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WIC-ONLY STORES AND COMPETITIVE PRICING IN THE WIC PROGRAM

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Overview

Over the past decade, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) has successfully leveraged market forces to contain program costs. Food prices have risen by 28 percent over the last ten years while WIC food costs have grown by only 18 percent. If left unchecked, however, a growing phenomenon in the WIC program — the spread of "WIC-only stores" — could compromise this cost-containment success and drive up WIC food costs significantly.[1] Although WIC-only stores currently are concentrated in a handful of states, they account for about 40 percent of WIC food voucher redemptions in California and more than nine percent of WIC food voucher redemptions nationwide, and their share of WIC food sales has been growing at a substantial rate.

WIC-only stores stock *only* WIC food items and serve *only* WIC customers. As a result, virtually all of their sales revenue comes from the federal Treasury, through the WIC program.[2] They operate outside the regular retail market.

The WIC program provides a monthly food package of specific food items, which participants obtain at grocery stores in exchange for their WIC food vouchers. WIC participants receive the same food items regardless of the shelf price charged for these foods. Participants consequently are not price-sensitive to the amounts that stores charge for WIC food items.

Nonetheless, competitive pricing has long been the basis for WIC food costs. Since regular retail food stores need to attract a wide customer base, market forces induce them to keep prices for WIC food items low enough to attract non-WIC shoppers; if a store prices these items too high, it is likely to lose customers to other stores. But WIC-only stores have no need to attract non-WIC customers — and thus no need to keep prices for WIC foods in line with the amounts charged at comparable stores that serve non-WIC customers. It therefore should not be surprising that WIC-only stores tend to have higher shelf prices than regular competitive stores.

In states such as California, WIC-only stores are attracting increasing numbers of WIC participants. Many WIC-only stores use a share of the increased profits they make by charging higher prices on WIC foods to attract additional WIC participants by offering incentives such as

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[1] The "WIC-only" stores referred to in this paper do not include not-for-profit WIC Food Centers operated by Catholic Charities under contract with the Illinois WIC program. Those stores do not establish shelf prices for their food items; instead they are paid prospectively based on their overhead and the wholesale costs of providing WIC food items.

[2] Some WIC-only stores stock candy or snack items that are not WIC food items, but the sales of such items constitute a negligible portion of their revenues.

free diapers, strollers, or even bicycles. Since the sole source of sales revenue in these stores comes from federal WIC funds, WIC funds are essentially being used for items such as diapers or strollers that are not allowable WIC purchases, as a way to bring more WIC shoppers into these stores.

In short, because competitive forces do not prevail in WIC-only stores, the WIC program spends more for the same food items when WIC participants shop at these stores than when they shop at regular stores. With WIC-only stores now spreading rapidly, the prospect is for this trend to exert increasing upward pressure on WIC costs over time. If the share of WIC sales that occurs in WIC-only stores continues to grow, the program will require substantially larger federal appropriations. If the needed funds are provided, that will either expand the deficit or take funds from other worthy discretionary programs. If the needed funds are *not* provided, some eligible families seeking WIC assistance will have to be turned away, and other program priorities (such as breastfeeding promotion) may be shortchanged.

Had policy-makers foreseen the creation and proliferation of WIC-only stores when the WIC program was established, they likely would have barred retail food stores that do not also serve other customers, or at least required that for such stores to be authorized as WIC vendors, they must charge prices comparable to those charged in normal retail stores. Now that WIC-only stores are participating in significant numbers as a result of what essentially is an unintended loophole in the program, no one is suggesting barring their participation. But state and local WIC administrators and nutritionists, acting through the National WIC Association, are asking Congress to act so that the prices that WIC-only stores charge are not out of line with those charged by comparable stores that operate in the regular retail market. Owners of WIC-only stores, however, who benefit from the stores' substantial price mark-ups, are vigorously resisting. They have hired Washington and California lobbyists and are fighting to preserve the *status quo*.

The current situation, under which stores whose only revenues come from the U.S. Treasury are effectively charging the Treasury higher prices than regular retail stores for the same food items, amounts to a form of government waste. Pending legislation to reauthorize the WIC program should conserve federal funds and protect the ability of the WIC program to serve the women, infants, and children eligible for it by ensuring that the same market forces that establish competitive prices in regular grocery stores are harnessed in WIC-only stores, as well.

