

FY21 WIC VENDOR AGREEMENT
APPENDIX E-DISQUALIFICATIONS, CIVIL MONEY PENALTIES AND FINES

WIC Program violations shall be determined by investigation, which includes on-site monitoring, transaction audits, inventory audits and undercover compliance buys conducted by the WIC Program, USDA staff, or their designees. The intent to commit a violation versus inadvertent human error is not a distinction that the WIC Program must establish in order to impose sanctions. Sanctions are imposed in order to protect the integrity and the nutritional goals of the WIC Program.

FEDERAL MANDATORY SANCTIONS

#	Description of Violation	Number of Incidences, Occurrences, or Pattern	Length of Disqualification
1.	Judicial conviction of trafficking in WIC benefits or selling firearms, ammunition, explosives or controlled substances in exchange for WIC benefits.	One	Permanent
2.	Administrative finding of buying or selling WIC benefits for cash (trafficking) or selling firearms, ammunition, explosives or controlled substances in exchange for WIC benefits.	One	6 Years
3.	Sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC benefits.	One	3 Years
4.	Claiming reimbursement for the sale of an amount of a specific WIC food that exceeds the store's documented inventory of that WIC food for a specific period of time.	Shortfall of one WIC food in three consecutive months or shortfall of three or more WIC foods in one month.	3 Years
5.	Overcharging on WIC benefits.	Three or more	3 Years
6.	Receiving, transacting and/or redeeming WIC benefits outside of authorized channels, including the use of an unauthorized vendor and/or unauthorized person.	Three or more	3 Years
7.	Charging for WIC food not received by the WIC customer.	Three or more	3 Years
8.	Providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives or controlled substances in exchange for WIC benefits.	Three or more	3 Years
9.	Providing unauthorized food items in exchange for WIC benefits, including charging for WIC food provided in excess of those listed on the WIC benefits.	Three or more	1 Year
10.	Disqualification from the Supplemental Nutrition Assistance Program (SNAP) or a civil money penalty in lieu of a SNAP disqualification when adequate WIC participant access exists.	One	Same as the SNAP disqualification, but does not need to be concurrent.

STATE AGENCY-ESTABLISHED SANCTIONS

#	Description of Violation	Administrative Action
1.	Substitution of a WIC food item for another WIC food item	Two incidents = pattern 1 year disqualification
2.	Allowing a refund or an exchange for WIC or non-WIC food items	Two incidents = pattern 1 year disqualification
3.	Scanning any UPC as a substitute, replacement or otherwise not actually affixed to the actual item being purchased. Scanning a UPC codebook or reference sheet.	Two incidents = pattern 1 year disqualification
4.	Not allowing the WIC customer to enter their own PIN on the PIN pad.	Two incidents = pattern 1 year disqualification
5.	Limiting WIC customers in their choice of WIC products, (i.e. forcing a WIC customer to purchase only least expensive or store brands or the most expensive products).	\$500 fine second occurrence within consecutive 12 month period
6.	Offering store credit or IOU to a WIC customer.	\$500 fine, second occurrence within consecutive 12 month period
7.	Allowing the sale of a WIC food item that is spoiled or is sold to WIC customers after the expiration date, "sell by", "best if used by", "manufacturer suggested", or other date limiting the sale or use of the food item.	\$250 fine, second occurrence within consecutive 12 month period
8.	Allowing the return of any WIC purchases other than for identical WIC food items that are damaged, spoiled, or has exceeded its "sell by", "best if used by", "manufacturer suggested", or other date limiting the sale or use of the food.	\$250 fine, second occurrence within consecutive 12 month period
9.	Not providing savings to WIC customers through coupons, store offered promotions or savings card.	\$125 fine, second occurrence within consecutive 12 month period
10.	Failure to attempt to provide any requested WIC approved food item within forty-eight (48) hours that is on the participant's benefits list	\$125 fine, second occurrence within consecutive 12 month period
11.	Failure to provide a receipt at the end of the transaction showing the date of the transaction, product(s) purchased, and the remaining balance of available benefits.	\$125 fine, second occurrence within consecutive 12 month period
12.	Failure to cooperate with Federal, State, and Local WIC Program personnel during announced and unannounced on-site vendor monitoring.	\$125 fine, second occurrence within consecutive 12 month period

The WIC Program will determine if a warning for the initial occurrence of Federal Mandatory sanctions numbered 5 through 9 and all State Agency Established sanctions will be issued prior to documenting another violation. This determination will be made on a case-by-base basis when the WIC Program determines that issuing a warning would comprise the investigation.

