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The Supplemental Nutrition Program for Women, Infants, and Children (WIC):

Opportunities to Influence
Participant's Health in Minnesota



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Executive Summary

The Special Supplemental Nutrition Program for Women, Infants, and Children, commonly known as the WIC Program, is the country's third largest food assistance program, even though the food it provides truly is intended to be supplemental, rather than to serve participants' total nutrition needs. In addition to providing food to people who tend to have lower incomes and are at nutritional risk, the Program requires WIC agencies to provide nutrition education and, as appropriate, to make referrals to health and social service agencies. Studies of the WIC Program have shown that it indeed positively influences participants' health, as well as the health of others.

For the first time in WIC's thirty-five year history, the regulations concerning the food packages—the food provided to participants—have been revised significantly. The revised food packages now give participants greater access to fresh fruit and vegetables, as well as whole grain cereal and bread. As states throughout the country, including Minnesota, work to implement the new federal regulations, advocates and other interested persons and organizations have numerous options for influencing the implementation of the regulations and developing nutrition education materials and programs.

Introduction

The mission of the Special Supplemental Nutrition Program for Women, Infants, and Children—the WIC Program—is to safeguard the health of low-income women, infants, and children up to age five who are at nutritional risk.¹ After Congress passed an amendment (sponsored by Senator Hubert H. Humphrey) to the Child Nutrition Act of 1966, WIC was implemented as a two-year pilot program, beginning in 1972, to address growing public concern about malnutrition among low-income mothers and children.² After the two-year pilot program ended, the WIC Program was adopted in 1975 as a regular program of the U.S. Department of Agriculture (USDA).³ The premise underlying the WIC Program is that early intervention during critical times of a child's growth and development can help prevent future developmental or medical problems.⁴

The food provided to WIC Program participants is intended to be supplemental, rather than to serve their total nutrition needs.⁵ In 1974, WIC served an average of 88,000 participants per month.⁶ The Program has grown significantly since that time and, in 2006, served nearly nine

million participants per month.⁷ Approximately half of all infants and about one-quarter of children between the ages of one and four years of age participate in WIC throughout the United States.⁸ WIC is the country's third largest food assistance program, accounting for almost twelve percent of total federal expenditures for food and nutrition assistance.⁹ Due to the way the Program functions and the large number of participants it serves, WIC operates as a gateway through which many families enter the public health system.¹⁰

This paper will discuss how the WIC Program functions, highlight advantages and limitations of the Program, and describe possible opportunities advocates could pursue to promote public health through the WIC Program.

Description of the WIC Program

There are three tiers of WIC administration: federal, state, and local. At the federal level, Congress determines the amount of annual funding, while the USDA's Food and Nutrition Service (FNS) provides cash grants to state agencies, issues regulations, and monitors compliance with the regulations.¹¹ Although each state and territory, Washington, D.C., and thirty-three tribal organizations has a "state-level" agency, services are provided to WIC participants by local agencies, such as public health departments, community health care centers, public hospitals, and migrant worker health-care centers.¹² The local agencies determine WIC eligibility and issue benefits.¹³

WIC at the Federal Level

Having basic knowledge of how WIC operates at the federal level is helpful for best understanding how WIC operates in Minnesota. With that goal in mind, the following section discusses federal eligibility requirements, levels of participation, and funding processes; the recent revisions to the food packages; and how the WIC Program relates to the Farmers' Market Nutrition Program.

Eligibility and Program Functions

The WIC Program is best known for providing low-income women, infants, and children that are nutritionally at risk supplemental nutritious foods. To be eligible for WIC, an individual must meet all of the following four criteria:

1. Be one of the following:
 - a. A pregnant woman;

- b. A breastfeeding woman less than one year postpartum;
 - c. A non-breastfeeding woman less than six months postpartum;
 - d. An infant up to one year; or
 - e. A child less than five years old.
2. Reside within the state where she or he receives benefits.¹⁴
 3. Be at or below 185% of the federal poverty level or have documentation of participation in Medicaid, Temporary Assistance for Needy Families, or the Food Stamp Program.¹⁵
 4. Be at nutritional risk based upon a medical or nutritional assessment by a physician, nutritionist, nurse, or other health professional. “Nutritional risk conditions include abnormal nutritional conditions detected by biochemical or physical measurements, other documented nutritionally-related medical conditions, dietary deficiencies that may impair health, and conditions that predispose individuals to inadequate nutritional patterns or conditions.”¹⁶

Typically, WIC participants are eligible to receive benefits for a six-month period of time and must be recertified to continue to receive benefits.¹⁷ However, most infants are certified up to their first birthday while pregnant women are certified for the duration of their pregnancy and up to six weeks postpartum.¹⁸

WIC also provides participants with nutrition education and counseling, as well as screening and referrals to other health, welfare, and social services.¹⁹ WIC nutrition education programs have two goals: to help educate participants about the relationship between nutrition and good health, and to help them change their food habits and consume healthier food.²⁰ To achieve these goals, in part, program participants are referred to health care providers for routine, preventative care as well as to social service agencies that can help with other issues, such as housing, employment, or substance abuse problems.²¹ Because many people participate in WIC, the education programs and health care referrals could potentially have a big effect on the health of the U.S. population.

Program Participation

According to the FNS, there were 8,772,218 individuals enrolled in the WIC Program in April 2006, an increase of 2.2% from the April 2004 enrollment rates.²² Of these enrollees, forty-nine percent were children, twenty-six percent were infants, and twenty-five percent were women.²³

Up until 2002, nearly everyone who was eligible and applied for the WIC Program was able to participate.²⁴ In 2006, approximately 91% of those enrolled in the WIC Program participated and

received food instruments.²⁵ As mentioned above, WIC enrollment and participation rates have been increasing steadily since 1974 and, from 1988 to 1998, the percentage of working women using WIC services increased from 14.5% to 25%.²⁶ It seems reasonable to conclude that the recent economic downturn may drive more people than ever before—including working women, and children in homes with working parents—to seek WIC’s supplemental nutrition benefits.²⁷ Because WIC is a discretionary grant program and may not be able to serve all eligible persons,²⁸ criteria are used to ensure that persons at the greatest nutritional risk receive priority.²⁹ While income determines eligibility, it does not determine an individual’s priority, nor does the amount of benefits received vary based on income.³⁰ In the future, these priority criteria are likely to be applied more frequently unless the Program’s funding is increased significantly.

Funding

WIC is set up differently than many other governmental programs in that it is a federal grant program, not an entitlement program. This means that Congress does not appropriate enough funds to allow every qualified individual to participate in the Program. Rather, Congress authorizes a specific amount of funds each year of the Program; these funds are administered at the federal level by the FNS and at the state and local level by a variety of different agencies.³¹ New, annual appropriations are supplemented by unused money carried over from one year to the next and either reallocated among state and tribal grantees or kept by state agencies for use in the next year, by annual non-WIC appropriations to the USDA, and by commodity assistance programs.³² Recent appropriations for child nutrition programs, including WIC, also have included a small contingency fund.³³

At the end of 2007, the annual cost of serving 8.1 million WIC participants was \$5.1 billion.³⁴ The 2004 reauthorization of the WIC Program is set to expire on September 30, 2009.³⁵ The USDA requested \$6.1 billion for the WIC Program for fiscal year 2009, a 1.3% increase from fiscal year 2008.³⁶ This request was based on projected increases in participation and food costs, and the USDA’s proposal to limit nutrition services, cut administrative costs, and to restrict eligibility for Medicaid recipients – a proposal rejected by Congress for fiscal year 2008.³⁷ The National WIC Association, the organization of WIC agencies, had urged the USDA to request \$6.63 billion to serve 8.9 million participants, to keep providing nutrition services at current levels (\$16.32 per person), to help with some administration issues, to avoid depleting the contingency fund, and to implement the new food packages.³⁸

Food Packages

For the last thirty-five years, WIC foods included iron-fortified infant formula and cereal, iron-fortified adult cereal, fruit or vegetable juice high in Vitamin C, eggs, milk, certain types of cheese, peanut butter, dried beans or peas, canned tuna, and carrots.³⁹ A March 2006 summary of the WIC Program,⁴⁰ before it was revised, can be found in the Appendix. On December 6, 2007, the FNS published an interim final rule detailing the revisions to WIC food packages. The rule became effective February 4, 2008, and, while states originally had until August 2009 to implement the rule, that timeline was extended, giving them two more months—until October 2009—to implement it.⁴¹ The modifications to the WIC food packages are largely consistent with the recommendations made in the Institute of Medicine’s report, “WIC Food Packages-Time for a Change.”⁴² The Food Research Action Center has accurately summarized the regulations related to the incorporation of fruits and vegetables into the food packages.⁴³ This summary, as well as one prepared by the Tobacco Law Center regarding additional changes to the WIC regulations, can be found in the Appendix.

The FNS was motivated to make significant changes to the WIC food packages for the first time due to the changing characteristics of WIC participants, shifts in the health risks of WIC participants, changes in the food supply and dietary practices of WIC participants, and better knowledge of nutrient and dietary requirements.⁴⁴ For the first time, the food packages will include fruits and vegetables with the aim of reducing the risk of chronic disease, helping people manage their weight, and providing access to good sources of fiber and priority nutrients that are also low in saturated fat, total fat, and sodium.⁴⁵ The revised food package also makes it easier for people to choose items they are more likely to eat, including more culturally-appropriate items.⁴⁶ While most changes were based on nutritional guidelines, some reductions in benefits were based on financial considerations.⁴⁷

In April 2008, it was reported that grocery prices increased an average of 5.1% from February 2007, with staple products up much higher than that. For example, the cost of bread was up twelve percent, milk was up seventeen percent, and eggs were up twenty-five percent.⁴⁸ The recent changes to the WIC Program reduced the dairy and egg benefits and were, in part, economic decisions.⁴⁹ Despite these cost-neutral changes to the WIC program, with no information yet about how much will be appropriated in 2009, it is unclear whether future WIC benefits will stretch to as many participants as they have in the past.

