

# Rules and Regulations

Federal Register

Vol. 65, No. 14

Friday, January 21, 2000

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 246

RIN 0584-AC76

#### Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Certification Integrity

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule amends regulations for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The rule adds three legislative requirements that affect the application and certification process for the WIC Program. The legislative requirements can be found in the William F. Goodling Child Nutrition Reauthorization Act of 1998. Therefore, this rulemaking requires WIC applicants, except in limited circumstances, to present documentation of family income at certification for those individuals who are not certified based on adjunctive income eligibility procedures; present proof of residency as part of a State agency's system to prevent dual participation; and, physically present themselves at certification. The intent of these provisions is to strengthen the integrity of the WIC certification process.

**DATES:** The provisions in this interim rule are effective February 22, 2000. To be assured of consideration, written comments must be postmarked on or before April 20, 2000. Since comments are being accepted simultaneously on several separate rulemakings, commenters on this rulemaking are requested to label their comments "WIC Certification Integrity Rule."

**ADDRESSES:** Data faxes of comments may be sent to (703) 305-2196. Comments may be mailed to Patricia Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 540, Alexandria, VA 22302. All written comments will be available for public inspection at this address during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

Comments may be sent via email to the following address: WICHQ-SFPD@fns.usda.gov.

**FOR FURTHER INFORMATION CONTACT:** Debbie Whitford at (703) 305-2730 during regular business hours.

#### SUPPLEMENTARY INFORMATION:

##### 1. What are the Procedures for Submitting Comments on This Regulation?

As noted above, comments may be sent in one of three ways. You may: (1) Send comments electronically via the Internet to: WICHQ-SFPD@fns.usda.gov, (2) fax comments to 703-305-2196, or (3) mail comments to Patricia Daniels, Director, Supplemental Food Programs Division at the address noted above. In all cases, including when comments are sent via the Internet, please label your comments as "WIC Certification Integrity Rule" and include your name, title, and address. Comments are most helpful when a specific section or paragraph of the interim rule is identified, they indicate support, support with modification, or opposition to the specific section or paragraph, and there is an explanation of the reason(s) for any recommended change.

##### 2. What Requirements are in This Regulation?

This regulation requires, with limited exceptions, that WIC agencies require WIC applicants and participants to: (1) Provide proof or documentation of family income in cases where an individual is not determined adjunctively or automatically income eligible; (2) provide proof or documentation of an applicant's residency; and, (3) physically present themselves at the WIC clinic at certification.

##### 3. Why is This Regulation Necessary?

The William F. Goodling Child Nutrition Reauthorization Act of 1998

(Public Law 105-336), enacted October 31, 1998, contains three provisions to strengthen the WIC certification process. These provisions affect all program applicants, including individuals who are currently participating in the program but are re-applying because their certification period is about to expire. The legislative provisions include requiring applicants to: (1) Present documentation of family income at certification for those individuals who are not certified based on adjunctive or automatic income eligibility procedures; (2) present proof of residency at certification, as part of a State agency's system to identify participants participating at more than one WIC site; and, (3) to physically present themselves at certification. Each of these provisions includes exceptions in limited circumstances as noted below.

##### 4. Why is This Regulation an Interim Rule?

As noted above, the provisions of Public Law 105-336 took effect October 1, 1998. Many State agencies were already using a variety of measures to ensure integrity in the certification process. For these State agencies, few if any changes in their operating procedures were necessary to implement the new requirements. Although State agencies are already implementing these provisions, it is important to codify these legislative requirements and ensure consistent application. Therefore, making the WIC certification integrity provisions contained in this rulemaking effective before taking public comment is in the public's interest.

For these reasons, the Administrator has determined in accordance with 5 U.S.C. 553(b) that prior notice and comments would be unnecessary, impracticable, and contrary to public interest.

