

Maine Center for Disease Control and Prevention

WIC Nutrition Program

Effective: October 1, 2012

Policy No. VM-1

Revised: August 15, 2015

Vendor Selection and Authorization

Authority

7 CFR §246.4(a)(14)(i), (ii) and (iii), §246.12(a)(1), §246.12(g)(2), (3) and (4), §246.12(h), and §246.12(l)(3)

22 MRSA §255; and

10-144 CMR Chapter 286 §IV(A), (B), (C) and (D)

Policy

1. The Maine CDC WIC Nutrition Program uses a retail purchase system for distribution of supplemental foods. The Program does not allow home delivery and direct delivery distribution of supplemental foods. Delivery is only allowed after purchase transaction in store.
2. The State Agency contracts with a limited number of retail vendors in the operation of its retail purchase system to:
 - 2.1. Ensure the lowest practicable food prices consistent with adequate participant access; and
 - 2.2. Ensure effective management, oversight and review of authorized vendors.
3. Only vendors selected and authorized by the State Agency may participate in the WIC Program.
4. The State Agency does not authorize vendors that derive more than 50 percent of their annual sales revenue from WIC food instruments/cash-value vouchers.
5. The State Agency considers vendor applications on a quarterly basis – beginning on January 1, April 1, July 1, and September 1 – unless more frequent consideration is necessary to ensure adequate participant access. For each quarter, only those applications received prior to the beginning of the quarter will be processed during that quarter. If more frequent consideration is necessary due to inadequate participant access, the State Agency will post a notice on its website informing retailers of the need for additional authorized vendors in particular areas of the state.
6. The vendor selection criteria includes:
 - 6.1. A minimum variety and quantity of supplemental foods as identified in the current Minimum Inventory Requirements in Appendix VM-1-A.

- 6.2. Competitive prices, based on comparison of vendor applicant price lists and a State Agency standard drawn from a price survey of vendors that are authorized in the Peer Group that the applicant would be assigned to.
 - 6.2.1. Pharmacies that provide only exempt infant formula or WIC-eligible medical foods to participants are exempt from the State Agency competitive price criterion for vendor authorization.
 - 6.2.2. Commissaries are exempt from the State Agency competitive price criterion for vendor authorization.
7. A vendor will not be authorized if there are already 5 or more existing authorized vendors within a 7 mile radius from each other that are accepting food instruments from 40 or more participants. This does not apply to currently authorized chain stores. A chain store is defined as an ownership of more than 3 locations using the same name.
8. Business integrity criteria that includes:
 - 8.1. Possession of a valid Food Establishment License from the Maine Department of Agriculture, Food and Rural Resources (or its equivalent from another state) or registration as a pharmacy through the Maine Board of Pharmacy (or its equivalent from another state).
 - 8.2. A location that ensures adequate participant access.
 - 8.3. Infant formula must be obtained either from sources included in the State Agency's list of state-licensed infant formula wholesalers, distributors, and retailers as listed in Appendix VM-1-B; or manufacturers registered with the U.S. Food and Drug Administration.
 - 8.4. Proof of authorization as a Supplemental Nutrition Assistance Program (SNAP) retailer, including SNAP authorization number.
 - 8.5. A vendor applicant shall be an established business, open to the public for at least one year in the current location. This condition may be waived by the State Agency for a current vendor in good standing that is adding an additional location or to the new owner of a currently authorized store.
 - 8.6. Authorization to receive an ACH credit (direct deposit). The vendor shall provide the State Agency with a valid bank name and routing and account numbers.
 - 8.7. At least 1000 square feet of space devoted to the sale of grocery items unless denial for this reason would result in inadequate participant access.
 - 8.8. For a pharmacy vendor, a determination by the State Agency that a need exists in the geographical area where the pharmacy applicant is located.
 - 8.9. Satisfactory compliance with the previous Vendor Agreement, if previously authorized.
 - 8.10. Redemption of a minimum number/volume of food instruments/cash-value vouchers (no less than an average of 15 WIC checks/vouchers or an average of

\$200.00 in value of WIC checks/vouchers redeemed per month averaged over the previous 12 months).