The Farmers' Market Nutrition Program

The Farmers' Market Nutrition Program (FMNP) is a separate program from WIC, but operates similarly. It was established in 1992 by Congress to provide unprepared, locally grown fruits, vegetables, and herbs to WIC participants after a pilot study showed that WIC participants who received farmers' market coupons consumed about six percent more fruit and five percent more vegetables than WIC participants who did not receive the coupons, and that those who had received the coupons were almost twice as likely to buy produce at farmers' markets, even when they had stopped using the coupons.⁵⁰ Consistent with the USDA's role in promoting agriculture, the secondary purpose of the FMNP is to expand awareness of farmers' markets.⁵¹

Women, infants over four months old, and children that are certified to receive WIC benefits or are on a waiting list for WIC benefits are eligible to participate in the FMNP.⁵² Compared to WIC, the FMNP is a relatively small program. Currently, the federal government provides not less than \$10 and no more than \$30 per year to each participant,⁵³ and the program is only authorized in certain areas of forty-six territories, tribal communities, or states, including Minnesota.⁵⁴ State agencies may supplement the benefits with state, local, or private funds.⁵⁵

During fiscal year 2007, 2.3 million WIC participants received FMNP benefits, a decrease from the 2.5 million participants who had received FMNP benefits in 2006.⁵⁶ Although participation levels dropped, more farmers, farmers' markets, and roadside stands were authorized to accept FMNP coupons in 2007.⁵⁷ Congress appropriated \$19.86 million for the FMNP for fiscal year 2008.⁵⁸

The FNS provides cash grants to state agencies that have submitted a suitable plan about how they plan to implement the program in their states.⁵⁹ Participants receive FMNP coupons from state agencies, in addition to their regular WIC food instruments.⁶⁰ (The new WIC regulations that go into effect in October 2009 give states the discretion to authorize farmers at farmers' markets to accept the standard WIC cash-value voucher in addition to FMNP benefit vouchers.⁶¹) While the federal government allows FMNP coupons to be used to purchase a wide variety of fruits, vegetables, and herbs, state WIC agencies can limit sales to specific foods to support farmers in their states.⁶² The farmers or farmers' markets submit the coupons to the bank or state agency for reimbursement.⁶³

As discussed above, WIC participants receive nutrition education as one of their regular Program benefits. People who participate in the FMNP receive additional education to help encourage them to buy fresh fruits and vegetables and to teach them how to select, store, and

prepare the items that they buy with their FMNP coupons.⁶⁴ This educational component may be provided by the agency, but can also be provided by cooperative extension programs, local chefs, farmers or farmers' market associations, and various other non-profit or for-profit organizations.⁶⁵

In sum, the FMNP, although different from the WIC Program, operates similarly to the WIC Program in that the federal government provides cash grants to state and local agencies to provide food benefits and offer educational programs.

WIC at the State and Local Levels

In Minnesota, the eligibility requirements for the WIC Program differ slightly from the federal requirements. This section discusses those requirements, as well as participation rates, funding issues, implementation of the food package requirements, and nutrition education and service referrals in Minnesota.

Eligibility and Program Functions

The locations where WIC services are provided vary from one state to the next and within each state.⁶⁶ The Minnesota Department of Health is responsible for administering the WIC Program in Minnesota. Its obligations can be found in the Maternal and Child Nutrition Act of 1975, Sections 145.891 to 145.897 of the Minnesota Statutes, which lists the requirements for implementing the Federal WIC Program, including the Commissioner of Health's responsibility to ensure that any State appropriation to supplement the WIC Program is spent according to federal requirements and the Human Services Commissioner's obligation to help the Health Department identify individuals who may be eligible for WIC. This Act does not contain much detail, leaving it to the Health Department to promulgate rules to fill in the gaps in the legislation.

The Health Department Rules with respect to the WIC Program are in Chapter 4617 of the Minnesota Rules. Sections 4617.0005 through 4617.0030 of the Minnesota Rules discuss the process a local agency (such as a county health department, hospital, mobile clinic, community center, immigrant health center, or Indian Health Service facility)⁶⁷ must follow to become eligible to administer the WIC Program for a specific geographic region or a specific population, and the requirements that the agency must meet to continue to provide that service.⁶⁸ The Commissioner approves only one application for each geographic area.⁶⁹ Sections 4617.0065 through 4617.0090 of the Minnesota Rules discuss the application requirements for authorized grocery stores (WIC vendors), the training process they must go through, and their continuing obligations.⁷⁰ Once a vendor is approved, reauthorization generally occurs every three years because all vendor agreements

expire on the same date and none exceed three years. The next vendor agreement expiration date is March 31, 2011.⁷¹

Minnesota generally follows the federal guidelines for determining participant eligibility, but in Minnesota children who participate in Head Start or people who receive medical assistance benefits, food stamps, or benefits through the Minnesota Family Investment Program, Social Security, the Fuel Assistance Program, or the Reduced or Free School Meals Program automatically meet the income eligibility requirements for the WIC Program.⁷² As discussed above, the qualifying income level is higher for WIC recipients than it is for most other government assistance programs.⁷³ Many people in Minnesota work and still participate in WIC.⁷⁴

Program Participation

The Minnesota WIC Program began by serving 2,308 participants in 1974.⁷⁵ In fiscal year 2007, Minnesota had 134,671 participants in the WIC Program.⁷⁶ About half of Minnesota's infants participate in WIC.⁷⁷

Funding

While the federal government does not require states to provide matching funds, many states supplement the federal grants with their own funds. According to a 2005 report from the Minnesota Department of Health, State WIC funds were eliminated in 2003.⁷⁸ Reinstating those funds does not appear to be a priority for the Legislature or the Governor at this time.⁷⁹

The State can apply for additional federal (non-WIC) funding, through the U.S. Department of Health and Human Services, to address maternal and child health issues. If the State receives this funding, a Maternal and Child Health (MCH) Block Grant, it may opt to use the funds to address nutritional issues of women, infants, and young children through WIC clinic services.⁸⁰ While addressing nutritional issues has been identified as something worthwhile that could be done in Minnesota with a MCH Block Grant,⁸¹ it is not one of the top ten priority areas for the State in the years 2005 to 2010.⁸²

In sum, Minnesota does not use additional funds to supplement the WIC Program's benefits, whether they consist of nutrition education, service referrals, or delivery of food packages.

Food Packages

In most states, WIC participants receive up to a three-month supply of vouchers that they take to WIC vendors and exchange for food.⁸³ Each state designs its own vouchers, which usually contain a combination of WIC food items and prescribe the type and quantity of each food item

that can be obtained.⁸⁴ Only those food items specifically listed on the vouchers can be purchased with the vouchers. The federal regulations do not require participants to buy all items listed on a voucher.⁸⁵ Vendors submit the vouchers to state agencies in exchange for a cash payment.⁸⁶

In Minnesota, WIC food is provided to participants this way. A participant can use vouchers to purchase certain brands of foods and items that satisfy her unique “food prescription”—the agency’s determination of the type of food items she will receive from WIC based on her nutritional or medical needs.⁸⁷ WIC foods are intended to supplement participants’ diets, improving their health status and preventing “certain nutritionally related medical conditions that are common among women, infants and children.”⁸⁸ If a certain food item is needed for nutritional, cultural, religious, or ethnic reasons, and the item meets the federal requirements, then the Commissioner of the Minnesota Department of Health may seek FNS approval for the item.⁸⁹

State agencies have some leeway in implementing the WIC regulations. For example, while the new revisions to the federal regulations state that all authorized vendors must stock at least two varieties of fruits, two varieties of vegetables, and one whole grain cereal authorized by the state agency, states can establish more stringent minimum stocking requirements for vendors.⁹⁰ In addition, states can choose which specific items are offered to meet the federal food package requirements.⁹¹ Under the revised food package regulations, states cannot limit the types of fruits or vegetables that are authorized under the Program.⁹² They can, however, require that all fruits and vegetables obtained with the voucher be only fresh—and not canned or frozen—if the decision would not adversely impact participants, such as those that live in areas where availability of produce is limited by droughts or those that are homeless.⁹³ States also may choose to allow participants to pay the difference when the purchase price of fruits and vegetables is greater than the amount of the fruit and vegetable voucher.⁹⁴ In addition, states can also decide whether to allow organic produce to be purchased with vouchers.⁹⁵

The Minnesota Rules have not yet been updated to reflect the USDA’s revisions to the food packages. It is reasonable to assume, however, that this will happen soon considering that the food packages have changed dramatically and that the Commissioner of Health is required, at least once every three years, to “determine which food items within each food product to approve for purchase using WIC vouchers.”⁹⁶

Nutrition education and service referrals

The FNS requires local WIC agencies to offer participants at least two individual or group nutrition education sessions during each six-month period, but participants are not required to

attend in order to receive the food benefits.⁹⁷ The Minnesota Rules do not discuss any requirements with respect to WIC nutrition education programs or the service referral process. These services appear to be dealt with on a more informal basis. In Minnesota, education is one-on-one and tailored to the participant's needs.⁹⁸ WIC staff members provide information about ways to eat healthily during pregnancy, babies' and children's nutritional needs, how to address a child's particular eating habits, and how to introduce foods to children as they develop and grow.⁹⁹ The WIC Program also offers support to breastfeeding women by discussing their concerns and the benefits of breastfeeding, teaching them how to use breast pumps, and referring them to additional breastfeeding services.¹⁰⁰ Minnesota WIC staff also refer participants to other service providers in their community as needed, such as doctors, nurses, and social service agencies.¹⁰¹

Advantages of the Existing WIC Program

There are obvious benefits of the WIC Program, such as providing nutritious foods to people who need them or now requiring that WIC vendors stock a certain amount of fruits and vegetables that can be purchased by any customer. There are also long-term, positive effects of the Program. Generally, studies have shown that the WIC Program has had beneficial effects on key health outcomes through the efficient use of Program funds.¹⁰² For example, studies have shown that WIC participation has multiple, positive effects on children, such as: increased newborn birth weight;¹⁰³ reduced prevalence of anemia, both in infants and in children that have not participated in the WIC Program but have benefited from positive changes made by the food industry; healthier growth in terms of height and weight; higher consumption of key nutrients without an increase in calorie intake; increased preventative medical care and curative treatment; and even better future school performance.¹⁰⁴ Additionally, WIC participants have greater access to health care due to their connection to community health clinics, social service agencies, etc.¹⁰⁵

Moreover, the WIC Program apparently has benefitted children in unexpected ways. A report prepared for the FNS's Economic Research Service in 2006 indicated that

the receipt of WIC benefits and food stamps, jointly or alone, is associated with a lower level of substantiated child abuse and neglect. The same models also show that the receipt of WIC and food stamps is inversely related to the incidence of health problems associated with inadequate nutrition among low-income children.¹⁰⁶

The report stated that the relationship between the likelihood of abuse and neglect and participation in these programs is “statistically significant.”¹⁰⁷

Some commentators have criticized the WIC Program, arguing that too many of the children—nearly half, by some estimates—who participate in the supplemental nutrition program are obese.¹⁰⁸ However, studies have shown that WIC children are no more likely to be overweight than other children, especially considering that there has been a large increase in the number of overweight children in the general population,¹⁰⁹ that WIC foods are only a portion of a participant’s diet, and that “excessive weight gain may be associated with . . . a lack of vigorous physical activity.”¹¹⁰ Criticism of the WIC Program due to participant obesity does not seem warranted, and studies seem to support claims of the Program’s positive effects on participants.

