



Reply to
Attn. of: SF-114

AUG 21 1992

Subject: Policy Memorandum 92-¹⁵~~22~~
Questions and Answers on Homeless Participation

To: Regional Program Directors
Supplemental Food Programs
All Regions

Attached for use in conjunction with the Final Rule on Participation of Homeless Persons in WIC, published in the Federal Register on August 5, 1992, is a set of Questions and Answers on this issue. These Q&A's were developed with the assistance of the regional offices as the Interim Homeless Rule was implemented and the Final Rule was being crafted. Although all of the issues raised in the Q&A's are important ones, they represent areas of policy interpretation that were not appropriate for inclusion in the regulation itself.

Should further questions arise as your States begin to implement the Final Homeless Rule, please do not hesitate to call Donna Hines in the Policy Section.

BARBARA HALLMAN
Acting Director
Supplemental Food Programs Division

Attachment

cc: Jan Lilja
Policy Section Staff ✓
PAMB
PPDB

**Questions and Answers to Accompany the
Final Rule -
Participation of Homeless Individuals in WIC**

1. Are Indian State WIC Agencies which claim that they do not have a homeless population required to address/develop procedures for serving this population or for making a public announcement that WIC services are available to homeless persons?

Indian State agencies which have no homeless persons residing within their service delivery areas are not required to submit a State Plan amendment outlining detailed procedures for serving homeless individuals. However, they must submit an amendment indicating that there are no homeless persons in the service area which might be eligible for WIC, but that should the circumstances change, WIC benefits will be made available to otherwise eligible homeless persons.

All State agencies must include organizations serving homeless persons among the entities to which the annual public announcement about the availability of the WIC Program is routinely provided. In areas where there are no homeless persons, the announcement should still be provided to the office most likely to encounter such individuals. We recommend that in the case of Indian State agencies, the announcement be sent to the central office responsible for administration in the tribal organization. If that office is already "in the loop," i.e., routinely receives a copy of the State agency's annual announcement, it is not necessary to issue a separate statement regarding the availability of WIC benefits for otherwise eligible homeless individuals.

2. Should the public announcement be a media announcement (radio, television, and/or newspaper ads), or are letters describing the availability of the WIC Program to facilities serving the homeless adequate?

Please keep in mind that the content of the public announcement long required by WIC regulations does not have to be greatly modified. In fact, there is really no need to modify the announcement itself in any way. This rule, as did the interim rulemaking, merely expands the list of entities which should receive the annual announcement to include organizations primarily concerned with serving homeless persons or families.

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3. **Must the three conditions described in section 246.7(m)(1)(i) be included in the public announcement?**

No. A description of the regulatory conditions may be included in other supplemental information provided to homeless facilities and institutions, as appropriate, by the State or local agencies.

4. **If a State agency elects to serve institutions in addition to homeless facilities, must it be prepared to serve all institutions in the State or does the State have the discretion to select only certain types of institutions and exclude others?**

When the interim rule addressing participation of homeless individuals in WIC was being developed, we believed that service to institutions should be an all-or-nothing process, i.e., that if a State agency elected to serve any institution, it must therefore serve all institutions within the State, regardless of type. However, Public Law 101-147 strengthened considerably the position of WIC-eligible women incarcerated in prisons/correctional facilities, thereby rendering the all-or-nothing concept less feasible. As the development of the final rule has progressed, the Department has come to agree with those State agencies and regional offices who maintain that the State agency should have the flexibility and discretion to decide which types of institutions it wishes to serve. States electing to serve any institutions must indicate clearly in their State Plan amendments which institutions are to be included in this group.

5. **Are State or local agencies required to monitor homeless facilities/institutions to ensure continued compliance with the 3 conditions?**

No. The final rule has been modified to clarify that determination of compliance with these conditions should not represent an additional administrative burden on State and local agencies. The language throughout the rulemaking has been changed to emphasize that compliance should be established "to the extent practicable." There have never been any requirements for State agencies to conduct preliminary or follow-up reviews of homeless facilities/institutions in order to establish their compliance with the regulatory conditions. We expect that most changes in a homeless facility/institution's compliance status will be quickly brought to the attention of the local agencies by the WIC participants residing in these accommodations, since failure to comply with the conditions is likely to create difficulties for the participants.

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Finally, since we are not asking homeless facilities/institutions to alter their meal service procedures drastically, there should not be a great need to monitor compliance too closely.

However, this policy is not intended to prohibit State and local agencies from monitoring compliance with the regulatory conditions should they wish to do so. As with all other Federal regulations, this homeless rule contains minimum provisions. States are free to develop more stringent requirements for their own internal operations as long as participation in the WIC Program is not jeopardized.

6. Should group homes for foster children be considered homeless facilities or institutions?

In some instances, State and local governments have found it necessary to place several foster children into a group setting, rather than into individual homes. In such cases, the group home should be considered a homeless facility, i.e., WIC benefits must be provided to otherwise eligible applicants. As in other homeless facilities, each applicant should be considered a household of one for the purpose of income eligibility.

Orphanages, both privately and publicly operated, are still considered institutions. The rationale behind this distinction is that whereas orphanages may expect to be a child's permanent residence until his/her 18th birthday (even though efforts are made to locate adoptive parents for each child), group foster homes are more temporary in nature. Children placed in the latter setting are more likely to be moved into single-family foster arrangements, because the group homes are not generally set up for long-term care.

7. If a WIC participant becomes incarcerated before her certification period has expired, and the State agency's policy is not to serve residents of institutions at all, should she continue to receive benefits until the end of her certification period?

No. If a State agency has established a clear policy against serving residents of any institution, then the participant's certification must end when she becomes incarcerated. To continue that individual's participation would place an unreasonable administrative burden on the State or local agency, which would then have to establish compliance with the regulatory conditions of section 246.7(m)(1)(i), as well as provide a clarifying amendment to the State Plan. Depending on how much of the participant's certification period had elapsed before her incarceration,

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it is not inconceivable that the certification period itself might expire before the State agency could arrange to continue her participation while she is incarcerated.

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