

Appendix L
WIC Policy Memorandum #2023-5:
Data Sharing to Improve Outreach and
Streamline Certification in the Special Supplemental Nutrition
Program for
Women, Infants, and Children (WIC) Income Eligibility
Guidelines



Food and
Nutrition
Service

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SUBJECT: WIC Policy Memorandum #2023-5: Data Sharing to Improve Outreach and Streamline Certification in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

TO: Regional Directors
Special Nutrition Programs
WIC State Agency Directors
All State Agencies

Introduction

This policy memorandum provides guidance on data sharing activities that support targeted outreach and streamlined certification processes aimed at increasing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) participation and retention. It expresses the U.S. Department of Agriculture's (USDA) Food and Nutrition Service's (FNS) support of data sharing, provides an overview of data sharing relevant to WIC, summarizes WIC Program guidance on sharing confidential WIC participant data, and lays the groundwork for future guidance and resources to help WIC State agencies expand outreach and streamline the certification process.

In March 2021, the American Rescue Plan Act of 2021 (ARPA, [Pub. L. 117-2](#)) provided the USDA with funds to carry out outreach, innovation, and program modernization efforts to increase participation and redemption of benefits in the WIC Program (for more information, see [WIC and WIC FMNP Informational Memorandum: American Rescue Plan Act of 2021 \(Pub. L. 117-2\), Program Modernization](#) (FNS-GD-2021-0023)). As part of these efforts, which have been informed by input from diverse program stakeholders, the FNS is working to advance data sharing at the State and local agency levels.

FNS supports WIC State and local agency data sharing efforts that aim to increase program enrollment and retention. FNS is committed to developing tools and resources, facilitating information sharing, and providing technical assistance and funding opportunities to assist in establishing, maintaining, and improving data sharing activities. Likewise, FNS encourages WIC State agencies to allocate resources to data sharing efforts that allow WIC-eligible individuals to access Program benefits and services in a straightforward and timely manner.

Data Sharing Overview

Data sharing involves the secure and confidential exchange of pertinent information about an individual between a WIC and non-WIC entity, with the intent of streamlining access to Program benefits by eligible individuals.

WIC State and local agencies may engage in data sharing, with appropriate agreements and consent(s) between various programs and entities, including but not limited to, the Supplemental Nutrition Assistance Program (SNAP), Medicaid, Temporary Assistance for Needy Families (TANF), programs conferring automatic income eligibility, healthcare providers, or healthcare information exchange networks. State SNAP and Medicaid agencies can engage in data-sharing with WIC in accordance with their respective legal authorities, at Section 11(e)(8) of the Food and Nutrition Act and Section 1902(a)(7) of the Social Security Act, with implementing regulations at 42 CFR part 431, subpart F, respectively.

Section 17(f)(22) of the Child Nutrition Act (Pub. L. 89-642) and Sections 1902(a)(11)(C) and 1902(a)(53) of the Social Security Act require the coordination of efforts between WIC State agencies and state Medicaid programs. These requirements are further specified in Medicaid regulations at 42 CFR §431.635 (c). WIC State agencies should continue and/or renew collaboration with their state Medicaid counterparts to ensure services are coordinated.

FNS encourages WIC State and local agencies to consider ways to streamline WIC certification and should explore ways to develop, update, and utilize data sharing agreements, including:

- 1) **Facilitate Targeted Outreach**: Identify and conduct targeted outreach to income-eligible individuals using participation data sourced from adjunctive and/or automatic income eligibility programs. This process is also referred to as data matching or in-reach. For example, with an agreement in place, WIC and SNAP could match data for all children under five actively participating over the previous three months. Once the data has been matched, children who are enrolled on SNAP but not on WIC could be identified for outreach activities by the WIC Program. Data obtained for matching may include, but is not limited to, an individual's name(s), date of birth, phone number(s), address(es), and/or language preference for best results.
 - Programs that confer adjunctive income eligibility include SNAP, Medicaid¹, and TANF.²
 - Programs that confer automatic income eligibility are state-administered programs designated by the WIC State agency that routinely require documentation of income and have income eligibility guidelines at or below the State agency's WIC Program income guidelines.³

¹ See 7 CFR 246.7(d)(2)(vi)(A) stating that Medicaid refers solely to the medical assistance program established under Title XIX of the Social Security Act.

