



Food and
Nutrition
Service

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September 20, 2021

SUBJECT: WIC Policy Memorandum #2021-10: Updated Expiration Schedule for Existing FNS-Approved WIC COVID-19 Waivers

TO: Regional Directors
Special Nutrition Programs
All Regions

WIC State Agency Directors
All State Agencies

The Families First Coronavirus Response Act (FFCRA, P.L. 116-127), as amended, provides the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) the statutory and regulatory waiver authorities necessary during the COVID-19 public health emergency to allow for social distancing and other administrative flexibilities in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). On September 21, 2020, FNS issued WIC Policy Memorandum #2020-6: *Extensions for Certain USDA FNS-Approved COVID-19 Waivers*, which extended a majority of the previously approved WIC waivers until 30 days after the end of the nationally-declared public health emergency. On November 13, 2020, FNS issued WIC Policy Memorandum #2021-1: *Implementation of WIC and FMNP Waiver Extension Provisions in the Continuing Appropriations Act, 2021 and Other Extensions Act*, which communicated USDA's authority to approve new waivers for the WIC Program through September 30, 2021.

USDA FNS has heard from State agency partners that a safe and successful return to normal operations will require more than 30 days' notice once the nationally-declared public health emergency ends. Therefore, this memorandum **extends certain WIC waivers until 90 days after the end of the nationally-declared public health emergency under section 319 of the Public Health Service Act (42 U.S.C. 247d).**

Most active social distancing waivers, all active food package substitution waivers, and active vendor (retail) minimum stocking requirements waivers are extended under this revised schedule to provide WIC State agencies more certainty as they begin to plan the transition back to in-person service delivery. Additionally, all waivers of the requirement that WIC transactions occur in the presence of a cashier are also extended until 90 days after the end of the nationally-declared public health emergency to promote social distancing through online ordering and transactions. A detailed list of all waivers that are extended is attached.

Although USDA FNS is extending certain previously approved waivers, this memorandum **sets an expiration date of all medical documentation waivers of December 31, 2021.**

These waivers were intended to provide short-term flexibility early in the COVID-19 pandemic when timely access to health care providers posed a challenge to participants.

However, medical consultation from a licensed provider is necessary to safely and appropriately prescribe certain supplemental foods (e.g., infant formula, exempt infant formula, and WIC-eligible nutritionals) to participants who have a documented qualifying condition as defined under 7 CFR 246.10(e)(3)(i). Existing WIC regulations offer sufficient flexibility to obtain and provide medical documentation in a remote environment without this waiver. As access to health care providers has improved, continued use of the medical documentation waiver now poses an unnecessary risk to certain vulnerable participants by delaying necessary medical oversight.

As a reminder, the authority for USDA FNS to approve new waivers under the FFCRA, as amended, expires on **September 30, 2021**. WIC state agencies requesting new regulatory COVID-19 waivers through September 30, 2021 should follow the same online waiver request process as used in FY 2021. Terms and conditions and state and local agency reporting requirements and timelines continue to apply to all waivers. USDA FNS will continue to support WIC State agencies as they provide services to WIC participants, and as they prepare for a transition back to normal operations when it becomes safe to do so. State agencies with questions related to this memorandum should contact their respective FNS Regional Office.

Dana Rasmussen (Signed)

DANA RASMUSSEN
Acting Director
Supplemental Food Programs Division

Attachment: List of WIC FFCRA Waivers by Expiration Date

Social Distancing Waivers Extended Until 90 Days After Public Health Emergency Ends

Physical Presence	Waiver of the physical presence requirements set forth in 42 U.S.C. 1786(d)(3)(C)(i). The approval to waive the physical presence requirement includes the ability to defer anthropometric and bloodwork requirements necessary to determine nutritional risk for the period the physical presence waiver is in effect per section 2203(a)(1)(B) of H.R. 6201.
Remote Benefit Issuance	This waiver allows remote issuance of benefits to any participant (or parent/caretaker or proxy). Under such circumstances, the second nutrition education contact is not required prior to issuance of benefits. This waiver is only applicable to regulations at 7 CFR 246.12(r)(4).
Separation of Duties	Waiver of the requirement that prohibits a single employee from determining eligibility for all certification criteria and issuing food instruments, cash-value vouchers or supplemental food for the same participant. This waiver is only applicable to regulations at 246.4(a)(27)(iii).
Extended Certification Periods	This waiver allows extending the certification period up to 90 days for a Child receiving Food Package IV category only. This DOES NOT include for the pregnant and infant categories or children receiving Food Package III. This waiver is only applicable to regulations at 7 CFR 246.7(g)(3).
Local Agency Monitoring	Waiver of the requirement to conduct onsite monitoring reviews of local agencies. State agencies must still conduct monitoring reviews of each local agency at least biennially in accordance with section 17(f)(20) of the Child Nutrition Act, as amended (42 U.S.C. 1786(f)(20)), but this waiver allows State agencies to conduct local agency monitoring reviews virtually (e.g., via desk audit or other means) instead of onsite. This waiver is only applicable to regulations at 7 CFR 246.19(b)(3).
Vendor Preauthorization Visits	Waiver of the federal requirement that the State agency must conduct an onsite visit prior to or at the time of a vendor’s initial authorization This waiver is only applicable to regulations at 7 CFR 246.12(g)(5).
Four Month Benefit Issuance (offline EBT systems)	This waiver allows State agencies with offline EBT systems to issue up to four months of WIC benefits on electronic benefit transfer (EBT) cards at one time. This waiver is only applicable to regulations at 7 CFR 246.12(r)(5).
Two Month Benefit Issuance (non-retail systems)	Waiver of the federal requirement that the State agency must not issue more than a one-month supply of supplemental foods through its home delivery and/or direct distribution system at any one time to any participant, parent/caretaker, or proxy. This waiver is only applicable to regulations at 7 CFR 246.12(r)(5).