How Widespread are WIC-Only Stores?

According to USDA data, there were 523 WIC-only stores in 13 states in fiscal year 2000.[3] The next year, 12 states reported having 621 WIC-only stores — a 19 percent increase in one year.[4] By fiscal year 2002, states reported having 778 WIC-only stores, an increase of

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[3] See *The Integrity Profile (TIP) Report* — Fiscal Year 2000, Food and Nutrition Service, U.S. Department of Agriculture, Table 4, available at http://www.fns.usda.gov/wic/resources/tipreport2000.htm.

[4] See *The Integrity Profile (TIP) Report* — Fiscal Year 2001, Food and Nutrition Service, U.S. Department of Agriculture, Table 4, available at http://www.fns.usda.gov/wic/resources/tipreport2001.htm. There were WIC-only stores in Arkansas, California, Florida, Louisiana, New Mexico, North Carolina, Oklahoma, Oregon, Tennessee,

another 25 percent.[5] In this two-year period, the number of WIC-only stores thus grew by 49 percent. There almost certainly has been significant further growth since 2002.

WIC-only stores are currently concentrated in California, Florida, Texas, Arkansas, and Puerto Rico, but are spreading to other states. In 2002, for example, Alabama and Maryland reported having WIC-only stores for the first time.

The most telling indicator of the impact of WIC-only stores on WIC program costs is the percentage of WIC vouchers redeemed at such stores. In fiscal year 2002, although WIC-only stores represented only two percent of approved WIC vendors nationwide, they accounted for nine percent of WIC voucher redemptions. Over the past few years, the average redemption volume per store at WIC-only stores has been about four times greater than the average redemption volume per store at WIC-approved stores that operate in the normal retail market.

Moreover, in California alone, there are now (in fiscal year 2004) approximately 600 WIC-only stores — nearly double the number in fiscal year 2000 — and WIC-only stores account for approximately 40 percent of WIC voucher redemptions, up from 11 percent in 1997. Similarly, in North Carolina, the number of WIC-only stores more than doubled between fiscal year 2000 and fiscal year 2002, while in Virginia the number nearly doubled over this period. Arkansas had four WIC-only stores in fiscal year 2000 and now has 42 WIC-only stores. These WIC-only stores represent eight percent of all approved WIC vendors in Arkansas and account for 22 percent of WIC sales volume.

These figures illuminate the threat that the spread of WIC-only stores poses to WIC program financing. Nationally, WIC-only stores accounted for nine percent of WIC redemptions in 2002; they are likely to account for a somewhat higher percentage today. WIC-only stores thus may account today for a share of *national* WIC redemptions that is similar to the 11 percent share of *California* redemptions that WIC-only stores represented in 1997. In the seven years since then, WIC-only redemptions in California have burgeoned from 11 percent to 40 percent of the redemptions in that state. The risk is that over the next decade or two, a similar pattern could unfold at the national level, with profound consequences for WIC costs and consequently for the WIC program.

WIC-Only Stores Charge Higher Prices than Other Stores

Both the California WIC Program and the Texas WIC Program contracted with an outside consulting firm to conduct rigorous studies of the prices charged by WIC-approved vendors. The price data gathered allow for an analysis of the prices that WIC-only stores charge and how they compare to prices in other stores. The results of these studies are illuminating.

Texas, Utah, and Virginia. WIC-only stores had also been approved by Puerto Rico and by four tribal organizations that operate WIC programs.

[5] Data compiled by USDA for *The Integrity Profile (TIP) Report* — Fiscal Year 2002, Food and Nutrition Service, U.S. Department of Agriculture, forthcoming. The report may understate the number of WIC-only stores. It reports no WIC-only stores in Arkansas in 2002, but in a telephone conversation on April 30, 2004, the Assistant Director of the Arkansas WIC program reported having had 22 approved WIC-only stores in by the end of fiscal year 2002.

The California study looked at the prices charged for each WIC food item in all WIC-approved stores in the state. The study found that the average retail prices of the food items on a typical monthly WIC food voucher for women or children were *13 percent to 16 percent higher* if those items were purchased at a WIC-only store rather than at a competitive store. The retail prices of items on a typical monthly voucher for infants were 4 percent higher if the items were purchased at a WIC-only store.[6]

Lobbyists for WIC-only stores argue that the higher prices in WIC-only stores in California reflect the size and location of WIC-only stores, rather than the fact that these stores serve only WIC customers. Analysis of the California data shows, however, that this is not the case.

