

Maine WIC Program

Department of Health and Human Services

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Policy No. FM-18

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Cost Containment Measures

Authority

7 CFR 246.4(a)(14)(x); §246.10(e)(1)(iii); and §246.16a.

Policy

1. The State Agency shall establish procedures for cost containment for infant formula, infant food, other food products, and ensure vendor food prices are reasonable.
2. The State Agency issues the primary contract infant formula as the only choice of issuance.

Procedures

1. The State Agency acquires food through a retail food delivery system.
 - 1.1 The vendor price survey shall monitor vendor pricing to verify reasonability of food costs.
 - 1.2 The State Agency shall calculate maximum allowable reimbursement (MAR) for each food distribution item for each peer group using the data collected in the vendor price surveys.
 - 1.2.1 The MAR shall equal the average price for the food distribution item plus two standard deviations for all food distribution items except formula.
 - 1.2.2 The MAR for formula will equal the average price plus two standard deviations, or average price plus 10%, whichever is greater.
 - 1.2.3 MARs will be calculated on a quarterly basis.
2. The State Agency shall have a rebate contract/agreement for infant formula, infant food and cereal.
3. Contract formula may be issued as powder or concentrate, with ready-to-feed available only in instances of assessed need.
4. The State Agency's infant formula, infant food and infant cereal rebate solicitation/contract shall:
 - 4.1 Establish the contractor's responsibility to provide sufficient quantities of products covered by contract to all authorized WIC vendors in the state.
 - 4.2 Require manufacturer to adjust for price changes subsequent to the bid opening. The provision requires a cent-for-cent increase and decrease in the rebate amounts

whenever there is any change in the lowest national wholesale price for a full truckload of a particular infant formula.

- 4.3 Require payment of rebates on all infant formula purchased while contract is in effect, even though the contract may be void at the time payment is due.
 - 4.4 Require advance payment of rebates, at least during the fourth quarter of each federal fiscal year, to facilitate the State Agency's cash flow situation.
 - 4.5 Stipulate sanctions for unfulfilled contract obligations (e.g., if payment is not made within 30 days of the invoice date, the contractor will pay the State Agency with interest, at a rate specified in the contract, on the unpaid balance until such time as payment is made over and above the amount due from infant formula rebate.)
 - 4.6 Include an extension option for a specified length of time. Terms and conditions of extension period(s) are specified in the request for bids and contract. The duration of the rebate infant formula agreement currently in effect is for three years, with a two-year extension option.
 - 4.7 Address billing discrepancies. Prohibit contractor from withholding rebate payments due under any circumstances. All disputes must be settled by closeout of the fiscal year in which the dispute occurred.
5. For all authorized food, including infant formula, infant food and infant cereal, rebate solicitations:
 - 5.1 The State Agency provides a minimum of 30 days between the publication of the rebate solicitation and the date on which the bids are due.
 - 5.2 The State Agency publicly opens and reads all bids aloud on the day the bids are due.
 - 5.3 The rebate solicitation must identify the composition of the state alliance for the purpose of a cost containment measure, and verify that no additional states shall be added between the date of the bid solicitation and the end of the contract.
 6. There is a single solicitation for both milk- and soy-based formulas.
 - 6.1 The State Agency serves a monthly average of less than 100,000 infants.
 - 6.2 The solicitation is for a state alliance (the Northeast Region and Tribal Organization) that existed prior to July 1, 2004, and that has not added additional state agencies.
 7. The invoice to the formula manufacturer shall be issued by the State Agency fiscal unit.
 8. Invoices shall be submitted with backup data.
 9. The State Agency shall have a billing system in place that ensures infant formula rebate invoices, under competitive bidding, provide a reasonable estimate of the number of units purchased by participants during WIC transactions.
 10. To contain food costs, the State Agency shall impose limits such as foods that are authorized, lowest price available on certain authorized foods, and container sizes/types restrictions.