



May 24, 2023

Submitted electronically via regulations.gov

Patricia Bailey
Chief, WIC Vendor and Technology Branch, Policy Division
Food and Nutrition Service
1320 Braddock Place
Alexandria, Virginia, 22314

Re: WIC Online Ordering and Transactions and Food Delivery Revisions to Meet the Needs of a Modern, Data-Driven Program; Docket Number: FNS-2022-0015

Dear Ms. Bailey:

Thank you for the opportunity to comment on the U.S. Department of Agriculture (USDA) Food and Nutrition Service proposed rule, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Online Ordering and Transactions and Food Delivery Revisions to Meet the Needs of a Modern, Data-Driven Program." As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain — from retailers that sell to consumers, to producers that supply food and other products, as well as the wide variety of companies providing critical services — to amplify the collective work of the industry. More information about our organization is available at www.FMI.org.

As the food industry association, FMI represents product manufacturers and wholesalers who make and supply WIC food items and retailers who serve as the benefits point of redemption for families that rely on the WIC program. FMI members represent many of the WIC-authorized vendors nationwide that serve as access points for participants to shop for foods with WIC benefits and many of our members also participate in the Supplemental Nutrition Assistance Program's (SNAP) online purchasing pilot. We are pleased to share our unique perspective and insights into WIC and how the proposed changes can help bring broad access to online food shopping for WIC participants.

FMI supports the expansion of online shopping and delivery of WIC-eligible foods so WIC participants can use their WIC benefits online the same as consumers that use online SNAP benefits or another method of online payment. Integrating online ordering and delivery into the





WIC program will ensure greater access to food and facilitate increased food security. FMI supports USDA FNS's goal to modernize the WIC program using technology to streamline WIC food delivery, improve the shopping experience by removing barriers to online ordering and internet-based transactions, and remove barriers to allow for WIC participants to take advantage of additional ways to shop offered in the commercial space. These proposed changes also will modernize the WIC program to make it easier for participants and vendors to participate, building on ongoing efforts to expand WIC participation and access.

FMI participated as a retailer representative member of the WIC Task Force on Supplemental Foods Delivery (the "Task Force"), which was established by USDA to study online ordering, purchasing, and delivery of WIC foods. The proposed rule highlights that the Task Force's report submitted to USDA, with results and recommendations for consideration, is key information used in the development of the proposed rule. We are pleased to see how USDA has utilized the Task Force's report and taken those recommendations into account to reflect the overall goals to increase access to food and support the modernization of the WIC program. We would like to emphasize the need for WIC stakeholder input throughout the development and implementation of online ordering for the WIC program, especially from authorized WIC vendors, to reduce burdens on WIC vendors being able to participate in the program in an online environment.

As noted in the proposed rule, learnings from the SNAP online purchasing pilot were also considered in the development of this proposal. FMI supports the incorporation of consistency with the SNAP online program into the development of the WIC online ordering program. Learning from the SNAP online pilot experiences will allow the two programs to move forward consistently where possible, ensuring program integrity efforts continue and make the shopping experience familiar to WIC participants who may already shop online with SNAP benefits.

Vendor Considerations for Removing Barriers to Online Ordering and Internet-Based Transactions in WIC

We are pleased USDA is revisiting WIC's vendor regulations to support a more modern shopping experience for WIC participants, and we urge USDA to ensure WIC is prepared to engage and grow with an evolving commercial retail marketplace. FMI is supportive of USDA creating new types of WIC-authorized vendors in the program to allow for companies to be authorized vendors under the definitions for brick-and-mortar vendor, internet vendor, and mobile vendor. We understand USDA does not have the authority to authorize vendors in the





WIC program, however, we encourage USDA to offer guidance to WIC state agencies to help streamline authorization where possible.

