

2013/2014 WIC VENDOR AGREEMENT –APPENDIX F –
WIC PROGRAM DISQUALIFICATIONS, CIVIL MONEY PENALTIES AND FINES

WIC Program violations shall be determined by investigation, which includes on-site monitoring, check audits, inventory audits and undercover compliance buys 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 or Pattern	Length of Disqualification
1. Judicial conviction of trafficking in WIC checks or selling firearms, ammunition, explosives or controlled substances in exchange for WIC checks.	One	Permanent
2. Administrative finding of buying or selling WIC checks for cash (trafficking) or selling firearms, ammunition, explosives or controlled substances in exchange for WIC checks.	One	6 Years
3. Sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC checks.	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 checks.	Three or more, each representing at least a 10% overcharge OR Five or more if some overcharges are less than 10%.	3 Years
6. Receiving, transacting and/or redeeming WIC checks 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 if the quantity not received by the WIC customer is at least 10% of the total quantity that could have been purchased OR Five or more if the quantity not received by the WIC customer is less than 10% of the total quantity that could have been purchased.	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 checks.	Three or more	3 Years
9. Providing unauthorized food items in exchange for WIC checks, including charging for WIC food provided in excess of those listed on the WIC check.	Three or more	1 Year
10. An above-50-percent vendor providing prohibited incentive items to customers	Three or more	1 Year
11. Disqualification from the Supplemental Nutrition Assistance Program (SNAP).	One	Same as the SNAP disqualification, but does not need to be concurrent.

On a case by case basis, the WIC Program will determine if a warning for the initial occurrence of violations numbered; 5 through 10 will be issued prior to documenting another violation. The WIC Program has the discretion to determine which factors to consider and how much weight to give to each factor. A warning will not be issued if the WIC Program determines that, if by doing so, an investigation would be compromised.

When a completed investigation determines that a pattern of violations that requires a Federal Mandatory Sanction was not established, a warning letter will 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 Sanctions.

Prior to imposing a disqualification for Federal Mandatory Sanctions numbered 2 through 11, 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 11. 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 eleven thousand dollars (\$11,000) for each violation. If multiple violations are revealed by a single investigation, the total civil money penalty shall not exceed forty-four thousand dollars (\$44,000).

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 11 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 eleven thousand dollars (\$11,000) per violation up to the maximum of forty-four thousand dollars (\$44,000) for multiple violations. When a vendor who had previously been assessed two Federal Mandatory Sanctions numbered 2 through 11 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, including interest, 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.

STATE AGENCY-ESTABLISHED SANCTIONS

Class A Violations: A one-year disqualification shall be assessed for any of the following violations in this class:

- Not providing refunds or not paying fines by the due date as requested by the WIC Program.
- Using a counterfeit WIC vendor stamp.
- Forging the signature of a WIC participant/alternate or a designee of the WIC Program on any WIC document.

Class B violations: After issuance of one (1) warning letter for any violation, a six-month disqualification or a five hundred dollar (\$500.00) fine in lieu of disqualification shall be assessed for each occurrence of any of the following violations in this class. The WIC Program will not issue a warning for each separate violation. After issuance of the warning letter, upon accumulation of five (5) Class B violations within a twelve-month period, a one-year disqualification shall be imposed. The option to pay a fine shall not be available at that time:

- Not providing information as requested by the WIC Program within the time frame that is stated.
- Not entering the purchase price in ink on a WIC check at the time of the purchase.

Class C violations: After issuance of one (1) warning letter for any violation in this class, a three-month disqualification or a two hundred fifty dollar (\$250.00) fine in lieu of disqualification shall be assessed for each occurrence of any of the following violations in this class. The WIC Program will not issue a warning for each separate violation. After issuance of the warning letter, upon accumulation of five (5) Class C violations within a twelve-month period, a one-year disqualification shall be imposed. The option to pay a fine shall not be available at that time:

- Redeeming an altered WIC check.
- Not attending assigned training sessions.
- 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 item.
- Providing false information other than in connection with an application for authorization.

Class D violations: After issuance of one (1) warning letter for any violation in this class, a one hundred twenty-five dollar (\$125.00) fine shall be assessed for each occurrence of any of the following violations in this class. The WIC Program will not issue a warning for each separate violation. After issuance of the warning letter, upon accumulation of five (5) Class D violations within a twelve-month period, a six-month disqualification shall be imposed. The option to pay a fine shall not be available at that time.

- Not posting all WIC food prices on the item itself or on the shelf or door in front of the item.
- Not having the minimum inventory of WIC-approved foods on shelves at all times.
- Not providing savings to WIC customers through coupons or store offered promotions.
- Not checking the WIC Participant ID Booklet at the time of purchase.
- Not verifying the WIC customer signature at the time of purchase.
- Not having the WIC customer date a WIC check, after signing it, on the day of the transaction.
- Accepting a WIC check before the “first day to use” or after the “last day to use” as specified on the check.
- Providing incentive items solely to WIC customers and/or not offering WIC customers the same courtesies that are offered to non-WIC customers

The maximum fine for State Agency Established Sanctions for each assessment is two thousand five hundred dollars (\$2,500).

If the option to pay a fine in lieu of disqualification for Class B or Class C violations is elected, the total amount of the fine is payable on or before the date the disqualification would have been effective. The notification of intent to pay the fine shall be received at the department of Public Health within seven (7) days of receipt of the WIC Program sanction letter. Any fines levied for Class D violations are payable fifteen (15) days after receipt of the WIC Program sanction letter.

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 checks. A review may be requested to determine if the disqualification is warranted. At such time that the WIC Program determines that undue hardship 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.

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 lesser of the FNS penalty or two thousand five hundred dollars (\$2,500.00).

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

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

Warnings that are related to state agency-established sanctions shall remain active during the entire term of the store’s current ownership.

NOTE: All payments of fines or civil money penalties must be made by certified check or money order payable to the Treasurer – State of Connecticut, Department of Public Health.