If WIC-only stores tended to be small stores, one would expect their prices to be comparable to those charged in small competitive grocery stores. The study of California WIC prices found, however, that prices in WIC-only stores are *higher than prices in the smallest competitive stores*. For example, the WIC voucher for two gallons of milk, two pounds of cheese, and two dozen eggs — which accounts for one-quarter to one-third of all food redemptions in California — costs an average of five percent more in WIC-only stores than in competitive stores with only one or two registers.

Other foods that account for a substantial portion of WIC food redemptions also are more expensive in WIC-only stores than in small competitive stores. For example, milk costs about 6 percent more and peanut butter costs about 7 percent more in WIC-only stores than in competitive stores with one or two registers.[7]

WIC-only stores are charging higher prices than the smallest competitive stores even though many WIC-only stores are much larger operations than "mom and pop" grocery stores.[8] *Over one-third of the WIC-only stores in California are part of chain operations*. Furthermore, monthly WIC redemptions per store at WIC-only stores in California are, on average, about four times larger than the average monthly redemptions per store in competitive grocery stores.

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[6] All California data discussed in this section were compiled by Burger, Carroll, & Associates, Inc. for the state of California based on the prices paid by the WIC program for all WIC vouchers redeemed during October 2003. Questions about the data may be addressed to Art Burger; contact information for Burger, Carroll, & Associates, Inc. is available at http://www.burgercarroll.com.

[7] The comparison of prices in WIC-only stores to prices in competitive stores with one or two registers is illustrative only; it is not meant to imply that prices in WIC-only stores should be as high as prices in competitive stores with one or two registers.

[8] It is hard to measure the size of a WIC-only store. One way to compare store sizes is by the number of registers. But WIC-only stores do not necessarily have registers in the traditional sense, since they generally accept only WIC vouchers, not cash. Another way to compare stores is by comparing sales volume. But that raises the question as to whether WIC-only stores should be compared to competitive stores based on overall sales volume or based on WIC sales volume. Overall sales volume of WIC-only stores would tend to be lower since they stock only WIC food items, but their WIC sales volume may be comparable to that of large supermarkets.

It also should be noted that WIC-only stores in California account for a far greater share of WIC voucher redemptions than do small stores. One of the reasons that higher WIC prices in small competitive stores have not caused funding problems for WIC is that most WIC participants shop at larger stores that tend to have lower prices. In California, competitive stores with one or two registers account for fewer than five percent of all WIC voucher redemptions. WIC-only stores, by contrast, account for 40 percent of all WIC redemptions in the state. The higher prices charged in WIC-only stores thus have a much greater impact on WIC program costs than higher prices in small competitive stores.

Another question is whether WIC-only stores charge higher prices because they are located in parts of California with higher food prices. Based on an analysis of the prices charged by WIC-approved stores in California, each county can be designated as "high," "medium," or "low" cost.[9] When prices for WIC foods are analyzed within each county type — in other words, comparing WIC-only stores in high-cost counties to competitive stores in high-cost counties — the prices charged by WIC-only stores remain higher. For example, the common WIC voucher for two gallons of milk, two pounds of cheese, and two dozen eggs, on average costs 14 percent more in WIC-only stores in high-cost counties than in competitive stores in high-cost counties. This voucher costs 16 percent more, on average, in WIC-only stores in medium- or low-cost counties than in competitive stores in those counties.

Prices charged by WIC-only stores in Texas show a similar pattern. In Texas, the 102 WIC-only stores identified as of September 2003, which represented about four percent of WIC vendors in the state, accounted for nearly 11 percent of WIC voucher redemptions. The study conducted for the Texas WIC program found that prices in WIC-only stores were consistently higher than prices in competitive stores.[10] For eight vouchers that account for 96 percent of Texas WIC redemptions, WIC-only stores charged the highest average price in all but a few cases. For example, the average price of infant formula, which represents 52 percent of the dollar value of WIC redemptions in Texas, was higher in WIC-only stores than in any type of competitive store.[11] For another common WIC voucher containing peanut butter, cereal, milk, eggs, cheese, and juice — which accounts for 25 percent of Texas WIC redemptions other than infant formula — the average price in WIC-only stores was higher than the price in all stores except a few rural stores with only one or two registers.

