



# **Regulatory Alert 2018-01**

## **Stakeholder Consultation**

### **February 22, 2018**

# Webinar Tools

- \*6 mutes and unmutes your phones



- Raise your hand during the feedback periods to ask questions/provide input



- Access to a PDF of this [webinar slideshow](https://www.cdph.ca.gov/Programs/CFH/DWIC/SN/Pages/LawsandRegulations.aspx):  
<https://www.cdph.ca.gov/Programs/CFH/DWIC/SN/Pages/LawsandRegulations.aspx>

# Agenda

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1. Background of Regulatory Process
2. Webinar Purpose
3. Timeline
4. WIC Electronic Benefit Transfer (EBT) Background and Authorized Product List (APL) Concepts
5. Review Regulatory Alert and Receive Stakeholder Feedback
6. Important Reminders



# Regulatory Process Background

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- September 29, 2012:  
Assembly Bill 2322 signed into law  
adding section 123322 to the  
California Health and Safety Code
- Legislation enabled WIC to adopt  
specified department requirements  
into State WIC Bulletin Regulation  
(W.B.R.) through an expedited  
regulatory process

# Timeline

- Regulatory Alert  
Released: 02/02/2018
- Stakeholder Webinar:  
2/22/2018
- Comment Period: 02/03–3/7/2018
  - Send comments to:  
[WICRegulations@cdph.ca.gov](mailto:WICRegulations@cdph.ca.gov)
- Final action posted on WIC website
  - no later than 120 days from the end of  
the comment period, which is  
7/5/2018



# Feedback

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- Please raise your hand
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# WIC EBT and this Webinar

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- What we will discuss:
  - WIC EBT background information and APL concepts
  - How WIC EBT affects the WIC Authorized Food List
- For WIC EBT questions not related to this webinar, you may e-mail them to [WICEBT@cdph.ca.gov](mailto:WICEBT@cdph.ca.gov)


# WIC EBT Background

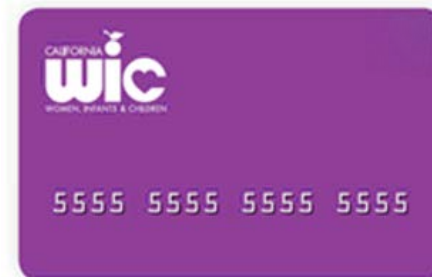
- EBT stands for Electronic Benefit Transfer
- Healthy, Hunger-Free Kids Act of 2010 requires all WIC state agencies to implement EBT for WIC by October 1, 2020 (2 U.S.C. § 1786(h)(12))
- WIC participants will shop with an EBT card instead of paper food instruments



INDIVIDUAL NO.	PARTICIPANT / PARENT / GUARDIAN	FIRST DAY TO USE	LAST DAY TO USE	SERIAL NO.
172117916PP	PATTY PARTICIPANT	JULY 28 13	AUG 27 13	442497651

 WOMEN, INFANTS & CHILDREN	FOOD ITEM NUMBER: 6011 Pay to the order of: WIC Authorized Vendor	700-442497651 90-1342 1211
What to buy: USE JULY 5, 2011 WAFL SHOPPING GUIDE 1 (GALLON) MILK, LOWER FAT 1 (16 OZ) WHOLE GRAINS 36 OZ BREAKFAST CEREAL		EXACT PURCHASE PRICE MUST NOT EXCEED MAXIMUM ALLOWABLE DEPARTMENT REIMBURSEMENT RATE FOOD ITEM NUMBER 6011
VOID		NON-NEGOTIABLE
State of California WIC Program VOID IF NOT DEPOSITED WITHIN 45 DAYS OF "FIRST DAY TO USE." NOT VALID IF ALTERED.		AUTHORIZED SIGNATURE (SIGN AT PURCHASE)





# Authorized Product List (APL)

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- APL stands for Authorized Product List
- APL is a data file containing all UPCs and PLUs for all foods authorized by a state WIC program
- Each state WIC Program using a WIC EBT food instrument system has its own unique APL
- WIC EBT cards and the APL interact at the point of sale to know which UPCs and PLUs are WIC authorized for a participant

# The APL and CDPH/WIC

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- CDPH/WIC has no APL at this time
- CDPH/WIC currently maintains the Food List Database, which includes non-exclusive lists of UPCs for vendor and participant convenience
- With WIC EBT, Food List Database will be discontinued and only items in the APL can be bought with WIC benefits

# WIC Authorized Food List (WAFL) and the APL

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- WAFL is the regulatory list of authorized foods
- Currently, some CDPH Food Categories in the WAFL allow “Any Brand Foods” that meet authorization requirements
- Since WIC EBT will require all products to be in the APL, we need to modify current Any Brand policy to include that Any Brand products meeting requirements must also be in the APL

# Feedback



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# Regulatory Alert 2018-01

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- Pursuant to Health and Safety Code section 123322 and in accordance with the federal requirements governing the WIC Program, Regulatory Alert 2018-01 proposes to:
  - Amend the California WIC Authorized Food List W.B.R. section 82000, and
  - Add new W.B.R section 82025
- These changes are to prepare for the statewide conversion from paper food instruments to EBT card food instruments

