR will be calculated by dividing the total price paid for a process month for a food category/subcategory by the total number of units redeemed by TWICs in the peer group.
- d. TWICs that received reimbursement for an amount that exceeds the 125% of the average price of one or more category/subcategories for the vendor's peer group will have a recoupment adjustment of the difference (reimbursement amount less 125% of the average price amount) that will be applied against a subsequent month's claim(s).
- e. PWICs that received reimbursement for an amount higher than the statewide average pricing of one or more category/subcategories of TWICs will have a recoupment adjustment of the difference (reimbursement amount less average amount) that will be applied against a subsequent month's claim(s).

IX. Vendor Selection Denials

- A. The SA will notify a vendor applicant in writing of any authorization disapproval(s). Such notification will include appeal rights consistent with 7 CFR 246.18 as outlined in Texas WIC policy WV: 13.0.
- B. A vendor applicant will be denied authorization or WIC authorized vendor shall be terminated for providing false information at any point during the vendor selection process or failing the selection criteria process, which includes but is not limited to the vendor application, and preauthorization process.
- C. The SA may not authorize a vendor applicant if the SA determines the store has been sold by its previous owner in an attempt to circumvent a WIC sanction. The SA may consider such factors as whether the store was sold to a relative by blood or

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marriage of the previous owner(s) or sold to any individual or organization for less than its fair market value.

- D. A vendor applicant may be denied authorization if involved in a previous disqualification or sanction for violating WIC Program Vendor Agreement procedures, policies, rules, or regulations. Involvement includes, but is not limited to, actions of an owner, partner, principal stockholder, officer, director, manager, or operator of the vendor applicant.
- E. New outlets for an existing WIC authorized vendor will be denied authorization if 50% or more of its vendor outlets are in a disqualification or termination status at the time of requesting authorization of new vendor outlets.
- F. A vendor applicant will be denied authorization or WIC authorized vendor will be terminated for failing to accurately provide certification of business integrity.
- G. A vendor applicant will be denied authorization or WIC authorized vendor will be terminated for appearing on a USGSA or State of Texas suspension or debarment list.

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Effective November 1, 2021

Policy No. WV:11.0

WIC Vendor Reauthorization

Purpose

To describe State Agency (SA) procedures for selecting vendors for reauthorization from one WIC Vendor Agreement period to another with no break in service. A break in service occurs when a vendor quits, is disqualified, terminated and/or the Vendor Agreement expired and is not renewed.

Authority

7 CFR Section 246.12; 246.18

Policy

- I. WIC authorized vendors with a current Vendor Agreement who seek reauthorization will reapply and be evaluated for issuance of a subsequent Vendor Agreement under WIC Program procedures, policies, rules, and regulations.

- II. Prior to reauthorization, the SA will review the qualifications of all vendors to assure that each vendor continues to meet the WIC Program's Selection Criteria, in accordance with WIC policy WV: 10.0. Criteria reviewed for reauthorization include, but are not limited to:
 - A. Competitive prices in accordance with WIC Policy WV: 10.0.
 - B. Redemption of declared Least Expensive Brands (LEB) in accordance with WIC Policy WV: 02.0.
 - C. Previous compliance with WIC Program procedures, policies, rules, and regulations. The vendor has satisfactorily complied with WIC EBT food instrument redemption and transaction submission procedures, policies, rules, and regulations.

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- D. Use of the WIC acronym or WIC logo. If the SA determines that the vendor failed to comply with the prohibitions on the use of the WIC acronym or WIC logo, after having received at least three written warnings, or having been disqualified for and/or having paid a Civil Money Penalty (CMP) in lieu of a disqualification for failing to comply with WIC Policy in regard to the use of the WIC Acronym and/ or logo, the WIC Vendor Agreement will not be renewed. If the vendor receives a warning after paying a CMP or receives a warning after being disqualified for failing to comply with the prohibitions on the use of the WIC Acronym and/or logo, the Vendor Agreement will not be renewed.
 - E. Failure to attend vendor training. The vendor agreement will not be renewed if a vendor or a vendor representative has not attended a live interactive WIC vendor training within three years from the last date a vendor representative attended a live interactive WIC vendor training.
 - F. Valid Permit. All vendors must have a valid retail food operation permit or food manufacturer's permit from the applicable city, county, district, or state health authority.
- III. A history of noncompliance with WIC Program procedures, policies, rules, and regulations will be considered by the SA in determining if the vendor is eligible for a subsequent agreement.
- IV. The SA may allow a vendor's agreement to expire and not be renewed if the vendor has a history of noncompliance with provisions in the Vendor Agreement or the WIC Program procedures, policies, rules, and/or regulations.
- A. Expiration of the Vendor Agreement is not subject to appeal.
 - B. In the event the vendor's agreement has been allowed to expire due to previous noncompliance, a vendor's request for

