2025-2027

DELAWARE WIC

VENDOR HANDBOOK

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM
FOR WOMEN, INFANTS & CHILDREN (WIC)

DELAWARE HEALTH AND SOCIAL SERVICES
Division of Public Health
WIC Program

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VENDOR LIMITATION AND PARTICIPANT ACCESS

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- How does the State agency limit the number of vendors it authorizes?
- How is the ratio applied?
- What does the term geographic area mean?
- Are there any exceptions to the limitation of vendors?
- What happens when a geographic area has less than 500 participants?
- How does the State agency review participant access?
- Federal Reference

What does the term vendor limitation criteria mean?

This term refers to criteria established by the State agency to determine the maximum number and distribution of vendors it authorizes.

How does the State agency limit the number of vendors it authorizes?

The State agency uses a participant-to-vendor ratio (300:1) to determine the number of vendors authorized in each geographic area.

How is the ratio applied?

This ratio is applied to geographic areas within the State to distribute the authorized vendors in accordance with the participant population densities. The State agency will round up for .5 or greater and round down for .49 or less.

If geographic area has...	...then...	...means the number of vendors authorized is...
900 participants	900 divided by 300 = 3	3
1025 participants	1025 divided by 300 = 3.4	3
1100 participants	1100 divided by 300 = 3.7	4

What does the term geographic area mean?

For purposes of authorization, geographic area is defined as the area in which participants reside. Geographic area boundaries are determined through Zip Code analysis.

Are there any exceptions to the limitation of vendors?

Yes, the State agency may authorize extra vendors in an area if one of the following exceptions exists:

- geographic area has less than 500 participants; or
- participant access.

How does the State agency review participant access?
Participant access is not defined as participant convenience or preference. Inadequate participant access would cause **a hardship, not just an inconvenience**, to participants.

Hardship will be determined if one of the following conditions exists:

- Fifty (50) or more participants would be required to travel in excess of five miles to reach an authorized vendor.
- Constant or permanent physical barriers or conditions that would make normal travel to another authorized vendor impossible (e.g., frequent road closings due to bad weather).
- Fifty (50) or more participants whose specific nationality can only be properly served by a specific vendor due to a language barrier.
- Fifty (50) or more participants whose specific dietary needs can only be properly served by a specific vendor due to religious mandates.

The State agency reviews participant access on a statewide basis during the authorization process and on a case-by-case basis during an agreement period.

NOTES:

Federal Reference
7 CFR 246.12(b) and 246.12(1)(8)

Last revised: January 1, 2025

BID APPLICATION PERIODS AND WAITING LISTS

POLICY AND PROCEDURE CONTENTS

- How often does the State agency accept and process bid applications?
- What does the term "agreement period" mean?
- Can a vendor request a bid application during an agreement period?
- Is there any advantage to being on a waiting list?
- Who is on the primary waiting list?
- Who is on the secondary waiting list?
- How does the State agency authorize vendors during an agreement period?
- Federal Reference

How often does the State agency accept and process bid applications?
Once every three years, the State agency accepts and processes bid applications to authorize WIC vendors. The State agency utilizes a competitive vendor bidding process for the mass authorization of applicant vendors.

What does the term "*agreement period*" mean?
The State agency awards Vendor Participation Agreements (hereafter referred to as agreements) for a specific period of calendar years. All agreements run concurrent with this specified timeframe. *(Example: Vendors are authorized for 2025 agreement period. Thus, agreements can start no sooner than January 1, 2025 and must expire no later than December 31, 2027.)*

Can a vendor request a bid application during an agreement period?
No, but a vendor can inform the State agency that he or she wishes to be added to a waiting list.

Is there any advantage to being on a waiting list?
Yes, the State agency uses waiting list vendors to:

- replace an authorized vendor who is terminated from the program for any reason (change of ownership, disqualification, store closure, etc.); and
- select vendors to review for authorization if any additional vendors are required to maintain adequate participant access.

The State agency notifies waiting list vendors when the next competitive vendor bid process takes place and invites them to the pre-bid meeting.

Who is on the primary waiting list?
The State agency places applicant vendors who pass eligibility criteria (except training), but did not rank high enough to attain authorization, on the primary waiting list. Applicant vendors are listed in the order of their bid results for their geographic area.

Who is on the secondary waiting list?

This is a list of vendors who did not participate in or were denied during the competitive bid process.

Grocery vendors requesting authorization after the bids have been awarded or during an agreement period are sent a letter explaining how the Delaware WIC Program selects their vendors and a Waiting List Information Sheet. This information sheet is ***not*** an application for authorization. It is merely a request to be added to the secondary waiting list.

How does the State agency authorize vendors during an agreement period?

If an authorized vendor is terminated/disqualified or any additional vendors are required to maintain adequate participant access, the State agency will:

1. Review the waiting lists for the geographic area in conjunction with the participant access determination.
2. Select vendors that will achieve the greatest participant access and utilize the same competitive vendor bid process used for mass authorization.

NOTES:

Federal Reference
7 CFR 246.12(g)(9)

Last revised: January 1, 2025

VENDOR ELIGIBILITY CRITERIA

POLICY AND PROCEDURE CONTENTS

- What eligibility criteria must all applicant and authorized vendors meet?
- How does this apply to applicant vendors?
- How does this apply to authorized vendors?
- What does the term “serving a disqualification period” mean?
- Federal Reference

What eligibility criteria must all applicant and authorized vendors meet?

All vendors must:

- Have a permanent, fixed, retail establishment physically located in Delaware.
- Have a minimum of 10,000 square feet of space and a minimum of three (3) cash registers.
- Have integrated point of sale devices (multi-function cash registers) able to accept eWIC.
- Have a valid State of Delaware business license (codes 396, 404).
- Have a valid Public Health permit and maintain the store in a clean and sanitary condition per the State of Delaware Food Code.
- Have Supplemental Nutrition Assistance Program (SNAP) authorization and a valid SNAP identification number.
- Have the minimum mandatory WIC stock on the shelves.
- Have authorized representatives attend mandatory training sessions, as scheduled by the State agency.
- Have paid back in full all overcharges and/or overages in the period stipulated by the State agency. No overdue balances may exist.
- Have an adequate history of compliance during previous agreement periods or successful completion of a probationary agreement period.
- Not be **serving a disqualification period** from SNAP.
- Not be **serving a disqualification period** from the Delaware WIC Program.
- Not have a conviction or civil judgment entered against the vendor or any of its’ current owners, officers, or managers for fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice.
- Not have a conflict of interest with the Delaware WIC Program.
- Be open at least 10 hours a day, 6 days a week.
- Be located in a geographic area where there are WIC participants.
- Submit the vendor bid application with legitimate information.

- Bid prices cannot exceed shelf prices.
- Submit and abide by competitive shelf prices on the vendor bid application.
- Not derive more than 50% of their annual revenue from the sale of WIC food items.
- Carry authorized WIC food items, dairy, meat, fresh fruit and vegetable produce, and household items.
- WIC only stores and mobile stores are specifically ineligible.
- Must obtain infant formula only from sources included on the Delaware WIC authorized formula manufacturers, wholesalers, distributors, and retailers list.

How does this apply to applicant vendors?
APPLICANT VENDORS must meet these criteria to be eligible to be an authorized WIC vendor. Meeting the eligibility criteria does not guarantee authorization. The State agency will reject bid applications from any applicant vendor that does not meet the eligibility criteria.