These price differences occur because WIC-only stores tend to price their WIC food items at or near the maximum that their state's WIC program allows. Under WIC regulations, each state must establish a maximum reimbursement amount that it will pay WIC-approved vendors for WIC food items.[12] Often this maximum is set high to accommodate unusual circumstances, such as the prices that would be charged by a one-register store in an isolated

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[9] Burger, Carroll, & Associates, Inc. made these designations and conducted the analysis described in this paragraph.

[10] All Texas data discussed in this section were compiled by Burger, Carroll, & Associates, Inc. for the state of Texas based on WIC redemptions between June 2002 and June 2003.

[11] The portion of WIC redemptions accounted for by infant formula is calculated based on the pre-rebate cost of infant formula. Infant formula represents less than 52 percent of post-rebate WIC food costs.

[12] See 7 C.F.R. § 246.12(g)(3)(i).

rural area. Since competitive stores generally set their prices for WIC food items significantly below the maximum allowable amount in order to attract non-WIC shoppers, the maximum allowable WIC price generally does not affect their pricing decisions. WIC-only stores, however, do not serve non-WIC shoppers. Price data show that their prices tend to be set much closer to the maximum allowable reimbursement levels than the prices that other stores charge, including small stores.

The impact of the maximum allowable WIC reimbursement level on pricing decisions is illustrated by the relative lack of variation in the prices that WIC-only stores charge. California price data show that the prices that competitive stores charge for particular WIC food items tend to vary, even among the same types of stores. For example, competitive stores with one or two registers in high-cost counties charge a range of prices for WIC food items. But the prices charged by WIC-only stores are closely clustered near the maximum allowable WIC reimbursement level. Texas pricing data show the same phenomenon.

The Arkansas WIC program has analyzed redemptions by WIC-approved vendors that fall within five percent of the maximum allowable WIC reimbursement, focusing on the vendors with the highest dollar volume of WIC sales.[13] In large supermarkets, fewer than two percent of the redeemed vouchers were within five percent of the maximum reimbursement level. In the two medium-sized stores with a relatively high volume of WIC redemptions that were included in the analysis, 13 percent of the vouchers redeemed were within five percent of the maximum allowable reimbursement level. In contrast, in the WIC-only stores with the highest dollar volume of WIC redemptions, *more than 94 percent* of the food instruments redeemed in every one of the 19 stores examined were within five percent of the maximum allowable reimbursement level.

WIC-Only Stores are Increasing WIC Program Costs

By charging higher prices, WIC-only stores increase WIC food costs. If the prices charged by WIC-only stores were comparable to competitive stores — even small competitive stores — the WIC program would be able to provide the same monthly food packages to the same number of participants at a lower cost to the federal government.

To consider the potential cost implications of WIC-only stores for WIC food costs, the California data are useful. As noted above, these data show that, on average, prices for a common WIC food package for pregnant and breastfeeding women are 16 percent higher than prices for the same food package in competitive store, prices for a common WIC food package for non-breastfeeding postpartum women are 13 percent higher than prices for the same food package in competitive stores, prices for a common WIC food package for infants are four percent higher than for the same food package in competitive stores, and prices for a common WIC food package for children are 14 percent higher than for the same food package in competitive stores.

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[13] The data discussed in this paragraph were provided by the Assistant Director of the Arkansas WIC program in May 2004 based on WIC voucher redemptions during the December 2003 to February 2004 period. The discussion focuses on the 30 stores with the highest volume of WIC sales, 19 of which are WIC-only stores.

The analysis of prices in California was based on all WIC vouchers redeemed in the state in October 2003.[14] If the vouchers that were redeemed at WIC-only stores had been redeemed for the same price as the average price in competitive stores, the state WIC program would have spent $2.8 million less that month on voucher redemptions.[15] If October 2003 was typical — and there is no reason to believe it was not — WIC-only stores now are increasing WIC food costs in California by approximately $33 million a year.