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reauthorization will not be considered until at least six months from the expiration date of the vendor's last agreement.

- V. The SA will terminate the Vendor's Agreement during its term if the vendor no longer meets vendor selection and/or limiting criteria, including but not limited to:
 - A. Competitive pricing in accordance with Policy WV:10.0
 - B. LEB redemptions in accordance with WIC Policy WV: 2.0
 - C. Noncompliance with the Vendor Agreement, Federal/State statutes, and/or WIC Program regulations, policies, and procedures.
- VI. The SA will immediately terminate the Vendor Agreement if it determines that the vendor has provided false information in connection with its application for authorization.
- VII. Termination of the Agreement is subject to administrative review in accordance with Policy WV: 01.0 and Policy WV:13.0. In the event the SA terminates the Vendor Agreement, the vendor's request for subsequent application will not be considered until at least six months from the date of termination.

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Policy No. WV:12.0

WIC Vendor EBT System Reimbursement

Purpose

To define WIC authorized vendor and State Agency (SA) responsibilities, policies, and procedures for reimbursement of WIC-certified, single function electronic benefit transfer (EBT) systems.

Authority

42 US Code §1786(h)(12)(E-G); 7 CFR 246.12(w)-(aa)

Policy

WIC food benefits in Texas are provided to eligible participants using a WIC EBT smart card at authorized vendors throughout the state. The SA must certify a WIC vendor applicant as WIC EBT capable.

The vendor applicant may demonstrate this capability by using its own multifunctional equipment or through use of a separate system that transacts only WIC EBT smart card redemptions. For authorized vendors who meet eligibility criteria, limited SA reimbursement for single function equipment is available.

The SA will process reimbursement for a single function (WIC-only) EBT system, if the vendor meets all eligibility criteria. In addition, the SA will reimburse for ongoing maintenance, processing fees, and operational costs for authorized vendors who meet eligibility criteria. The SA must have sufficient funds available for all reimbursements.

Procedures

- I. Texas WIC EBT System Components and Responsibilities
 - A. Authorized vendors must maintain a WIC-certified system in each authorized vendor outlet that accurately performs the following:

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1. Redeems WIC benefits from participants' WIC EBT smart cards;
 2. Submits claims for reimbursement of WIC food benefits; and
 3. Receives Hot Card Lists (HCL), Approved Product Lists (APL), and Auto Reconciliation Files (ARF) from the WIC EBT host system.
- B. Vendors must comply with Food and Nutrition Service WIC EBT Operating Rules, Federal and State regulations, policies and procedures, and the WIC EBT requirements listed in the Vendor Agreement throughout the Vendor Agreement period.
- II. SA Reimbursement for WIC-Only (Single Function) EBT Systems
- A. Vendors must meet the following eligibility criteria for reimbursement:
1. The vendor outlet must be WIC authorized (Vendor Agreement is fully executed) for a minimum of six months;
 2. The SA determined the vendor outlet is in an inadequate participant access (PA) area;
 3. The vendor outlet is compliant with State and Federal rules and regulations, policies, and vendor selection criteria;
 4. The EBT system is single function (WIC only); and
 5. The vendor outlet does not have a WIC EBT system that was installed using WIC EBT system reimbursement funds.
- B. The vendor's WIC EBT system must meet the following eligibility criteria for reimbursement:
1. The vendor is not able to accept WIC electronic benefit transfers using its current EBT equipment.
 2. The system is a brand new set of equipment that is WIC-certified for Texas EBT.
 3. The WIC EBT system must be used solely for WIC sales either by functional limitations or by license and not used as a multi-tender system. This includes, but is not limited to, the ability to read magnetic stripe cards or accept cash purchases through a

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cash drawer. This does not prevent the WIC EBT system from including a hybrid smart card/magnetic stripe card reader, but the magnetic stripe card capability must not be active.