Limitations of the Existing WIC Program

Although studies show the beneficial effects of the WIC Program, those studies were conducted before the most recent revisions to the regulations. The healthier items now available with the revised food packages, if consumed as intended, should improve the health of participants. However, as some commentators have noted, WIC agencies can only control what is offered, not what is consumed.¹¹¹ In addition, it is possible that consumption may change in unintended ways.¹¹² For example, the new food package is designed to encourage breastfeeding by decreasing the amount of formula available to breastfeeding mothers and by making the food package for breastfeeding mothers more attractive than the package available to those who do not breastfeed.¹¹³ It is possible, however, that by making breastfeeding an all-or-nothing proposition, mothers may forego full or partial breastfeeding due to a reluctance to give up all access to formula.¹¹⁴ In addition, the new food package does not provide cereal for infants until they are six months old, although many parents introduce cereal or other complementary foods at an earlier age.¹¹⁵ It is possible that parents may introduce other, less-healthy, complementary foods before an infant turns six months old. Also, the new food package replaces grains and milk with whole grains and reduced-fat milk. It is unclear whether eligible participants will switch to these items or whether they will find the original items more appealing.¹¹⁶ For these reasons, among others, it remains to be seen whether the food package will lead to improved health, as intended.

In addition, while no one can dispute that the food packages have improved, financial constraints may limit the anticipated positive effects of the revised regulations. Each participant will

still only receive \$6 (children), \$8 (women), or \$10 (fully breastfeeding women) for fruit and vegetables each month (of a total of approximately \$39 in benefits each month), and yogurt is unavailable through WIC because it is too expensive.¹¹⁷ Although the fruit and vegetable benefit will be subject to an annual cost of living adjustment and, as a result, will keep up with inflation,¹¹⁸ that small amount will not go far in areas where produce is expensive to begin with.¹¹⁹ Therefore, although the revised food packages seem to be improved, they may have less of an impact than anticipated.

Another observation regarding the revisions to the food packages is that most of the established culturally appropriate food substitutions relate to foods consumed by the Hispanic population, which makes sense given the large number of Hispanic people that participate in the WIC Program. Although the State will be able to work with the federal government to establish other substitutions, such as those that would be beneficial for Asian or Somali populations, the revised regulations indicate that discretion does not lie with the State.¹²⁰ As a result, it may take a while for substitutions to be approved and some items may be rejected even if the Minnesota Department of Health thinks they are appropriate substitutions.

Not only are there limitations regarding the food packages, but also there are limitations with respect to how the Program operates. Studies have been conducted about barriers to access to the WIC Program. One of those studies mentions that participants report stigma related to backups in checkout lines when participants inadvertently choose unauthorized food items.¹²¹ The Minnesota Rules indicate that the Commissioner of Health shall calculate the maximum price for each voucher, but that the maximum price will not be printed on the voucher itself.¹²² It seems possible that a person could be in line to purchase WIC foods with vouchers and be surprised to find out that the price exceeds that for each voucher. The participant would not know that until she is already in line to purchase her products. The potential stigma associated with delays in grocery lines might discourage eligible Minnesotans from participating.

Other barriers to participation that were documented in these studies are: the mistaken belief that people are not eligible because they are employed; long waits at agency offices; inconvenient hours at agency offices; lost wages associated with going to agency offices during the work day; lack of child care or child-appropriate activities at agency sites; transportation problems; and boring education programs.¹²³ One can see how these issues could affect participation rates.

Finally, some have suggested that the USDA has an inherent conflict of interest, since its main function is to promote agriculture and food production while establishing nutrition policy is a

secondary function.¹²⁴ This could be a limitation of the Program; however, there do not seem to be many articles about this or potential problems associated with the food industry's lobbying of the USDA or state or local agencies with respect to the WIC Program. For this reason and because the impact of the new food packages remains unknown, it appears the principal limitations of the WIC Program, other than potential underfunding, are the barriers to participation.

Opportunities

The most obvious, and difficult, policy strategy for advocates or those interested in improving the WIC Program would be to try to convince the Legislature to provide supplemental funding for the WIC Program and the FMNP. Given the recent, dramatic increases in the number of people who are receiving food stamp benefits and the ability of food stamp recipients to meet the income eligibility criteria for the WIC Program, it seems likely that a number of individuals' financial situations might put them at nutritional risk and that more people will seek WIC's supplemental benefits. Because the federal government allocates a limited amount of funds for the WIC Program, there almost certainly will be people who qualify for WIC benefits but are unable to receive them. It may be difficult for advocates throughout the country to convince Congress to supplement the amount of funds that the USDA sought for the next fiscal year. Supplementing federal funds with State funds might help alleviate this problem. The anticipated state budget deficits in Minnesota would seem to make this a tough goal to pursue at this time, however. Another option for advocates or organizations might be to work with or serve on the Maternal and Child Health Advisory Task Force to try to get federal grant funds to either complement the WIC Program or address related nutrition issues faced by mothers and children.¹²⁵

There appear to be a number of other opportunities, other than seeking additional funding from the State or the federal government, to positively influence the WIC Program at the state and local levels, with respect to both educating WIC participants and helping participants get the most out of their food packages.

Nutrition Education/Service Referrals

- Organizations could work to help develop or offer cooking classes. Women who said they had received training on how to prepare produce reported greater intake of fruits and vegetables than those not receiving the information.¹²⁶ While the effectiveness of such programs are not

conclusive (educational programs are voluntary and people who tend to be more health-conscious may be more likely to respond to a survey on this topic), it might be worth exploring whether something useful could be done that would not be duplicative of the University of Minnesota's Extension Service's Nutrition Education Programs.¹²⁷

- Because many people are distracted or stressed out when selecting food, organizations could help develop or offer classes about how to shop for produce and other food, how to handle or store it in the home, or how to plan a healthy menu.
- Educational programs in Minnesota tend to be one-on-one programs. Organizations and advocates could help agencies revise their programs so that they are more fun, include the whole family (or multiple families), and are based on simple and pervasive messages.¹²⁸
- Because the WIC Program receives no supplemental funds from the State, it is possible that many of the educational materials are often duplicated from one county to another, without much opportunity to tailor them to be culturally appropriate. Organizations that have established partnerships with groups serving diverse populations with varying educational levels might consider utilizing those relationships to help ensure that the educational programs are culturally appropriate. Due to the need to inform participants of the impending changes to the food packages, this may be a particularly opportune time to focus on revising the educational materials.
- A 1998 study showed that 58% of FMNP participants had never visited a farmers' market before taking part in the program. It also showed that 71% of those who participated said that they would continue to shop at farmers' markets, even without coupons, and that 74% reported they ate more fresh fruits and vegetables than usual during the summer in which they participated.¹²⁹ For this reason, it seems that organizations or advocates could help sponsor or organize visits to farms and farmers' markets to educate and build interest in ways to eat healthy foods.
- Organizations could help develop or sponsor peer counseling programs for breastfeeding mothers, especially those in high-risk groups. For example, one program might focus on ways in which teenage mothers can use pumps to help breastfeed their infants. It or another program might establish a means by which to provide intensive support at the hospital, offer hotline assistance, etc.¹³⁰
- Organizations could develop, sponsor, or help provide a physical activity component with WIC's educational program. (For example, it could be modeled after the "FitWIC" physical activity program for WIC participants that has been implemented in some states. See the

Appendix for additional information.) It might be possible to adopt a program that targets parents, children, or environments where it would affect both WIC participants and those who do not receive WIC benefits but could benefit from such a program.¹³¹

- Because many people are unaware of proper portion sizes, advocates or organizations could help educate participants about how container shape and product packaging affect consumption choices. Another option would be to give participants tools (such as sets of glasses, dishes, or bowls with a visual graphic to demonstrate appropriate portion sizes) to help them eat a more healthy amount of food. Organizations also might be able to work with manufacturers to help promote single-serving packaging for certain items, although there obviously are environmental trade-offs to this approach.¹³²
- Organizations and advocates could help state or local agency staff prepare point-of-sale marketing materials to promote the purchase of items included in the new food packages and to reinforce messages heard at agency clinics.
- It appears possible that WIC vendors will be asked to implement the new regulations with significantly less training than agency staff will receive.¹³³ Organizations and advocates might be able to offer educational programs for WIC vendors, and may be able to help offer support to them as they make changes in their stores.¹³⁴ For example, organizations and advocates may be able to help vendors find local economic development loans to purchase refrigeration equipment, buy produce scales, or remodel certain areas of their stores. Health insurers also may collaborate to provide reduced-cost health insurance for employees at stores that implement a number of healthy changes, above and beyond those contained in the revised WIC regulations.¹³⁵
- Advocates might consider working with agencies to provide maps to WIC participants to let them know where they can obtain WIC foods, as well as find farmers' markets, soup kitchens, food shelves, or other healthy foods, as has been done in New York City.¹³⁶ Advocates also might consider ways to help eliminate transportation barriers that may keep people from going to these sites.

Food Packages

- Organizations and advocates could work with food manufacturers to determine whether there are ways to alter the packaging of food items so that items are easy to store (e.g., resealable) and are consistent with the WIC Program food package requirements.

