§ 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 to participants. The State agency must ensure that local agencies comply with this section.

(d) 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.

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 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 IV 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 currently set forth in §246.7(m)(1) and (m)(2).

(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)(ii) and (d)(4)(iii) 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 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 months through 5 months—fully breastfeeding, fully formula-feeding, or partially breastfeeding, i.e., the 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.

(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.

(vi) 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 benefits 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 that are authorized or could be authorized under the State Medicaid Program for reimbursement and that are prescribed for 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.

(ii) Authorized categories of supplemental foods. Milk, breakfast cereal, juice, fruits and vegetables, whole wheat bread or other whole grains, eggs, and legumes or 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 maldigestion, 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, 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, eggs, and legumes or 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, 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—(1) 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 maldigestion. 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 1—Maximum Monthly Allowances of Supplemental Foods for Infants in Food Packages I, II and III

<table>
<thead>
<tr>
<th>Foods 1</th>
<th>Fully formula fed (FF)</th>
<th>Partially breastfed (BF/FF)</th>
<th>Fully breastfed (BF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>WIC formula 2, 3, 4, 5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A: 806 fl oz reconstituted liquid concentrate or 832 fl oz RTF or 870 fl oz reconstituted powder.</td>
<td>Food packages I-BF/FF &amp; III-BF/FF: A: 0 to 1 month; B: 1 through 3 months; C: 4 through 5 months</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B: 884 fl oz reconstituted liquid concentrate or 856 fl oz RTF or 960 fl oz reconstituted powder.</td>
<td></td>
<td>Food packages II-BF/FF &amp; III-BF/FF: A: 0 through 5 months; B: 6 through 11 months</td>
<td></td>
</tr>
<tr>
<td>Infant cereal 8</td>
<td>24 oz</td>
<td>128 oz</td>
<td>128 oz</td>
</tr>
<tr>
<td>Infant fruit 6, 9</td>
<td>442 fl oz reconstituted liquid concentrate or 448 fl oz RTF or 522 fl oz reconstituted powder.</td>
<td>24 oz</td>
<td>24 oz</td>
</tr>
<tr>
<td>Infant vegetable 6, 9</td>
<td>384 fl oz RTF or 348 fl oz reconstituted powder.</td>
<td>312 fl oz reconstituted liquid concentrate or 320 fl oz RTF or 342 fl oz reconstituted powder.</td>
<td>77.5 oz</td>
</tr>
</tbody>
</table>

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 ages 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 Packages 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 ounce is the form prepared for consumption as directed on the container.
6 If powder infant formula is 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.
Food and Nutrition Service, USDA § 246.10

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). State agencies must use the methodology described in accordance with paragraph (h)(1) of this section.

8 State agencies may round up and disperse 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.

9 Fresh banana may replace up to 16 ounces of infant food fruit at a rate of 1 pound of bananas per 8 ounces of infant food fruit.

10 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 5 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:

<p>| TABLE 2—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR CHILDREN AND WOMEN IN FOOD PACKAGES IV, V, VI AND VII |
|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|
| | Children | Women |</p>
<table>
<thead>
<tr>
<th>--------------------------------------------------</th>
<th>--------------------------------------------------</th>
<th>--------------------------------------------------</th>
<th>--------------------------------------------------</th>
<th>--------------------------------------------------</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juice, single strength</td>
<td>128 fl oz</td>
<td>144 fl oz</td>
<td>96 fl oz</td>
<td>144 fl oz</td>
</tr>
<tr>
<td>Milk, fluid</td>
<td>16 oz</td>
<td>22 oz</td>
<td>16 oz</td>
<td>24 oz</td>
</tr>
<tr>
<td>Breakfast cereal</td>
<td>36 oz</td>
<td>36 oz</td>
<td>36 oz</td>
<td>36 oz</td>
</tr>
<tr>
<td>Cheese</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>
</tr>
<tr>
<td>Fruits and vegetables</td>
<td>$6.00 in cash value</td>
<td>$10.00 in cash value</td>
<td>$10.00 in cash value</td>
<td>$10.00 in cash value</td>
</tr>
<tr>
<td>Whole wheat bread or other whole grains</td>
<td>2 lb</td>
<td>1 lb</td>
<td>N/A</td>
<td>1 lb</td>
</tr>
<tr>
<td>Fish (canned)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>30 oz</td>
</tr>
<tr>
<td>Legumes, dry</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>And</td>
<td>Or</td>
<td>And</td>
</tr>
<tr>
<td>Peanut butter</td>
<td>18 oz</td>
<td>18 oz</td>
<td>18 oz</td>
<td>18 oz</td>
</tr>
</tbody>
</table>

