

Maine Center for Disease Control and Prevention WIC Nutrition Program

Department of Health and Human Services

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Revised: August 1, 2014

Policy No. FMNP-5

Farmer Sanction System

Authority

7 CFR §248.4(a)(10)(v);

22 MRSA §255 and §1951

Policy

- The Maine WIC Nutrition Program may initiate administrative action to disqualify or assess a fine against a farmer for non-compliance on the basis of one incidence of a violation or a pattern of violations. An incidence is defined as one isolated event in a single point in time or any single occurrence of a violation. A pattern is defined as two or more incidences of a violation. All of the incidences of a violation occurring during the first compliance buy visit shall constitute only one incidence of that violation for the purpose of establishing a pattern of incidences.
- Mandatory sanctions are federal penalties as defined in 7 CFR §246.12 (l) and shall constitute grounds for disqualification from the WIC Program for a minimum of one (1) year and up to permanent disqualification.
- State violations shall constitute grounds for one or more of the following: disqualification from the WIC Program; mandated training, and the submission of corrective action plans. State sanctions will not be added to a mandatory sanction within the same investigation unless a mandatory sanction from the same investigation is not upheld on appeal.
- Notwithstanding the imposition of any mandatory or state sanctions, a farmer who violates any WIC rules, or Program requirements as set forth in the vendor policies and procedures, shall also be subject to potential reciprocal Supplemental Nutrition Assistance Program (SNAP) sanctions.
- Class I and II violations shall be subject to mandatory federal sanctions as defined in 7 CFR §246.12 and shall constitute grounds for disqualification from the WIC Program for a minimum of one (1) year and up to permanent disqualification.

1. CLASS I VIOLATIONS: These violations require one incidence and shall constitute grounds for disqualification from the WIC Program for a minimum of three (3) years and up to permanent disqualification:
 - 1.1 A conviction for trafficking (buying or selling FMNP Coupons/CVVs); conviction for selling firearms, ammunition, explosives, or controlled substances in exchange for FMNP Coupons/CVVs. Length of disqualification – permanent.
 - 1.2 One incidence of trafficking (buying or selling FMNP Coupons/CVVs), selling firearms, ammunition, explosives, or controlled substances in exchange for FMNP Coupons/CVVs. Length of disqualification – six (6) years.
 - 1.3 One incidence of the sale of alcohol, alcoholic beverages or tobacco products in exchange for FMNP Coupons/CVVs. Length of disqualification – three (3) years.
 - 1.4 When a farmer violates 1.2. or 1.3. above after having previously received a sanction for violation of either provision, the length of disqualification shall be doubled. Civil money penalties in lieu of disqualification shall also be doubled, up to the maximum penalty allowed under 7 CFR §246.12(1)(1)(x)(C).
 - 1.5 When a farmer violates 1.2. or 1.3. above after having previously received two (2) or more sanctions for violation of either provision, the length of disqualification shall be doubled for that violation and all subsequent violations. Civil money penalties shall not be imposed in lieu of disqualification for third and subsequent sanctions.
2. CLASS II VIOLATIONS: Class II violations require a pattern of violations be documented before a sanction can be imposed. Unless otherwise noted, “pattern” shall be defined as two or more Class II violations that occur during the period the farmer is under contract. For a single Class II violation the farmer shall be given written notice of the violation and be required to establish a corrective action plan that includes the farmer’s attendance at a mandatory training.
 - 2.1 Claiming reimbursement for the sale of any WIC item that exceeds the farm’s documented inventory of that food item for a specific period of time. Length of disqualification – three (3) years.
 - 2.2 Charging WIC customers more for WIC approved foods than non-WIC customers or charging more than the posted shelf price (overcharges). Length of Disqualification – three (3) years.
 - 2.3 Receiving, transacting, and/or redeeming FMNP Coupons/CVVs outside of authorized channels, including the use of an unauthorized retailer or farmer and/or an unauthorized person. Length of disqualification – three (3) years.
 - 2.4 Charging the WIC Program for WIC foods not received by the WIC customer. Length of disqualification – three (3) years.
 - 2.5 Providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled

substances, in exchange for FMNP Coupons/CVVs. Length of disqualification – three (3) years.

