UNITED STATES DEPARTMENT OF AGRICULTURE
Food and Nutrition Service
3101 Park Center Drive
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FNS INSTRUCTION 803-3
REV. 1

ACTION BY: Regional Directors
Supplemental Food Programs

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WIC Program--Certification: Income Eligibility

The purpose of this Instruction is to provide guidance and clarification for Regional Offices and State agencies regarding the income eligibility criteria required for participation in the Special Supplemental Food Program for Women, Infants and Children (WIC).

Income Eligibility Guidelines

The provisions of the regulations facilitate State agencies tying their WIC Program income requirements to the State or local limit(s) for free or reduced-price health care, with certain limitations. These provisions are intended to encourage coordination of WIC with health services and to ease the administrative burden of determining eligibility. The regulations allow State agencies two alternatives in establishing income eligibility guidelines. States may either:

(1) Adopt the Federal income guidelines for reduced-price school meals under the National School Lunch Act (currently legislated at 185 percent of the Federal Poverty Income Guidelines), or

(2) Establish WIC guidelines which are identical to State or local guidelines for free or reduced-price health care. In this case, the WIC guidelines may not exceed the reduced-price school meal income guidelines or be less than 100 percent of the Federal Poverty Income Guidelines.

State agencies choosing the second option may find that free and reduced-price health care guidelines vary within the same local agency, e.g., maternal services may be 100 percent of the Federal poverty income guidelines while pediatric services may be 110 percent. Selecting the larger percentage of these two guidelines would be sufficient to establish the local agency WIC income guidelines, which would be considered "identical" to local health care guidelines.

DISTRIBUTION:	MANUAL MAINTENANCE INSTRUCTIONS:	RESPONSIBLE FOR PREPARATION AND MAINTENANCE:	
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Definition of "income"

State agencies which adopt the Federal income guidelines for reduced-price school meals must also use the National School Lunch Program definition of "income." The definition of what is considered as income is set forth in Section 246.7(c)(2)(ii) of the WIC regulations. Income means gross cash income before deductions for income taxes, employees: social security taxes, insurance premiums, bonds, etc. Income includes the following:

(1) Monetary compensation for services, including wages, salary, commissions, or fees;

(2) Net income from farm and nonfarm self-employment;

(3) Social Security benefits;

(4) Dividends or interest on savings or bonds, income from estates or trusts, or net rental income;

(5) Public assistance or welfare payments;

(6) Unemployment compensation;

(7) Government civilian employee or military retirement or pensions or veterans' payments;

(8) Private pensions or annuities;

(9) Alimony or child support payments;

(10) Regular contributions from persons not living in the household;

(11) Net royalties; and

(12) Other cash income. Other cash income includes, but is not limited to, cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family.

If a State agency chooses to use income guidelines identical to those used for State or local free or reduced-price health care, it may also wish to use the corresponding health care definition of "income." However, when applying the free or reduced-price health care definition of income, the following exclusions must continue to be considered:

(1) The value of inkind housing and other inkind benefits, and

(2) Payments or benefits provided under certain Federal programs as specified by law.

in addition, no expenses due to hardship or other deductions are allowed unless the State agency can demonstrate that a household's gross income before deductions does not exceed the limit for reduced-price school meals.
The definition of "income" for WIC purposes, as established for the National School Lunch Program, includes gross cash income earned by and any all members of a family. Cash income also includes student financial assistance, such as grants and scholarships, except those grants and scholarships excluded as income as set forth in Section 246.7(c)(2)(iv) of the regulations, such as Pell Grants, State Student Incentive Grants, and National Direct Student Loans. Two sources of income where questions have arisen include (1) net income from farm/nonfarm self-employment, and (2) cash allowances received by military personnel for-off-base housing.

Calculating Income From Farm/Nonfarm Self-Employment

Self-employed persons are credited with net income rather than gross income. Net income is determined by subtracting the self-employed individual's operating expenses from his/her gross receipts. For farm income, operating expenses include, but are not limited to, cost of feed, fertilizer, seed and other farming supplies; cash wages paid to farmhands; depreciation; cash rent; interest on farm mortgages; farm building repairs; and farm taxes (but not State and Federal income taxes). Gross receipts include, but are not limited to, the value of all products sold; money received from the rental of farm land, buildings or equipment to others; and incidental receipts from the sale of items such as wood, sand, or gravel. The value of fuel, food or other farm products consumed by the family is not included as an operating expense.

