

## Is WIC Income Eligibility Accurately Verified?

### 1. Summary

Women, Infants and Children (WIC) is a federally mandated and funded program. WIC provides supplemental nutrition, education, and breastfeeding support that helps pregnant women, mothers and young children eat nutritiously and stay healthy.

WIC services are provided in all 58 California counties through 82 public and non-profit agencies. Locally, the program is managed by the Orange County Health Care Agency (HCA) which serves about 44,400 Orange County participants and operates 15 WIC clinics in eight cities.

Orange County WIC clients receive coupons from California with an estimated annual value of \$29 million.

A WIC applicant must meet four eligibility criteria. The 2005-2006 Orange County Grand Jury focused only on the “income” criteria and the following was found:

**1.1** Income eligibility requirements for WIC could not adequately be verified:

- Only 73 of 154 requested records were received
- Review of the 73 records found duplicate records, omitted income information, inappropriate codes, and other errors

**1.2** The HCA did not properly maintain some WIC participant records for the required three years

### 2. Introduction and Purpose of the Study

The purpose of this study was to determine if participants in WIC are adequately screened for income criteria during certification/recertification to ensure that WIC coupons are provided only to eligible families.

### 3. Method of Study

To determine if participants in WIC are adequately screened for income eligibility, the Grand Jury:

- Interviewed employees from the HCA Nutrition Services/WIC Program

#### Acronyms in this Report

<b>HCA</b>	Health Care Agency
<b>WIC</b>	Women, Infants and Children program

- Reviewed the biannual California Program Evaluation of HCA's WIC program for April 27-30, 2004
- Reviewed results of WIC eligibility counselor chart reviews by HCA supervisors
- Reviewed a selected sample of 34 redacted records obtained from HCA's busiest WIC clinic for the last business week of September 2005
- Reviewed the results of an external review of WIC participant records by Macias Gini and Company (Macias)
- Reviewed participant records used in the Macias study
- Reviewed 29 records verified by the HCA supervisors during a biannual internal audit of WIC eligibility criteria

## **4. Background**

### **4.1 Federal Regulations**

Title 7, Code of Federal Regulations (CFR), Part 246, defines the overall regulations for WIC. The regulation states the purpose of WIC is to provide supplemental foods and nutrition education at no cost to "...infants, children, and pregnant, postpartum, and breast-feeding women..." through payment of cash grants to state agencies which administer WIC through local agencies. To be certified as eligible for WIC, these additional criteria must be met:

- Residence
- Income
- Nutritional risk

#### **4.1.1 Definition of Local Agency**

Title 7, CFR, Section 246.2 defines local agency as a public or private, nonprofit health or human service agency which provides health services, either directly or through contract.

#### **4.1.2 Record Retention and Access**

Title 7, CFR, Section 246.25(a) states "Each State and local agency shall maintain full and complete records concerning Program operations." Sections 246.25(a)(1) and (2) state in part, "... records shall include, but not be limited to, information pertaining to financial operations, ..., certification, ... . All records shall be retained for a minimum of three years following the date of submission of the final expenditure report for the period to which the report pertains." Also, Title 7, CFR, Part 3016, section 3016.42(b)(1) states "... except as otherwise provided, records must be retained for three years from the starting date specified in ... this section." Section 3016.42(e)(2) states that "... rights of access in this section must not be

limited to the required retention period but shall last as long as the records are retained.”

**4.1.3 Income Eligibility Guidelines**

Title 7, CFR, Section 246.7(d) states “The State agency shall establish and provide local agencies with income guidelines, definitions, and procedures to be used in determining an applicant’s income eligibility for the Program. ... The State agency shall ensure that local agencies determine income through the use of a clear and simple application form provided by or approved by the State agency.”