# W.B.R. Section 82000

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- CDPH/WIC is proposing to amend 82000, expanding upon and re-designating existing definitions, while adding definitions related to EBT implementation
- We are proposing to add the following new definitions:
  - Any Brand Foods
  - Authorized Product List
  - Brand
  - Brand Specific Foods
  - California Department of Public Health Food Category
  - California Department of Public Health Food Subcategory
  - Price Look-Up Codes

# W.B.R. Section 82000 continued

- Proposed changes are as follows:
  - Adding a definition for “Any Brand Foods,” which will be defined for two different situations:
    - For paper food instrument systems, Any Brand Foods are foods that meet the qualifying authorization criteria, and
    - For EBT food instrument systems, Any Brand Foods are foods that both meet the qualifying authorization criteria and that are also in the APL
  - Adding a definition for APL, which will be an electronic file of all Universal Product Codes (UPCs) and Price Look-Up codes (PLUs) for foods authorized by the Department

# W.B.R. Section 82000 continued

- Adding a definition for “Brand,” which will be the company name under which a food product is advertised as being marketed or sold
- Adding a definition for “Brand Specific Foods,” which will be defined to apply to two different situations:
  - For paper food instrument systems, Brand Specific Foods are foods that:
    1. Are identified by Brand or by Brand and product name, and
    2. Meet additional criteria for the Food Category or Subcategory
  - For EBT food instrument systems, Brand Specific Foods are foods that:
    1. Are identified by Brand or by Brand and product name,
    2. Meet additional criteria for the Food Category or Subcategory, and
    3. Are in the APL



# W.B.R. Section 82000 continued

- Adding a definition for “California Department of Public Health Food Category,” which will be CDPH/WIC’s classification of foods by type as listed in the headings of W.B.R. sections 82050-83000
  - Examples are Milk, Cheese, Eggs, etc.
  - May be Any Brand or Brand Specific
- Adding a definition for “California Department of Public Health Food Subcategory,” which will be CDPH/WIC’s classification of foods within a CDPH Food Category in which multiple subtypes of foods are authorized
  - Example: Brown Rice is Subcategory of Whole Grains Category
  - Each CDPH Food Subcategory has its own authorization criteria
  - May be Any Brand or Brand Specific

# W.B.R. Section 82000 continued

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- Separating and re-designating the existing definition for “Department”
- Separating and re-designating the existing definition for “Non-material Changes”
- Adding a definition for “Price Look-Up Codes” (PLUs), which will be standard codes published by the International Federation of Produce Standards for produce

# W.B.R. Section 82000 continued

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- Separating and re-designating the existing definition for “WIC Authorized Food List” and amending it to specify that under an EBT food instrument system, authorized foods must be in the APL
- Separating and re-designating the existing definition for “WIC Authorized Food List Shopping Guide”
- Separating and re-designating the existing definition for “WIC Program”

# Feedback



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# W.B.R. Section 82025

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- With Regulatory Alert 2018-01, CDPH/WIC is proposing to add section 82025 to the W.B.R. This proposed section includes procedures for how to submit foods for APL inclusion
- Under an EBT food instrument system, both Brand Specific and Any Brand Foods must be in the APL
- Any Brand Foods may be submitted at any time

# W.B.R. Section 82025 continued

- Brand Specific Foods will be added to APL only when W.B.R. is amended, with the following exceptions:
  - New UPCs for currently authorized Brand Specific Foods may be submitted for inclusion in the APL at any time. This includes new UPCs that result from Non-material Changes to a product or a manufacturer's introduction of new sizes that fall into authorized size range
  - When an authorized brand introduces a new product that meets regulatory requirements in a Food Category authorized by Brand name only, it may be submitted for inclusion in the APL at any time

# W.B.R. Sections 82025 continued

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- Data elements required for APL Submissions:
  - Electronic image of product packaging that includes front label, back label, nutrition facts panel, ingredient listing, and UPC
  - Submitting Company Name
  - Submitting Company Contact Information
  - UPC
  - Brand Name
  - Product Name
  - Product Size
  - Applicable product characteristics, e.g.; container type, noting the presence of sweeteners, fat-level, pasteurization-status, etc.

# W.B.R. Sections 82025 continued

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- If the submitter is a food manufacturer employee or agent, the manufacturer is responsible for notifying CDPH/WIC of all changes for all of their products in the APL
- For products that may be submitted at anytime, CDPH/WIC will add a submitted product that meets both federal and state food authorization criteria to the APL within 30 business days of the written approval
- CDPH/WIC may remove products from the APL at any time, if the product no longer meets federal and or state authorization requirements or if it is discontinued
- CDPH/WIC will automatically include IFPS PLUs for authorized fruits and vegetables in the APL. Stakeholders may ask CDPH/WIC to include additional PLUs if there is a need



# Feedback



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# Important Reminders

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- Public comment period for Regulatory Alert 2018-01 ends on **March 7, 2018**
- Comments must be submitted via e-mail to:  
[WICRegulations@cdph.ca.gov](mailto:WICRegulations@cdph.ca.gov)
- Regulatory Alert 2018-01 may be accessed on the Laws and Regulations page of California WIC's public website: [www.wicworks.ca.gov](http://www.wicworks.ca.gov)
- Public posting of the final action on WIC website (no later than 120 days from the end of the comment period): No later than July 5, 2018

# Thank You!

