Charlie Crist
Governor

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

January 29, 2010

Debra Whitford
Director, Supplemental Food Programs Division
Food and Nutrition Service
USDA
3101 Park Center Drive
Room 528
Alexandria, VA 22302

RE: Docket ID FNS-2006-0037 - WIC Food Packages Interim Rule

Dear Ms. Whitford:

Florida strongly supports the USDA issued interim rule governing the WIC Food Packages published in the Federal Register on December 6, 2007 with recommendations.

The intent of the interim regulations is to improve the nutritional health of all WIC participants. The revisions are science-based, align with the *2005 Dietary Guidelines for Am*ericans and the current infant feeding practice guidelines of the American Academy of Pediatrics, and support the establishment of successful long-term breastfeeding. In addition, the interim food packages provide WIC participants a greater variety of food choices than previously provided, allow WIC State agencies flexibility in offering food packages that accommodate participants' cultural food preferences, and address the nutritional needs of our nation's most vulnerable women, infants, and children.

The interim rule reflects many of the recommendations made by the Institute of Medicine (IOM) of the National Academies in its report, "WIC Food Packages: Time for a Change." The changes in the interim rule are consistent with nutrition education that promotes healthier lifestyles and food selections to reduce the risk for chronic diseases and improve the overall health of WIC's diverse population, while preserving cost neutrality. Florida WIC participants are pleased that there are more choices in the foods offered.

While the Florida WIC Program supports many of the interim WIC Food Package regulations, we request your consideration of the following comments and recommended changes:

Partially Breastfeeding vs. Fully Breastfeeding vs. Fully Formula Feeding

- Under the interim rules, the partially breastfeeding food package provides up to a maximum of ½ of the formula of the fully formula feeding food package and is available to all breastfed infants from one month of age to 12 months. Infants in their birth month are allowed only one can of powdered formula if they are partially breastfed. We recommend that the Competent Professional Authority, in consideration of the mother's and baby's

needs and circumstances, should determine what amount of formula, if any, would best meet the needs for the individual mother baby dyad. This would align closely with the VENA initiative which encourages WIC staff to be sensitive to client needs and to provide program benefits to meet those client needs. We believe that many women who are unsure of their ability to breastfeed simply choose to formula feed if given only the option of fully breastfeeding or fully formula feeding in the infant's first month of life.

- Under the interim regulations, a fully breastfed premature infant who needs supplementation with human milk fortifier is limited in the amount of formula in the first month of life and the mother must be considered partially formula feeding. We recommend that in this case, the mother receive the fully breastfeeding food package and the infant receive the amount of human milk fortifier requested by the health care provider.

- We recommend that states be given the option to provide the breastfeeding infant formula in an equivalent amount in either powdered or concentrated form as is the preference of the authorized representative.

- We recommend a revision to the food package for women who are fully breastfeeding multiple infants from "1.5 times the amount of supplemental foods provided in Food Package VII" to a consistent amount each month and specifying the amounts of each food in quantities that are available in the market place.

- We support the reduced formula package for the six (6) through eleven (11) month old infant with the provision of additional baby foods as indicated in the interim regulations. However, we would recommend that the maximum monthly allowance a fully formula fed infant receives from birth through five (5) months of age remain constant at the equivalent of 832 fl. oz. reconstituted liquid concentrate per month. In addition, the partially breastfed infant would be able to receive up to a maximum of 416 fl. oz. reconstituted liquid concentrate per month. While we understand that this may not be the optimal amount of formula to provide for each of the first five months, we believe that the advantages outweigh the disadvantages of this recommended change. The rationale for this is as follows:

  - ✓ It would be simpler for clients, especially lower literacy and non-English speaking clients, to have the same fully formula fed infant food package for the first 5 months.
  - ✓ This would be easier for the vendors. If two WIC food instruments are given per month for concentrate formula, as is done in Florida WIC, this would result in 16 cans of concentrate formula to be able to be purchased with each food instrument, minimizing the chance for error at the retail store.
  - ✓ The amount of formula difference is minimal per day: Infants would receive slightly more than in the proposed rule in the first 3 months (addition of a little less than 1 oz. of reconstituted formula per day) and slightly less in months 4 and 5 (decrease of less than 2 oz. of reconstituted formula per day) than in the interim rule.
  - ✓ This change should have minimal impact on formula costs.
  - ✓ It would aid in the administrative process of stocking pre-printed manual checks for use when the computer system is down and during disasters or emergencies. The number of types of pre-printed manual food packages could be lessened thereby decreasing the

amount of time spent on inventory reconciliation and decreasing the chances of providing the wrong food package.