How does this apply to authorized vendors?
AUTHORIZED VENDORS must maintain compliance with these criteria, at all times. The State agency will give an authorized vendor, who is out of compliance, an opportunity to take corrective action. If corrective action does not occur within the time period specified by the State agency, the Vendor Participation Agreement may be terminated for cause of ineligibility.

What does the term "*serving a disqualification period*" mean?
This term refers to either:

- The period of time a vendor has been disqualified; or
- The period of time a vendor would have been disqualified but has remained active by paying a civil money penalty in lieu of the disqualification.

NOTES:

Federal Reference
7 CFR 246.12(g)(3)(i)(ii)(iii)

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VENDOR BID (APPLICATION) PROCESS

POLICY AND PROCEDURE CONTENTS

- What are the authorization criteria for the vendor bid (application) process?
- Does the State agency have to visit a store before authorization?
- What happens if the applicant vendor bought the store from a vendor who is trying to avoid having a WIC sanction levied against him/her?
- Federal Reference

What are the authorization criteria for the vendor bid (application) process?

1. All interested vendors **MUST** attend the pre-bid application meeting and receive a bid application package. The State agency will not mail bid applications to interested vendors. Only vendors attending the pre-bid application meeting may submit a sealed bid to the State agency for review.
2. All bid application submissions must be proper and timely. The State agency will reject any bid application received after the deadline. Any bid application submitted using a means of delivery other than the approved methods of delivery, as stated in the bid application package, will be rejected upon receipt. All bid applications, no matter how transmitted, must be sealed in an envelope and the envelope must be no smaller than 8" x 11" in dimension. All envelopes should be marked with **SEALED BID**.
3. All bid application submissions must be filled out in entirety. Any bid application received that is incomplete (does not have all the necessary information, missing necessary signatures, etc.) will be rejected. The State agency is not responsible for following up with vendors to complete missing information on bid applications.
4. All applicant vendors are reviewed in accordance with the Vendor Eligibility Criteria. All applicants must meet the conditions of the eligibility criteria before an agreement will be signed (see page for Vendor Eligibility Criteria). The State agency will perform onsite reviews at initial authorization to verify bid application information and compliance with the eligibility criteria. Any vendor not meeting the eligibility criteria will be rejected. Vendors authorized under prior year agreement will not be required an on-site review but will need to satisfy all eligibility criteria for their bid application to be considered.
5. A comparative analysis of all applicant vendor bid sheets is performed. Bids, combined with shelf prices, are reviewed and ranked in accordance with their competitive nature for each geographic area.
6. Potential vendors are selected and notified. All potential vendors are selected and notified that participation agreements will not be signed until after the vendor satisfies all training criteria, as scheduled by the State agency. If the potential vendor does not meet the training criteria, the potential vendor will be considered in violation of the eligibility criteria and the bid application will be rejected.
7. Vendors not selected shall be notified and receive instruction on the Administrative Review process. Applicant vendors who are eligible, but did not rank high enough to gain a slot, will be placed on the primary waiting list and notified of their right to appeal the State agency's decision. Failure to be selected for authorization solely due to a noncompetitive bid is not grounds for Administrative Appeal.

Does the State agency have to visit a store before authorization?
The State agency will perform an onsite monitoring visit at initial authorization before an applicant vendor's authorization. During this visit, the State agency will verify information submitted on application, review for compliance with eligibility criteria, and collect shelf prices.

What happens if the applicant vendor bought the store from a vendor who is trying to avoid having a WIC sanction levied against him/her?
The State agency may not authorize an applicant vendor if the State agency determines its previous owner has sold the store in an attempt to circumvent a WIC sanction. The State agency may consider such factors as whether the store was sold to a relative by blood or marriage of the previous owner(s) or sold to any individual or organization for less than its fair market value.

NOTES:

Federal Reference
7 CFR 246.12(g)(7)

Last revised: January 1, 2025

VENDOR TRAINING

POLICY AND PROCEDURE CONTENTS

- What is the purpose of vendor training?
- How often do vendors have to attend training?
- What are the State agency's responsibilities?
- What are the vendors' responsibilities?
- How does the State agency document the content of and vendor participation in vendor training?
- What are acceptable methods of training?
- What does mandatory prior authorization and annual interactive training include?
- What happens if a vendor fails to attend a training session?
- Federal Reference

What is the purpose of vendor training?
All vendor training is designed to prevent program errors and non-compliance and improve program service.

How often do vendors have to attend training?
All vendors must attend mandatory training prior to initial authorization and mandatory annual interactive training sessions during their authorization. (Annual refers to a Federal fiscal year, not on a calendar year. FFY = Oct. 1st – Sept. 30th)

The State agency will also schedule corrective action training for non-compliant or problematic authorized vendors on an as needed basis.

What are the State agency's responsibilities?
- Provide training annually to at least one representative of each vendor.
- Determine the method of vendor training used, regardless of reason for training.
- Provide ***interactive*** training prior to a vendor's authorization.
- Designate the date, time, and location of the ***interactive*** training and the audience (e.g. managers, cashiers, etc.) to which the training is directed.
- Document the content of and vendor participation in all forms of vendor training.
- Provide vendors with at least one alternative date on which to attend ***interactive*** training.
- Terminate any vendor that does not attend training, as scheduled.

What are the vendors' responsibilities?
The vendors must:
- Attend vendor training, as scheduled by the State agency.
- Train cashiers and other staff on program requirements.

How does the State agency document the content of and vendor participation in vendor training?
All vendors are required to sign a Verification of Training form.

What are acceptable methods of training?

Examples of acceptable methods of vendor training include:

- Off-site classroom-style train-the-trainer or manager training;
- On-site cashier training;
- Training videos, and
- Training newsletters.

What does mandatory prior authorization and annual interactive training include?

Prior authorization and annual vendor training will include:

- Instruction on the purpose of the WIC Program;
- The supplemental foods authorized by the State agency;
- The minimum varieties and quantities of authorized supplemental foods that must be stocked by vendors;
- The vendor sanction system;
- The vendor complaint process;
- How to complete an eWIC transaction;
- The claims procedure;
- Any changes to program requirements that have occurred since the last annual training session;
- The authorized list of infant formula distributors, retailers, and wholesalers for WIC formula; and
- The policy regarding the use of incentive items.

What happens if a vendor fails to attend a training session?

If it is...	...then the State agency will...
prior authorization training or mandatory annual training or corrective action training	allow the vendor to attend training on an alternative date
an alternative date for prior authorization training	deny the vendor WIC authorization for failure to meet vendor eligibility criteria
an alternative date for mandatory annual training	terminate the vendor for failure to remain in compliance with vendor eligibility criteria
an alternative date for corrective action training	terminate the vendor for failure to remain in compliance with vendor eligibility criteria

NOTES:

Federal Reference
7 CFR 246.12(i)

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ROUTINE MONITORING AND COMPLIANCE INVESTIGATIONS

POLICY AND PROCEDURE CONTENTS

- Who is responsible for monitoring vendors?
- What is a routine monitoring review?
- What does the State agency do during a routine monitoring review?
- How does the State agency determine who gets a routine monitoring review?
- What are compliance investigations?
- How does the State agency select vendors for compliance investigations?
- What documentation is required?
- Federal Reference

Who is responsible for monitoring vendors?

The State agency is responsible for monitoring vendors to determine their compliance with Program regulations and vendor participation agreements. Investigations may remain open from a period of thirty days to one year. State agency investigations include, but are not limited to:

- compliance buys;
- inventory audits;
- eligibility criteria reviews;
- eWIC transaction reviews; and
- educational visits.

What is a routine monitoring review?

