

spirit of volunteerism is a role model for others to follow. I thank Patrine for her civic pride and wish her the best in her future endeavors.

HONORING MOTHER THELMA
MACK

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 8, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize Thelma Mack, the epitome of a community mother, who spent her entire life being a stalwart and community pillar.

As an African-American woman of Indianola, Mississippi, born in April of 1934, Thelma endured the strife of segregated life in the South. During the Civil Rights era, Thelma exemplified her motherly role through housing and feeding passers-by committed to the equal rights mission.

Thelma Mack's most notable career work was in the area of childcare, where she started a daycare at her home. In August of 1968, Thelma became the Director of the Sunflower-Humphreys County Headstart, where she served for over 20 years.

Thelma Mack's faithful service and dedication to upholding the traditional family structure and values is the backbone of our communities. I applaud the life and legacy of Thelma Mack.

CHILD NUTRITION AND WIC
REAUTHORIZATION ACT OF 2004

SPEECH OF

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 24, 2004

Mr. BOEHNER. Mr. Speaker, effective, fair vendor cost containment is critical to ensure that federal funds for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) are managed appropriately. It is equally important that this objective be achieved with balance. WIC cost containment measures in S. 2507 should provide assurance that WIC-Only stores have prices that are consistent with traditional retail WIC vendors. It is the intent of Congress that the provisions of this bill be implemented in a fair and equitable manner. Cost containment measures contained in S. 2507 are not to be used to drive vendors out of the program.

Central to the vendor cost containment provisions is the authority to establish a series of vendor peer groups, each with its own competitive price criteria and allowable reimbursement levels. These vendor peer groups recognize that there are economic realities that cause pricing to vary among stores based on store size and geographic location. Large supermarket chains and box stores bypass wholesalers and purchase directly from manufacturers. Other stores, including some WIC-Only stores do not. Much more important, supermarket chains receive significant price discounts and concessions from manufacturers, such as allowances for product promotion, product shelf placement, etc. Independently

owned stores, including independently owned chains and most WIC-Only stores, generally do not have the negotiating power to bargain for these benefits. As a result, independently owned stores may spend as much to purchase a product at wholesale as the retail price at a big chain. Because of this, vendor peer groups should allow for somewhat higher prices at small stores, relative to the larger supermarkets.

During implementation of vendor peer groups to achieve cost-containment, it is vital that transparent, objective criteria be used in defining peer group characteristics. It is expected that the criteria that have traditionally been used, the square footage of stores or the number of store registers, will continue to be used as appropriate. However, there is clear authority for adoption of other readily discernible, objective criteria that define appropriate peer group distinctions. WIC sales volume alone may not be an appropriate basis for defining peer groups since it accounts for only a portion of the sales of a given product and, in many situations, would be a poor indicator of factors that affect retail pricing decisions.

Special authority is provided for establishing competitive price criteria and allowable reimbursement levels for WIC-Only stores because those stores are insulated from marketplace price competition. It is not discriminatory to regulate them in a different manner. However, it would be inconsistent with the intent of Congress to use that unique regulatory treatment to apply a different standard to WIC-Only stores.

The objective of cost containment measures contained in S. 2507 is for WIC Program food costs to be the same regardless of whether program participants redeemed food instruments at a WIC-Only store or comparable market-based vendor. This neutrality objective is expressed by the dual statements in the bill: First, the bill provides for establishing and publishing competitive price criteria and allowable reimbursement levels that do not result in higher food costs in WIC-Only stores than in other authorized vendors. Second, the bill is clear that it is not to be construed to compel a State agency to achieve lower food costs in WIC-Only stores than in other authorized vendors. The objective is neutrality; for WIC-Only store costs to be at the same level as costs at comparable market-based vendors.

The language now before the House is different from the language reported by the Senate Committee on Agriculture, Nutrition, and Forestry, but the neutrality objective has been consistently pursued throughout this legislative process. Refinements in that language are intended to remove any question that the objective is cost neutrality.

S. 2507 includes language requiring that competitive price criteria and allowable reimbursement levels will "not result in higher food costs if program participants redeem supplemental food vouchers" at WIC-Only stores than other vendors. This language is a statement of the general cost neutrality objective previously explained. It is not to be construed to compel a rigid cost limitation test. Neither USDA nor individual states can know with absolute certainty or ongoing precision what food prices will be.

In the bill's system of vendor peer groups, provision is made for peer groups for WIC-Only stores. It does not necessarily require a single peer group for WIC-Only stores be-

cause not all WIC-Only stores are alike. WIC-Only store peer groups are to have their prices limited to the same levels as prices of comparable market-based stores. The legislation is not prescriptive in specifying characteristics that make stores "comparable." However, as with the regulatory basis for defining peer groups, the basis for comparing peer groups must be objective and readily discernable. Absent compelling basis for a different approach, the same criteria as are used to distinguish between traditional vendor peer groups should be used to distinguish between peer groups in WIC-Only stores and to identify peer groups of comparable market-based stores.

Another provision that warrants close oversight is a prohibition on certain marketing practices for WIC-Only stores. The Department of Agriculture is charged with promulgation of a rule to prohibit WIC-Only stores from giving certain "incentive items" to WIC participants unless the vendor proves that the incentive items were obtained at no cost. The provision was adopted because of reports that some WIC-Only stores have given incentive items that are out of the bounds of traditional vendor marketing practices. It is the intent of this provision to halt such marketing practices and to ensure that the acquisition of incentive items does not increase WIC Program costs.

This provision is intended to prevent marketing practices that are wholly inconsistent with those that occur in traditional food retailing. It is not intended that this provision would be used to create a situation where WIC-Only stores are prohibited from employing the same marketing practices that traditional stores use to induce customers. The fact that this restriction applies only to WIC-Only stores must not be viewed as an intention to create marketing restrictions that afford traditional vendors a competitive advantage over WIC-Only stores. The Secretary has authority in its implementing rulemaking to require a State Agency to waive restrictions on marketing practices of WIC-Only stores where competing traditional vendors engage in those practices.

The bill makes clear that merchandise of nominal value and food are not to be prohibited. Likewise, this provision does not provide authority to restrict incentives other than free merchandise. Specifically, it does not authorize restriction of services provided to program participants that are attendant to the redemption of supplemental food vouchers, such as assistance in complying with WIC program rules as they select their purchases or assistance in getting the food to their transportation or home, even if traditional vendors do not provide such services. The provision only authorizes restriction of use of non-food merchandise in marketing practices; it does not authorize restriction of retail services. Therefore, the Department of Agriculture rulemaking is to prohibit merchandise gifts that are inconsistent with marketing practices of the traditional food retail trade, but not marketing practices that are employed by other authorized vendors.

Mr. Speaker, I commend my colleagues for including vendor provisions in S. 2507 that will provide for effective cost containment, particularly in WIC-Only stores that are generally insulated from marketplace price competition. This bill does a commendable job in providing fair and balanced regulation. WIC-Only stores