Food and Nutrition Service, USDA

§ 246.10 Supplemental foods.

(a) General. This section prescribes the requirements for providing supplemental foods to participants. The State agency must ensure that local agencies comply with this section.

(b) State agency responsibilities. (1) State agencies may:

(i) Establish criteria in addition to the minimum Federal requirements in Table 4 of paragraph (e)(12) of this section, except that the State agency may not establish further restrictions on the eligible fruits and vegetables, for the supplemental foods in their States. These State criteria could address, but not be limited to, other nutritional standards, competitive cost, State-wide availability, and participant appeal; and

(ii) Make food package adjustments to better accommodate participants who are homeless. At the State agency’s option, these adjustments would include, but not be limited to, issuing authorized supplemental foods in individual serving-size containers to accommodate lack of food storage or preparation facilities.

(2) State agencies must:

(i) Identify the brands of foods and package sizes that are acceptable for use in the Program in their States in accordance with the requirements of this section. State agencies must also provide to local agencies, and include in the State Plan, a list of acceptable foods and their maximum monthly allowances as specified in Tables 1 through 4 of paragraphs (e)(9) through (e)(12) of this section; and

(ii) Ensure that local agencies:

(A) Make available to participants the maximum monthly allowances of authorized supplemental foods, except as noted in paragraph (c) of this section, and abide by the authorized substitution rates for WIC food substitutions as specified in Tables 1 through 3 of paragraphs (e)(9) through (e)(11) of this section;

(B) Make available to participants more than one food from each WIC food category except for the categories of peanut butter and eggs, and any of the WIC-eligible fruits and vegetables (fresh or processed) in each authorized food package as listed in paragraph (e) of this section;

(C) Authorize only a competent professional authority to prescribe the categories of authorized supplemental foods in quantities that do not exceed the regulatory maximum and are appropriate for the participant, taking into consideration the participant’s age and nutritional needs; and

(D) Advise participants or their caretaker, when appropriate, that the supplemental foods issued are only for their personal use. However, the supplemental foods are not authorized for participant use while hospitalized on an in-patient basis. In addition, consistent with §246.7(m)(1)(i)(B), supplemental foods are not authorized for use in the preparation of meals served in a communal food service. This restriction does not preclude the provision or use of supplemental foods for individual participants in a nonresidential setting (e.g., child care facility, family day care home, school, or other educational program); a homeless facility that meets the requirements of §246.7(m)(1); or, at the State agency’s discretion, a residential institution (e.g., home for pregnant teens, prison, or residential drug treatment center) that meets the requirements currently set forth in §246.7(m)(1) and (m)(2).

(c) Nutrition tailoring. The full maximum monthly allowances of all supplemental foods in all food packages must be made available to participants available for public inspection and copying; however, the names and addresses of participants and other members of the public shall be kept confidential.

(i) Judicial review. If a State level decision upholds the agency action and the appellant expresses an interest in pursuing a higher review of the decision, the State agency shall explain any further State level review of the decision and any State level rehearing process. If these are either unavailable or have been exhausted, the State agency shall explain the right to pursue judicial review of the decision.

if medically or nutritionally warranted. Reductions in these amounts cannot be made for cost-savings, administrative convenience, caseload management, or to control vendor abuse. Reductions in these amounts cannot be made for categories, groups or subgroups of WIC participants. The provision of less than the maximum monthly allowances of supplemental foods to an individual WIC participant in all food packages is appropriate only when:

(1) Medically or nutritionally warranted (e.g., to eliminate a food due to a food allergy);

(2) A participant refuses or cannot use the maximum monthly allowances; or

(3) The quantities necessary to supplement another programs’ contribution to fill a medical prescription would be less than the maximum monthly allowances.

(d) Medical documentation—(1) Supplemental foods requiring medical documentation. Medical documentation is required for the issuance of the following supplemental foods:

(i) Any non-contract brand infant formula;

(ii) Any infant formula prescribed to a child or adult who receives Food Package III;

(iii) Any exempt infant formula;

(iv) Any WIC-eligible medical food;

(v) Any authorized supplemental food issued to participants who receive Food Package III;

(vi) Any authorized soy-based beverage or tofu issued to children who receive Food Package IV;

(vii) Any additional authorized cheese issued to children who receive Food Package II; that exceeds the maximum substitution rate;

(viii) Any additional authorized tofu and cheese issued to women who receive Food Packages V and VII that exceeds the maximum substitution rate; and

(ix) Any contract brand infant formula that does not meet the requirements in Table 4 of paragraph (e)(12) of this section.

(2) Supplemental foods not requiring medical documentation. (i) State agencies may authorize local agencies to issue a non-contract brand infant formula that meets the requirements in Table 4 of paragraph (e)(12) of this section without medical documentation in order to meet religious eating patterns; and

(ii) The State agency has the discretion to require medical documentation for any contract brand infant formula other than the primary contract infant formula and may decide that some contract brand infant formula may not be issued under any circumstances.

(3) Medical Determination. For purposes of this program, medical documentation means that a health care professional licensed to write medical prescriptions under State law has:

(i) Made a medical determination that the participant has a qualifying condition as described in paragraphs (e)(3) through (e)(7) of this section that dictates the use of the supplemental foods, as described in paragraph (d)(1) of this section; and

(ii) Provided the written documentation that meets the technical requirements described in paragraphs (d)(4)(i) and (d)(4)(ii) of this section.

(4) Technical Requirements—(i) Location. All medical documentation must be kept on file (electronic or hard copy) at the local clinic. The medical documentation kept on file must include the initial telephone documentation, when received as described in paragraph (d)(4)(iii)(B) of this section.