**4.2 State Implementation**

According to the HCA, Orange County WIC clients receive coupons from California with an estimated annual value of \$29 million. The information on a coupon is established by federal regulations and includes:

- Supplemental foods authorized
- First and last dates coupon may be used
- A “must not exceed” value
- Purchase price space
- Redemption period
- Coupon serial number
- Participant signature space

**4.2.1 Overall Eligibility Criteria**

According to the California WIC training manual, dated May 2002, an applicant for WIC is eligible when the following criteria are met:

Criteria	Description
Category	<ul style="list-style-type: none"> <li>• Pregnant women</li> <li>• Breastfeeding and non-breastfeeding (up to six months after birth) women</li> <li>• Infant or child between 1 and 5 years old</li> </ul>
Residence	<ul style="list-style-type: none"> <li>• Live in area served by WIC agency</li> </ul>
Income	<ul style="list-style-type: none"> <li>• Have a total gross income for the family equal to or less than 185% of the federal poverty level, or</li> <li>• Receive/be on: Food Stamps, Temporary Assistance for Needy Families (TANF), Medi-Cal, or the Food Distribution Program on Indian Reservations (FDPIR)</li> </ul>
Nutritional Need	<ul style="list-style-type: none"> <li>• Have at least one indicator of nutritional need (a health problem or habit that puts the applicant’s health at risk).</li> </ul>

Income is the only criteria that the Grand Jury is considering in this study.

**4.2.2 Income Eligibility Criteria**

Based on the Department of Health Services “California WIC Training Manual” for certification and recertification, an applicant must be “adjunctively eligible” or the family unit’s gross income must be equal to or less than 185 percent of the federal poverty level.

The manual states:

“Adjunctively eligible means the applicant is:

- Certified as fully eligible to receive food stamps
- Certified as fully eligible or presumptively eligible for temporary assistance for needy families (TANF)
- Certified as fully eligible or presumptively eligible for Medi-Cal
- A member of a family in which any eligible participant is certified as fully eligible to receive assistance under TANF
- A member of a family in which any pregnant woman or infant is certified as fully eligible to receive Medi-Cal, or
- A participant in the Food Distribution Program on Indian Reservations (FDPIR)

“Many applicants will be adjunctively eligible.”

Only when an applicant is not adjunctively eligible, must the applicant’s income be determined.

Based on the manual, income sources include:

“Monetary compensation for services (wages, salaries, unemployment compensation and fees); net income from farm and non farm self employment; social security benefits; dividends or interest on savings bonds; income from estates, trusts, or rental income; public assistance or welfare payments; government civilian employee, military retirement, pensions, or veteran’s payments; private pensions or annuities; alimony or child support payments; regular contributions from persons not living in the household; net royalties; student financial assistance ...; cash awards ...; cash income ...; and, lump sum payments intended for income ....”

The following table gives the federal income criteria levels, based on family size.

<b>GROSS INCOME</b>				
<b>SOURCE: 185% Federal Poverty Level</b>				
<b>(Effective May 1, 2005 to June 30, 2006)</b>				
# in Family Unit *	Annual	Monthly	Weekly	Hourly
1	\$17,705	\$1,476	\$341	\$8.52
2	\$23,736	\$1,978	\$457	\$11.42
3	\$29,767	\$2,481	\$573	\$14.32
4	\$35,798	\$2,984	\$689	\$17.22

GROSS INCOME (continued)				
SOURCE: 185% Federal Poverty Level (Effective May 1, 2005 to June 30, 2006)				
5	\$41,829	\$3,486	\$805	\$20.11
6	\$47,860	\$3,989	\$921	\$23.01
7	\$53,891	\$4,491	\$1,037	\$25.91
8	\$59,922	\$4,994	\$1,153	\$28.81
8+	\$6,031 per added family member	\$503 per added family member	\$116 per added family member	\$2.90 per added family member

\* If pregnant, add one to the number of people in the family.

According to the training manual:

“An applicant has a maximum of 30 days to show proof of income. If an applicant does NOT have proof of income s/he may self-declare her/his family size and income for a maximum of 30 days ... Persons to whom proof of income presents an unreasonable barrier to participation may self-declare for more than the 30 days. These include:

- migrant farm workers,
- homeless persons,
- pregnant teens,
- victims of a disaster, and
- people who work for cash.”

To ensure that WIC program dollars are provided only to eligible families, the California WIC Program Integrity Unit was created. The unit “Investigates all allegations of fraud/abuse by WIC participants, WIC local agency employees, WIC grocers, and State WIC staff.”

