TEXAS
Department of
State Health Services

Memorandum

#11-037

TO: WIC Regional Directors
WIC Local Agency Directors

FROM: Linda Brumble, Unit Manager
Nutrition Education/Clinic Services Unit
Nutrition Services Section

DATE: March 25, 2011

SUBJECT: Federal Income Tax Refunds and WIC Income Determination

The WIC Program will continue to exclude federal income tax refunds when calculating gross income for the purpose of determining WIC income eligibility. This means the refund **is not counted** as part of the household's gross income even if the family puts the refund into savings. The attached letter provides information regarding the treatment of federal income tax refunds under a new law. Below is a summary:

> Under the new law, federal tax refunds received during the period January 1,2010, to December 31, 2012, must be disregarded as income (in the month received) and as resources (for a period of 12 months) in programs funded in whole or in part with federal funds, including those operated by states, localities, or others. The law is not retroactive, but it applies as of the date of enactment. Thus, states must move expeditiously to implement the provision.

If you have any questions please contact the IRM liaison for your agency at 877-341-4400 option 6, followed by option 4.

Attachment

United States
Department of Health
and Human Services

United States
Department of Agriculture

Dear Human Services Agency Head:

On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. We are writing to alert you to an important provision in this legislation. Under the new law, a family's eligibility for federal benefits, such as those under the Supplemental Nutrition Assistance Program or Medicaid, will not be affected by the receipt of federal tax refunds for a period of 12 months, even if they put the refund into savings.

The Departments of Health and Human Services and Agriculture have sent program-specific guidance about this new provision to state directors of SNAP, Medicaid, the Temporary Assistance for Needy Families Program, child care, the Low Income Home Energy Assistance Program, and other programs. Given the importance of this statutory provision and the fact that it affects multiple programs, we wanted to make sure you also were aware of this change.

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Under prior law, certain federal refundable tax credits were disregarded as income and resources under rules that varied from program to program. Some programs excluded the federal Earned Income Tax Credit (EITC) for 12 months while others disregarded it for as little as three months. Because amounts received due to a specific credit were excluded – but not the entire refund – these rules could be difficult for eligibility workers to implement.

Under the new law:

- The total amount of a federal refund received after December 31, 2009 – regardless of whether the refund is the result of a refundable credit, over-withholding, or both – is disregarded as income and resources in the month received.

- The resource exclusion lasts for 12 months for all programs.

Under this simplified structure, programs that have an asset test can administer the exclusion more simply than under prior law. The program-specific guidance provides information about how this disregard can be implemented in a manner that minimizes administrative complexity.

To comply with the new law, states will need to ensure that their applications and interview protocols are designed so that individuals and families have the opportunity – before eligibility or benefit decisions are made – to provide information about a tax refund, if the exclusion of the refund could affect eligibility.

Families are beginning to file their 2010 federal tax returns and will begin to receive tax refunds soon. Low-income families that had earnings in 2010 can receive refunds on the basis of refundable tax credits such as the EITC and the child tax credit. Thus, swift implementation of this provision is important to ensure that tax refunds are properly disregarded in eligibility decisions. In addition, because the provision applies to all refunds received after December 31, 2009, individuals applying for benefits or updating their eligibility in 2011 may have received a tax refund in 2010 that now needs to be disregarded.

Refundable tax credits provide important support for working families and serve as strong work incentives. This new provision will mean that when a family receives a tax refund, it will not risk losing benefits. By excluding tax refunds for 12 months, the policy allows families to engage in sound financial planning, driven by family budgeting needs rather than benefit program rules.

We appreciate your assistance in ensuring timely implementation.

Sincerely,

David A. Hansell
Acting Assistant Secretary
for Children and Families, HHS

Kevin Concannon
Under Secretary for Food, Nutrition
and Consumer Services, USDA

Cindy Mann
Deputy Administrator, Centers for Medicare and
Medicaid Services, and Director, Center for
Medicaid, CHIP and Survey & Certification, HHS