(ii) Content. All medical documentation must include the following:

(A) The name of the authorized WIC formula (infant formula, exempt infant formula, WIC-eligible medical food) prescribed, including amount needed per day;

(B) The authorized supplemental food(s) appropriate for the qualifying condition(s) and their prescribed amounts;

(C) Length of time the prescribed WIC formula and/or supplemental food is required by the participant;

(D) The qualifying condition(s) for issuance of the authorized supplemental food(s) requiring medical documentation, as described in paragraphs (e)(3) through (e)(7) of this section; and

(E) Signature, date and contact information (or name, date and contact information), if the initial medical documentation was received by telephone.
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and the signed document is forthcoming, of the health care professional licensed by the State to write prescriptions in accordance with State laws.

(iii) Written confirmation—(A) General. Medical documentation must be written and may be provided as an original written document, an electronic document, by facsimile or by telephone to a competent professional authority until written confirmation is received.

(B) Medical documentation provided by telephone. Medical documentation may be provided by telephone to a competent professional authority who must promptly document the information. The collection of the required information by telephone for medical documentation purposes may only be used until written confirmation is received from a health care professional licensed to write medical prescriptions and used only when absolutely necessary on an individual participant basis. The local clinic must obtain written confirmation of the medical documentation within a reasonable amount of time (i.e., one or two week’s time) after accepting the initial medical documentation by telephone.

(5) Medical supervision requirements. Due to the nature of the health conditions of participants who are issued supplemental foods that require medical documentation, close medical supervision is essential for each participant’s dietary management. The responsibility remains with the participant’s health care provider for this medical oversight and instruction. This responsibility cannot be assumed by personnel at the WIC State or local agency. However, it would be the responsibility of the WIC competent professional authority to ensure that only the amounts of supplemental foods prescribed by the participant’s health care provider are issued in the participant’s food package.

(e) Food packages. There are seven food packages available under the Program that may be provided to participants. The authorized supplemental foods must be prescribed from food packages according to the category and nutritional needs of the participant. The food packages are as follows:

(1) Food Package I—Infants birth through 5 months—(i) Participant category served. This food package is designed for issuance to infant participants from birth through age 5 months who do not have a condition qualifying them to receive Food Package III.

(ii) Infant feeding categories—(A) Birth to one month. Three infant feeding options are available during the first month after birth—fully breastfeeding, i.e., the infant receives no infant formula from the WIC Program; partially breastfeeding, i.e., the infant receives not more than 104 reconstituted fluid ounces of formula; or fully formula-feeding. Infant formula is not provided during the first month after birth to fully breastfed infants to support the successful establishment of breastfeeding.

(B) One through 5 months. Three infant feeding options are available from 1 month through 5 months—fully breastfeeding, fully formula-feeding, or partially breastfeeding, i.e., the infant is breastfed but also receives infant formula from the WIC Program in an amount not to exceed approximately half the amount of infant formula allowed for a fully formula fed infant.

(iii) Infant formula requirements. This food package provides iron-fortified infant formula that is not an exempt infant formula. The issuance of any contract brand or noncontract brand infant formula that contains less than 10 milligrams of iron per liter at standard dilution (i.e., approximately 20 kilocalories per fluid ounce of prepared formula) is prohibited. Except as specified in paragraph (d) of this section, local agencies must issue as the first choice of issuance the primary contract infant formula, as defined in §246.2, with all other infant formulas issued as an alternative to the primary contract infant formula.

(iv) Physical forms. Local agencies must issue all WIC formulas (WIC formulas mean all infant formula, exempt infant formula and WIC-eligible medical foods) in concentrated liquid or powder physical forms. Ready-to-feed WIC formulas may be authorized when the competent professional authority determines and documents that:

(A) The participant’s household has an unsanitary or restricted water supply or poor refrigeration:
(B) The person caring for the participant may have difficulty in correctly diluting concentrated or powder forms; or

(C) The WIC infant formula is only available in ready-to-feed.

(v) Authorized category of supplemental foods. Infant formula is the only category of supplemental foods authorized in this food package. Exempt infant formulas and WIC-eligible medical foods are authorized only in Food Package III.

(2) Food Package II—Infants 6 through 11 months—(i) Participant category served. This food package is designed for issuance to infant participants from 6 through 11 months of age who do not have a condition qualifying them to receive Food Package III.

(ii) Infant feeding options. Three infant feeding options are available—fully breastfeeding, fully formula-feeding, or partially breastfeeding.

(iii) Infant formula requirements. The requirements for issuance of infant formula in Food Package I, specified in paragraphs (e)(1)(iii) and (e)(1)(iv) of this section, also apply to the issuance of infant formula in Food Package II.

(iv) Authorized categories of supplemental foods. Infant formula, infant fruits and vegetables, infant meat, and infant cereal are the categories of supplemental foods authorized in this food package.

(3) Food Package III—Participants with qualifying conditions—(i) Participant category served and qualifying conditions. This food package is reserved for issuance to women, infants and child participants who have a documented qualifying condition that requires the use of a WIC formula (infant formula, exempt infant formula or WIC-eligible medical food) because the use of conventional foods is precluded, restricted, or inadequate to address their special nutritional needs. Medical documentation must meet the requirements described in paragraph (d) of this section. Participants who are eligible to receive this food package must have one or more qualifying conditions, as determined by a health care professional licensed to write medical prescriptions under State law. The qualifying conditions include but are not limited to premature birth, low birth weight, failure to thrive, inborn errors of metabolism and metabolic disorders, gastrointestinal disorders, malabsorption syndromes, immune system disorders, severe food allergies that require an elemental formula, and life threatening disorders, diseases and medical conditions that impair ingestion, digestion, absorption or the utilization of nutrients that could adversely affect the participant’s nutrition status. This food package may not be issued solely for the purpose of enhancing nutrient intake or managing body weight.