- 8.11 The store is open for business at least ten hours per day, six days per week.
- 8.12 All items for sale in the store shall be clearly marked with prices, or prices shall be clearly indicated with shelf labels or other signage.
- 8.13. A vendor shall not be authorized or reauthorized, if:
 - 8.13.1.1 The vendor has sold the store to circumvent a WIC sanction.
 - 8.13.2 The vendor's owners, officers, or managers have a history of criminal convictions or civil judgments for activities listed in 7 CFR 246.12(g)(3)(iii) during the last six (6) years.
 - 8.13.3 The vendor's owners, officers, or managers have a history of other business-related criminal convictions or civil judgments.
 - 8.13.4 The vendor has previous WIC sanctions.
 - 8.13.5 The vendor is currently SNAP disqualified or has a civil money penalty for hardship, unless denying authorization would result in inadequate participant access.
 - 8.13.6 The vendor has a claim that is overdue.
9. The State Agency shall routinely verify the FNS field office information provided by vendor applicants regarding the status of their SNAP retailer authorization.
10. Vendors are assigned to peer groups for selection/authorization and for reimbursement purposes. Peer groups are used to set the competitive price range for WIC foods, to assess whether a vendor applicant's prices are competitive, and to establish maximum reimbursement levels for WIC FIs (food instruments).
11. The State Agency shall classify authorized vendors into groups based on, but not limited to, the following common characteristics that affect food prices:
 - 11.1. Number of cash registers
 - 11.2. Square footage of store
 - 11.3. Type of store
 - 11.4. Unique economic location
12. Peer groups are as follows:
 - 12.1. **Group 1**– Large and medium chains (Peer A)
 - 12.2. **Group 2** – Small grocery/convenience stores (Peer C)
 - 12.3. **Group 3** – Rural stores/special circumstances stores- Island Locations (Peer D)
 - 12.4. **Group 4** – Commissaries/Pharmacies (Peer E)

- 12.5. **Group 5** – Farmers Accepting FMNP Coupons and WIC Cash Value Vouchers (Peer H)
13. Peer groups shall be individually determined by the State Agency when a store’s square footage and number of cash registers cannot be used alone to determine peer group placement.
 14. The State Agency may reassess an authorized vendor’s peer group designation at any time during the vendor’s agreement period. The vendor may be placed in a different peer group if, upon reassessment, the State Agency determines that the vendor is no longer in the appropriate peer group. Peer groups shall be adjusted as needed to ensure cost containment.
 15. The State Agency shall assess the effectiveness of its peer group system on an ongoing basis using redemption data from the peer groups to compare food package costs.
 16. All vendors shall have a written agreement with the State Agency. The Agreement is a standard agreement that is used statewide (see Appendix VM-1-C).
 - 16.1. Agreements between the State Agency and authorized vendors will be valid for a maximum of three (3) years. Occasionally, an Agreement period may be for a shorter timeframe in order to ensure administrative efficiency.
 - 16.2. The Vendor Agreement is non-transferable. Any transfer of ownership or sale of the business by the vendor shall render the Agreement and the vendor stamp null and void. The Agreement also shall be null and void if the vendor ceases operations or leases the business.
 17. To remain authorized the vendor shall comply with all of the requirements of the Maine CDC WIC Nutrition Program, including, but not limited to:
 - 17.1. Attending mandatory training
 - 17.2. Maintaining minimum stock of all WIC foods
 - 17.3. Meeting minimum redemption requirements
 - 17.4. Providing price surveys upon request
 - 17.5. Maintaining competitive pricing
 - 17.6. Satisfy all claims for overcharges within the time requested
 18. The State Agency may reassess authorization of any authorized vendor at any time and as often as it deems necessary during the vendor’s contract period, using the vendor selection criteria in effect at the time of the reassessment. The State Agency shall terminate the agreements with those vendors that fail to meet the criteria.
 19. Neither the vendor nor the State Agency has an obligation to renew the Vendor Agreement.
 20. Both parties to the Vendor Agreement shall represent that there is no conflict of interest between the Maine CDC WIC Nutrition Program, the local WIC agencies and the Vendor.
 21. The Agreement between the Vendor and the State Agency may be terminated as follows:

- 21.1. The Agreement may be terminated for cause by the State Agency with fifteen (15) days' advance written notice. More information on termination for cause is provided in VM-6 of these policies.
 - 21.2. The State Agency shall terminate the Vendor Agreement if the vendor is disqualified for any reason.
22. The Agreement is subject to change in accordance with any changes in federal and state requirements governing the Maine WIC Nutrition Program.

