

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Final Rule

LSA Document #10-731(F)

DIGEST

Adds 410 IAC 3.6-1-4.3 to add a new definition. Amends 410 IAC 3.6-3-7 concerning preauthorization visits. Amends 410 IAC 3.6-3-8 concerning minimum stock. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

410 IAC 3.6-1-4.3; 410 IAC 3.6-3-7; 410 IAC 3.6-3-8

SECTION 1. 410 IAC 3.6-1-4.3 IS ADDED TO READ AS FOLLOWS:

410 IAC 3.6-1-4.3 "Contract brand infant baby food" defined

Authority: IC 16-19-3-5; IC 16-35-1.5-6

Affected: IC 16-35-1.5

Sec. 4.3. "Contract brand infant baby food" means all infant baby food produced by the manufacturer awarded the infant baby food cost containment contract. The infant baby food will include four (4) ounce glass jars of fruit or vegetables. The four (4) ounce jars include single ingredient or combination or combination of single ingredients excluding mixtures with cereal, desserts, dinners, or food combinations (for example, meat and vegetables, rice, pasta, yogurt, or noodles), organic, added sugar, starch, salt, or DHA. The infant baby food also includes two and five-tenths (2.5) ounce glass jars, meat only, may include broth or gravy. The two and five-tenths (2.5) ounce exclude mixtures with cereal, organic, meat sticks, added sugar, salt, or DHA. (Indiana State Department of Health; 410 IAC 3.6-1-4.3)

SECTION 2. 410 IAC 3.6-3-7 IS AMENDED TO READ AS FOLLOWS:

410 IAC 3.6-3-7 Preauthorization visit

Authority: IC 16-19-3-5; IC 16-35-1.5-6

Affected: IC 16-19-3-5

Sec. 7. (a) If the store's application for authorization meets all criteria in section 4 of this rule, ~~the local agency a~~ **representative of the WIC program** shall conduct a preauthorization visit of the store to determine compliance with the following:

- (1) All WIC food prices are marked on or near the foods.
- (2) WIC food prices submitted on the application match the store's shelf prices.
- (3) Minimum stocking requirements of section 8 of this rule are met.
- (4) WIC foods on the shelves available for sale are within their fresh date.
- (5) WIC foods are stored and refrigerated in compliance with 410 IAC 7-24.

(b) The local agency shall do the following:

- ~~(1) Conduct the preauthorization visit.~~
- ~~(2) Forward the results to the department to do the following:~~
 - ~~(A) (1) Complete the review.~~
 - ~~(B) (2) Render a decision on the store's application.~~

(Indiana State Department of Health; 410 IAC 3.6-3-7; filed Apr 24, 2006, 3:00 p.m.: 29 IR 2991)

SECTION 3. 410 IAC 3.6-3-8 IS AMENDED TO READ AS FOLLOWS:

410 IAC 3.6-3-8 Minimum stock

Authority: IC 16-19-3-5; IC 16-35-1.5-6

Affected: IC 16-19-3-5

Sec. 8. (a) In order to ensure adequate participant access to supplemental foods, the following minimum stock shall be available on the shelf or in stock:

(1) Contract brand infant formula as follows:

- (A) ~~Sixteen (16)~~ **Twelve (12)** cans of milk based with iron concentrate.
- (B) ~~Twenty (20)~~ **Five (5)** cans of milk based with iron powder.
- (C) ~~Ten (10)~~ **Five (5)** cans of soy based iron fortified powder.
- (D) ~~Ten (10)~~ **Twenty (20)** cans of milk based powder with reduced lactose, partially broken down protein, and DHA/ARA.

(2) One hundred percent (100%) dairy milk, twelve (12) gallons total of:

- (A) whole;
- (B) low fat; and
- (C) skim;

milk in gallons.

(3) Cheese:

- (A) two (2) kinds; and
- (B) three (3) pounds;

of domestic prepackaged blocks or sliced cheese.

(4) Eggs: three (3) dozen ~~large or medium~~ **any size white or brown** eggs in one (1) dozen containers.

(5) One hundred percent (100%) juice:

- (A) fifteen (15) sixty-four (64) ounce containers, at least three (3) kinds; and
- (B) five (5) cans of eleven and five-tenths (11.5) or twelve (12) ounce frozen juice or shelf stable concentrate, or both, at least two (2) kinds.

(6) Cereal:

- (A) six (6) kinds of dry; and
- (B) one (1) kind of cooked;

cereal, for a total of twenty (20) boxes. Vendor must also stock at least one (1) whole grain cereal.

(7) Peanut butter: five (5) eighteen (18) ounce jars.

(8) Dried beans, peas, and lentils: two (2) kinds for a total of three (3) pounds in one (1) pound bags or one hundred twenty-eight (128) ounces of canned beans. The canned beans include only ~~navy, kidney, garbanzo, or black, fat free~~ **refried, garbanzo (chick peas), great northern, kidney (may have small amount of sugar), or navy.**

(9) Contract brand infant cereal:

- (A) eight (8) boxes; and
- (B) two (2) kinds;

of eight (8) ounce dry infant cereal without fruit.

(10) **Contract brand infant** baby food:

- (A) ninety-six (96) glass jars of WIC approved baby food in four (4) ounce jars (fruits and vegetables); and
- (B) thirty-one (31) glass jars of WIC approved baby food (meat) in two and one-half (2.5) ounce jars.

(11) Bread: ten (10) loaves of whole grain **or whole wheat** bread.

(12) Fruits and vegetables: thirty dollars (\$30) worth of fresh fruit or vegetables, two (2) varieties of each.

(b) Noncompliance with this section will not result in an enforcement action if the vendor can demonstrate that any failure to meet the requirements of subsection (a) was the result of circumstances beyond the control of the vendor such as:

- (1) a natural disaster;
- (2) actions or decrees of governmental bodies; or
- (3) a communication line failure.

(c) The department will provide at least one (1) month written notice of any change in the contract brand infant formula. (*Indiana State Department of Health; 410 IAC 3.6-3-8; filed Apr 24, 2006, 3:00 p.m.: 29 IR 2991; filed Dec 14, 2009, 2:36 p.m.: 20100113-IR-410090047FRA*)

Notice of Public Hearing