² 7 CFR 246.7(d)(2)(vi)(A)

³ 7 CFR 246.7(d)(2)(vi)(B)

- 2) Leverage Adjunctive and Automatic Eligibility: Use data available from applicable programs to determine adjunctive or automatic eligibility in preparation for or during certification and/or recertification to reduce the burden on applicants and participants to provide this information.
- 3) Simplify Collection of Certification Documentation: Streamline the document collection process for certification, including proof of identity, residency, automatic/adjunct eligibility (see above), income, and/or referral data, from available sources to reduce participant burden.
- 4) Streamline Collection of Nutritional Risk Data: Source additional nutrition risk data, such as anthropometric measurements (height and weight or length) and bloodwork (hematological test for anemia) from external programs or entities (e.g., healthcare providers or information exchanges) to increase the efficiency of the enrollment and nutrition assessment processes and reduce participant burden. In addition to the required data, WIC State agencies may allow external sourcing of other medical data relevant to the nutrition assessment process, such as past or current diagnoses, medication records, or test results.
- 5) Include WIC in Adjunct Program Applications: Develop joint applications for adjunctive programs that include WIC as an option. For instance, if Medicaid, SNAP, and TANF have a joint application, WIC criteria may be added to the application. For such joint applications with Medicaid, there are some restrictions. First, any joint applications must be reviewed and approved by the Secretary of HHS. See 42 CFR 435.907(b)(2). Second, to the extent that such information is not also needed for a Medicaid eligibility determination, such information must be optional and clearly differentiated from Medicaid criteria. See 42 CFR 435.907(e)(1). Data from such applications relevant to WIC can be routed to WIC for completion of certification and enrollment.

This is not an exhaustive list of data sharing or certification streamlining initiatives State agencies may wish to pursue. Local agencies should coordinate with their State agency regarding any planned data sharing initiatives to ensure that all WIC Program requirements are met. WIC State agencies should reach out to their respective FNS Regional Office with any questions or needs for technical assistance.

Medicaid Program Requirements for Data Sharing and Confidentiality

Medicaid state agencies must restrict the use or disclosure of information concerning Medicaid applicants and beneficiaries to purposes directly connected with the administration of the State Plan under section 1902(a)(7) of the Act and implementing regulations at 42 CFR part 431, subpart F. Sharing data with a WIC State or local agency in order to facilitate or modernize coordination efforts required under Sections 1902(a)(11)(C) and 1902(a)(53) of the Social Security Act, is a purpose directly related to the administration of the State Plan.

Any release of information from the State Medicaid agency to the WIC State agency must comply with all Medicaid confidentiality requirements at 42 CFR § 431.306, including but not limited to:

- Access to information concerning applicants or beneficiaries must be restricted to persons or agency representatives who are subject to standards of confidentiality that are comparable to those of the Medicaid agency (42 CFR § 431.306(b)); and
- Permission must be obtained from the Medicaid applicant or beneficiary before the agency releases information to an outside source (42 CFR § 431.306(d)). This consent could be obtained by either agency (e.g., on the Medicaid application, during the WIC interview, or at another time period).

WIC Program Requirements for Data Sharing and Confidentiality

Overview

Per WIC regulations, confidential information refers to any information that individually identifies an applicant or participant and/or family member(s).⁴ While this type of data must be kept confidential, it may be shared in some circumstances, including to assist with certifying or recertifying people in the Program. This section summarizes relevant key requirements in WIC regulations and guidance pertaining to the use and disclosure of confidential WIC applicant and participant information so far as they relate to data sharing, including those requirements in WIC regulations at [246.26\(d\)](#), [246.26\(h\)](#), and [246.26\(i\)](#); [FNS Instruction 800-1](#); and the requirements from [Policy Memorandum #2002-2](#) summarized below:

Notably, the Health Insurance Portability and Accountability Act of 1996 (HIPAA; Pub. L. 104-191) does not apply to WIC. WIC State agencies are not authorized to use WIC funds to pay any costs to make a data system HIPAA compliant. However, if a WIC State agency is seeking data from a program that must comply with HIPAA, then WIC State agencies are authorized to use WIC funds to develop a crosswalk or interface to access/read such HIPAA-compliant data (for more information, see Policy Memorandum #2002-2). FNS supports State agencies in developing such crosswalks or interfaces and encourages State agencies to consult with their Regional Office on opportunities and allowable uses of federal funds prior to beginning projects.

The WIC Program requirements do not apply when WIC agencies only receive data from other programs or entities and no data originating from the WIC Program are being shared. Likewise, this section does not cover rules governing data sharing for other programs or entities. WIC State agencies must identify and uphold the requirements for using confidential information

⁴ 7 CFR 246.26(d)(1)(i)

from a source external to WIC. Requirements may vary by jurisdiction, and FNS encourages WIC State agencies to work with their appropriate legal counsel to ensure all requirements are met.