Procedures

1. Each retail store applying for WIC authorization shall submit all the required application forms to the Maine CDC WIC Nutrition Program office (see Appendix VM-1-D). The application forms shall be completed in full, signed by an appropriate vendor representative, and submitted to the State Agency for consideration by the beginning of the upcoming quarter.
2. If an incomplete or unsigned application is submitted, the State Agency will return the application to the vendor. This may delay authorization. Once notified of an incomplete application, the applicant shall submit the missing information to the State Agency within thirty (30) days from the date of the letter. Applicants who fail to return the missing information by the 30 day deadline will be required to complete a new application and resubmit it to the State Agency.
4. Vendor corporate offices shall complete applications for all vendor outlets of their chain. Individual stores in a chain are not required to submit an application. Each individual store is required to receive an approved form of training prior to authorization and to meet all authorization criteria and requirements such as minimum stocking requirements.
5. If all required information is provided and the applicant meets the selection criteria the State Agency shall conduct an on-site preauthorization visit to verify information received during the application process prior to authorization. If the application is approved, the State Agency will notify the vendor by the end of the quarter in which the application has been considered and processed, unless an earlier notification is necessary in order to ensure adequate participant access.
6. Once an application has been approved, a representative of the store (store owners, managers, and/or store staff) is required to successfully complete vendor training. Initial training shall be in a face-to-face format. This training may be held during the on-site visit or at another time and location to be decided by the State Agency.
7. Once training has been completed, the vendor applicant and the State Agency will sign a Vendor Agreement. At this time the vendor may begin to transact WIC FIs.
8. Upon initial authorization, one self-inking vendor stamp will be provided to the vendor. Vendor stamps will be mailed via certified mail.

- 8.1 Vendors may not duplicate vendor stamps. Upon request from a vendor, the State Agency may issue a duplicate stamp to a vendor.
 - 8.2 If a vendor stamp is lost by or stolen from a vendor, the vendor shall notify the State Agency immediately. The State Agency shall order a replacement stamp. The State Agency may charge a fee to the vendor. The stamp shall be mailed via certified mail to the vendor.
 - 8.3 If a stamp is worn out or broken, the vendor may obtain a replacement free of charge by contacting the State Agency. The stamp shall be mailed via certified mail to the vendor.
 - 8.4 A vendor may use mechanical/electronic means other than the vendor stamp issued by the State Agency to print its vendor number on FIs for redemption, with State Agency approval.
 - 8.5 The vendor stamp is invalid upon Agreement termination, disqualification or voluntary withdrawal from the Program.
9. Vendors will receive an application for renewal of authorization at least thirty (30) days before the agreement expires. This shall include notification that failure to return the renewal application prior to the date of expiration of the current Agreement will result in loss of authorization.
- 9.1 The application shall be completed timely and in full or authorization will not be considered. Failure to complete and/or submit the application will result in loss of the authorization. The vendor shall receive notification that the store has not been reauthorized and shall be given an opportunity to complete the process.
 - 9.2 Vendors who receive an unsigned State Agency-Vendor Agreement in the mail shall sign and return it within two (2) weeks from the date it was mailed by the State Agency.
 - 9.3 Vendors who fail to return the signed Agreement by the prescribed deadline will be terminated from the Program until the contract is signed and returned to the State Agency. Signed contracts received after the contract period ends will not be accepted. The vendor will be required to apply as a new vendor.
10. Periodically, the State Agency will review the twelve (12) most recent months of redemption data for vendors. A vendor that does not, on average over the 12-month period, meet the minimum redemption requirements shall be provided with a written notice that informs the vendor that it will no longer be able to accept FIs. The letter will also inform the vendor of its right to a formal hearing and its right to reapply.
11. The State Agency will maintain a file on each authorized vendor that includes at a minimum the following:
- 11.1 Vendor data sheet/price survey forms
 - 11.2 Vendor Agreement

- 11.3 Completed on-site monitoring forms
 - 11.4 All written correspondence relating to the vendor
 - 11.5 Any participant complaints
 - 11.6 Record of training activities
 - 11.7 Log of vendor contracts
12. All vendor files will be maintained as inactive files for a three-year period from the date the vendor's most recent contract is terminated or expired.