

Maine Center for Disease Control and Prevention

WIC Nutrition Program

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Policy No. VM-1

Vendor Management Selection and Authorization

Authority

7 CFR §246.4(a)(14)(i), (ii) and (iii), §246.12(a)(1), §246.12(g)(2), (3) and (4), §246.12(h), and §246.12(l)(3)
22 MRSA §255; and
10-144 CMR Chapter 286 §IV(A), (B), (C) and (D)

Policy

1. The WIC State Agency uses a retail purchase system to distribute supplemental foods. It does not allow home delivery or direct delivery of supplemental foods. Delivery is only allowed after a purchase transaction in-store.
2. WIC State Agency contracts with several retail vendors in the operation of its retail purchase system to:
 - 2.1. Ensure the lowest practicable food prices consistent with adequate participant access and
 - 2.2. Ensure effective management, oversight, and review of authorized vendors.
3. Only vendors selected and authorized by the WIC State Agency may participate in the WIC Program.
4. The WIC State Agency does not authorize vendors that derive more than 50 percent of their annual sales revenue from WIC benefits.
5. The WIC State Agency will accept requests for WIC vendor applications on an ongoing basis. Appendix VM-1-E Request for Application. The stores are limited by geographic area and participant density in that area. If a new store is interested in WIC authorization, then the WIC State Agency will only send a WIC application to that store if there is an opening in that new store's geographic area. The WIC State Agency will first consider applicants who would be placed in the Peer A grouping, and if authorized, each vendor must continue to meet all of the eligibility criteria in order to remain authorized.
6. New vendor applicants are placed under a 30 day pre-authorization period to perform Level 3 Certification Testing. This is to validate that the POS system used by the WIC vendor processes the WIC EBT transaction set accurately and follows the WIC EBT processing rules and regulations as defined. Both POS system components and vendor, TPP, and WIC EBT processor processes are tested during certification testing. If the vendor is unable to pass L3 certification by the end of 30 pre-authorization, the vendor may request for a pre-authorization extension, not to exceed 60 days. A vendor who does not pass L3 certification by the end of the pre-authorization will be immediately terminated from the program.

7. Vendors must meet the following selection criteria:
 - 7.1. Carry a minimum variety and quantity of supplemental foods as identified in the current Minimum Inventory Requirements in Appendix VM-1-A.
 - 7.1.1. Expired foods are not counted toward meeting minimum inventory.
 - 7.2. Have competitive prices based on a comparison of vendor applicant price lists and a WIC State Agency standard drawn from a price survey completed by vendors that are authorized in the Peer Group that the applicant would be assigned to, unless denial for this reason would result in WIC participants having inadequate access to an authorized WIC Vendor.
 - 7.2.1. Commissaries are exempt from competitive price criteria for vendor authorization.
 - 7.3. Possess a valid Food Establishment License from the Maine Department of Agriculture, Food and Rural Resources (or its equivalent from another state) or registration as a pharmacy through the Maine Board of Pharmacy (or its equivalent from another state).
 - 7.4. Currently be authorized as a Supplemental Nutrition Assistance Program (SNAP) retailer and provide the SNAP authorization number.
 - 7.4.1. Farmers Peer H vendors are exempt from SNAP Authorization criteria.
 - 7.5. Have a location that improves WIC participant's access to supplemental foods provided with WIC benefits per the selection criteria listed in Section 3.3 of the Procedures portion of this policy.
 - 7.6. Obtain infant formula for sale to WIC participants from sources on the WIC State Agency authorized list of infant formula wholesalers, distributors, and retailers or manufacturers registered with the U.S. Food and Drug Administration (Appendix VM-1-B).
 - 7.7. Be an established business, open to the public for at least one year in the current location. The WIC State Agency may waive this condition for a currently authorized Vendor in good standing, adding an additional location, or for the new owner of a currently authorized store in good standing.
 - 7.8. Have a fixed location that includes refrigeration and freezer equipment in the retail area.
 - 7.9. Carry foods intended for home preparation and consumption in addition to the WIC required minimum stock items, including:
 - 7.9.1. Fresh or frozen uncooked meat, fish, poultry, or meat substitutes.
 - 7.9.2. Whole grain bread and cereal products.
 - 7.9.3. Dairy or dairy-substitute products.
 - 7.9.4. Fresh fruits and vegetables.
 - 7.10. Be open to the public for business at least ten hours per day, six days per week.