- Many of the reported barriers to participation could be addressed by changing the food delivery system. For instance, advocates could urge the State to consider replacing or supplementing the current voucher system with one in which agencies deliver food packages to homes, workplaces, schools, or day care centers, which may be especially helpful in rural areas.¹³⁷ There may be opportunities to combine the delivery of WIC food packages with other services. For example, food packages could be coordinated with Medicaid home visits.¹³⁸
- Because it is unclear whether the Minnesota Commissioner of Health would have the authority to authorize organic food to be purchased with WIC vouchers, advocates and organizations could lobby the Legislature to pass such a bill.
- Organizations and advocates could work with cities and counties to create more farmers' markets throughout the state. Doing so might make it easier for more people to take advantage of federal FMNP funds, as well as provide more access to fresh fruits and vegetables, which now can be purchased at farmers' markets with regular WIC food vouchers.¹³⁹
- The new changes to the federal regulations require stores to stock at least two types of fruits and two types of vegetables (those items can include canned or frozen food). Advocates and organizations could work with the State to try to impose more stringent requirements on WIC vendors, which might end up affecting the health of the general population due to there being more small stores with greater fruit and vegetable options. It does not appear that the Minnesota Department of Health has passed rules on this issue yet, although the Department apparently has proposed tentative stocking requirements.¹⁴⁰
- Research could be conducted to determine whether the competitive bidding process currently used for infant formula could be used to offer yogurt or other food items to participants in a cost-effective way.¹⁴¹
- Advocates and organizations could urge the Department of Health to create fruit and vegetable vouchers that would enable participants to buy small amounts of these foods without being concerned about the produce spoiling before it can be used.
- Advocates and organizations could urge the Department of Health to minimize the number of items on a voucher so that people who may be unable to store food by traditional means (e.g., homeless people or people lacking access to refrigerators or freezers) can limit their purchases to amounts that will be needed within a short period of time.

- Organizations and advocates could work with the State to identify and proactively request culturally appropriate food items to address the needs of Minnesota’s Asian, Somali, and other ethnic or racial populations.
- General Mills’ Bell Institute of Health and Nutrition website has information about General Mills’ food items that meet WIC requirements and has educational materials for WIC staff to promote those foods.¹⁴² Organizations could consider creating an alternative site that is not restricted by brand, but uses similarly creative educational materials to promote use of WIC foods.
- The Minnesota Department of Health will need to revise the regulations that explain which products can be purchased with WIC vouchers in Minnesota.¹⁴³ Advocates and organizations could participate in this process to make recommendations to the State about the products that should be eligible.

Conclusion

The WIC Program serves a large number of Minnesotans, and many more Minnesotans are likely to seek WIC benefits. As discussed above, there appear to be many ways to influence the education offered to participants and to work with the revised food packages to help improve the health of both participants and non-participants. Regardless of the steps that are pursued, it seems important for advocates and organizations who wish to influence the WIC Program to reach out to local WIC agency directors individually or as a group,¹⁴⁴ to learn about partnership opportunities. Those directors may be interested in educating advocates about untapped needs, and learning about the types of help advocates and organizations could offer in reducing the burden of implementing the new federal food package standards at a time when there likely will be an increased demand for WIC benefits. The WIC Program benefits a number of people, regardless of whether they are participants. It appears there are many opportunities for advocates to work with the WIC Program to improve Minnesotans’ health.

Endnotes

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- ¹ Econ. Research Serv., U.S. Dep't of Agric., Food Assistance & Nutrition Research Report No. 27, *The WIC Program: Background, Trends, and Issues* (Sept. 2002) [hereinafter Econ. Research Serv., *Background, Trends, and Issues*], at 1.
- ² *Id.* at iii.
- ³ *Id.*
- ⁴ *Id.*
- ⁵ *Id.* at 3.
- ⁶ Barbara Devaney, Mathematica Policy Research, *The Rationale and Potential Consequences of the Revised WIC Food Packages* (Nov. 8, 2007) (paper presented at the 29th Annual Meeting of the Ass'n for Pub. Policy Analysis & Mgmt.) [hereinafter Devaney, *Rationale and Potential Consequences*], at 3.
- ⁷ *Id.*
- ⁸ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at i.
- ⁹ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at i.
- ¹⁰ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at iii.
- ¹¹ Barbara Devaney, Mathematica Policy Research, *WIC Turns 35: Program Effectiveness and Future Directions* (Dec. 7, 2007) (paper presented at the Nat'l Invitational Conference of the Early Childhood Research Collaborative) [hereinafter Devaney, *WIC Turns 30*], at 5-6.
- ¹² *Id.* at 6. In some states, the local agencies are arms of the state agency. In others, the local agencies are autonomous agencies that receive contracts from the state. *Id.*
- ¹³ *Id.*
- ¹⁴ Applicants do not need to be U.S. Citizens to qualify for WIC benefits. Ramsey County, Minn., WIC Eligibility, http://www.co.ramsey.mn.us/ph/yas/wic_eligibility.htm (last visited Dec. 15, 2008) [hereinafter Ramsey County, WIC Eligibility]. There do not appear to be any requirements about how long the person must have lived in the state before applying, or how residency must be proven.
- ¹⁵ WIC was established due to, in large part, the fact that the Commodity Supplemental Food Program, which provided commodities to feed low-income pregnant women, infants, and children up to age six, was not meeting the special needs of pregnant women and infants. While the WIC Program was designed to supplement the Food Stamp Program and, therefore, participation in the Food Stamp Program does not preclude participation in WIC, participation in the Commodity Supplemental Food Program disqualifies a person from participating in WIC. Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 7-8.
- ¹⁶ Devaney, *WIC Turns 35*, *supra* note 11, at 4-5; Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 2.
- ¹⁷ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 3.
- ¹⁸ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 3.
- ¹⁹ U.S. Dep't of Agric., About WIC: WIC at a Glance, <http://www.fns.usda.gov/wic/aboutwic/wicataloglance.htm> (last visited Dec. 15, 2008) [hereinafter USDA, WIC at a Glance].
- ²⁰ Devaney, *WIC Turns 35*, *supra* note 11, at 4; Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 4.
- ²¹ Devaney, *WIC Turns 35*, *supra* note 11, at 4.
- ²² Office of Research, Nutrition and Analysis, U.S. Dep't of Agric., *WIC Participation & Program Characteristics 2006: Summary* (Dec. 2007), at 1.
- ²³ *Id.* A 2006 report from the FNS's Office of Analysis, Nutrition, and Evaluation analyzed WIC participation between 1994 and 2003 and concluded that "the percentage of the eligible population who participates in WIC has never been above 90% for any certification category" and that for "all groups eligible for WIC combined, the coverage rate in 2003 was 57.1%," which was consistent with WIC levels in the previous decade. Office of Analysis, Nutrition, and Evaluation, U.S. Dep't of Agric., *WIC Program Coverage: How Many Eligible Individuals Participated in the Special Supplemental Nutrition Program for Women, Infants, and Children*

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- (WIC): 1994 to 2003? (Feb. 2006), at 4. In other words, when looking at the number of enrollees that are women, infants, or children, not one of those groups have comprised 90% of all enrollees and, out of those eligible to receive WIC benefits, 57.1% enrolled in the Program, nearly all of whom received food benefits.
- 24 Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 5.
- 25 Office of Research, Nutrition and Analysis, *supra* note 22, at 1.
- 26 Institute of Medicine, *Time for a Change* (Apr. 2005), at 29, available at [http://www.fns.usda.gov/oane/menu/Published/WIC/FILES/Time4Change\(mainrpt\).pdf](http://www.fns.usda.gov/oane/menu/Published/WIC/FILES/Time4Change(mainrpt).pdf).
- 27 In addition, it seems that this is a logical conclusion to draw considering that it was projected in November that the number of Americans on food stamps would be higher than ever. Jane Black, *Americans' Food Stamp Use Nears All-Time High*, WASHINGTON POST, Nov. 26, 2008, at A1. In September 2007, 26.9 million Americans, including nearly 285,000 Minnesotans, received food stamps. In August 2008 and September 2008, those numbers increased dramatically. Over 29.4 million Americans, including more than 301,000 Minnesotans, received food stamps in August this year. Those numbers increased to more than 31.5 million and nearly 302,000, respectively, in one month. The Henry J. Kaiser Foundation, *Monthly Number of Persons Participating in the Food Stamp Program*, <http://www.statehealthfacts.org/comparemappable.jsp?ind=651&cat=1> (last visited Dec. 19, 2008).
- 28 WIC served nearly 8.9 million participants in April 2006, but only 8.1 million at the end of 2007. Office of Research, Nutrition and Analysis, *supra* note 22, at 1; Devaney, *WIC Turns 35*, *supra* note 11, at 3. It is unclear whether fewer people sought benefits in 2007, or whether more people were turned away that year.
- 29 Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 5.
- 30 Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 25.
- 31 The Library of Congress Congressional Research Service, *Child Nutrition and WIC Programs: Background and Recent Funding* (July 2006), at 14, 16.
- 32 *Id.*
- 33 *Id.* at 14.
- 34 Devaney, *WIC Turns 35*, *supra* note 11, at 3.
- 35 Food Research Action Ctr., Summary of Women, Infants and Children (WIC) Provisions of 2004 Child Nutrition Reauthorization Act, http://www.frac.org/html/federal_food_programs/cnreauthor/WIC_Summary.html (last visited Dec. 15, 2008).
- 36 The Library of Congress Congressional Research Service, *The FY2009 Budget Request for the U.S. Department of Agriculture* (Mar. 2008), at 1, 5.
- 37 *Id.* at 5.
- 38 The National WIC Association, 2008 Legislative Agenda, <http://www.nwica.org/legislation.asp> (last visited Dec. 15, 2008).
- 39 Food & Nutrition Serv., U.S. Dep't of Agric., Nutrition Program Facts, <http://www.fns.usda.gov/wic/WIC-Fact-Sheet.pdf> (Mar. 2006), at 2.
- 40 *Id.*
- 41 Revisions in the WIC Food Packages, 72 Fed. Reg. 68,966 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- 42 *See* Institute of Medicine, *supra* note 26.
- 43 The Food Research Action Ctr., *USDA Issues New WIC Packages Fruits and Vegetables Will Support Good Health and Healthy Communities*, available at http://www.frac.org/pdf/WIC_fruitandvegetable.pdf.
- 44 Devaney, *WIC Turns 35*, *supra* note 11, at 17.
- 45 Devaney, *Rationale and Potential Consequences*, *supra* note 6, at 7.
- 46 Food Research Action Ctr., *New WIC Food Packages: FRAC Statement*, available at <http://www.frac.org/WIC/pdf/newfood/FRACstatement.pdf>.