The following are the different requirements for sharing data for WIC and non-WIC purposes.

Sharing Data for WIC Purposes⁵

FNS does not require confidentiality agreements or participant release forms when data sharing is for WIC purposes. WIC staff may disclose confidential information to people directly connected with the administration or enforcement of the WIC Program whom the State agency determine have a need to know the information for WIC Program purposes, including but not limited to:

- Personnel from the WIC State and local agencies and other State or local agencies (note: such personnel must have *ongoing* involvement in the operation or management of the WIC Program);
- Persons under contract with the State agency to perform research regarding WIC; and
- Persons investigating or prosecuting WIC Program violations under Federal, State, or local law.

Examples of data sharing for WIC purposes include sharing participant data to provide a Verification of Certification and monitoring dual participation.

Sharing Data for Non-WIC Purposes⁶

WIC State or local agencies may also use or share confidential applicant and participant information for use in the administration of programs that serve persons eligible for WIC, including other programs administered by the health department and by public organizations. For instance, in addition to the adjunctive and automatic eligibility programs previously described programs such as Head Start and Early Head Start, Immunizations, and the Child and Adult Care Food Program (CACFP) are often administered by the state health department or other public organization and may be considered for such data sharing initiatives. This is considered data sharing for non-WIC purposes. The following requirements apply to sharing WIC applicant and participant data for non-WIC purposes:

The recipient organization may only use such data for the following purposes:⁷

1. Determine the eligibility of WIC applicants and participants for programs administered by such organizations;
2. Conduct outreach for such programs;

⁵ 7 CFR 246.26(d)(1)

⁶ 7 CFR 246.26(d)(2)

⁷ 7 CFR 246.7(i)(11)

3. Enhance the health, education, or well-being of WIC applicants and participants currently enrolled in those programs;
4. Streamline administrative procedures to minimize burdens on participants and staff; and,
5. Assess and evaluate a State's health system in terms of responsiveness to participants' health care needs and health care outcomes.

The WIC State or local agency must take the following steps before using or disclosing confidential applicant or participant information for non-WIC purposes:⁸

1. The state's chief health officer (or, in the case of an Indian Tribal Organization (ITO), the governing authority) must designate in writing the permitted non-WIC use of the information, and the names of the organizations to which such information may be disclosed.
2. The applicant or participant must be notified either at the time of application or through a subsequent notice that the State agency may disclose information about their participation in the WIC Program for non-WIC purposes.
3. The State or local agency disclosing the information must enter into a written agreement with the other organization or, in the case of a non-WIC use by a State or local WIC agency, the unit of the State or local agency that will be using the information.
 - a. Written agreements must (i) specify that the use or disclosure of WIC participant and applicant information will be limited to the five purposes allowed by WIC regulations (see above) and (ii) contain the receiving organization's assurance that it will not use the information for any other purpose or disclose the information to a third party.
 - b. WIC State and local agencies may disclose confidential information to individuals or entities when there is not a written agreement in place *if* the affected applicant or participant signs a release form authorizing the disclosure and specifying the parties to which the information may be disclosed.
 - i. Applicants and participants must be allowed to refuse to sign the release form and must be made aware that signing the form is not a condition of eligibility, nor will refusing to sign the form affect their participation in WIC.
 - ii. Release forms authorizing disclosure to private physicians or other health care providers may be included as part of the WIC application or certification process. All other requests for applicants or participants to sign voluntary release forms must occur after completing the application and certification process.
4. The State agency must include in its State Plan a list of all organizations with which the State agency or its local agencies has executed, or intends to execute, a written agreement.

⁸ 7 CFR 246.26(h)(2)

Forthcoming Resources

FNS recognizes WIC State and local agencies may face barriers in initiating and maintaining data sharing efforts and seeks to further understand and help agencies overcome these challenges. We further recognize WIC agencies have varying types and degrees of data sharing activities underway and therefore have diverse needs for support.

FNS is committed to sharing information and resources, facilitating State and local agency sharing of best practices and lessons learned from existing data sharing initiatives, and offering funding opportunities to help WIC agencies start or expand efforts in this area. FNS is also collaborating with federal partners to promote and support data sharing across programs.

FNS encourages WIC State agencies to regularly communicate with their respective Regional Office regarding question, including to share any needs, and/or updates related to data sharing activities. We look forward to working together to advance data sharing toward better reaching and serving more WIC-eligible families.

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