If the determination is made that improper activities have occurred, this unit can seek restitution for any WIC benefits or monies received; impose a punishment that may result in disqualification from WIC; make referrals to other public programs for investigations and/or possible criminal prosecution; and, pursue disciplinary action and/or termination from state employment.

#### 4.3 Orange County’s WIC Internal Control Procedures

The Grand Jury requested the internal control procedures used to ensure that program fraud, as it relates to income eligibility, does not take place during the WIC participant certification/recertification process.

HCA stated that all local WIC programs are required to comply with the State WIC Program policies and procedures related to eligibility determination, and all local eligibility staff are required to be State trained and State certified. Implementation of the State eligibility guidelines and criteria is monitored by a program of regular audits to ensure that fraud

by applicants or staff is avoided. In addition, they stated that WIC supervisors audit their respective staff twice annually to verify that proof of income was provided at the certification visit. Also, they stated that in order to provide external review, the County Auditor-Controller contracts with the firm Macias Gini & Co. to perform the County's annual Single Audit of federal funds. According to HCA, the Annual Single Audit regularly includes a review of the WIC program. They further stated that an additional external review is performed by the State WIC Branch Program Evaluation Unit every two years to check program compliance with federal mandates, including income eligibility. According to HCA, all these reviews have not identified any fraud over the last several years.

## **5. Observations and Discussion**

The following sections show the results of WIC reviews conducted by various organizations and, where applicable, comparison of these results with the Grand Jury survey results.

### **5.1 State Program Evaluation**

On November 7, 2005, the HCA provided the Grand Jury with the results of the biannual Program Evaluation for the WIC Supplemental Nutrition Branch, conducted on April 27-30, 2004.

The overall review included nutrition services, breastfeeding services, customer services and civil rights, staff training and support, health linkages, participant certification, program administration and the farmer's market nutrition program.

The Program Evaluation concluded that the HCA WIC staff provides competent, caring and prompt services to its participants. The Program Evaluation also indicated areas specifically reviewed for participant certification, which includes income eligibility, met standards.

### **5.2 HCA Supervisor's Internal Employee Performance Review**

According to the HCA, audits are held annually by several entities within the WIC program to ensure compliance. As part of HCA's quality improvement monitoring plan, supervisors audit their respective staffs regularly to verify that proof of income was provided at the certification visit. This is accomplished by the supervisors completing a Chart Audit Checklist (audit tool) for the participant files reviewed. HCA stated that the 18 Chart Audit Checklists for Fiscal Year 2004-2005 have "not identified any fraud."

For income determination or documentation questions, the Grand Jury inquired why 17 out of 18 charts had been annotated as either "no" or "not applicable" for participant categories of pregnant, breastfeeding, and non-breastfeeding.

HCA replied that the WIC supervisor's reviewed the audit tool and Integrated Statewide Information System (ISIS) records for each record in question. They further stated that in two instances, income documentation was not available at the time of enrollment or recertification. In each case the staff correctly answered "no" to the income question and placed a "hold" in ISIS to stop future issuance of vouchers pending income verification within 30 days. In addition, they stated that subsequent ISIS records showed that the necessary documentation was provided within the 30 day timeframe.

In addition, they identified that their review of the audit tool and supporting ISIS records revealed that the audit tool contained 4 errors where the reviewing supervisor answered 'no' instead of 'yes' to the income questions. The records in ISIS verified that appropriate documentation was provided and therefore a 'yes' response should have been documented on the audit tool showing that the client was income eligible.

The Grand Jury concluded that because the audit tool contained errors, HCA could not ensure that employees were effectively screening participants for income eligibility.

### **5.3 External Audit Performed by Macias**

The Grand Jury requested that the HCA provide the 40 charts that the external audit company of Macias reviewed during its FY 2003-2004 audit which concluded "no exceptions were found" of the review of the WIC participant's records.

In response, HCA provided a copy of the Macias Single Audit Reports, for the year ended June 30, 2004, for Orange County. The report, which included WIC, stated "We noted no matters involving the internal controls over compliance and its operation that we consider to be material weaknesses." The Grand Jury again requested the same 40 charts that Macias used to make its conclusion in respect to income eligibility only.

