

**August 5, 2003**

**SUBJECT:** Draft WIC Policy Memorandum #2003-  
Use of Manufacturers' and In-Store Specials When Purchasing WIC  
Foods With Electronic Benefit Transfer (EBT) Cards

**TO:** Regional Directors  
Supplemental Food Programs  
All Regions

This draft policy memorandum is for State agency comment only. Once comments have been incorporated, we will issue it as a final policy memorandum. Please provide us with your comments by September 15, 2003.

The purpose of this memorandum is to establish policy for EBT pilot projects and Statewide EBT systems regarding short-term sales promotions offered by authorized vendors and food manufacturers. Standardizing the policy will provide WIC vendors with a consistent approach for programming their in-lane store equipment to interface with State agency WIC EBT systems. Such programming becomes more difficult and costly if State agencies implement these policies variably from State to State. We want to reduce these costs to retailers, and in turn the State agencies, so that EBT may become a more cost effective alternative for benefit issuance.

To develop this policy, we asked State agencies to provide information to us on how they currently handle store/manufacturer promotions. Their responses were specific to five types of promotions:

- 1) buy one get one free;
- 2) buy one get one at a reduced price;
- 3) free ounces added by manufacturer;
- 4) manufacturer cents-off coupons; and
- 5) store shopping/loyalty cards.

We have adopted the policies described below for EBT systems, which were the most commonly applied practices among the State agencies that responded to our inquiry. In addition, we added a sixth type of promotion, volume discounts, based on our discussions with the Southwest Regional Office staff.

**Buy One, Get One Free**

In these promotions, the vendor sells one WIC-approved food item and provides a second identical item or a different WIC-approved item at no extra cost. WIC participants must be able to take advantage of these special sales promotions and receive the benefit of the extra items. If the participant has one or more units of the advertised item on his or her EBT card, only the value of the purchased item will be

deducted from the card and the participant will receive the second item free. Therefore, if the second item is a WIC-approved item, the value will not be deducted from the card. The participant will then be able to purchase any remaining units of the item on the EBT card, at which time the value of those units will be deducted from the card in accordance with this policy.

**Buy One, Get One At a Reduced Price**

In these instances, a vendor will sell one WIC-approved food item at full price and sell a second identical item or a different WIC-approved item at a reduced price. If the participant has one unit of the item on his or her EBT card, he or she will pay for that item by having the value deducted from the card, and must use cash or some other means of payment to purchase the second item. If the participant has two of the items on the EBT card, the value of both items will be deducted from the card at the time of purchase with WIC being charged full price for the first item and the reduced price for the second item.

If the WIC participant wishes to preserve his/her WIC benefits and purchase the reduced price items with cash or some other tender, the vendor must allow the customer that option.

**Free Ounces Added to Item by Manufacturer**

Manufacturers may add extra ounces to their products at no extra cost to the customer. Participants may use the EBT card to purchase WIC-approved food items that have bonus ounces added to the package. Any additional ounces included in the package will not be counted against the ounces of that food item remaining on the EBT card.

Free "Ounces" or "Bonus Packages" have a unique Universal Product Code (UPC) number. The Bonus Package UPC would need to be maintained by the State agency with the standard package unit of measure (UOM) and benefit quantity. The State agency would have to obtain the Bonus Package UPCs from the manufacturers and record the original amount of ounces into the authorized product file, not the total including the "free" ounces.

**Manufacturers' Coupons**

The price of WIC-approved food items bought with a cents-off coupon must be reduced by the same amount for the WIC participant as it would for any other customer. The savings from the coupon would reduce the amount being charged to the WIC Program. If a cents-off coupon offers free additional non-WIC items with the purchase of a specific WIC food, the participant may take advantage of this promotion at no additional cost to the Program. The coupon amount will be applied to the transaction total.

Under a WIC Policy memorandum dated May 22, 1990, States that charge a sales tax on manufacturers' coupons may allow a vendor to reduce the value of the coupon by the amount of the sales tax when applying the coupon to a WIC purchase. In these States, the price of WIC-approved food items bought with a cents-off coupon should be reduced by the value of the coupon minus the sales tax.

#### **Store/Loyalty Shopping Cards**

WIC participants, like all other customers, should be provided the opportunity to use store/loyalty-shopping cards if they so choose. The State agency may not require WIC participants to sign up for and use such cards, even if it may save the Program money on certain purchases. Similarly, the State agency cannot require vendors to keep a shopping card available to use for all WIC participant sales, although some vendors may choose to do so.

Participants may be afforded a discount off of the entire transaction when using a Loyalty card, e.g., 10 percent off on Tuesdays; 10 percent off with store/loyalty card, etc. In this situation, the portion of the discount applicable to the WIC-redeemed items should reduce the cost of the transaction to the WIC Program. The total discount should appear in the "Amount Discount" data item in the WIC Claim Detail Record as shown in Section C.2 of the American National Standards Institute (ANSI) document.

#### **Volume Discounts**

In these instances, the grocer applies a discount percentage to the total dollar amount of the WIC and non-WIC items purchased. The pro-rata share of the discount applicable to the WIC purchases would be applied to the "Amount Discount" data item in the WIC Claim Detail Record for the transaction (ANSI X9.93.2002).

#### **Summary**

This policy memorandum applies to all State agencies that have implemented a WIC EBT system within the State, either in some defined areas of the State or statewide. State agencies operating WIC EBT in some part of the State may decide to implement the policy statewide for consistency within the State. Other State agencies that have not implemented WIC EBT systems may also choose to adopt these policies. Any State agency that adopts these policies and vendor practices must train its participants and vendors accordingly. We also recommend that State agencies incorporate this policy in their State-Vendor agreements.

Signed

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Director  
Supplemental Food Programs Division

August 12, 2003

**SUBJECT:** Final WIC Policy Memorandum #2003-06  
Charging Fees for Vendor Management Functions

**TO:** Regional Directors  
Supplemental Food Programs  
All Regions

The purpose of this memorandum is to issue policy regarding the allowability of charging vendors or third party processors fees to help State agencies offset costs associated with vendor applications, contracting processes and/or Electronic Benefit Transfer (EBT) transactions.

Current legislation and regulations provide WIC State agencies with funding to address allowable nutrition services and administration costs. These costs encompass required program services such as nutrition education, outreach, fair hearing, monitoring, and the costs associated with administration of the food delivery systems including vendor management. Further, additional funds are typically provided to State agencies developing EBT systems.

State agencies should not pass on to vendors or third party processors any costs for which they are funded. Therefore, fees cannot be charged to cover the cost of any required vendor management function, including processing applications for authorization and contracting, processing food instruments, providing training, conducting reviews and appeals, or EBT transaction fees.

With regard to EBT transaction fees, in 1998, Public Law 105-336 required the Secretary of Agriculture to develop a long-range plan for the development and implementation of Management Information Systems (MIS), including EBT, to be used in carrying out the Program. Congress further stipulated that until the report was submitted, State agencies could not require retail stores to pay the cost of systems or equipment required to test EBT systems. The MIS 5-Year Technology Plan and Report to Congress was issued in March 2001, but it did not specifically address EBT cost issues as they relate to charging fees to vendors.

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Since EBT vendor fees were not addressed in the Technology Plan, FNS has determined that charging transaction fees to vendors or third party processors in an EBT environment is inappropriate at this time. Any change to this policy as it applies to either an EBT or non-EBT system would require consultation with Congress, retailers, State agencies, and other interested parties.

Signed

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