Another way to consider the impact of WIC-only stores on WIC food costs in California is to examine the state's WIC food costs over time relative to costs in other states. Between fiscal year 2001 and fiscal year 2003, the average monthly cost of providing WIC foods to each participant grew by 5.2 percent in California, as compared to 2.8 percent across all states.[16] As a result, between fiscal year 2001 and fiscal year 2003, California's WIC food grant grew by 14 percent, while WIC food grants to the other states grew seven percent.[17] Factors other than the proliferation of WIC-only stores that might explain this change, such as a participation increase or a decrease in infant formula rebates, do not apply. During this period WIC participation in California grew *only half as much* as participation in other states.[18] In addition, California operated under one infant formula rebate contract from August 1998 through July 2003 and the contract that took effect for the last couple of months of fiscal year 2003 included higher rebates than the previous contract. Thus, it was rising food costs that led to the much-higher-than-normal growth in the state's food grant. During this same period, the share of WIC vouchers that were redeemed at WIC-only stores rose from 27 percent in January 2001 to 37 percent in May 2003.

WIC-Only Stores Likely to Cost the WIC Program More in the Future

The continuing spread of WIC-only stores poses another problem — over time, it could reduce the savings from WIC infant formula cost containment, which are a critical component of WIC's funding structure. Currently, WIC costs are reduced dramatically by the competitive bidding system that state WIC programs use to purchase infant formula, under which formula manufacturers offer substantial rebates in exchange for the exclusive contract to provide formula

[14] Burger, Carroll, and Associates, Inc. collected data on each of the 145 different types of WIC vouchers that were redeemed that month. A total of nearly 6 million vouchers were redeemed. The average price for each voucher redeemed at a WIC-only store was calculated, as was the average price for each voucher redeemed at all other stores, referred to in this paper as competitive stores.

[15] This figure was derived by the Center on Budget and Policy Priorities using the redemption data collected by Burger, Carroll, and Associates, Inc. described in the previous footnote.

[16] These figures were calculated by the Center on Budget and Policy Priorities based on USDA data available at http://www.fns.usda.gov/pd/wifyavgfd$.htm.

[17] At the start of fiscal year 2001, California's WIC food grant was $530 million. By the start of fiscal year 2003, it was $602 million.

[18] Participation in California grew by 2.5 percent between fiscal year 2001 and fiscal year 2003 while participation in the other states grew by 4.9 percent over this same period. These figures were calculated by the Center on Budget and Policy Priorities based on USDA data available at http://www.fns.usda.gov/pd/wifypart.htm.

Lobbyists' Argument About Unspent WIC Funds is Beside the Point

Lobbyists for WIC-only stores have argued that the higher prices that WIC-only stores in California charge have not had any adverse effect. They cite as evidence the fact that California has periodically returned some unspent WIC funds to USDA. But California's return of funds to USDA is irrelevant to the questions of whether the California program has incurred significantly higher costs as a result of the prices charged by WIC-only stores and whether this has had an effect on the program's finances.

When WIC funds are not used by one state, they are reallocated to other states. USDA's process for reallocating WIC funds over the course of each fiscal year ensures that WIC funds are directed to the states that need them most. Thus, any funds returned by California are used by other states in their WIC programs. If a state anticipates that, in a given year, it will spend less than 97 percent of the WIC food funds it received from USDA for that year, the state returns the funds it does not need to USDA. At times when California anticipated spending less than 97 percent of its total food funds for a year, it returned funds for reallocation. At other times, the state received additional funds, reallocated to it from other states. California received $28 million in reallocated funds in fiscal year 2001, $22 million in reallocated and supplemental funds in fiscal year 2002, and $12 million in reallocated funds in fiscal year 2003.

Had the amounts that California pays for WIC foods been lower, the state would have returned larger amounts in the years when it returned funds to USDA for reallocation. In addition, it either would not have needed the reallocated funds it received or would have needed lesser amounts. The bottom line is that if WIC food prices were not elevated as a result of the pricing practices of WIC-only stores, either the program would require a smaller appropriation or additional eligible women, infants, and children could be served.

to WIC participants throughout a state. USDA data show that infant formula cost containment saved more than $1.5 billion in fiscal year 2003.