(ii) Non-authorized issuance of Food Package III. This food package is not authorized for:

(A) Infants whose only condition is:

(1) A diagnosed formula intolerance or food allergy to lactose, sucrose, milk protein or soy protein that does not require the use of an exempt infant formula; or

(2) A non-specific formula or food intolerance.

(B) Women and children who have a food intolerance to lactose or milk protein that can be successfully managed with the use of one of the other WIC food packages (i.e., Food Packages IV–VII); or

(C) Any participant solely for the purpose of enhancing nutrient intake or managing body weight without an underlying qualifying condition.

(iii) Restrictions on the issuance of WIC formulas in ready-to-feed (RTF) forms. WIC State agencies must issue WIC formulas (infant formula, exempt infant formula and WIC-eligible medical foods) in concentrated liquid or powder physical forms unless the requirements for issuing RTF are met as described in paragraph (e)(1)(iv) of this section. In addition to those requirements, there are two additional conditions which may be used to issue RTF in Food Package III:

(A) If a ready-to-feed form better accommodates the participant’s condition; or

(B) If it improves the participant’s compliance in consuming the prescribed WIC formula.

(iv) Unauthorized WIC costs. All apparatus or devices (e.g., enteral feeding tubes, bags and pumps) designed to administer WIC formulas are not allowable WIC costs.
(v) **Authorized categories of supplemental foods.** The supplemental foods authorized in this food package require medical documentation for issuance and include infant formula (for children or women), exempt infant formula, WIC-eligible medical foods, infant cereal, infant food fruits and vegetables, milk and milk alternatives, cheese, eggs, canned fish, fruits and vegetables, breakfast cereal, whole wheat bread or other whole grains, juice, legumes and/or peanut butter.

(6) **Coordination with medical payors and other programs that provide or reimburse for formulas.** WIC State agencies must coordinate with other Federal, State or local government agencies or with private agencies that operate programs that also provide or could reimburse for exempt infant formulas and WIC-eligible medical foods to mutual participants. At a minimum, a WIC State agency must coordinate with the State Medicaid Program for the provision of exempt infant formulas and WIC-eligible medical foods benefits to WIC participants who are also Medicaid recipients. The WIC State agency is responsible for providing up to the maximum amount of exempt infant formulas and WIC-eligible medical foods under Food Package III in situations where reimbursement is not provided by another entity.

(4) **Food Package IV—Children 1 through 4 years—(i) Participant category served.** This food package is designed for issuance to participants 1 through 4 years of age who do not have a condition qualifying them to receive Food Package III. This food package is also designed for issuance to breastfeeding women participants, up to 1 year postpartum, who do not have a condition qualifying them to receive Food Package III and whose partially breastfed infants receive formula from the WIC program in amounts that do not exceed the maximum allowances described in Table 1 of paragraph (e)(9) of this section. Women participants breastfeeding more than one infant, and women participants pregnant with more than one fetus, are eligible to receive Food Package VII as described in paragraph (e)(7) of this section.

(ii) **Authorized categories of supplemental foods.** Milk, breakfast cereal, juice, fruits and vegetables, whole wheat bread or other whole grains, eggs, legumes and peanut butter are the categories of supplemental foods authorized in this food package. Cheese may be substituted for milk in amounts described in Table 2 of paragraph (e)(10) of this section. Substitutions exceeding the maximum substitution allowance of cheese, up to the maximum allowance for fluid milk, may be allowed with medical documentation of the qualifying condition. Soy-based beverage and tofu can be substituted for milk only with medical documentation in this food package, in amounts described in Table 2 of paragraph (e)(10) of this section. A health care professional licensed by the State to write prescriptions must make a medical determination and provide medical documentation that a child cannot drink milk and requires soy-based beverage, tofu, or additional cheese as a substitute for milk. Such determination can be made for situations that include, but are not limited to, milk allergy, severe lactose malabsorption, and vegan diets. Medical documentation must meet the requirements described in paragraph (d) of this section.

(5) **Food Package V—Pregnant and partially breastfeeding women—(i) Participant category served.** This food package is designed for issuance to women participants with singleton pregnancies who do not have a condition qualifying them to receive Food Package III. This food package is also designed for issuance to breastfeeding women participants, up to 1 year postpartum, who do not have a condition qualifying them to receive Food Package III and whose partially breastfed infants receive formula from the WIC program in amounts that do not exceed the maximum allowances described in Table 1 of paragraph (e)(9) of this section. Women participants breastfeeding more than one infant, and women participants pregnant with more than one fetus, are eligible to receive Food Package VII as described in paragraph (e)(7) of this section.

(ii) **Authorized categories of supplemental foods.** Milk, breakfast cereal, juice, fruits and vegetables, whole wheat bread or other whole grains, eggs, legumes and peanut butter are the categories of supplemental foods authorized in this food package. Cheese or calcium-set tofu may be substituted for milk in amounts described in Table 2 of paragraph (e)(10) of this section. Amounts of cheese or calcium-set tofu exceeding the maximum substitution allowances may be allowed with medical documentation of the qualifying condition.
condition, up to the maximum allowance for fluid milk. A health care professional licensed by the State to write prescriptions must make a medical determination and provide medical documentation that a woman cannot drink milk and requires additional cheese or calcium-set tofu. Such determination can be made for situations that include, but are not limited to, milk allergy or severe lactose malabsorption. Medical documentation must meet the requirements described in paragraph (d) of this section.

(6) Food Package VI—Postpartum women—(i) Participant category served. This food package is designed for issuance to women up to 6 months postpartum who are not breastfeeding their infants, and to breastfeeding women up to 6 months postpartum whose participating infant receives more than the maximum amount of formula allowed for partially breastfed infants as described in Table 1 of paragraph (e)(9) of this section.

