USDA

United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive
Alexandria, VA
22302-1500

SEP 18 2009

Subject: WIC Policy Memorandum #2009-3
State Agency Furloughs and Shutdowns

To: Regional Directors
Supplemental Food Programs
All Regions

This policy memorandum provides guidance for WIC State and local agencies in determining income eligibility for State or Federal employees in instances where such employees experience a temporary decrease in earnings due to being furloughed or having their pay deferred because of a State budget impasse or the temporary shutdown of the agency where they are employed, without pay. It also addresses situations in which State or Federal employees have been laid off or whose positions have been eliminated.

1. **How should income eligibility for WIC benefits be determined for persons affected by a State or Federal shutdown?**

   In determining the income eligibility of categorically eligible persons affected by a shutdown, State/local agencies should use the same policies and procedures normally used to assess the income eligibility of a person experiencing a temporary loss of income, such as temporarily laid-off workers.

2. **If persons affected by the State or Federal shutdown are determined to be fully eligible for WIC benefits, are State/local agencies required to certify them for full certification periods?**

   No. WIC regulations (Section 246.7(g)(2)) and FNS Instruction 803-4 (Revision 1) permit the use of shorter certification periods. Given the fact that these shutdowns are usually temporary, State agencies are encouraged to use a shorter certification period, e.g., one month. If the shutdown continues for an extended period of time, State/local agencies can subsequently reassess whether WIC benefits should be provided for a longer period of time.

3. **If furloughed employees are ordered back to work and receive retroactive pay, will such employees and/or their family members who receive WIC benefits be required to return their benefits or pay back the value of the WIC benefits they received?**

   No. The WIC Program has no policy that requires the value of benefits to be paid back in such circumstances.

4. **How should situations be addressed in which employees are still employed, but are working fewer days and receiving less pay as the result of mandatory furloughs, e.g., required to take off 2 days per month w**

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Such situations should be handled just as they would be for any other type change in employment status, i.e., the reduced level of gross income would be documented and measured against the current Income Eligibility Guidelines for the appropriate household size to determine WIC eligibility. As indicated in Question #2 above, the length of the certification period may be adjusted to be consistent with the anticipated period during which the applicant's income will be reduced, and a participant would be reminded to notify the WIC office if his/her household income or family size changes.

5. **If a State or Federal employee is permanently laid off from his/her job, how does this affect WIC eligibility?**

   State or Federal employees who have been laid off should be treated the same way any other unemployed WIC applicant is treated, i.e., by taking into account the income that most accurately reflects the household's current circumstances. Therefore, a final paycheck received during the month in which the WIC application is submitted may need to be annualized so that it does not make the applicant ineligible at the time of application, when his/her income is going to be reduced significantly in a matter of days or weeks.

Further questions or requests for clarification on these issues should be directed to the appropriate FNS Regional Office.

Patricia Davis

for DEBRA R. WHITFORD
Director
Supplemental Food Programs Division