



Reply to
Attn. of: SF-110

JUL 16 1992

Subject: Policy Memorandum 92-10
Bloodwork Protocols

To: Regional Directors
Supplemental Food Programs
All Regions

This is to provide guidance related to the hematological testing requirement for WIC certification. We have also attached a summary of the Occupational Safety and Health Administration's (OSHA) December 6, 1991 final rule on Occupational Exposure to Bloodborne Pathogens, because the provisions of this rule affect WIC clinic operations.

Exceptions to the Hematological Testing Requirement for WIC Certification

There has been a request to clarify what, if any, exceptions exist to the regulatory requirement (246.7(d)(1)) for a hematological test for anemia for WIC certification. The only circumstances which would preclude hematological testing are:

1. If an applicant's religious beliefs won't allow him or her to have blood drawn. A statement of the applicant's refusal to have blood drawn must be included in the individual's certification file; and
2. If an applicant has a medical condition, e.g., hemophilia, fragile bones (osteogenesis imperfecta), or a serious skin disease, in which the procedure (i.e., finger stick or venipuncture) of collecting the blood sample could cause harm to the applicant. Documentation from a physician of the medical condition must be included in the individual's certification file. If the noted condition is considered to be treatable, such as a serious skin disease, a new statement from the physician would be required for each subsequent certification. If the condition is considered "life long", such as hemophilia, a new statement from the physician would not be necessary for a subsequent certification(s).

In the case of one of the above medical conditions which precludes hematological testing, local agencies should make every effort to obtain referral data from the applicant's health care provider. In most cases, a person with a serious medical condition will be receiving regular medical care and referral data should be attainable. If attempts to obtain referral data fail, the local WIC agency may: (1) certify the applicant based on an identified risk criteria other than anemia or (2) refer the participant to a laboratory that has trained personnel to collect blood from such persons. However, in accordance with policy memorandum 92-2, the applicant cannot be required to obtain such data at her own expense.

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In the case where an applicant's religious beliefs preclude having blood drawn, the local agency may certify the applicant based on an identified risk criteria other than anemia.

Another related concern is that of performing hematological tests on persons infected with the human immunodeficiency virus (HIV). According to our Civil Rights Division, the Department of Agriculture has not issued written guidelines on AIDS. However, the Department of Justice (DOJ) taking its lead from the Supreme Court decision in School Board of Nassau County vs. Arline has concluded that AIDS and other contagious diseases are protected disabilities under the terms of Section 504 of the 1973 Rehabilitation Act. Persons with such disabilities must be offered the opportunity to participate in a Federally funded program if he/she is otherwise qualified. Thus, it would be discriminatory to require HIV infected applicants to have their bloodwork for WIC certification done at another location if it is the policy of the WIC clinic to perform the hematocrit/hemoglobin test on site.

In accordance with the guidance provided by the DOJ on this issue, if on a case-by-case basis it is determined that the health and safety of others (WIC clinic personnel) is severely at risk, other means would be justified in providing the service. For example, if the applicant is known to be HIV infected and is hostile and physically abusive the applicant could be referred to another location to have her blood drawn. These situations should be handled on a case-by-case basis with the assistance of the public health office, as recommended by the DOJ guidelines. We would expect that such situations would be extremely rare and that WIC clinics should be prepared to draw blood from all applicants, if that is their normal operating procedure, using their usual health and safety protocols.

The attached summary of OSHA's December 6, 1991 regulation describes the protocols to be implemented to safeguard employees from occupational exposure to bloodborne pathogens. This rule will impact those WIC agencies in which WIC staff perform with hematological testing. The costs associated with complying with this regulation may be charged to WIC administrative expenses. In those settings where WIC is an integrated part of the health department, WIC staff would comply with the protocols the health department has established as a result of this regulation.


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Attachment

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SUMMARY OF OSHA Regulation
Occupational Exposure to Bloodborne Pathogens
29 CFR Part 1910.1030

There are 23 States and 2 territories (see page 64005 for the listing) with their own OSHA-approved occupational safety and health plans. These States and territories must revise their plans to comply with the Federal standard within 6 months after publication of the final standard. States may impose more stringent requirements than those required by the Federal standard. Thus, it is imperative for State WIC agencies (in those States listed on the above referenced page) to contact their State Departments of Labor to ensure they are in compliance with their State standard. The remaining States and territories must adopt the Federal standard, which became effective on March 6, 1992.

The underlying tenet of this regulation is the concept of "universal precautions" which requires that all blood be treated as if known to be infectious for HIV, hepatitis B virus (HBV), and other bloodborne pathogens. In addition, the standard identifies employer responsibilities in ensuring that employees are not exposed to bloodborne pathogens. Please refer to page 64175 of the attached document for the exact language and a complete description of the requirements. A brief description of the regulatory requirements is as follows:

- 1) **Exposure Control Plan.** Each employer shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure. Elements of the plan include requirements related to the method of implementation of the standard, frequency of plan review, accessibility of the plan to the employee, and a list of job classifications with occupational exposure. This plan shall be completed by May 5, 1992.
- 2) **Engineering and Work Practice Controls.** Engineering and work controls shall be used to eliminate or minimize employee exposure. Among other things, this provision requires that employers provide handwashing facilities and identify specific protocols for the use and disposal of contaminated needles and sharps.
- 3) **Personal Protective Equipment.** The employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, gloves, gowns, laboratory coats, masks, eye protection, etc... For the typical WIC clinic in which a finger stick is performed, appropriate protective clothing would include gloves and possibly a laboratory coat. If a laboratory coat is provided, the employer is responsible for laundering personal protective equipment.

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4) **Housekeeping.** Employers shall ensure that the worksite is maintained in a clean and sanitary condition.

5) **Hepatitis B Vaccination and Post Exposure Evaluation and Follow-Up.** The employer shall make available, at no cost to the employee, the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post exposure evaluation and follow-up to all employees who have had an exposure incident.

6) **Information and Training.** Employers shall ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours. Associated with this provision are record keeping requirements.

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