

March 19, 2003

SUBJECT: WIC Final Policy Memorandum: #2003-3
Family Size and Income Determinations for Military Families

TO: Regional Directors
Supplemental Food Programs
All Regions

Several questions have been raised by WIC State agencies regarding the eligibility determinations for individuals from military families which include military service personnel serving overseas or assigned to a military base and temporarily absent from the home. The questions include issues about: (1) household size and composition, (2) income, (3) documentation of information, including income, (4) rate of income, and (5) income eligibility of children in the temporary care of friends or relatives.

This memorandum addresses these issues by clarifying or establishing policy pertaining to such determinations for these military families. Further, the policies are intended to ensure that potential applicants, whose family members include military service personnel, are not determined ineligible for the WIC Program due solely to the temporary absence of one or more military household members.

Family Size and Income Determinations

For WIC purposes, military personnel serving overseas or assigned to a military base, even though they are not living with their families, should be considered members of the economic unit. The income received by the military individual(s) and all other income received by members of the economic unit should be counted as income to the household. We recognize that State and local agencies may have difficulty determining a military family's gross income due to the pay options available to military personnel serving overseas or assigned to a military base and temporarily absent from the home, as discussed below. However, in accordance with law and regulations, WIC income eligibility determinations must be based on gross income. Therefore, State and local agencies will need to develop flexible procedures to ensure that gross income is computed as best it can be determined, based on available data, for such military families.

In determining income eligibility of any applicant whose family contains one or more military household members, State agencies should be reminded that, as set forth in the regulations, all gross income must be counted **except**: (1) the value of inkind housing and other inkind benefits, and (2) payments or benefits provided under certain Federal programs or acts which are excluded from consideration as income by law. In addition, legislation and WIC regulations provide State agencies the option to exclude basic allowance for housing for military service personnel residing off military installations or in privatized housing, whether off- or on-base. Such housing allowances include Basic Allowance for Housing (BAH) for off-base housing and

privatized housing in the U.S.; Family Separation Housing (FSH) provided to military personnel for overseas housing, but military families may continue to receive BAH in the U.S.; and, Overseas Housing Allowance (OHA), provided to military personnel living overseas. These housing allowances will be reflected as BAH, FSH and OHA on military pay statements. Legislation and WIC regulations also provide State agencies the option to exclude the overseas continental United States (OCONUS) cost-of-living allowance (COLA) provided to active duty uniformed service members in designated overseas high-cost areas including Hawaii, Alaska and Guam. This option affects all WIC State agencies since some members of a military family may remain stateside and apply and/or participate in WIC while a family member on duty overseas receives the OCONUS COLA. This allowance is reflected as OCONUS COLA on military pay statements. WIC State agencies **are not** authorized by law and regulations to choose to exclude the Continental United States (CONUS) COLA in determining income eligibility for the WIC Program. CONUS COLA is provided to military personnel in designated high-cost areas within the continental United States. Therefore, the CONUS COLA must be counted as income in determining WIC eligibility.

Documentation of Information, Including Income

The following guidance is provided for State agencies with regard to documentation of information, including documentation of family income. In addition, guidance is provided for State agencies that have questioned whether they have the authority to require an applicant to document a family member's temporary absence.

We understand that military personnel have two options in terms of their pay checks if they are temporarily absent from their home and sent overseas or elsewhere in the United States. First, military personnel have the option to direct-deposit pay checks in a joint account, accessible to their families. The majority of the servicemen and servicewomen choose this option. In some cases, the pay stub or voucher is sent to the military person and another copy is made available to family members, if they have power of attorney. Second, military personnel have the option to designate a spouse allotment and/or a child allotment, whereby the government sends the family member(s) a check in an amount authorized. The allotment(s) designated for family members may reflect only a portion of the military person's total pay.