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- 47 U.S. Dep’t of Agric., *WIC Food Packages . . . Time for a Change Overview, Frequently Asked Questions* [hereinafter USDA, *Time for a Change Overview, Frequently Asked Questions*], at 2, 4, available at http://www.nal.usda.gov/wicworks/Learning_Center/FP/InterimRule_QA.pdf.
- 48 Mariana Chilton & John Cook, *Babies’ Hunger Reflects Inflation*, PHILADELPHIA INQUIRER, Apr. 1, 2008, http://www.philly.com/philly/hp/news_update/20080401_Babies__hunger_reflects_inflation.html (last visited Dec. 15, 2008).
- 49 USDA, *Time for a Change Overview, Frequently Asked Questions*, *supra* note 47, at 2, 4. Revisions in the WIC Food Packages, 72 Fed. Reg. 68,972, 68,974 (interim rule, Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- 50 U.S. Dep’t of Agric., *WIC Farmers’ Market Nutrition Program Fact Sheet* (Aug. 2008) [hereinafter USDA, *FMNP Fact Sheet*], available at <http://www.fns.usda.gov/wic/WIC-FMNP-Fact-Sheet.pdf>; Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 21.
- 51 7 C.F.R. § 248.1 (2008).
- 52 USDA, *FMNP Fact Sheet* (Aug. 2008), *supra* note 50.
- 53 USDA, *FMNP Fact Sheet* (Aug. 2008), *supra* note 50.
- 54 USDA, *FMNP Fact Sheet* (Aug. 2008), *supra* note 50.
- 55 USDA, *FMNP Fact Sheet* (Aug. 2008), *supra* note 50.
- 56 USDA, *FMNP Fact Sheet* (Aug. 2008), *supra* note 50; U.S. Dep’t of Agric., *WIC Farmers’ Market Nutrition Program, Frequently Asked Questions*, [hereinafter USDA, *FMNP Frequently Asked Questions*], <http://www.fns.usda.gov/wic/fmnp/FMNPfaqs.htm> (last visited Dec. 15, 2008).
- 57 USDA, *FMNP Frequently Asked Questions*, *supra* note 56.
- 58 USDA, *FMNP Fact Sheet*, *supra* note 50.
- 59 USDA, *FMNP Fact Sheet*, *supra* note 50.
- 60 USDA, *FMNP Fact Sheet*, *supra* note 50.
- 61 Revisions in the WIC Food Packages, 72 Fed. Reg. 68,971 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- 62 USDA, *FMNP Fact Sheet*, *supra* note 50. Foods that are processed or prepared cannot be purchased, nor can honey, maple syrup, cider, nuts, seeds, eggs, meat, cheese, or seafood. 7 C.F.R. § 248.2 (2008).
- 63 USDA, *FMNP Fact Sheet*, *supra* note 50.
- 64 USDA, *FMNP Fact Sheet*, *supra* note 50.
- 65 USDA, *FMNP Fact Sheet*, *supra* note 50.
- 66 USDA, *WIC at a Glance*, *supra* note 19.
- 67 *Id.* Minn. R. 4617.0015 (2008) indicates that, to provide WIC benefits, an agency must meet the definition of an agency in the federal regulations. The regulations define a local agency as a “public or private, nonprofit health or human service agency which provides health services,” an Indian Health Service (IHS) service unit, “an Indian tribe, band or group” or intertribal council or group that operates a health clinic or is provided health services by an IHS. 7 C.F.R. § 246.2 (2008).
- 68 Section 145A.131 of the Minnesota Statutes, which discusses public health grants for community health boards, mentions that WIC participation levels help determine the amount of grants that are provided.
- 69 Minn. R. 4617.0020, Subp. 3, A (2008).
- 70 A vendor can be disqualified if the vendor buys or sells vouchers for cash; if the vendor provides firearms, ammunition, explosives, controlled substances, alcohol or tobacco products in exchange for vouchers; if the vendor claims reimbursement for the sale of a food item and the amount claimed exceeds the inventory of that food item; if the vendor launders vouchers, provides credit or a nonfood item in exchange for a voucher, or overcharges the WIC Program. Minn. R. 4617.0084 (2008). Other actions can also lead to disqualification. The terms of disqualification vary depending on the severity and the number of times a violation occurs. *Id.* The Minnesota Department of Health hires independent contractors to conduct undercover “compliance buys” in WIC vendor stores with WIC vouchers.

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- 71 Minn. Dep't of Health, Vendor Reauthorization Process, <http://www.health.state.mn.us/divs/fh/wic/vendor/appinfo/reauthorize.html> (last visited Dec. 15, 2008).
- 72 Ramsey County, Minn., WIC Eligibility, *supra* note 15; Minn. Dep't of Health, What Happens at Your WIC Certification Appointment?, <http://www.health.state.mn.us/divs/fh/wic/aboutwic/wicappt.html> (last visited Dec. 15, 2008).
- 73 States can set income eligibility at between 100% and 185% of the poverty level, but none had done so as of April 2004. Devaney, *WIC Turns 35*, *supra* note 11, at 5.
- 74 Ramsey County, Minn., WIC – Women, Infants and Children, <http://www.co.ramsey.mn.us/ph/yas/wic.htm> (last visited Dec. 15, 2008) [hereinafter Ramsey County, WIC].
- 75 The Food Research & Action Ctr., *WIC in the States: Thirty-One Years of Building a Healthier America* (2005), at 63-64, available at http://www.frac.org/WIC/2004_Report/Full_Report.pdf.
- 76 U.S. Dep't of Agric., WIC Program: Total Participation, <http://www.fns.usda.gov/pd/26wifypart.htm> (last visited Dec. 15, 2008); Betsy Clarke & Sharon Braaten, *MN WIC Nutrition Program: Challenges & Opportunities*, available at <http://www.health.state.mn.us/divs/cfh/ophp/system/schsac/docs/wic-presentation2007l.pdf>.
- 77 Clarke & Braaten, *supra* note 76.
- 78 Minn. Dep't of Health, Minnesota Early Childhood Comprehensive Screening Systems (MECCSS), <http://www.health.state.mn.us/divs/cfh/meccss/descwic.html> (last visited Dec. 15, 2008); Minn. House of Representatives, Health – WIC Funding, <http://www.house.leg.state.mn.us/hinfo/sdaily/2003/topics/health117.htm> (last visited Dec. 15, 2008); Minn. Senate, Health, Human Services and Corrections Budget Division Update, http://www.senate.leg.state.mn.us/committee/2003-2004/finance_health/update.htm (last visited Dec. 15, 2008).
- 79 The WIC Program was not listed in the Governor's budget recommendations for fiscal year 2008-09, and there do not appear to be any expenditures planned with respect to this Program. State of Minn., *FY2008-09 Budget Summary and Policy Highlights – Paying for Better Performance: Investing in the Future, Governor Pawlenty's Budget Proposal* (Jan. 22, 2007), available at <http://www.mmb.state.mn.us/doc/budget/op09/summary.pdf>; Minn. Mgmt. & Budget, *General Fund - Fund Balance Analysis – 2008 Forecast* (Dec. 4, 2008), available at <http://www.mmb.state.mn.us/doc/budget/report-fba/nov08-detail.pdf>.
- 80 MINN. STAT. § 145.882, Subd. 7(7) (2008).
- 81 Minn. Dep't of Health, *Fact Sheet: Children and Adolescents – Nutritional and Physical Activity in Children and Adolescents* (Sept. 2004), available at <http://www.health.state.mn.us/divs/cfh/na/factsheets/ca/nutphysact.pdf>.
- 82 Minn. Dep't of Health, Minnesota Title V MCH Needs Assessment Fact Sheets, Ten priority issues for the state of Minnesota: 2005 – 2010, <http://www.health.state.mn.us/divs/cfh/na/factsheets/index.html> (last visited Dec. 15, 2008).
- 83 Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 4. State agencies can also provide home delivery of the supplemental food or require participants to pick up their food from storage facilities operated by the agencies. *Id.*
- 84 U.S. Gov't Accountability Office, WIC PROGRAM: More Detailed Price and Quantity Data Could Enhance Agriculture's Assessment of WIC Program Expenditures (July 2006), at 1, 9. Minn. R. 4617.0088, Subp. 1 (2008) indicates that the Commissioner of Health shall calculate the maximum price for each voucher, based on what foods are covered by each voucher, and that the maximum price for each food product must be 115% of the average price of the food product, but that the maximum price shall not be printed on the voucher itself.
- 85 U.S. Gov't Accountability Office, *supra* note 84, at 1.
- 86 *Id.* at 2; The Library of Congress Congressional Research Service, *Child Nutrition and WIC Programs: Background and Recent Funding* (July 2006) [hereinafter Library of Congress, *Child Nutrition and WIC Programs*], at 14.
- 87 Ramsey County, Minn., WIC Food Information, http://www.co.ramsey.mn.us/ph/yas/wic_food_information.htm (last visited Dec. 15, 2008).
- 88 *Id.*
- 89 Revisions in the WIC Food Packages, 72 Fed. Reg. 68,968 (interim rule, Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246); Minn. R. 4617.0176, Subp. 3 (2008).
- 90 Revisions in the WIC Food Packages, 72 Fed. Reg. 68,970 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246). There are two different types of vendors in Minnesota: pharmacy vendors and retail food vendors. Minn. R. 4617.0065, Subp. 1.