In the case of nonfarm self-employed persons, operating expenses include, but are not limited to, the cost of goods purchased, rent, heat, utilities, depreciation, wages and salaries paid, business taxes (but not personal income taxes) and so on. Gross receipts include the total value of goods sold or services rendered by the business. Again, the value of saleable services and merchandise used by the family of self-employed persons is not to be included as an operating expense.

As indicated above, for both farm and nonfarm self-employed persons, depreciation is allowed as a cost of producing income. Documentation of depreciation should, however, be required before accepting such charges as operating expenses. Either Federal or State income tax forms for the most recent tax year would provide the most reliable documentation of these amounts.

A State agency may choose to use internal Revenue Service (IRS) schedules as a basis for calculating both farm and nonfarm self-employment income. However, the State agency should be reminded that these schedules. as well as any State or Federal income tax forms used to document depreciation charges, may reflect income well beyond the past 12 months. For example, if a family applies for benefits and uses the preceding tax year to determine income, this is non "income'" during the past 12 months nor is it the "current rate of income" as required under Section 246.7(c).

It may be difficult to capture an accurate reflection of self-employment income for the appropriate timeframes. One approach to handling any discrepancies relative to the time period covered by available income information would be to require an applicant to adjust the net income from the previous year if necessary to reflect income over the past 12 months. The State agency may, at its discretion, seek written justification for the adjustments made.

Cash Allowances For Off-Base Housing For Military Personnel

Benefits received in cash, such as housing and food allowances for military households living off base, must be considered as income. The policy is consistent with policy applied to income eligibility for the National School Lunch and Breakfast Programs and the Food Stamp Program. As discussed below under "Income Exclusions," the value of in-kind benefits, such as military on-base housing, is not considered as income. This policy does result in unequal access to WIC for military personnel who receive in-kind housing benefits and those who get cash housing allowances. However, the alternative policy, to assign a cash value to on-base housing allowances (in-kind benefits), would result in a cumbersome income eligibility process entailing assignment of a cash value to all in-kind benefits received by all applicants, not just to housing provided to military personnel. Such a complicated procedure would not be in accordance with the original intent of Congress that the income eligibility determination be a simple and straightforward process. And it would result in the exclusion of some applicants who would otherwise be eligible.

Income Exclusions

Income in WIC means "all cash income." However, income received under a Federal program which by legislation is prohibited from being counted as income for purposes of establishing eligibility for Federal programs is not to be considered as cash income to a household. Examples of excluded monies are outlined in Section 246.7©(2)(iv) of the regulations. Loans, such as bank loans, are also excluded since these funds are only temporarily available and must be repaid. In-kind benefits, such as military on-base housing or other subsidized housing, medical and dental services, do not meet the definition of "income" and may not, therefore, be considered in income eligibility determinations.

Timeframes for Determining Income

The WIC regulations (Section 246.7©(2)(I)) permit State agencies to instruct the local agency to consider the income of the family during the past 12 months and the family's current rate of income to determine which indicator more accurately reflects the family's status. The two exceptions to this provision are (1) that unemployed persons (including laid-off workers) must have income eligibility determined by their current rate of income (Section 246.7©(2)(I)), and (2) that instream migrant farmworkers and their families with expired VOC cards shall be considered income-eligible, provided that their income is redetermined once every 12 months (Section 246.7(c)(2)(vii)). If the migrant's family income must be redetermined, State agencies are encouraged to consider its income during the past 12 months.

Use of Current Versus Annual Rate of Income

State agencies have, and should exercise, flexibility in deciding whether to use an applicant's current or annual rate of income. For example, the family of a striker may have a lower income during the period of the strike (depending on the union benefits and other sources of income), but have an annual income which would exceed the WIC limit. In this case, the use of current income (while on strike) may be more appropriate. However, in the case of families of self-employed persons, including farmers or seasonally employed persons whose income fluctuates, annual income may be the more appropriate indicator of the need for WIC benefits. Other examples in which the use of annual income is more appropriate include: (1) a family member who is on a temporary leave of absence from employment, such as maternity leave or leave to take an extended vacation; (2) teachers who are paid on a 10-month basis and are temporarily on leave during the summer months; and (3) college students who work only during the summer months and/or their school breaks.