C. Amount of Potential Reimbursement

1. The SA will reimburse eligible authorized vendor outlets up to \$2,000.00 plus tax based on the actual cost of the WIC-only (single function) EBT system.
 - a. Any SA-reimbursed WIC EBT system must be used solely for transacting WIC EBT benefits for one year. If the SA-reimbursed WIC EBT system is used for the transaction of any tender other than WIC (including, but not limited to cash, credit, and/or magnetic stripe card), the vendor must return the full reimbursement to the SA.
 - b. If the vendor fails to meet on-going selection criteria and/or is terminated or withdraws from the WIC Program after redeeming WIC benefits for less than 12 months, then the vendor outlet must return a pro rata share of the WIC EBT system reimbursement to the SA. For example, if the vendor outlet was in operation for 10 months, two months of the pro rata share would be reimbursed to the SA. If that vendor outlet applies for reauthorization, the vendor outlet must become WIC EBT capable without further reimbursement.
 - c. The SA may waive the return of the pro rata share of the WIC EBT system reimbursement if an authorized WIC vendor outlet ceases to participate as a WIC vendor and the WIC EBT system equipment at the closing outlet is transferred to another WIC-authorized vendor outlet within the same corporate structure and used solely for the purpose of WIC EBT food benefit redemptions.

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- d. If an authorized vendor sells any or all of its WIC vendor outlets after the SA has reimbursed the vendor for the WIC EBT system(s), the selling vendor agrees to provide the WIC EBT system to the purchaser of the store(s) as part of the sale. Failure of the purchasing vendor to seek, accept, or maintain the seller's WIC EBT system does not obligate the SA to provide additional WIC EBT system reimbursement for any previously reimbursed vendor outlet(s).
 - e. Vendor terminations pertaining to EBT capability are subject to the consideration of participant access as described in WIC Policy WV: 3.0.
- 2. Enforcement of all warranties and maintenance agreements is a responsibility of the individual vendor.
 - 3. A retail vendor may lease equipment for use in WIC EBT transactions at its own cost. The leasing of EBT system equipment for use in WIC EBT is not reimbursable. Leased EBT system equipment must meet WIC EBT system capability requirements.

III. REIMBURSEMENT PROCEDURE

- A. The vendor must submit the reimbursement request within 180 calendar days of the date of WIC EBT capable certification. However, the SA's reimbursement process will occur once the vendor has been on the WIC program for at least 180 days. The vendor may request WIC EBT system reimbursement by submitting the following documentation to the SA:
 - 1. The completed WIC EBT System Reimbursement Request Form. Email WICEBTsupport@hhsc.state.tx.us to request a WIC EBT System Reimbursement Request Form.

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2. An invoice from a Texas WIC-approved EBT system vendor. The invoice must include the following:
 - a. Invoice number and date,
 - b. WIC authorized vendor's name,
 - c. WIC authorized vendor's physical address,
 - d. The equipment configuration for a one-lane system, including confirmation the system is limited by license or software to conduct only WIC transactions, and
 - e. Price of each EBT system component.
 3. Proof of payment (check, money order, receipt for cash, or EBT system vendor attestation) stating the invoice was paid in full. Promissory notes are not proof of payment.
 4. The vendor's fully executed Vendor Agreement and/or any amendments.
- B. The SA will process a Purchase Request Form for reimbursement within 30 calendar days if the vendor outlet meets the following criteria:
1. The SA verifies the vendor outlet meets all eligibility criteria and documentation requirements outlined in this policy,
 2. The vendor outlet has redeemed WIC benefits for a minimum of six months
 3. The vendor outlet has submitted a WIC EBT System Reimbursement Request form within 180 calendar days of being certified WIC EBT capable.
- IV. The SA's EBT reimbursement decisions are final and not subject to administrative appeal. The SA will provide written notification to WIC vendors of changes to Federal or State statutes, regulations, policies, or procedures governing the WIC Program before the changes are implemented, providing as much advance notice as possible.