##### 5. What Does This Regulation Require of WIC Agencies and Applicants and Participants?

###### *a. Documentation of Family Income—Section 246.7(d)(2)(v)*

Section 203(a)(3) of Public Law 105-336 added section 17(d)(3)(E) to the Child Nutrition Act (CNA) of 1966 (42 U.S.C. 1786 (d)(3)(E)) to require documentation of adjunct eligibility. This legislative requirement merely

reinforces Section 246.7(d)(2)(vi)(A) of WIC regulations. This section currently requires persons who are adjunctively income eligible to show documentation of eligibility to receive benefits under certain programs when they seek certification or subsequent certification of WIC Program benefits. Adjunctive income eligibility is based on an applicant's or certain family members' current eligibility to receive Food Stamps, Medicaid, or Temporary Assistance for Needy Families (formerly known as Aid to Families With Dependent Children (AFDC)).

Additionally, we have determined that Verification of Certification (VOC) cards presented by instream migrant farmworkers and their family members under 7 CFR 246.7(d)(2)(ix) satisfy the new documentation of income requirement of section 17(d)(3)(D) (42 U.S.C. 1786(d)(3)(D)). This is because VOC cards represent documentary evidence of income eligibility related to the specific individuals seeking program benefits. Additionally, due to the unique economic condition of the instream migrant population, VOC cards (supported by an annual determination of each migrant farmworker family's income as required by 7 CFR 246.7(d)(2)(ix)) are a sufficiently accurate measure of a family's income to assure the program integrity goals of Public Law 105-336.

Section 203(a)(2) of Public Law 105-336 added section 17(d)(3)(D) to the CNA which requires that an individual (except for those deemed adjunctively income eligible) seeking certification for participation in the WIC Program must provide documentation of family income, with limited exceptions for: (1) An individual for whom the necessary documentation is not available; or, (2) an individual, such as a homeless woman or child, for whom the agency determines the requirement would present an unreasonable barrier to participation.

This rule adds a definition of "applicants" in section 246.2 to clearly identify whose documentation of income or residency must be presented and which individuals must be physically present. As defined, "applicants" means pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits under the program, and the breastfed infants of applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are reapplying because their certification period is about to expire. In addition, in Section 246.2, this rule adds a definition of "documentation."

As defined, "documentation" means the presentation of written documents which substantiate statements made by an applicant or participant or a person applying on behalf of an applicant.

(1) Exceptions to the Income Documentation Requirement

As reflected in the legislation, exceptions may be necessary to the requirement for applicants to provide documentation of family income. Therefore, consistent with the law, this rule amends Section 246.7(d)(2)(v)(C) to set forth the legislative exceptions to the income documentation requirement. Such exceptions include individuals for whom: (1) The necessary documentation is unavailable; or, (2) the agency determines the income documentation requirement would present an unreasonable barrier to participation such as in the case of a homeless woman or child. Examples of individuals for whom the necessary documentation is not available include individuals with no income or no proof of income such as an applicant or applicant's parent who is a migrant farmworker or other individual who works for cash. Some applicants may indicate they have no income. In such cases, State and local agencies should discuss in detail with the applicant his/her family size, their living circumstances, and how the individual obtains basic living necessities to establish if, in fact, the individual is truly with minimal or no resources. These are the only exceptions that may be used. When such exceptions are made, the State or local agency must require the applicant to sign a statement specifying why he/she cannot provide documentation of income. This statement is not required when there is no income.

(2) Verification of Income

This rulemaking continues to include a provision, in Section 246.7(d)(2)(v)(D), to afford the State or local agency the authority to verify information it determines necessary to confirm income eligibility for program benefits. Verification is a process whereby the information presented is validated through an external source of information other than the applicant. Verification is encouraged in questionable cases.

*b. Dual Participation Prevention—Proof of Residency Section 246.7(l)(2)*

Section 203(e) of Public Law 105-336 added section 17(f)(23) to the CNA which requires each WIC State agency to implement a system to identify individuals who are participating at

more than one site under the program. Program regulations at Section 246.7(l) already make State agencies responsible for detection and prevention of dual participation.