The HCA responded that the Grand Jury needed to obtain a court order for disclosure of the information being requested so that privacy provisions are not violated. The Grand Jury subsequently requested redacted copies of the charts to ensure confidentiality. The HCA provided only 10 of the 40 requested records. They stated that the remaining 30 records are no longer active in Orange County and the Grand Jury would have to request the records from the California, Health and Human Services Agency, Department of Health Services, Program Integrity Unit.

The Grand Jury formally requested the 30 records from the Program Integrity Unit and was subsequently informed that before the records could be produced, the Program Integrity Unit wanted to be reimbursed for the cost of extracting and compiling the data. Although, California Penal Code Section 921 states that the Grand Jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county, records requested from the State Program Integrity Unit are not included. Therefore, it was determined by the Grand Jury that they would not reimburse the Program Integrity Unit for the costs of producing the records since the cost was determined to be excessive.

The review of the 10 records provided for income eligibility determined that four applicants were adjunctively eligible (verification of applicant's income was not required) and six applicants supplied pay stubs to verify their income.

The Grand Jury concluded that income eligibility was properly documented.

#### **5.4 Internal Audit of WIC Eligibility Criteria**

The HCA informed the Grand Jury that within the WIC program, supervisors audit their respective staff twice annually to verify that proof of income was provided at the certification visit.

The following presents a chronological history of the Grand Jury efforts to obtain the records the WIC supervisors used to conduct their most current review.

- November 7, 2005: Copies requested.
- December 19, 2005: The HCA responded that only two of the 80 records included "N" notations, indicating missing income eligibility documentation. They further stated if the Grand Jury wanted to review the 80 records, we would have to obtain a court order to ensure that confidentiality information is not violated.
- January 12, 2006: After consulting with County Counsel, the Grand Jury respectfully requested redacted copies of the 80 records.
- January 19, 2006: The Grand Jury requested redacted copies of the 80 records from the state WIC Branch.
- January 25, 2006: The HCA requested additional time to process the collection of the documents. The HCA stated it could provide a list of records, not locally accessible, to facilitate a direct request by the Grand Jury to the state WIC Branch.
- February 9, 2006: HCA provided the Grand Jury with 29 of the 80 records requested. The remaining 51 records would have to be requested from the state WIC Branch because they were no longer "active" in Orange County.
- February 10, 2006: The state WIC Branch notified the Grand Jury that in order for them to process our request for the records, they required a payment for extracting and processing the data. Although, California Penal Code Section 921 states that the Grand Jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county, records requested from the State Program Integrity Unit are not included. Therefore, it was determined by the Grand Jury that they would not reimburse the Program Integrity Unit for the costs of producing the records since the cost was determined to be excessive.

Of the 29 records, the Grand Jury determined that: 1) nine records were adjunctively eligible (verification of applicant's income was not required); 2) one chart was noted as



having no income documentation available and it was to be obtained within 30 days; 3) 14 records showed that the applicant's income was verified with pay stubs; 4) one chart was annotated with "other", which is defined as no income documentation in the Comments field; 5) one chart was documented as the applicant's income was in cash payments; 6) two records were annotated with a code that is not defined as an income documentation code; and, 7) one chart showed the applicant's income was supported by an unemployment benefits card or letter. Also, the review noted that record number 26 is a duplicate of record number 25.

The Grand Jury concluded that three of the 28 unduplicated records had inadequate income eligibility documentation.

### **5.5 Judgmental Sample Review**

In addition to the above records, the Grand Jury reviewed a judgmental sample of current WIC participant records to determine if adequate income documentation was provided at the time of certification or recertification. [Note: a judgmental sample is one that is not statistically valid and cannot be used for projection.] A consensus was reached with HCA that the sample selected was going to be based on the following criteria:

- The last full business week for September 2005, for the largest WIC clinic in Orange County
- The category of breastfeeding, non-breastfeeding and post partum applicants who came in that week for certification or recertification

A determination was made that if the sample size was too small, the Grand Jury would have gone to another clinic to select additional applicants; however, the sample had a total of 34 applicants. The Grand Jury determined this was an adequate sample size to review for a one week period for one clinic.

