



Food and  
Nutrition  
Service

April 22, 2020

**SUBJECT:** Request for WIC Flexibility in Response to COVID-19

1320  
Braddock  
Place  
Alexandria,  
VA  
22314

**TO:** William Ludwig  
Regional Administrator  
Southwest Regional Office

This letter is in response to the March 23, 2020 correspondence from New Mexico WIC requesting program flexibility in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) as a result of significant impacts to providing WIC Program services to participants due to COVID-19.

New Mexico WIC currently operates a home delivery and/or direct distribution food delivery system to provide exempt infant formula to participants. As a part of its COVID-19 response efforts, the State agency has requested to issue two months of exempt infant formula through its home delivery and/or direct distribution system at one time (i.e., one month will be issued early). New Mexico WIC requested a waiver of the federal requirement that the State agency must ensure that no more than a one month supply of supplemental foods is issued at any one time to any participant, parent/caretaker, or proxy, as outlined in 7 CFR 246.12(r)(5). Pursuant to the authority granted in section 2204(a)(1) of the Families First Coronavirus Response Act (P.L. 116-127), USDA's Food and Nutrition Service (FNS) approves this waiver request through **May 31, 2020**.

Given the recommendations by the Centers for Disease Control and Prevention to control the impact of the COVID-19 epidemic through means of social distancing, USDA FNS understands that normal direct distribution and home delivery procedures that involve staff and participant interactions create an undesirable risk. This waiver removes a requirement that could prevent or impede the provision of essential Program services.

This waiver is only applicable to regulations at:

- 7 CFR 246.12(r)(5) which requires the State agency to ensure that no more than a one month supply of supplemental foods is issued at any one time to any participant, parent/caretaker, or proxy.

As noted in the terms and conditions below, WIC staff are prohibited from from assuming medical oversight and instruction for participants receiving supplemental foods as specified in 7 CFR 246.10(d)(5). Additionally, all medical documentation policies (to include those being operationalized under a medical documentation waiver) must be met. USDA FNS is not waiving

the requirement for medical documentation for the issuance of new supplemental food benefits. Please note that medical documentation may be provided in a variety of forms, including electronically and by phone.

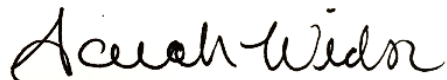
Terms and Conditions:

- 1) This waiver only applies to home delivery and direct distribution food delivery systems. It does not apply to any retail systems operated within the State agency's jurisdiction.
- 2) This waiver only applies to exempt infant formula and WIC-eligible nutritionals with a shelf life of at least two months.
- 3) The State agency must fully inform participants that they are receiving two months of exempt infant formula and WIC-eligible nutritionals, and must provide nutrition education, as appropriate.
- 4) This approval does not waive the following regulatory requirements:
  - 7 CFR 246.10(d)(4), which defines the technical requirements of medical documentation.
  - 7 CFR 246.10(d)(5), which prohibits WIC staff from assuming medical oversight and instruction for participants receiving supplemental foods that require medical documentation.
  - 7 CFR 246.10(e)(3)(i), which defines the qualifying conditions to be eligible to receive food package III.

The waiver authority of P.L. 116-127 requires, at section 2204(b)(1), that the State agency submit a report which includes a summary of the use of this waiver and a description of whether this waiver resulted in improved services to women, infants, and children. The State agency shall provide the Regional Office with this report no later than 1 year after the date of approval.

USDA FNS appreciates New Mexico WIC's commitment to addressing operational challenges impeding the delivery of WIC benefits to women, infants, and children in need.

Sincerely,



SARAH WIDOR  
Director  
Supplemental Food Programs Division