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WIC Vendor Right to Administrative Review

Purpose

To describe State Agency (SA) process for providing the right of administrative review (also known as Fair Hearing, pursuant to the Texas Administrative Code, Title 25, section § 1.41 to § 1.55) to a WIC vendor who has experienced and wishes to appeal an adverse action exercised by the SA and/or SA representative.

Authority

7 CFR Sections 246.12 and 246.18; the Vendor Agreement; and the Texas Administrative Code, Title 25, section § 1.41 to § 1.55

I. Adverse Actions Subject to Full Administrative Review

The SA will provide vendors the opportunity for a full administrative review, pursuant to the Texas Administrative Code, Title 25, section § 1.41 to § 1.55, to appeal the following adverse actions:

- A. Denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of authorized supplemental foods or on a determination that the vendor is attempting to circumvent a sanction
- B. Termination of an agreement for cause
- C. Disqualification
- D. Imposition of a fine or a civil money penalty in lieu of disqualification.

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II. Adverse Actions Subject to Abbreviated Administrative Review

The SA will provide Abbreviated Administrative Reviews to vendors that appeal the following adverse actions. An Abbreviated Administrative Review is an internal, formal desk review in which the contested issue is evaluated and decided by a neutral employee of the SA, designated by the director or director designee. The SA, at its sole discretion, may decide to provide a full administrative review for any of these types of adverse actions:

- A. Denial of authorization based on the vendor selection criteria for business integrity or for a current Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, disqualification or Civil Money Penalty (CMP) for hardship.
- B. Denial of authorization based on the application of the vendor selection criteria for competitive price.
- C. The application of the SA's vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors.
- D. Denial of authorization based on a SA established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification.
- E. Denial of authorization based on the SA's vendor limiting criteria.
- F. Denial of authorization because a vendor submitted its application outside the timeframes during which applications are being accepted and processed as established by the SA.
- G. Termination of an agreement because of a change in ownership or location or cessation of operations.

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- H. Disqualification based on a trafficking conviction.
 - I. Disqualification based on the imposition of a SNAP CMP for hardship.
 - J. Disqualification or a CMP imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State Agency (i.e. Arkansas, New Mexico);
 - K. A CMP imposed in lieu of disqualification based on a SNAP disqualification; and,
 - L. Denial of an application based on a determination of whether an applicant vendor is currently authorized by SNAP.
- III. The SA will not provide administrative reviews (Full or Abbreviated) to vendors that appeal the following actions:
- A. The validity or appropriateness of the SA's vendor limiting or selection criteria for minimum variety and quantity of supplemental foods, business integrity, and current SNAP disqualification or civil money penalty for hardship.
 - B. The validity or appropriateness of the SA's selection criteria for competitive price, including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors.
 - C. The validity or appropriateness of SA's participant access criteria and the SA's participant access determinations concerning whether disqualification of a vendor would result in inadequate participant access.
 - D. The SA's determination to include or exclude an infant formula manufacturer, wholesale, distributor, or retailer from the SA's

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list of infant formula wholesalers, distributors, and retailers licensed under State law (including regulations), and infant formula manufacturers registered with the Food and Drug Administration (FDA) that provide infant formula.

- E. The validity or appropriateness of the SA's prohibition of incentive items and the SA's denial of an above-50-percent vendor's request to provide an incentive item to customers.
- F. The SA's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction.
- G. The SA's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.
- H. Denial of authorization if the SA's vendor authorization is subject to the procurement procedures applicable to the SA.
- I. The expiration of a vendor's agreement.
- J. Disputes regarding WIC EBT food instrument and cash-value benefit payments or claims assessed against a vendor (other than the opportunity to justify or correct a vendor overcharge or other error).
- K. Disqualification of a vendor as a result of disqualification from the SNAP.
- L. The validity or appropriateness of the SA's WIC Vendor Agreement provisions.