Supplemental Foods for Infants

We support the interim rule of delaying the introduction of supplemental baby foods until six (6) months of age to include infant cereal, and infant food fruits and vegetables in varying amounts for those infants who are fully breastfeeding, partially breastfeeding, or fully formula feeding as well as infant food meats for fully breastfeeding infants. We also support the removal of fruit juice from the infant food packages.

- We *do not support* the alternative choice of one pound of bananas for 8 ounces of infant food fruit. We believe the administrative issues associated with this recommendation, such as trying to purchase exactly 1 pound of bananas at the grocery store and the costs associated with an additional check for approximately $.40 worth of food, outweigh any proposed benefit.

Medical Foods and Food Package III

We recommend that USDA address the following issues with regards to Food Package I, II, and III:

- Medical foods should be allowed for infants in Food Package III. For example, an infant may need a standard formula with the addition of a medical food high in fat, protein, or carbohydrate such as Polycose or MCT oil.

- In Food Package III, the documentation requirement to provide supplemental foods is a significant burden to the medical community, WIC staff, and participants. It is of limited value especially for food items that can be readily purchased by participants at grocery stores. In addition, it causes a delay in providing supplemental foods to participants when the health care provider does not indicate whether or not to provide these supplemental foods. The Competent Professional Authority should be able to determine the appropriate supplemental foods based on the nutrition assessment.

- When infants and children require a more calorically dense formula than indicated on the label's mixing instructions, we recommend that the regulations allow for the provision of the maximum monthly allowance of reconstituted fluid ounces of liquid concentrate or powdered formula based on the actual mixing prescription by the health care provider for formulas and medical foods.

- Food Package III should make allowances for women and children who are limited in the amount of food they can consume by mouth. In particular, women and children who are tube fed or whose sole source of nutrition is an exempt infant formula or medical food should be allowed to receive an additional amount of exempt infant formula or medical food when no additional supplemental foods are provided. Medical documentation of a qualifying condition and the amount of product should be required.

- Food Package III should make allowances for infants who are limited in the amount of food they can consume by mouth. In particular, infants who are tube fed or whose sole source of nutrition after 6 months of age is an infant formula should be allowed to receive an additional amount of infant formula when no additional supplemental foods are provided. Medical documentation of a qualifying condition and the amount of product should be required.

- Children with a qualifying medical condition who cannot consume standard foods should be able to receive a food package with developmentally appropriate foods. We suggest 32 ounces of baby cereal, 256 ounces of baby fruits and vegetables, and 77.5 ounces of baby meat along with the milk or exempt infant formula or medical food. These amounts are based on the amounts provided to 12 month old infants.

- States that do not have a lactose-free milk-based formula as part of the infant formula rebate process should be allowed to provide non-contract formulas for infants with diagnosed lactose intolerance. Without this flexibility, infants with lactose intolerance and soy intolerance/allergy may need to receive a more expensive exempt infant formula when their needs could be met with a less expensive non-contract infant formula. Alternatively, states required to issue separate milk and soy-based formula bids should be allowed the option to bid on a lactose-free milk-based formula under a separate bid.

Fruits and Vegetables
We support the addition of fruits and vegetables (with a decrease in juice) through "cash-value" vouchers to purchase fresh and processed fruits and vegetables in the proposed amounts of $10 for women and $6 for children. We urge that the dollar amount be increased to $8 for children and to $12 for fully breastfeeding women to match the IOM recommendation.

- We recommend an annual inflation factor for the fruit and vegetable cash-value vouchers be calculated on a full dollar value.

- We strongly recommend that the dollar denomination of the fruit and vegetable cash-value vouchers and the minimum vendor stocking requirements for fruits and vegetables continue to be determined at the discretion of the WIC state agencies. Printing of multiple voucher instruments in small denominations is costly and counter productive.

