

FY21 WIC VENDOR AGREEMENT-APPENDIX G-ADMINISTRATIVE REVIEW PROCEDURES

**Actions subject to an Administrative Review:**

1. Denial of authorization based on vendor selection criteria or on a determination that the vendor is attempting to circumvent a sanction.
2. Termination of the WIC Vendor Agreement.
3. Disqualification of the vendor except when it is based on a SNAP disqualification.
4. Imposition of a fine or civil money penalty in lieu of disqualification.

**Actions not subject to Administrative Review:**

1. Disqualification of a vendor as a result of a disqualification or a CMP in lieu of disqualification from SNAP
  2. The expiration of a WIC Vendor Agreement.
  3. Validity or appropriateness of the WIC Program's vendor selection criteria.
  4. Validity or appropriateness of the WIC Program's participant access criteria and the Program's access determinations.
  5. Validity or appropriateness of the WIC Program's criteria for determining whether a vendor applicant is expected to meet the more than 50% criterion. (Appendix A)
  6. Disputes regarding WIC benefits payments, vendor claims, and associated administrative fees.
- Vendors will be provided with written notification whenever an adverse action is taken. The notification will include the procedure to follow to obtain an administrative review, the time period in which to appeal, and the cause for and the effective date of the action. When a vendor is disqualified due in whole or in part to a Federal Mandatory Sanction violation numbered 1 through 9 in Appendix E, such notification shall include the following statement: "This disqualification from WIC may result in disqualification as a retailer in the Special Supplemental Nutrition Assistance Program." Such disqualification is not subject to administrative or judicial review under SNAP."
  - Requests for review must be received by the department within seven (7) days of receipt of the adverse action letter.
  - A vendor that appeals an adverse action for non-selection or disqualification will not be permitted to continue Program operations (will not be allowed to accept WIC benefits) while its appeal is in process.
  - The vendor will be provided with adequate advance notice of the time and location of the administrative review to provide all parties involved sufficient time to prepare.
  - The vendor will have an opportunity to reschedule the administrative review date upon written request.
  - The vendor will have the opportunity to present its case and to cross-examine adverse witnesses. To protect the identity of WIC Program investigators, such examination will be conducted behind a protective screen or other means.
  - The vendor will have the opportunity to be represented by counsel at any review proceeding.
  - Prior to the review, the vendor will have an opportunity to examine the evidence upon which the WIC Program's action is based. The review record will be sent to the vendor at least ten (10) days prior to the review date.
  - An impartial decision-maker will be assigned to the appeal. The decision-maker's determination is based solely on whether the WIC Program has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the evidence presented at the review. The State agency may appoint a reviewing official, such as a chief hearing officer or judicial officer, to review appeal decisions to ensure that they conform to approved policies and procedures.
  - Notification of the review decision, including the basis for the decision, will be issued within ninety (90) days from the date of receipt of a vendor's request for an administrative review. This timeframe is only an administrative requirement for the State agency and does not provide a basis for overturning the WIC Program's adverse action if a decision is not made within the specified timeframe.
  - If the adverse action under review has not already taken effect, the State agency shall make the action effective on the date of receipt of the final decision by the vendor.

If the final decision upholds the adverse action against the vendor, the State agency shall inform the vendor that it may be able to pursue judicial review of the decision.