

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF PUBLIC ASSISTANCE

SEAN PARNELL, GOVERNOR

FAMILY NUTRITION PROGRAMS
-- JUNEAU

130 Seward Street, Suite 508
P.O. BOX 110612
JUNEAU, ALASKA 99811-0612
PHONE: (907) 465-3100
FAX: (907) 465-3416

Reply to: **All Local Agencies Memorandum No-12-04**

Date: February 10, 2012

TO: X-LA WIC Coordinators
X-Satellites

FROM: Kathleen Wayne *KW*
State WIC Manager

Information- X

Policy- x

Action-x

Routine (email and hard copy) - X

Urgent (fax and hard copy)-

SUBJECT: Offering to Sell WIC Foods, Benefits, and/or EBT Cards Publicly or Online

Please see attached USDA Memo ASM #2012-1 on "Offering to Sell WIC Foods, Benefits, and/or EBT Cards Publicly or Online." Please review this policy with your clinic staff and provide copies to clients that may have questions about this policy.

For further questions on this policy, please contact Kathleen Wayne at 465-8636 or Kathleen.Wayne@alaska.gov



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

February 10, 2012

SUBJECT: WIC Policy Memorandum #2012-1
Offering to Sell WIC Foods, Benefits and/or EBT Cards Publicly or Online

TO: Regional Directors
Supplemental Food Programs
All Regions

WIC State Agency Directors
All Regions

The purpose of this memorandum is to transmit guidance regarding the sale of, or intent to sell, Special Supplemental Nutrition Program for Women, Infants and Children (WIC) foods, benefits and/or Electronic Benefit Transfer (EBT) cards verbally, in print or online through websites such as craigslist, Facebook, Twitter, eBay, etc. The Food and Nutrition Service (FNS) has reviewed this matter and considers the offer to sell WIC foods, benefits and/or EBT cards to be a violation of WIC regulations, constituting a participant violation.

The legal basis that an individual who offers to sell their benefits verbally or by posting their WIC foods, benefits and/or EBT card for sale (in newspapers, online, etc.) has committed a participant violation is supported by the following regulatory citations:

- 7 CFR 246.2 defines a participant violation as "any intentional action of a participant, parent or caretaker of an infant or child participant, or proxy that violates Federal or State statutes, regulations, policies, or procedures governing the Program. Participant violations include intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits; exchanging cash-value vouchers, food instruments or supplemental foods for cash, credit, non-food items, or unauthorized food items, including supplemental foods in excess of those listed on the participant's food instrument; threatening to harm or physically harming clinic, farmer or vendor staff; and dual participation."
- 7 CFR 246.10(b)(2)(ii)(D) requires State agencies to ensure that local agencies "[a]dvice participants or their caretaker, when appropriate, that the supplemental foods issued are only for their personal use."
- 7 CFR 246.12(u)(1) states that "[t]he State agency must establish procedures designed to control participant violations. The State agency also must establish sanctions for participant violations. Participant sanctions may include disqualification from the Program for a period of up to one year."
- 7 CFR 246.12(u)(5) requires that "[w]hen appropriate, the State agency must refer vendors, home food delivery contractors, and participants who violate program requirements to Federal, State, or local authorities for prosecution under applicable statutes."

- 7 CFR 246.23(c)(1) describes the manner by which the State agency must establish a claim against a participant. It states “If the State agency determines that program benefits have been obtained or disposed of improperly as the result of a participant violation, the State agency must establish a claim against the participant for the full value of such benefits.”

Any form of participant fraud and abuse, such as using WIC benefits in any way other than the method and purpose for which they were intended, violates Federal WIC regulations and constitutes a participant violation under 7 CFR 246.2. Making a verbal offer of sale to another individual or posting WIC foods, benefits and/or EBT cards for sale in print or online, or allowing someone else to do so, is evidence that the participant committed a participant violation. FNS expects all State agencies to sanction and issue claims against participants for all program violations. FNS would like to clarify that the list of participant violations in 246.2 is not an exhaustive list of participant violations. FNS will clarify this point in a future rulemaking.

If you have any questions about this policy, please contact your FNS Regional Office.



DEBRA R. WHITFORD

Director

Supplemental Food Programs Division