

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 199****[0720-AA75]****TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Special Supplemental Food Program for Women, Infants, and Children Overseas****AGENCY:** Office of the Secretary, Department of Defense.**ACTION:** Interim final Rule.

SUMMARY: This interim final rule implements section 674 of the National Defense Authorization Act for Fiscal Year 2000. Section 674 directed the Department of Defense to establish a program to provide supplemental food and nutrition education services to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces to these locations. Congress directed that the Department implement the special supplemental nutrition program for Women, Infants, and Children (WIC) in a manner that provides a benefit that is "similar" to the benefit provided to participants in the Special Supplemental Nutrition Program for Women, Infants and Children administered by the U.S. Department of Agriculture (USDA). Receipt of benefits under both the domestic WIC and the DoD programs is conditioned on applicants meeting specified eligibility criteria, *i.e.*, categorical (pregnant, postpartum, breastfeeding women, infants or children up to age 5), residency, income and nutritional risk. The Department was directed to use the USDA eligibility criteria to the extent practicable. This interim final rule specifies eligibility requirements, describes the benefits available under the program, and provides administrative guidance on program operation. The Department is publishing this rule as an interim final rule in order to meet the statutory directive that the Secretary of Defense prescribe regulations to administer the program. Public comments, however, are invited and will be considered when the rule is published as a final rule.

DATES: This interim final rule is effective the first day of the month after 60 days from publication of the interim final rule. Written comments will be accepted until September 22, 2003.

ADDRESSES: Forward comments to Operations Directorate, TRICARE

Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**A. Introduction**

In the National Defense Authorization Act for Fiscal Year 2000, Congress mandated that the Department establish and fund a program to provide a special supplemental food and nutrition education program to eligible low-income families overseas whose members have been determined to be at nutritional risk. This program is known as the Women, Infants, and Children Overseas (WIC Overseas) program. This interim final rule implements section 674 of this Act.

B. Eligibility

To be eligible for the DoD special supplemental food program, a person must be a member of the armed forces on duty at stations outside the U.S. (and its territories and possessions) or an eligible civilian serving with, employed by, or accompanying the armed forces outside the U.S. (and its territories and possessions). Additionally, the person must be found to be at nutritional risk. Specifically, to be certified as eligible to receive benefits under the program, a person must:

- Meet specified program income guidelines published by the Secretary of Health and Human Services, and
- Meet one of the criteria listed in this regulation as indicative of nutritional risk. Determinations of income eligibility and nutritional risk will be made to the extent practicable using applicable standards used by the USDA in determining eligibility for the domestic Women, Infants, and Children (WIC) program. In determining income eligibility, the Department will use the Department of Health and Human Services income poverty table for the state of Alaska.

C. Scope of Benefit

The purpose of the program is to provide supplemental foods and nutrition education to serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other substance abuse, and to improve the health status of program participants. The benefit is similar to the benefit provided under the domestic WIC program.

Under the program, eligible participants are provided with drafts

(paper food instruments, similar to vouchers) that may be redeemed at specified intervals for food packages. Participants access the food benefit by redeeming drafts at designated commissaries and NEXMARTS overseas. Food packages are prescribed by program staff who choose from a range of available food packages to tailor the benefit to the needs of program participants.

The program also provides nutrition education and counseling services to all participants at specified intervals. Nutrition education sessions are designed to stress the relationship between proper nutrition and good health with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants, and children less than 5 years of age and to achieve a positive change in food habits, resulting in improved nutrition status and the prevention of nutrition-related health problems. Nutrition education promotes breastfeeding as the optimal method of infant nutrition. Nutritional education includes educating women participating in the program about the harmful effects of substance abuse. Nutrition education is an integral element of the WIC Overseas program; however, a participant may not be denied supplemental food benefits for failure to attend or participate in nutrition education activities. Nutrition education sessions are conducted in the context of the ethnic, cultural, and geographical preferences of participants.

D. Financial and Administrative Requirements

The Secretary of Defense will establish a system for verifying appropriate use of the WIC Overseas Program funds. This will include procedures to verify that draft redemption complies with applicable date-to-use, dollar amount, and other relevant criteria.

To leverage available funding to make the WIC Overseas program available to the maximum number of participants, the Secretary of Defense may enter into agreement up to three years in length to procure a particular brand of a food item to provide to Program participants. The agreement would specify the procurement of the competitively selected brand exclusive of other brands of the same or similar food. Competitive selection of the contract brand would conform to competitive contracting procedures specified in title 10, chapter 137, U.S. Code. The agreement would provide for the manufacturer of the contract brand to rebate to the Secretary an amount that is an agreed ratio of the