Of the 34 records, the Grand Jury determined that: 1) 11 records showed the applicant was eligible (verification of applicant's income was not required); 2) two records showed the income documentation code as "N" which means that income documentation was unavailable at the time of certification or recertification and had to be obtained within 30 days; 3) 15 records showed the applicant's income was verified with pay stubs; 4) three records had "O" identified as the code which is defined as no income documentation in the Comments field; 5) two records had "C" listed as the income code which means that the applicant's income was in cash payments; and, 6) one record (sample number 25) had the income documentation code missing from the chart.

When the HCA was asked to provide the missing income documentation for sample number 25, they subsequently provided a "screen print" of the applicant's WIC information which stated that based on income guidelines for their particular family size, the applicant would be over the income threshold. The screen print showed that the

applicant's certification start date was September 30, 2005 and certification end date was March 2, 2006.

The Grand Jury concluded that three of the 34 records had inadequate income eligibility documentation. As a result of the Grand Jury review, the HCA placed two of the three participants "on hold" and removed the third from WIC participation.

## **5.6 HCA Maintenance of WIC Participant Records**

The following presents a chronological history of the Grand Jury efforts to obtain the HCA policy for paper record retention.

- November 7, 2005: The Grand Jury verbally requested the HCA policy used for retention of paper records maintained in WIC participant files.
- December 19, 2005: The HCA replied that the "...retention schedule is for WIC Supplemental Food Program records to be kept for 3 years, in accordance with the WIC Program Manual and Code of Federal Regulations, Title 7 [sic], Part 246. These documents include distribution logs, referrals, terminations, and voucher logs." Within the same letter, the HCA stated that the Grand Jury would have to obtain a court order for disclosure of those records and that most of the client records requested are no longer accessible to the county at the local program level because the records were closed and no longer active. They further stated that the Grand Jury would have to contact the state WIC program for those records.
- January 12, 2006: The Grand Jury asked HCA if they have some sort of Memorandum of Understanding or other document that exempts the HCA from recordkeeping requirements for maintaining and accessing WIC records for at least three years as required in the federal regulations. If they had such a documented exemption, the Grand Jury requested a copy.
- January 25, 2006: The HCA stated they do not have a MOU or other document exempting the agency from maintaining and accessing WIC records for the required three years.

## **6. Findings**

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2005-2006 Orange County Grand Jury has arrived at the following findings:

- 6.1 Income eligibility discrepancies:** Income eligibility requirements for Women, Infants and Children Program (WIC) could not adequately be verified, i.e., only 73 of 154 requested records were received and the review of the 73 records found duplicate records, omitted income documentation, inappropriate codes, and other errors.

- 6.2** *Improper maintenance of WIC participant records:* The Health Care Agency (HCA) did not provide the Grand Jury with all the participant records requested and is not exempt from the federal recordkeeping requirement that records be maintained for a minimum of three years.

**Responses to Findings 6.1 through 6.2 are requested from the Health Care Agency.**

## 7. Recommendations

In accordance with California Penal Code §933 and §933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2005-2006 Orange County Grand Jury makes the following recommendations:

- 7.1** *Ensure adequate verification of income criteria for WIC participants:* HCA should adequately verify and document WIC participant records for income criteria. (See Finding 6.1 above)
- 7.2** *Adhering to federal recordkeeping requirements:* HCA should follow federal guidelines regarding WIC participant recordkeeping requirements. (See Finding 6.2 above)

**Responses to Recommendations 7.1 through 7.2 are requested from the Health Care Agency.**

## 8. Bibliography

1. HCA WIC Program Internal Control policies and procedures
2. Title 7, Code of Federal Regulations, USDA-Food and Nutrition Service, 2005
3. "California WIC Training Manual", State of California, May, 2002
4. Results of Program Evaluation Conducted April 27-30, 2004, State of California, Department of Health Services
5. Results of HCA'S Supervisors Internal Review of WIC Quality Improvement Monitoring Plan, Chart Audit Checklist, FY 2004-2005
6. "County of Orange, California Single Audit Reports for the Year Ended June 30, 2004", Macias Gini and Company LLP, December 6, 2004
7. Participant records used in internal audits of WIC income eligibility documentation
8. Participant records for judgmental sample review of 34 redacted records