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- ⁹¹ Library of Congress, *Child Nutrition and WIC Programs*, *supra* note 86, at 14.
- ⁹² Revisions in the WIC Food Packages, 72 Fed. Reg. 68,970 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- ⁹³ USDA, *Time for a Change, Frequently Asked Questions*, *supra* note 47, at 4, available at http://www.nal.usda.gov/wicworks/Learning_Center/FP/FAQ.pdf. States cannot authorize only processed fruits and vegetables; they must allow fresh items to be obtained by WIC participants. *Id.*
- ⁹⁴ Revisions in the WIC Food Packages, 72 Fed. Reg. 68,969, 68,971 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- ⁹⁵ *Id.* Bills were introduced during the 2007-2008 Minnesota legislative session, proposing that participants in the Minnesota WIC Program be allowed to purchase organic food with their vouchers. House Bill 3607 and Senate Bill 3595 were introduced and read in February and March 2008, respectively, and referred to the House Health and Human Services Committee and the Senate Health, Housing, and Family Security Committee. They did not pass during the legislative session. https://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_detail.php?b=House&f=HF3607&ssn=0&cy=2008; https://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_detail.php?b=Senate&f=SF3595&ssn=0&cy=2007. It is unclear whether the Department of Health, which has the authority to determine which foods meet the federal food package requirements, can allow organic foods to be purchased with WIC vouchers. Because the Minnesota Statutes seem to delegate nearly all authority to the Department, one could argue that this is something within the Department's purview. However, the Legislature's activity on this issue might suggest that the Department does not have this power.
- ⁹⁶ Minn. R. 4617.0176, Subp. 2 (2008).
- ⁹⁷ Econ. Research Serv., *Background, Trends, and Issues* *supra* note 1, at 4.
- ⁹⁸ Minn. Dep't of Health, Nutrition, <http://www.health.state.mn.us/divs/fh/wic/nutrition/index.html> (last visited Dec. 15, 2008).
- ⁹⁹ *Id.*
- ¹⁰⁰ Minn. Dep't of Health, Breastfeeding, <http://www.health.state.mn.us/divs/fh/wic/bf/index.html> (last visited Dec. 15, 2008).
- ¹⁰¹ Ramsey County, WIC, *supra* note 74. MINN. STAT. §§ 256.962, subd. 3(a), 256B.08, subd. 2, and 256L.05, subd. 1 (2008) discuss that, as a method of outreach, the Department of Human Services is to distribute information about social services, medical assistance, and MinnesotaCare at WIC agency sites.
- ¹⁰² Claims have been made that every dollar spent on WIC saves \$3 in Medicaid costs. Some have said that even if that is true, those cost savings relate to only about 11 percent of the Program participants – those receiving the prenatal benefits. Nat'l Ctr. for Policy Analysis, Daily Policy Digest: Welfare Issues (Feb. 1, 2002), http://www.ncpa.org/sub/dpd/index.php?Article_ID=7188 (last visited Dec. 15, 2008). Once methodological issues are considered, WIC is still considered to be effective, but its impact is substantially more modest than the estimated health care and other savings of \$3.50 for each \$1.00 spent on WIC. Many researchers agree that a variety of further studies are warranted. Devaney, *WIC Turns 35*, *supra* note 11, at 11, 23.
- ¹⁰³ Devaney, *WIC Turns 35*, *supra* note 11, at 8; Lori Kowaleski-Jones & Greg J. Duncan, *Effects of Participation in the WIC Program on Birthweight: Evidence from the National Longitudinal Survey of Youth*, 92:5 AM. J. PUBLIC HEALTH 799, at 801-03 (2002).
- ¹⁰⁴ Devaney, *WIC Turns 35*, *supra* note 11, at 13-16; Jim Weill, President, Food Research & Action Ctr., *Statement of the Food Research and Action Center on the 2009 Reauthorization of the Child Nutrition and WIC Programs*, USDA Listening Session, Chicago, Illinois (Sept. 10, 2008), available at http://www.frac.org/pdf/jwstatement_2009cnr_listensessionsep09.pdf. See also Pinka Chatterji & Jeanne Brooks-Gunn, *WIC Participation, Breastfeeding Practices, and Well-Child Care Among Unmarried, Low-Income Mothers*, 94:8 AM. J. PUBLIC HEALTH 1324, at 1324-25 (2004).
- ¹⁰⁵ Devaney, *WIC Turns 35*, *supra* note 11, at 15-16.
- ¹⁰⁶ Econ. Research Serv., U.S. Dep't of Agric., Contractor and Cooperator Report No. 27, *Effects of WIC and Food Stamp Program Participation on Child Outcomes* (Dec. 2006), at 34.
- ¹⁰⁷ *Id.*
- ¹⁰⁸ Susan Levine & Lori Aratani, *Inertia at the Top; Belated, Patchy Response Further Hamstrung by Inadequate Federal Attention, Experts Say*, THE WASHINGTON POST, May 19, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/05/09/AR2008050900527_pf.html (last visited Dec. 15, 2008). The percentage of children under

five years old who are overweight increased by nearly 35% between 1995 and 2004, and the prevalence of overweight children enrolled in the WIC Program increased by 20% between 1992 and 1998. Carol Spaulding et al., *Promoting Physical Activity in Low-Income Preschool Children: Local WIC Programs Offer Physical Education Professionals a New Opportunity to Promote Physical Activity*, 79:5 J. OF PHYSICAL EDUC., RECREATION & DANCE 42(5) (May 2008), http://findarticles.com/p/articles/mi_hb3218/is_5_79/ai_n29435845/pg_1?tag=artBody;col1 (last visited Dec. 15, 2008) (citations omitted); Food & Nutrition Serv., U.S. Dep't of Agric., *Research, The Prevalence of Overweight Among WIC Program*, <http://www.fns.usda.gov/oane/MENU/Published/WIC/FILES/overweight.htm> (last visited Dec. 15, 2008).

- ¹⁰⁹ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 19.
- ¹¹⁰ Spaulding et al., *supra* note 108, at 42(5).
- ¹¹¹ Devaney, *WIC Turns 35*, *supra* note 11, at 17-18.
- ¹¹² Devaney, *WIC Turns 35*, *supra* note 11, at 17-18.
- ¹¹³ Devaney, *Rationale and Potential Consequences*, *supra* note 6, at 6.
- ¹¹⁴ Devaney, *WIC Turns 35*, *supra* note 11, at 19.
- ¹¹⁵ Devaney, *Rationale and Potential Consequences*, *supra* note 6, at 11-12.
- ¹¹⁶ Devaney, *WIC Turns 35*, *supra* note 11, at 21.
- ¹¹⁷ Revisions in the WIC Food Packages; Interim Rule, 72 Fed. Reg. 68,969, 68,970, 68,974 (Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246); Christian Nordqvist, *Fruit Vegetables and Whole Grains Added to Women, Infants and Children Program*, MEDICAL NEWS TODAY, Dec. 7, 2007, <http://www.medicalnewstoday.com/articles/91109.php> (last visited Dec. 15, 2008). While each month the new food packages will provide women (except those that are exclusively breastfeeding their infants) and children with vouchers, the approved amount is \$2 less than the Institute of Medicine recommended they receive each month. Revisions in the WIC Food Packages; 72 Fed. Reg. 68,969 (interim rule, Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- ¹¹⁸ Revisions in the WIC Food Packages, 72 Fed. Reg. 68,970 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- ¹¹⁹ Editorial, *Rethinking Help for Children*, N.Y. TIMES, Feb. 29, 2008, <http://www.nytimes.com/2008/02/29/opinion/29fri2.html> (last visited Dec. 15, 2008).
- ¹²⁰ Revisions in the WIC Food Packages, 72 Fed. Reg. 68,968 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).
- ¹²¹ U.S. Gov't Accountability Office, *supra* note 84, at 6.
- ¹²² Minn. R. 4617.0088, Subp. 1 (2008).
- ¹²³ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 26.
- ¹²⁴ Levine & Aratani, *supra* note 108.
- ¹²⁵ Minn. Dep't of Health, *Overview of the Maternal and Child Health Advisory Task Force* (March 2008), *available at* <http://www.health.state.mn.us/divs/fh/mchatf/documents/Orientation2008.pdf>.
- ¹²⁶ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 21.
- ¹²⁷ *See* Univ. of Minn. Extension, *Nutrition Education Programs*, <http://www.extension.umn.edu/Nutrition/> (last visited Dec. 15, 2008).
- ¹²⁸ Anne Gordon et al., Mathematica Policy Research, *Innovative WIC Practices* (Feb. 17, 2005) (presentation materials from the Economic Research Service Food Assistance Research Conference), *available at* <http://www.mathematica-mpr.com/publications/pdfs/innovativewic.pdf>.
- ¹²⁹ Econ. Research Serv., *Background, Trends, and Issues*, *supra* note 1, at 21-22.
- ¹³⁰ Gordon et al., *supra* note 128.
- ¹³¹ FitWIC began as a pilot program in 1998, and has been implemented by some states. Not all FitWIC programs are the same. According to a 2008 article in the JOURNAL OF PHYSICAL EDUCATION, RECREATION & DANCE, some states have focused on the WIC participant directly, some have focused on environmental issues, and some have targeted parents. State WIC staff can collaborate with specialists in health education, early childhood movement, and physical education to help identify appropriate approaches for integrating physical activity for children into the WIC Program. While there has not been a large amount of research concerning preschoolers' physical activity, the research that has been done suggests that environmental and individual

interventions have both been successful at increasing activity levels. The authors of the article, health educators, point out that promoting physical activity in children enrolled in the WIC Program could have a large impact on improving public health because there are a large number of children enrolled in WIC, these children participate in WIC during a critical time in their development, and WIC participants are, for lack of a better term, “a captive audience.” The authors recommend that physical activity interventions in the WIC Program target children themselves (for example, when caring for children while parents attend nutrition education classes), the physical environment (daycare centers, etc.), and parents or caregivers, because they often will direct most of a child’s daily activities. Often, one intervention, such as a physical activity video that was developed and used in Texas, can be used at more than one level. For example, the video was used by WIC staff to educate children and then sent home for children and parents to use together. Thus, although FitWIC or a similar program might be targeted at children who are WIC recipients, it could affect their parents and peers. Spaulding et al., *supra* note 108, at 42(5).

¹³² Econ. Research Serv., U.S. Dep’t of Agric., Economic Research Report No. 43, *Could Behavioral Economics Help Improve Diet Quality for Nutrition Assistance Program Participants?* (June 2007), at 17, 19.