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IV. Full Administrative Review Procedures

- A. The SA and/or SA representative shall provide a vendor with written notification of an adverse action, the cause(s) for the action, the effective date of the action, and the right to appeal the adverse action through a Full Administrative Review. The Full Administrative Review process provides the vendor with a fair hearing before a neutral hearing examiner.
- B. The SA and/or SA representative shall provide a vendor with written notice of an adverse action at least 20 days prior to the effective date of the action.

Exception: When a vendor is denied authorization or is disqualified due, in whole or in part, to conviction for trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments, the SA and/or SA representative must make the denial of authorization or disqualification effective on the date of receipt of the notice of adverse action. This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP.

- C. A vendor wishing to appeal an adverse action shall submit to the SA a written request for a hearing within 20 days of notification of denial or adverse action. The date of notification of denial of authorization or adverse action shall be the date the letter is transmitted to the vendor (e.g.: email date).

The vendor's request for a hearing must be received by the SA on or before the 20th day from the notification of denial or adverse action, with the responsibility for timely submission residing with the affected vendor. The written request shall, at a minimum, describe the action being appealed.

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D. When a vendor appeals an adverse action, the adverse action may, at the sole discretion of the SA, be postponed until a hearing decision is reached, with the exception in Section IV.B above.

1. Appealing an adverse action does not relieve a vendor permitted to continue participating in the program while an appeal is pending from the obligation of continued compliance with the terms of the written agreement with the SA.
2. The SA will not postpone the collection of a disallowance or vendor claim and/or an invoice audit disallowance and/or dispute regarding electronic benefit transaction or cash-value benefit transaction disallowance pending a hearing decision.

E. The SA shall provide a vendor appealing an adverse action the following:

1. At least ten days advance notice of the time and place for the hearing;
2. The opportunity to only reschedule the hearing one time for a maximum extension of 15 business days from the originally scheduled hearing date. On a case-by-case basis, the Hearing Examiner may consider extreme circumstances for extending beyond the one extension and/or beyond 15 business days.
3. The opportunity to examine the case file, claim file, and any other documents or records the SA intends to use at the fair hearing at a reasonable time before and during the hearing. There shall be no other discovery.
4. The opportunity to be represented by counsel if desired.

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5. The opportunity to call witnesses and present documentary evidence.
6. The opportunity to confront and cross-examine adverse witnesses except that such examination shall be conducted behind a protective screen or other device when necessary to protect the identity of monitors.
7. An impartial decision-maker who will prepare a written decision based solely on whether the SA has correctly applied federal and state statutes, regulations, rules, policies and procedures governing the program according to the evidence presented at the hearing.
8. Written notification of the final decision within 90 days from the date of receipt of the vendor's request for a hearing. This timeframe is only an administrative requirement for the state agency and does not provide a basis for overturning the state agency's adverse action if a decision is not made within the specified timeframes.

V. Abbreviated Administrative Review Procedure

- A. The SA shall provide a vendor with written notification of the adverse action, the cause(s) for the action, the effective date of the action, and the right to appeal the adverse action through the Abbreviated Administrative Review procedures described in this Section.
- B. The SA shall provide a vendor notice of the adverse action at least 20 days prior to the effective date of the action, except when the adverse action results from denial of authorization, which is effective on receipt of the notice.
- C. A vendor shall submit to the SA a written request for a review within 20 days of the receipt of the notice of adverse action.

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The vendor's request for a review must be received by the SA on or before the 20th day from receipt of the notice of denial or adverse action, with the responsibility for timely submission residing with the affected vendor. The written request shall, at a minimum, describe the action being appealed and explanations, clarifications, or other factual evidence that the vendor believes relevant to the review.

- D. When a vendor appeals an adverse action through the Abbreviated Administrative Review process with the exception of denial of authorization which must take effect on the date of receipt of the notice, the adverse action may, at the sole discretion of the State WIC Program, be postponed until the review is completed and a decision is rendered by the SA.
 - 1. Appealing an adverse action does not relieve a vendor, permitted to continue participating in the program while a review is pending, from the obligation of continued compliance with the terms of the written agreement or contract with the SA.
 - 2. The SA will not postpone the collection of a disallowance or vendor claim and/or an invoice audit disallowance and/or dispute regarding electronic benefit transaction or cash-value benefit transaction disallowance pending a hearing decision.

