

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 9/4/2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 149	
4. Subject Special Supplemental Nutrition Program for Women, Infants and Children (WIC)	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule	

The existing federal regulation, Title 7 CFR Part 246, was amended on July 13, 2016, to include electronic benefit transfer (EBT) language, additional requirements, and accepted practices that are not currently provided in ch. DHS 149. The department proposes to update ch. DHS 149 to achieve consistency with Title 7 CFR Part 246, remove obsolete requirements, and to improve prevention and detection of fraud, waste, and abuse. Specifically this includes adding references to the U.S. department of agriculture (USDA), food and nutrition service (FNS) electronic benefit transfer (EBT) operating rules, removing outdated provisions, and clarifying responsibilities to improve program integrity for authorized retail grocery stores, convenience stores and pharmacies, also known as vendors.

2019 Act 9 amended s.253.06 to align with Title 7 CFR Part 246.

The current rule addresses benefit redemption practices using vendor stamps, paper checks, drafts or vouchers that are no longer in use in Wisconsin. The program changes for EBT, implemented statewide in 2015, include technology requirements to ensure WIC participants receive the correct food benefits, retail point of sale system requirements to ensure the vendors are reimbursed for providing the foods, and improved data mining capability from the electronic transaction.

The WIC state agency is required to publish a list of infant formula suppliers authorized to provide infant formula to vendors annually. Currently the only requirement is a license with the state. In order to protect Wisconsin infants the proposed rule adds standards of operation and minimum requirements for infant formula suppliers in addition to a license. The existing rule has not been substantially updated since 2008 and is not consistent with the federal rule. The updated rule will provide consistency for regulatory enforcement of program requirements and provide improved tools to prevent and detect fraud, waste, and abuse.

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12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

The WIC state agency identified representatives of authorized independent WIC vendors, corporate vendor contacts, small business representatives and the Wisconsin Grocers' Association to participate on the DHS 149 Advisory Committee. The statement of scope and proposed administrative rule changes were presented during the March 25, 2019 meeting. The meeting was also posted and open to the general public. There were no concerns raised during that meeting or at any time following the meeting.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

N/A

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14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There are no implementation or fiscal impacts on specific businesses, business sectors, public utility rate payers, local governmental units and the state's economy as a whole. There are no implementation or compliance costs expected to be incurred from this rule change.

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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Updating DHS 149 will bring it into alignment with Title 7 CFR 246 and s. 253.06 Wis. Stats. to include language of the new EBT technology and remove obsolete terminology. The added standards for infant formula suppliers will provide the WIC state agency the tools to verify the source of infant formula sold at authorized WIC vendor locations and reduce fraud, waste and abuse. There is no alternative to implementing the rule which would allow the regulatory requirements to be consistent from Title 7 CFR 246 to s. 253.06 Wis. Stats. and DHS 149.

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16. Long Range Implications of Implementing the Rule

EBT technology reflected in the proposed rule changes how vendors complete transactions and how they are reimbursed. The data available from the EBT transactions allows the WIC state agency and WIC local agencies to analyze participant and vendor activities for education purposes and to reduce fraud, waste, and abuse. The new requirements for infant formula suppliers provides validation the infant formula is coming from legitimate sources before being sold to WIC authorized vendors. This will improve program integrity.

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17. Compare With Approaches Being Used by Federal Government

Proposed change would align with existing federal requirements, as shown above.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

The state of Illinois administrative rule was last updated in 2006 and is comparable to the current Wisconsin rule. Illinois has not implemented WIC EBT as of April 10, 2019; therefore, it is still current. Illinois Administrative Code, Title 77: Public Health, Ch. X: Department of Human Services, Subchapter i: Maternal and Child Health, Part 672 WIC Vendor Management Code

Iowa:

Iowa Administrative Code, 641: Public Health, Ch. 73: The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) adopts by reference federal regulations in Title 7 CFR Part 246, WIC EBT Operating Rules, WIC EBT Technical Implementation Guide, FNS Handbook 901, and FNS Instructions including any additional amendments, last updated 1/1/2017. Iowa implemented WIC EBT in 2016 and has adopted by reference the federal requirements that Wisconsin is proposing to update.

Michigan:

Michigan Public Health Code : Act 368 of 1978, ch. 333, sec. 2221 provides authority which is referenced in the Michigan WIC Vendor Contract and Certification. The vendor agrees to comply with federal and state statutes, rules, regulations, policies and procedures, including USDA regulations at 7 CFR 246.1 et. seq. similar to Wisconsin.

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Michigan does not have administrative rules that specifically mention the federal requirements, as amended. Michigan fully implemented WIC EBT in 2010 and has been applying the federal language Wisconsin is proposing to add since 2016.

Minnesota:

Minnesota Administrative Rules, chapter 4617, WIC Program was published Oct 2007. Minnesota is currently implementing WIC EBT but has not updated the administrative rule as of April 10, 2019.

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19. Contact Name

Carrie Coenen

20. Contact Phone Number

(608) 267-9744

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The intent of the administrative rule change is that all WIC authorized vendors and infant formula suppliers would be subject to the same standards, including small businesses.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

N/A

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements

Other, describe:

Small business allowances, that do not affect program integrity, are already included in the current rule and were not changed in this revision.

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

Minimum stock requirements and cost containment reimbursement levels are assigned by vendor peer groups which compare businesses with similar characteristics.

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5. Describe the Rule's Enforcement Provisions

Enforcement provisions are detailed in ss. DHS 149.10 - 149.17 and appeal rights are provided.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes    No

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