Table 2 Footnotes: N/A = the supplemental food is not authorized in the corresponding food package.

1Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods.

2Food 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)(9) of this section.

3Food 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.

4Food 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.

5Women fully breastfeeding multiple infants are prescribed 1.5 times the maximum allowances.

6Combinations 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.

7Whole 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.

8Evaporated 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.

9For 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.

10For children, soy-based beverages and calcium-set tofu may be substituted for milk only with medical documentation for qualifying conditions. Soy-based beverages may be substituted for milk, with medical documentation, for children in Food Package IV on a quart for 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.

395
(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 ² ³ ⁴ ⁵ ⁶ ⁷ ⁸ ⁹ ¹⁰</th>
<th>Children</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 through 4 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Juice, single strength</td>
<td>128 fl oz</td>
<td>144 fl oz</td>
</tr>
<tr>
<td>WIC Formula</td>
<td>455 fl oz</td>
<td>455 fl oz</td>
</tr>
<tr>
<td>Milk</td>
<td>16 qt 9 10 11 12</td>
<td>22 qt 9 10 12 14</td>
</tr>
<tr>
<td>Breakfast cereal real</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>Eggs</td>
<td>1 dozen</td>
<td>1 dozen</td>
</tr>
<tr>
<td>Fruits and vegetables</td>
<td>$6.00 in cash value vouchers.</td>
<td>$10.00 in cash value vouchers.</td>
</tr>
<tr>
<td>Whole wheat bread</td>
<td>2 lb</td>
<td>1 lb</td>
</tr>
<tr>
<td>Fish (canned)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Legumes, dry</td>
<td>1 lb</td>
<td>1 lb</td>
</tr>
<tr>
<td>And/or Peanut butter</td>
<td>18 oz</td>
<td>18 oz</td>
</tr>
</tbody>
</table>

**Table 3 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 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 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. 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, 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.
Food and Nutrition Service, USDA § 246.10

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, up to the maximum allowance for fluid milk.

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 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.

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 in this manner in Food Package VII; therefore, no more than 2 lbs. of cheese may be substituted for milk. 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.

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 32 dry ounces 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(f).

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.

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/pes is authorized for the Pregnant and Partially Breastfeeding (up to 1 whole wheat bread on an equal weight basis.

(12) Minimum requirements and specifications for supplemental foods. Table 4 describes the minimum requirements and specifications for supplemental foods in all food packages:

<table>
<thead>
<tr>
<th>Categories/foods</th>
<th>Minimum requirements and specifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>WIC 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)) and meet the requirements for an infant formula under section 412 of the Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 350a) and the regulations at 21 CFR parts 106 and 107; and 2 Be designed for enteral digestion via an oral or tube feeding; 3 Provide at least 10 mg iron per liter (at least 1.8 mg iron/100 kilocalories) at standard dilution; 4 Provide at least 67 kilocalories per 100 milliliters (approximately 20 kilocalories per fluid ounce) at standard dilution; 5) Not require the addition of any ingredients other than water prior to being served in a liquid state.</td>
</tr>
<tr>
<td>Exempt infant formula</td>
<td>All authorized exempt infant formula must (1) meet the definition and requirements for an exempt infant formula under section 412(h) of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 350a(h)) and the regulations at 21 CFR Parts 106 and 107; and 2) Be designed for enteral digestion via an oral or tube feeding.</td>
</tr>
<tr>
<td>WIC-eligible medical foods</td>
<td>Certain enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition, when the use of conventional foods is precluded, restricted, or inadequate. Such WIC-eligible medical foods must serve the purpose of a food, meal, or diet (may be nutritionally complete or incomplete) and provide a source of calories and one or more nutrients; be designed for enteral digestion via an oral or tube feeding; and may not be a conventional food, drug, flavoring, or enzyme. WIC-eligible medical foods include many, but not all, products that meet the definition of medical food in Section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360ee(b)(3)).</td>
</tr>
<tr>
<td>Milk and milk alternatives: Cow’s milk</td>
<td>Must conform to FDA standard of identity for whole, reduced fat, low-fat, or non-fat milks (21 CFR 131.110). Must be pasteurized and contain at least 400 IU of vitamin D per quart (100 IU per cup) and 2000 IU of vitamin A per quart (500 IU per cup). May be flavored or unflavored. May be fluid, shelf-stable, evaporated (21 CFR 131.130), or dried (i.e., powder) (21 CFR 131.147). Cultured Milks. Must conform to FDA standard of identity for cultured milk (21 CFR 131.112—cultured buttermilk, kefir cultured milk, acidophilus cultured milk).</td>
</tr>
</tbody>
</table>
### 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>Goat milk ........</td>
<td>Must conform to FDA standard of identity for whole, reduced fat, low-fat, or non-fat milks (21 CFR part 131). Must be pasteurized and contain at least 400 IU of vitamin D per quart (100 IU per cup) and 2000 IU of vitamin A per quart (500 IU per cup) following FDA fortification standards (21 CFR part 131). May be flavored or unflavored. May be fluid, shelf-stable, evaporated (21 CFR 131.130), or dried (i.e., powdered) (21 CFR 131.147).</td>
</tr>
<tr>
<td>Cheese .............</td>
<td>Domestic cheese made from 100 percent pasteurized milk. Must conform to FDA standard of identity (21 CFR Part 133); Monterey Jack, Colby, natural Cheddar, Swiss, Brick, Muenster, Provolone, part-skim or whole Mozzarella, pasteurized processed American, or blends of any of these cheeses are authorized. Cheeses that are labeled low, free, reduced, or low in the nutrients of sodium, fat or cholesterol are WIC-eligible.</td>
</tr>
<tr>
<td>Tofu ...............</td>
<td>Calcium-set tofu prepared with only calcium salts (e.g., calcium sulfate). May not contain added fats, sugars, oils, or sodium.</td>
</tr>
<tr>
<td>Soy-based beverage</td>
<td>Must be fortified to meet the following nutrient levels: 276 mg calcium per cup, 8 g protein per cup, 500 IU vitamin A per cup, 100 IU vitamin D per cup, 24 mg magnesium per cup, 222 mg phosphorus per cup, 349 mg potassium per cup, 0.44 mg riboflavin per cup, and 1.1 mcg vitamin B12 per cup, in accordance with fortification guidelines issued by FDA.</td>
</tr>
<tr>
<td>Juice ...............</td>
<td>Must be pasteurized 100% unsweetened fruit juice. Must conform to FDA standard of identity (21 CFR part 146) or vegetable juice must conform to FDA standard of identity (21 CFR part 156) and contain at least 30 mg of vitamin C per 100 mL of juice. With the exception of 100 percent citrus juices, State agencies must verify the vitamin C content of all State-approved juices. Juices that are fortified with other nutrients may be allowed at the State agency's option. Juice may be fresh, from concentrate, frozen, canned, or shelf-stable. Vegetable juice may be regular or lower in sodium.</td>
</tr>
<tr>
<td>Eggs ...............</td>
<td>Fresh shell domestic hens' eggs or dried eggs mix (must conform to FDA standard of identity (21 CFR 160.105)) or pasteurized liquid whole eggs (must conform to FDA standard of identity in 21 CFR 160.115). Hard boiled eggs, where readily available for purchase in small quantities, may be provided for homeless participants.</td>
</tr>
<tr>
<td>Breakfast cereal ....</td>
<td>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”:&quot;</td>
</tr>
</tbody>
</table>