¹³³ See Minn. Dep’t of Health, Important Vendor News!, <http://www.health.state.mn.us/divs/fh/wic/vendor/important.html> (last visited Dec. 23, 2008); Minn. Dep’t of Health, *Fresh Choices: The new Minnesota WIC Food Package*, available at <http://www.health.state.mn.us/divs/fh/wic/vendor/fpchng/freshchoices.pdf>; Minn. Dep’t of Health, *Minimum WIC Food Stock Requirements* [hereinafter Minn. Dep’t of Health, *Stock Requirements*], available at http://www.health.state.mn.us/divs/fh/wic/vendor/fpchng/minstock_changes.pdf.

¹³⁴ The Minnesota WIC Vendor Advisory Group was created in 2002 to advise the Minnesota WIC Program on vendor management policies, and consists of representatives from vendors, local agencies, the Minnesota Grocer’s Association, food manufacturers, the Food Stamp Program, and others. Minn. Dep’t of Health, WIC Vendor Advisory Group, <http://www.health.state.mn.us/divs/fh/wic/vendor/comm/advisory.html> (last visited Dec. 15, 2008). Advocates may consider reaching out to this group if they are contemplating offering training for vendors.

¹³⁵ LiveWell West Denver, *LiveWell Community Highlights* (Aug. 2007), available at <http://www.livewellcolorado.com/assets/AugustHighlightV3.pdf>.

¹³⁶ HUNGERMAPS, visualizing the end of hunger, <http://hungermaps.org/map.php?m=49> (last visited Dec. 23, 2008); New York City Coalition Against Hunger, Welcome to NYCCAH Hunger Maps!, <http://www.nyccah.org/maps/index.php> (last visited Dec. 23, 2008).

¹³⁷ Gordon et al., *supra* note 128.

¹³⁸ Gordon et al., *supra* note 128

¹³⁹ It is possible that the State might be tempted to disallow the use of the regular fruit and vegetable vouchers at farmers’ markets due to perceived logistical difficulties. Advocates could, during the rulemaking process, suggest that the State try a pilot program of allowing the use of vouchers in this way in both a rural and an urban area. By doing so, it might be able to learn whether there are any difficulties and consider ways to resolve them before implementing the program state-wide.

¹⁴⁰ Minn. Dep’t of Health, *Stock Requirements*, *supra* note 133.

¹⁴¹ The Institute of Medicine recommended that yogurt be considered a milk substitute, but the FNS did not adopt that recommendation due to cost considerations. Revisions in the WIC Food Packages, 72 Fed. Reg. 68,974 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246). The FNS seeks comments from state agencies about the extent to which participants could benefit from allowing yogurt substitutions, about whether that could be done in a cost-effective way, and about whether states might be able to enter into rebate agreements (like they do for baby formula) with yogurt manufacturers to be able to provide yogurt. *Id.*

Because WIC food items are purchased without exchanging cash, participants do not have to consider the prices that WIC vendors charge for those items. U.S. Gov’t Accountability Office, *supra* note 84, at 1-2. However, because the state still is affected by increases to wholesale prices and retail markup, cost increases can result in fewer persons being served. Econ. Research Serv., U.S. Dep’t of Agric., Miscellaneous Publication 1598, *Informing Food and Nutrition Assistance Policy: 10 Years of Research at ERS* (Dec. 2007), at 23. To contain costs, some states have limited access to certain stores with lower food prices, limited food selection by brand, package size, form, or price, or required the use of certain brands in exchange for rebates from food manufacturers or suppliers. Econ. Research Serv., U.S. Dep’t of Agric., Food Assistance & Nutrition Research Report No. 34-1, *Assessment of WIC Cost-Containment Practices Food Assistance Research Brief* (July 2003), at 1. A study indicated that there is little evidence that food-item restrictions caused participants to buy less food, and the purchased, restricted food was usually just as

likely to be eaten. The report concluded that there is strong evidence that cost-containment practices can be effective without jeopardizing WIC Program goals. *Id.* at 2.

- ¹⁴² General Mills, Bell Inst. of Health & Nutrition, *a resource for WIC professionals*, http://www.bellinstitute.com/wic/index.aspx?cat_1=211 (last visited on Dec. 15, 2008).
- ¹⁴³ State agencies are still required to identify brands and package sizes that are acceptable to be used in each state. Now that the revised WIC food packages include new food items, state agencies will need to again identify brands and package sizes for the foods that can be purchased in the state, and will need to provide a list of the acceptable foods and their maximum monthly allowances to local agencies and in the state plan. Revisions in the WIC Food Packages, 72 Fed. Reg. 68,968 (interim rule, Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246). While the State has been training staff for the Fall 2009 implementation, the Department of Health's website suggests that there still are opportunities to help influence both the education of participants and agency staff and the rulemaking process. See Minn. Dep't of Health, *Information for Local Agencies*, <http://www.health.state.mn.us/divs/fh/wic/localagency/index.html> (last visited Dec. 15, 2008); Minn. Dep't of Health, *New Food Package Interim Rule and Guidance Information and Resources for Local Agencies*, <http://www.health.state.mn.us/divs/fh/wic/localagency/foodpckg/index.html> (last visited Dec. 15, 2008).
- ¹⁴⁴ There does not appear to be a Minnesota WIC Association, but the WIC agency directors may have an informal, cooperative working group.

Nutrition Program Facts Food and Nutrition Service



WIC

The Special Supplemental Nutrition Program for Women, Infants and Children

1. What is WIC?

WIC provides nutritious foods, nutrition education, and referrals to health and other social services to participants at no charge. WIC serves low-income pregnant, postpartum and breastfeeding women, and infants and children up to age 5 who are at nutrition risk.

WIC is not an entitlement program; that is, Congress does not set aside funds to allow every eligible individual to participate in the program. Instead, WIC is a Federal grant program for which Congress authorizes a specific amount of funding each year for program operations. The Food and Nutrition Service, which administers the program at the Federal level, provides these funds to WIC State agencies (State health departments or comparable agencies) to pay for WIC foods, nutrition education, and administrative costs.

2. Where is WIC available?

The program is available in all 50 States, 34 Indian Tribal Organizations, American Samoa, District of Columbia, Guam, Commonwealth Islands of the Northern Marianas, Puerto Rico, and the Virgin Islands. These 90 WIC State agencies administer the program through 2,200 local agencies and 9,000 clinic sites.

3. Who is eligible?

Pregnant or postpartum women, infants, and children up to age 5 are eligible. They must meet income guidelines, a State residency requirement, and be individually determined to be at "nutrition risk" by a health professional.

To be eligible on the basis of income, applicants' income must fall at or below 185 percent of the U.S. Poverty Income Guidelines (currently \$35,798 for a family of four). A person who participates or has family members who participate in certain other benefit programs, such as the Food Stamp Program, Medicaid, or Temporary Assistance for Needy Families, automatically meets the income eligibility requirement.

4. What is “nutrition risk?”

Two major types of nutrition risk are recognized for WIC eligibility:

- Medically-based risks such as anemia, underweight, overweight, history of pregnancy complications, or poor pregnancy outcomes.
- Dietary risks, such as failure to meet the dietary guidelines or inappropriate nutrition practices.

Nutrition risk is determined by a health professional such as a physician, nutritionist, or nurse, and is based on Federal guidelines. This health screening is free to program applicants.

5. How many people does WIC serve?

More than 8 million people get WIC benefits each month. In 1974, the first year WIC was permanently authorized, 88,000 people participated. By 1980, participation was at 1.9 million; by 1985 it was 3.1 million; and by 1990 it was 4.5 million. Average monthly participation for Fiscal Year (FY) 2004 was approximately 7.9 million.

Children have always been the largest category of WIC participants. Of the 7.9 million people who received WIC benefits each month in FY 2004, approximately 4 million were children, 2 million were infants, and 1.9 million were women.

6. What food benefits do WIC participants receive?

In most WIC State agencies, WIC participants receive checks or vouchers to purchase specific foods each month that are designed to supplement their diets. A few WIC State agencies distribute the WIC foods through warehouses or deliver the foods to participants' homes. The foods provided are high in one or more of the following nutrients: protein, calcium, iron, and vitamins A and C. These are the nutrients frequently lacking in the diets of the program's target population. Different food packages are provided for different categories of participants.

WIC foods include iron-fortified infant formula and infant cereal, iron-fortified adult cereal, vitamin C-rich fruit or vegetable juice, eggs, milk, cheese, peanut butter, dried beans/peas, tuna fish and carrots. Special therapeutic infant formulas and medical foods may be provided when prescribed by a physician for a specified medical condition.

7. Who gets first priority for participation?

WIC cannot serve all eligible people, so a system of priorities has been established for filling program openings. Once a local WIC agency has reached its maximum caseload, vacancies are filled in the order of the following priority levels:

- Pregnant women, breastfeeding women, and infants determined to be at nutrition risk because of a nutrition-related medical condition.
- Infants up to 6 months of age whose mothers participated in WIC or could have participated and had a serious medical problem.
- Children at nutrition risk because of a nutrition-related medical problem.
- Pregnant or breastfeeding women and infants at nutrition risk because of an inadequate dietary pattern.
- Children at nutrition risk because of an inadequate dietary pattern.
- Non-breastfeeding, postpartum women with any nutrition risk.
- Individuals at nutrition risk only because they are homeless or migrants, and current participants who, without WIC foods, could continue to have medical and/or dietary problems.

8. What is the WIC infant formula rebate system?

Mothers participating in WIC are encouraged to breastfeed their infants if possible, but WIC State agencies provide infant formula for mothers who choose to use this feeding method. WIC State agencies are required by law to have competitively bid infant formula rebate contracts with infant formula manufacturers. This means WIC State agencies agree to provide one brand of infant formula and in return the manufacturer gives the State agency a rebate for each can of infant formula purchased by WIC participants. The brand of infant formula provided by WIC varies from State agency to State agency depending on which company has the rebate contract in a particular State.

By negotiating rebates with formula manufacturers, States are able to serve more people. For FY 2004, rebate savings were \$1.64 billion, supporting an average of 2 million participants each month, or 25 percent of the estimated average monthly caseload.