Currently WIC regulations at Section 246.7(l)(2) require WIC local agencies to check an individual's identity at certification and when issuing food, in a direct distribution or home delivery system, or food instruments in a retail purchase system. However, the regulations give State agencies some flexibility in meeting the requirement to prevent and detect dual participation.

In light of a renewed emphasis on detecting dual participation, as set forth in Public Law 105-336, section 246.7(l)(2) is revised in this interim rule to add the requirement that in addition to checking identity at certification, State and local agencies must require each applicant at certification to present proof of residency.

Proving residency entails establishing the location or address where the applicant routinely lives or spends the night. For an infant or child applicant, documentation of residency must be provided for the person with whom the infant or child resides. In addition, documentation of residency must also be provided by a person who transfers from another area or State and presents a valid Verification of Certification (VOC) card at a new WIC site. Providing a post office box is not sufficient proof of residency. Acceptable forms of proof of residency include current utility bills, rent or mortgage receipts for lodging/housing, or a State/local document that can only be obtained through proof of current State or local residency.

(1) Special Residency Procedures for Indian State Agencies

Section 246.7(c)(1) of the WIC regulations requires all State agencies except Indian State agencies to require applicants to reside within the jurisdiction of the State. Indian/Native American State agencies may establish a requirement for applicants to reside within their area of legal jurisdiction. State agencies also may establish a local service area residency requirement. For WIC purposes, the residency requirement has no durational or formal legal aspect and need not represent a legal residence. Also, length of residency cannot be a prerequisite to receiving WIC benefits.

(2) Exceptions to the Identity and Residency Documentation Requirements

When no proof of residency or identity exists, this rule permits State agencies, in Section 246.7(l)(2), to exempt an applicant from the residency

and/or identity documentation requirements. Applicants who may require an exemption include a victim of theft, loss, or disaster; a homeless individual; or, a migrant farm worker. In such cases, at a minimum, the State or local agency must require the applicant to confirm in writing his/her residency or identity.

*c. Physical Presence at WIC Certification—Section 246.7(p)*

Section 203(a)(1) of Public Law 105–336 added a new section 17(d)(3)(C) to the CNA which requires individuals seeking participation in the WIC Program to be physically present at the initial WIC certification and subsequent recertifications, except in certain limited circumstances. This requirement is reflected in a new paragraph (p) to Section 246.7. In addition, a definition has been added for an “individual with disabilities” in Section 246.2.

This legislative mandate reinforces the Department’s long-standing position that the physical presence of an individual at certification is basic to WIC Program effectiveness. The physical presence requirement not only improves program accountability and integrity, it also facilitates an individual’s access to other needed health and social services. Physical presence is based on public health standards of practice for nutrition and health assessment. That process entails gathering objective and subjective information about the applicant through observation and physical assessment. WIC has many success stories that can be attributed to a policy of physical presence, that is, observing and assessing women and children who have been found by WIC staff to be in need of immediate medical attention. Physical presence of and staff contact with the applicant also enables the health professional to more effectively tailor WIC food packages, given the applicant’s nutritional needs. Requiring physical presence is also beneficial to program clients. It permits the individual to actively participate in nutrition education, including young children, and learn good nutrition and ways to improve their eating habits. In addition, in clinics with other onsite services, the physical presence of WIC applicants can, in many cases, result in the provision of immediate health services such as immunizations or lead screening for children or prenatal care for women.

In establishing a legislative provision to require physical presence, Congress emphasized in the Conference Report accompanying Public Law 105–336 other legislative requirements and

policy which are intended to maximize access to the WIC Program and its benefits. Such provisions include accommodating working parents or caretakers to minimize the time they are absent from the workplace for WIC certification purposes such as providing early morning, evening and/or weekend appointments. In addition, parents or caretakers may designate another responsible person as a proxy to bring an infant or child to a WIC appointment along with the required documentation. The use of such policies and procedures by State and local agencies will minimize the potential for barriers that might be created by the physical presence requirement.