The WIC regulations do not define "current" income. Therefore, State agencies have the flexibility to establish what is to be considered current income. Generally, "current" should mean the most recent income data available to the applicant. However, to provide more consistent application, State agencies are encouraged to define current income as income received by the household during the month prior to application. This is consistent with other FNS programs. If the current income is reported as other than a monthly figure, the following calculation can be made:

1. Monthly Income Equals:

   -- Weekly income X 4.3

   -- Bi-weekly income (every two weeks) X 2.15

   -- Semi-monthly income (twice a month) X 2

2. Annual Income Equals:

   -- Weekly income X 52

   -- Bi-weekly income (every 2 weeks) X 26

   -- Semi-monthly income (twice a month) X 24

Definition of "Family" and "Economic Unit"

It is not the intent of this Instruction to make the income determination for WIC a complicated and lengthy procedure, nor is an answer readily available for every question that may arise in a specific case. Therefore, there will be times when State and local agency workers will need to use their discretion in determining income eligibility within the general framework of regulatory requirements and basic program policy.

The following policy has been developed for State agencies using the WIC definition of " income."' This policy should assist these State agencies in determining the economic unit or household size. State agencies using their health care definition of "income"are encouraged also to adhere to the following policies. However, such State agencies have the option to utilize health care program policies in regard to determining the economic unit and what income should or should not be considered so long such policies do not render someone eligible for the WIC Program that would be ineligible when applying the Federal income guideline and definition of "income."

(1) For purposes of the WIC Program, the terms "economic unit" and "family" can be used interchangeably. We define a family to be household on economic unit composed of a persons or group of persons, related or nonrelated, who usually (although not necessarily) live together, and whose production of income and consumption of goods or services are related.

It is possible for two separate economic units to reside under the same roof. In determining the composition of the economic unit(s), local agencies will need to exercise judgement regarding the economic dependence or independence of each applicant. The most import rule to apply to all applicants, including minors, is that an economic unit must have its own source of income. Given this essential element, the local agency must then decide whether the income is adequate to sustain to economic unit. Adequacy of the income, not whether the unit receives any in-kind benefits, should be the determining factor. State agencies may wish to establish guidelines to determine "adequacy of income" or delegate this responsibility to their local agencies. In any event, this definition should consider the actual living and support costs for the economic unit in the environment. However, State agencies may establish a policy which requires going beyond the test of adequacy of income to a determination of whether the applicant receives any form of support from other persons living under the same roof. That is, the State may require a determination that the purported family unit does, in fact, pay all its living expenses. However, this process may be prohibitively time-consuming, and the result is almost inevitably inconclusive.

As noted in FNS Instruction 803-13, Eligibility of Persons Afflicted with Institutions, the definition of "family" prevents consideration of all persons in residential institution as members of one "family" for purposes of income eligibility. Income of the institutionalized person is separated from the income of other residents (unless a family lives together in an institution, e.g., a mother and her child in a temporary shelter for battered women) and the general revenues of the institution. If a family be considered a separate economic unit from the other residents and their income eligibility determination would be based on a 2-person household.

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(2) A child is counted in the family size of the parent or guardian with whom the child lives. For example, the mother and child live together and receive child support payments from the father. The father has remarried and lives with his new wife, who is expecting a baby. The new wife and the ex-wife apply for WIC benefits. The ex-wife and her child are a family of two, and the child support payments are counted as income. The father and the new wife are also a family size of two until the new wife has her baby. The child support payments cannot be deducted from the father's income, and the child living with the ex-wife cannot be counted in the father's family.

(3) However, if a child resides in a school or institution and the child's support is being paid for by the parent or a guardian, the child is counted in the family size of that parent or guardian, since the family continues to provide the economic support for the child.

(4) If the child is a foster child who is living with a family but who remains the legal responsibility of a welfare or other agency, the foster child is considered a family of one. The payments made by the welfare agency or from any other source for the care of that child are considered to be the income of that foster child.

(5) When a family has an adopted child or a child for whom the family has accepted legal responsibility, the child is counted in the family size of the family. The size and total income of that family are used to determine the child's income eligibility for WIC. Income received on behalf of that child would be considered family income.