(ii) Authorized categories of supplemental foods. Milk, breakfast cereal, juice, fruits and vegetables, whole wheat bread or other whole grains, eggs, legumes, peanut butter, and canned fish are the categories of supplemental foods authorized in this food package. Cheese or calcium-set tofu may be substituted for milk in amounts described in Table 2 of paragraph (e)(10) of this section. Amounts of cheese or calcium-set tofu exceeding the maximum substitution allowances may be allowed with medical documentation of the qualifying condition, up to the maximum allowance for fluid milk. A health care professional licensed by the State to write prescriptions must make a medical determination and provide medical documentation that a woman cannot drink milk and requires additional cheese or calcium-set tofu. Such determination can be made for situations that include, but are not limited to, milk allergy or severe lactose malabsorption. Medical documentation must meet the requirements described in paragraph (d) of this section.

(7) Food Package VII—Fully breastfeeding—(i) Participant category served. This food package is designed for issuance to breastfeeding women up to 1 year postpartum whose infants do not receive infant formula from WIC (these breastfeeding women are assumed to be fully breastfeeding their infants). This food package is also designed for issuance to women participants pregnant with two or more fetuses, and women participants partially breastfeeding multiple infants. Women participants fully breastfeeding multiple infants receive 1.5 times the supplemental foods provided in Food Package VII.

(ii) Authorized categories of supplemental foods. Milk, cheese, breakfast cereal, juice, fruits and vegetables, whole wheat bread or other whole grains, eggs, legumes, peanut butter, and canned fish are the categories of supplemental foods authorized in this food package. Cheese or calcium-set tofu may be substituted for milk in amounts described in Table 2 of paragraph (e)(10) of this section. Amounts of cheese or calcium-set tofu exceeding the maximum substitution allowances may be allowed with medical documentation of the qualifying condition, up to the maximum allowance for fluid milk. A health care professional licensed by the State to write prescriptions must make a medical determination and provide medical documentation that a woman cannot drink milk and requires additional cheese or calcium-set tofu. Such determination can be made for situations that include, but are not limited to, milk allergy or severe lactose malabsorption. Medical documentation must meet the requirements described in paragraph (d) of this section.

(8) Supplemental Foods—Maximum monthly allowances, options and substitution rates, and minimum requirements. Tables 1 through 3 of paragraphs (e)(9) through (e)(11) of this section specify the maximum monthly allowances of foods in WIC food packages and identify WIC food options and substitution rates. Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications of supplemental foods in the WIC food packages.

(9) Maximum monthly allowances of supplemental foods for infants. The maximum monthly allowances, options and substitution rates of supplemental foods for infants in Food Packages I, II and III are stated in Table 1 as follows:
<table>
<thead>
<tr>
<th>Foods</th>
<th>Fully formula fed (FF)</th>
<th>Partially breastfed (BF/FF)</th>
<th>Fully breastfed (BF)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Food packages I-FF &amp; II-FF</td>
<td>Food packages II-FF &amp; III-FF</td>
<td>Food package I-BF/FF</td>
</tr>
<tr>
<td>A: 0 through 3 months</td>
<td>6 through 11 months</td>
<td>6 through 11 months</td>
<td>6 through 11 months</td>
</tr>
<tr>
<td>B: 4 through 5 months</td>
<td>6 through 11 months</td>
<td>6 through 11 months</td>
<td>6 through 11 months</td>
</tr>
<tr>
<td>C: 4 through 5 months</td>
<td>6 through 11 months</td>
<td>6 through 11 months</td>
<td>6 through 11 months</td>
</tr>
</tbody>
</table>

**WIC Formula**

| A: 806 fl oz reconstituted liquid concentrate or 832 fl oz. RTF or 870 fl oz reconstituted powder. | 624 fl oz. reconstituted liquid concentrate or 640 fl oz. RTF or 696 fl oz reconstituted powder. | 312 fl oz. reconstituted liquid concentrate or 320 fl oz. RTF or 384 fl oz reconstituted powder. |
| B: 884 fl oz reconstituted liquid concentrate or 936 fl oz. RTF or 960 fl oz reconstituted powder. | | |
| C: 442 fl oz reconstituted liquid concentrate or 448 fl oz. RTF or 522 fl oz reconstituted powder. | | |

**Infant Cereal**

| 24 oz | 128 oz | 24 oz |

**Infant Food Fruits and Vegetables**

| 24 oz | 128 oz | 256 oz |

**Infant Food Meat**

| 24 oz | 256 oz | 77.5 oz |

Table 1 Footnotes:

1. Table 4 describes the minimum requirements and specifications for the supplemental foods.
2. The powder form is the form recommended for partially breastfed infants 0 through 3 months in Food Package I.
3. Liquid concentrate and ready-to-feed (RTF) may be substituted at rates that provide comparable nutritive value.
4. WIC formula means infant formula, exempt infant formula, or WIC-eligible medical food. Only infant formula may be issued for infants in Food Package I and II. Exempt infant formula may only be issued for infants in Food Package III.
5. The maximum monthly allowance is specified in reconstituted fluid ounces for liquid concentrate, RTF liquid, and powder forms of infant formula and exempt infant formula. Reconstituted fluid ounces is the form prepared for consumption as directed on the container.
6. Infant formula provided. State agencies must provide at least the number of reconstituted fluid ounces as the maximum allowance for the liquid concentrate form of the same product in the same Food Package up to the maximum monthly allowance for powder. State agencies must issue whole containers that are all the same size.
7. State agencies may round up and disperse whole containers of infant formula over the Food Package timeframe to allow participants to receive the full authorized nutritional benefit (FNB).
8. State agencies must use the methodology described in accordance with paragraph (h)(1) of this section.
9. State agencies may round up and dispense whole containers of infant foods (infant cereal, fruits and vegetables, and meat) over the Food Package timeframe. State agencies must use the methodology described in accordance with paragraph (h)(2) of this section.
10. Each child may be issued up to 16 ounces of infant food fruit at a rate of 1 pound of bananas per 8 ounces of infant food fruit.
11. In lieu of infant foods (cereal, fruit and vegetables, and meat), infants greater than 6 months of age in Food Package III may receive exempt infant formula or WIC-eligible medical foods at the same maximum monthly allowance as infants ages 4 through 6 months of age of the same feeding option.
(10) Maximum monthly allowances of supplemental foods in Food Packages IV through VII. The maximum monthly allowances, options and substitution rates of supplemental foods for children and women in Food Package IV through VII are stated in Table 2 as follows:
### TABLE 2—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR CHILDREN AND WOMEN IN FOOD PACKAGES IV, V, VI AND VII