- 7.11. Have at least 1000 square feet of space devoted to the sale of grocery items unless denial for this reason would result in inadequate participant access.
- 7.12. Clearly mark all items for sale in the store with prices or clearly indicate prices with shelf labels or other signage.
- 7.13. Have maintained compliance with the previous Vendor Agreement, if previously authorized.
- 7.14. Maintain business integrity, which excludes:
 - 7.14.1. Selling a store to circumvent a WIC sanction.
 - 7.14.2. The vendor's owners, officers, or managers having a history of criminal convictions or civil judgments for activities listed in 7 CFR 246.12(g)(3)(ii) during the previous six (6) year period, unless denying authorization would result in inadequate participant access.
 - 7.14.3. Having a history of WIC sanctions.
 - 7.14.4. Failing to pay a vendor claim.
 - 7.14.5. Being disqualified from SNAP or incurring a civil money penalty for hardship from SNAP, unless denying authorization, would result in inadequate participant access.
 - 7.14.6. Being disqualified or incurring a civil money penalty for hardship from the New Hampshire WIC State Agency, unless denying authorization, would result in inadequate participant access.
- 7.15. Have access to a computer or other electronic device that can access the internet, receive and send emails, use web-based applications, and apply an electronic signature to official documents.
 - 7.15.1. Provide a valid email address, a valid mailing address, and a valid text-enabled telephone number to the WIC State Agency.
 - 7.15.2. Maintain an active electronic mailing address to be used for WIC State Agency communications and ability to print WIC documents.
 - 7.15.3. Vendors must have integrated point-of-sale (POS) devices (multi-function cash registers) able to accept WIC EBT. These devices must be capable of producing receipts that include the store name, food product name and description, quantity sold, price of each item, total actual purchase price, and the date of sale.
 - 7.15.4. Vendor must be able to transact with the WIC Program's EBT provider.
- 8. The WIC State Agency shall routinely verify the FNS field office information provided by vendor applicants regarding the status of their SNAP retailer authorization.
- 9. Vendors are assigned to Peer Groups for selection/authorization and for reimbursement purposes. Peer Groups are used to set the competitive price range for WIC foods, to assess whether a vendor applicant's prices are competitive, and to establish maximum reimbursement amounts (MARs) for WIC foods.

10. The WIC State Agency classifies authorized vendors into groups based on the store business model.
11. Peer groups are as follows:
 - 11.1. Peer Group A – Chain stores, including mass merchandisers, national and regional chains, and other stores supplied through the same wholesale distributor as a national or regional chain (chain affiliates)
 - 11.2. Peer Group C – Convenience and independent grocery stores
 - 11.3. Peer Group E –FDA-Registered Manufacturers
 - 11.4. Peer Group H – Farmers Accepting FMNP Benefits and WIC Benefits
12. The WIC State Agency may reassess an authorized vendor’s peer group designation at any time during the vendor’s agreement period. The vendor may be placed in a different peer group if, upon reassessment, the WIC State Agency determines that the vendor is no longer in the appropriate peer group. Peer groups shall be adjusted as needed to ensure cost containment.
13. The WIC State Agency shall assess the effectiveness of its peer group system on an ongoing basis using redemption data from the peer groups to compare food package costs.
14. All vendors shall have a standard written vendor agreement with the WIC State Agency (see Appendix VM-1-C).
 - 14.1. Agreements between the WIC State Agency and authorized vendors will be valid for a maximum of three (3) years. Occasionally, an agreement period may be for a shorter timeframe in order to ensure administrative efficiency.
 - 14.2. The Vendor Agreement is non-transferable. Any transfer of ownership or sale of the business by the vendor shall render the Agreement null and void. The Agreement also shall be null and void if the vendor ceases operations or leases the business.
 - 14.2.1. Change in Corporate Parent with five or more chain stores with no change in location, store name, staff, system, food, and banking, shall notify the WIC Program of the plan 30 days prior to the effective date. A Vendor Agreement will be provided.
 - 14.3. Both parties to the Vendor Agreement shall represent that there is no conflict of interest between the WIC State Agency, the local WIC agencies, and the Vendor.
 - 14.4. The Vendor Agreement is subject to change in accordance with any changes in federal and state requirements governing the WIC State Agency.
 - 14.5. Neither the vendor nor the WIC State Agency has an obligation to renew the Vendor Agreement upon expiration.

