



## **WIC Food Packages: Summary of Final Rule Changes**

March 14, 2014. For more information, contact Laurie True at [ltrue@calwic.org](mailto:ltrue@calwic.org) or 530-750-2280.

Published in the Federal Register on March 4, 2014, the [Final Rule](#) revising the WIC Food Packages makes further improvements that will increase choice, cultural appropriateness and healthy food access for millions of WIC participants. The California WIC Association has advocated for many years on the WIC food changes and welcomes these substantial improvements. CWA looks forward to working with all state and community stakeholders to implement them as creatively and rapidly as possible in California.

### **Overview**

The U.S. Department of Agriculture (USDA) issued an [Interim Final Rule](#) revising WIC food packages in 2007. The interim rule was based on extensive review and recommendations made by the Institute of Medicine in its 2005 report [\*WIC Food Packages: Time for a Change\*](#). All states were required to implement the changes governed by the Interim Rule by October 2009. [Early impact studies](#) show that implementation of the new WIC food packages has improved dietary intake and breastfeeding behaviors of WIC families across the nation, as well as increasing healthy food access in low-income neighborhoods. A noticeable decrease in obesity rates among 2-5 year olds recently [reported by CDC](#) may be the best result so far of this large-scale policy change.

The Final Rule considers extensive public comment made on the 2009 regulations, as well as the experience of participants, program providers and other WIC partners during the largely successful initial phase of implementation. The science-based rationales and basic food categories remain unchanged, but important food item adjustments, policy clarifications and procedural streamlining will further enhance WIC's ability to make a real difference in the nutrition and health status of the nation's young families. The regulations are effective May 5, 2014, with later implementation deadlines for certain provisions, noted below. Meanwhile, [USDA has announced that it will "jump start"](#) a new comprehensive IOM review of WIC foods that is required every ten years.

A brief summary of the key changes in the Final Rule follows.

### **Fruits and Vegetables**

- The value of the Cash-Value Voucher (CVV) for fruits and vegetables is increased for children from its current \$6 per month to \$8. Must be implemented by June 2, 2014.

- The CVV amount for women will remain at \$10 per month. USDA stated that increasing the CVV for fully breastfeeding women to \$12 was “not possible...due to cost.”
- Allows state agencies to authorize both individual farmers and farmers’ markets to accept CVVs. This exciting new state option, allowable in the popular but much smaller WIC Farmer’s Market Nutrition Program ([WFMNP](#)), will make it much easier to increase utilization of CVVs at such markets – a significant new market for small farmers.
- Requires state agencies to allow organic fruits and vegetables be purchased with the CVV, and stipulates that fresh produce must be authorized as well as frozen or canned options.
- White potatoes, not recommended by IOM but aggressively sought by the National Potato Council, remain excluded from WIC produce lists, although USDA states that WIC nutrition education “will continue to include white potatoes as a healthy source of nutrients and an important part of a healthy diet.”
- Dried fruits and vegetables are added to the child CVV, with cautionary language about providing participant education about oral health and choking hazards.
- Requires all states to implement the “split tender,” which allows WIC shoppers to pay the difference in cash if the fruit and vegetable purchase exceeds the CVV value. (California already requires split tender.)
- The Rule does not conform the different, and somewhat confusing, allowable produce lists between WIC and the WFMNP, stating “Each program has different statutory objectives...it is critical to maintain [their] separate identity.”

### **Beans**

- Adds canned refried beans without added sugars, fats, oils, meats or vegetables.
- Clarifies that canned beans in this category are limited to the “mature” variety. “Immature” canned beans (string beans, canned peas) can be purchased with the F&V CVV.
- Baked beans are still limited to participants with limited cooking facilities.

### **Milk and Dairy**

- Allows reduced-fat milk for one-year olds, based on determination of appropriateness by the WIC nutritionist. The Interim Rule required whole milk for this age group.
- Requires nonfat and 1% milk for all women and children over 2, unless WIC nutritionist determines higher fat milk is needed.
- Adds one quart of yogurt per month, in any container sizes, as a milk alternative at state option for women and child packages. Yogurt must be lowfat or non-fat except for one-year-olds, and plain or flavored, with added sugars limited to no more than 40 grams per cup. This option must be implemented no earlier than April 1, 2015.
- The “dangling quart” puzzle remains, since USDA will continue to require full issuance of the monthly milk allotment. But WIC nutritionists can now substitute

yogurt or a 12-ounce can of evaporated milk, as well as going to a half-gallon of milk every two months.