A routine monitoring review is an overt, on-site monitoring visit during which State agency staff identifies themselves to vendor personnel.

What does the State agency do during a routine monitoring review?

Routine monitoring activities include, but are not limited to:

- verifying vendor meets the minimum stock requirement;
- may collect/verify shelf prices of authorized foods;
- observing eWIC transactions;
- interviewing vendor staff;
- validating authorized foods have “WIC Approved” shelf labels; and
- compliance with various eligibility criteria.

How does the State agency determine who gets a routine monitoring review?

All retail grocery vendors will receive, at least, one routine monitoring review in a Federal fiscal year. Some vendors may receive more than one visit. The State agency selects vendors by means of random sampling, periodic/scheduled reviews, or due to complaints filed against the vendor.

What are compliance investigations?

Compliance investigations consist of:

- Compliance buys – covert, on-site investigations in which a representative of the Program poses as a participant, parent or caretaker of an infant or child participant, or proxy, transacts one or more eWIC purchases, and does not reveal during the visit that he or she is a program representative.
- Inventory audits – examination of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of supplemental foods to provide participants the quantities loaded to the eWIC card and purchased by participants during a given period of time.

How does the State agency select vendors for compliance investigations?

The State agency is required to perform compliance investigations on a minimum of 5% of its vendors. This requirement is a minimum and does not preclude the State agency from performing compliance investigations on more than 5% of its vendors.

If...	...then the State agency will...
greater than 5% of the vendors have a high-risk status	review the high-risk vendors who have the greatest potential for non-compliance and/or loss of funds.
less than 5% of the vendors have a high-risk status	review all high-risk vendors and randomly select non-risk vendors.
exactly 5% of the vendors have a high-risk status	review all high-risk vendors.

What documentation is required?

The State agency must document the following information for all monitoring visits, including routine monitoring visits and inventory audits:

- the date of the monitoring visit or inventory audit;
- the name(s) and signature(s) of the reviewer(s); and
- the nature of any problem(s) detected.

For compliance buys, the State agency must document:

- the date of the compliance buy;
- the name(s) and signature(s) of the reviewer(s);
- the nature of any problem(s) detected;
- a description of the cashier involved in each transaction;
- the types and quantities of items purchased, current shelf prices or prices charged other customers, and price charged for each item purchased, if available. Price information may be obtained prior to, during, or subsequent to the compliance buy; and
- the final disposition of all items as destroyed, donated, provided to other authorities, or kept as evidence.

Federal Reference
7CFR 246.12(j)

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VIOLATIONS AND SANCTIONS

POLICY AND PROCEDURE CONTENTS

- Does the State agency have to warn a vendor before giving him/her a sanction?
- Class A Violations
- Class B Violations
- Class D Violations
- Class E Violations
- Class M Violations
- What happens when there are multiple violations during a single investigation?
- Are there any actions in addition to sanctions?
- Disqualified Vendors
- Terminated Vendors
- What are the notification procedures for disqualifying or terminating a vendor?
- When is a vendor not permitted to voluntarily withdrawal from the WIC Program?
- WIC Disqualification Based on a SNAP Program Disqualification
- SNAP Disqualification Based on a WIC Program Disqualification
- FNS Notification of Disqualifications
- Civil Money Penalty

Does the State agency have to warn a vendor before giving him/her a sanction?

Not always. If the State agency finds that a vendor has committed a violation that requires a pattern (2 or more) of occurrences in order to impose a penalty, the State agency shall send a written warning to the vendor, unless the State agency determines, on a case-by-case basis, that notifying the vendor would compromise the compliance investigation. (7 CFR 246.12(h)(3)(xviii) and Reauthorization Act)

Class A Violations

- 1st documented incident – Warning letter, training materials sent to store.
- 2nd documented incident – Warning letter, mandatory training scheduled by WIC State agency office.
- >3rd documented incident – Becomes Class E Violation.

These are determined to be minimal violations. Sanctions for class A violations include warning letters, technical assistance, and mandatory training. These sanctions are based on an incident. It should be noted that repeated warnings for class A violations may trigger other investigations.

Class B Violations

- 1st documented incident – Termination of agreement.

These are violations of the Delaware WIC Program's Vendor Eligibility Criteria.

AUTHORIZED VENDORS must maintain compliance with these criteria to remain authorized during an agreement period. Any vendor not in compliance with eligibility criteria shall be notified and given an opportunity to correct the non-compliance. If corrective action does not occur within the time period specified by the WIC State agency office, the Vendor Participation Agreement may be terminated for cause of ineligibility.

Class D Violations

- 1st documented pattern or incident (dependent upon violation, see pages 36-38) – 6 month to one year disqualification.

These are determined to be serious violations that constitute Program fraud or abuse. The sanctions for class D violations range from a six-month disqualification to a one-year disqualification. Sanctions may be based on pattern of abuse or an incident of abuse.

Class E Violations

- After 2 documented instances, the State agency may take administrative action.

Class M Violations

- 1st documented pattern or incident (dependent upon violation, see pages 36-38) – one-year disqualification to permanent disqualification.
- 2nd documented pattern or incident (dependent upon violation, see pages 36-38) – two years disqualification to permanent disqualification.
- 3rd documented pattern or incident (dependent upon violation, see pages 36-38) – two years disqualification to permanent disqualification.
- >3rd documented pattern or incident (dependent upon violation, see pages 36-38) – two years disqualification to permanent disqualification.

These are violations requiring mandatory sanctions as specified in 7 CFR 246.12 of the Federal Regulations. Mandatory sanctions range from a one-year disqualification to permanent disqualification. These are reciprocal WIC/SNAP violations. Sanction may be based on pattern of abuse or an incident of abuse.

What happens when there are multiple violations during a single investigation?

During the course of a single investigation if a vendor has committed multiple violations (which may include violations subject to State agency sanctions), the State agency shall disqualify the vendor for the period corresponding to the most serious mandatory violation. However, the State agency shall include all violations in the notice of administration action. If a mandatory sanction is not upheld on appeal, then the State agency may impose a State agency-established sanction. (7 CFR 246.12(l)(1)(xii))

Are there any actions in addition to sanctions?

The State agency shall refer food vendors and participants who abuse the Program to Federal, State, or local authorities for prosecution under applicable statutes, where appropriate. Under 7CFR 246.23(d) of the Federal Regulations, whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property for his or her own interest, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets or property are of the value of $100 or more, be fined not more than $25,000 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (7 CFR 246.12(l)(7)) Sanctions and violations are subject to periodic revisions by State agency office.

Disqualified Vendors

Vendors disqualified from the Delaware WIC Program may not accept Delaware eWIC transactions during the period of disqualification. Disqualified vendors do not have automatic reinstatement rights to the Program at the end of the disqualification period. After the disqualification period is completed, the vendor may request to be placed on a waiting list or apply for authorization during the next authorization process. Application does not ensure authorization. The Delaware WIC Program reserves the right to deny authorization to any applicant who was previously disqualified from the WIC Program.

Terminated Vendors

Vendors terminated from the Delaware WIC Program may not accept Delaware eWIC transactions after termination. Terminated vendors do not have automatic reinstatement rights to the Program, but may request to be placed on a waiting list or apply for authorization during the next authorization process. Application does not ensure authorization. The Delaware WIC Program reserves the right to deny authorization to any applicant who was previously terminated from the WIC Program.

What are the notification procedures for disqualifying or terminating a vendor?