<table>
<thead>
<tr>
<th>Foods 1</th>
<th>Children</th>
<th>Food Package IV: 1 through 4 years</th>
<th>Food Package V: Pregnant and partially breastfeeding (up to 1 year postpartum) 2</th>
<th>Food Package VI: Postpartum (up to 6 months postpartum) 3</th>
<th>Food Package VII: Fully breastfeeding (up to 1 year postpartum) 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juice, single strength 5</td>
<td>128 fl oz</td>
<td>144 fl oz</td>
<td>96 fl oz</td>
<td>144 fl oz</td>
<td>24 qt</td>
</tr>
<tr>
<td>Milk, fluid 6</td>
<td>16 qt 7</td>
<td>22 qt 7</td>
<td>16 qt 7</td>
<td>24 qt 7</td>
<td>30 oz</td>
</tr>
<tr>
<td>Breakfast cereal 7</td>
<td>36 oz</td>
<td>36 oz</td>
<td>36 oz</td>
<td>36 oz</td>
<td>2 lb</td>
</tr>
<tr>
<td>Cheese 8</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>1 lb</td>
</tr>
<tr>
<td>Eggs</td>
<td>1 dozen</td>
<td>1 dozen</td>
<td>1 dozen</td>
<td>2 dozen</td>
<td>1 lb</td>
</tr>
<tr>
<td>Fruits and vegetables 9</td>
<td>$6.00 in cash value vouchers</td>
<td>$10.00 in cash value vouchers</td>
<td>$10.00 in cash value vouchers</td>
<td>$10.00 in cash value vouchers</td>
<td>1 lb</td>
</tr>
<tr>
<td>Whole wheat bread or other whole grains 10</td>
<td>2 lb</td>
<td>1 lb</td>
<td>1 lb</td>
<td>1 lb</td>
<td>1 lb</td>
</tr>
<tr>
<td>Fish (canned)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>30 oz</td>
</tr>
<tr>
<td>Legumes, dry 11</td>
<td>1 lb</td>
<td>1 lb</td>
<td>1 lb</td>
<td>1 lb</td>
<td>1 lb</td>
</tr>
<tr>
<td>And/or</td>
<td>Or</td>
<td>18 oz</td>
<td>18 oz</td>
<td>18 oz</td>
<td>18 oz</td>
</tr>
</tbody>
</table>

#### Table 2 Footnotes:

1. Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods.
2. Food Package V is issued to two categories of WIC participants: Women participants with singleton pregnancies and breastfeeding women whose partially breastfed infants receive formula from the WIC Program in amounts that do not exceed the maximum formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(8) of this section.
3. Food Package VI is issued to two categories of WIC participants: Non-breastfeeding postpartum women and breastfeeding postpartum women whose partially breastfed infants receive more than the maximum infant formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.
4. Food Package VII is issued to three categories of WIC participants: Fully breastfeeding women whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses; and women fully or partially breastfeeding multiple infants.
5. Women fully breastfeeding multiple infants are prescribed 1.5 times the maximum allowances.
6. Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.
7. Whole milk, as specified in FDA standards, is the only type of milk allowed for 1-year-old children (12 through 23 months). Reduced fat milks, as specified in FDA standards, i.e., 2% milk fat, are the only types of milk allowed for children ≥ 24 months of age.
8. Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk. When a combination of different milk forms is provided, the full maximum monthly fluid milk allowance must be provided.
9. For children, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. No more than 1 lb. of cheese may be substituted for milk. With medical documentation, additional amounts of cheese may be substituted in cases of lactose intolerance or other qualifying conditions, up to the maximum allowance for fluid milk.
10. For children, soy-based beverage and calcium-set tofu may be substituted for milk only with medical documentation for qualifying conditions. Soy-based beverage may be substituted for milk, with medical documentation, for children in Food Package IV on a quart per quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk, with medical documentation, for children in Food Package IV at the rate of 1 pound of tofu per 1 quart of milk up to the total maximum allowance of milk.
11. For women, cheese or calcium-set tofu may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk or 1 pound of tofu per 1 quart of milk. A maximum of 4 quarts of milk can be substituted in this manner in Food Packages V and VI; however, no more than 1 pound of cheese may be substituted for milk. A maximum of 6 quarts of milk can be substituted in this manner in Food Package VII; therefore, no more than 2 lbs. of cheese may be substituted for tofu. With medical documentation, additional amounts of cheese or tofu may be substituted, up to the maximum allowances for fluid milk, in cases of lactose intolerance or other qualifying conditions.
12. For women, soy-based beverage may be substituted for milk at the rate of 1 quart of soy-based beverage for 1 quart of milk up to the total maximum monthly allowance of milk.
13. At least one-half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a 'whole grain food with moderate fat content' as defined in Table 4 of paragraph (e)(12) of this section.
14. Processed (canned, frozen, dried) fruits and vegetables may be substituted for fresh fruits and vegetables. Dried fruit and dried vegetables are not authorized for children in Food Package IV.
15. The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in §246.16(j).
16. Brown rice, bulgur (cracked wheat), oatmeal, whole-grain barley, soft corn or whole wheat tortillas may be substituted for whole wheat bread on an equal weight basis.
17 Canned legumes may be substituted for dried legumes at the rate of 64 oz. of canned beans for 1 lb. dried beans. Under Food Packages V and VII, two additional combinations of dry or canned beans/peas are authorized: 1 lb. Dry and 64 oz. Canned beans/peas (and no peanut butter); or 2 lb. Dry or 128 oz. Canned beans/peas (and no peanut butter) or 36 oz. peanut butter (and no beans).
(11) Maximum monthly allowances of supplemental foods for children and women with qualifying conditions in Food Package III. The maximum monthly allowances, options and substitution rates of supplemental foods for participants with qualifying conditions in Food Package III are stated in Table 3 as follows:
### Table 3—Maximum Monthly Allowances of Supplemental Foods for Children and Women in Food Package III

