

Nevada WIC Vendor Sanctions

Non-Compliance; Disqualification and Sanctions. Pursuant to the Regulations (7 CFR § 246.12(f) and (k)), in addition to claims, STATE AGENCY may disqualify or suspend VENDOR from eligibility as an Authorized WIC Vendor or impose a civil money penalty in lieu of suspension in cases where suspension would cause participant hardship for reason of WIC Program abuse. STATE AGENCY and VENDOR hereby acknowledge and agree that such sanctions and/or disqualification may be imposed based on the violation(s) associated with the highest sanction as follows:

- a) STATE AGENCY may issue a warning letter to VENDOR specifying violations and demanding correction by VENDOR within thirty (30) days for the following violations:
 1. Acceptance of paper food instruments on which the WIC participant countersignature does not match the WIC Participant signature, the countersignature is made prior to presentation, or the WIC Participant Signature is not filled in prior to acceptance by VENDOR.
 2. Failure to accept food instruments properly presented by the WIC participant in exchange for the WIC Foods listed on the instrument and selected by the WIC participant.
 3. Discourtesy towards WIC participants.
 4. Non-cooperation with monitoring persons during a monitoring visit.
 5. Providing Incentive Items to WIC Participants. STATE AGENCY requires VENDORS who derive, or are likely to derive, more than fifty percent (50%) of their total annual food sales revenue from WIC transactions to submit a proposal to provide incentives for approval before providing the below allowable types of incentive items: may only supply WIC Participants with the following incentives:
 - i. Merchandise obtained at no cost to the vendor and provided to participants without charge, or sold to participants at or above cost. (Subject to cost verification which must be supported by documentation).
 - ii. Food of nominal value and merchandise of nominal value, i.e. having a per item cost of less than two dollars (\$2.00) or
 - iii. Food sales and specials which involve no cost or only a nominal value for the vendor regarding the food items involved and do not result in a charge to a WIC food instrument for foods in excess of the foods listed on the food instrument
 6. Purchase of Infant Formula from a source **not** on the State's Approved Infant Formula Supplier List.
- b) STATE AGENCY may suspend VENDOR for up to three (3) months, or impose a fine by providing written notice of such suspension or civil money penalty for the following violations:
 1. Failure to correct and/or discontinue violations specified in a warning letter within thirty (30) days of receipt of the warning letter.
 2. Failure to pay STATE AGENCY claim amounts requested for improper food instruments or overcharges within sixty (60) days of such demand.
 3. Charging tax for WIC Foods provided in exchange for food instruments.
 4. Giving change to a WIC participant from a food instrument.
 5. Refunding or exchanging items paid for with a WIC Food Instrument.
 6. Entering a "date cashed" on a paper food instrument other than the actual date at the time the Food Instrument is presented.
- c) STATE AGENCY may suspend VENDOR for up to six (6) months, or impose a fine by providing written notice of such suspension or civil money penalty for the following violations:

1. Repetition of the same or similar violations of this section within 12 months after completion of a suspension for up to 3 months.
 2. Altering the information on a paper food instrument so as to avoid or attempt to avoid penalties and/or sanctions.
 3. Altering the date cashed on a paper food instrument taken prior to or 30 days after issue date.
- d) STATE AGENCY may suspend VENDOR for up to one (1) year, or impose a fine by providing written notice of such suspension or civil money penalty for the following violations:
1. Repetition of the same or similar violations in a) through c) of this section within 12 months after completion of a suspension of more than 3 months.
 2. Negotiation of food instruments during any period of suspension.
 3. Practicing discrimination on the basis of race, color, national origin, sex, handicap, age or WIC participation.
- e) STATE AGENCY shall disqualify VENDOR for one (1) year by providing written notice of such disqualification for the following violation:
1. A pattern of providing unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the food instrument.
- f) STATE AGENCY shall disqualify VENDOR for three (3) years by providing written notice of such disqualification for the following violations:
1. One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments.
 2. A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time.
 3. A pattern of charging participants more for supplemental food than non-WIC customers or charging participants more than the current shelf or contract price.
 4. A pattern of receiving, transacting and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person.
 5. A pattern of charging for supplemental food not received by the participant.
 6. A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances (as defined in 21 U.S.C. 802) in exchange for food instruments.
- g) STATE AGENCY shall disqualify VENDOR for six (6) years by providing written notice of such disqualification for the following violations:
1. One incidence of buying or selling food instruments for cash (trafficking).
 2. One incidence of selling firearms, ammunition, explosives or controlled substances (as defined in 21 U.S.C. 802) in exchange for food instruments.
- h) STATE AGENCY shall immediately disqualify VENDOR permanently by providing written notice of such disqualification for being convicted of trafficking in food instruments or selling firearms, ammunition, explosives or controlled substances (as defined in 21 U.S.C. 802) in exchange for food instruments. VENDOR shall not be entitled to receive any compensation for revenues lost as a result of such violation.
- i) STATE AGENCY may disqualify VENDOR and terminate this Agreement by providing written notice of such disqualification and termination for the following violations:

1. Negotiating food instruments at a site other than those sites listed on Exhibit "A – Authorized Vendor Stores" attached to this agreement.
 2. Maintaining a conflict of interest with a Local Agency.
 3. Disqualification from participation in any other Food and Nutrition Program of the United States Department of Agriculture. The duration of WIC Program disqualification shall be equal to the period of disqualification of said program and may begin at a later date.
 4. Conviction of any business related criminal offense not included in h) of this section.
 5. Repetition of the same or similar violations in a) through d) of this section within 12 months after completion of a suspension of more than 6 months.
 6. Willful and/or flagrant abuse of the WIC Program on a continuous basis, regardless of any prior suspension.
- j) The imposition of sanctions, disqualifications, or fines of VENDOR by STATE AGENCY shall not be construed as excluding or replacing any other criminal or civil sanctions, penalties or remedies applicable under any Federal or State statutes or local ordinances.

Disqualification of a vendor from the WIC Program may result in the U.S.D.A. Food and Nutrition Services disqualification of that firm's Food Stamp Program Authorization. Disqualification in this case shall not be subject to administrative or judicial review under the Food Stamp Program.

Disqualification of a vendor from the Food Stamp Program shall result in a disqualification of that firm's WIC Program authorization. Disqualification in this case shall not be subject to administrative or judicial review under the WIC Program.

- k) STATE AGENCY shall not accept voluntary withdrawal of VENDOR from the WIC Program or non-renewal of Authorized WIC Vendor Agreement as an alternative to disqualification for the violations listed in items e) through j) of this section.
- l) STATE AGENCY may impose a civil money penalty in lieu of sanctions for violations in e) through i) of this section if STATE AGENCY determines that disqualification of VENDOR would result in inadequate participant access. Determination of participant access is not subject to review. Pursuant to the Regulations (7 CFR § 246.12(k)(1)(x)(A) through (C)), STATE AGENCY shall calculate civil money penalties using the following method:
1. Determine VENDOR's average monthly redemptions for at least the 6-month period ending with the month immediately preceding the month during which the notice of administrative action is dated;
 2. Multiply the average monthly redemptions figure by 10 percent;
 3. Multiply the product from 2) of this section by the number of months for which the store would have been disqualified. This is the amount of the civil money penalty, provided that the civil money penalty shall not exceed \$10,000 for each violation.

For a violation that warrants permanent disqualification, such as conviction of trafficking or illegal sales, the civil money penalty shall be \$11,000. If during the course of a single investigation STATE AGENCY determines VENDOR has committed multiple violations, STATE AGENCY shall impose a civil money penalty for each violation. The total amount of civil money penalties imposed for violation investigated as a part of a single investigation shall not exceed \$44,000 for the above violation reasons. All other cases shall result in a CMP that does not exceed \$10,000 per violation or \$40,000 per investigation.

If a civil money penalty is imposed in lieu of suspension and VENDOR does not pay, only partially pays, or fails to timely pay, STATE AGENCY shall disqualify VENDOR for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed.

- m) When a vendor, who previously has been assessed a sanction for any of the violations in e) through h) of this section, receives another sanction for any of these violations, STATE AGENCY shall double the second sanction. Civil money penalties may only be doubled up to the limits allowed by the Regulations (7 CFR § 246.12 (k) (1) (x) (C)). STATE AGENCY shall not, however, impose a civil money penalty in lieu of disqualification for third or subsequent sanctions for violations in e) through h) of this section but shall double the third sanction and all subsequent sanctions.