When the State agency office has determined a vendor will be disqualified or terminated:

1. A letter will be sent outlining the cause for disqualification or termination, the beginning and ending date of the disqualification or termination period, the vendor's right to appeal the decision, and the procedures for an administrative review.
2. The letter will be signed by the Vendor Manager and sent certified mail, return receipt requested, at least 30 calendar days prior to the disqualification/termination start date.
3. After receiving the return receipt, 15 calendar days (from the date on the return receipt) will be allowed as a waiting period for the vendor to appeal the decision.

When is a vendor not permitted to voluntarily withdrawal from the WIC Program?

The State agency shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification for Class M violations. All disqualifications for Class M violations shall be entered on record and reported to SNAP. In addition, the State agency may not use nonrenewal of the vendor agreement as an alternative to disqualification. (7 CFR 246.12(l)(1)(viii))

WIC Disqualification Based on a SNAP Program Disqualification

The State agency shall disqualify a vendor who has been disqualified from SNAP. The disqualification shall be for the same length of time as SNAP disqualification. It may begin later than SNAP disqualification. WIC disqualification based on a SNAP disqualification shall not be subject to administrative or judicial review under the WIC Program. (7CFR 246.12 (h) (3) (vii))

SNAP Disqualification Based on a WIC Program Disqualification

SNAP may disqualify a vendor who has been disqualified from the WIC Program. The disqualification shall be for the same length of time as the WIC Program disqualification. A SNAP disqualification based on a WIC disqualification is not subject to administrative or judicial review under the SNAP/WIC Program. (7 CFR 246.12 (h) (3) (xxvi))

FNS Notification of Disqualifications

The State agency shall provide the appropriate FNS office with the following information:

1. Vendor name
2. Vendor address
3. Vendor ID
4. Type of violation(s)
5. Length of disqualification OR length of disqualification corresponding to civil money penalty assessment

This information shall be forwarded within 15 days after the vendor's opportunity to file for a WIC administrative review has expired or all of the vendor's WIC administrative reviews have been completed. (7 CFR 246.12(l)(1)(xi))

Civil Money Penalty

A "Civil Money Penalty" may be assessed against vendors in lieu of disqualification, in order to emphasize the seriousness of Program compliance and to allow the vendor to continue to serve an otherwise uncovered participant group. A civil money penalty does not, however, relieve the vendor of financial liability for previous compliance issues, such as outstanding overage and/or overcharge reimbursements, or payments due for sale of unauthorized foods. Such outstanding liabilities must be paid in addition to the Civil Money Penalty.

NOTES:

CIVIL MONEY PENALTY

POLICY AND PROCEDURE CONTENTS

- What is a civil money penalty?
- When does the State agency use a civil money penalty?
- How does the State agency define participant access?
- Does the State agency always impose a civil money penalty?
- What happens when the State agency decides to impose a civil money penalty?
- How does the State agency calculate a civil money penalty?
- Payment of Civil Money Penalties
- What happens if a vendor fails to pay his/her civil money penalty?
- Can a vendor request a civil money penalty in lieu of disqualification?
- Does the State agency notify FNS of civil money penalties?
- Federal Reference

What is a civil money penalty?

As an alternate sanction, the State agency may assess a "Money Penalty" against such vendors in lieu of disqualification in order to emphasize the seriousness of Program compliance and to allow the vendor to continue to serve an otherwise uncovered participant group. A civil money penalty does not, however, relieve the vendor of financial liability for previous compliance issues such as outstanding overage and/or overcharge reimbursements or payments due for sale of unauthorized foods. Vendors must pay these outstanding liabilities in addition to the civil money penalty.

When does the State agency use a civil money penalty?

Under special circumstances, the State agency may choose to waive disqualification of an abusive vendor or non-compliant vendor. The State agency uses civil money penalties where the disqualification of the vendor would cause **a hardship, not just an inconvenience**, to participants. Participant hardship is not the same as participant inconvenience or preference. Vendors may not appeal or protest State agency decisions based on participant access or preference.

How does the State agency define participant access?

Participant access shall not be taken to mean participant inconvenience or preference and shall be determined to exist if one of the following conditions is indicated:

1. A significant number of WIC participants (50 or more) would be required to travel in excess of an additional five miles to reach an authorized vendor.
2. Constant or permanent physical barriers or conditions that would make normal travel to another authorized vendor impossible (e.g., frequent road closings due to bad weather).
3. Fifty (50) or more WIC participants whose specific nationality can only be properly served by a specific vendor due to a language barrier.
4. Fifty (50) or more WIC participants whose specific dietary needs can only be properly served by a specific vendor due to religious mandates.

Does the State agency always impose a civil money penalty?

Regardless of participant hardship, the State agency will not offer a civil money penalty if the disqualification is based on:

1. "Trafficking" eWIC cards.
2. Overcharging the program, with the intent to defraud.
3. Vendor's refusal to be monitored or refusal to supply the program with supplier's invoices.
4. Vendor's refusal to accept mandatory training.
5. Vendor has been disqualified from or has been assessed a civil money penalty by the SNAP Program in the past two years. (Civil money penalties may be considered in situations where the FSP disqualification or civil money penalty resulted from abuses that have no bearing or impact on the WIC Program.
6. Third or subsequent mandatory sanctions, as listed in 7CFR246.12(l)(1)(vi).

What happens when the State agency decides to impose a civil money penalty?

After having determined that an authorized vendor should be disqualified from the program, the State agency will review the case to determine participant hardship. This review will take place prior to notification of disqualification, so that the vendor will be made aware of any alternative at the time of notification. If the State agency determines that there is participant hardship and that a civil money penalty is an appropriate alternative, then the State agency will contact the vendor to schedule a conference.

Prior to or at the time the vendor is contacted to schedule a conference, the vendor should be sent a written notice of the disqualification action. This notice should include cause(s) for the disqualification, the effective date of the action, the vendor's right to appeal, and the procedures to be followed to file an appeal. This notice could also notify the vendor that the State agency has decided to offer a CMP (Civil Money Penalty) in lieu of disqualification and that they will be contacted to schedule a conference to discuss the CMP offer.

This conference will be used to offer the alternative of the money penalty in lieu of disqualification. The conference will cover the following:

1. The amount of the alternative money penalty (as determined by the following procedure for calculating money penalties);
2. The method of payment of the penalty available to the vendor; and
3. Discussion of all compliance issues, not just those that brought about the disqualification.

In addition, at the conference, the vendor will be advised of the following:

1. Acceptance/payment of the money penalty settles all past compliance issues but does not relieve the vendor of its obligation to document the resolution of the identified problems or protect the vendor from future sanctions or disqualification for continued non-compliance;
2. Past violations settled by the civil money penalty may be considered, at the discretion of the State agency, if additional violations of the same nature occur in the future;
3. The vendor has fifteen days after the conference to accept the alternative money penalty in lieu of disqualification;
4. Money penalty settlement does not prohibit further WIC investigations; and
5. Receipt of a civil money penalty will be considered as "past history" during the next bid process.

How does the State agency calculate a civil money penalty?

The State agency calculates all civil money penalties with a standard formula. However, the penalty shall not exceed $18,760 per abuse and the total amount of civil money penalties shall not exceed $75,042 per investigation. The formula is as follows:

STEP 1 Multiply 10% (.10) times the average monthly redemptions for the most recent six (6) month period prior to the date of notification of charges.

STEP 2 Multiply the product of Step 1 by the number of months of the disqualification period.

