



Food and
Nutrition
Service

September 21, 2020

1320
Braddock
Place
Alexandria,
VA
22314

SUBJECT: WIC Policy Memorandum #2020-6: Extensions for Certain USDA FNS-
Approved COVID-19 Waivers

TO: Regional Directors
Special Nutrition Programs
All Regions

WIC State Agency Directors
All State Agencies

The Families First Coronavirus Response Act (P.L. 116-127, the Act) provides the U.S. Department of Agriculture (USDA) the statutory and regulatory waiver authorities necessary in a public health emergency such as COVID-19 to allow for social distancing in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). To date, the USDA's Food and Nutrition Service (FNS) has approved waiver requests from all 89 WIC State agencies. Some of these have previously expired; the rest are set to expire on September 30, 2020.

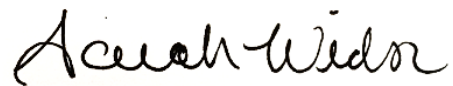
USDA FNS has heard from State agency partners that flexibilities are still needed to provide high quality WIC services while working toward reopening; therefore, this memorandum formally **extends certain active waivers until 30 days after the end of the nationally-declared public health emergency under section 319 of the Public Health Service Act (42 U.S.C. 247d)**. Most active Social Distancing waivers and all active Food Package waivers will be extended to provide WIC State agencies the flexibilities they need during this transition. A detailed list of all active waivers that will be extended beyond September 30 is attached. When a WIC State agency discontinues use of one of these extended waivers, it should inform its FNS Regional Office within 7 calendar days. Please note that at this time, USDA FNS does not have the authority to take action on waivers after September 30, 2020. This means no new waivers can be granted and discontinued waivers cannot be reactivated.

Additionally, WIC online ordering and transactions support social distancing, so USDA FNS is extending all waivers of the requirement that WIC transactions occur in the presence of a cashier until 30 days after the end of the nationally-declared public health emergency. For program integrity reasons, USDA FNS is not extending waivers that allow a State agency to extend a WIC vendor agreement beyond 3 years or to forgo conducting a minimum number of vendor routine monitoring visits or compliance investigations. State agencies that are unable to resume on-site vendor monitoring and investigations should begin looking into alternative models in order to adequately oversee WIC vendors in FY 2021. To this end, State agencies may request a waiver of the on-site aspect of vendor routine monitoring; however, any such requests must be submitted and approved by September 30, 2020 in order to be extended under this memorandum.

Please note that all extensions will be subject to the terms and conditions of the initial waiver approval and that State and local agency reporting requirements and timelines still apply. USDA

FNS will continue to support WIC State agencies as they provide services to WIC participants while they work toward a safe, timely transition back to in-person appointments and regular documentation. State agencies with questions related to this extension should contact their respective FNS Regional Office.

Sincerely,

A handwritten signature in black ink that reads "Sarah Widor". The signature is written in a cursive, flowing style.

SARAH WIDOR
Director
Supplemental Food Programs Division

Attachment: List of Waiver Types by Expiration Date

Attachment: List of Waiver Types by Expiration Date

Social Distancing Waivers Extended:

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| 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). |
| 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). |
| 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). |

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| 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). |
| Transaction without Presence of Cashier | 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. *This waiver will be extended even though no State agencies have 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. |

Food Package Waivers Extended:

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| Food Package Substitutions | 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. |
| Milk | 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. |
| Whole Grains | 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. |
| Eggs | 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. |
| Yogurt | 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. |
| Cheese | 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. |
| 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. |

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| 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. |
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Vendor Minimum Stock Requirements Extended:

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| 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 for Program Integrity Reasons on September 30, 2020:

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| Vendor Agreement | This waiver allows WIC State agencies to postpone some vendor reauthorization actions by extending expiring vendor agreements by one year. |
| Vendor Compliance Investigations Annual | 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). |
| 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). |