

**California WIC Association  
1107 9<sup>th</sup> Street, Suite 625  
Sacramento, CA 95814**

November 30, 2005

For more information, contact Laurie True at [ltrue@calwic.org](mailto:ltrue@calwic.org), or 916/448-2280

## **Update on Vendor Cost Containment and “WIC-Only” Stores**

The Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265<sup>i</sup>) included important vendor cost containment provisions that will ensure that WIC remains an efficient and effective nutrition program. It contains several provisions aimed at strengthening the ability of state WIC programs to prevent high cost “WIC-Only” stores from abusing their insulation from normal market forces to charge higher mark-ups on WIC foods than other stores do, thereby driving up WIC program costs.

To implement the new law, the U.S. Department of Agriculture (USDA) published Interim Final Regulations on November 29, 2005.<sup>ii</sup> The regulations require California to implement a new vendor authorization and peer group pricing system consistent with federal law and USDA guidance.

As this process moves forward, the California WIC Association (CWA), a non-profit organization serving California’s 82 local WIC programs, wants to ensure that Members of the Legislature have accurate information about these efforts, and opposes attempts to hamper these important cost containment measures. In particular, CWA is concerned about information circulated by the Nutritional Grocers Association of California (NGAC), which offers a somewhat skewed representation of the issues.<sup>iii</sup> This brief clarifies a few basic facts.

### **WIC-Only Stores in California**

NGAC represents a group of WIC vendors known as “WIC-only” stores, since they exclusively or predominantly sell WIC food items to participants in exchange for WIC checks. This business model has evolved over the past decade. As a group, WIC-Only businesses charge higher prices than commercial stores of all sizes. The California WIC Program currently establishes a statewide maximum allowable amount for WIC food items that vendors must not exceed. For commercial stores that compete for all types of customers, market competition contains food prices. However, because the WIC-Only stores in California do not have other customers and do not compete with commercial stores, these businesses charge the close to the maximum amount allowable, creating additional funding pressures which the WIC program cannot continue to support:

- While the 649 authorized WIC-Only stores in California represent only 16 percent of all WIC vendors, they currently redeem nearly half of all WIC checks each month. These 649 stores are owned by 323 corporations, which operate between 1 and 46 stores – chain operators.
- In June 2005, WIC-only stores redeemed \$36 million in WIC checks, which was 47% of all checks redeemed statewide.

- In June 2005, WIC-only stores redeemed the majority (63%) of WIC checks at a price at or within 5 percent of the maximum allowable amount. All other stores redeemed only 24% of their WIC checks within this high-price range.<sup>iv</sup>
- WIC-only stores are thus increasing WIC food costs in California by at least \$37 million a year, according to an analysis by the Center on Budget & Policy Priorities.<sup>v</sup>

### **The “Peer-Group Pricing” Provisions**

The cost containment provisions in the federal statute are designed to ensure that WIC retail food costs remain market-driven and competitive. WIC-Only stores will not be eliminated under the new law. They can continue to do business and open new stores.

The new system will require WIC-Only vendors to price their foods at a level that is comparable to other grocery stores. In fact, these reforms ensure that all vendors offer WIC participants and the program more competitive pricing, and will allow states to better control the proliferation any stores which charge exorbitant prices for WIC foods.

The new law requires states to categorize WIC vendors into peer groups. For each peer group, states must establish price criteria, which will be used when assessing vendors’ applications for WIC authorization, to make sure that the vendors authorized to participate in WIC charge competitive prices. For each peer group, the state must establish reimbursement criteria and set maximum tolerances for prices paid. Peer group pricing allows states to use market forces, instead of bureaucratic price controls or limitations on vendor approvals, to control retail WIC food costs in an equitable manner. Some WIC-Only stores will have to keep their prices more competitive if they want to continue to do business in the new system.

The Department of Health Services is expected to roll out this new system in late 2006. However, effective almost immediately (December 30, 2005), the new federal rules require California to ensure that WIC-Only store redemptions do not result in higher costs to the WIC program than if participants redeem their food instruments at regular grocery stores, or face penalty claims from USDA. To avoid these claims, DHS will likely soon be implementing an interim across-the-board reduction in reimbursement rates to high-cost stores, in order to achieve cost neutrality.

### **Moratorium on New Store Authorizations**

Shortly after the WIC reauthorization bill was signed, the Office of Management and Budget urged Congress to prohibit new WIC-Only Store approvals until states could implement the vendor cost controls required by the new reauthorization law. This resulted in language in the appropriations bills in FFY 2005 and 2006 that imposes a nationwide moratorium on any state approvals of any new WIC-Only stores except if necessary to ensure participant access, until states have implemented their vendor cost containment systems. In response to this and to California-specific guidance, DHS has temporarily suspended authorization of new grocers, with exceptions for client access, which will remain in effect pending policy guidance from USDA.<sup>vi</sup>

## Incentives: Creating a Competitive Advantage at Taxpayer Expense

To gain competitive advantage, most WIC-Only stores have been offering participants incentive items such as extra juice, pots and pans, strollers, etc. Some have offered free rides to and from WIC appointments and shopping. The problem with these popular incentives and extra services is that WIC food funds are being used to pay for them -- thus driving up costs to the program as a whole. Congress and USDA have decided that this is an inappropriate use of taxpayer dollars. Recent federal guidance tightened up rules about the types and allowable costs of incentives that are paid for with WIC funds. California will implement this guidance effective December 1, 2005.<sup>vii</sup> After that, WIC-Only Stores will only be allowed to offer participants a variety of low-cost nutritious foods (tuna, tortillas, fresh produce) and normal customer services – no more free strollers and rides.

### The Bottom Line

WIC's mission is to safeguard the health of low-income women, infants and young children who are at nutrition risk – not to subsidize specialized store operators. Because WIC is a capped discretionary program, higher food costs mean that either more federal funds must be provided to serve the same number of participants, or fewer participants can be served. WIC is facing cuts in Congress this year, and there are still thousands in California who are eligible but not able to access WIC benefits. In a scarce funding environment, the new vendor cost controls are necessary to protect WIC's fiscal integrity and allow the program to continue serving vulnerable families.

---

<sup>i</sup> 42 U.S.C 1786, §17 (h) (11) (B)

<sup>ii</sup> FR, p. 71708-71731, November 29, 2005.

<http://www.fns.usda.gov/wic/regspublished/vendorcostcontainmentinterimrule.htm>

<sup>iii</sup> <http://www.nutritionalgrocers.org/positionpapers.html>

<sup>iv</sup> Department of Health Services, WIC Supplemental Nutrition Branch, June 2005 Data.

<sup>v</sup> *WIC-Only Stores and Competitive Pricing in the WIC Program*, by Zoe Neuberger and Robert Greenstein, Center on Budget and Policy Priorities, at [www.cbpp.org/5-17-04wic.pdf](http://www.cbpp.org/5-17-04wic.pdf).

<sup>vi</sup> Department of Health Services Grocer Alert: *Two Moratoriums on Grocer Authorizations*, [http://www.wicworks.ca.gov/grocers/alerts/2004\\_07\\_alert.htm](http://www.wicworks.ca.gov/grocers/alerts/2004_07_alert.htm).

<sup>vii</sup> Department of Health Services Grocer Alert: *Incentives Offered by 50% Grocers*, at [http://www.wicworks.ca.gov/grocers/alerts/2005\\_12\\_alert.htm](http://www.wicworks.ca.gov/grocers/alerts/2005_12_alert.htm)