<table>
<thead>
<tr>
<th>Foods 1</th>
<th>Children</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 through 4 years</td>
<td>Pregnant and partially breastfeeding (up to 1 year postpartum) 2</td>
</tr>
<tr>
<td>Juice, single strength 6</td>
<td>128 fl oz</td>
<td>128 fl oz</td>
</tr>
<tr>
<td>WIC Formula 7 8</td>
<td>455 fl oz liquid concentrate</td>
<td>455 fl oz liquid concentrate</td>
</tr>
<tr>
<td>Milk</td>
<td>16 qt 9</td>
<td>14 qt 10</td>
</tr>
<tr>
<td>Breakfast cereal 11 12</td>
<td>36 oz</td>
<td>36 oz</td>
</tr>
<tr>
<td>Cheese</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Egg</td>
<td>1 dozen</td>
<td>1 dozen</td>
</tr>
<tr>
<td>Fruits and vegetables 13 14</td>
<td>$6.00 in cash value vouchers</td>
<td>$6.00 in cash value vouchers</td>
</tr>
<tr>
<td>Whole wheat bread 15</td>
<td>2 lb</td>
<td>2 lb</td>
</tr>
<tr>
<td>Fish (canned)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Legumes, dry 16</td>
<td>1 lb</td>
<td>1 lb</td>
</tr>
<tr>
<td>And/or 17 17</td>
<td>Or</td>
<td>Or</td>
</tr>
<tr>
<td>Peanut butter</td>
<td>18 oz</td>
<td>18 oz</td>
</tr>
</tbody>
</table>

Table 3 Footnotes: N/A = the supplemental food is not authorized in the corresponding food package.
1 Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods.
2 Food Package II is issued to two categories of WIC participants—women participants with singleton pregnancies and breastfeeding women whose partially breastfed infants receive formula from the WIC Program in amounts that do not exceed the maximum formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.
3 Food Package VI is issued to two categories of WIC participants—non-breastfeeding postpartum women and breastfeeding postpartum women whose partially breastfed infants receive more than the maximum formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.
4 Food Package VII is issued to three categories of WIC participants—fully breastfeeding infants whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses; and women fully or partially breast feeding multiple infants.
5 Women fully breastfeeding multiple infants are prescribed 1.5 times the maximum allowances.
6 Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.
7 WIC formula means infant formula, exempt infant formula, or WIC-eligible medical food.
8 Powder and Ready-to-Feed may be substituted at rates that provide comparable nutritive value.
9 Whole milk, as specified in FDA standards, is the only type of milk allowed for 1-year-old children (12 through 23 months). Reduced fat milks, as specified in FDA standards, i.e., 2% milk fat, are the only types of milk allowed for children > 24 months of age and women. With medical documentation, whole milk may be substituted for reduced fat milk for children > 24 months of age and women.
10 Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk. When a combination of different milk forms is provided, the full maximum monthly fluid milk allowance must be provided.
11 For children, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. No more than 1 lb. of cheese may be substituted for milk. With medical documentation, additional amounts of cheese may be substituted in cases of lactose intolerance or other qualifying conditions.
12 For children, soy-based beverage and tofu may be substituted for milk only with medical documentation for qualifying conditions. Soy-based beverage may be substituted for milk with medical documentation, for children in Food Package IV on a quart for quart basis up to the maximum allowance of milk. Tofu may be substituted for milk, with medical documentation, for children in Food Package IV at the rate of 1 pound of tofu per 1 quart of milk up to the maximum allowance of milk.
13 For women, cheese or calcium-set tofu may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk or 1 pound of tofu per 1 quart of milk. A maximum of 4 quarts of milk can be substituted in this manner in Food Packages V and VI; however, no more than 1 pound of cheese may be substituted for milk. A maximum of 6 quarts of milk can be substituted, up to the maximum allowances for fluid milk, in cases of lactose intolerance or other qualifying conditions.
14 For women, soy-based beverage may be substituted for milk at the rate of 1 quart of soy-based beverage for 1 quart of milk up to the total maximum monthly allowance of milk.
15 For women, dry cereals of infant cereal may be substituted for 36 ounces of breakfast cereal.
16 At least one half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a "whole grain food with moderate fat content" as defined in Table 4 of paragraph (e)(12) of this section.
17 Processed (canned, frozen, dried) fruits and vegetables may be substituted for fresh fruits and vegetables. Dried fruit and dried vegetables are not authorized for children.
18 The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in §246.16(j).
19 Brown rice, bulgur (cracked wheat), oatmeal, whole-grain barley, soft corn or whole wheat tortillas may be substituted for whole wheat bread on an equal weight basis.
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20 Canned legumes may be substituted for dried legumes at the rate of 64 oz of canned beans for 1 lb dried beans. Issuance of two additional combinations of dry or canned beans/peas is authorized for the Pregnant and Partially Breastfeeding (up to 1 year postpartum) category and Fully Breastfeeding (Enhanced) (up to 1 year postpartum) category: 1 lb. Dry and 64 oz. Canned beans/peas (and no peanut butter), or 2 lb. Dry or 128 oz. Canned beans/peas (and no peanut butter) or 36 oz. peanut butter (and no beans).
describes the minimum requirements
and specifications for supplemental
foods in all food packages:

### TABLE 4—MINIMUM REQUIREMENTS AND SPECIFICATIONS FOR SUPPLEMENTAL FOODS

<table>
<thead>
<tr>
<th>Categories/food</th>
<th>Minimum requirements and specifications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>WIC formula:</strong></td>
<td></td>
</tr>
<tr>
<td>Infant formula</td>
<td>All authorized infant formulas must (1) meet the definition for an infant formula in section 201(z) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(z)); (2) provide at least 10 mg iron per liter (at least 1.8 mg iron/100 kilocalories) at standard dilution; (3) provide at least 67 kilocalories per 100 milliliters (approximately 20 kilocalories per fluid ounce) at standard dilution.</td>
</tr>
</tbody>
</table>
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**TABLE 4—MINIMUM REQUIREMENTS AND SPECIFICATIONS FOR SUPPLEMENTAL FOODS—Continued**

<table>
<thead>
<tr>
<th>Categories/foods</th>
<th>Minimum requirements and specifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakfast cereal</td>
<td>Hard boiled eggs, where readily available for purchase in small quantities, may be provided for homeless participants. Breakfast cereals as defined by FDA in 21 CFR 170.3(n)(4) for ready-to-eat and instant and regular hot cereals. Must contain a minimum of 28 mg iron per 100 g dry cereal. Must contain ≤ 21.2 g sucrose and other sugars per 100 g dry cereal (≤ 6 g per dry oz). At least half of the cereals authorized on a State agency's food list must have whole grain as the primary ingredient by weight AND meet labeling requirements for making a health claim as a “whole grain food with moderate fat content”: 1. (1) Contain a minimum of 51% whole grains (using dietary fiber as the indicator); (2) Meet the regulatory definitions for “low saturated fat” at 21 CFR 101.62 (≤ 1 g saturated fat per RACC) and “low cholesterol” (≤ 20 mg cholesterol per RACC); (3) Bear quantitative trans fat labeling; and (4) Contain ≤ 6.5 g total fat per RACC and ≤ 0.5 g trans fat per RACC.</td>
</tr>
<tr>
<td>Fruits and Vegetables (fresh and processed)</td>
<td>Any variety of fresh whole or cut fruit without added sugars. 5 Any variety of fresh whole or cut vegetable, except white potatoes, without added sugars, fats, or oils (orange yams and sweet potatoes are allowed). 5 Any variety of canned 6 fruits (must conform to FDA standard of identity (21 CFR 136.180). Must meet labeling requirements for making a health claim as a “whole grain food with moderate fat content”): 4 (1) Contain a minimum of 51% whole grains (using dietary fiber as the indicator); (2) Meet the regulatory definitions for “low saturated fat” at 21 CFR 101.62 (≤ 1 g saturated fat per RACC) and “low cholesterol” (≤ 20 mg cholesterol per RACC); (3) Bear quantitative trans fat labeling; and (4) Contain ≤ 6.5 g total fat per RACC and ≤ 0.5 g trans fat per RACC.</td>
</tr>
<tr>
<td>Whole wheat bread/Whole grain bread/Other whole unprocessed grains.</td>
<td>Whole wheat bread must conform to FDA standard of identity (21 CFR 136.180). (Includes whole wheat buns and rolls.) AND Whole wheat must be the primary ingredient by weight in all whole wheat bread products. Whole grain bread must meet labeling requirements for making a health claim as a “whole grain food with moderate fat content”: 4 (1) Contain a minimum of 51% whole grains (using dietary fiber as the indicator); (2) Meet the regulatory definitions for “low saturated fat” at 21 CFR 101.62 (≤ 1 g saturated fat per RACC) and “low cholesterol” (≤ 20 mg cholesterol per RACC); (3) Bear quantitative trans fat labeling; and (4) Contain ≤ 6.5 g total fat per RACC and ≤ 0.5 g trans fat per RACC. AND Whole grain must be the primary ingredient by weight. Other Whole Unprocessed Grains Brown rice, bulgur (cracked wheat), oatmeal, and whole-grain barley without added sugars, fats, oils, or salt (i.e., sodium). May be instant-, quick-, or regular-cooking. Soft corn or whole wheat tortillas may be allowed at the State agency’s option. Whole grain must be the primary ingredient by weight.</td>
</tr>
<tr>
<td>canned fish</td>
<td>Canned only: Light tuna (must conform to FDA standard of identity (21 CFR 161.190)); Salmon (must conform to FDA standard of identity (21 CFR 161.170)); Sardines; Mackerel (N. Atlantic Scmerb Scmerbus, or Chub Pacific Scmerb Japonicus); May be packed in water or oil. Pack may include bones or skin. May be regular or lower in sodium content. 3 Peanut butter</td>
</tr>
<tr>
<td>Infant Foods: Infant cereal</td>
<td>Infant cereal must contain a minimum of 45 mg of iron per 100 g of dry cereal. 6 Any variety of single ingredient commercial infant food fruit without added sugars, starches, or salt (i.e., sodium). Texture may range from strained through diced. 15</td>
</tr>
</tbody>
</table>
(f) USDA purchase of commodity foods. (1) At the request of a State agency, FNS may purchase commodity foods for the State agency using funds allocated to the State agency. The commodity foods purchased and made available to the State agency must be equivalent to the foods specified in Table 4 of paragraph (e)(12) of this section.

(2) The State agency must:
(i) Distribute the commodity foods to its local agencies or participants; and
(ii) Ensure satisfactory storage facilities and conditions for the commodity foods, including documentation of proper insurance.