One reason that formula manufacturers have been willing to offer such high rebates is that having a state's WIC infant formula contract makes it easier for a formula manufacturer to attract non-WIC customers to its product: the formula brand made available in a state through the WIC program tends to be made widely available at grocery stores and to get more and better shelf space. But since WIC-only stores do not serve any non-WIC customers, shelf space in these stores is of no value to a formula manufacturer in attracting such customers. Over time, if WIC-only stores account for an increasing share of WIC food sales, formula manufacturers may lower their rebate bids to reflect the reduced opportunity to attract non-WIC customers.[19]

WIC-Only Stores Use Profits Obtained from WIC Funds to Purchase Items Not Allowed in WIC

A key reason that WIC-only stores are having a growing impact on WIC costs is that they have succeeded in drawing growing numbers of WIC participants. Some participants are said to

[19] As growing numbers of WIC participants shop in WIC-only stores, thereby reducing sales in competitive stores of the WIC contract brand of infant formula, competitive stores would likely respond by stocking less of the WIC contract brand and devoting less shelf space to it.

appreciate not worrying about stigma or embarrassment they might face at a competitive store. WIC-only stores in California also reportedly have hired bilingual staff who are well equipped to help WIC participants, although there are no data on whether they have done so to a greater degree than other stores that serve the same areas in California. Some participants appreciate the convenience that some WIC-only stores offer. For example, some WIC-only stores offer rides to and from the store or gather the allowable food items so the participant doesn't have to walk through the aisles selecting items. Some WIC-only stores locate very close to WIC clinics, which may offer convenient shopping when the WIC participant has an appointment at the clinic. In addition, some WIC-only stores also reportedly use aggressive promotion techniques just outside WIC clinics.

But one of the main mechanisms that WIC-only stores use to attract customers is very troubling. To attract WIC shoppers, WIC-only stores frequently offer giveaways such as free kitchen appliances, diapers, strollers, or even bicycles. These items are *not* an allowable use of WIC food funds. Because all sales in WIC-only stores are paid for with federal WIC funds, WIC-only stores are essentially using federal WIC food funds to purchase items that are not allowable WIC food items. Additional giveaways are sometimes offered to WIC participants who bring other WIC participants to the store.

Ensuring Competitive Prices in WIC-Only Stores Would Not Jeopardize Participant Access

Another claim advanced by lobbyists for WIC-only stores is that such stores are located in areas where WIC participants lack access to other grocery stores and that applying measures to ensure competitive pricing in these stores would jeopardize participant access to WIC foods.

WIC-Only Lobbyists on Giveaways in WIC-Only Stores

Lobbyists for WIC-only stores defend the various giveaway items that WIC-only stores provide to entice WIC participants and argue that these giveaways are none of the federal government's business. What any firm does with its profits is its business, not the government's, they maintain.

The problem with this argument is that virtually all of the profits of WIC-only stores come from federal WIC dollars, and these stores are taking advantage of the WIC program's reimbursement structure to increase their profits by charging higher mark-ups on WIC food items than stores subject to normal market competition. Then they are using some of these WIC-derived profits to entice more WIC shoppers by offering giveaways of non-WIC items.

WIC-only lobbyists reportedly have responded to such points by noting that some defense contractors, as well, derive all of their income and profits from the federal government and no one questions the propriety of those firms using a portion of those profits to undertake activities to enhance their potential to win more government contracts. This argument is misleading. Firms that derive all of their revenue from federal defense contracts usually secure these contracts by *engaging in a competitive bidding process and submitting the lowest bid*. Their participation in federal defense programs does not inflate government costs. WIC-only stores, by contrast, operate outside of the competitive retail system and charge higher prices than other vendors, causing federal expenditures to be higher than would otherwise be the case.

This claim is without foundation. The assertion that WIC-only stores are heavily concentrated in areas that lack other grocery stores is unsubstantiated, and both program data and common sense suggest it is not accurate. For example, California redemption data show that a substantial portion of WIC-only redemptions are concentrated in Riverside and San Bernardino counties, both of which have many large chain grocery stores. Moreover, because WIC provides only supplemental foods — and not the full complement of groceries that a family needs — participants clearly have to find other shopping venues in which to make their other food purchases.

Moreover, states are required to authorize vendors so as to "ensure adequate participant access to supplemental foods,"[20] and states must meet this requirement regardless of where WIC-only stores are located or how much they charge. Any change made to ensure that prices charged by WIC-only stores are more comparable to prices charged in competitive stores would not override this requirement.

Action is Needed

In theory, state WIC programs can regulate WIC-only stores. In practice, the task has proved difficult politically, especially since no state funds are involved.

State WIC programs must consider prices when deciding whether to approve a particular vendor,[21] and a state could establish vendor selection criteria that prevent WIC-only stores from being authorized — for example, by requiring that all authorized vendors offer a full array of groceries. Some states have such policies in place. State WIC programs also are required to establish limitations on the amount that will be paid to vendors for approved foods, and they have flexibility with regard to how to design these limitations. A state could establish maximum pricing structures and requirements designed to prevent WIC-only stores from charging more than comparable competitive stores.