Some military families, particularly those that include military service personnel serving overseas, may have difficulty producing a pay stub or other documentation of the gross military income. In some cases, the only documentation that the family member(s) may possess is a bank statement confirming the amount of the deposit. If the family members are sent a spouse and/or child allotment, the applicant may possess no documentation of the family's total gross income. State agencies are encouraged to apply current policies and procedures, in accordance with WIC regulations and Policy Memorandum #99-4, Strengthening Integrity in the WIC Certification Process, with regard to applicants in which military service personnel are temporarily absent from the home and no proof of income exists. As permitted in WIC regulations and the policy memorandum noted above, if the State agency determines that requiring an applicant to provide income documentation would present an unreasonable barrier

to participation, it may allow the applicant to self-declare income, accompanied by the applicant's signature on a statement specifying why he/she cannot provide documentation of income. State agencies have the option to further require an applicant to obtain a written statement from a reliable third party that has knowledge of the applicant's income.

A question has been raised concerning whether State agencies could require applicants to provide documentation of a family member's temporary absence, e.g., deployment overseas. State agencies have the option to require an applicant to document any information needed to determine WIC income eligibility, including whether a military member of the family is temporarily serving overseas or assigned to a military base and not living with the household or economic unit.

Rate of Income

Some military families may begin reporting a higher gross income amount at the time of application or reapplication for WIC benefits than existed prior to a military deployment. If such families include one or more members stationed overseas or away from home and the military has determined that these military service personnel are on hazardous duty or combat duty, such individuals may receive additional military compensation, i.e., hazardous duty or combat pay, family separation allowance, and/or foreign duty pay. This additional income is provided on a temporary basis. Therefore, State agencies may elect to consider the income of such a family during the past 12 months as a more accurate indicator of the family's income status, as opposed to calculating income on a "current" rate basis. The option for State agencies to consider a family's income over the past 12 months versus current income is set forth in Section 246.7(d)(2)(i) of the WIC regulations and in FNS Instruction 803-3, Rev. 1.

In addition, State and local agencies may encounter applicants from families in which one or more family members are military reservists who have been placed on active duty. Some of these families will experience dramatic changes in their income source(s) and total gross income such that they may become income eligible for the WIC Program. Consistent with WIC regulations and policy set forth in FNS Instruction 803-3, Rev. 1, for similar household circumstances, i.e., a family member on strike, State agencies are encouraged to determine such a family's income eligibility determination based on the family's "current" rate of income (while the reservist is on active duty), as opposed to income received over the past 12 months. In these cases, current rate of income may be a more accurate determination of the family's income status.

Children In The Temporary Care of Friends or Relatives

Local agencies may be confronted with dramatic household composition changes for military family members in which military service personnel are deployed overseas or assigned to a military base and temporarily absent from the home. For example, a military family's children may live with their grandparents while the parents are on active duty. Some State agencies have recommended that FNS consider these children as foster children for WIC income eligibility purposes. However, FNS cannot implement such a policy because the designation of

foster child status is a legal designation ordered by the courts. Therefore, in this and similar cases, three options exist in determining family composition and income.

- One option is to count the absent parents and their children as the economic unit as would have been the case prior to the parents' deployment. Use of this option would be dependent on whether the local agency could reasonably determine, based on available data, the total gross income of that economic unit.
- A second option, depending on the circumstances, is to count the children as a separate economic unit. To be considered a separate economic unit, as set forth in FNS Instruction 803-3, Rev. 1, the unit must have its own source of income, e.g., child allotment(s). The local agency must then decide whether the income is adequate to sustain the economic unit. This instruction also indicates that State agencies could establish guidelines to determine "adequacy of income" or delegate this responsibility to their local agencies. Therefore, these guidelines should also be used for these military family members. If the child allotments are not considered adequate, as defined by the State or local agency, to consider the children as a separate economic unit, then procedures set forth in option three below would be used.
- A third option, when option one or two are not applicable, is to consider the children to be part of the economic unit of the person(s) they are residing with; therefore, family composition and income would be determined on this basis.

These same options would apply if the children and one parent temporarily moved in with friends or relatives. State agencies should allow all three options and advise local agency discretion in electing which option to utilize depending on individual family circumstances.

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