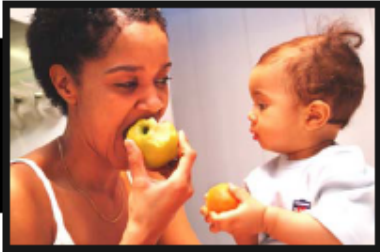
9. What is WIC's current funding level?

Congress appropriated \$5.204 billion for WIC in FY 2006. By comparison, the WIC Program appropriation was \$20.6 million in 1974; \$750 million in 1980; \$1.5 billion in 1985; and \$2.1 billion in 1990.

For more information:

Information on FNS programs is available on the World Wide Web at www.fns.usda.gov/fns

Updated March 2006



USDA Issues New WIC Food Packages Fruits and Vegetables Will Support Good Health and Healthy Communities

The new WIC food packages improve the health and nutritional quality of the foods in the program and in neighborhoods, increase participants' choice and expand cultural food options by offering fruits, vegetables, and other new foods.

The recommendations sent in the many comment letters on the proposed regulations helped USDA to strengthen the rules it issued on December 6, 2007 compared to the prior proposal. Here is a summary of the rules for fruits and vegetables in the new WIC food packages:

Fruits and Vegetables

- Participating women will receive WIC vouchers for \$8 for fruits and vegetables each month; children will receive \$6 in fruit and vegetable vouchers.
- Exclusively breastfeeding women, a small category of participants in WIC, will receive \$10 in fruit and vegetable vouchers each month.
- For infants age 6 to 12 months, fruits and vegetables have been added in the form of 128 ounces of baby food.
- States can allow participants to choose fresh bananas instead of prepared baby food on a limited basis. (Fresh bananas can only be substituted for up to 16 ounces of prepared baby food. The substitution rate is 1 pound of bananas for 8 ounces of baby food.)

Allowable Fruits and Vegetables

- All fruits and vegetables are allowed except white potatoes.
- Fresh, frozen and canned fruits and vegetables are allowed.
- Organic fruits and vegetables can be allowed if they meet State product and price criteria.

WIC Participant Choice

- State agencies must allow participants to use their WIC fruit and vegetable vouchers to choose any WIC-eligible fruit and vegetable.

Fruit and Vegetable Cash Vouchers

- The dollar amount of the fruit and vegetable vouchers will be determined by state agencies based on what is "most beneficial to participants and cost effective within the WIC redemption infrastructure and environment."
- For example, states could provide three \$2 fruit and vegetable vouchers to each child per month or one \$6 voucher.
- Stores and farmers' markets cannot give participants cash back for the unspent portion of a fruit and vegetable voucher.
- Participants can pay the difference when the purchase of fruits and vegetables exceeds the value of the voucher.

Inflation Index

- The value of the WIC fruit and vegetable benefit will keep up with inflation through an annual cost of living adjustment based on the Consumer Price Index for Fruits and Vegetables.

Stocking Requirements

- To be approved to accept WIC vouchers, stores must stock at least two types of fruits and two types of vegetables. E.g., apples and peaches and carrots and lettuce. State agencies may establish different requirements for different types of vendors.

Farmers' Markets and Roadside Stands

- For the first time, State agencies have the option to authorize farmers at farmers' markets and roadside stands to accept WIC vouchers for fruits and vegetables.
- USDA adopted the Farmers' Market Nutrition Program definition of farmer: "an individual authorized by the State agency to sell eligible fruits and vegetables to participants at a farmers' market or roadside stand. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized."
- States can modify their WIC vendor agreement to address the unique circumstances of farmers' markets, allowing them to participate as seasonal vendors and exempt them from stocking the full WIC package of foods, e.g. cereal.
- States can enter into one agreement with the farmer that includes the requirements for both the WIC and WIC Farmers' Market Nutrition Programs.
- Farmers' markets may be excluded from WIC monitoring if they are monitored by the WIC Farmers' Market Program.
- The WIC Farmers' Market Program remains a separate program and is unchanged by these new regulations.



Next Steps

- The next step is to work with your State WIC agency to help ensure the new changes in the WIC food package work "on the ground," including in communities where accessing healthy food often raises unique challenges.
- States will have 18 months to plan and implement the new WIC food packages.
- Working with state WIC advisory councils (or developing them in states where they do not currently exist) can provide information and recommendations to WIC agencies to help ensure that clients benefit fully from the new fruits and vegetables in the food package.
- Share your ideas with the coalitions, associations and organizations working on these issues.

Resources

- Benefits in New York State's WIC fruit & vegetable demonstration project report: http://www.health.state.ny.us/prevention/nutrition/wic/docs/vegetable_fruit_demo_project.pdf (note: when this project was conducted, States couldn't use farmers' markets for the WIC program.)
- Journal article on the Fruit and Vegetable Pilot in the Public Health Foundation WIC program: <http://healthpolicy.ucla.edu/pubs/files/JADA.0520.06.pdf> (included Farmers' Market.)
- FRAC's table of the total value of the new fruit and vegetable vouchers by state, fact sheets, and a link to the new regulations/interim final rule: www.frac.org
- State WIC agency contact information and other useful USDA materials: www.fns.usda.gov

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Additional Revisions to or Clarifications Regarding the WIC Food Packages To Take Effect October 2009

- A woman who partially breastfeeds her child and requests, after the sixth month after the child is born, more than the maximum amount of formula allowed for a “partially breastfed infant” would no longer receive a food package. However, she would still be considered a WIC participant and receive other Program benefits and nutrition services.¹
- Women who receive no supplemental foods or food instruments, but whose breastfed infants receive the supplemental foods or food instruments, continue to be eligible to receive nutrition services, including breast pumps.²
- State agencies will no longer be able to tailor food packages by population “category.” That is, they no longer can modify the WIC food packages for participant groups or subgroups with similar supplemental nutrition needs, based on scientific nutrition rationale and state policies. They can, however, tailor individual food packages based on participants’ nutrition assessments. States continue to have the power to make adjustments to WIC foods for administrative convenience and to control costs, such as making adjustments based on packaging methods, container sizes, brands, types, and physical forms of WIC foods.³
- Pregnant women and those that partially breastfeed their children (up to one year after delivery) will now be eligible to receive eighteen ounces of peanut butter; women who feed their babies formula only (up to six months after delivery) will now be able to get beans, peas, peanut butter, or other legumes; and anyone who is eligible for dry beans and legumes may now substitute canned beans and legumes.⁴
- The maximum monthly allowance for milk has been decreased for all participants, the amount of cheese that may be substituted for milk has been decreased, and any type of milk that meets the Food and Drug Administration’s definition of milk (e.g., calcium-fortified, lactose-free, or ultra-high temperature milks) is authorized under the new regulations.⁵ The food package will now allow certain milk alternatives, such as soy milk, to be purchased with WIC vouchers, but state agencies will be unable to make the substitution for children unless they receive medical documentation from a child’s health care provider, ensuring that the provider is aware that the child may be at nutritional risk due to the substitution.⁶

¹ Revisions in the WIC Food Packages, 72 Fed. Reg. 68,967 (interim rule Dec. 6, 2007) (to be codified at 7 C.F.R. pt. 246).

² *Id.*

³ *Id.* at 68,968.

⁴ *Id.* at 68,972.

⁵ *Id.* at 68,972-73.

⁶ *Id.* at 68,969.

- The maximum monthly allowances for eggs and juice were decreased in the food packages.⁷
- State agencies must require that at least half of the cereals on the states' authorized food lists be whole grain cereals, and have the discretion to require that a larger percentage of the cereals be whole grain cereals. Regardless of what percentage is used, state agencies must require that vendors stock at least one whole grain cereal. The regulations added whole wheat bread or other whole grain options to the food packages.⁸
- Fully breastfeeding women will no longer be limited to tuna as the type of canned fish they can receive.⁹

⁷ *Id.* at 68,974-75.

⁸ *Id.* at 68,975-76.

⁹ *Id.* at 68,976. Fully breastfeeding women can now receive canned light tuna, salmon, sardines, or mackerel.

- The regulations¹⁰ contain many revisions to the food packages for infants, such as:

Food Package I: Infants under Six Months	Extends the age range of infants covered by this package by two months, thereby delaying introduction of juice and cereal until six months of age
Food Package II: Infants Six through Eleven Months	Adds infant food fruits and vegetables, eliminates infant juice, and reduces the maximum formula allowances for both partially breastfed and fully formula-fed infants
Breastfeeding Provisions	In an effort to encourage breastfeeding, no formula will be provided to fully breastfeeding infants during the first month after birth, but in limited situations, partially breastfed infants may receive a limited amount of formula during that first month and their mothers will receive a food package nearly equivalent to that received by fully breastfeeding women during that month to help with the transition and to encourage the mother to choose to fully breastfeed the infant after that first month
Maximum Monthly Allowances of Infant Formula for Ages 0 through 5 Months	A fully breastfed infant will receive no formula, a fully formula-fed infant will receive amounts of formula based on the infant's age, and a partially breastfed infant will receive approximately half as much formula as a fully formula-fed infant will receive (to encourage mothers to breastfeed enough to provide at least half of the infant's nutritional needs)

¹⁰ *Id.* at 68,976-81.

List of Key Resources

Economic Research Service, U.S. Department of Agriculture, Food Assistance & Nutrition Research Report No. 27, *The WIC Program: Background, Trends, and Issues* (Sept. 2002).

Institute of Medicine, *Time for a Change* (Apr. 2005).

National Agricultural Library, U.S. Department of Agriculture, WIC Works website www.nal.usda.gov/wicworks/ (last visited Dec. 15, 2008) (includes links to “FitWIC” lessons learned and recommendations and WIC educational materials from other states).

Office of Analysis, Nutrition, & Evaluation, U.S. Department of Agriculture, Food & Nutrition Service Special Nutrition Programs Report No. WIC-05-FW, *Fit WIC: Programs to Prevent Childhood Overweight in Your Community Final Report* (May 2005), available at <http://www.fns.usda.gov/oane/MENU/published/WIC/FILES/fitwic.pdf>.

Economic Research Service, U.S. Department of Agriculture, Food Assistance & Nutrition Research Report E-FAN-04-007, *Innovative WIC Practices: Profiles of 20 Programs* (June 2004) (detailing twenty different programs that are not necessarily the most effective programs, but may be worthy of future consideration and, possibly, replication).

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