In practice, however, it can be very difficult for states to take such steps. California offers an illustration of why this is so. A few years ago, the California state WIC agency developed proposed regulations to implement changes in federal vendor regulations and to establish vendor "peer groups" as the basis for establishing pricing criteria. The proposed regulations would have had the effect of ensuring that WIC-only stores would not be reimbursed for higher food prices than comparable competitive stores. The regulations were developed through an open process during 2002, which included extensive discussions with grocery stores, including WIC-only stores, as well as representatives of WIC agencies and WIC participants. When the draft regulations were nearly complete, the WIC-only stores rescinded their initial support for them, and lobbyists hired by WIC-only stores — who included well-connected Democratic and Republican lobbyists alike, including former state legislators — placed strong pressure on the governor and members of the state legislature to prevent the regulations from being adopted. The lobbyists were successful; the draft regulations were jettisoned.

[20] 7 C.F.R. § 246.12(g)(1).

[21] See 7 C.F.R. § 246.12(g)(3)(i).

Other state WIC programs with WIC-only stores that try to take action to ensure competitive pricing in such stores are likely to encounter similar political obstacles. Owners of WIC-only stores, who benefit from the high mark-ups those stores charge, can hire skilled lobbyists who fight hard to protect their profits, as they did in Sacramento. The key point here is that *since WIC is funded entirely by the federal government and no state funds are at stake,* garnering the political support needed to overcome such WIC-only lobbying efforts is *much more difficult at the state level than it should be at the federal level*.

Had anyone foreseen the potential for the emergence and proliferation of stores that sell nothing but WIC foods, serve only WIC participants, and are financed entirely by the U.S. Treasury, federal policymakers likely would have designed the legislation that created WIC so that such stores could not enter the program or could become authorized WIC vendors only if their prices reflected market competition. What has turned out to be an unintended loophole in the WIC statute has led to the creation of stores whose sales and profits are financed entirely by federal tax dollars and which are able to charge higher prices than other stores, with no market consequences.

What Should Be Done?

WIC-only stores have now built a role for themselves in the WIC program. They should be allowed to continue to participate. But the loophole that allows them to charge more than other comparable stores should be addressed so it does not cost the WIC program increasing amounts to provide the same food benefits.

If nothing is done to address this matter, WIC-only stores that charge higher prices are likely to continue to proliferate. The likely result will be that: 1) Congress has to appropriate steadily increasing amounts for WIC, causing larger deficits or squeezing the funds available for other worthy discretionary programs; or 2) the amounts appropriated for WIC fall short of need, and some eligible low-income women, infants, and children at nutritional risk are turned away.

A provision related to the WIC-only store issue is contained in the child nutrition bill that the House of Representatives recently passed, which reauthorizes WIC. The provision in question may appear to address this matter. But the House provision, which was developed in consultation with lobbyists for the WIC-only stores, merely incorporates into the WIC statute the existing regulatory requirements regarding retail store participation in WIC. It is under these same regulations that WIC-only stores have emerged, begun to proliferate, and been able to charge higher prices than competitive stores. The House provision might have some modest positive effects on WIC cost-containment broadly, but with regard to cost-containment in WIC-only stores it is essentially cosmetic and would have no real effect. A more meaningful provision should be included in the forthcoming Senate bill reauthorizing WIC.

The Senate bill should include a provision aimed at ensuring that retail prices in competitive stores are the basis for the price criteria that states use in approving WIC vendors and setting maximum reimbursement levels for WIC food items. WIC-only stores should not be discriminated against. What is needed is simply to apply to WIC-only vendors the same criteria as are applied to comparable competitive stores.

The Senate legislation should include a mechanism aimed at ensuring that the WIC program does not pay more for a monthly WIC food package if a WIC participant chooses to shop at a WIC-only store rather than at a comparable WIC-approved competitive store. Under such an approach, WIC-only stores would be able to continue to participate in WIC and to offer a shopping environment that appeals to some WIC participants. They simply would have to avoid taking advantage of their status as stores protected from normal market competition — and funded entirely by federal taxpayer dollars — to charge the Treasury excessive amounts.