EXAMPLE:

September	$4,650.00	$29,305 ÷ 6 = $4,884.17
August	$4,075.00	
July	$5,120.00	$4,884.17 x 10% = $488.42
June	$5,580.00	
May	$4,890.00	$488.42 x 24 months = $11,722.08
April	$4,990.00	
	$29,305.00	$11,722.08 = civil money penalty

Payment of Civil Money Penalties

The payment of the money penalty must be made by one of the following methods, as determined by the State agency:

1. A lump sum payment of the penalty which must be received on or before the date of disqualification was to be effective; or
2. By installment payments that will be of equal amounts, the total number of which cannot exceed the number of months of the alternative disqualification.

The first installment must be received by the State agency on or before the date the disqualification was to be effective. The subsequent payments must be received on the first day of the month for all subsequent months until final payment is received. **All payments (either lump sum or installment) must be made by certified check or money order.**

All payments must:

Be made payable to...	And be mailed to...	And include...
Delaware WIC Program	Delaware WIC Program Blue Hen Corporate Center 655 Bay Road, Suite 1C Dover, DE 19901	• Store name • Vendor ID #

What happens if a vendor fails to pay his/her civil money penalty?

If a vendor fails to make any scheduled installment payment by the due date, the State agency will notify the vendor. The notification will inform the vendor that he/she has 20 days to pay the balance of the civil money penalty or the remaining months of the disqualification action will be implemented.

Can a vendor request a civil money penalty in lieu of disqualification?

No. If the State agency has determined that a civil money penalty is not appropriate, a vendor does not have the option to pay a civil money penalty to avoid disqualification.

Does the State agency notify FNS of civil money penalties?

The State agency must provide the appropriate FNS office with a copy of the notice of administrative action and information on vendors it has either disqualified or imposed a civil money penalty in lieu of disqualification for any of the violations listed in paragraphs 246.12(l)(1)(i) through 246.12(l)(1)(iv). This information shall include the name of the vendor, address, identification number, the type of violation(s), and the length of disqualification or the length of the disqualification corresponding to the violation for which the civil money penalty was assessed, and shall be provided within 15 days after the vendor's opportunity to file for a WIC administrative review has expired or all of the vendor's WIC administrative reviews have been completed.

NOTES:

Federal Reference
246.12(l)

Last revised: January 1, 2025

VENDOR CLAIMS

POLICY AND PROCEDURE CONTENTS

- What is a vendor claim and how is it determined?
- What is the difference between an "overcharge" and an "overage"?
- What recourse does a vendor have if the State agency establishes a claim?
- Does the State agency need approval from FNS for claim adjustments?
- What timeframes are associated with vendor claims?
- Federal Reference

What is a vendor claim and how is it determined?

When the State agency determines the vendor has committed a vendor violation that affects the payment to the vendor, the State agency must establish a claim. The State agency detects such vendor violations through compliance investigations, eWIC transaction reviews, or other reviews or investigations of a vendor's operations. The State agency may establish a claim for the full purchase price of each eWIC transaction that contained the vendor overcharge or other error.

What is the difference between an "*overcharge*" and an "*overage*"?

Overcharges result from:

- A vendor intentionally or unintentionally charging the State agency more for authorized supplemental foods than is permitted under the vendor agreement.
- The vendor agreement states that a vendor will charge the WIC Program the current shelf price or less than shelf price (i.e. sale item or coupon item) charged to other customers.

Overages result from:

- Price adjustments made to eWIC transactions where the shelf price/less than shelf price charged exceeds the bid price or statewide average.

What recourse does a vendor have if the State agency establishes a claim?

When a claim is established, the State agency must provide the vendor with an opportunity to justify or correct the vendor overcharge or other error. If satisfied with the justification or correction, the State agency must adjust the proposed claim accordingly.

Does the State agency need approval from FNS for claim adjustments?

The State agency must obtain the approval of the FNS Regional Office to adjust claims that exceed $500.00 for eWIC transactions.

What timeframes are associated with vendor claims?

1. The State agency will assess a claim within 30 days of the conclusion of an investigation or review.
2. The vendor will be given 30 days to justify or correct the violations/errors; and
3. If a correction cannot be made or a justification is denied, the vendor will have 30 days to pay the claim.

Federal Reference
7 CFR 246.12(k)

Last revised: January 1, 2025

CHANGE OF OWNERSHIP OR LOCATION, STORE CLOSURE/CESSATION OF OPERATIONS

POLICY AND PROCEDURE CONTENTS

- Does a vendor need to notify the State agency if there is any change in ownership, store location, or cessation of operations?
- Does a vendor need to notify the State agency if there is a temporary store closure?
- Can a vendor sell his or her WIC authorization with the store?
- What happens to the agreement if there is a cessation of operations?
- What happens to the agreement if the store moves?
- Federal Reference

Does a vendor need to notify the State agency if there is any change in ownership, store location, or cessation of operations?
Yes. The vendor must notify the State agency, in writing, at least 15 calendar days before any change in vendor ownership, store location, or cessation of operations.

If the vendor does not notify the State agency 15 calendar days before any change in ownership, store location, or cessation of operations, a fine of $10.00 per day may be imposed commencing 15 calendar days before the incident or termination and ending with written notification to the State agency.

Does a vendor need to notify the State agency if there is a temporary store closure?
Yes. The vendor must notify the State agency immediately, via telephone, and attain authorization from the State agency office in the event that a store will be closed for any days and times other than those specified on the application information sheet.

Can a vendor sell his or her WIC authorization with the store?
No. WIC authorization is not transferable. Agreements become null and void if ownership of the store changes. New owners must apply to the program on their own behalf.

What happens to the agreement if there is a cessation of operations?
The State agency is required to terminate the agreement.

What happens to the agreement if the store moves?
The State agency has the discretion to determine whether a change in location would necessitate a termination of the agreement. Factors that the State agency considers are miles moved, moving from one clinic area to another, moving closer or farther from other existing stores, and how participant access will be affected.

Federal Reference
(7 CFR 246.12 (h) (3) (xviii))

Last revised: January 1, 2025

ADMINISTRATIVE REVIEWS/VENDOR APPEALS

POLICY AND PROCEDURE CONTENTS

- What is an administrative review?
- Full Administrative Review
- Abbreviated Administrative Review
- Can a vendor request an administrative review for any action?
- Are there any other reasons that an administrative review will not be held?
- What is the difference between a full and an abbreviated administrative review?
- How will a vendor know whether to send a written request or a written response to the State agency?
- How does a vendor request a full administrative review (F2 in chart)?
- What is a written response (A2 in chart)?
- Does appealing an action relieve a vendor from complying with the Vendor Participation Agreement?
- When are the State agency decisions effective?
- What happens if the State agency's initial decision is overturned?
- If an administrative review decision upholds the State agency decision, can a vendor seek a judicial review?
- What is a pre-review meeting (informal administrative review)?
- Does "day" refer to calendar days or working days?
- How does the State agency determine when a vendor receives notifications?
- What happens if the fifteenth calendar day is on a holiday or weekend?
- What happens if a vendor's appeal request does not reach the State agency office within the proper timeline?
- What documentation does the State agency keep on file?
- How long is the documentation kept on file?
- Where can I find administrative reviews of State agency actions mentioned in the Federal Regulations?

What is an administrative review?
An administrative review allows the vendor an opportunity to appeal a decision made by the State agency. A vendor can appeal when:

- his or her application is denied;
- he or she is disqualified during an agreement period; or
- he or she is terminated during an agreement period.

There are two kinds of administrative reviews:

1. Full administrative review
2. Abbreviated administrative review

Full Administrative Review

The State agency must provide a full administrative review for a:

- ***denial of authorization*** based on:
  - a determination that the vendor is attempting to circumvent a sanction;
- ***termination*** of an agreement for cause;
- ***disqualification*** not based on trafficking or SNAP penalties; and
- ***imposition of a fine or a civil money penalty*** in lieu of disqualification.