15. Vendor practices during a disaster or other supply disruption, reduce to the minimum stocking requirements.

15.1. At the WIC State Agency's discretion, the minimum required stock may be temporarily adjusted to the following:

- two varieties of fruits,
- three varieties of vegetables; and
- one whole grain cereal that is included on the Approved Product List (APL)

Once stocking shortages caused by the disaster or emergency have passed, the standard minimum required stock will be reinstated.

15.2. Vendors must continue to obtain infant formula and medical foods only from the manufacturer, distributor, and wholesaler sources listed on the Authorized Infant Formula Supplier list.

15.3. Routine Vendor Monitoring Visits and Compliance Activities Once a state of emergency has been declared, all routine vendor monitoring visits and compliance activities may be suspended until normal vendor operations can resume.

At the state's discretion, a minimum required stock violation for a specific item affected by a minor supply disruption (i.e., eggs or infant cereal) may be waived. The waiver must be noted on the monitoring form.

15.4. Out-of-state food benefits: If possible, and at the discretion of the WIC authorized vendor, they may be certified and allowed to accept out-of-state food instruments during disaster situations. The WIC State Agency will advise vendors and local agencies if and when this option is to be implemented.

The cost of the food benefits is the responsibility of the originating WIC State Agency, where the participant was initially certified.

Procedures

1. Each retail store applying for WIC authorization shall submit all the required application forms to the WIC State Agency office (see Appendix VM-1-D).

1.1. Application forms shall be completed in full, signed by an appropriate vendor representative, and submitted to the WIC State Agency.

1.1.1. Vendor corporate offices shall complete applications for all vendor outlets of their chain. Individual stores in a chain are not required to submit an application. Each individual store is required to receive an approved form of training prior to authorization and to meet all authorization criteria and requirements, such as minimum stocking requirements.

1.2. Incomplete or unsigned applications will be returned to the vendor.

1.1.2. Applicants shall submit the missing information to the WIC State Agency within thirty (30) days of notification of the incomplete application.

1.1.3. Applicants who fail to return the missing information within 30 days may not be considered for authorization.

2. Prior to the consideration of complete applications, the WIC State Agency will determine the participant access needs for each of the towns for which applications have been received.
3. If multiple vendor applicants that meet the selection criteria apply in the same town:
 - 3.1. Applicants that would be placed in the Peer A grouping will receive first consideration for authorization.
 - 3.2. The WIC State Agency will also consider any other applicants in the same town that meet vendor limiting criteria based upon the applicant's location and participant density in that area.
 - 3.3. The WIC State Agency will select authorized vendors using the following criteria:
 - 3.3.1. Redemption of a minimum number/volume of benefits (no less than an average of 15 WIC transactions or of \$200.00 in value of WIC benefits redeemed per month based upon the most recent 12 months of transactions).
 - 3.3.1.1. Any Peer A store conducting fewer than 50 WIC benefit transactions per month averaged over the previous 12 months that is located within a 1-mile radius of another Peer A vendor conducting more than 50 WIC benefit transactions per month will be terminated.
 - 3.3.2. In towns with more than 5,000 residents, a store that would be placed in the Peer C classification that meets all vendor selection criteria may be authorized if it is in a location:
 - 3.3.2.1. More than 1 mile from an authorized Peer A store;
 - 3.3.2.2. More than 0.5 miles from the nearest Peer C store; and
 - 3.3.2.3. Where there are 25 or more WIC participants residing in a 0.25 mile radius.
 - 3.3.3. In towns with between 2,000 and 5,000 residents, no more than 2 Peer C stores will be authorized in a 5 mile radius. In addition, a Peer C store will only be authorized if it is located:
 - 3.3.3.1. More than 1 mile from the nearest authorized Peer A store;
 - 3.3.3.2. More than 0.5 miles from the nearest authorized Peer C store; and
 - 3.3.3.3. There are 50 or more WIC participants residing within a 5 mile radius of the applicant store.
 - 3.3.4. In towns with fewer than 2,000 residents, no more than 1 vendor will be authorized. In addition, a store may not be authorized if:
 - 3.3.4.1. There are fewer than 10 participants within a 5 mile radius of the applicant store.
4. Prior to declining applicants who do not meet the selection criteria listed as 6.2, 6.11, 6.16.2, 6.16.5, and 6.16.6 in the Policy above, the WIC State Agency will determine if the vendor's decline would result in inadequate participant access. If inadequate participant access is found, at least one vendor must be authorized.