Pregnant Women and Family Size

It has been implicit since the inception of WIC Program income eligibility requirements that a pregnant woman be counted as one person. In addition, the Poverty Income Guidelines used to establish WIC eligibility standards are based on poverty thresholds used by the Bureau of Census, and the Census definition of "family unit" does not include the unborn infant. Therefore, a pregnant woman cannot be counted as two persons for the purpose of determining family size, and thus income eligibility, for the WIC Program. (Please refer to the "Verification of Income" section below regarding how income eligibility determinations for the Aid to Families with Dependent Children (AFDC) Program and Medicaid Program in which a pregnant woman is counted as two persons, may serve as presumptive evidence of WIC income eligibility.) The WIC Program is fully funded by the Federal Government, unlike the AFDC and Medicaid Programs, which are jointly funded by States and the Federal Government. Utilization of Federal/State matching funds for these two programs results in increased flexibility to expand services. To liberalize WIC's definition of a pregnant woman would draw resources away from those with lower incomes and greater need to those with higher incomes and lesser need of WIC Program benefits.

Verification of Income

Section 246.7(c)(2)(v) authorizes State or local agencies to require verification of the information which it determines necessary to confirm income eligibility for Program benefits, i.e., amount and sources of income and number in family.

State agencies must use their discretion in deciding when it is appropriate to verify, what information to verify, and which methods to use. State and local agencies may, under limited circumstances, accept an applicant's participation in another State-administered social services or health program as evidence of income eligibility for the WIC Program. Prior to doing so, the State or local agency must first establish:

(1) Comparability of income Eligibility Guidelines

Any such program must have income eligibility standards that are at or below the State or local agency's income standards for WIC. State and local agencies are reminded that both family size and income levels are components of income eligibility standards.

With regard to the Medicaid Program and the Aid to Families with Dependent Children (AFDC) Program, Medicaid and/or AFDC eligibility may serve as presumptive evidence of WIC eligibility, provided that in no case would a pregnant woman eligible for Medicaid and/or AFDC when counted as two persons exceed 185 percent of the Poverty Income Guidelines when counted as one person for WIC income eligibility purposes. The vast majority of State agencies will not be affected by changes, for example, in the Medicaid Program if the poverty guideline used for Medicaid is 100 percent of poverty or less. For example, for the period July 1, 1988 through June 30, 1989, a pregnant woman eligible for Medicaid when counted as two persons, using 100 percent of poverty, would not exceed 138 percent of poverty for a one-person household for WIC eligibility. The cutoff point or income percentage whereby a Medicaid participant's income would exceed WIC's income limit increases as the household size increases. For the period July 1, 1988 through June 30, 1989, the cutoffs by household size are as follows:

Medicaid Income Eligibility (Household Size Including Pregnant Woman as Two)	Maximum Medicaid Income Percentage Within WIC's 185% Income Eligibility Standard
2	138
3	147
4	153
5	158
6	161
7	164
8	166

These cutoff percentages may change by a percentage point from year to year due to the rounding upward to the next whole dollar which takes place in establishing Federal Poverty Income Guidelines. Updates of the above information will be issued as necessary through memoranda.

Public Law 100-203, the Omnibus Reconciliation Act of 1987, enacted December 22, 1987, however, allows States the option, beginning in July 1988, to provide Medicaid coverage to pregnant women and infants (up to their first birthday) with incomes up to 185 percent of the Poverty Income Guidelines. Since Medicaid is required by law to count the unborn infant in determining income eligibility, a pregnant woman eligible for Medicaid (2-person household) with income above 138 percent of poverty would exceed the WIC income limit of 185 percent (1-person household).

(2) Comparability of Family Information

A person or family's participation in another State-administered program is based on family size and income data deemed correct at the time of application for that program. If the data is still reflective of a family's circumstances when one of its members subsequently applies for WIC, and if the program's income limits are at or below WIC limits in the State, the State or local agency may presume the family meets the WIC income eligibility standards--provided that both programs define "family" in the same way.

The State or local agency may find, however, that the data is no longer reflective of the family's status. In such cases, the State or local agency may not consider participation in another State-administered program as presumptive evidence of income within WIC eligibility guidelines.

To illustrate this point, consider a woman and her child who were determined by AFDC program officials to be eligible for AFDC benefits as a family of two. Shortly thereafter the woman (and child) moved in with her parents. In determining whether the child is eligible for WIC benefits, the local agency should review the change in status to determine whether the woman and child are a separate "family': under the parents' roof. If the woman and child reside in the household but remain independent of the parent's resources, the local agency may consider them still to be a family of two, as did AFDC, and may accept AFDC participation as presumptive evidence of income eligibility, if, however, the family size has changed from two to four because the three generations are living as a single economic unit, the local agency must make an independent income eligibility determination based upon the changes in circumstances.

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