(g) Infant formula manufacturer registration. Infant formula manufacturers supplying formula to the WIC Program must be registered with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). Such manufacturers wishing to bid for a State contract to supply infant formula to the program must certify with the State health department that their formulas comply with the Federal Food, Drug, and Cosmetic Act and regulations issued pursuant to the Act.

(h) Rounding up. State agencies may round up to the next whole container for either infant formula or infant foods (infant cereal, fruits, vegetables and meat). State agencies that use the rounding up option must calculate the amount of infant formula or infant foods provided according to the requirements and methodology described in this section.
(1) **Infant Formula.** State agencies must use the maximum monthly allowance of reconstituted fluid ounces of liquid concentrate infant formula as specified in Table 1 of paragraph (e)(9) of this section as the full nutritional benefit (FNB) provided by infant formula for each food package category and infant feeding option (e.g., Food Package I A fully formula fed, IA–FF).

(i) For State agencies that use rounding up of infant formula, the FNB is determined over the timeframe (the number of months) that the participant receives the food package. In any given month of the timeframe, the monthly issuance of reconstituted fluid ounces of infant formula may exceed the maximum monthly allowance or fall below the FNB; however, the cumulative average over the timeframe may not fall below the FNB. In addition, the State agency must:

(A) Use the methodology described in paragraph (h)(1)(ii) of this section for calculating and dispersing the rounding up option;

(B) Issue infant formula in whole containers that are all the same size; and

(C) Disperse the number of whole containers as evenly as possible over the timeframe with the largest monthly issuances given in the beginning of the timeframe.

(ii) The methodology to calculate rounding up and dispersing infant formula is as follows:

(A) Multiply the FNB amount for the appropriate food package and feeding option (e.g., Food Package I A fully formula fed, IA–FF) by the timeframe the participant will receive the food package to determine the total amount of infant formula to be provided.

(B) Divide the total amount of infant formula to be provided by the yield of the container (in reconstituted fluid ounces) issued by the State agency to determine the total number of containers to be issued during the timeframe that the food package is prescribed.

(C) If the number of containers to be issued does not result in a whole number of containers, the State agency must round up to the next whole container in order to issue whole containers.

(2) **Infant foods.** (i) State agencies may use the rounding up option to the next whole container of infant food (infant cereal, fruits, vegetables and meats) when the maximum monthly allowance cannot be issued due to varying container sizes of authorized infant foods.

(ii) State agencies that use the rounding up option for infant foods must:

(A) Use the methodology described in paragraph (h)(2)(iii) of this section for calculating and dispersing the rounding up option;

(B) Issue infant foods in whole containers; and

(C) Disperse the number of whole containers as evenly as possible over the timeframe (the number of months the participant will receive the food package).

(iii) The methodology to round up and disperse infant food is as follows:

(A) Multiply the maximum monthly allowance for the infant food by the timeframe the participant will receive the food package to determine the total amount of food to be provided.

(B) Divide the total amount of food provided by the container size issued by the State agency (e.g., ounces) to determine the total number of food containers to be issued during the timeframe that the food package is prescribed.

(C) If the number of containers to be issued does not result in a whole number of containers, the State agency must round up to the next whole container in order to issue whole containers.

(i) **Plans for substitutions.** (1) The State agency may submit to FNS a plan for substitution of food(s) acceptable for use in the Program to allow for different cultural eating patterns. The plan shall provide the State agency's justification, including a specific explanation of the cultural eating pattern and other information necessary for FNS to evaluate the plan as specified in paragraph (i)(2) of this section.

(2) FNS will evaluate a State agency’s plan for substitution of foods for different cultural eating patterns based on the following criteria:
§ 246.11 Nutrition education.

(a) General. (1) Nutrition education shall be considered a benefit of the Program, and shall be made available at no cost to the participant. Nutrition education shall be designed to be easily understood by participants, and it shall bear a practical relationship to participant nutritional needs, household situations, and cultural preferences including information on how to select food for themselves and their families. Nutrition education shall be thoroughly integrated into participant health care plans, the delivery of supplemental foods, and other Program operations.

(2) The State agency shall ensure that nutrition education is made available to all participants. Nutrition education may be provided through the local agencies directly, or through arrangements made with other agencies. At the time of certification, the local agency shall stress the positive, long-term benefits of nutrition education and encourage the participant to attend and participate in nutrition education activities. However, individual participants shall not be denied supplemental foods for failure to attend or participate in nutrition education activities.

(3) As an integral part of nutrition education, the State agency shall ensure that local agencies provide drug and other harmful substance abuse information to all pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children participating in the program. Drug and other harmful substance abuse information may also be provided to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children participating in local agency services other than the Program.

(b) Goals. Nutrition education shall be designed to achieve the following two broad goals:

(1) Emphasize the relationship between nutrition, physical activity and health with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under five years of age, and raise awareness about the dangers of using drugs and other harmful substances during pregnancy and while breastfeeding.

(2) Assist the individual who is at nutritional risk in improving health status and achieving a positive change in dietary and physical activity habits, and in the prevention of nutrition-related problems through optimal use of the supplemental foods and other nutritious foods. This is to be taught in the context of the ethnic, cultural and geographic preferences of the participants and with consideration for educational and environmental limitations experienced by the participants.

(c) State agency responsibilities. The State agency shall perform the following activities in carrying out nutrition education responsibilities:

(1) Develop and coordinate the nutrition education component of Program operations with consideration of local agency plans, needs and available nutrition education resources.

(2) Provide in-service training and technical assistance for professional and para-professional personnel involved in providing nutrition education to participants at local agencies. The State agency shall also provide training on the promotion and management of breastfeeding to staff at local agencies who will provide information and assistance on this subject to participants.

(3) Identify or develop resources and educational materials for use in local