- 4.1. The definition of inadequate participant access for the purposes of vendor selection, when the applicant vendor does not meet all other selection criteria or is being considered for disqualification, is:
 - 4.1.1. For towns with a population of 5,000 people or more, no vendors within a 5 mile radius of the applicant vendor/vendor to be sanctioned; or
 - 4.1.2. For towns with a population of less than 5,000 people, no vendors and at least
 - 4.1.3. 25 WIC participants within 10 miles of the location of the applicant vendor/vendor to be sanctioned.
5. For vendor applicants meeting selection and limiting criteria, the WIC State Agency will:
 - 5.1. Notify the vendor within 90 days unless an earlier notification is necessary in order to ensure adequate participant access;
 - 5.2. Conduct an on-site preauthorization visit to verify information received during the application process and
 - 5.3. A store representative (store owners, managers, and/or staff) must successfully complete interactive vendor training. Training may be a combination of virtual and face-to-face and may be held prior to or during the on-site visit. The WIC State Agency will decide on the time and location.
6. Once training has been completed, the vendor applicant and the WIC State Agency will sign a Vendor Agreement.
 - 6.1. Vendors who receive an unsigned WIC Vendor Agreement shall sign it within two (2) weeks, not to exceed 30 days from the date the WIC State Agency sent it, unless the vendor requests additional time.
 - 6.2. Vendors who fail to return the signed Agreement by the prescribed deadline will be terminated from the Program until the contract is signed and returned to the State Agency. Signed contracts received after the contract period ends will not be accepted. The vendor will be required to apply as a new vendor.
7. The Agreement between the Vendor and the WIC State Agency may be terminated as follows:
 - 7.1. The WIC State Agency may terminate the Vendor Agreement for cause with fifteen (15) days' advance written notice.
 - 7.2. The WIC State Agency shall terminate the Vendor Agreement if the vendor is disqualified for any reason.
 - 7.3. The **State Agency** may terminate the Vendor Agreement with thirty (30) days advance written notice without cause.
8. To remain authorized, the vendor shall comply with all the requirements of the WIC State Agency, including, but not limited to:
 - 8.1. Attend mandatory training
 - 8.2. Maintain minimum stock of all WIC foods

- 8.3. Meet minimum transaction requirements
- 8.4. Provide price surveys upon request
- 8.5. Maintain competitive pricing
- 8.6. Satisfy all claims for overcharges within the time requested
- 8.7. Vendors must have integrated point-of-sale (POS) devices (multi-function cash registers) able to accept WIC EBT.
9. The WIC State Agency may reassess the authorization of any authorized vendor at any time and as often as it deems necessary during the vendor's contract period, using the vendor selection criteria in effect at the time of the reassessment. The WIC State Agency shall terminate the agreements with those vendors that fail to meet the criteria.
10. Vendors will receive an application for authorization renewal at least thirty (30) days before the agreement expires. This shall include notification that failure to return the renewal application prior to the expiration date of the current Agreement will result in loss of authorization.
11. The WIC State Agency will maintain a file on each authorized vendor that includes, at a minimum, the following:
 - 11.1. Vendor data sheet/price survey forms
 - 11.2. Vendor Agreement
 - 11.3. Completed on-site monitoring forms
 - 11.4. All written correspondence relating to the vendor
 - 11.5. Any participant complaints
 - 11.6. Record of training activities
 - 11.7. Log of vendor contracts
12. All vendor files will be maintained as inactive files for a three-year period from the date the vendor's most recent contract is terminated or expired.