



Food and
Nutrition
Service

February 20, 2022

1320
Braddock
Place
Alexandria,
VA
22314

SUBJECT: Request for Additional WIC Flexibility in Response to the Impact of the Ongoing Coronavirus Disease 2019 (COVID-19) Pandemic on Nationwide Infant Formula Supply Chain Issues and 2022 Abbott Recall– Medical Documentation for Infants in Food Packages I and II

TO: All FNS Regional Offices
All WIC State agencies

This letter is in response to correspondence from WIC State agencies requesting program flexibility with regard to medical documentation requirements in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), as a result of the impact of the ongoing Coronavirus Disease 2019 (COVID-19) pandemic and the 2022 Abbott recall of certain powder infant formula on the nationwide supply chain leading to both periodic location- and product-based WIC infant formula shortages.

Applicable WIC State agencies individually requested waivers of WIC regulations at 7 CFR 246.10(d)(1)(i) which require medical documentation for issuance of noncontract brand infant formula. These State agencies cited significant impacts on the ability of participants to obtain contract brand infant formula due to low stock during the 2022 Abbott recall of certain powder infant formula which compounds supply chain disruptions resulting from COVID-19 supply chain disruptions. USDA’s Food and Nutrition Service (FNS) understands that requiring such documentation is not feasible as State agencies quickly respond to the COVID-19 related nationwide supply chain issues that have been exacerbated by this recall. A waiver to provide administrative flexibility to allow for the issuance of noncontract brand infant formula without medical documentation for infants in Food Packages I and II removes a requirement that under current circumstances could prevent the provision of essential Program benefits to participants.

Pursuant to the authority granted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207), FNS approves this waiver request for WIC State agencies listed in the attachment through the earlier of either September 30, 2022 or the expiration date of the major disaster declaration in the affected area.

This waiver is only applicable to regulations at:

- 7 CFR 246.10(d)(1)(i) which requires medical documentation for the issuance of noncontract brand infant formula.

Approval is granted to waive this requirement for WIC participants receiving Food Packages I and II. As applicable, the WIC Competent Professional Authority (CPA) should still perform a nutrition assessment to ensure the correct formula and amounts are issued to the participant and documented.

Approval is not granted to waive the following supplemental foods and regulatory requirements:

- 7 CFR 246.10(d)(1)(ii-vi), which defines other instances where medical documentation is required;
- 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; and
- 7 CFR 246.10(e)(3)(i), which defines the qualifying conditions to be eligible to receive food package III.

This waiver only applies to the State agencies' response to the 2022 Abbott recall of certain powder infant formula. Unless a State agency has additional active FNS waivers, all other federal WIC requirements must be met. WIC State agencies should work with their legal counsel, procurement offices, and infant formula rebate contractors, as appropriate.

USDA FNS appreciates WIC State agencies' commitment to quickly responding to the COVID-19 related nationwide supply chain issues that have been exacerbated by this recall.

Sincerely,



DIANE KRIVISKI
Associate Administrator
Supplemental Nutrition and Safety Programs

Attachment:

List of WIC State agencies that have been granted an FNS waiver for:
Additional WIC Flexibility in Response to the Impact of the Ongoing Coronavirus Disease 2019 (COVID-19) Pandemic on Nationwide Infant Formula Supply Chain Issues – Medical Documentation for Infants in Food Packages I and II

List of WIC State agencies that have been granted an FNS waiver for:

Additional WIC Flexibility in Response to the Impact of the Ongoing Coronavirus Disease 2019 (COVID-19) Pandemic on Nationwide Infant Formula Supply Chain Issues – Medical Documentation for Infants in Food Packages I and II

Granted February 20, 2022:

Alaska WIC
American Samoa WIC
Commonwealth of the Northern Mariana Islands WIC
Connecticut WIC
Delaware WIC
District of Columbia WIC
Guam WIC
Hawaii WIC
Idaho WIC
Iowa WIC
Inter-Tribal Council of Arizona WIC
Inter-Tribal Council of Nevada WIC
Kansas WIC
Kentucky WIC
Maryland WIC
Massachusetts WIC
Minnesota WIC
Missouri WIC
Montana WIC
Nebraska WIC
Nevada WIC
New Hampshire WIC
North Dakota WIC
Oregon WIC
Pennsylvania WIC
Rhode Island WIC
South Dakota WIC
Standing Rock Sioux Tribe WIC
Tennessee WIC
U.S. Virgin Islands WIC
Vermont WIC
Virginia WIC
West Virginia WIC
Wisconsin WIC
Wyoming WIC