- Cheese can no longer be substituted for milk beyond the current levels, to accommodate lactose intolerance, since USDA now allows yogurt and notes the increased availability of soy beverages and low-lactose milks.

### Tofu/Soy Beverages

- No longer requires medical documentation for the substitution of tofu and soy beverage for WIC children and also allows WIC nutritionists to provide tofu in excess of the maximum substitution amount for women without medical documentation. However, this determination must still be based on individual nutrition assessment and consultation as appropriate.
- Clarifies that tofu made with magnesium chloride (“nigari” type), as well as the more common calcium sulfate (firmer type), is WIC-allowable, and thus widens available varieties used in various Asian cuisines. USDA urges states to choose the product with the highest calcium content.

### Breastfeeding and Infant Formula Provisions

- Adds very important new language to federal regulations: “The intent of the WIC Program is that *all breastfeeding women be supported to exclusively breastfeed* their infants and to *choose the fully breastfeeding food package without infant formula.*” This explicit federal policy statement and the clarifications that follow are similar to California WIC’s current [policy](#) and [protocols](#) governing the critical first month of breastfeeding.
- “Breastfeeding mothers whose infants receive formula from WIC are to be supported to breastfeed to the maximum extent possible with *minimal supplementation*...Formula amounts issued to breastfeed infants are to be *tailored to meet but not exceed* the infant’s nutritional needs.”
- The rule emphasizes that the critical role of breastfeeding assessment and mother’s plans for breastfeeding are the basis for determining food package issuance -- not program or protocol defaults – *and prohibits standard issuance of the full formula package* with even minimal breastfeeding, except when mother decides to fully formula feed.
- Continues to allow the state option to issue a single can of infant formula powder to partially breastfed infants, but only on *case-by-case basis*, and not standard issuance. But federal regulations are now clearer: “Infant formula **may not be routinely provided** during the first month after birth to breastfed infants *in order to support the successful establishment of breastfeeding.*”
- The final rule limits infant feeding in the first month of life to two main options: fully breastfeeding and fully formula-feeding. However, it retains the state option to create a third, discretionary designation, the awkwardly renamed “Partially (mostly) Breastfed” designation. On a strictly case-by-case (not standard issuance) basis, these partially (mostly) breastfed infants will receive up to one can of powdered formula.

- Allows pregnant women who are fully or partially (mostly) breastfeeding a singleton infant to receive the enhanced breastfeeding package.
- Accommodates constantly changing liquid formula package sizes by allowing states to exceed the current maximum benefit to ensure a carefully defined “full nutrition benefit,” but requires appropriate tailoring for all breastfed infants.

### **Whole Grain Options**

- Adds whole-wheat pasta to this category, expanding participant choice.
- Retains the 16-ounce package size requirement for breads, stating that manufacturers have stepped up their product lines to adequately meet WIC needs.
- Clarifies that corn tortillas are allowed, whether they are made from traditional masa meal or whole grain corn flour.
- Urges states to issue whole grain breakfast cereals to the maximum extent possible, preserving non-whole grain options for those with allergies or other special needs.

### **Baby Food Options**

- In a new state option, infants aged 9-11 months can receive a fruit and vegetable CVV in lieu of a portion of jarred baby foods, so that parents can make their own baby foods. The fully breastfed package will include this optional substitute \$8 CVV plus 128 ounces of baby food; the fully or partially-formula fed package will include \$4 CVV substitute plus 64 ounces of baby food.
- The new baby food-CVV substitution is by participant choice, not required, and must include a thorough assessment by the WIC nutritionist and appropriate nutrition education about preparation, storage and feeding.

### **Canned Fish**

- Adds Jack Mackerel, which is lower in mercury, to the list of allowable canned fish products in the food package for fully breastfeeding women.

### **Special Foods for Medically Fragile Participants**

- Allows WIC nutritionists to issue baby food fruits and vegetables to older children and women who have medical challenges that may warrant this type of food.
- Changes the term for special (non-contract) formulas for medical conditions from “medical foods” to “WIC-eligible nutritionals.”

### **General**

- Continues the prohibition on “categorical,” or statewide, voucher tailoring, stating that individual tailoring is still authorized and more frequent updates will be made to the food packages as now required by law.
- Any state proposals to make cultural food package substitutions will continue to be evaluated using current criteria that they be “nutritionally equivalent or superior” to the foods being replaced.