- E. The SA shall provide a vendor appealing an adverse action through the Abbreviated Administrative Review process the following:
 - 1. A review of the adverse action decision and information submitted by the vendor under Section II.C above by a decision-maker other than the person who rendered the initial decision.
 - 2. A final decision of the reviewing official based solely on whether the SA has correctly applied Federal and State

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statutes, regulations, policies, and procedures governing the WIC Program, according to the information provided to the vendor concerning the cause(s) for the adverse action and the vendor's response.

3. Written notification of the reviewing official's final decision within 30 days from the date of receipt of the request for an Abbreviated Administrative Review by a vendor. This timeframe is only an administrative requirement for the state agency and does not provide a basis for overturning the state agency's adverse action if a decision is not made within the specified timeframes.

- VI. The SA is not responsible for losses incurred by the vendor as a result of disqualification and/or denial of an application to participate.
- VII. If the results in a final decision of Full Administrative Review or an Abbreviated Administrative Review are adverse to the vendor:
 - A. The vendor may seek judicial review of the decision to the extent authorized by state law. The SA or its legal counsel shall not provide legal advice to adverse parties concerning judicial review of final administrative decisions. Appellants must seek advice from their own attorneys.
 - B. The appealed adverse action is effective the date the vendor is notified of the Full or Abbreviated Administrative Review final decision except as noted in Sections IV.B and V.B above.

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Appeal Procedures
For WIC Farmers' Markets/Farmers

Purpose

To ensure that each WIC farmers' market association and authorized farmer has the opportunity to appeal an adverse action taken by the State Agency (SA).

Authority

7 CFR Part 246; State Policy

Policy

A farmers' market association or farmer adversely affected by a SA action affecting participation has the right to appeal, with the exception of expiration/nonrenewal of a Farmers' Market Association Agreement.

Procedure

- I. The SA shall provide written notice of disqualification at least 20 days prior to the effective date of disqualification. The SA shall provide the farmers' market or farmer to be affected with the cause(s) for, the effective date of, and the option to appeal the adverse action within 20 days of receipt of the notification.
- II. To appeal the action, the affected market or farmer shall provide the SA with a written request for a hearing within 20 days of receipt of the notification. The request shall, at a minimum, describe the action that is being appealed.
 - A. The adverse action affecting a participating market or farmer shall not be postponed until a hearing decision is reached if the cause was for redeeming WIC Electronic Benefits Transfer (EBT) cash value benefits (CVB) for cash, and/or non-food items. If the cause was not cash and/or non-food items, the adverse action affecting a participating market or farmer shall be postponed pending a hearing decision.

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- B. Appealing an adverse action does not relieve a farmers' market or a farmer permitted to continue in the program while the appeal is in process from the responsibility of continued compliance with the terms of the written agreement with the SA and the farmer's agreement with the Farmers' Market Association.

- III. In response to the request for a hearing, the SA shall provide the farmers' market or farmer:
 - A. At least ten days advance notice of the time and the place for the hearing;
 - B. An opportunity to reschedule the hearing one time;
 - C. An opportunity to review all written case records prior to the hearing;
 - D. The opportunity to present their case with witnesses and counsel if desired;
 - E. The opportunity to confront and cross-examine adverse witnesses;
 - F. An impartial decision maker who shall prepare a written decision based solely on the evidence presented at the hearing, and the statutory and regulatory provisions governing the program; and
 - G. Written notification of the decision.

- IV. In the event a hearing decision is reached in favor of the SA, the adverse action may be imposed in part or in whole during subsequent WIC Farmers' Market Agreements.

- V. The SA shall not be responsible for losses incurred by the farmers' market or farmer as a result of disqualification and/or denial of application to participate.

If a decision is rendered against the farmers' market or farmer and the appellant expresses an interest in pursuing a higher review of the decision, the SA shall explain the right to pursue judicial review of the decision.