When a completed investigation determines that a pattern of violations was not established, a warning letter may be issued to the vendor.

The WIC Program shall not accept voluntary withdrawal or use non-renewal of the vendor agreement as an alternative to disqualification for Federal Mandatory or state-agency established sanctions.

Prior to imposing a disqualification for Federal Mandatory Sanctions numbered 2 through 10, the WIC Program shall determine, and document in the vendor file, whether the disqualification would result in inadequate participant access.

If the WIC Program determines that a disqualification would result in inadequate participant access, then a civil money penalty shall be assessed in lieu of disqualification for Federal Mandatory Sanctions numbered 2 through 10. The amount of the civil money penalty shall equal the average monthly WIC redemptions for the six-month period ending with the month immediately preceding the month during which the notice of sanction is dated, multiplied times ten percent (.10), and then multiplied times the number of months for which the vendor would have been disqualified. The civil money penalty shall not exceed fifteen thousand forty one dollars (\$15,041) for each violation. If multiple violations are revealed by a single investigation, the total civil money penalty shall not exceed sixty thousand one hundred sixty one dollars (\$60,161). These amounts are subject to change based on Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

When during the course of a single investigation, the WIC Program determines that the vendor has committed multiple violations (which may include violations subject to state agency-established sanctions); the WIC Program shall disqualify the vendor for the period corresponding to the most serious mandatory violation. However, the WIC Program shall include all violations in the notice of sanction. If a mandatory sanction is not upheld on appeal, then the WIC Program may impose state agency-established sanctions.

When a vendor who had previously been assessed a Federal Mandatory Sanction numbered 2 through 10 receives the same or another mandatory sanction, the WIC Program shall double the sanction for the second violation. Civil money penalties may also be doubled, but only to the extent of fifteen thousand forty one dollars (\$15,041) per violation up to the maximum of sixty thousand one hundred sixty one dollars (\$60,161) for multiple violations. When a vendor who had previously been assessed two Federal Mandatory Sanctions numbered 2 through 10 receives a third or subsequent mandatory sanction for the same or other Federal Mandatory Sanction, the WIC Program shall double the sanction for the violation. The WIC Program shall not impose a civil money penalty in lieu of disqualification for the third and subsequent mandatory violations.

If a vendor does not pay, only partially pays, or fails to timely pay a civil money penalty either within fifteen (15) days of the notice of the sanction or within the terms of an installment plan, the WIC Program shall disqualify the vendor. The length of the disqualification shall correspond to the violation for which the civil money penalty was assessed or, in cases where a mandatory sanction included the imposition of multiple civil money penalties, for a period corresponding to the most serious violation.

The WIC Program shall determine and document in the vendor file whether a disqualification based on state agency established sanctions would result in inadequate participant access. If the WIC Program determines that there shall be undue hardship for WIC participants if a vendor is disqualified based on a State Agency Established Sanction, the store shall be allowed to remain on the program until such time that undue hardship no longer exists. A fine of two thousand five hundred dollars (\$2,500.00) shall be paid by the vendor to continue to accept WIC benefits. A review may be requested to determine if the disqualification is warranted. At such time that the WIC Program determines that undue hardship for WIC participants no longer exists, the vendor shall be notified that the original disqualification shall be effective fifteen (15) days after receipt of the letter. The vendor may request a review for the sole purpose of arguing the issue of undue hardship for WIC participants.

A fine is payable fifteen (15) days from the receipt of the notice. If payment of the fine is not paid, only partially paid, or not timely paid, the WIC Program shall disqualify the vendor for the length of the disqualification corresponding to the violation(s) documented in the notice up to a maximum of one (1) year.

If a vendor is assessed a settlement fine, or any other monetary penalty or fee relating to a disqualification from SNAP, a WIC civil money penalty shall be assessed the vendor equal to the FNS penalty.

State agency-established sanctions do not apply to vendors that do not meet selection criteria during an authorization, re-authorization or reassessment process.

Warnings shall remain active for three (3) years from the date of the violation for the entire term of the store's ownership.