Abbreviated Administrative Review

The State agency must provide an abbreviated administrative review for a:

- ***denial of authorization*** based on:
  - the vendor selection criteria for business integrity;
  - a current SNAP disqualification or civil money penalty for hardship;
  - the application of the vendor selection criteria for competitive price;
  - a State agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification;
  - the State agency's vendor limiting criteria;
  - a vendor submitted its application outside of the timeframes during which applications are being accepted and processed; or
  - a determination of whether an applicant vendor is currently authorized by SNAP.
- ***termination*** of an agreement because the:
  - store ownership has changed;
  - store has moved to a different location; or
  - store has closed/cessation of operations.
- ***disqualification*** based on:
  - a trafficking (eWIC cards) conviction;
  - the imposition of a SNAP civil money penalty for hardship;
  - a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification under (246.12(l)(1)(vii)); or
  - a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State agency (246.12(l)(2)(iii)).

Can a vendor request an administrative review for any action?

No. Federal Regulations say that vendors may not appeal:

- ***the validity or appropriateness*** of the State agency's:
  - limitation criteria or selection criteria for minimum variety and quantity of supplemental foods, business integrity, and current SNAP disqualification or civil money penalty for hardship;
  - selection (authorization) criteria for competitive price (246.12(g)(4), including, but not limited to vendor peer group criteria and the criteria used to identify vendors that are above–50-percent vendor or comparable to above–50-percent vendors;
  - criteria and determinations regarding participant access;
  - prohibition of incentive items and the State agency's denial of an above–50-percent vendor's request to provide an incentive item to customers;
  - criteria for determining whether a vendor applicant is expected to meet the more than 50 percent criterion.
- ***the State agency's determination:***
  - to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list required;
  - whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;
  - whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;
- ***denial of authorization*** if the State agency's vendor authorization is subject to the procurement procedures applicable to the State agency.
- ***the expiration*** of a vendor's agreement.
- ***disputes*** regarding eWIC payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); or
- ***disqualification*** as a result of a SNAP disqualification.

Are there any other reasons that an administrative review will not be held?

Yes. An administrative review will not be held if:

- ***the vendor does not request*** an administrative review;
- ***the State agency does not receive*** a written request, from the vendor, within 15 days of the receipt of the written notification of adverse action;
- ***the vendor withdraws the request;*** or
- ***the vendor or the vendor's representative fails to appear***, without good cause, for the originally scheduled or rescheduled administrative review.

What is the difference between a full and an abbreviated administrative review?

The State agency must supply the vendor with:

Full Administrative Review	Abbreviated Administrative Review
F1) Written notification of: a. the adverse action[1], b. the procedures to follow to obtain an administrative review, c. the cause(s) of the adverse action, and d. the effective date of the adverse action.	**A1)** Written notification of: a. the adverse action, b. the procedures to follow to obtain an administrative review, c. the cause(s) of the adverse action, and d. the effective date of the adverse action.
F2) The opportunity to appeal the adverse action within 15 days of the receipt of the written notification of adverse action.	**A2)** The opportunity to appeal the adverse action with a written response. This written response must be submitted within 25 days of the receipt of the written notification of the adverse action.
F3) Adequate advance notice of the time and place of the administrative review.	
F4) One opportunity to reschedule the administrative review upon specific request.	
F5) The opportunity to present his or her case.	**A3)** The opportunity to present his or her case with a written response only. See A2.
F6) The opportunity to cross-examine adverse witnesses. When necessary to protect the identity of WIC Program investigators, such examination may be conducted behind a protective screen or other device.	
F7) The opportunity to be represented by counsel, if desired, at the vendor's expense.	
F8) The opportunity to schedule a pre-review meeting and to examine, before the review, the evidence upon which the State agency's action is based.	**A4)** The option to schedule a pre-review meeting.
F9) An impartial decision-maker, whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the evidence presented at the review.	**A5)** A decision-maker who is someone other than the person who rendered the initial decision on the action and whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the information provided to the vendor concerning the cause(s) for the adverse action and the vendor's response.
F10) Written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of a vendor's request for an administrative review.[2]	**A6)** Written notification of the review decision, including the basis for the decision, within 90 days of the date of receipt of the request for an administrative review.[2]

[1] If a vendor is disqualified due in whole or in part to violations in 246.12(l)(1), such notification must include the following statement: "This disqualification from WIC may result in disqualification as a retailer in the SNAP Program. Such disqualification is not subject to administrative or judicial review under the SNAP Program."

[2] This timeframe is only an administrative requirement for the State agency and does not provide a basis for overturning the State agency's adverse action if a decision is not made within the specified timeframe.

How will a vendor know whether to send a written request or a written response to the State agency?

The written notification from the State agency will include the:

- adverse action (denial, termination, etc.), causes, and effective date;
- type of review that may be requested (full or abbreviated); and
- procedures to follow to obtain an administrative review.

How does a vendor request a full administrative review (F2 in chart)?

For full administrative reviews, a vendor must submit a written request within 15 days of receiving the written notification from the State agency. (Example: If written notification is received by the vendor on September 1st, then the vendor's request must reach the State agency office no later than the close of business on September 16th.)

The written request must be sent to:

Delaware WIC Program
Blue Hen Corporate Center
655 Bay Road, Suite 1-C
Dover, DE 19901
ATTN: Vendor Manager

The written request should include the store name and clearly say that it is a request for an administrative review of the State agency's decision. *(Example: "I am requesting an administrative review of the State agency's decision to deny STORE NAME WIC authorization.")*

What is a written response (A2 in chart)?

In the abbreviated administrative review process, meetings are not scheduled with a hearing officer. The vendor is given an opportunity to present his or her case with a written response only. The vendor's written response should include the store name and contain all arguments that he or she would like the hearing officer to consider when reviewing the case file.

A vendor must submit a written response within 25 days of receiving the written notification from the State agency. (Example: If written notification is received by the vendor on September 1st, then the vendor's written response must reach the State agency office no later than the close of business on September 26th.)

The written response must be sent to:

Delaware WIC Program
Blue Hen Corporate Center
655 Bay Road, Suite 1-C
Dover, DE 19901
ATTN: Vendor Manager

Does appealing an action relieve a vendor from complying with the Vendor Participation Agreement?

No, appealing an action does not relieve a vendor, who is permitted to continue in the Program during the appeals process, from the responsibility of continued compliance with the terms of the Vendor Participation Agreement. The vendor will be sanctioned accordingly for any violations occurring during this period.

When are the State agency decisions effective?

If it is...	...and the action is...	...then the State agency action is...
a denial of authorization or disqualification because the vendor has been **convicted** of trafficking in eWIC cards or selling firearms, ammunition, explosives, or controlled substances	appealed or not appealed by the vendor	effective as of the date the vendor receives the initial written notification
any other action which is eligible for an administrative review	appealed by the vendor	effective as of the date the vendor receives the administrative review decision
any other action which is eligible for an administrative review	not appealed by the vendor	effective 30 days after the date of the initial written notification

What happens if the State agency's initial decision is overturned?

Whether the State agency's initial decision is overturned or upheld, the administrative review decision (full or abbreviated) is considered the **final** State agency action. The State agency will take the action indicated in the written notification of the administrative review decision.

If an administrative review decision upholds the State agency decision, can a vendor seek a judicial review?

