Maine Center for Disease Control and Prevention
WIC Nutrition Program

Effective: October 1, 2011 Policy No. VM-5
Revised: October 1, 2019

Compliance Investigations Authority

7 CFR §246.4(a)(14)(iv) and §246.12(j)(4);
22 MRSA §255; and
10-144 CMR Chapter 286, § IV.F

Policy

1. The State Agency shall conduct compliance investigations on a minimum of five percent (5%) of the number of vendors authorized as of October 1st of each year. Investigations may take the form of compliance buys or inventory audits.
2. The State Agency shall give priority to high-risk vendors in conducting compliance investigations (refer to VM-03, High Risk Vendor Identification Systems). If fewer than five percent (5%) of authorized vendors are high-risk, the State Agency will randomly select additional authorized vendors, up to the five percent (5%) requirement, on which to conduct compliance investigations.
3. The State Agency shall use the following criteria to determine which vendors are selected for a compliance investigation:
   - 3.1. Vendor identification using the high-risk vendor identification criteria
   - 3.2. Geographical considerations
   - 3.3. Participant complaints
4. The State Agency shall use the following factors to determine which vendors selected for compliance investigations will receive inventory audits rather than, or in addition to, compliance buys:
   - 4.1. Vendors at highest risk based on State Agency's high-risk identification criteria
   - 4.2. Suspicion that vendor is exchanging cash, credit, services, non-food items such as firearms, explosives, ammunition, controlled substances (trafficking), alcohol, or tobacco products, or unauthorized food items, including foods in excess of those listed on the participant's FI (food instrument)
   - 4.3. Inconclusive compliance buy results
   - 4.4. When compliance buys are not an effective means of evaluation
   - 4.5. Complaints
5. The State Agency shall conduct the following types of compliance buys:
   - 5.1. Short buys
   - 5.2. Major substitution buys
   - 5.3. Minor substitution buys

5.4. Over buys- attempting to purchase more WIC food than allowed by the FI

5.5. Trafficking buys –these are used rarely as they are more complex and generally require the involvement of law enforcement

6. The State Agency shall conduct the following types of inventory audits:

6.1. On-site inventory audits

6.2. State Agency inventory desk audits (vendor sends records to agency)

Procedures

1. Compliance buys and inventory audits are conducted by WIC State Agency staff, state investigators, and investigators retained on a contract basis.

2. Special investigative FIs are used for compliance buys. These FIs are entered into the WIC system at the State Agency.

3. The State Agency shall conduct a standard number of compliance buys per compliance investigation based on the level of evidence necessary to impose vendor sanctions or document vendor compliance with policies.

4. The investigator will complete a Compliance Buy Reporting Form (see Appendix VM-5A) summarizing the compliance-buy actions immediately upon exiting the store unless doing so would compromise his/her cover. In such a case the report will be completed as soon as possible. The investigator also will complete a Compliance Buy Check Log and Food Distribution form documenting distribution of the food purchased for the investigation (see Appendix VM-5-B)**.**

5. Once in receipt of the Vendor Compliance Buy Reporting Form, the State Agency will complete a Vendor Compliance Determination Form (see Appendix VM-5-C) documenting the next steps for the compliance investigation. The State Agency shall provide written notice to a vendor determined to have engaged in conduct which constitutes the initial act of a pattern of conduct subject to sanctions at least 15 days prior to the next compliance buy or activity, unless such notification would compromise the integrity of a pending State Agency investigation. If notifying the vendor would compromise the integrity of a pending investigation the State Agency shall document this on the Vendor Compliance Determination Form placed in the vendor file.

5.1. Store inventory counts for all WIC food categories at the time of the initial instore inventory count, and all store inventory for specific foods designated as the audit focus during subsequent inventory counts.

5.2. At the time of the initial inventory count, the vendor must provide documentation that infant formula is obtained from an authorized infant formula distributor as specified in Appendix VM-1-B.

5.3. At the time of each inventory count, any unredeemed FIs in the vendor's possession must be reviewed and documented.

5.4. A vendor representative must review each inventory count performed by State Agency investigators at the time of completion of the count, indicate whether they agree with the results, and if not, why.

5.5. The vendor must provide all invoices/receipts for the specific foods designated as the audit focus purchased by the vendor between the time of the previous inventory count and the current count. Invoices and receipts for infant formula must show the name of the authorized supplier, the date of purchase, a transaction or invoice number, and the quantity and description of the specific formula product or they shall not be considered an acceptable record of inventory nor justification against a Vendor claim. Hand written receipts for formula will not be accepted.

5.6. The State Agency will review and document all food instruments redeemed by the vendor and redemption reports for the foods designated as the audit focus with a total number of units of each food redeemed.

5.7. If the State Agency determines that the vendor has redeemed more of the specific foods than they can provide inventory documentation for, the State Agency will provide the vendor with an opportunity to provide any additional receipts or justification for the discrepancy. If the vendor is unable to fully justify the discrepancy, the State Agency will initiate appropriate vendor sanctions and claims as defined in Policies VM-6 and VM-14.

6. A compliance investigation may be closed when an inventory audit is complete; two compliance buys have been conducted in which no vendor violations are found, or a sufficient number of compliance buys have been conducted to provide evidence of vendor noncompliance.

7. The State Agency shall provide the vendor with a written notice summarizing any deficiencies, any sanction points applied, and any corrective action to be taken as a result of the investigation within thirty (30) days of the completion of a compliance investigation.