



United States
Department of
Agriculture

Food and
Nutrition
Service

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SUBJECT: WIC Policy Memorandum #2011 - 6
Authority to exceed the maximum amount of liquid infant formula

TO: Regional Directors
Supplemental Food Programs
All Regions

WIC State Agency Directors
All Regions

Nestle Nutrition recently announced a change in the container size of its liquid concentrate and ready-to-feed infant formula. Nestle Gerber® Good Start brand liquid concentrate infant formula changed to a 12.1 fl oz container that reconstitutes to 24.2 fl oz, and the Nestle Gerber® Good Start brand ready-to-feed infant formula is now available in a 4 pack of 8.45 fl oz containers, each 4-pack provides 33.8 reconstituted fluid ounces. Based on the new container size and reconstituted yield, State agencies would not be able to provide the full nutrition benefit (FNB) as required by 7 CFR 246.10(e)(9) without exceeding the maximum amount authorized. The FNB is equal to the maximum monthly allowance of reconstituted liquid concentrate infant formula for each infant food package category and infant feeding option.

This policy memorandum provides authority to WIC State agencies to issue Nestle Gerber® Good Start brand liquid concentrate and ready-to-feed infant formula above the maximum monthly amount allowed, if the FNB amount cannot be provided without exceeding the maximum monthly allowance of liquid concentrate and ready-to-feed infant formula. The authority to exceed the maximum monthly amount of liquid infant formula was initially provided under Section 733 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (P.L. 111-80), which was enacted on October 1, 2009. The authority under this provision remains in effect pursuant to section 1101(a)(1) of the Department of Defense Full Year Continuing Appropriations Act, 2011. Exercising this authority is intended to maintain competition in the infant formula market, thereby maximizing rebate opportunities.

If a State agency issues Nestle Gerber® Good Start brand liquid concentrate or ready-to-feed infant formula it may either (1) issue one additional container of liquid concentrate or one additional 4-pack of ready-to-feed infant formula each month in order to provide the FNB to participants; or (2) use the round up methodology (averaging of infant formula containers over the food package timeframe) according to 7 CFR 246.10 (h)(1). Under regulations, WIC State agencies must issue whole containers of the same physical form that are all the same size.

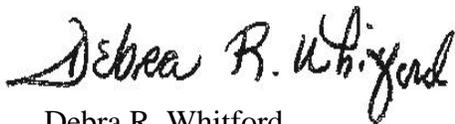
Regional and State Agency WIC Directors

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The authority to issue above the maximum monthly allowance does not apply to powder infant formula. Maximum monthly allowance levels for powder infant formula may be found at 7 CFR 246.10(e).

WIC State agencies are reminded that breastfeeding infants receiving infant formula through WIC, regardless of food package category (i.e., fully formula fed or partially breastfed) should receive a thorough breastfeeding assessment and be provided infant formula amounts that are individually tailored to provide the minimal amount of formula that meets but does not exceed the infant's nutritional needs.

For questions or assistance in implementing this authority, State Agencies should contact their FNS regional office.

A handwritten signature in black ink that reads "Debra R. Whitford". The signature is written in a cursive style with a large initial 'D' and 'W'.

Debra R. Whitford
Director
Supplemental Food Programs Division