- 2.6 Providing unauthorized food items in exchange for FMNP Coupons/CVVs, including charging for supplemental foods provided in excess of those listed on the FMNP Coupon/CVV. Length of disqualification – one (1) year.
 - 2.7 When a farmer receives a second disqualification sanction for any violation of provisions 2.1. through 2.6. above, the length of disqualification shall be doubled. Civil money penalties in lieu of disqualification shall also be doubled, up to the maximum penalty allowed under 7 CFR §246.12(l)(1)(x)(C).
 - 2.8 When a farmer receives a third or subsequent disqualification sanction for violation of any of provisions 2.1. through 2.6. above, the length of disqualification shall be doubled for that violation and all subsequent violations. Civil money penalties shall not be imposed in lieu of disqualification for third and subsequent sanctions.
3. CLASS III VIOLATIONS: A Class III sanction shall not be added to a mandatory sanction within the same investigation, but all violations shall be included in the notice of violation. The WIC Program may impose a Class III sanction if a mandatory sanction from the same investigation is not upheld on appeal. These violations constitute grounds for the following sanctions:
- First occurrence – The farmer will be given a written warning letter that includes a notice of violation and a requirement to attend training.
- Second occurrence – (within one year of first violation) Farmer will receive a written notice of violation that includes a requirement to establish a corrective action plan to be approved by the State Agency. Failure to submit a corrective action plan will result in disqualification for the next season.
- Third occurrence – (within one year of the first violation) Farmer will be disqualified for the next season.
- 3.1 Contacting a WIC customer in an attempt to recover funds for an FMNP Coupon/CVV not reimbursed or for which overcharges were requested.
 - 3.2 Failure to allow monitoring of the farm stand/farmers’ market booth/farm by WIC staff;
 - 3.3 Failure to provide FMNP Coupon/CVV records for review when requested.
 - 3.4 Refusing to accept a valid FMNP Coupon/CVV from a WIC customer.
 - 3.5 During a WIC transaction, providing WIC-approved food that would present a clear health problem
 - 3.6 Accepting or requiring a signature before the actual amount of sale is entered on the CVV by the customer.
 - 3.7 Failure to enter the purchase price on the CVV at the time of the transaction.

- 3.8 Failing to train all employees who handle WIC transactions and ensuring their knowledge regarding WIC Program procedures set forth in training materials and manuals provided by the State Agency.
- 3.9 Failure to request the WIC ID Folder and to verify the participant's signature.
- 3.10 Charging sales tax on a WIC purchase.
4. Other disqualifications include:
 - 4.1 The State Agency shall disqualify a farmer who has been disqualified from SNAP. The WIC disqualification shall be for the same length of time as the SNAP disqualification, and the WIC disqualification may begin at a later date than the SNAP disqualification. This disqualification shall not be subject to appeal.
 - 4.2 The State Agency shall disqualify a farmer who has been assessed a civil money penalty for hardship in SNAP under 7 CFR 278.6. The length of disqualification shall correspond to the period for which the farmer would otherwise have been disqualified in SNAP. Class III violations constitute grounds for disqualification from the WIC Program for one (1) year. At the end of the disqualification period a new application for authorization shall be required. In all cases the farmer's new application shall be subject to the State Agency's farmer selection criteria in effect at that time.
5. Termination for cause:
 - 5.1 Failure to stock any WIC approved items.
 - 5.2 Failure to redeem a minimum average of fifty dollars (\$50) of FMNP Coupons/CVV's per season or an average of at least ten (10) FMNP Coupons/CVV's per season.
 - 5.3 Failure to attend mandatory farmer training.
 - 5.4 Non-payment of a claim for documented overcharges to the WIC Program.
 - 5.5 Intentionally providing false information on the farmer application.
6. A farmer committing fraud or abuse of the WIC Program shall be liable to prosecution under applicable federal, state or local laws.

Procedures

1. For all violations for which action shall be taken by the State Agency, written notices of violation shall be issued that include a description of the violation, the action to be taken, and the right to appeal.
2. When an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, the State Agency shall notify the vendor in writing before another such incidence is documented, unless it determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. Such a determination shall be documented in the vendor's file.