The only exceptions to the physical presence requirement as set forth in the legislation are discussed below. Although an applicant may be exempt from the physical presence requirement, State and local agencies must ensure that all necessary income, identity and other documentation are provided in order to make a WIC eligibility determination in the absence of the applicant. The applicant’s parent, caretaker or proxy can bring in the documents necessary to determine eligibility for WIC.

The length of time an applicant may be exempt from the physical presence requirement is limited to the certification period for which it was provided in the case of short-term situations or conditions. At reapplication, the need for the applicant’s physical presence must be reassessed. In the case of long-term or permanent conditions, an extended exception to the physical presence requirement may be required.

(1) Exceptions for Reasonable Accommodation of Disabilities for Women, Infants or Children

Section 203(a)(1)(C)(i) of Public Law 105–336 exempts from the physical presence requirement WIC applicants protected by the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The Rehabilitation Act has applied to the WIC Program since its enactment in 1973, therefore, State agencies should already be in compliance.

Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in any program or activity that either receives Federal financial assistance (such as the WIC Program) or is conducted by any Executive agency or the United States Postal Service. Section 504 applies to all aspects of the delivery of WIC benefits, not just the physical presence requirement. USDA

regulations implementing Section 504 are found at 7 CFR Part 15b. The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.

Section 15b.3 of the USDA regulations concerning the Rehabilitation Act defines a “handicapped person” as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. Neither the Rehabilitation Act, the ADA, nor the USDA regulations specifically names all of the impairments that are covered. “Major life activities” include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This rule amends section 246.2 to define an “individual with disabilities” to mean a handicapped person as defined by 7 CFR 15b.3.

Under the Rehabilitation Act and USDA’s regulations, WIC agencies may not deny a qualified handicapped person the opportunity to participate in the WIC Program. Therefore, as set forth by this rule in section 246.7(p)(2), if an applicant, or parent or caretaker of an applicant, is a qualified individual with disabilities and is unable to be physically present at the WIC clinic because of their disabilities, the individual may be certified without being physically present. All persons with disabilities are *not* automatically exempt from the physical presence requirement. Only those disabilities that create a current barrier to the physical presence requirement may serve as a basis for an exception from the requirement. In this rulemaking, Section 246.7(p)(2)(i)(A)–(C) specifies that such conditions include: (1) A medical condition that necessitates the use of medical equipment that is not easily transportable; (2) a medical condition that requires confinement to bed rest; or (3) a serious illness that may be exacerbated by coming in to the clinic.

(2) State Agency Option to Exempt Certain Infants or Children

In addition to the legislative exception discussed above, Section 203(a)(1)(ii) of Public Law 105–336 amends section 17(d)(3) of the CNA by providing State agencies the option, if physical presence would present an unreasonable barrier to participation, to exempt certain infants or children from

the physical presence requirement in the following situations:

An infant or child:

- Who was present at his/her initial WIC certification; and
- Has documented ongoing health care from a provider other than the local agency; or

An infant or child:

- Who was present at his/her initial WIC certification; and
- Was present at a WIC certification or recertification determination within the 1-year period ending on the date of the most recent certification or recertification determination; and
- Is under the care of one or more working parents or one or more primary working caretakers whose working status presents a barrier to bringing the infant or child in to the WIC clinic.

*d. Certification Forms Section 246.7(i)*

Finally, this rule requires in Sections 246.7(i)(3)–(i)(5) that the certification form or other form, which may be paper or electronic, reflect the type of document(s) used to determine or confirm income eligibility, residency and identity or include a copy of the document(s) in the file. In those cases where there is no proof of income, the file must include a copy of the written statement by the applicant indicating why he/she cannot provide documentation of income. Further, in applicable cases, the file must specify if the applicant has no income.