Additionally, FMI is concerned about USDA's proposal to remove the requirement to use a PIN in the authentication process and allow state agencies to choose their own transaction authentication policies. We are concerned that the proposed new provision would lead to fraud in the program, competing transaction standards across different state agencies, and lead to technology system challenges for multistate retailers participating in the program. We also feel the removal of a PIN number will be confusing for consumers, especially given that SNAP purchases also require the use of PINs during the authentication process. We ask USDA to reevaluate this provision and encourage consistent program payment authentication through use of a PIN when using an EBT card online and in stores across programs.

Vendor Considerations to Streamline and Modernize WIC Food Delivery

FMI supports USDA's goal to streamline and modernize WIC food delivery through supporting current technology and expand opportunities for the retail grocery industry to innovate in ways that benefit WIC participants to allow for access to different ways to shop. For example, the proposed change to permit remote benefit issuance for electronic benefits would help streamline and modernize delivery of WIC benefits to the WIC participant. For vendors, the proposed considerations to streamline and modernize vendor participation in the program would help reduce the administrative burden on retailers (especially for retailers operating in multiple states) and encourage more vendors to participate in the program.

For example, FMI supports USDA's proposal to allow WIC agencies to recognize that EBT data is a sufficient replacement for shelf price collection and if finalized, USDA should strongly encourage agencies to utilize it. This would reduce the administrative burden of having to routinely collect shelf prices from vendors, as state agencies already receive EBT data on pricing. FMI also supports USDA encouraging state agencies to recognize that EBT data is a sufficient replacement for vendors' declaration of their least expensive brand (LEB) in certain categories. To provide additional resources for participants, USDA should encourage agencies to offer education to participants on recognizing and purchasing LEB items.

FMI is also supportive of the proposal to extend vendor agreement periods from three to five years. This would reduce the administrative burden on state agencies and vendors and help streamline the authorization process for vendors. All these efforts will make it easier for vendors to apply and participate in the program.





Minimum Stocking Requirements

In response to the USDA's request for public comment on exceptions to minimum stocking requirements, FMI recommends USDA review stocking standards and when penalties for violations are appropriate to ensure greater access to food and improved nutrition security. We would encourage state agencies to review requirements as well with the goal of consistency and flexibility. There are a variety of reasons an authorized retailer may not meet WIC minimum stocking requirements of certain items both on a short-term and long-term basis. First, on a short-term basis, a product recall may impact both availability of the recalled product and replacement products; similarly – weather events or supply chain disruptions frequently impacts availability of products. Other reasons for short term disruptions include organized retail crime or widespread civil protests. Flexibility or a waiver to prevent penalties in these situations would seem appropriate. In addition, there are reasons that stocking requirements may not be met in certain communities on a long-term basis. Those may include limitations on refrigeration or storage capacity in communities with limited access to WIC-authorized stores and foods. In these communities, it may be necessary for USDA to consider authorizing vendors that sell a significant subset of the supplemental foods but may not meet the minimum variety or quantity requirements. Allowing additional flexibility in stocking requirements could help products reach WIC participants through a delivery model regardless of where they live in a state. This could also make available culturally diverse foods that may not be offered at a local authorized store but could be accessible online.

This proposed rule seeks to reduce the gaps in access for WIC participants and USDA is supporting that goal through the authorization of additional types of vendor and transactions. To fully incorporate these modifications into the program, FMI encourages USDA to explore flexibilities that may be needed on a short-term or long-term basis to ensure that WIC participants have access to the foods prescribed for them even in communities with limited availability to a WIC-authorized retailer.

The WIC program plays a crucial role in public health and nutrition security. Improving the availability and accessibility to food is a critical component to achieving nutrition security and a stronger WIC program. FMI appreciates that USDA FNS is moving forward with a proposed rule and the opportunity to provide comments on these important developments. Please do not hesitate to contact us if we can provide further information.





Sincerely,

A handwritten signature in black ink that reads "Madalyn Farrar". The signature is fluid and cursive, with the first name being more prominent.

Madalyn Farrar
Manager, Government Relations
FMI- The Food Industry Association