Federal Regulations say that the State agency must inform vendors that they might be able to pursue a judicial review; however, in Delaware, there is no State statute that gives a vendor the right to appeal an administrative review decision.

What is a pre-review meeting (informal administrative review)?

A vendor can ask the State agency to hold a pre-review meeting to discuss the decision. (See F8 or A4) During this informal administrative review, the State agency Vendor Manager will explain the findings leading to the decision; thus, providing the vendor an opportunity to examine the case record before the administrative review. It will also provide the vendor with an opportunity to discuss the findings and present arguments for reversing the decision or commit to a mutually agreed upon outcome. **As a result of the pre-review meeting, the State agency may opt to reverse the proposed action, modify the proposed action, or allow the proposed action to remain in effect unless it is reversed at the administrative review.**

Does "day" refer to calendar days or working days?

Day refers to calendar days (in other words, including weekends.)

How does the State agency determine when a vendor receives notifications?

All written notifications are either hand-delivered or sent by certified mail. Both forms of delivery require the vendor's (or his or her representative's) signature and the date of receipt.

What happens if the fifteenth calendar day is a on a holiday or weekend?

Since no mail is delivered to the State agency office on holidays or weekends, administrative review requests will be accepted on the next business day.

What happens if a vendor's appeal request does not reach the State agency office within the proper timeline?

No administrative review will be scheduled and the State agency will take action on the effective date listed in the initial written notification received by the vendor.

What documentation does the State agency keep on file?

A written report is prepared for each administrative review, this report includes:

- the decision under appeal;
- all documentary evidence submitted;
- a summary of the testimony presented at the review;
- the decision of the review officer with reasons for the decision; and
- a copy of the letter to the vendor concerning the final decision.

How long is the documentation kept on file?

All documentation shall be retained for a period of no less than 3 years.

Where can I find administrative reviews of State agency actions mentioned in the Federal Regulations?

The regulations are in 7CFR 246.18. This section identifies what is eligible for appeal, types of reviews, and State agency requirements.

NOTES:

Last revised: January 1, 2025

WIC/SNAP INFORMATION SHARING

POLICY AND PROCEDURE CONTENTS

- Can the State agency share information with staff in the SNAP?
- Does the State agency share information with SNAP on a regular basis?
- Does the State agency assist in SNAP investigations?

Can the State agency share information with staff in the SNAP?

Yes. The State agency may disclose confidential vendor information to persons directly connected with the administration or enforcement of SNAP. The State agency will share any information necessary with persons investigating or prosecuting SNAP violations.

Does the State agency share information with SNAP on a regular basis?

Yes. A list of authorized WIC vendors is sent to the Mid-Atlantic Regional office of USDA, no later than January 1st of every calendar year. The report contains the:

- vendor name;
- store address;
- WIC vendor identification number;
- name of the county the store is located in; and
- store owner name.

Does the State agency assist in SNAP investigations?

Normally, WIC investigations and SNAP investigations are separate. Upon request, the State agency will coordinate investigative efforts with SNAP.

NOTES:

CONFIDENTIAL VENDOR INFORMATION

POLICY AND PROCEDURE CONTENTS

- What is considered confidential vendor information?
- Who is permitted to access confidential vendor information?
- Is aggregate data confidential?
- Is SNAP information considered confidential?
- Federal Reference

What is considered confidential vendor information?

Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that *individually identifies* the vendor, except for vendor's name, address, telephone number, Web site/email address, store type, and authorization status.

Who is permitted to access confidential vendor information?

Except as otherwise permitted, the State agency must restrict the use or disclosure of confidential vendor information to:

- Persons directly connected with the administration or enforcement of the WIC Program or SNAP who the State agency determines have a need to know the information for purposes of these programs. These persons may include personnel from its local agencies and other WIC State and local agencies and persons investigating or prosecuting WIC or SNAP violations under Federal, State, or local law;
- Persons directly connected with the administration or enforcement of any Federal or State law. Prior to releasing the information to one of these parties (other than a Federal agency), the State agency must enter into a written agreement with the requesting party specifying that such information may not be used or re-disclosed except for purposes directly connected to the administration or enforcement of a Federal or State law;
- A vendor that is subject to an adverse action, including a claim, to the extent that the confidential information concerns the vendor subject to the adverse action and is related to the adverse action; and
- USDA and the Comptroller General of the United States, which are permitted access to all WIC Program records.

Is aggregate data confidential?

Aggregate data about vendors and other data that does not *individually identify* a vendor are not confidential information and may be disclosed by the State agency.

Is SNAP information considered confidential?

The State agency must restrict the use or disclosure of information about SNAP vendors obtained from SNAP to persons directly connected with the administration or enforcement of the WIC Program.

Federal Reference
7 CFR 246.26

INCENTIVE ITEMS

POLICY AND PROCEDURE CONTENTS

- What does the term "incentive item" mean?
- What are and are not acceptable incentive item(s)?
- Are "buy one get one free" considered incentive items?
- Federal Reference

What does the term "*incentive item*" mean?
An incentive item is merchandise/giveaways that are made available to all customers.

What are and are not acceptable incentive item(s)?

1. Three types of acceptable incentive items are:
   (a) merchandise obtained at no cost to the vendor and provided to all customers without charge, or merchandise sold to all customers at or above cost, subject to documentation.
   (b) food of nominal value and merchandise of nominal value, i.e., having a per item cost of less than $2.00.
   (c) food sales and specials which involve no cost or only a nominal value for the vendor regarding the food items involved and do not result in a charge to a WIC food instrument for foods in excess of the foods listed on the food instrument.
2. The cost of the incentive items cannot exceed $1.99.
3. The WIC Acronym and/or logo cannot be used on incentive items.
4. The vendor cannot give or sell an incentive item to any customer for less than cost.
5. Vendors are not permitted to provide services to any customers such as transportation of customers to and from the vendor's premises or delivery of supplemental foods to customer residences.
6. Under no circumstances are vendors allowed to give lottery tickets or cash as incentive items.

Are "buy-one-get-one free" considered incentive items?
No. Buy-one-get-one free items are eligible to all WIC and non-WIC customers.

NOTES:

Federal Reference
246.12(g)(3)(iv)

Last revised: January 1, 2025

WHOLESALERS, RETAILERS, DISTRIBUTORS AND MANUFACTURERS

POLICY AND PROCEDURE CONTENTS

In accordance with the Federal Child Nutrition and WIC Reauthorization Act of 2004, P.L. 108-265, authorized Delaware WIC vendors are required to purchase infant formula only from the sources approved by the state. The list provided by the Delaware WIC program is to ensure that vendors are providing infant formula to WIC participants approved by the FDA.

As a Delaware WIC authorized vendor, infant formula may only be obtained from the sources listed in the directory provided by the state. The sources approved by the Delaware WIC Program can be found at: http://www.dhss.delaware.gov/dph/chca/dphwicvenformsupplier.html

- Authorized vendors participating must be able to provide invoices' showing infant formula was purchased for an authorized wholesaler, retailer, distributor, or manufacturer.
- Vendors may not appeal the State's decision to include or exclude an infant formula wholesaler, retailer, distributor, or manufacturer.
- If a vendor wishes to purchase infant formula from a source that is not listed, they must contact the state WIC office to receive prior approval. The telephone numbers of the state WIC office are 1-800-222-2189 (in-state only) and (302) 741-2900.