(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." |

<table>
<thead>
<tr>
<th>Fruits and Vegetables (fresh and processed)</th>
<th>Any variety of fresh whole or cut fruit without added sugars.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Any variety of fresh whole or cut vegetable, except white potatoes, without added sugars, fats, or oils (orange yams and sweet potatoes are allowed).</td>
</tr>
<tr>
<td></td>
<td>Any variety of canned fruits (must conform to FDA standard of identity (21 CFR part 145)); including applesauce, juice pack or water pack without added sugars, fats, oils, or salt (i.e. sodium). Any variety of frozen fruits without added sugars.</td>
</tr>
<tr>
<td></td>
<td>Any variety of canned or frozen vegetables (must conform to FDA standard of identity (21 CFR part 156)); except white potatoes (orange yams and sweet potatoes are allowed); without added sugars, fats, or oils. May be regular or lower in sodium.</td>
</tr>
<tr>
<td></td>
<td>Any type of dried fruits or dried vegetable without added sugars, fats, oils, or salt (i.e., sodium).</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.)</td>
</tr>
<tr>
<td></td>
<td>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”:</td>
</tr>
</tbody>
</table>

(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." |

<table>
<thead>
<tr>
<th>Bread</th>
<th>Whole wheat bread must conform to FDA standard of identity (21 CFR 136.180). (Includes whole wheat buns and rolls.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AND</td>
<td>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”:</td>
</tr>
</tbody>
</table>

(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." |

| 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. |

398
Categories/foods | Minimum requirements and specifications
---|---
Canned fish | Soft corn or whole wheat tortillas may be allowed at the State agency’s option. Whole grain must be the primary ingredient by weight. 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 Scomber scombrus, or Chub Pacific Scomber japonicus);
  - May be packed in water or oil. Pack may include bones or skin. May be regular or lower in sodium content.
Mature legumes (dry beans and peas) | Any type of mature dry beans, peas, or lentils in dry-packaged or canned forms. Examples include but are not limited to black beans (“turtle beans”), blackeye peas (cowpeas of the blackeye variety, “cow beans”), garbanzo beans (chickpeas), great northern beans, kidney beans, lima beans (“butter beans”), navy beans, pinto beans, soybeans, split peas, and lentils. All categories exclude soups. May not contain added sugars, fats, oils or meat as purchased. Canned legumes may be regular or lower in sodium content.
Peanut butter | Baked beans may be provided for participants with limited cooking facilities. Peanut butter and reduced fat peanut butter (must conform to FDA Standard of Identity (21 CFR 164.150)); creamy or chunky, regular or reduced fat, salted or unsalted forms are allowed. Table 4 Footnotes: FDA = Food and Drug Administration of the U.S. Department of Health and Human Services; RACC = reference amount customarily consumed.
Infant Foods: Infant cereal | Infant cereal must contain a minimum of 45 mg of iron per 100 g of dry cereal.
Infant fruits | 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.
Infant vegetables | Any variety of single ingredient commercial infant food vegetables without added sugars, starches, or salt (i.e., sodium). Texture may range from strained through diced.
Infant meat | Any variety of commercial infant food meat or poultry, as a single major ingredient, with added broth or gravy. Added sugars or salt (i.e. sodium) are not allowed. Texture may range from pureed through diced.

(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

399
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 as 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 to the next whole container over the food package timeframe 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 meat) 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:

(i) Any proposed substitute food must be nutritionally equivalent or superior to the food it is intended to replace.

(ii) The proposed substitute food must be widely available to participants in the areas where the substitute is intended to be used.

(iii) The cost of the substitute food must be equivalent to or less than the cost of the food it is intended to replace.

(3) FNS will make a determination on the proposed plan based on the evaluation criteria specified in paragraph (i)(2) of this section, as appropriate. The State agency shall substitute foods only after receiving the written approval of FNS.


§ 246.11 Nutrition education.

(a) General. (1) Nutrition education including breastfeeding promotion and support, shall be considered a benefit of the Program, and shall be made available at no cost to the participant. Nutrition education including breastfeeding promotion and support, 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 including breastfeeding promotion and support, 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, including breastfeeding promotion and support, as appropriate, 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 including breastfeeding promotion and support, shall be designed to achieve the following two broad goals:

(1) Emphasize the relationship between nutrition, physical activity and...