- We recommend that fresh whole, white potatoes (not canned or frozen) be an allowed choice. Fresh white potatoes are a nutritious food and allowing them to be purchased would eliminate the retail confusion and confrontations regarding the non-allowable varieties of potatoes such as red skinned and Yukon gold which are not publicly perceived as white potatoes.

- We recommend that canned mature beans be an allowable purchase for the "beans" category as well as the fruit and vegetable cash value voucher. Differentiating when canned beans can or cannot be purchased causes much confusion with retailers, participants, and staff.

Milk and Milk Alternatives
We support the addition of calcium-set tofu and calcium/vitamin D-rich soy beverages as alternatives for milk at the state's option. These alternatives will prove to be particularly beneficial to those WIC participants who suffer the medical consequences of milk protein allergy, lactose maldigestion, and those with cultural and religious preferences.

- Some children between the ages of 12 to 24 months have medical conditions that do not allow for the consumption of whole milk (e.g., long chain fatty acid metabolism issues or fat malabsorption). Allowance for fat free, low fat, or reduced fat milk should be made for children with documentation of a qualifying medical condition. In addition, the American Academy of Pediatrics recommends that reduced fat milk be given to children 12 to 24 months of age who are overweight or at risk of overweight. We recommend that either a health care provider or a Competent Professional Authority be allowed to determine the fat level of milk for the food package based on the medical history of the child.

- We strongly recommend that participants be able to receive tofu and soy beverages up to the maximum allowable amount as a milk substitute **without** the requirement of medical documentation for both women and children. Requiring medical documentation for this causes an added administrative burden and possibly a financial cost to participants. It is an enormous undue burden on the health care system to require medical documentation for standardly allowed foods and challenges WIC's credibility with the medical community. Participants should be able to request soy milk and/or tofu for cultural, religious, and preference (vegan) reasons, in addition to medical reasons.

- Lactose reduced milk and/or increased cheese substitution for milk beyond one pound should be allowed for women and children with lactose intolerance based on a nutrition assessment conducted by the Competent Professional Authority.

- Allow more flexibility in the monthly amount of milk based on the client's needs and preferences, rather than being required to provide the maximum amount allowed. For example, if a participant wants 1 pound of cheese instead of the maximum allowance of fluid milk, allow the participant to choose a food package with cheese and slightly less fluid milk. Interim rule requires the provision of an additional quart of milk, the maximum amount allowed.

Miscellaneous
Florida supports the interim rule to provide States the authority to establish additional criteria for WIC-authorized foods. We strongly recommend that states retain the authority to request categorical nutrition tailoring and cultural food substitutions.

We strongly recommend that USDA be responsible for collecting and analyzing the nutritional content and subsequent approval of packaged food items such as cereals, breads, baby foods, canned and frozen fruits and vegetables, tofu, and soy beverages to determine an item's nutritional eligibility as a WIC food. This will eliminate redundancy by each state in this time intensive process, thereby more effectively utilizing program resources.

Future IOM evaluators should be instructed to make recommendations based upon the availability of specific items and sizing of common items in their final report. For instance the amount of bread for children and women should be based on 20-24 ounce common packaging sizes. Unusual and smaller package sizes tend to be more expensive, are less commonly available, and don't reinforce the concept of wise consumer shopping based on cost comparison by ounce of product that WIC's nutrition education promotes. It is difficult to defend to retailers, participants and the public at large why they cannot purchase a less expensive, larger packaged item. Another excellent example of this is the required quart of milk (when one pound of cheese is provided) where a half gallon of milk is more commonly available and less expensive.

Some of the interim regulations require medical documentation in situations which we believe to be unnecessary, thereby causing an undue financial and time burden on the client and an undue administrative and financial burden on the medical community. Medical prescriptions should not be required for WIC to offer food packages that contain specific "non-medical" foods such as tofu and soy beverages and additional cheese that can be purchased directly off the grocery shelf. Mandating these additional medical prescriptions beyond WIC's current requirement for non-contract formulas, exempt infant formulas, and medical foods diminishes WIC's credibility within the medical community.

In closing, Florida enthusiastically endorses the interim rule with the comments listed in this letter. We are convinced that the recommended changes strengthen the program and we look forward to working closely with USDA in implementing the final rule.

Sincerely,

Debbie Eibeck

Debbie Eibeck, MS, RD, LD
Chief, Bureau of WIC and Nutrition Services
Florida Department of Health

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