Social Distancing Waivers Extended Until 90 Days After Public Health Emergency Ends Continued

<p>Vendor Routine Monitoring On-site</p>	<p>This is a subtype category of Vendor Routine Monitoring that specifically waives the on-site portion of the following definition. Routine monitoring means overt, on-site monitoring during which program representatives identify themselves to vendor personnel, as defined in 7 CFR 246.2. This waiver allows for virtual routine monitoring during the public health emergency.</p>
<p>Transaction without Presence of Cashier</p>	<p>Waiver of the federal requirement outlined in 7 CFR 246.12(h)(3)(vi), that WIC transactions (including the signing of a paper food instrument or cash-value voucher, or the entering of a Personal Identification Number (PIN) in EBT systems) must occur in the presence of a cashier.*</p> <p>*Note: This waiver will be extended even though most State agencies have not operationalized it yet. This will allow State agencies to continue to work toward online ordering in WIC on their own, or as a part of FNS' soon-to-be-awarded Online Ordering Grant.</p>

Food Package Substitution Waivers Extended Until 90 Days After Public Health Emergency Ends

<p>Food Package Substitutions</p>	<p>Waiver of the select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12). See below for specific food package substitutions.</p>
<p>Milk</p>	<p>Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for milk.</p>
<p>Whole Grains</p>	<p>Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for whole grains.</p>
<p>Eggs</p>	<p>Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for eggs.</p>
<p>Yogurt</p>	<p>Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for yogurt.</p>
<p>Cheese</p>	<p>Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for cheese.</p>

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Food Package Substitution Waivers Extended Until 90 Days After Public Health Emergency Ends Continued

Juice	Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for juice.
Cereal	Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for cereal.
Fish	Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for fish.
Infant Foods	Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for infant foods.
Legumes	Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for legumes.
Tofu	Waiver of select minimum requirements and specifications and/or the maximum monthly allowances as outlined at 7 CFR 246.10(e)(9)-(12) for tofu.

Vendor Minimum Stocking Requirements Waivers Extended Until 90 Days After Public Health Emergency Ends

Vendor Minimum Stocking Requirements	Waiver of minimum stocking requirements for the purpose of vendor assessment and monitoring during the authorization period as outlined at 7 CFR 246.12(g)(3)(i).
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Waivers Expiring on December 31, 2021

Medical Documentation	This waiver allows extending existing benefits by no more than 2 months for participants with documented qualifying conditions as defined at 7 CFR 246.10(e)(3)(i). This waiver is applicable to the regulation at 7 CFR 246.10(d)(1).
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Previously Expired Waivers

Expired on September 30, 2020 for program integrity reasons.*

Vendor Agreement	This waiver allows WIC State agencies to postpone some vendor reauthorization actions by extending expiring vendor agreements by one year.
FY 2020 & FY 2021* Vendor Compliance Investigations Annual	This is a subtype category of Vendor Compliance Investigations that fully waives the following regulation. Waiver of the federal requirement that the State agency must conduct compliance investigations of a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year, as outlined in 7 CFR 246.12(j)(4)(i).
Vendor Compliance Investigations Temporary	This is a subtype category of Vendor Compliance Investigations that temporarily waived the following regulation. Waiver of the federal requirement that the State agency must conduct compliance investigations of a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year, as outlined in 7 CFR 246.12(j)(4)(i).
FY 2020 & FY 2021* Vendor Routine Monitoring Annual	This is a subtype category of Vendor Routine Monitoring that fully waives the following regulation. Waiver of the federal requirement that the State agency must conduct routine monitoring visits on a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year, as outlined in 7 CFR 246.12(j)(2).
Vendor Routine Monitoring Temporary	This is a subtype category of Vendor Routine Monitoring that temporarily waives the following regulation. Waiver of the federal requirement that the State agency must conduct routine monitoring visits on a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year, as outlined in 7 CFR 246.12(j)(2).

**FY 2021 vendor compliance investigations annual and FY 2021 vendor routine monitoring annual waivers will expire on September 30, 2021.*