This section also requires an indication of whether the applicant is physically present at certification, and if not, the reason why an exception was granted or a copy of a document(s) in the file which explains the reason for the exception. Documentation of physical presence may consist of simply checking off an appropriate annotated box on a form (paper or electronic). These requirements are necessary for program integrity, accountability and audit purposes.

## 6. Procedural Matters

### *Executive Order 12866*

This interim rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

### *Regulatory Flexibility Act*

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, Samuel Chambers, Jr., Administrator, Food and Nutrition Service, has certified that this rule would not have

a significant impact on a substantial number of small entities. This rule would modify WIC certification procedures. Therefore, the effect of these changes would be primarily on State and local WIC agencies, some of which are small entities. However, the impact on small entities is not expected to be significant.

### *Executive Order 12372*

The WIC Program is listed in the Catalog of Federal Domestic Assistance Programs under 10.557. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V, and related Notice (48 FR 29115), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

### *Executive Order 12988*

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This interim rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** section of the preamble of this interim rule. Prior to any judicial challenge to the application of the provisions of the interim rule, all applicable administrative procedures must be exhausted.

### *Public Law 104–4*

Title II of the Unfunded Mandates Reform Act of 1995 ((UMRA) (2 U.S.C. 1531–38)) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service (FNS) generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 204 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This interim rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or

the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### *Paperwork Reduction Act of 1995*

This regulation contains information collection that is subject to review and approval by the Office of Management and Budget. The information collection contained in Section 246.7(i)(3)–(i)(5) of this regulation is approved under OMB No. 0584–0043.

### List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, WIC, Women.

For the reasons set forth in the preamble, 7 CFR part 246 is amended as follows:

## **PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN**

1. The authority citation for part 246 continues to read as follows:

**Authority:** 42 U.S.C. 1786.

2. In § 246.2, add new definitions of *Applicants*, *Documentation*, and *Individual with disabilities* in alphabetical order to read as follows:

### **§ 246.2 Definitions.**

\* \* \* \* \*

*Applicants* means pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits, and the breastfed infants of applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are re-applying because their certification period is about to expire.

\* \* \* \* \*

*Documentation* means the presentation of written documents which substantiate statements made by an applicant or participant or a person applying on behalf of an applicant.

\* \* \* \* \*

*Individual with disabilities* means a handicapped person as defined in 7 CFR 15b.3.

\* \* \* \* \*

3. In § 246.7:
- a. revise paragraph (d)(2)(v);
  - b. revise paragraph (d)(2)(ix)
  - c. redesignate paragraphs (i)(3) through (i)(9) as paragraphs (i)(5) through (i)(11);
  - d. add new paragraphs (i)(3) and (i)(4);

- e. revise newly redesignated paragraph (i)(5);  
f. revise paragraph (l)(2); and  
g. add new paragraph (p).

The additions and revisions read as follows:

**§ 246.7 Certification of participants.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(v) *Are applicants required to document income eligibility?* (A) *Adjunctively/automatically income eligible applicants.* The State or local agency must require applicants determined to be adjunctively or automatically income eligible to document their eligibility for the program that makes them income eligible as set forth in paragraph (d)(2)(vi) of this section.

(B) *Other applicants.* The State or local agency must require all other applicants to provide documentation of family income at certification.

(C) *Exceptions.* The income documentation requirement does not apply to an individual for whom the necessary documentation is not available or an individual such as a homeless woman or child for whom the agency determines the income documentation requirement would present an unreasonable barrier to participation. Examples of individuals for whom the necessary documentation is not available include those with no income or no proof of income (such as an applicant or applicant's parent who is a migrant farmworker or other individual who works for cash). These are the only exceptions that may be used. When using these exceptions, the State or local agency must require the applicant to sign a statement specifying why he/she cannot provide documentation of income. Such a statement is not required when there is no income.