NOTES:

Federal Reference
246.12(g)(11)

Last revised: January 1, 2025

VIOLATIONS AND SANCTION CHART

Violation Class	Action	State/Federal **Sanction	Violation Type	Violation Description
A	WL and/or MRT	None	State agency	Vendor with integrated point of sale system fails to provide participants a printed eWIC balance inquiry
A	WL and/or MRT	None	State agency	Vendor fails to provide WIC participants a printed receipt at the end of each eWIC transaction
A	WL and/or MRT	None	State agency	Vendor fails to maintain and keep UPC's current on APL
A	WL and/or MRT	None	State agency	Vendor scans (or manually enter) UPC's that are not affixed to authorized food items actually being purchased by the participant
A	WL and/or MRT	None	State agency	Vendor refuses to allow participant to use coupons
A	WL and/or MRT	None	State agency	Vendor maintains a separate check-out line or separate check-out procedures for WIC participant
A	WL and/or MRT	None	State agency	Vendor fails to post the WIC sign conspicuously
A	WL and/or MRT	None	State agency	Vendor fails to make available for use the WIC Program Authorized Food List at each cashier checkout station
A	WL and/or MRT	None	State agency	Vendor requires participants to provide identification other than WIC ID cards (e.g. driver's license, address)
A	WL and/or MRT	None	State agency	Vendor does not display a "WIC Authorized" or similar shelf label
A	WL and/or MRT	None	State agency	Vendor does not display shelf prices
A	WL and/or MRT	None	State agency	Vendor misuses the WIC acronym or facsimiles in the name of the vendor or in advertising or other promotional materials
A	WL and/or MRT	None	State agency	Vendor makes available in a public area a complimentary gift, which may be consumed or taken without charge, is a prohibited incentive item
A	WL and/or MRT	None	State agency	Vendor fails to submit monthly self-inspection sheet by the 5th of each month
B	State agency Sanction	Termination of agreement	State agency	Vendor submits the vendor bid application with false information
B	State agency Sanction	Termination of agreement	State agency	Vendor fails to notify the WIC Program with change of ownership or location or cessation of operations
B	State agency Sanction	Termination of agreement	State agency	Vendor has conflict of interest with the WIC Program
B	State agency Sanction	Termination of agreement	State agency	Vendor fails to abide by competitive prices on the vendor bid applications
D	State agency Sanction	6 Month Disqualification	State agency	A pattern of limiting the choices and quantities of authorized food items listed on a participants eWIC benefits card (not allowing client to utilize entire food package)
D	State agency Sanction	1 Year Disqualification	State agency	Vendor knowingly provides cash for the return of items purchased with eWIC benefits
E	State agency Sanction	Termination of agreement	State agency	Vendor fails to stock the mandatory required level of authorized foods or provides out of date food items
E	State agency Sanction	Termination of agreement	State agency	Vendor knowingly provides false information to the WIC Program
E	State agency Sanction	Termination of agreement	State agency	Vendor threatens State/Federal staff
E	State agency Sanction	Termination of agreement	State agency	Vendor refuses to permit State/Federal personnel to perform onsite compliance monitoring
E	State agency Sanction	Termination of agreement	State agency	Vendor refuses to allow WIC State agency Representatives the opportunity to review eWIC transactions or pertinent records or fails to provide evidence of proofs-of-purchase (invoices) of WIC foods during investigations

Violation Class	Action	State/Federal **Sanction	Violation Type	Violation Description
E	State agency Sanction	Termination of agreement	State agency	Vendor violates participants' civil rights
E	State agency Sanction	Termination of agreement	State agency	Vendor fails to remit payment for overcharges or bid differentials, as requested by the Program
E	State agency Sanction	Termination of agreement	State agency	Vendor fails to have a valid Public Health permit and maintain the store in clean and sanitary condition per the State of Delaware Food Code
E	State agency Sanction	Termination of agreement	State agency	Vendor reimbursement check issued for payment to the WIC Program is returned by the bank for insufficient funds
E	State agency Sanction	Termination of agreement	State agency	Vendor does not have a valid State of Delaware business license to operate as a food retailer in Delaware
E	State agency Sanction	Termination of agreement	State agency	Vendor fails to be open for business at least 10 hours a day, 6 days a week, unless otherwise authorized by the State agency office
E	State agency Sanction	Termination of agreement	State agency	Vendor or authorized vendor representative fails to attend mandatory WIC training sessions as scheduled by the State agency
M	Federal Sanction	*Permanent Disqualification	Federal/USDA 246.12(l)(1)(i)	Vendor convicted of trafficking of eWIC benefits or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for eWIC food benefits or cash value benefits
M	Federal Sanction	*6 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(A)	One incident of buying or selling food eWIC benefits or cash value benefits for cash (trafficking)
M	Federal Sanction	*6 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(B)	One incident selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for eWIC food benefits or cash value benefits
M	Federal Sanction	*3 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(A)	One incident of the sale of alcohol or alcoholic beverages or tobacco products in exchange for eWIC food benefits or cash value benefits
M	Federal Sanction	*3 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(B)	A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time
M	Federal Sanction	*3 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(C)	A pattern of charging participants more for supplemental food than non-WIC customers or charging participants more than the current shelf price
M	Federal Sanction	*3 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(D)	A pattern of receiving, transacting, and/or redeeming eWIC food benefits or cash value benefits outside of authorized channels, including the use of unauthorized vendor and/or an unauthorized person
M	Federal Sanction	*3 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(E)	A pattern for charging for supplemental food not received by the participant
M	Federal Sanction	*3 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(F)	A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for eWIC food benefits or cash value benefits
M	Federal Sanction	*1 Year Disqualification	Federal/USDA 246.12(l)(i)(ii)(iii)(iv)	A pattern of providing unauthorized food items in exchange for eWIC food benefits or cash value benefits, including charging for supplemental food provided in excess of those listed on the eWIC food benefit or cash value benefit

Last revised: January 1, 2025

Violation Class	Action	State/Federal **Sanction	Violation Type	Violation Description
M	Federal Sanction	*Double the Corresponding Federal Sanction	Federal/USDA 246.12(l)(i)(ii)(iii)(iv)(v)	Vendor previously assessed sanction for any violation listed in (l)(1)(ii) through (l)(1)(iv) receiving another sanction for any of violation listed in (l)(1)(ii) through (l)(1)(iv). State shall double second sanction. Civil money penalties may be doubled up to the limits allowed under (l)(1)(x)(C)
M	Federal Sanction	*Double the Corresponding Federal Sanction	Federal/USDA 246.12(l)(i)(ii)(iii)(iv)(v)(vi)	Vendor previously assessed 2 or more sanctions for any violation listed in (l)(1)(ii) through (l)(1)(iv) receiving another sanction for any of violation listed in (l)(1)(ii) through (l)(1)(iv) – State must double third and subsequent sanctions, civil money penalty not permitted, disqualification is only option
M	Federal Sanction	*Disqualification for same length as SNAP	Federal/USDA 246.12(l)(i)(ii)(iii)(iv)(v)(vi)(vii)	Vendor is disqualified from Supplemental Nutrition Assistance Program (SNAP)

WL = Warning Letter
MRT = Mandatory Retraining

* Also subject to reimbursement for improperly redeemed eWIC food benefits and cash value benefits.

** State agency sanctions are based on a pattern of 2 or more violation incidences and may include disqualifications, civil money penalties assessed in lieu of disqualification, and administrative fines.

NOTES:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/default/files/documents/ad-3027.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

(2) fax: (833) 256-1665 or (202) 690-7442; or

(3) email: Program.Intake@usda.gov

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QUESTIONS?

Email: dhsswicvendorhelpdesk@delaware.gov

1-800-222-2189