

CR 94-67

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to prohibited vendor practices under the Supplemental Food Program for Women, Infants and Children (WIC) were duly approved and adopted by this Department on October 12, 1994.

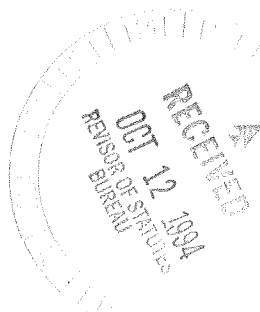
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 12th day of October, 1994.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services



12-1-94

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING AND CREATING RULES



To amend HSS 149.04(3)(b) and (c) and 149.06(1)(a) 10 and 11, and to create HSS 149.04(3) (d) and 149.06(1)(a)12, relating to prohibited vendor practices under the Supplemental Food Program for Women, Infants and Children (WIC).

Analysis Prepared by the Department of Health and Social Services

The Supplemental Food Program for Women, Infants and Children (WIC) under s. 253.06, Stats., as renumbered by 1993 Wisconsin Act 27, and ch. HSS 149 provides infant formula and other foods to low-income Wisconsin residents who are at proven nutritional risk. The program provides vouchers, called drafts, to participants for free food specifically suited to the needs of participants. Participants redeem the vouchers, that is, exchange the drafts for food at authorized grocery stores and pharmacies. Lately some participating vendors have been offering free alcohol and tobacco products, cash and other items to WIC recipients in order to encourage them to use WIC drafts in their stores. It is reasonable to assume WIC prices are inflated in order to cover the costs of providing the alcoholic beverages and tobacco products. Given that there are known detrimental effects of alcohol and tobacco use on the health of pregnant women and their unborn children and nursing mothers and their children, and that the WIC program is intended to ensure that children are healthier, the Department finds that an emergency exists that affects the health, welfare and safety of Wisconsin residents. On March 10, 1994, the Department published emergency rules that prohibit vendors from providing alcoholic beverages or tobacco products as an inducement for participants to use a WIC draft in a vendor's establishment or in return for a WIC draft. These are permanent rules to replace the emergency rules. The permanent rules extend the prohibition against offering inducements to include also cash, any other product that is not a WIC-approved food item and any coupon or certificate redeemable for cash or an alcoholic beverage or tobacco product or any other prohibited item.

The Department's authority to amend and create these rules is found in s. 253.06, Stats., as renumbered by 1993 Wisconsin Act 27, and s. 227.11(2)(a), Stats. The rules interpret s. 253.06, Stats., as renumbered by 1993 Wisconsin Act 27.

SECTION 1. HSS 149.04(3)(b) and (c) are amended to read:

HSS 149.04(3)(b) Accept drafts only for foods included in the contract;
and

(c) Comply with draft processing and redemption procedures described in the vendor guidebook and periodic newsletters and other formal instructions issued by the state WIC office to vendors; and

SECTION 2. HSS 149.04(3)(d) is created to read:

HSS 149.04(3)(d) Provide no cash, alcoholic beverage or tobacco product or any other product that is not a WIC-approved food item, or any coupon or certificate redeemable for cash, an alcoholic beverage or tobacco product or any other product that is not a WIC-approved food item when the provision of the cash, alcoholic beverage or tobacco product or other product that is not a WIC-approved food item, or any coupon or certificate redeemable for cash, an alcoholic beverage or tobacco product or any other product that is not a WIC-approved food item is contingent upon the redemption of a WIC draft or provided to a participant for a purchase made with a WIC draft or in addition to a purchase made with a WIC draft.

SECTION 3. HSS 149.06(1)(a) 10 and 11 are amended to read:

HSS 149.06(1)(a) 10 Accepted drafts prior to receiving authorization from the state WIC office; ~~or~~

11. Substituted or allowed the purchase of non-food items or alcoholic beverages; or


SECTION 4. HSS 149.06(1)(a) 12 is created to read:

HSS 149.06(1)(a) 12. Provided cash, an alcoholic beverage or tobacco product or any other product that is not a WIC-approved food item, or any coupon or certificate redeemable for cash, an alcoholic beverage or tobacco product or any other product that is not a WIC-approved food item when the provision of the cash, alcoholic beverage or tobacco product or other product that is not a WIC-approved food item, or any coupon or certificate redeemable for cash, an alcoholic beverage or tobacco product or any other product that is not a WIC-approved food item is contingent upon the redemption of a WIC draft or provided to a participant for a purchase made with a WIC draft or in addition to a purchase made with a WIC draft.

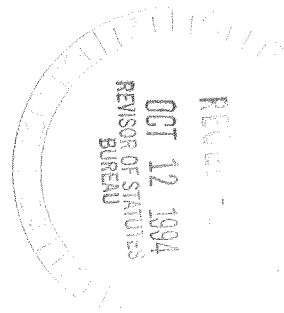
The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and
Social Services

Dated: October 12, 1994

By: 
Gerald Whitburn
Secretary

SEAL:



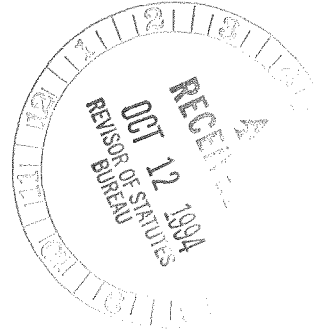
Tommy G. Thompson
Governor
Gerald Whitburn
Secretary



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State of Wisconsin Department of Health and Social Services

October 12, 1994



Mr. Bruce E. Munson
Revisor of Statutes
131 W. Wilson St., Suite 800
Madison, WI 53703

Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of ss. HSS 149.04 and 149.06, administrative rules relating to prohibited vendor practices under the Supplemental Food Program for Women, Infants and Children (WIC).

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Whitburn".

Gerald Whitburn
Secretary

Enclosure