(D) *Verification.* The State or local agency may require verification of information it determines necessary to confirm income eligibility for Program benefits.

\* \* \* \* \*

(ix) *Are instream migrant farmworkers and their family members required to document income eligibility?* Certain instream migrant farmworkers and their family members with expired Verification of Certification cards shall be declared to satisfy the State agency's income standard and income documentation requirements. Such cases include when income of that instream migrant farmworker is determined at least once every 12 months. Such families shall satisfy the

income criteria in any State for any subsequent certification while the migrant is instream during the 12-month period following the determination. The determination can occur either in the migrant's home base area before the migrant has entered the stream for a particular agricultural season, or in an instream area during the agricultural season.

\* \* \* \* \*

(i) \* \* \*

(3) An indication of whether the applicant was physically present at certification and, if not, the reason why an exception was granted or a copy of the document(s) in the file which explains the reason for the exception;

(4) A description of the document(s) used to determine residency and identity or a copy of the document(s) used or the applicant's written statement when no documentation exists;

(5) Information regarding income eligibility for the Program as specified in paragraph (d) of this section as follows:

(i) A description of the document(s) used to determine income eligibility or a copy of the document(s) in the file;

(ii) An indication that no documentation is available and the reason(s) why or a copy of the applicant's written statement explaining such circumstances; or

(iii) An indication that the applicant has no income.

\* \* \* \* \*

(l) \* \* \*

(2) At certification, the State or local agency must require each applicant to present proof of residency (i.e., location or address where the applicant routinely lives or spends the night) and proof of identity. The State or local agency must also check the identity of participants, or in the case of infants or children, the identity of the parent or guardian, or proxies when issuing food or food instruments. The State agency may authorize the certification of applicants when no proof of residency or identity exists (such as when an applicant or an applicant's parent is a victim of theft, loss, or disaster, a homeless individual, or a migrant farmworker). In these cases, the State or local agency must require the applicant to confirm in writing his/her residency or identity.

\* \* \* \* \*

(p) *Are applicants required to be physically present at certification?* (1) *In general.* The State or local agency must require all applicants to be physically present at each WIC certification.

(2) *Exceptions.* (i) *Disabilities.* The State or local agency must grant an

exception to applicants who are qualified individuals with disabilities and are unable to be physically present at the WIC clinic because of their disabilities or applicants whose parents or caretakers are individuals with disabilities that meet this standard. Examples of such situations include:

(A) A medical condition that necessitates the use of medical equipment that is not easily transportable;

(B) A medical condition that requires confinement to bed rest; and

(C) A serious illness that may be exacerbated by coming in to the WIC clinic.

(ii) *Receiving ongoing health care.* The State agency may exempt from the physical presence requirement, if being physically present would pose an unreasonable barrier, an infant or child who was present at his/her initial WIC certification and has documented ongoing health care from a health care provider other than the WIC local agency.

(iii) *Working parents or caretakers.* The State agency may exempt from the physical presence requirement an infant or child who was present at his/her initial WIC certification and was present at a WIC certification or recertification determination within the 1-year period ending on the date of the most recent certification or recertification determination and is under the care of one or more working parents or one or more primary working caretakers whose working status presents a barrier to bringing the infant or child in to the WIC clinic.

Dated: January 13, 2000.

**Samuel Chambers, Jr.,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 00-1489 Filed 1-20-00; 8:45 am]

BILLING CODE 3410-30-U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2000-NM-05-AD; Amendment 39-11519; AD 2000-01-51]

RIN 2120-AA64

**Airworthiness Directives; CL-604 Variant of Bombardier Model Canadair CL-600-2B16 Series Airplanes Modified in Accordance With Supplemental Type Certificate SA8060NM-D, SA8072NM-D, or SA8086NM-D**

**AGENCY:** Federal Aviation Administration, DOT.